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SENATE COMMITTEE REPORT

FURTHER

4/28/89

DATE TURNED INTO OFFICE

5/5/89

Mr. President:

Finance

Committee considered

CSHB 80 (HESS)

excise tax on cigarettes, and authorizing municipalities to levy and collect taxes on the retail sale of cigarettes and tobacco products without limitation and recommended

- replace with _____ CS _____) same title
- or adopt _____ CS _____) new title
- attached amendment(s) and technical title change (HB only)
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

FISCAL NOTE(S) zero ^{DOR 9125.7 revenue} fiscal impact appropriation no FN

new updated previous

same as previous fiscal note(s) published _____

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

J. Dunca - No Rec

[Signature] - No Rec

[Signature] - No Rec

Carl [Signature] - No Rec

[Signature] (No Rec)

Chair: signature and recommendation

[Signature] Do PASS

CO-CHAIR

Committee Backup attached

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: CSHB 80 (HESS)
PUBLISH DATE: HOUSE 3/15/89

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act Increasing the Excise
Tax on Cigarettes
Sponsor: Ellis and Koponen
Requestor: (H)HESS Committee

Agency Affected: Revenue
BRU: Income & Excise Audit
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	9128.7	8854.8	8854.8	8854.8	8854.8	8854.8

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: See attached.

Prepared By: Steven E. Kettel
Division: Income and Excise Audit

Phone: (907) 465-2320
Date: March 9, 1989

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: March 9, 1989

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Adopted

March 9, 1989

Analysis

1. Assumes effective date of legislation is July 1, 1989.
2. Total cigarette consumption has fallen six percent per year for the three year period ending in FY88. Forecasts under present law assume consumption will drop three percent in FY89 and FY90, then remain level through FY94.
3. The increase in cigarette prices due to the higher tax will reduce consumption. It is estimated that the quantity of cigarettes sold will fall by three percent from the level presently forecast.
4. Revenues to the School Fund will decrease by about \$72,000 each year as that tax rate is not changed by the proposed legislation.

Comment

The latest information indicates that Alaska ranks somewhere in the bottom one-third among states that levy a tax on cigarettes. The highest tax is assessed by Minnesota at 38 cents per pack and the lowest by North Carolina at 2 cents per pack. The state of Alaska levies 16 cents per pack on cigarettes. There are thirty-five states that levy a higher rate than Alaska.

Original sponsors: Ellis, Koponen,
and M.Davis

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

CS FOR HOUSE BILL NO. 80 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act increasing the excise tax on cigarettes, and
7 authorizing municipalities to levy and collect taxes
8 on the retail sale of cigarettes and tobacco products
9 without limitation."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. AS 29.45.650(a) is amended to read:

12 (a) Except as provided in (f) and (g) of this section, a borough
13 may levy and collect a sales tax not exceeding six percent on sales,
14 rents, and on services provided in the borough. The sales tax may
15 apply to any or all of these sources. Exemptions may be granted by
16 ordinance.

17 * Sec. 2. AS 29.45.650 is amended by adding a new subsection to read:

18 (g) The limitation on the rate of levy specified in (a) of this
19 section does not apply to taxes imposed on sales of cigarettes and
20 tobacco products at retail. For purposes of this subsection,

21 (1) "cigarette" has the meaning given in AS 43.50.170;

22 (2) "tobacco product" has the meaning given in AS 43.50.-
23 390.

24 * Sec. 3. AS 43.50.190(a) is amended to read:

25 (a) There is levied an excise tax of 15 [FIVE AND ONE-HALF]
26 mills on each cigarette imported or acquired in this state.

EFFECT OF CSHB 80

CURRENT LAW

UNDER CSHB80

MILL RATE PER
CIGARETTE
dedicated to
School Fund

AS 43.50.090 = 2.5 MILLS

AS 43.50.090 = 2.5 MILLS
(NO CHANGE)

MILL RATE PER
CIGARETTE
collected for
General Fund

AS 43.50.190 = 5.5 MILLS

AS 43.50.190 = 15.0 MILLS
(9.5 MILL INCREASE)

COMBINED MONETARY 16 CENTS
EFFECT ON EACH
20 cigarette
pack

35 CENTS
(19 CENT INCREASE)

There are currently two separate excise taxes levied on cigarettes. Taxes collected under AS 43.50.090, which predates the prohibition against dedicated funds, are deposited in the School Fund. Taxes collected under AS 43.50.190 are deposited in the General Fund. CSHB 80 amends AS 43.50.190 and increases General Fund revenues.

3

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

March 7, 1989

SUBJECT: CSHB 80 (HESS)

TO: Representative Johnny Ellis, Chair
House Health, Education and Social Services
Committee
ATTN: Jim Nordlund

FROM: Jack Chenoweth
Legislative Counsel

Recent reports to the contrary notwithstanding, the committee substitute has the effect of raising the tax on cigarettes from 16 to 35 cents per pack:

Current law:

Imposed under AS 43.50.090 (dedicated fund)	2.5 mills*
Imposed under AS 43.50.190	5.5 mills*
Total	8.0 mills*

* rate per cigarette:

8.0 mills x 20 cigarettes per pack = 160 mills per
pack 10 mills = 1 cent therefore 160 divided by
10 = 16 cents per pack

Proposed under CSHB 80 (HESS):

Imposed under AS 43.50.090	2.5 mills*
Imposed under AS 43.50.190	15.0 mills*
Total	17.5 mills*

* rate per cigarette:

17.5 mills x 20 cigarette per pack = 350 mills per
pack 10 mills = 1 cent therefore 350 divided by
10 = 35 cents per pack

JC:gc
WKG7/112

HISTORY OF THE CIGARETTE TAX ACT

In 1949, the Territorial Legislature enacted the "Alaska Tobacco Tax Act" (Attachment A). Cigarettes, cigars, tobacco and snuff were taxed at various rates, and the resultant revenues were to be paid into a fund entitled the "School Fund," and were "...to be used for the exclusive purpose of rehabilitation, construction, and repair of Alaska's school facilities." (5)

In 1955, the Territorial Legislature repealed the tobacco tax, replacing it with the "Cigarette Tax Act" (Attachment B). Under this tax, an excise tax of 2.5 mills was levied on each cigarette imported or acquired within Alaska. The proceeds from the tax, as well as any fees and penalties, were to be paid into the "School Fund." As the prior act had specified, the new act required that these funds be used exclusively for school construction and repair. In addition, the new act specified that the funds could be used for the costs of insurance on school buildings during the period that the building was being rehabilitated, constructed or repaired.

Four years later, the Territory of Alaska became a state. The Alaska Constitution prohibited the dedication of state revenues to any special purpose except when required by the federal government for state participation in federal programs and except for those dedications existing prior to

ratification of the constitution by the people of Alaska.¹ Alaska Constitution, Article 9, Section 7 (Attachment C). Dedication of the 2.5 mill tax on cigarettes to the School Fund had occurred in 1955, prior to ratification of the constitution (1956) and was, therefore, a "grandfathered" dedication.²

In 1961, the legislature levied an additional tax on cigarettes of 1.5 mills. The revenue from this additional tax went to the general fund. In 1985, this tax was raised to 5.5 mills. Thus, there is currently an eight mill tax on cigarettes. Per pack, the tax is 16 cents. The current Cigarette Tax Act is Attachment D.

REVENUES FROM THE CIGARETTE TAX

Table 1 shows the cigarette tax rate and revenue from 1949 to 1987. In FY 87, total revenue from the cigarette tax were \$9.9 million. Of this revenue, \$3.2 million was dedicated to the School Fund, and \$6.6 million was general fund revenues.

DISTRIBUTION OF DEDICATED CIGARETTE TAX REVENUES

The legislature annually appropriates funds from the School Fund to the Department of Education, and the Department of Education is responsible for disbursing these cigarette tax proceeds to school districts for school construction. During the early 1980s, the appropriation was generally \$2.0 million to \$2.5 million. In FY 87, the appropriation was increased to \$3.5 million.

¹This section of the constitution was amended in 1977 to allow dedication of certain oil and gas revenues to the Permanent Fund.

²The other dedicated funds are described in the attached House Research Memorandum 85.319 "Dedicated Revenue Funds."

TABLE 1
CIGARETTE TAX RATE AND REVENUE, 1949 - 1987

YEAR	CIGARETTE TAX RATE (CENIS PER PACK)			CIGARETTE TAX REVENUE (\$1,000)			NOTES:
	DEDICATED TAX	ADDITIONAL TAX	TOTAL	DEDICATED TAX	ADDITIONAL TAX	TOTAL	
49	5	0	5	299.8	0.0	299.8	1949--Tobacco Tax Act enacted. Tax levied on all types of tobacco products at varying rates. Receipts deposited in the School Fund and dedicated to school construction.
50	5	0	5	442.6	0.0	442.6	
51	5	0	5	643.1	0.0	643.1	
52	5	0	5	808.6	0.0	808.6	
53	5	0	5	825.1	0.0	825.1	
54	5	0	5	825.5	0.0	825.5	
55	5	0	5	1,015.8	0.0	1,015.8	1955--Tobacco Tax Act repealed and replaced with the Cigarette Tax Act. Tax of 2.5 mills levied on cigarettes. Receipts deposited in the School Fund.
56	5	0	5	1,127.0	0.0	1,127.0	
57	5	0	5	1,041.6	0.0	1,041.6	
58	5	0	5		0.0		1959--Statehood. Dedicated taxes, except for those existing prior to ratification of the Constitution, prohibited.
59	5	0	5		0.0		
60	5	0	5		0.0		
61	5	0	5		0.0		1961--Additional tax of 1.5 mills levied on cigarettes. Receipts deposited in the general fund.
62	5	3	8				
63	5	3	8				
64	5	3	8				
65	5	3	8	1,303.1	781.9	2,085.0	
66	5	3	8	1,638.1	982.9	2,621.0	
67	5	3	8	1,530.0	918.0	2,448.0	
68	5	3	8	1,576.3	945.8	2,522.0	
69	5	3	8	1,643.8	986.3	2,630.0	
70	5	3	8	1,694.4	1,016.6	2,711.0	
71	5	3	8	1,854.4	1,112.6	2,967.0	
72	5	3	8	2,015.0	1,209.0	3,224.0	
73	5	3	8	2,015.0	1,209.0	3,224.0	
74	5	3	8	2,143.8	1,286.3	3,430.0	
75	5	3	8	2,521.1	1,511.6	4,032.7	
76	5	3	8	2,883.7	1,733.6	4,617.3	
77	5	3	8	3,033.0	1,817.7	4,850.7	
78	5	3	8	2,886.6	1,740.6	4,627.2	
79	5	3	8	2,756.5	1,654.0	4,410.5	
80	5	3	8	2,679.7	1,602.8	4,282.5	
81	5	3	8	2,837.0	1,714.7	4,551.7	
82	5	3	8	3,067.0	1,827.0	4,894.0	
83	5	3	8	3,306.0	2,000.0	5,306.0	
84	5	3	8	3,391.0	2,000.0	5,391.0	
85	5	3	8	3,295.0	2,000.0	5,295.0	1985--Additional tax raised to 5.5 mills.
86	5	11	16	2,833.0	4,938.2	7,771.2	
87	5	11	16	3,239.0	6,657.2	9,896.2	

SOURCE: Alaska Department of Revenue.

1. Revenue from the dedicated portion of the tax are deposited in the "School Fund" and are available for appropriation to the Department of Education for the exclusive purpose of school construction.
2. Revenue from the additional tax are deposited in the general fund and may be appropriated for any purpose.

Prepared by the House Research Agency, February 1988, (88-173).

COMMENT:

The latest information indicates that Alaska ranks somewhere, in the bottom one-third among states that levy a tax on cigarettes. The highest tax is assessed by Minnesota at 38 cents per pack and the lowest by North Carolina at 2 cents per pack. The state of Alaska levies 16 cents per pack on cigarettes. There are thirty-five states that levy a higher rate than Alaska.

11-15-88

CIGARETTE TAXES—RATES, INCIDENCE, PAYMENT, REPORTS

§286 The main features of the state taxes on cigarettes are given in the chart below. If incidence of the tax is on consumer, tax will be deductible on income tax returns in some states (by law). It isn't deductible under IRC, nor in state line with current Fed.

RATE PER PACK OF 20	INCIDENCE	PAYMENT METHOD	MONTHLY REPORT REQUIREMENTS (Who, when and to whom)
ALA. 16.5¢ (5)	Stamps	Consumer(13)	Wholesaler jobber, 20th. Dept. Rev.
ALASKA 16¢	Seller	Reports	Licensee, last day, Tax Comm.
ARIZ. 15¢	Seller	Report	Distributor, 1st. Dept. Rev.
ARK. 21¢	Seller	Stamps(1)	Distributor, 10th. Dept. Fin. & Adm.
CALIF. 35¢ (eff. 1-1-89; was 10¢)	Consumer(13)	Stamps(2)	Distributor, 25th. State Eq. Bd.
COLO. 20¢	Seller	Stamps	Wholesaler, 10th (eff 7-1-88; was 20th); Dept. F
CONN. 26¢	Consumer	Stamps	Distributor (4), 15th. Commr. Rev. Serv.
DEL. 14¢	Consumer	Stamps	Wholesaler, agent, 20th. Dir. Rev.
D.C. 17¢	Seller(14)	Stamps	Wholesaler, retailer, 15th. Dept. Fin. & Rev.
FLA. 24¢ (11)	Seller	Stamps	Agent, 10th. Tax Dept.
GA. 12¢	Distributor	Stamps	Distributor, 10th. Commr. Rev.
HAW. 40¢(6)	Seller	Stamps	Wholesaler, retailer, last day, Dept. Tax.
IDA. 18¢	Seller	Stamps	Wholesaler, 15th. Tax Comm.
ILL. 20¢ (16)	Seller	Report	Distributor (7), 15th. Dept. Rev.
IND. 15.5¢	Consumer	Stamps	Distributor, 15th (8), ABC
IOWA 34¢ (31¢ eff 7-1-89)	Seller	Stamps	Permittees, 20th. Dept. Rev. & Fin.
KAN. 24¢	Seller	Stamps	Wholesaler, 10th. Dir. Tax.
KY. 3¢	Consumer	Stamps	Wholesaler, 20th. Cabinet Rev.
LA. 16¢	Seller	Stamps	Dealer, 15th. Sec'y Rev. & Tax.
ME. 28¢	Consumer	Stamps	Distributor, 10th. Bar. Rev.
MD. 13¢	Seller	Stamps	Distributor, 20th. Commr.
MASS. 26¢	Consumer(13)	Stamps	Distributor, 20th. Commr. Rev.
MICH. 25¢	Seller	Report	Licensee, 20th. Dept. Treas.
MINN. 38¢	Seller	Report	Distributor, 25th. Dept. Rev.
MISS. 18¢	Consumer(13)	Stamps	Distributor (9), 15th. Tax Comm.
MO. 13¢ (5)	Consumer	Stamps	Wholesaler, 20th. Dept. Rev.
MONT. 16¢	Consumer	Stamps	Interstate Carriers, (no fixed dates), Dept. Rev.
NEB. 27¢	Consumer	Stamps	Retailer, wholesaler, 10th. Tax Comm.
NEV. 20¢ (15¢ eff 6-1-89)	Seller	Stamps	Wholesaler, 15th (15), Div. Tax.
N.H. 17¢	Consumer	Stamps	(Monthly reports not required)
N.J. 27¢	Consumer	Stamps	Distributor, 20th. Dir. Tax.
N.M. 15¢	Seller	Stamps	Distributor, 25th. Tax. & Rev. Dept.
N.Y. 21¢ (17)	Consumer	Report	Agent, 15th. Dept. Tax. & Fin.
N.Y.C. 8¢ (17)	Consumer	Stamps	Agent, 15th. Comm. Fin.
N.C. 2¢	Consumer	Stamps	Distributor, 20th. Sec'y Rev.
N.D. 27¢	Seller	Stamps	Distributor, quarterly (10), Tax Comm.
OHIO 18¢	Consumer	Stamps	Dealer, 1-31 & 7-31, Tax Comm.
OKLA. 27¢	Consumer	Stamps	Wholesaler, retailer, 10th. Tax Comm.
ORE. 27¢	Consumer	Stamps	Distributor, 20th (reports: payment, quarterly), Dept. Rev.
PA. 18¢	Consumer	Stamps	Dealer, 10th. Dept. Rev.
R.I. 27¢ (eff 7-1-88; was 25¢)	Consumer	Stamps	Dealer, distributor, 10th. Tax Adm.
S.C. 7¢	Seller	Stamps	(Monthly reports not required)
S.D. 23¢	Consumer	Stamps	Distributor, wholesaler, 15th. Dept. Rev.
TENN. 13¢	Consumer	Stamps	Distributor, 15th. Dept. Rev.

RATE PER PACK OF 20	INCIDENCE	PAYMENT METHOD	MONTHLY REPORT REQUIREMENTS (Who, when and to whom)
TEX. 26¢ UTAH 23¢	Consumer Seller	Stamps Stamps	Distributor, 10th. Compr. Pub. Accts. (Monthly reports not required)
VT. 17¢	Seller	Stamps	Distributor, wholesaler, 15th. Comm. Taxes
VA. 25¢ (3)	Seller	Stamps	Wholesaler, storer, 10th. Dept. Tax.
WASH. 31¢	Consumer	Stamps	Wholesaler, retailer, 15th. Dept. Rev.
W.VA. 17¢	Consumer	Stamps	Wholesaler, 15th. Tax Dept.
WIS. 30¢	Consumer	Stamps	Mfg. wholesalers, 15th. Dept. Rev.
WYO. 8¢	Consumer	Stamps	Wholesaler, 20th. Dept. Rev. & Tax.

FOOTNOTES to chart (corresponding to numbers in parentheses in the chart):

- (1) Payment with report for stamps purchased on consignment.
- (2) Payment with report for tax not paid by stamp or meter.
- (3) City taxes are also in effect in some cities.
- (4) Machine dealer and operator with over 5 machines, report on 15th.
- (5) City and county taxes may be levied.
- (6) Wholesale price is basis.
- (7) Manufacturer reports on 5th.
- (8) Report drop shipment on 15th.
- (9) Wholesaler and manufacturers also report.
- (10) 10th of Jan., Apr., July, and Oct.; monthly reports may be allowed.
- (11) State tax is net after credit for 10¢ Fed excise tax.
- (12) (Reserved)
- (13) Not deductible on state return.
- (14) Deductible on state return.
- (15) Metered stamping machine report by 10th.
- (16) Cook Co. has added 5¢ tax per pack.
- (17) Added 3 25¢ 10¢ in NYC per 5 cigarettes if pack over 20 cigarettes.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SCS CSHB 80 (C&RA)
PUBLISH DATE: 4/28/89

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act Increasing the Excise
Tax on Cigarettes
Sponsor: Ellis and Koponen
Requestor: (H)HESS Committee

Agency Affected: Revenue
BRU: Income & Excise Audit
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	3600.0	3492.0	3492.0	3492.0	3492.0	3492.0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: See attached.

Prepared By: Steven E. Kettel
Division: Income and Excise Audit

Phone: (907) 465-2320
Date: April 27, 1989

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: April 27, 1989

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

CS HB 80
Prepared by:
Steven E. Kettel
Income and Excise Audit Divison
Department of Revenue
April 27, 1989

Analysis of Senate CS:

The Senate version will reduce the amount of the tax hike from 15 mills as was passed in the house to 9 mills. This reduction will lower anticipated revenues by approximately \$5500.0 in FY91. We continue to forecast a 3% decline in consumption for FY90 through FY95.

	<u>PRESENT LAW</u>	<u>SCS HB 80</u>
TAX RATE	8 mills/cigarette	11 1/2 mills
TAX PER PACK	20¢/pack	23¢/pack
TAX COLLECTIONS	\$8.6 million	\$12.4/million