

ALASKA LEGISLATURE

2751

HOUSE and SENATE FINANCE COMMITTEE FILES, 2003-2004

non-Natives. AARP recommends special targeted cessation efforts in our Native community, particularly for Native youth.

We are aware that, if the tax partnered with cessation programming is successful, this will be a diminishing revenue stream. Unfortunately tobacco tax increases will not provide a "magic pill" to make the fiscal gap disappear. AARP still encourages you and your colleagues to aggressively pursue a comprehensive solution to our fiscal problems.

SB 368 does provide a part of the solution to our fiscal problems. Even more importantly, it provides a significant solution to at least part of Alaska citizens' health problems.

AARP recommends an "AYE" vote on SB 368.

Should you have any questions about our position, please feel free to contact Marie Darlin (907.586.3637), Coordinator of the AARP Capital City Task Force; Patrick Luby (907.762.3314), AARP Legislative Representative; or me (907.245.5259).

Thank you for your consideration.

Sincerely,



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CC: Vice-Chair Con Bunde
Senator Fred Dyson
Senator Ben Stevens
Senator Lyman Hoffman
Senator Donny Olson
Governor Frank Murkowski
Marie Darlin
Patrick Luby

State of Alaska
Epidemiology



Bulletin

Recommendations
and
Reports

Department of Health and Social Services
Joel Gilbertson, Commissioner

Division of Public Health
Doug Bruce, Director

Section of Epidemiology
John Middaugh, MD, Editor

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Volume No. 7 Number 4
November 4, 2003

Youth Tobacco Use Falls

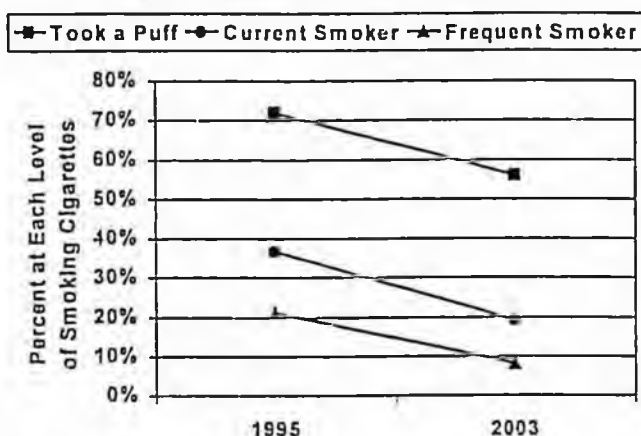
Results From the
2003 Youth Risk Behavior Survey

Smoking among Alaskan high school students has been cut in half since 1995, according to results of the 2003 Youth Risk Behavior Survey (YRBS).

Only 19 percent of the state's high school students say they have smoked at least one cigarette in the past month, down from 37 percent in 1995 (Figure 1). Frequent smoking, in which students report using cigarettes on at least 20 days in the previous month, fell from 21 percent in 1995 to just 8 percent. Just 56 percent of high school youth say they have even taken a single puff on a cigarette, down from 72 percent in 1995.

Figure 1. Percentage of High School Youth Who Ever Took a Puff or Are Current or Frequent Smokers By Year, Alaska YRBS, 2003

	1995	2003
Took a Puff	72%	56%
Current Smoker	37%	19%
Frequent Smoker	21%	8%



"Took a Puff" = took at least a puff of a cigarette in lifetime; "Current Smoker" = smoked on at least 1 out of the last 30 days; "Frequent Smoker" = smoked on at least 20 out of the last 30 days

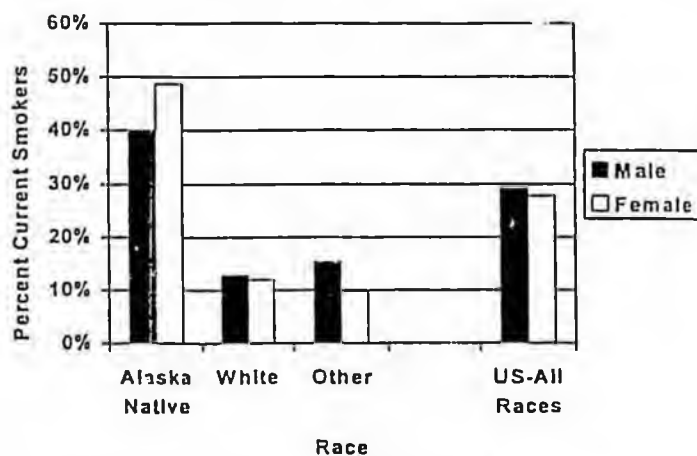
The YRBS, conducted jointly in Alaska by the Department of Health and Social Services and the Department of Education and Early Development, was administered to 1,500 Alaskan high school students who were randomly chosen from nearly every school district in the state. The 2003 YRBS is the first statistically valid statewide health survey of Alaskan youth since 1995.

While smoking rates have declined overall, the YRBS shows that smoking among Alaska Native youth far exceeds that seen in all other races. Approximately 49 percent of Alaska Native females and 40 percent of Alaska Native males say they have smoked at least once during the previous month (Figure 2). About one in five Alaska Native students of both sexes report smoking at least 20 days per month.

Figure 2. Percentage of High School Youth Who Are Current Smokers, By Sex and Race
Alaska YRBS (2003); US YRBS (2001)

	Alaska Native	White	Other Race
Male	40%	13%	15%
Female	49%	12%	10%

US YRBS, 2001 (all races)
males = 29%, females = 28%

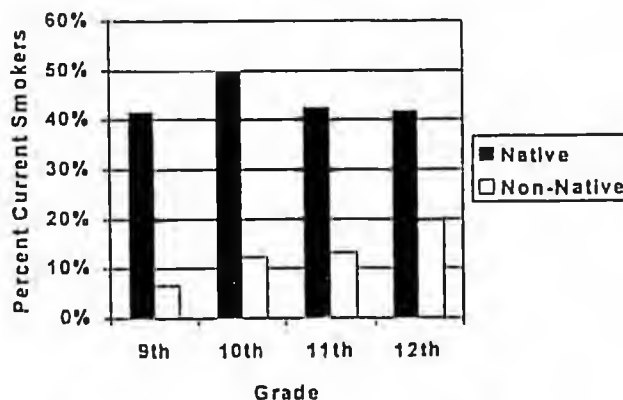


"Current Smoker" = smoked on at least 1 out of the last 30 days

Smoking among Alaska Native youth surpasses that of non-native youth at every grade level (Figure 3). While the likelihood of smoking increases among non-native youths as they progress through high school, it is already near maximum levels by the 9th grade among Alaska Natives.

Figure 3. Percentage of High School Youth Who Are Current Smokers By Race and Grade
Alaska YRBS, 2003

	9th	10th	11th	12th
Native	42%	50%	42%	42%
Non-Native	7%	12%	13%	20%



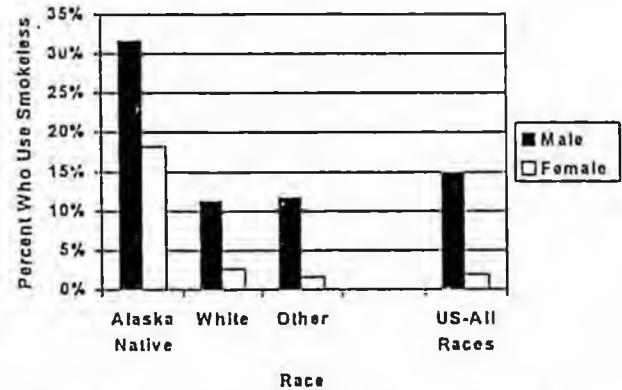
"Current Smoker" = smoked on at least 1 out of the last 30 days

The YRBS also shows that about 11 percent of Alaskan youth have used smokeless tobacco in the previous month. Smokeless tobacco use is especially high among Alaska Natives, where rates among boys are double the national average and rates among girls are nine times higher than the national norm (Figure 4).

Figure 4. Percentage of High School Youth Who Use Smokeless Tobacco, By Sex and Race
Alaska YRBS (2003), US YRBS (2001)

	Alaska Native	White	Other Race
Male	32%	11%	12%
Female	18%	3%	2%

US YRBS, 2001 (all races)
males = 15%, females = 2%

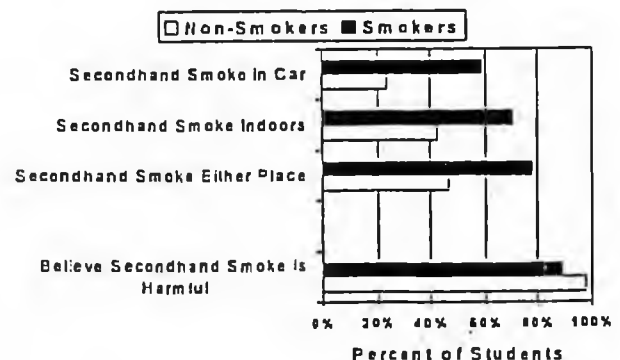


"Use Smokeless Tobacco" = used any smokeless tobacco product on at least 1 of the last 30 days

The YRBS confirms that youth exposure to environmental tobacco smoke in Alaska remains high, despite increased restrictions on smoking in public places. Nearly 50 percent of Alaskan youth who do not smoke say they have been exposed in the past week to secondhand smoke inside of buildings or cars (Figure 5). More than 95 percent of youth say they believe that secondhand smoke is harmful. This view was even expressed by 89 percent of those who smoke.

Figure 5. Percentage of High School Smokers and Non-Smokers Exposed to Secondhand Smoke in Past Week
Alaska YRBS, 2003

	Non-Smokers	Smokers
Secondhand Smoke in Car	24%	59%
Secondhand Smoke Indoors	43%	70%
Secondhand Smoke Either Place	47%	78%
Believe Secondhand Smoke is Harmful	98%	89%



Other findings from the 2003 YRBS bring to light important social and behavioral risk factors associated with youth smoking:

- Students who report that their parents never talk to them about school are almost twice as likely to smoke as students whose parents do talk with them about school (32 percent vs. 18 percent).
- Students who get mostly C's or worse in school are four times as likely to smoke as those who get mostly A's (32 percent vs. 8 percent).
- Students who do not participate in after-school activities are almost twice as likely to smoke as students who participate in one or more such activities per week (26 percent vs. 14 percent).
- Students older than 16 years of age who smoke are twice as likely to have used alcohol in the past month, and are four times as likely to have used marijuana during that time, compared to those who do not smoke (70 percent vs. 36 percent, and 62 percent vs. 16 percent, respectively.)
- Students older than 16 years of age who smoke are three times as likely to have ever used inhalants, and four times as likely to have ever tried cocaine, heroin, methamphetamine or ecstasy, compared to those who do not smoke (24 percent vs. 8 percent, and 43 percent vs. 11 percent, respectively.)
- Students older than 16 years of age who smoke are almost twice as likely to have had sex in the previous three months, compared to those who do not smoke (55 percent vs. 29 percent).
- Students who smoke are twice as likely to have been in a physical fight in the past year, and four times as likely to have been driving while intoxicated during the past 30 days, compared to those who do not smoke (46 percent vs. 22 percent, and 28 percent vs. 7 percent, respectively).

The steep drop in youth smoking was achieved after Alaska invested heavily in a comprehensive tobacco prevention and control program. This program thrives on the strong partnership between state government and the Alaska Tobacco Control Alliance, whose members include the Alaska Native Health Board, the American Cancer Society, the American Heart Association, and the American Lung Association of Alaska.

Components of the state tobacco program include:

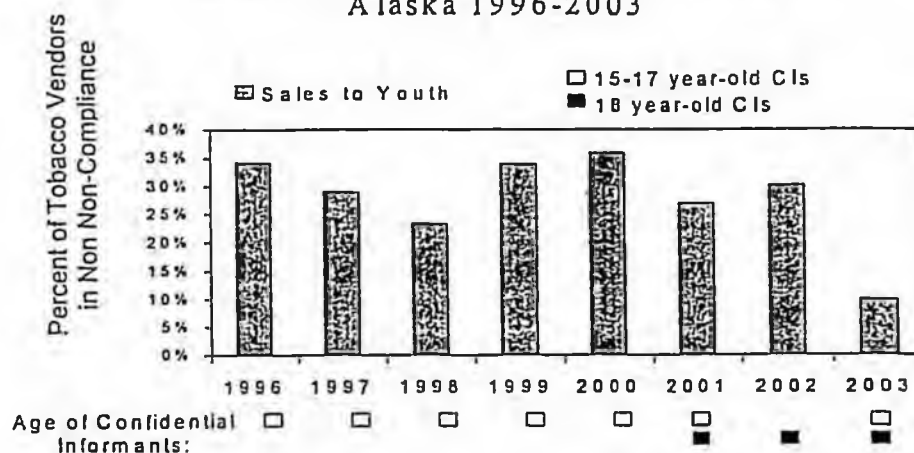
- An aggressive anti-tobacco media campaign aimed especially at curbing tobacco use by youth.
- A statewide excise tax designed to put tobacco products out of the reach of kids by boosting the price of cigarettes by \$1 per pack.
- Community-based advocacy programs that discourage the initiation of tobacco use by youth and promote the enactment of local ordinances that reduce environmental tobacco smoke exposure.
- Renewed efforts to reduce illegal sales of tobacco to youth through improved vendor training and increased enforcement actions across Alaska.

Last year, undercover sting operations found that more than 30 percent of Alaskan tobacco outlets were unlawfully selling cigarettes and other tobacco products to minors. During 2003, illegal sales to youth fell to 10 percent (Figure 6). Clean indoor air ordinances are now in force in Anchorage,

Juneau, Bethel, Barrow, Dillingham, Kenai and Soldotna. Many other smaller communities have adopted informal non-smoking policies.

Figure 6. Illegal Tobacco Sales to Youth and Age of Confidential Informants Alaska 1996-2003

Percent of Tobacco Vendors in Non-Compliance	
1996	34%
1997	29%
1998	24%
1999	34%
2000	36%
2001	27%
2002	30%
2003	10%



Tobacco-attributable disease in Alaska accounts for approximately 600 deaths per year, more than five times as many deaths as those caused by motor vehicle crashes, and nearly 100 times as many deaths as those caused by AIDS. Of the death toll due to tobacco, 120 lives are lost each year because of secondhand smoke. Beyond this, tobacco use accounts for more than \$260 million in direct and indirect medical costs in Alaska each year.

The persistently high levels of smoking among Alaska Native youth do not bode well for reducing racial disparities in the burden of chronic disease in Alaska. Lung cancer mortality among Alaska Natives, once rare, now exceeds that of non-natives (Figures 7 and 8). The high levels of smokeless tobacco use among Alaska Native youth are also worrisome, as continued use into adulthood will increase the likelihood of developing oral cancers, periodontal disease and other disorders.

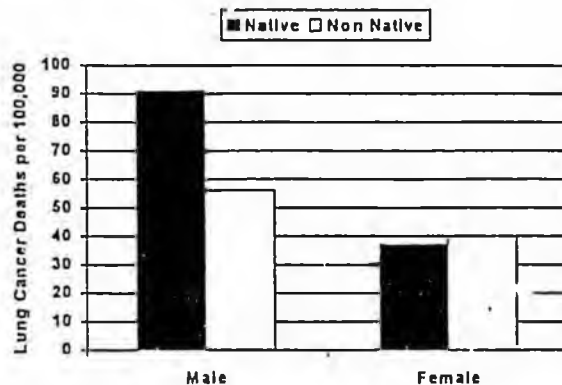
Reductions in youth smoking are critical in decreasing the long-term burden of heart disease, stroke, cancer and other chronic diseases in Alaska. Approximately three-quarters of smokers initiate tobacco use as adolescents.¹ Young people who are refusing to use tobacco today are unlikely to start smoking later in life.

Investments in tobacco prevention and control programs have a strong effect on reducing tobacco use, as long as programs can continue to dedicate significant and sustained resources to prevention activities.² Alaska currently spends approximately \$5.2 million per year on tobacco prevention and control, including \$3.1 million provided by the 1998 Master Settlement Agreement between states and the tobacco industry. This total falls short of the \$8.1 million minimum budget recommended by the federal Centers for Disease Control and Prevention for Alaska, and is well below the CDC's recommended spending level of \$16.5 million.

Figure 7. Lung Cancer Mortality Rates (per 100,000) by Race and Sex Alaska 1996-1999

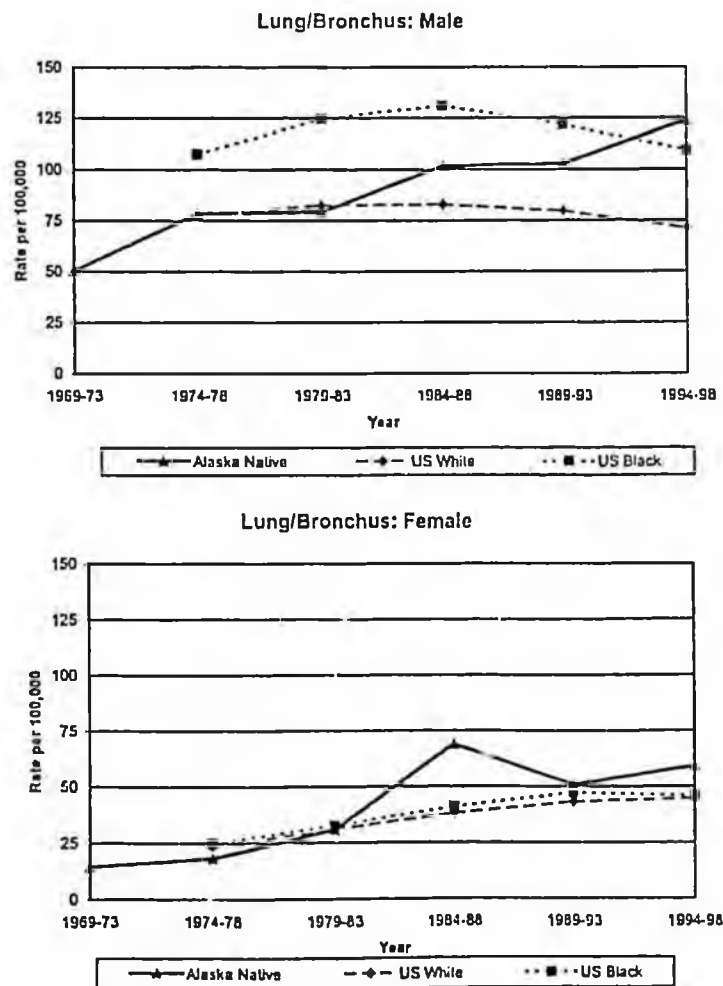
	Male	Female
Native	91.0	37.2
Non-Native	56.1	39.9

Data Source: Alaska Cancer Registry



Data Source: Alaska Cancer Registry

Figure 8. Cancer of Lung/Bronchus Average Annual Age-Adjusted Cancer Incidence Rates Alaska Natives 1969-1998 and US 1974-1997



(This figure provided by the Alaska Native Tribal Health Consortium Alaska Native Tumor Registry.)

¹ Substance Abuse and Mental Health Services Administration. (2003). *Results from the 2002 National Survey on Drug Use and Health: National Findings* (Office of Applied Studies, NHSDA Series H-22, DHHS Publication No. SMA 03-3836). Rockville, MD.

² Farrelly MC, Pechacek TF, Chaloupka FJ. The impact of tobacco control program expenditures on aggregate cigarette sales: 1981-2000. *J Health Economics*. 2003;22:843-859.

State of Alaska
Epidemiology



Bulletin

Recommendations
and
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STATE OF ALASKA

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SB 368
Senate Finance Committee
April 5, 2004
9:00 a.m.

Testimony of Johanna Bales, Revenue Auditor

Thank you Mr. Chairman. My name is Johanna Bales. I am employed by the Alaska Department of Revenue as a Revenue Auditor in the Tax Division. I am the program manager of the Tax Division's cigarette and tobacco products excise tax program. I am pleased to testify on behalf of the administration in support of SB 368, the bill before you.

For a period of time, Alaska's current excise tax rate on cigarettes and other tobacco products (OTP) was the highest in the nation. After a flurry of legislative activity in other states, Alaska's excise tax rate on cigarettes is now the 12th highest and the excise tax rate on OTP is the 3rd highest. Currently, the highest excise tax rate on cigarettes is New Jersey's rate of \$2.05 per pack of 20. However, effective July 1, 2004, Rhode Island's tax rate is scheduled to increase to \$2.45 per pack of 20. The highest excise tax rate on OTP is Washington's rate of 129% of the wholesale price. At the current excise tax rate, Alaska's fiscal year revenues from cigarette and tobacco products are approximately \$40 million and \$6.5 million, respectively.

Although Alaska receives nearly \$47 million in cigarette and tobacco products tax revenues, this amount doesn't even begin to cover the economic and social costs associated with smoking-related illnesses. The Centers for Disease Control (CDC) estimates that smoking-attributable direct medical expenditures in Alaska in 1998 were \$132 million. More recent data indicates that these numbers are on the rise. Therefore, smoking-related costs in Alaska are believed to be significantly higher than \$132 million each year.

If Alaska's cigarette excise tax was doubled to \$2.00 per pack of 20 cigarettes (\$.10 per cigarette) and the OTP tax was increased to 100% of the wholesale cost, Alaska would rank number 3 and number 2 in total taxes charged on cigarettes and OTP, respectively as compared to the other states. If the cigarette and tobacco products excise taxes were increased as proposed in the attached bill, Alaska can expect to see an increase in cigarette and OTP excise taxes of \$33 to \$38 million each year. Estimated total cigarette and tobacco tax revenues would then be between \$80 and \$84 million each year. Even at these levels, cigarette and tobacco tax revenues would not cover smoking-related costs in Alaska. However, this tax increase proposal is a step in the right direction in offsetting some of these costs. Furthermore, discouraging smoking

through a tax increase will improve the economic health of our society as a whole which, in turn, will decrease smoking-related costs in Alaska in the future.

Although we estimate cigarette and tobacco products revenues would increase between \$33 and \$38 million each year, we can expect revenues to be much smaller unless we institute an aggressive investigation and enforcement program. Although we believe the provision for cigarette tax stamps, which took effect January 1, 2004, will be an effective tool in enforcement of the cigarette excise tax, its success depends upon aggressive enforcement. Even at \$1.00 per pack, the incentive for smuggling and tax evasion is great. At \$2.00 per pack, it would be much more attractive. Therefore, in addition to increasing the tax rate, this bill would allow the Departments of Revenue and Public Safety to seize and dispose of equipment, vehicles, monies and other assets used in cigarette smuggling and tax evasion activities. We believe these types of seizures will make cigarette smuggling and tax evasion less attractive and protect State revenues.

This bill will also institute a floor stock tax on all existing cigarette inventories held in the state for sale. This portion of the bill will require all cigarette distributors and retailers to take an inventory of their cigarettes on the effective date of the statute and pay the difference between the old tax rate and the new tax rate to the Department of Revenue within 30 days. When the tax rate on cigarettes increased in 1997, a significant number of retailers stockpiled large amounts of cigarettes prior to the tax rate increase. We estimate that over 200 million cigarettes were stockpiled resulting in lost revenues to the state of approximately 7 million dollars. (See the attached chart that illustrates cigarette stockpiling that took place in 1997.) On October 1, 1997, the effective date of the increase, instead of passing the tax savings on to the consumer, most of the retailers increased their prices to reflect the increased tax rate, a tax they never paid to the State. They then blamed their price increase on the tax rate increase. The Department of Revenue received many complaints from consumers who realized that these retailers were, in essence, pocketing state revenues. Most other states and the federal government institute a floor stock tax on the date of a tax rate increase which is paid by all entities engaged in the sale of cigarettes. This provision will not prohibit individuals from stockpiling cigarettes for personal consumption.

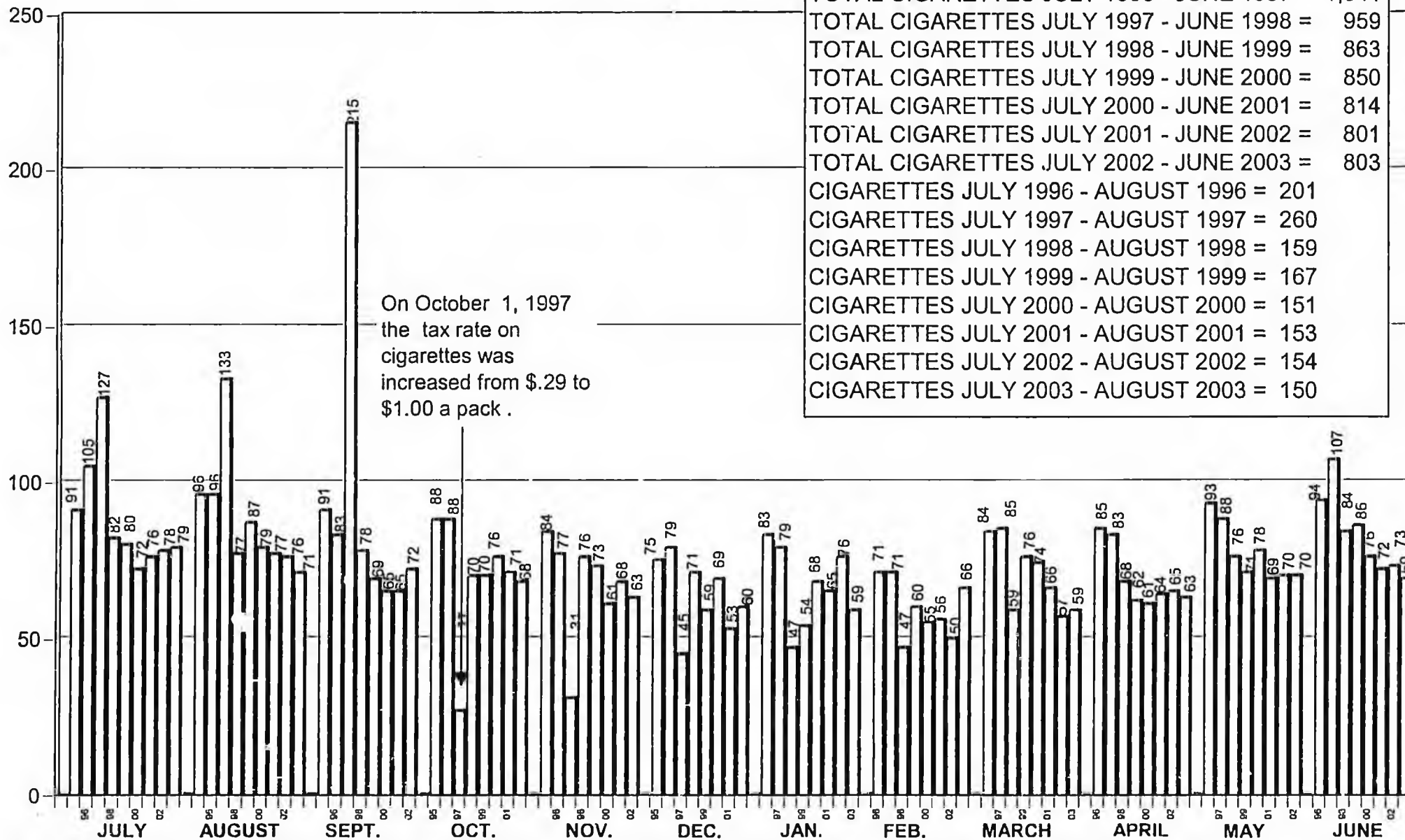
In addition to the tax stamp provisions, the bill would also make several changes to improve the cigarette licensing statutes.

The Department of Revenue urges your support of this important bill. It will enhance compliance with the state's revenue laws while providing an important public health benefit.

I would be happy to answer any questions the committee might have. Thank you.

ALASKA DEPARTMENT OF REVENUE
TAX DIVISION

NUMBER OF TAXABLE CIGARETTES: ACTUALS JULY 1995 - AUGUST 2003
MILLIONS OF CIGARETTES



CAUTION: COMPARISONS SHOULD BE DONE WITH CARE BECAUSE OF THE EXTENSIVE STOCKPILING THAT TOOK PLACE FROM JUNE -SEPTEMBER 1997. ADDITIONALLY, THESE NUMBERS ARE SUBJECT TO CHANGE DUE TO LATE OR AMMENDED RETURNS.



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Chicago cigarette tax second highest

Tax hike aimed at helping smokers quit

Story
Tools

CHICAGO, Illinois (AP) -- An 82-cent-a-pack county tax increase on cigarettes went into effect Thursday, bringing the per-pack cost to about \$6 -- the second highest in the nation.

New York state last year increased its cigarette tax to \$1.50 per pack, and New York City imposed another \$1.50 tax, bringing the cost there to more than \$7.

County and health officials hope the increase, approved by the Cook County Board in February, will encourage people to stop -- and prevent children from starting.

The hike will also help the county: The combination of federal, county and city taxes will add \$2.53 to the cost of a pack. The county's portion is \$1.

"I'm convinced that we will save many thousands of kids and adults from smoking," said Cook County Commissioner Robert Maldonado.

He says he'll consider another hike later this year.

Tobacco giant Philip Morris USA Inc. warned of "unintended consequences."

"Over the past two years, as a record number of states have sought to address budget issues by using increases in excise taxes, there's been an increase of illegal or contraband activity in cigarette sales," spokeswoman Jamie Drogin said.

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Provided by the Dept. of Revenue

STATE OF ALASKA
DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

FRANK H. MURKOWSKI, GOVERNOR

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FAX: (907)465-2539

March 23, 2004

The Honorable Con Bunde, Chairman
Senate Labor & Commerce Committee
Alaska State Legislature

Re: SB 368
Tobacco Tax; Licensing; Penalties
Sectional Analysis

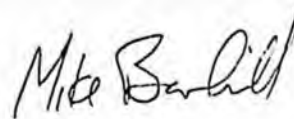
Dear Senator Bunde:

Enclosed is the Sectional Analysis for SB 368.

Sincerely,

GREGG D. RENKES
ATTORNEY GENERAL

By:



Michael A. Barnhill
Assistant Attorney General

MAB:ame

Enclosure

cc w/enc.: Mike Tibbles, Office of the Governor
Randy Ruaro, Office of the Governor

Sectional Analysis

SENATE BILL NO. 368
"AN ACT RELATING TO TOBACCO TAX; LICENSING; PENALTIES"

SECTIONAL ANALYSIS
OFFICE OF THE ATTORNEY GENERAL

- Section 1: Increases the cigarette license fee for direct-buying retailers from \$25 to \$50. This increase makes the license fee the same for distributors and direct-buying retailers who are engaged in substantially similar activities.
- Section 2. This section is a technical correction to the wholesaler-distributor cigarette license type. This correction ensures that in-state individuals and retailers are not double taxed on product that is sold to them by an entity holding a wholesaler-distributor license.
- Section 3. This section requires unlicensed entities that bring cigarettes into the state upon which a tax stamp is not affixed to pay the cigarette excise tax and remit it to the department each month.
- Section 4. This section is a technical correction to the definition of a "buyer" that ensures that an individual bringing cigarettes into the state that were purchased from a licensed wholesaler-distributor are not again subject to tax.
- Section 5. This section is a technical correction to the definition of "direct-buying retailer" that ensures that a retailer bringing cigarettes into the state that were purchased from a licensed wholesaler-distributor are not again subject to tax.
- Section 6. This section is a technical correction to the definition of "distributor" that ensures that a distributor bringing cigarettes into the state that were purchased from a

licensed wholesaler-distributor are not again subject to tax.

Section 7. This section is a technical correction to the definition of "wholesaler-distributor" that ensures that entities outside the state who make sales of cigarettes into the state are properly licensed.

Section 8. This section increases the tax on cigarettes by 50 mills or \$1.00 per pack of 20.

Section 9. This section increases the tax on other tobacco products from 75% to 100% of the wholesale cost.

Section 10. This section allows licensees to apply for a credit for cigarette tax stamps that were lost or damaged in transit.

Section 11. This section allows in-state cigarette licensees to maintain unstamped cigarette inventories if the licensee is in the business of making cigarette sales to customers outside the state and the licensee is properly licensed in the other states where it makes sales.

Section 12. This section allows in-state cigarette licensees to claim a credit for cigarette tax stamps affixed to packages of cigarettes that are sold outside the state provided the licensee is properly licensed in the other states where it makes sales and the licensee provides proof acceptable to the department that the stamped cigarettes were not consumed in Alaska.

Section 13. This section provides that unstamped cigarettes that are seized are forfeited to the state and shall be destroyed by the state.

Section 14. This section allows the seizure of assets used in the sale or transport of cigarettes that are sold in the state in violation of the cigarette tax act. This section further

outlines the types of assets that may be seized, procedures for seizing assets, and procedures for the disposition of assets seized.

Section 15. This section requires that a floor stock tax be paid by all persons in control or possession of cigarettes for resale at the effective date of this bill. A floor stock tax is the difference between the tax paid at the old and new tax rates. The floor stock tax will apply to cigarettes only. The floor stock tax is due no later than 30 days after the effective date of this bill.

Section 16. This section is a technical correction to the heading of AS 43.50.610.

Section 17. The section defines the effective date of this legislation as July 1, 2004.

Statistics, Rankings and Other Relating Documents

CAMPAIGN For TOBACCO-FREE Kids®

STATE CIGARETTE TAX INCREASES & STATE TOBACCO SETTLEMENT REVENUES

An increase to a state's cigarette tax will have no direct or significant effect on the annual amounts the state is receiving in tobacco-settlement payments.

No State Tax Offset Provision in the Settlement Agreements. There is nothing in the agreements that reduces state settlement payments because of state cigarette tax increases.^{*}

State Cigarette Tax Increase's and the Volume Adjustment. The state tobacco settlements include a volume adjustment that reduces the cigarette companies' payments to the states whenever the four major companies' nationwide cigarette sales decline below pre-settlement levels. While a state's cigarette tax increase can substantially reduce smoking within its borders, its effect on nationwide cigarette sales -- and on the volume adjustment -- is much weaker. Even California and New York, the two biggest states, account, respectively, for only 5.9 and 4.2 percent of total U.S. cigarette sales. Smaller states account for much less, such as Idaho (0.4%), Iowa (1.2%) and North Dakota (0.2%). Even the lowest-tax tobacco states (which typically have high smoking rates and sometimes serves as sources for interstate cigarette smuggling) account for quite small portions of total U.S. pack sales -- e.g., North Carolina (3.8%), Kentucky (2.7%), and Virginia (3.2%). Even if one of the very biggest states increased its cigarette tax enough to reduce smoking in that state by 25 percent (which would require a tax increase of more than \$2.00 per pack), that would reduce nationwide cigarette sales and each state's future settlement revenues by only about one percent or so.[†] Some of the smallest states could actually eliminate all smoking within their borders without having any significant effect on the volume adjustment.

State Cigarette Tax Increases Produce Significant State Benefits. State cigarette tax increases always increase state excise tax revenues, reduce smoking (especially among kids and low-income families), and reduce the state's smoking-caused healthcare costs.[‡] That means the big winners will be the states that reduce their smoking rates more sharply than the overall national decline: they will get the same reductions to their settlement payments as other states but enjoy above-average smoking-reduction benefits and cost savings.

National Center for Tobacco-Free Kids, May 1, 2003 | Eric Lindblom

^{*} The federal offset provision in the state tobacco settlements -- which provided that settlement payments to the states would be reduced on a dollar-for-dollar basis if the states received any new funds from a federal cigarette tax increase -- is no longer operative..

[†] Numerous studies have established that for every ten percent a state tax increase raises the average price of a pack of cigarettes in the state it will also reduce overall cigarette consumption in the state by about four percent. See, e.g., Chaloupka, F. J., "Macro-Social Influences: The Effects of Prices and Tobacco Control Policies on the Demand for Tobacco Products," *Nicotine and Tobacco Research* (2000), and other price studies at <http://tiqer.uic.edu/~fjc>. The volume adjustment reduces state settlement receipts by roughly 98% of any declines in the nationwide cigarette sales of the four major cigarette companies since before the settlement.

[‡] See, e.g., Campaign for Tobacco-Free Kid fact sheets, *Raising State Tobacco Taxes Always Increases State Revenues and Always Reduces Tobacco Use and State Cigarette Tax Rates and Projected Benefits from Increasing Them*, <http://tobaccofreekids.org/research/factsheets>. For more information and Campaign factsheets on state tobacco-tax increases, see <http://tobaccofreekids.org/reports/prices>.

CAMPAIGN For TOBACCO-FREE Kids®

BENEFITS FROM A CIGARETTE TAX INCREASE IN ALASKA

Current State Cigarette Tax: 1 Dollar Per Pack (12th among all states)

Smoking-caused costs in state per taxed pack sold: \$6.38

Average retail price per pack: \$4.34 (state share from excise and sales taxes: \$1.00)

Total state Medicaid program smoking costs each year: \$60 million

State cigarette tax revenue each year: \$40.4 million (2002)

Last Alaska Cigarette Tax Increase: 10/01/97

Projected Benefits From Increasing the State Cigarette Tax By 1 Dollar Per Pack

- New state cigarette tax revenues each year: \$30.7 million
- New sales tax revenues: State has no sales tax.
- Pack sales decline in state: -4.6 million
- Percent decrease in youth smoking: 15.0%
- Increase in total number of kids alive today who will not become smokers: 9,100
- Number of current adult smokers in the state who would quit: 4,500
- Number of smoking-affected births avoided over next five years: 1,300
- Number of current adult smokers saved from smoking-caused death: 900
- Number of kids alive today saved from premature smoking-caused death: 2,900
- 5-Year healthcare savings from fewer smoking-affected pregnancies & births: \$1.6 million
- 5-year healthcare savings from fewer smoking-caused heart attacks & strokes: \$1.8 million
- Long-term healthcare savings in state from adult & youth smoking declines: \$146.3 million

These projections provide careful estimates of the new revenues and public health benefits the state would obtain from the cigarette tax increase above and beyond what it would get if it does not raise the tax. These projections are fiscally conservative because they include a generous adjustment for lost state pack sales (and tax revenues) from new tax avoidance efforts after the tax increase by continuing in-state smokers. The projections are also based on research findings that a 10% cigarette price increase reduces youth smoking rates by 6.5%, adult rates by 2%, and total consumption by 4%, and assume that the state tax will keep up with inflation. Nevertheless, cigarette tax increases both reduce smoking levels and increase state revenues because the increased tax per pack brings in more new revenue than is lost from the decrease in the number of packs sold. Sales tax rate is 0.0%. Kids stopped from smoking and dying are from all kids alive today. Long-term savings accrue over lifetimes of persons who stop smoking or never smoke because of tax increase.

Sources. Chaloupka, F, "Macro-Social Influences: Effects of Prices and Tobacco Control Policies on the Demand for Tobacco Products," *Nicotine & Tobacco Research*, 1999, and other price studies at <http://tigger.uic.edu/~fic> and www.uic.edu/orqs/impactteen. Orzechowski & Walker, *Tax Burden on Tobacco*, 2002. USDA Economic Research Service, www.ers.usda.gov/Briefing/tobacco. State tax offices. Farrelly, M. et al., "Cigarette Smuggling Revisited," U.S. Centers for Disease Control & Prevention (CDC), in press. CDC, *State Highlights 2002: Impact and Opportunity, April 2002*, www.cdc.gov/tobacco/StateHighlights.htm. Miller, P., et al., "Birth and First-Year Costs for Mothers and Infants Attributable to Maternal Smoking," *Nicotine & Tobacco Research* 3(1): 25-35, February 2001. Lightwood, J. & S. Glantz, "Short-Term Economic and Health Benefits of Smoking Cessation - Myocardial Infarction and Stroke," *Circulation* 96(4): 1089-1096, August 19, 1997, <http://circ.ahajournals.org/cgi/content/full/96/4/1089>. Hodgsen, T., "Cigarette Smoking and Lifetime Medical Expenditures," *The Millbank Quarterly* 70(1), 1992. U.S. Census. Nat'l Center for Health Statistics.

For more information, see the Campaign fact sheets -- including *Raising State Tobacco Taxes Always Reduces Tobacco Use (& Always Increases State Revenues)* -- at <http://tobaccofreekids.org/research/factsheets/index.php?CategoryID=18> and <http://tobaccofreekids.org/reports/prices>.

National Center for Tobacco-Free Kids 10.30.03 / Eric Lindblom, October 30, 2003

CAMPAIGN For TOBACCO-FREE Kids®

2003 STATE CIGARETTE EXCISE TAX RATES & RANKINGS

Overall All States' Average: 73.5 cents per pack
 Major Tobacco States' Average: 12.4 cents per pack
 Other States' Average: 81.7 cents per pack

State	Tax	Rank
Alabama	16.5	47th
Alaska	100	13th
Arizona	118	12th
Arkansas	59	27th
California	87	19th
Colorado	20	43rd
Connecticut	151	3rd
Delaware	55	30th
DC	100	13th
Florida	33.9	41st
Georgia	37	38th
Hawaii ¹	130	8th
Idaho ²	57	28th
Illinois	98	17th
Indiana	55.5	29th
Iowa	36	39th
Kansas	79	21st
Kentucky	3	50th

State	Tax	Rank
Louisiana	36	39th
Maine	100	13th
Maryland	100	13th
Massachusetts	151	3rd
Michigan	125	10th
Minnesota ³	48	35th
Mississippi	18	45th
Missouri	17	46th
Montana	70	23rd
Nebraska	64	25th
Nevada	80	20th
New Hampshire	52	34th
New Jersey	205	1st
New Mexico	91	18th
New York	150	5th
North Carolina	5	49th
North Dakota	44	36th
Ohio	55	30th

State	Tax	Rank
Oklahoma	23	42nd
Oregon	128	9th
Pennsylvania	135	7th
Rhode Island	171	2nd
South Carolina	7	48th
South Dakota	53	33rd
Tennessee	20	43rd
Texas	41	37th
Utah	69.5	24th
Vermont	119	11th
Virginia	2.5	51st
Washington	142.5	6th
West Virginia	55	30th
Wisconsin	77	22nd
Wyoming	60	26th
Puerto Rico	123	NA
Guam	100	NA
Northern Marianas	175	NA

¹ 10-cents added 7/1/04. Reverts to \$1 7/1/06.

² Reverts to 28 cents 7/1/05.

³ Has an 83-cents rate that applies only to the brands of small manufacturers that are not part of the state tobacco settlement.

The many states and U.S. territories that have implemented or passed new cigarette increases since January 2002 are in bold type. New York City increased its local cigarette tax from eight cents to \$1.50 per pack, effective 7/1/02, and several localities in VA and elsewhere have increased their cigarette tax rates, as well. Hawaii has passed an additional 10-cent increase that goes into effect in 2004; and Alabama has sent a 14.5 cents increase, effective October 1st, 2003, to the state's voters to approve or reject. The median tax rate is now 60 cents per pack.

Tobacco States are KY, VA, NC, SC, GA, TN. States' average includes DC, but not U.S. territories Puerto Rico, Guam, or Northern Marianas. Also including Puerto Rico (which has a larger U.S. population than more than 20 states and DC) raises the state average to 74.5 cents per pack and the non-tobacco state average to 82.6 cents. Federal cigarette tax is 39 cents per pack. From the beginning of 1998 through 2002, the major cigarette companies increased the prices they charge by more than \$1.25 per pack (but also instituted aggressive retail-level discounting for competitive purposes and to reduce related consumption declines). In January 2003, Philip Morris instituted a "temporary" 65-cent per pack price cut for four of its major brands to replace its retail-level discounting and fight sales losses to deep discount brands. The U.S. Centers for Disease Control & Prevention estimates that smoking-caused health costs nationwide total \$7.18 per pack sold in the United States.

The average price for a pack of cigarettes nationwide is roughly \$3.65 (including statewide sales taxes but not local cigarette or sales taxes, other than NYC's \$1.50 per pack cigarette tax), with considerable state-to-state differences because of different state tax rates, and different manufacturer, wholesaler, and retailer pricing and discounting practices. AK, DE, MT, NH & OR have no state sales tax at all; CO has a state sales tax but it does not apply to cigarettes; and AL, GA & MO (unlike the rest of the states) do not apply their state sales tax to that portion of retail cigarette prices that represents the state's cigarette excise tax.

Sources: Orzechowski & Walker, *Tax Burden on Tobacco*, 2002; media reports; Economic Research Service, U.S. Department of Agriculture, *Tobacco Briefing Room Website*, <http://www.ers.usda.gov/Briefing/tobacco>.

For additional information see the Campaign's website at <http://tobaccofreekids.org/reports/prices>.

National Center for Tobacco-Free Kids, January 8, 2004 / Eric Lindblom

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CAMPAIGN For TOBACCO-FREE Kids®

STATE CIGARETTE TAX RATES & RANK, DATE OF LAST INCREASE, ANNUAL PACK SALES & REVENUES, AND RELATED DATA

30 states, DC, and Puerto Rico have implemented or passed higher cigarette tax rates since 1/1/2002, but 14 states have not increased their tax for at least ten years, five of those have not increased their tax since the 1980s, and Kentucky and Virginia have not made any increase for more than 30 years. As time passes, inflation erodes the real value of state tobacco tax rates and revenues, as they account for increasingly small portions of the total retail price of a pack of cigarettes. Cigarette tax increases can quickly restore state tobacco tax revenues to historical levels or higher -- while also reducing state smoking levels and related costs and saving lives.

Overall State Average: 70.5 cents per pack. Major Tobacco State Average: 12.4 cents per pack. Other State Average: 78.2 cents per pack.

State	Cigarette Tax Per Pack	National Rank (1 = high)	Date of Last State Tax Increase	FY 2002 Cigarette Pack Sales (millions)	FY 2002 Cigarette Tax Revenue (millions)	Retail Price Per Pack With All Taxes*	CDC State Smoking Costs Per Pack Sold	Adult Smokers	Youth Smoking Rate	Adult Smoking Rate	Adult Smoking Rank (1=low)
<i>All States</i>	\$0.70.5 avg.	///	///	20.4 billion	\$8.4 billion	\$3.72	\$7.18	48 million	28.1%	22.8%	///
Alabama	\$0.16.5	47th	7/1/84	378.5	\$61.7	\$3.15	\$7.33	794,359	23.7%	23.9%	30
Alaska	\$1.00	12th	10/1/97	40.4	\$40.4	\$4.34	\$6.38	113,852	33.9%	26.1%	44
Arizona	\$1.18	11th	11/26/02	276.1	\$158.6	\$4.44	\$8.35	809,192	19.0%	21.5%	12
Arkansas	\$0.59	26th	6/1/03	234.8	\$76.8	\$3.70	\$6.46	510,216	34.7%	25.6%	40
California	\$0.87	19th	1/1/99	1,234.90	\$1,065.2	\$4.11	\$11.38	4,234,953	21.6%	17.2%	2
Colorado	\$0.20	43rd	7/1/86	292.6	\$56.2	\$3.01	\$6.21	716,904	25.3%	22.4%	19
Connecticut	\$1.51	1st	3/15/03	227.4	\$149.8	\$4.74	\$9.16	533,286	25.6%	20.8%	8
Delaware	\$0.55	29th	7/31/03	113.4	\$27.0	\$2.98	\$4.32	147,842	24.2%	25.1%	38
Washington, DC	\$1.00	12th	1/1/03	25.4	\$16.3	\$4.14	\$16.02	95,070	14.7%	20.8%	9
Florida	\$0.33.9	41st	7/1/90	1,277.30	\$426.3	\$3.33	\$8.26	2,775,609	19.0%	22.5%	22
Georgia	\$0.37	37th	4/1/71	666.2	\$76.5	\$3.01	\$6.38	1,426,081	23.7%	23.7%	29
Hawaii	\$1.30	7th	7/1/03	62.6	\$62.6	\$4.57	\$10.15	188,649	24.5%	20.6%	7
Idaho	\$0.57	27th	6/1/03	83.6	\$23.4	\$3.38	\$6.03	182,210	19.1%	19.7%	3
Illinois	\$0.98	17th	7/1/02	885.2	\$464.3	\$4.02	\$8.53	2,165,027	34.0%	23.6%	27
Indiana	\$0.55.5	28th	7/1/02	742.1	\$110.3	\$3.52	\$5.14	1,239,174	31.6%	27.5%	47
Iowa	\$0.36	38th	6/1/91	249.7	\$88.0	\$3.22	\$6.40	486,776	32.7%	22.2%	15
Kansas	\$0.79	20th	1/1/03	208.8	\$47.9	\$3.75	\$6.98	438,544	26.1%	22.2%	16
Kentucky	\$0.03	50th	7/1/70	572.5	\$16.0	\$2.89	\$4.88	941,508	40.0%	30.9%	51
Louisiana	\$0.36	38th	7/1/02	433.3	\$98.1	\$3.21	\$7.57	805,796	33.3%	24.8%	37
Maine	\$1.00	12th	10/1/01	102.4	\$94.1	\$4.12	\$8.46	233,684	24.8%	24.0%	32
Maryland	\$1.00	12th	6/1/02	301	\$202.7	\$3.95	\$10.03	839,287	23.7%	21.3%	10
Massachusetts	\$1.51	1st	7/24/02	354	\$269.0	\$4.82	\$12.52	955,260	26.0%	19.7%	4
Michigan	\$1.25	9th	8/1/02	780.1	\$577.3	\$4.34	\$7.70	1,887,068	27.6%	25.7%	41
Minnesota	\$0.43	34th	7/1/92	352.8	\$166.1	\$3.49	\$7.22	806,434	28.9%	22.2%	17
Mississippi	\$0.18	45th	6/1/85	261.5	\$44.0	\$3.15	\$6.96	525,646	23.6%	25.4%	39
Missouri	\$0.17	46th	10/1/93	558.3	\$92.0	\$2.94	\$6.37	1,079,387	30.3%	25.9%	42
Montana	\$0.70	22nd	5/1/03	67.3	\$11.7	\$3.49	\$6.86	147,197	28.5%	21.9%	13

* Pack prices reflect the temporary 65-cent reduction in Marlboro and three other brands initiated in January 2003 by Philip Morris, but they do not fully reflect retail-based discounting and promotions by the major cigarette companies.

State Cigarette Tax Rates & Rank, Date of Last Increase And Related Data / 2

State	Cigarette Tax Per Pack	National Rank (1 = high)	Date of Last State Tax Increase	FY 2002 Cigarette Pack Sales (millions)	FY 2002 Cigarette Tax Revenue (millions)	Retail Price Per Pack With All Taxes	CDC State Smoking Costs Per Pack Sold	Adult Smokers	Youth Smoking Rate	Adult Smoking Rate	Adult Smoking Rank (1=low)
Nebraska	\$0.64	24th	10/1/02	132.4	\$43.5	\$3.82	\$7.19	257,248	29.0%	20.4%	5
Nevada	\$0.35	40th	7/1/89	173.1	\$58.8	\$3.26	\$6.64	401,344	25.2%	27.0%	46
New Hampshire	\$0.52	33rd	7/1/99	166.7	\$84.1	\$3.33	\$4.63	223,220	25.3%	24.1%	34
New Jersey	\$1.50	3rd	7/1/02	495.2	\$391.5	\$4.64	\$9.69	1,347,607	24.5%	21.3%	11
New Mexico	\$0.91	18th	7/1/03	95.4	\$19.5	\$3.98	\$7.75	313,203	36.2%	23.9%	31
New York	\$1.50	3rd	4/3/02	884.4	\$1,052.8	\$5.65	\$12.83	3,343,006	26.8%	23.4%	26
North Carolina	\$0.05	49th	8/1/91	806.6	\$38.8	\$3.02	\$5.90	1,576,084	27.8%	25.9%	43
North Dakota	\$0.44	35th	7/1/93	43.4	\$19.1	\$3.52	\$7.82	106,379	35.3%	22.1%	14
Ohio	\$0.55	29th	7/1/02	1,101.00	\$257.3	\$3.51	\$6.66	2,344,750	33.4%	27.7%	48
Oklahoma	\$0.23	42nd	6/1/87	352.8	\$57.1	\$3.09	\$6.01	736,789	24.0%	28.8%	50
Oregon	\$1.28	8th	11/1/02	231.3	\$155.0	\$3.80	\$7.58	527,849	22.0%	20.5%	6
Pennsylvania	\$1.00	12th	7/15/02	1,067.40	\$320.1	\$3.95	\$7.50	2,221,373	27.6%	24.6%	36
Rhode Island	\$1.50	3rd	7/1/03	79.1	\$78.1	\$4.65	\$8.15	192,119	24.8%	24.0%	33
South Carolina	\$0.07	48th	7/1/77	396.2	\$25.4	\$3.00	\$6.52	786,621	36.0%	26.2%	45
South Dakota	\$0.53	32nd	4/1/03	57.1	\$17.5	\$3.49	\$6.84	123,692	33.0%	22.4%	20
Tennessee	\$0.20	43rd	7/13/02	593.6	\$75.3	\$3.26	\$7.01	1,046,946	32.4%	24.4%	35
Texas	\$0.41	36th	7/1/90	1,244.30	\$497.5	\$3.49	\$7.79	3,367,139	24.7%	22.5%	23
Utah	\$0.69.5	23rd	5/6/02	91	\$<7.1	\$3.73	\$5.99	201,425	8.3%	13.3%	1
Vermont	\$1.19	10th	7/1/03	57	\$24.5	\$4.11	\$6.18	103,332	23.7%	22.4%	21
Virginia	\$0.02.5	51st	9/1/66	662.1	\$15.0	\$2.95	\$5.57	1,201,557	NA	22.5%	24
Washington	\$1.42.5	6th	1/1/02	269.5	\$306.6	\$4.82	\$10.25	989,943	28.0%	22.6%	25
West Virginia	\$0.55	29th	5/1/03	199.5	\$32.6	\$3.37	\$7.02	396,478	39.2%	28.2%	49
Wisconsin	\$0.77	21st	10/1/01	403.3	\$288.8	\$3.89	\$7.14	942,801	27.1%	23.6%	28
Wyoming	\$0.60	25th	7/1/03	46.1	\$5.1	\$3.50	\$5.27	81,010	28.4%	22.2%	18
USA/U.S. Gov't	39	///	1/1/02	21.25 billion	\$7.0 billion	\$3.72	\$7.18	49 million	28.5%	22.8%	NA

Sources: CDC, *State Highlights 2002: Impact and Opportunity*, April 2002, www.cdc.gov/tobacco/StateHighlights.htm. Orzechowski & Walker, *Tax Burden on Tobacco*, 2002. Smoking costs per pack sold = CDC estimates of state smoking-caused health costs and lost productivity per taxed packs sold in each state in 2001. Youth smoking rates most recent available; in bold type from the Youth Tobacco Surveillance (YTS); in italics from state-specific surveys; and in regular type from Youth Risk Behavioral Surveillance (YRBS). Because of different surveys and years, youth-smoking rankings cannot be done. From the start of 1998 to the end of 2001, the major cigarette companies increased their prices by more than \$1.25 per pack. Major tobacco states are KY, VA, NC, SC, GA, TN. State averages do not include Puerto Rico (which is larger than more than 20 states & DC, based on population). Taxed Pack Sales include all cigarette sales on which cigarette taxes were collected. Total USA pack sales include sales of cigarettes on which federal but not state taxes are collected (e.g., sales to Indian Tribes and military bases) and includes sales in Puerto Rico and other U.S. territories not listed above. Cigarette prices include federal and state cigarette taxes and state sales taxes but not local cigarette or sales taxes (unless they are uniform throughout the state), except for New York City, which contains roughly half the population of NY State and increased its local tax from 8 cents to \$1.50 per pack 7/1/02. AK, DE, MT, NH & OR have no state sales tax; CO has a sales tax but it does not apply to cigarettes; and AL, GA & MO do not apply their sales tax to the portion of retail cigarette prices that is the state's cigarette excise tax.

For more information on state cigarette taxes and the benefits from increasing them, see the Campaign's website at <http://tobaccofreekids.org/reports/prices>. For more state-specific data, see the Campaign website at: <http://tobaccofreekids.org/reports/settlements> and <http://tobaccofreekids.org/research/factsheets>.

National Center for Tobacco-Free Kids, June 26, 2003 / Eric Lindblom

CAMPAIGN For TOBACCO-FREE Kids®

RAISING CIGARETTE TAXES REDUCES SMOKING, ESPECIALLY AMONG KIDS (AND THE CIGARETTE COMPANIES KNOW IT)

The cigarette companies have opposed tobacco tax increases by arguing that raising cigarette prices would not reduce adult or youth smoking. But the companies' internal documents, disclosed in the tobacco lawsuits, show that they know very well that raising cigarette prices is one of the most effective ways to prevent and reduce smoking, especially among kids.

- RJ Reynolds: *If prices were 10% higher, 12-17 incidence [the percentage of kids who smoke] would be 11.9% lower.*¹
- Philip Morris: *It is clear that price has a pronounced effect on the smoking prevalence of teenagers, and that the goals of reducing teenage smoking and balancing the budget would both be served by increasing the Federal excise tax on cigarettes.*²
- Philip Morris: *Jeffrey Harris of MIT calculated . . . that the 1982-83 round of price increases caused two million adults to quit smoking and prevented 600,000 teenagers from starting to smoke. . . . We don't need to have that happen again.*³
- Philip Morris: *A high cigarette price, more than any other cigarette attribute, has the most dramatic impact on the share of the quitting population. . . . price, not tar level, is the main driving force for quitting.*⁴

The companies have even publicly admitted the effectiveness of tax increases to deter smoking in their required filings with the U.S. Securities and Exchange Commission.

- Philip Morris: *[I]ncreases in excise and similar taxes have had an adverse impact on sales of cigarettes. Any future increases, the extent of which cannot be predicted, could result in volume declines for the cigarette industry.* [10-Q Report, May 11, 2001.]
- Loews/Lorillard Tobacco: *Significant increases in federal and state excise taxes on cigarettes . . . have, and are likely to continue to have, an adverse effect on cigarette sales.* [Loews (parent corporation of the Lorillard cigarette company) 10-K Report, March 31, 1999.]
- R.J. Reynolds: *[S]ubstantial increases in state and federal excise taxes on cigarettes. . . have had and will likely continue to have an adverse effect on cigarette sales.* [10-Q Report, August 1, 2001.]

Economic Research On Cigarette Tax Increases Reducing Smoking

Numerous economic studies in peer-reviewed journals have documented that cigarette tax or price increases reduce both adult and underage smoking. The general consensus is that every 10 percent increase in the real price of cigarettes will reduce overall cigarette consumption by approximately three to five percent and reduce the number of kids who smoke by about six or seven percent.⁵ Research studies have also made the following related findings:

- Among all adults or all youths, cigarette price increases work even more effectively to prevent and reduce smoking among males, Blacks, Hispanics, and lower-income persons.⁶
- Higher taxes on spit tobacco reduce its use, particularly among young males.⁷

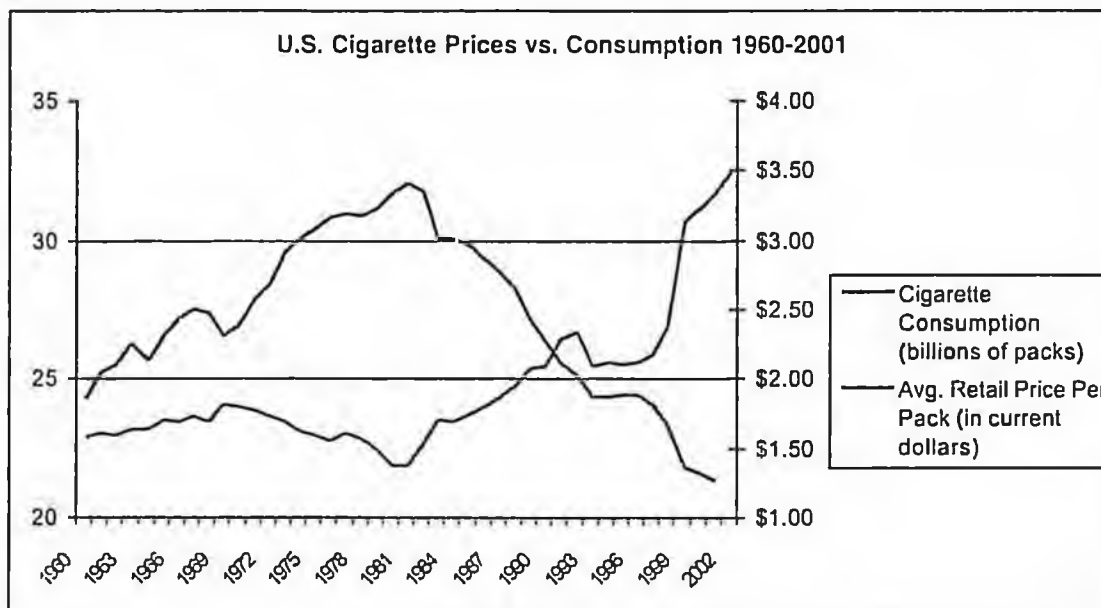
- Kids do not smoke more marijuana if they reduce their cigarette smoking. In fact, cigarette price increases not only reduce youth smoking but also reduce both the number of kids who smoke marijuana and the amount of marijuana consumed by continuing regular users.⁸

Expert Conclusions on Cigarette Prices and Smoking Levels

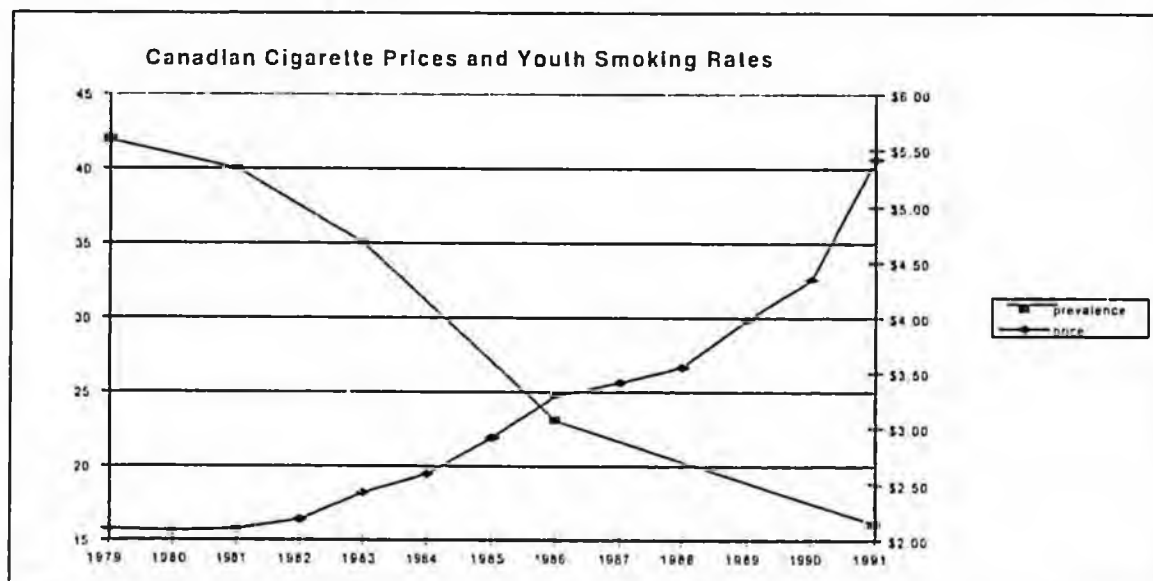
- The 2000 U.S. Surgeon General's Report, *Reducing Tobacco Use*, found that increasing the price of tobacco products would decrease the prevalence of tobacco use, particularly among kids and young adults, and that tobacco tax increases would lead to "substantial long-term improvements in health." From its review of existing research, the report concluded that raising tobacco taxes is one of the most effective tobacco prevention and control strategies.⁹
- The 1999 World Bank report *Curbing The Tobacco Epidemic: Governments and the Economics of Tobacco Control* carefully evaluated existing research and data, worldwide, and concluded that "the most effective way to deter children from taking up smoking is to increase taxes on tobacco. High prices prevent some children and adolescents from starting and encourage those who already smoke to reduce their consumption."¹⁰
- Wall Street tobacco industry analysts have long recognized the powerful role increased cigarette taxes and rising cigarette prices play in reducing U.S. smoking levels. For example, a December 1998 "Sensitivity Analysis on Cigarette Price Elasticity" by Credit Suisse First Boston Corporation settled on a "conservative" estimate that cigarette consumption will decline by four percent for every 10 percent increase in price.
- In its 1998 report, *Taking Action to Reduce Tobacco Use*, the National Academy of Sciences' Institute of Medicine concluded that "the single most direct and reliable method for reducing consumption is to increase the price of tobacco products, thus encouraging the cessation and reducing the level of initiation of tobacco use."¹¹
- A National Cancer Institute Expert Panel reported in 1993 that "a substantial increase in tobacco excise taxes may be the single most effective measure for decreasing tobacco consumption," and "an excise tax reduces consumption by children and teenagers at least as much as it reduces consumption by adults."

Increasing U.S. Cigarette Prices and Declining Consumption

Although there are many other factors involved, comparing the trends in cigarette prices and overall U.S. cigarette consumption from 1970 to 2001 shows that there is a strong correlation between increasing prices and decreasing consumption (see chart below). While U.S. cigarette prices are largely controlled by the cigarette companies' price-setting decisions, from 1970 to 2002, the federal tax on cigarettes also increased from eight cents to 39 cents per pack and the average state cigarette tax increased from 11 to 44 cents per pack. Without these federal and state tax increases, U.S. cigarette prices would be much lower and U.S. smoking levels would be much higher.



The Canadian Experience. From 1979 to 1991 real prices in Canada increased from \$2.09 to \$5.42 and smoking among 15 to 19 year olds fell from 42 to 16 percent. As the President of the Canadian Tobacco Manufacturers Council then admitted to a legislative committee, "there is no question that consumption is down measurably over the last five years, and there is no question in our minds that taxes have been a significant factor."¹² But when Canada subsequently reduced its cigarette taxes (to reduce tax-avoidance smuggling supported by the cigarette companies), youth smoking immediately increased for the first time in nearly fifteen years.¹³



For more information, please go to the Campaign's special website page on tobacco taxes at <http://tobaccofreekids.org/reports/prices>

- ¹ R.J. Reynolds Executive D. S. Burrows, "Estimated Change In Industry Trend Following Federal Excise Tax Increase" RJR Document No. 501988846 -8849, September 20, 1982, www.rjtdocs.com.
- ² Philip Morris Research Executive Myron Johnston, "Teenage Smoking and the Federal Excise Tax on Cigarettes," PM Document No. 2001255224, September 17, 1981, www.pmdocs.com.
- ³ Philip Morris Executive Jon Zoler, "Handling An Excise Tax Increase," PM Document No. 2022216179, September 3, 1987, www.pmdocs.com.
- ⁴ Philip Morris Executive Claude Schwab, "Cigarette Attributes and Quitting," PM Doc. 2045447810, March 4, 1993, www.pmdocs.com.
- ⁵ See, e.g., Tauras, J., et al., "Effects of Price and Access Laws on Teenage Smoking Initiation: A National Longitudinal Analysis," Bridging the Gap Research, ImpacTeen, April 24, 2001, and other price studies at www.uic.edu/orgs/impacteen. Chaloupka, F., "Macro-Social Influences: The Effects of Prices and Tobacco Control Policies on the Demand for Tobacco Products," *Nicotine and Tobacco Research*, 1999, and other price studies at <http://tigger.uic.edu/~fic>; Chaloupka, F. & R. Pacula, *An Examination of Gender and Race Differences in Youth Smoking Responsiveness to Price and Tobacco Control Policies*, National Bureau of Economic Research, Working Paper 6541, April 1998, <http://tigger.uic.edu/~fic>. Emery, S., et al., "Does Cigarette Price Influence Adolescent Experimentation?," *Journal of Health Economics* 20:261-270, 2001. Evans, W. & L. Huang, *Cigarette Taxes and Teen Smoking: New Evidence from Panels of Repeated Cross-Sections*, working paper, April 15, 1998, www.bsos.umd.edu/econ/evans/wrkpap.htm. Harris, J. & S. Chan, "The Continuum-of-Addiction: Cigarette Smoking in Relation to Price Among Americans Aged 15-29," *Health Economics Letters* 2(2) 3-12, February 1998, www.mit.edu/people/ieffrey.
- ⁶ See, e.g., U.S. Centers for Disease Control and Prevention (CDC), "Responses to Cigarette Prices By Race/Ethnicity, Income, and Age Groups - United States 1976-1993," *Morbidity and Mortality Report (MMWR)* 47(29): 605-609 July 31, 1998, www.cdc.gov/mmwr; Chaloupka & Pacula.
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- ¹⁰ Available at <http://www1.worldbank.org/tobacco/reports.htm>.
- ¹¹ Available at www.nap.edu/books/0309060389/html/index.html.
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CRAIN'S NEW YORK BUSINESS

High tax fuels black market in cigarettes
Agencies crack down on smugglers

By Arne Michaud

Published on March 08, 2004

Like the prohibition on alcohol in 1920s America, the high tax on cigarettes in New York City is giving rise to a vast network of illegal sales, complete with gangland-style violence.

Cigarettes are not banned here, of course, but at \$7.50-plus for a pack, they are prohibitively expensive for many smokers. To feed smokers' habits, bootleggers—from petty criminals to organized gangs and even terrorist organizations such as Hezbollah—are bringing cigarettes into the state and successfully evading the tax penalties.

"We're paying a lot of attention to this," says Gary McCarthy, deputy commissioner with the New York Police Department. "It's a black market people are moving into, and we have to squeeze it as hard as we can."

If there's any doubt about cigarette sales going underground, tax collection figures tell the tale. Legitimate vendors sold only 11.1 million packs in New York City last January, compared with 30.4 million packs in January 2002. Because the city collects \$1.50 on each pack sold, versus 8 cents prior to the July 2002 tax hike, monthly tax revenue increased to \$16.7 million this past January from \$2.4 million in January 2002. However, state tax revenue declined so much that the state and city together lost \$5.6 million in monthly revenue during the same period.

Much of that decline is probably not due to smuggling—studies show that 4% of smokers will quit for every 10% rise in the cost of cigarettes. But there is plenty of evidence that people who haven't quit are getting their nicotine fix illegally.

Mike Patel says cigarette sales are down by half at his newsstand at Broadway and Chambers Street. "If they increase the tax again, we're out of business," says Mr. Patel, who watches teenagers sell cigarettes from plastic grocery bags near his stand. "They come with two bags full and sell them for \$5."

Some criminal sales are more blatant than others. People may not know that Internet cigarette purchases are illegal if buyers don't pay the appropriate taxes. Or that loading up on a few cartons at tax-free Indian reservations upstate or on Long Island is illegal for non-Indians, even though the governor is refusing to enforce the law.

Gang rivalry

At a much higher criminal level, bootleggers drive to Virginia and North Carolina, where they load up car trunks and trailers with cheap cigarettes that can net them \$7,000 to \$140,000 a trip. Police believe the smuggling may be fueling street gang rivalries. The NYPD attributes two Brooklyn homicides and two shootings late last year to cigarette turf battles.

The lucrative trade is attracting organized crime and terrorism groups. Two years ago, 10 members of Hezbollah were arrested in Charlotte, N.C., and convicted of using proceeds from cigarette smuggling to aid the organization.

"Since then, we have stepped up our enforcement quite a bit," says Joseph Green, senior special agent for the federal Bureau of Alcohol, Tobacco, Firearms and Explosives in New York.

The ATF seized 12,000 cases in New York—more than 2 million cigarettes—in a sting operation in the city last fall. Many were run up from Virginia; others were manufactured for export from the United States but were diverted back here. Counterfeit cigarettes are also being flown in from China, where they are packaged to look like well-known brands, such as Marlboro and Newport.

"Either the black market gets stopped, or we are going to have no legitimate distribution in the city of New York," says Leonard Schwartz, owner of Global Wholesale Co. in Brooklyn, which distributes cigarettes to stores. Mr. Schwartz, who also serves as chairman of the Wholesale Marketers Association, says he has had to lay off 15% of his workforce since the new city tax was enacted.

Small businesses are under so much pressure to make up for the losses that they are turning to illegal purchasing themselves. Sen. Frank Padavan, R-Bellerose, and Assemblyman Jeff Klein, D-Bronx, have introduced twin bills in the state Legislature that would reward wholesalers for turning in businesspeople who make suspicious cutbacks in their cigarette orders. Mayor Michael Bloomberg is pressing for the earliest possible passage of the bills.

Sting operations

The city's Department of Finance has hired a new head of enforcement, Carlton Butler, to run sting operations to nab illegal sellers. He is formalizing relationships with agencies such as the ATF, the NYPD, the state police and the sheriff's office.

But some people aren't thrilled with the stepped-up enforcement. "I'm outraged that they're creating new task forces," says E.J. McMahon, a senior fellow at the Manhattan Institute, a conservative think tank. "I don't want them keeping an eye out for illegal cigarette sellers; I want them watching the guys with suitcases with nuclear bombs."

All signs point to the bootlegging problem growing worse. City Finance Commissioner Martha Stark says that sellers are becoming more sophisticated, especially in the use of the Internet. Illegal distributors are said to be setting up home delivery routes.

Police, who are charging first-time offenders with a misdemeanor, expect that once criminals are caught for the second time and face felony charges, others will be deterred. "Over the course of time, we anticipate getting more bang out of the buck for these arrests," the NYPD's Mr. McCarthy says.

Mr. Green of the ATF predicts more violence as well. "The black market has continued to thrive and expand," he says. "Anywhere the criminal organizations have a potential to make a lot of money, the potential for violence increases."

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INCREASED TAXES ON CIGARETTES

Firm sees red over suspected embezzles - New York Times, March 4, 2003

As cigarette taxes increase, U.S. Customs officials see signs of counterfeit products...

Buzzards by U.S. Customs inspectors confirm that the problem is getting worse. Last year, Customs intercepted about 13 million packs of counterfeit cigarettes - mostly counterfeits - a fourfold increase over 2000. Most were seized at Los Angeles-Long Beach harbor, the gateway for Asian trade.

As the top-selling cigarette in the U.S., with a 37% market share, Marlboro naturally has been the favorite target of counterfeiters. According to a Southern California tobacco dealer who did not want to be identified, a recent jobs within the cigarette trade was that "there was probably more Chinese product in California than there was Philip Morris product."

Because sales of counterfeit cigarettes also mean lost taxes, the problem has aligned the interests of tobacco firms and federal and state revenue agencies. In California, the brands typically carry phony tax stamps. Each counterfeit pack represents a loss of \$1.25, comprising California's cigarette tax of 67 cents and the federal excise tax of 39 cents. According to the state Legislative Analyst's Office, California is losing \$130 million a year to various tobacco tax-avoidance schemes.

Lawmakers discuss raising tobacco taxes - Associated Press, February 5, 2003

When North Dakota was considering a tax increase of 35 cents per pack...

Opponents say raising tobacco taxes could result in people buying in cigarettes from states with cheaper taxes, buying them on American Indian reservations or buying them on the Internet without paying any taxes.

"It will make very honest people become little crooks," said Vicki Wagner, a spokeswoman for the North Dakota Council of Churches.

Two suspected cigarette smugglers funded Hezbollah, U.S. says - Associated Press, February 5, 2003

Smugglers find profitable market in Michigan...

Two men accused in a cigarette trafficking ring have been charged with funneling contraband profits to the Islamic militant group Hezbollah, federal authorities say. The two were among 11 people charged in an indictment with buying cigarettes in North Carolina and an Indian reservation in New York, then bringing them back to Michigan to be resold.

The government linked the conspiracy to Mohamed Hammed, the suspected leader of a Hezbollah cell who was convicted in North Carolina last June of helping run a ring that sent cigarette-smuggling profits to the Lebanese group.

Eleven indicted on cigarette racketeering charges - Associated Press, February 4, 2003

Both cigarette prices in Michigan based in cigarette smuggling...

Eleven people accused of buying and selling contraband cigarettes in order to evade Michigan taxes have been indicted on racketeering charges, federal authorities announced Tuesday.

In separate documents, prosecutors charge some of those charged donated profits from the cigarette trafficking to the militant group Hezbollah, a U.S.-designated terrorist organization in Lebanon.

The indictment unsealed Tuesday charges each of the 11 with conspiracy to commit a pattern of racketeering activity, including purchasing cigarettes trafficking, possession of counterfeit cigarette tax stamps, credit card fraud, money laundering, arson and witness tampering.

The defendants are accused of buying cigarettes in North Carolina and the Catawbaque Indian Reservation in New York, then bringing them to Michigan to be resold, according to U.S. Attorney Jeffrey Collins and the Bureau of Alcohol,

Updated November

Tobacco and Premium Cigarette taxes are \$12.50 per carton in Michigan and 50 cents per carton in North Carolina. Cigarettes are not taxed on the reservation.

Smokers who shouldn't miss up shortfall - Atlanta Journal & Constitution, January 19, 2003

As Quebec considers a 50-cent tax hike...

What happens to the majority of smokers who don't kick the habit or cut their smoking in half in response to the tax increases? They either pay higher prices, turn to the black market or cross the border to buy cheaper cigarettes, as Canadian smokers did.

More than a decade ago, Canada introduced a \$5-per-pack (\$3.72 in U.S. dollars) tax on cigarettes. In response, an estimated 30 percent of cigarette smokers in Canada were smuggled in and sold for about half the price of legal cigarettes. Cigarette smuggling created a hardship for the owners of small stores who relied on cigarette revenue and it became an additional burden for law enforcement. Consequently, Canada eventually cut its cigarette tax in order to collect revenues.

McGearty's proposed 50-cent-per-pack tax takes effect, a one-pack-per-day smoker would save some \$168 annually by purchasing cigarettes north of the border, or better yet, over the Internet. If just 10 percent of Georgia's 1.34 million adult smokers decided to cross the border or order cigarettes online, the state would actually bring in millions of dollars less than it is proposing under the cigarette "sin tax" hike.

Paul Wants Cheap Smokes? - Wall Street Journal, December 13, 2002

Cigarettes become fed item on New York's black market as excise taxes increase

"...cigarettes, cigarettes," his chords under his breath to passerbey. Customers slip him \$5 bills and he gives each a green-and-white pack of smokes.

Ave's business is untaxed cigarettes smuggled in from other states, and he boasts he can sell 50 packs a night. "I go for shopping areas, wherever there's a large crowd," the 28-year-old says. "I make a good profit, enough to pay my bills."

The black market has spread across the city. In Brooklyn, a landlord, fearing drug pushers were in the neighborhood, called police. The "pushers" turned out to be (black market) cigarette vendors.

"There are a lot of entrepreneurs and opportunists out there," says Michael Broder, the deputy inspector who commands the New York Police Department's vice-enforcement division. "There's more activity because of all the money that can be made." [Edgar] Domenech (head of the ATF's New York field office) predicts an increase in competition among criminal groups to control the trade in untaxed cigarettes. "And competition in any illegal activity results in some shape or form of criminal violence," he says.

Up in smoke: Cigarettes no cash cow for N.Y.; Higher tax has smokers buying tobacco elsewhere - Birmingham, NY Press & Sun-Bulletin, November 28, 2002

New York's cigarette smuggling operations as cigarette taxes are increased...

In the last two months, New York's Tax Department has announced four arrests for bootlegging or possessing illegal cigarettes. A Schenectady YNCA worker, charged with selling illegal cigarettes on the job, was caught with 208 cartons. Two Dutchess County men were caught with three times as many cartons, selling them from gas stations. A Rockland County man, who authorities say had been dealing illegal tobacco to retailers, was arrested outside a Spring Valley convenience store with 2,440 cigars in the back of his car.

"Smuggling has existed for some time, but it's gotten more lucrative," [Jim] Cahill (director of the New York Association of Convenience Stores) said.

Tobacco is sold on black market - Baltimore Sun, November 24, 2002

Criminals are selling 100s of them increased value of cigarettes on the black market...

A court case filed in New York last month tells a gripping story involving terrorists and drug traffickers, Swiss banks and the Russian mob, the Italian Mafia and money launderers.

Updated 10/1/02

Prosecutors said they confiscated more than 1,200 cartons of mock Marlboros that were smuggled from Cuba to Queens to avoid city and state taxes of \$3 per pack.

Scum up in uptown, officials blast cigarette smuggling ring - New York, September 28, 2002

After attack: looks up a 100-mile-a-year smuggling and counterfeit cigarette ring...

"In the wake of the increase in New York's cigarette tax, a torrent of untaxed cigarettes - including fakes purporting to be popular brands such as Marlboro and Marlboro Lights - has been pouring into New York City," said Queens District Attorney Richard Brown.

\$200M lost to cigarette smuggling yearly; city, state tax shortfall from gang & internet sales - New York Daily News, September 23, 2002

Smugglers' profits rise, and state, city tax revenues fall...

Freelance smugglers, organized crime and Internet sources are flooding New York's neighborhoods with cheap cigarettes that would bring the city and state upward of \$200 million a year in losses on the legitimate market.

The boom in underground cigarettes was touched off by the July increase in city taxes...according to government officials and tobacco wholesalers.

"When it comes to smuggling and counterfeit stamps, traditional organized crime is involved, terrorist groups are involved and street gangs are involved," said John Dugan, the ATF's area supervisor for industry operations. "How the profit margin is tremendous," he said.

One morning last week, three stores in a four-block area in Bedford-Stuyvesant, Brooklyn were busted by agents of the Finance Department's tax enforcement division for selling untaxed cigarettes.

Illegal tobacco transport targeted; arrest rate rises with tax increase - The Washington Times, September 23, 2002

Law enforcement sees rise in arrests due to smuggling...

Maryland is setting a record pace for tobacco-smuggling arrests, having charged 42 persons with the crime since the fiscal year began July 1.

The increased pace of arrests coincides with an increase in Maryland's tobacco tax.

[Maryland's] comptroller [William Donald Schafer] has linked tobacco to terrorist groups. "We know that some of the money used by smugglers is directly passed on to terrorist organizations," Mr. Schafer said last month.

Three weeks after the September 11 terrorist attacks on the World Trade Center and the Pentagon, Mr. Schafer said he believed there was some connection between cigarette smugglers and terrorist groups.

He said the terrorists who bombed the World Trade Center in 1993 had sold cigarettes illegal to partially finance that attack.

Revenue-craving governments have long been addicted to nicotine, drawing in tax revenue while breathing out moral plaudits about liberating the community from lethal addiction - The Business, September 22, 2002

New York's high cigarette tax leads to smuggling from neighboring states...

Another unintended consequence of the tax has been a sharp increase in bootleggers who have been making a nice living out of transporting cigarettes from low-tax states in the south to high-tax states in the northeast.

Authorities recently arrested 17 people accused of smuggling cigarettes to raise money for the terrorist Hezbollah by earning as much as \$10,000 with each workload.

It is not cocaine or heroin or guns or explosives, but cigarettes.

Cigarette smuggler helps federal agents follow money trail to Islamic group Hezbollah – Fort St. Louis, Fort Pierce (Florida) Tribune, November 18, 2002

Counterfeit cigarette tax stamps lead to arrests of smugglers...

The trap that snared Heissam Nashar as he charged plazas at Lambert Field was intended to stop drug runners. As it turned out, the nervous, sweating traveler who attracted police attention three years ago had no narcotics; the contraband in his luggage was instead almost \$700,000 worth of cigarette tax stamps that police presumed were counterfeit.

St. Louis bust leads police to Charlotte Hezbollah ring – Associated Press, November 18, 2002

Terrorists find easy funding source in smuggled cigarettes and counterfeit tax stamps...

Heissam Nashar, 38, a native of Lebanon who lives in North Carolina, was running fraudulent cigarette tax stamps, rather than drugs. After authorities started questioning him, he gave them the names of other people of Lebanese heritage who he said were smuggling cigarette stamps to raise money for Hezbollah.

This June, Nashar appeared in a heavily guarded courtroom in Charlotte to testify against two men he implicated, brothers Mohamed and Chawki Hammoud.

[Kenneth] Bell [the assistant U.S. attorney who prosecuted the case] said the Hammoud brothers and eight defendants who pleaded guilty had at times sent as many as three vans of cigarettes a week to Michigan, reaping a profit of up to \$12,000 per van.

Counterfeit Terror: Feds track sales of counterfeit goods, money to terror groups – Associated Press, October 24, 2002

Counterfeit products, including contraband cigarettes, fund terror organizations...

Officials said the schemes span the globe, but there is direct evidence that some counterfeit products are being imported from overseas and sold directly in the United States, with the proceeds from Americans going back to terror groups. Counterfeit sales are believed to have reached into the millions of dollars, officials said.

[The] Trainer [a former Customs Service official who now heads the International Anti-counterfeiting Coalition in Washington] said current estimates are that sales of counterfeit goods account for 5 percent to 7 percent of worldwide trade, possibly as much as a half-trillion dollars a year.

Thieves apparently drive through door, take smokes – Toledo Blade, October 21, 2002

Charged in three cases expensive cigarettes for retailers...

Toledo police are investigating a burglary...in which a vehicle apparently smashed through the front door and thieves stole 250 cartons of cigarettes.

Mr. Jamal [store manager and co-owner] said suspects took a large case that contained the cigarette cartons and drove off...he estimated the damage to the store at about \$20,000.

Bogus buds pinched in Queens – New York Daily News, September 28, 2002

After prices soared \$7 per pack, fake cigarette makers' scheme...

Already under siege from sky-high prices, smokers got another dose of bad news yesterday – some of the brand-name cigarettes they are buying are actually fakes.

"I never believed in my wildest dreams that I'd be standing before you with hundreds of cartons of counterfeit cigarettes," said Queens District Attorney Richard Brown as he posed before a large table covered with fake Marlboros.

Hiding tobacco tax won't solve budget deficit - Cape Cod Times, September 16, 2002

When California officials propose a cigarette tax increase...

With California facing a Grand-Democratic budget deficit of \$24 billion, Gov. Gray Davis and his Democratic allies in the State Legislature have fallen back on a brain-trust fantasy of tax increases. The top-line of the year ahead, however, has got to be the proposed massive hike in the state tobacco tax, which should be labeled the "Tax Avoidance and Smuggling Promotion Act."

Before they bank on all those additional tax revenues, Davis and Weason should look at the huge problems currently being experienced by states and countries with high tobacco taxes.

New York smokers have gone to great lengths to avoid the high tobacco taxes. For instance, many tobacco consumers travel to Indian reservations in the state where, because of Indian sovereignty rights, cigarettes can be sold minus state and local taxes.

In a delicious irony, then, much of the revenues that Davis and Weason expect from their tobacco tax increase may go up in smoke.

Cigarette smugglers find Virginia's low tax tempting - Virginian-Pilot, September 16, 2002

Maryland officials catch a smuggling ring - running cigarettes from Virginia to New York...

The U.S. Customs Service says profits from cigarette smuggling now rival those from trafficking in illegal drugs. And no state is a more tempting target for the traffickers than Virginia.

The operation was profitable at every step of the process, said Dale Irwin, assistant director of field enforcement in the Maryland comptroller's office, which investigated the case. "The retailer was making money in Virginia. The guy taking them into Maryland was making money. The guy who was taking them to New York was making money. And the person who eventually sold them over the counter was making money," Irwin said.

Irwin estimates that 90 percent of the seized cigarettes came from Virginia. New York City authorities estimate that 60 percent of cigarette smuggled into the city originate in Virginia. "This is organized crime," Irwin said. "We've had some information come back to us from reliable sources that there have been warehouses where people had semi-automatic machine guns guarding their product."

State gets tough on cigarette tax, threatens smokers dodging \$1 charge - Pittsburgh Post-Gazette, August 30, 2002

Youth access cigarettes via the Internet...

Parent/teacher officials are learning what their counterparts in other states have known for years: People will buy cheaper cigarettes over the Internet, from neighboring states, or from Indian reservations that sell tax-free cigarettes to avoid paying high taxes.

"The Internet is a great resource, but some individuals are using it to thwart Pennsylvania tax law," said State Revenue Secretary Larry P. Williams.

"Our main goal in increasing Pennsylvania's tax on cigarettes was to discourage our children from smoking," Williams said. "If children have access to purchasing tobacco products over the Internet, it defeats the purpose."

Smoker 'win' if you can afford 'win' - Daily Ticonderoga, August 27, 2002

An increased nicotine tax raises the price of cigarettes to rise...

Where there is a will to procure a desired product at a lower cost, there is always a way. Luckily for smokers, the free market and legal loopholes have allowed them to circumvent suffocating government legislation and find cigarettes for very low prices.

In addition to the Texas tradition of keeping the border to grow some cheap smokes in Matamoros or Ciudad Aduana, smoke shops on both sides have become more popular with smokers as word gets out that one can buy cartons for less than \$20.

It is estimated that \$1.5 billion in federal and state cigarette taxes goes collected every year plus to smugglers.

Cracking down on cigarette smuggling could also be seen as contrary to the terror war. In July, 17 men were arrested on charges of cigarette smuggling. Authorities also alleged that proceeds from the smuggling ring were being funneled to the terror organization Hezbollah.

Cigarette top burglars' list at city stores - Toledo Blade, August 20, 2002

As laws on cigarettes the crime against retailers who sell cigarettes increases...

Den Rul is tired of the hassles. Two of his Toledo convenience stores have been broken into this month. The object of the burglars' desires isn't money, but cartons of cigarettes.

"They're taking out garbage bags and laundry baskets full of them," Toledo police Detective Felix Parra said.

New Yorkers finding ways to circumvent high cigarette taxes - CBS News, August 20, 2002

When it's this cheap that cigarette taxes have curb smoking and increase public health...

The city (New York) claims sales have been cut in half, but have they? Just because they're reporting selling half as many cigarettes doesn't mean people are smoking half as many cigarettes. Perhaps all it means is that smokers have become more enterprising in their efforts to beat the tax. Which brings us to these agents, making markets across the city that are selling illegal cigarettes leading the proper New York tax stamp.

Is taxing tobacco good public policy? No, Snuff-out cigarette tax hike - The San Diego Union-Tribune, August 16, 2002

Crime and youth appear to increase in tobacco new increases with cigarette tax increases...

California lawmakers should reject as fools gold the proposed huge increase in cigarette taxes. I (Robert Shepherd, New York) spent 25 years in New York State government as a cop, a prosecutor and the top enforcement official for tobacco taxes, and I know first-hand what such a high tax will bring: crime, cheap cigarettes easily available to youth and unemployment.

Perhaps the most egregious problem with a tax increase of this magnitude is that it will end up making cheap cigarettes available to kids - the direct opposite of what the proponents claim. With an overwhelming prohibition of smuggling, cheap cigarettes will be available...on many street corners. Smugglers never ask for ID.

The lesson is clear from New York to California: when governments try to tax behavior in order to change behavior, they wind up losing revenue and hurting the innocent.

Burning tobacco steam The Apple - butt-leggers sell illicit cigs under cops' noses - New York Post, August 14, 2002

Smuggled cigarettes buy local businesses...

Mayor Bloomberg may have helped raise the price of a pack of cigarettes to \$7.50 and the City Council may be trying to ban smoking everywhere, but The Post found that it is easy to buy cheap cigarettes from illegal vendors at numerous locations across the city.

Popular brands can be bought on the streets for as little as \$5 a pack - \$2 to \$3 less than tax-stamped packs being offered by stores and bodegas complying with the city and state's 6-week-old tax stamp, which went from 8 cents a pack to \$1.50.

"An increase in bootlegging is just what we predicted," Richard Lipitz, a spokesman for a city coalition of small-business owners, said. "What you're seeing is only the tip of the iceberg, but this iceberg is going to sink because of neighborhood street vendors tobacco is a traffic-builder for them."

The NYPD said many illegal cigarette sellers are small-business operators who are hard to catch. Police sources say their hands are tied in dealing with repeat offenders...because current laws don't really address street sellers buying low-tax cigarettes.

"There's no real punishment," one source said. "Usually, they pay a fine and go right back out there."

Cigarette tax increase as tax rate - Associated Press, July 24, 2002

Cigarette tax increases lead to increased theft and smuggling in New Jersey...

New Jersey police say the kind of shoplift-and-grab robberies that usually take place at jewelry stores are happening where cigarettes are sold. And federal tax enforcement officials report that hijackings of tractor-trailers transporting cartons of smokes around the country are on the rise.

"Where we've seen an increase in taxes, we've seen an increase in diversion," said Special Agent Joseph Green of the Bureau of Alcohol, Tobacco and Firearms.

The ATF only deals with cases involving the theft or smuggling of more than 60,000 cigarettes and investigations conducted by the agency nationally have swelled from six in 1998 to 97 so far this year.

Cigarette tax impacting smuggling, online sales - Associated Press, July 21, 2002

After Ohio raises cigarette tax, officials pressure for crackdown...

"It's not unusual for someone to buy \$100,000 in cigarettes and turn that into \$150,000 or \$160,000," said Chris Tardis, a Bureau of Alcohol, Tobacco and Firearms agent in Cincinnati. "It's mind-boggling how profitable it is."

"Obviously it creates opportunities to make some money illegally," said Gary Gudmundson, spokesman for the Department of Taxation. "There will undoubtedly be people who see it as an opportunity they can't pass up."

States brace for cigarette backlash - Associated Press, July 14, 2002

After several states increase cigarette taxes, authorities begin bracing for more aggressive smuggling...

Those unwilling or unable to kick the habit are left with several options - legal, quasi-legal or illegal - for getting a nicotine hit without a tax hit.

Those who choose the illegal route are often successful. The Bureau of Alcohol, Tobacco and Firearms estimates state and federal authorities lose more than \$1.5 billion annually in evaded cigarette taxes.

The ATF concentrates on major interstate smuggling - operations involving at least 60,000 cigarettes. The workload has increased steadily in recent years; ATF now has about 150 active cigarette-smuggling cases.

"There's no question some large-scale organized crime gangs are involved," said ATF spokesman John D'Angelo. "Not only are these criminals depriving state and federal governments of tax revenue, they're using their profits for other criminal activity."

The state of cigarette taxation - Chicago Tribune, May 4, 2002

Nearly 30 states are poised to raise or reinstate cigarette taxes, raising revenue while the MW breaks...

Higher tobacco taxes are expected to create problems for many states because of increased cigarette smuggling and the proliferation of more than 100 internet cigarette sales operations such as 40cents.com and Smokecheap.com, where smokers can buy their favorite brands without paying state taxes. The result, according to tax and budget analysts, is that many states likely won't collect the amount of money they have forecast to balance their budgets. The amount of uncollected revenue could run into the billions of dollars.

Cigarette smuggling has long been a revenue crisis for some states and cities. In Oregon, the cigarette tax is 88 cents, forcing an alternative alternative to Washington. New York Mayor Michael Bloomberg said smuggling could hit city \$60 million a year in lost tax revenues. The love of buying cigarettes in Virginia, where the tax is 2.5 cents, will almost certainly increase because Maryland raised the tax to \$1 per pack, from 65 cents.

A report from Frontier Research Inc. said internet retailers that operate on Indian reservations "are not compelled to collect state sales or excise taxes; 67 percent of the top online tobacco retailers are located on Indian reservations."

In wake of state cigarette tax hike, officials brace for more bootlegging - Albany Times Union, April 29, 2002

After the fact result of a NY state cigarette tax increase to \$1.50 per pack finalized 4/16/02...

Entrepreneurs can make more than \$20 a carton by purchasing cigarettes from distributors in states like Virginia and North Carolina and reselling them in this (NY) state.

New Yorkers have been driving across state lines in large numbers to buy cigarettes since the new tax took effect April 1, officials said. Store owners in New York border states that have lower cigarette taxes are reporting brisk sales.

For those not making the trip, smugglers can be the answer. Often, corrupt vendors will bring back untaxed cigarettes and sell them in their own stores in New York for \$60 prices, pocketing the profit and the sales tax.

A pack of profits from tobacco - NorthJersey.com, April 14, 2002

Tax increases lead to smuggling...

In 1999, a year after the last cigarette tax increase went into effect in New Jersey, law enforcement authorities seized 16,465 cartons of illegal cigarettes worth \$94,691, the largest haul over the last five years.

300G cigarette heist foiled - New York Daily News, February 23, 2002

Detectives caught suspects who allegedly stole \$300,000 worth of cigarettes...

Investigators got a tip that the suspects planned to sell the cigarettes yesterday outside a storage facility on W. 230th St. for about \$15 a carton - a steep discount from the estimated retail price of about \$40.

Some New Yorkers tune, others see merit in cigarette tax hike - Bloomberg News, February 15, 2002

New York tax hike won't prevent resale from smokers - experts will see elsewhere to purchase cigarettes...

Prudential Securities analyst Robert Carrington, who follows the tobacco industry, says he sees Bloomberg's tax increase "having no impact" on cigarette sales, if enacted. "With all due respect to the mayor, it's a pretty silly idea," he said. "In New York, where everyone is 10 minutes away from a place outside the city, anyone can leave the city, buy their cigarettes and come back in. It creates a powerful incentive to smuggle cigarettes."

Carrington said a tax increase "would create a huge business for those who sell cigarettes by mail order or over the Internet. They would be major beneficiaries of a tax like this."

Cigarette taxes yield 2nd-hand hit sums - Portland Oregonian, January 22, 2002

Black market sales generated by high cigarette taxes in Washington...

A visit earlier this week, 8,000 untaxed cartons is worth up to \$57,000 more in Washington than it is in Idaho. Illegal cigarette sales were already costing Washington an estimated \$100 million in lost annual revenues before the 60-cent tax hike on Jan. 1.

W. Carter Mitchell, who owns the Washington 14-gent tobacco tax- evasion unit, looks like a man bracing for a hurricane. His agents tell him there are steady signs of increased smuggling... "The day that thing [the cigarette tax] passed, we said 'Oh, boy, this is going to be a real mess.'"

Cigarette smuggling exploded in Maryland after the state's cigarette tax climbed to 66 cents a pack in 1996. Vans and trucks full of illegal cigarettes suddenly started rolling into the state from neighboring Virginia, which has the lowest tax in the country -- 2.5 cents a pack.

Similar market upheavals rocked California after it doubled its cigarette tax to 87.5 cents a pack on Jan. 1, 1993. Taxable sales fell by more than 26 percent. State officials now estimate California loses \$300 million a year to the black market.

Cigarette scam uncovered- **Newsday, January 19, 2002**

New York cigarette smuggling operation busted due to heightened airport security.

Auditors say it is increasingly common for criminals to buy cigarettes in states or countries where they are cheaper, and have less or no taxes, and sell them to New York merchants. Friday at the ranch home, authorities recovered 3,489 cartons of Chinese cigarettes destined for delivery to numerous merchants, Brown said.

The New York Times

6 Are Charged With Selling Millions of Counterfeit Marlboros
By William Glaberson
February 21, 2003

Federal prosecutors in Brooklyn charged six men yesterday with importing millions of counterfeit Marlboro cigarettes from China and selling them through tax-free businesses on the upstate Seneca Indian reservation.

But while prosecutors described an ambitious plot, they portrayed the suspects as luckless. According to documents filed in court, Customs Service agents infiltrated the group, turned two of its members into informants, and then bugged, wiretapped, videotaped and followed the men during almost every phase of their operation. In at least one instance, the agents used a helicopter.

The Customs Service said the men imported 35 million counterfeit cigarettes, with an estimated retail value of about \$10 million. The service's special agent in charge, John C. Varone, said criminals had been drawn by the huge profits that could be made from such cigarettes, imitations of name brands packaged to look authentic.

According to the prosecutors, the men brought five shipments of cigarettes into New Jersey ports during a two-year period that ended in 2002. The prosecutors said cases of the ersatz Marlboro and Marlboro Light cigarettes were hidden in shipping containers behind boxes of plastic kitchen pots.

The prosecutors said three of the men sold the cigarettes through two smoke shops on the Seneca's Cattaraugus Reservation, south of Buffalo, and on a Web site, Smokencheap.com. The three were identified as Scott Snyder, 40, who lives on the reservation, and Donald Deland, 42, and Timothy Farnham, 37, who live near it.

The prosecutors said two brothers from Queens, Simon Moshel, 52, and Michael Moshel, 47, arranged to import the cigarettes, assisted by a Brooklyn man, Robert Berardelli, 51. The Moshel brothers were also charged with importing counterfeit Duracell batteries.

Mr. Farnham was the only one of the six men not arrested yesterday.

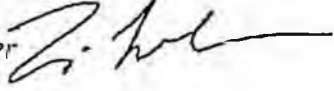
A sworn statement by the customs agent who infiltrated the group, Rod Khattabi, described the undercover operation, which appeared to leave suspects with very little privacy. He said he posed as a trucker who would transport the cigarettes. He also said a house in Nassau County belonging to two informants and a Brooklyn warehouse used by the group to store the cigarettes were outfitted with surveillance equipment.

The agents taped at least 200 meetings and telephone calls, the court documents said, adding that one videotape captured Mr. Berardelli taking a cigarette out of a shipment and smoking it.

Opposition and/or Concern

Brown Jug

Memorandum

DATE: March 23, 2004
TO: House Ways and Means – Senate Labor and Commerce
FROM: Timothy J. Schrage, *Operations Manager* 
SUBJECT: *Opposed to HB 538 -- SB 368*

The proposed increased excise tax on tobacco products is unfounded and just another hand aid approach to increasing revenues. The current tax is among the highest when compared to other Western states such as Montana (70 cents per pack), Idaho (57 cents per pack) and Wyoming (60 cents per pack).

Adding another \$1.00 per pack will jeopardize future revenues to the State through a reduction in annual payments from the Master Settlement Agreement, and loss of tax revenues from illegal internet and counterfeit tobacco purchases. In addition it will increase the competitive disadvantage of local retailers who legally compete with large national chains and tax exempt Military installations.

It is time for Alaska to realize that it is "the richest poor State in the Union". We have billions of dollars in the bank, no limits on spending, declining oil revenues, all while focusing on pennies and letting dollars fall through the cracks of government. *Our Legislature and Governor need to wake up and realize that targeting Alaskans with head taxes, sin taxes, and user fees is like a millionaire not purchasing cup of coffee in the morning to save for retirement!* We need real fiscal solutions that include spending limits, utilization of Permanent Fund earnings, and the elimination of entitlement programs before imposing more taxes on average Alaskans who least afford it.

Alaska's Retailer of Fine Wines, Spirits, and Beer
PO Box 190027 Anchorage, Alaska 99519-0027
Phone (907) 563-3815 Fax (907) 562-3130



March 23, 2004

To: Members of the Senate Labor and Commerce Committee

I am writing to oppose SB368 for the following reasons:

- *Alaska would have the second highest tax in the country after New Jersey at \$2.05; Other western state taxes: Montana, 70 cents; Idaho, 57 cents; Oregon, \$1.28; Washington, \$1.425; Wyoming, 60 cents; Utah, 69.5 cents*
- *Purchasers would shift to buying cigarettes over the Internet, where no state taxes are collected; Alaskan retail businesses would be harmed*
- *Higher cigarettes taxes would lead to more smuggling of tobacco products to avoid taxation and more illegal trafficking of counterfeit product*
- *Using cigarette taxes to balance the state budget is bad fiscal policy; cigarette taxes are an unstable and inequitable way to raise revenues*
- *Higher taxes would threaten payments to the state under the Master Settlement Agreement; annual payments are tied to the sales volume of the major "participating" manufacturers, and when purchasing shifts to products not covered under that agreement or to illegal products, those payments will fall.*

Please don't take the easy way out by singling out one group of Alaskans for higher taxes. We deserve a more equitable solution to our budget problems.

Sincerely,

George Kallas

Letters of Support



A I A S K A
TOBACCO CONTROL ALLIANCE

March 21, 2004

Dear Committee Chairs

The Alaska Tobacco Control Alliance (ATCA) is pleased to provide this letter of support for HB 538 and SB 368 which will increase Alaska's tobacco tax by \$1.00 per pack.

ATCA was formed in 1992 to encourage, coordinate and support effective methods of controlling and preventing tobacco use for the purpose of increasing the years of healthy life for all Alaskans by reducing disease caused by tobacco use. ATCA'S vision is a tobacco-free Alaska. ATCA has over 200 statewide members consisting of educators, health professionals, government agencies, private businesses, parents and others are committed to this cause.

In January 2004, the ATCA Board met and agreed to support an increase in Alaska's tobacco tax. An increase in the tobacco tax is an important part of overall tobacco control program.

Alaska has had tremendous success in reducing youth smoking; we can continue the trend by raising the cost of cigarettes and maintaining our effective tobacco control programming. An increase in the tobacco tax is a sound public health decision. With an increase in the tax, we will prevent thousands of Alaskan youth from picking up their first cigarette.

Affects on youth consumption are projected to be

- Percent decrease in youth smoking: approximately 15.0%
- Increase in total number of youth alive today who will not become smokers: 9,100
- Number of youth alive today saved from premature smoking-caused death: 2,900

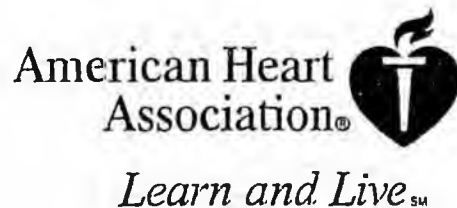
Creating barriers to youth smoking is good for public health. Smoking is a pediatric disease. Adults do not start smoking, children do. Virtually all today's smokers started before they were 19 years old. Effectively run tobacco control programs can help these adult smokers quit, but we need to stem the tide of future smokers. The future smokers of Alaska are our children. This tobacco tax increase will save thousands of lives and aid in the further decline of the number of kids who smoke in Alaska today.

In behalf of the Alaska Tobacco Control Alliance and its 200 members around the state, I urge you to pass these bills and give Alaska a powerful tool in the battle against youth smoking.

Sincerely,

ATCA Chair

For more information, see the Campaign fact sheets -- including *Raising State Tobacco Taxes Always Reduces Tobacco Use (& Always Increases State Revenues)* -- at <http://tobaccofreekids.org/research/factsheets/index.php?CategoryID=18> and <http://tobaccofreekids.org/reports/prices>.



March 21, 2004

Dear Committee Chairs:

The American Heart Association is pleased to provide this letter of support for HB 538 and SB 368, legislation that would increase Alaska's cigarette tax by \$1.00 per pack and increase the excise tax levied on other tobacco products by 33%.

The American Heart Association strongly supports significant increases in tobacco taxes because research from around the country has demonstrated time and again that as cigarettes get more expensive, fewer children start to smoke and adults are more likely to quit. As virtually all smokers become addicted before age 19, fewer children starting to smoke will have significant future public health benefits in Alaska. Smoking remains the leading preventable cause of cardiovascular disease, and it is also the leading preventable cause of death in Alaska, responsible for one out of every five deaths in our state. Although Alaska has had tremendous success in reducing youth smoking, we must strive to continue this exciting trend by raising the cost of cigarettes and maintaining our effective tobacco control programming.

Every state that has significantly increased its tobacco tax has enjoyed substantial increases in revenue while also reducing smoking rates. While Alaska will still not have the highest tax in the nation, the proposed increases will go a long way toward saving lives and generating revenue. Not only will the proposed taxes generate over \$35 million each year, but as increased prices translate into fewer people smoking, it will also eventually help decrease the more than \$130 million that Alaska spends each year on health care expenditures directly related to tobacco.

Very rarely do revenue measures and public health messages overlap so significantly. The American Heart Association asks for your support of this important piece of legislation – your commitment to increase the tobacco tax will help save thousands of Alaskan lives.

Thank you,

A handwritten signature in black ink, appearing to read "Jennifer App", is located below the "Thank you," text.

Jennifer App
Alaska Advocacy Director
American Heart Association



March 22, 2004

Senator Con Bunde, Chair
Senate Labor and Commerce Committee
State Capitol, Room 506
Juneau, AK 99801-1182

Dear Chairman Bunde:

The American Cancer Society is pleased to support SB 368, which increases the state's tobacco tax. The Society recognizes tobacco taxes as one of the most effective ways to reduce youth smoking and save lives. We have seen evidence of this fact across the nation as well as here in Alaska. There is no longer any doubt that tobacco taxes are a proven means to reduce tobacco use and save lives.

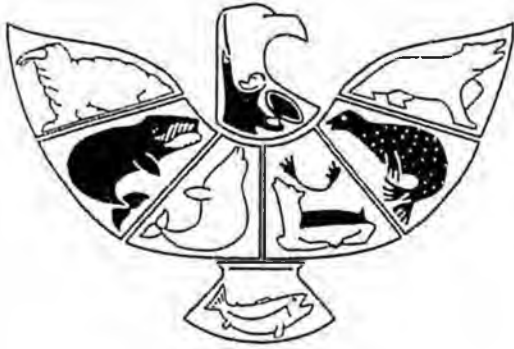
The mission of the American Cancer Society is to eliminate cancer as a major health problem by preventing cancer, saving lives, and diminishing suffering from cancer. We also recognize the devastating impact of cancer on Alaskans. Cancer is currently the second leading cause of death for all Alaskans and the leading cause of death for Alaska Natives. Research shows that one-third of all cancers are tobacco-related and almost all tobacco-users first become addicted as children. By increasing the state's tobacco tax, with its known correlation to reducing youth smoking, we are taking a critical step in stemming the tide of rising health care costs to the state and needless death and disability in our communities.

The American Cancer Society urges the legislature to adopt this critical public health measure to save lives and protect the health of our children.

Sincerely,

A handwritten signature in black ink, appearing to read "Emily E. Nenon", with a long horizontal line extending to the right.

Emily E. Nenon
Alaska Advocacy Manager



Alaska Native Health Board

3700 Woodland Drive, Suite 500
Anchorage, Alaska 99517

Phone: (907) 562-6006
FAX: (907) 563-2001

March 22, 2004

The Honorable Senator Con Bunde
Senate Labor and Commerce Committee
Alaska State Legislature
State Capitol
Juneau, AK 99801

Dear Chairman Bunde,

The Alaska Native Health Board supports the Governor's proposal to increase the tobacco tax by \$1.00 per pack and urges you to pass SB 368 out of the Senate Labor & Commerce Committee.

Health care expenditures directly related to smoking cost Alaskans \$132 million dollars per year. Our current tax covers only half of those costs. From an economic perspective the decision is simple – raise the tax. But the issue at hand is not just an economic one, it's about the well being of Alaskans. It's about protecting kids and saving lives.

We made great strides toward protecting our youth from the hazards of smoking when we increased the tobacco tax in 1997. Since that time, we have reduced the number of kids who smoke by nearly half. But we still have a lot of work to do. In rural Alaska, for example, we have an excessively high prevalence of both youth and adult smoking rates. The best thing we can do to change this statistic is to help prevent kids from ever picking up that first cigarette – increasing the cost of smoking is an effective tool to prevent youth initiation.

Among all age groups, tobacco consumption is the leading cause of preventable death. Though we have made progress in decreasing tobacco consumption in Alaska, increasing tobacco taxes is a proven way to further reduce tobacco consumption among people who already smoke.

We recognize that a tobacco tax alone won't stop the devastation caused by tobacco use in Alaska. The Alaska Native Health Board is also working on other measures such as local smokefree workplace policies, community education, and prevention strategies to help reduce the destruction caused by tobacco. An increase in Alaska's tobacco tax will go a long way to enhancing our efforts and the efforts of many other health organizations across the state with the goal of reducing death and disease caused by tobacco.

Protect Kids. Save lives. Support a \$1.00 a pack tobacco tax increase.

Best regards,


Kattaryna Stiles
Tobacco Policy Coordinator

ALEUTIAN/PRIPILOF ISLANDS ASSOCIATION
ARCTIC SLOPE NATIVE ASSOCIATION
BRISTOL BAY AREA HEALTH CORPORATION
CHUGACHMIUT
COPPER RIVER NATIVE ASSOCIATION
EASTERN ALEUTIAN TRIBES
KETCHIKAN INDIAN COMMUNITY
VALDEZ NATIVE TRIBE

MANILAO ASSOCIATION
METLAKATLA INDIAN COMMUNITY
MT. SANFORD TRIBAL CONSORTIUM
NATIVE VILLAGE OF EKLUTNA
NATIVE VILLAGE OF TYONEK
NINILCHIK TRADITIONAL COUNCIL
KODIAK AREA NATIVE ASSOCIATION

NORTON SOUND HEALTH CORPORATION
SELDOVIA VILLAGE TRIBE
SOUTH CENTRAL FOUNDATION
SOUTHEAST ALASKA REGIONAL HEALTH CONSORTIUM
TANANA CHIEFS CONFERENCE
YUKON-KUSKOKWIM HEALTH CORPORATION
NORTH SLOPE BOROUGH



**AMERICAN LUNG
ASSOCIATION[®]**
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Seattle Mortgage

(907) 276-LUNG
1-800-LUNGUSA
500 W. Int'l Airport Rd., #A
Anchorage, Alaska 99518-1 05
www.aklung.org
Fax: (907) 565-5587

March 22, 2004

Senator Con Bunde
Chair, Senate Labor & Commerce
State Capitol
Juneau, Alaska 99811

Re: HB 538 and SB 368 -- Increasing the State Tobacco Tax

Dear Chairman Bunde:

The American Lung Association of Alaska is pleased to support the above referenced bills. These measures represent a win, win, win solution for Alaska that reduces smoking, raises much-needed revenue and has strong support from voters. It's no wonder 33 states have increased cigarette taxes since January 1, 2002.

Studies show that higher cigarette taxes are one of the most effective ways to reduce smoking among both youth and adults. A Department of Revenue study shows Alaska's tobacco consumption dropped substantially in response to the 1997 tobacco price increase. Among younger children the report estimated a 30 percent reduction in smoking. The 1997 tax, as part of a comprehensive tobacco control program has contributed to the 50 percent reduction in high school smoking rates since 1995.

At the same time the 1997 tobacco tax increase generated approximately 30 million per year in new state revenue. The 2004 tax would generate approximately 36 million per year in new unrestricted revenue.

There is strong public support for substantially increased state tobacco taxes. A recent poll completed for *Alaskans for Tobacco-Free Kids* by QEV Analyt ICS shows 67 percent support among Alaskan voters for a \$1.00 per pack increase in tobacco taxes.

Despite the great progress, tobacco remains the leading cause of preventable death in Alaska while costing the state hundreds of millions of dollars in increased health care costs and lost worker productivity. These are large "hidden costs" presently borne by the general non-smoking public and private businesses.

Tobacco use in Alaska costs the general public approximately \$6.38 per pack. Increasing the state tobacco tax to \$2 per pack would only recoup a small portion of these costs.

This measure would save thousands of Alaska lives, reduce health care costs and generated much needed revenue. All measures of success the American Lung Association of Alaska can enthusiastically support.

Sincerely,

Christie Garbe, CEO
American Lung Association of Alaska



March 24, 2004

The Honorable Con Bunde, Chair
Senate Labor and Commerce Committee
Alaska Capitol, Room 506
Juneau, Alaska 99801-1182

RE: SB 368 (Governor Murkowski)—Support

Dear Chair Bunde:

On behalf of the AARP members in Alaska, we ask that you and your colleagues on the Senate Labor and Commerce Committee support SB 368, the proposal by Governor Murkowski to increase the tobacco tax for cigarettes and other tobacco products.

As the Governor's transmittal letter clearly points out, the cost of smoking-related illnesses to the Alaska state budget far outweighs the revenue from the current taxes. Indeed, the tax increase proposed in SB 368 will still fall far below government costs.

Tobacco companies will argue that tobacco taxes are regressive because they take a higher percentage of income from low-income people. It is AARP's position that increased tobacco taxes that discourage consumption of harmful commodities serve a useful social purpose. In addition, the funds brought in from tobacco taxes are less regressive if they are used to finance programs such as health care for those with low incomes, e.g., Medicaid.

AARP recently sent a copy of a survey of Alaskans over age 18 to you and your colleagues in the Legislature. Although we asked about a 50 cents per pack increase in our survey, admittedly below the Governor's \$1.00 per pack increase, 56% strongly supported it and another 15% somewhat supported the tax increase. Other AARP research indicates that the public overall does object less to tobacco taxes because they are a tax that can be avoided.

We encourage an appropriate amount of the new revenue from this tax increase be applied to smoking-cessation programs. As the Governor points out, Alaska Native adults and high school students are much more likely to use tobacco than non-Natives. AARP recommends special targeted cessation efforts in our Native community, particularly for Native youth.

We are aware that, if the tax partnered with cessation programming is successful, this will be a diminishing revenue stream. Unfortunately tobacco tax increases will not provide a

"magic pill" to make the fiscal gap disappear. AARP still encourages you and your colleagues to aggressively pursue a comprehensive solution to our fiscal problems.

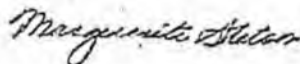
SB 368 does provide a part of the solution to our fiscal problems. Even more importantly, it provides a significant solution to at least part of Alaska citizens' health problems.

AARP recommends an "AYE" vote on SB 368.

Should you have any questions about our position, please feel free to contact Marie Darlin (907.586.3637), Coordinator of the AARP Capital City Task Force; Patrick Luby (907.762.3314), AARP Legislative Representative; or me (907.245.5259).

Thank you for your consideration.

Sincerely,



Marguerite Stetson
AARP Alaska
State Coordinator for Advocacy
3009 Northwood Street
Anchorage, AK 99517-1871
907.245.5259 voice
907.245.5279 fax
ffmas@aurora.uaf.edu

CC: Vice-Chair Ralph Seekins
Senator Gary Stevens
Senator Bettye Davis
Senator Hollis French
Governor Frank Murkowski
Marie Darlin
Patrick Luby

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

SB 368
P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

March 16, 2004

The Honorable Gene Therriault
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Therriault:

Under the authority of article III, section 18 of the Alaska Constitution, I am transmitting a bill that would increase the cigarette excise tax from five cents per cigarette to ten cents per cigarette. The tax on "other tobacco products" such as smokeless tobacco would be increased from 75 percent to 100 percent of the wholesale cost.

This bill provides the multiple benefits of saving Alaskan lives, reducing health related expenditures, and raising state revenue. Increasing the price of tobacco is one of the most effective ways of reducing tobacco use, especially among youths. It is well substantiated that as the price of cigarette increases, rates of smoking decline. As youths are especially sensitive to such price increases, we can expect the proposed \$1.00 per pack cigarette tax increase will add to the 50 percent drop in youths smoking rates we have seen in Alaska since 1995. A further drop in youths smoking rates of just 15 percent from current levels would translate into 1,800 lives saved from premature death due to tobacco addiction among Alaska high school students alive today.

Among current adult smokers, 3,500 will quit smoking because of the tax, and of those, 800 will be saved from a smoking-caused death. Smoking among expectant mothers would also be reduced significantly, resulting in 850 babies being spared from exposure to maternal smoking while in utero during the next five years. The impact of tobacco taxes on health is not unprecedented in Alaska. Within a year of the implementation of the \$1.00 per pack cigarette tax in October 1997, the number of cigarettes consumed in Alaska had dropped by 15 percent, and sales have not rebounded since then.

Alaska Natives should particularly see the benefits from reduced smoking. While smoking rates are declining within the U.S. general population, the rate of smoking is unchanged among Alaska Native adults and, at 44 percent, is almost double that of non-Natives. Currently, 44 percent of

The Honorable Gene Therriault
March 16, 2004
Page 2

Alaska Native high school students smoke, almost four times the rate among non-Native students. One-third of Alaska Native high school boys use smokeless tobacco, as do one-sixth of their female counterparts. Use of smokeless tobacco among Alaska Native girls is nine times higher than the national rate. Lung cancer, the leading cause of cancer deaths, is increasing at an alarming rate among Alaska Natives of both sexes. Cardiovascular disease, including heart disease and stroke, is also linked with tobacco use, and kills approximately 120 Alaska Natives each year.

In addition to the devastating health impacts, smoking is a fiscal disaster for Alaska. The state receives nearly \$47 million in cigarette and other tobacco product tax revenues, but this amount doesn't even begin to cover the economic and social costs associated with smoking-related illnesses. The Centers for Disease Control and Prevention (CDCP) estimates that in 1998 the cost for direct medical expenses attributed to smoking-related disease and death in Alaska was nearly \$133 million. In addition, CDCP estimates Alaska's total cost of lost productivity due to early tobacco-related deaths in 2001 was \$137 million.

Alaska can expect to see fiscal savings relatively soon following implementation of this proposed tax. Within five years, the health care savings from fewer smoking affected pregnancies and births will amount to \$1.6 million, according to the Campaign for Tobacco-Free Kids. This group estimates that the savings in the state from fewer smoking-related heart attacks and strokes will be \$1.8 million, and the long-term health care savings from adult and youth smoking declines will be \$146.3 million.

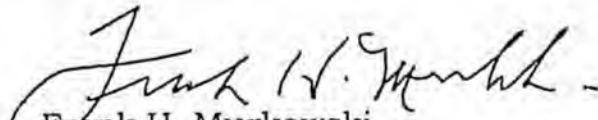
While saving in medical and lost-productivity expenditures, the proposed tax would also generate an estimated \$35.5 million in new tax revenues for the state annually. In addition, an estimated \$350,000 in new revenues will be generated for those municipalities in the state that levy a sales tax on the retail price of cigarettes.

With cigarette taxes at \$2.00 a pack, there will be incentive for tax evasion and smuggling. The new tobacco tax stamp, as passed into law last year, will help address this issue by serving to identify illegal cigarettes. To further advance this enforcement effort, my proposed bill allows the Department of Public Safety to seize and dispose of equipment, vehicles, money, and other assets used in cigarette smuggling and tax evasion activities. These types of seizures will make cigarette smuggling and tax evasion less attractive and protect state revenues.

The Honorable Gene Therriault
March 16, 2004
Page 3

Given the health impact, cost savings, and revenue to be generated from the proposed tobacco tax, I urge your support for this legislation.

Sincerely yours,


Frank H. Murkowski
Governor

Enclosure

SENATE FINANCE COMMITTEE

SIGN-IN

SB 368-TOBACCO TAX; LICENSING; PENALTIES

NAME: Johanna Beles Subject/Bill No: SB 368
Co./Dept./Title: Dept. of Revenue Phone: 269-6628
Address: 550 W 7th Street 500, Ancl 99501 Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

SENATE FINANCE COMMITTEE

SIGN-IN

SB 368-TOBACCO TAX; LICENSING; PENALTIES

✓ NAME: Mike Elending Subject/Bill No: SB 368
Co./Dept./Title: Northern Sales Co. Phone: 907-225-5040
Address: Box 8112, Iktchikow, AK Zip: 99901
Do you wish to testify? Yes No Respond To Questions

✓ NAME: Johanna Bales Subject/Bill No: SB 368
Co./Dept./Title: Revenue Phone: 269-6628
Address: 530 W. 2nd Suite 500 Anch., AK Zip: 99501
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

SITE: ANCHORAGE

COMMITTEE: SFIN

DATE: 4-21-04

SUBJECT OF MEETING or BILL #

SB 368

UPDATE #:

PRINT YOUR NAME

COMMUNITY

REPRESENTING/AFFILIATION

DO YOU WANT

TESTIFY

Y or N

✓ Eli Schoenberg	Anchorage	Goldenview MS	Y-SB 368
✓ Annie Sneed	Anchorage	Goldenview MS	Y-SB 368
✓ Aleena Jobe	Anchorage	GUMS	Y-SB 368
✓ Kyle Stersle	Anchorage	Goldenview MS	Y-SB 368
✓ Marin Chambers	Anchorage	GUMS	Y-SB 368
✓ Jessica Faust	Anchorage	GUMS	Y-SB 368
✓ Russell Johnston	Anchorage	Goldenview MS	Y-SB 368
✓ Cody Floerchinger	Anchorage	GUMS	Y-SB 368
✓ Morgane Evans-Voigt	Anchorage	GUMS	Y-SB 368
✓ Samantha Novak	Anchorage	Goldenview MS	Y-SB 368
✓ Emily Nenon	Anchorage	American Cancer Society	Ans ? SB 368

SENATE FINANCE COMMITTEE

SIGN-IN

SB 368-TOBACCO TAX; LICENSING; PENALTIES

NAME: Doris Robbins Subject/Bill No: SB 368
Co./Dept./Title: Vol. w/ Juniper Clean Air/At ^{for} ~~the~~ _{Free Ride} Phone: 907-364-3267
Address: POB 21011 Juneau Zip: 99802
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

SB

370

SFIN

FILE

SB 370

was referred to the
Senate Finance
Committee

No hearing was held
on this bill

SB

371

SFIN

FILE

SENATE FINANCE COMMITTEE RE. ORT

DATE: 04/7/04

FURTHER:

REPORTED OUT
APR 30 2004
SENATE FINANCE
COMMITTEE

DATE TURNED IN TO OFFICE: 30 April 2004

Finance Committee considered

SENATE BILL NO. 371

SB 371 POWERS/DUTIES DOTPF

"An Act relating to the powers and duties of the Department of Transportation and Public Facilities; relating to a long-range program for highway construction and maintenance; repealing a requirement that public facilities comply with energy standards adopted by the Department of Transportation and Public Facilities; and providing for an effective date."

and recommends:

be replaced with _____ CS _____ (_____)

adopt previous _____ CS SB 371 (TRA)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to _____ Committee

Senate Bill:
 Same Title
 New Title

House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero.	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DOTPF	3/30/04			<input checked="" type="checkbox"/>	#1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Frank Ryan</i>	<input checked="" type="checkbox"/>			
<i>Thomas C. Olson</i>			<input checked="" type="checkbox"/>	
<i>Bob Lewis</i>	<input checked="" type="checkbox"/>			
<i>Ben Stearns</i>	<input checked="" type="checkbox"/>			
COCHAIR: <i>Lyle Green</i>	<input checked="" type="checkbox"/>			
COCHAIR: <i>Gary Hill</i>	<input checked="" type="checkbox"/>			

APR 30 2004

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSSB 371(TRA)
(S) Publish Date: 4/7/04

Revision Date/Time (Note if correction): _____ Dept. Affected: DOT&PF
Title Powers/Duties DOT&PF RDU Administration & Support
Component Commissioner's Office
Sponsor Senate State Affairs
Requester Senate Transportation Component No. 530

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

Prepared by: Nona Wilson Phone 465-6973
Division: Legislative Liaison Date/Time 3/30/04 12:28 PM
Approved by: John MacKinnon Date 3/30/2004
Agency: Deputy Commissioner

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Senator Gary Stevens

Alaska State Legislature

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Sponsor Statement SB 371

(Updated April 20, 2004)

SB 371: "An Act relating to the powers and duties of the Department of Transportation and Public Facilities; relating to a long-range program for highway construction and maintenance"

SB 371, companion legislation to HB 327, is being brought forward in cooperation with the DOTPF and the Attorney General's office to clean up an obsolete statute.

In the late 1970's the Governor wrote Executive Order No. 39 § 2 (1977) creating the "Alaska Transportation Council". The executive order directs the Department of Transportation and Public Facilities Commissioner to consult with this council on all annual transportation projects. Projects were not supposed to move forward without the recommendation of the council being considered. Regrettably, subsequent governors did not populate the council, and it has been vacant for many years. Because the State may have unwittingly overlooked the requirement to "consider the recommendation of the Council" and do a cost "benefit study" for each project in the state, it has found itself in litigation, delaying construction of bridges in rural Alaska and Soldotna.

The problem is straightforward. The state is not complying with this old statute, thereby setting a basis for litigation. To preserve our current and future projects, SB 371 will amend this statute and take the further step of making it retroactive.

The other changes to the statute the bill proposes amount to house cleaning. The changes reflect "Powers and Duties" that have been handed to other agencies along with practices that cost more than the resulting savings. And finally, the bill changes "annual" requirements to "periodic" which will allow the commissioner discretion in choosing times that are sensible. This will save the money spent on studies and let it be spent on road projects.

I urge your support of this important measure.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 8, 2004

SUBJECT: Sectional Summary of CSSB 371(TRA), An Act relating to the powers and duties of the Department of Transportation and Public Facilities; relating to a long-range program for highway construction and maintenance (Work Order No. 23-LS1861\D)

TO: Senator Gary Stevens
^ ttn: Doug Letch

FROM: George Utermohle *GU*
Legislative Counsel

You have requested a sectional summary of CSSB 371(TRA), An Act relating to the powers and duties of the Department of Transportation and Public Facilities; relating to a long-range program for highway construction and maintenance.

As a preliminary matter, note that a sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill sets out the purpose and intent of sec. 4 of the bill to validate and ratify state practices in regard to state planning for transportation projects and to overrule the decision of an Alaska Superior Court in Trout Unlimited v. State, 3AN-02-09363 Civil (2004).

Section 2 of the bill amends AS 19.10.140 to provide that the Department of Transportation and Public Facilities may establish a continuing, long-range program for highway construction and maintenance. The program is to periodically project proposed construction and maintenance of highways for the next two years. The program is to become part of the state transportation plan.

Section 3 of the bill amends AS 44.42.020(a) to provide that the Department of Transportation and Public Facilities shall periodically evaluate the cost, efficiency, and availability of alternative fuels, consider use of alternative fuel automotive vehicles, and to participate in joint ventures that would foster the availability of alternative fuels.

Section 4 of the bill amends AS 44.42.050(a) to provide that the commissioner of transportation and public facilities may develop the state transportation plan in separate documents and in logical components. In developing the plan, the commissioner may consider certain federal requirements. Upon approval of the plan, the commissioner may

Senator Gary Stevens
April 8, 2004
Page 2

transmit the plan to the governor and the legislature. The amendments to AS 44.42.050(a) also repeal the requirement that the commissioner must consider means and costs of improving existing modes of transportation, state and federal subsidies, costs and benefits of new transportation modes and facilities, and the recommendations of the Alaska Transportation Planning Council.

Section 5 of the bill amends AS 44.42.050(d) to provide that the commissioner of transportation and public facilities shall periodically develop a program of projects planned for design and construction for a period of at least two years to implement the state transportation plan. In developing the plans, the commissioner may consider certain federal requirements. The program must include an estimate of federal, state, and other funds to be received and a description, location, and itemization of estimated costs for each project and the total cost of all projects. The commissioner shall forward to the governor for review and approval a construction program that includes the projects to be undertaken in the following year. The amendment to AS 44.42.050(d) also repeals the requirement that funds for transportation construction projects be itemized as allocations in the bill for the general appropriations act.

Section 6 of the bill provides that sec. 4 of the bill is retrospective to July 1, 1977, when AS 44.42.050(a) was first enacted.

Section 7 of the bill provides that the bill takes effect immediately under AS 01.10.070(c).

GU:med
04-385.med

Discussion on Why a Mandatory 'Costs and Benefits'
Analysis is Not Appropriate
Alaska Department of Transportation and Public Facilities
February 18, 2004

AS 44.42.050 (a) requires the department to: "...consider means and costs of improving existing modes and facilities, state and federal subsidies, and the costs and benefits of new transportation modes and facilities."

On the surface, this requirement seems both reasonable and innocuous. However, there are many times the department does not spend the time or money to conduct such formal costs and benefits analyses. The most common examples are in rural areas where long distances and a small population base would make such efforts nonsensical—basic transportation elements are routinely needed regardless of their costs.

A recent court decision on a request for a preliminary injunction found the department at fault for not using a benefit-cost analysis on a project linking two rural villages. It is typical of many other rural projects we have undertaken, in that it provides a basic transportation system, but would not benefit from a detailed benefit-cost analysis.

Rural Alaska abounds in transportation needs that are provided as a basic public service. Virtually none of these would rise to a positive benefit-cost ratio because the small population base. Examples include:

- Ferries and ferry terminals
- Airports that meet minimum standards for length, width, adequate approaches, lighting and aprons/taxiways.
- Village roads to basic community services (e.g., sewage lagoons, water sources, airports, sanitary landfills, barge landing sites).

Even in the more populated regions of Alaska many categories of transportation projects would not be expected to present a positive benefit-cost ratio. Examples of such projects include:

- Rail-highway grade separation projects
- Paving of residential roads
- Landscaping and beautification
- Trails and amenities
- Pollution and environmental mitigation features needed to meet legal and permit requirements
- Transit investments (buses, bus stops)

Finally, the department often undertakes projects because a member of the Congressional delegation earmarked them. Such projects do not receive the normal prior planning or

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

detailed evaluation. The state has very little choice but to accept the project funds for the stated purpose, or to not use the funding.

Benefit and cost (B-C) analysis is a tool that is most often used to evaluate among and between different alternatives. In such cases, the tool helps to compare and contrast different choices in solving a transportation requirement. For example, in the development of the Southeast Alaska Transportation Plan, a number of different B-C analyses were prepared to better understand vastly different types of system options. Even in rural Alaska, the tool is used to help identify the most "cost-effective" solution, even if the costs still outweigh the benefits.

B-C analysis is a good technique and is routinely used in some circumstances. However, under the current construction of the statute, and the court's recent interpretation, every project undertaken must receive this type of analyses. For the reasons stated it is not appropriate nor a prudent use of project funds to routinely require these B-C analyses.

STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES OFFICE OF THE COMMISSIONER

3132 CHANNEL DRIVE
JUNEAU, ALASKA 99801-7898TEXT: (907) 465-3652
FAX: (907) 586-8365
PHONE: (907) 465-3900

February 13, 2004

The Honorable Jim Holm
Co-Chair, House Transportation
Alaska State Legislature
State Capitol, Room 110
Juneau AK 99801

Dear Representative Holm:

Through the cooperative efforts of our respective staffs, let me first thank you for taking lead on this important piece of legislation (HB 327). As you know, the department's transportation planning statutes are nearly three decades old, and have not been updated to reflect modern practice nor the influence of the federal-aid requirements that we must routinely adjust to. This legislation would bring these statutes into compliance with the external requirements, and simplify the planning process to ensure we deliver projects and not pay for studies with our scarce funds.

The legislation also accomplishes some important housekeeping tasks, such as bringing our departmental powers and duties in line with changes that have occurred over time. To this end, I would offer these comments:

Section 1. Pertaining to AS 44.42.020 (a)

- Paragraph (11) is modified to minimize the frequency and hence the costs of alternative fuels evaluations for use in state vehicles. It also is modified to reflect the emergence of new alternative fuels in addition to natural gas. We support this modification.
- Paragraph (13) is deleted to reflect that our agency has not been funded to perform this duty for more than a decade. Whether the public facilities responsibility remains at DOT&PF is still an open question, but regardless of that outcome, we support this modification.
- Paragraph (14) is deleted to reflect that our agency has not been funded to perform this duty for more than a decade. We believe there are many other standard setting bodies for energy performance standards and do not think this a valid responsibility for a state agency regardless of whether the public facilities responsibility remains at DOT&PF. We support this modification.
- Paragraph (15) is deleted to reflect the transfer of school construction responsibility to local school districts several years ago. We support this modification.

Representative Holm

Page 2

February 13, 2004

Section 2. Pertaining to AS 44.42.050 (a):

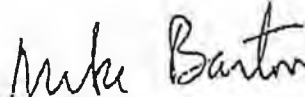
- This section would modify the transportation planning statute to better reflect modern practice and clarify the technical requirements and timing of updates to the state transportation plans. We support this section and have made some specific suggestions directly to your staff to further improve this section.

Sections 3 and 4. Pertaining to AS 46.11.900(8) and AS 46.11.010:

- Our comments above on paragraph (14) of AS 44.42.020 (a) in Section 1 of bill apply here too. We support this modification.

We understand that this bill will need our support and background information to ensure it is supported by the Legislature. To this end we are committed to meeting in any venue so scheduled and offering testimony as requested. I thank you for your dedication to this effort and important contribution to the state's transportation future.

Sincerely,


Mike Barton
Commissioner

cc: Rebecca L Hulberg, Special Staff Assistant, Office of the Governor
John MacKinnon, Deputy Commissioner of Highways & Public Facilities, DOT&PF
Jeff Ottosen, Director, Division of Program Development, DOT&PF
Nona Wilson, Legislative Liaison, DOT&PF

HICKEY & ASSOCIATES

Planning • Management • Lobbying

211 Fourth Street, Suite 108, Juneau, Alaska 99801
Telephone 907-586-2263, Fax 907-586-1097

April 5, 2004

The Honorable John Cowdery
The Honorable Thomas Wagoner
Co-Chairs, Senate Transportation Committee
Alaska State Legislature
Juneau, Alaska 99801-1182

Re: Senate Bill No. 371/Iliamna-Nondalton Road Improvements

Dear Co-Chairs Cowdery and Wagoner:

Several questions were raised during last week's hearing on SB 371 related to the Iliamna-Nondalton Road Improvements Project. On behalf of my client, the Lake and Peninsula Borough, I would like to provide your committee with additional project information. Attachment A is a set of maps to provide a better sense of the project scope.

Public Safety: Attachment B contains some materials from the *DOT/PF Environmental Assessment* (dated January 2000) for the Iliamna-Nondalton Road Improvements Project. This information describes two fatalities each from 1988 and 1995 involving snowmachine riders drowning after going through the ice near Nondalton. I've also included additional material from this document describing several near drownings, including first-hand reports from individuals.

The need for transportation improvements to address a public safety problem should not depend on how many fatalities have occurred. Evidence from the public record demonstrates there is a real public safety concern with the current method of surface access, mostly related to winter crossings of the river or lake. DOT/PF's analysis also concludes that "the opportunities and likelihood of serious injuries and accidental deaths resulting from air travel between Nondalton and Iliamna/Newhalen will be lessened" by the project.

DOT/PF Planning Requirements: You heard discussion about the current statutory requirement for DOT/PF to consider the costs and benefits of a planned transportation improvement. In my opinion, the statute in question (AS 44.42.050(a)) does not require a strict economic evaluation, nor does it require a positive cost/benefit result to proceed with a particular project.

I worked for the department for nearly fourteen years between 1976 and 1991, including four years as commissioner during the Cowper administration. Starting at least in the 1980's and continuing to the present, the department has used a comprehensive project evaluation system to develop the Statewide Transportation Improvement Program (STIP). This process typically looks at a wide range of direct and indirect costs and benefits, including project costs, annual state maintenance costs, long-term economic benefits, environmental issues, public safety benefits, and health and quality of life impacts. Many of these consideration can be quantified, while other elements are less tangible but should be (and have been) part of the department's project evaluation process.

Attachment C is a copy of DOT/PF's 1995 "Remote Roads and Trails Evaluation Process Standards and Scoring Criteria." These criteria governed the evaluation process for the Iliamna-Nondalton Road Improvements Project at the time of its initial evaluation and inclusion in the federal STIP. A key fact to note is that most rural projects did not qualify for the federal-aid program prior to a change in law in the early 1990's. The project scored a total of 110 5 points, making it the seventh highest scored project in its category during that planning cycle.

Project Benefits: Attachment D is a letter I prepared in 1997 providing comments on the project during the environmental scoping process. It includes a detailed list of the following benefits:

- Local transportation will be safer and more reliable.
- Transportation costs will be reduced significantly.
- The communities in the region will experience reduced costs to provide essential services.
- Environmental benefits will be gained.
- Residents of all three communities will see an improved quality of life and more economic opportunity.

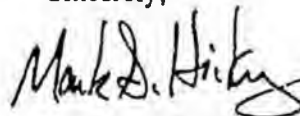
Litigation History: Attachment E is a 1996 letter to the Federal Highway Administration from the attorney representing the principal party pursuing the lawsuit on this project. Please note the statement in the first paragraph.

"My client has authorized me, and is in the course of seeking and authorizing other attorneys, to oppose the project by any and all means, including to litigate to block the project." (Emphasis added)

While I'll refrain from speculation about the real motivation behind these actions, I am not convinced that the litigation is based on a desire to ensure that proper public policy govern the expenditure of the State's federal transportation dollars.

Please let me know if you have questions or want additional information. I urge prompt action and your support for SB 371.

Sincerely,



Mark S. Hickey
President

Attachments

- cc. The Honorable Gary Stevens, Alaska State Senate
The Honorable Dan Ogg, Alaska State House of Representatives
Jeff Currier, Borough Manager, Lake & Peninsula Borough

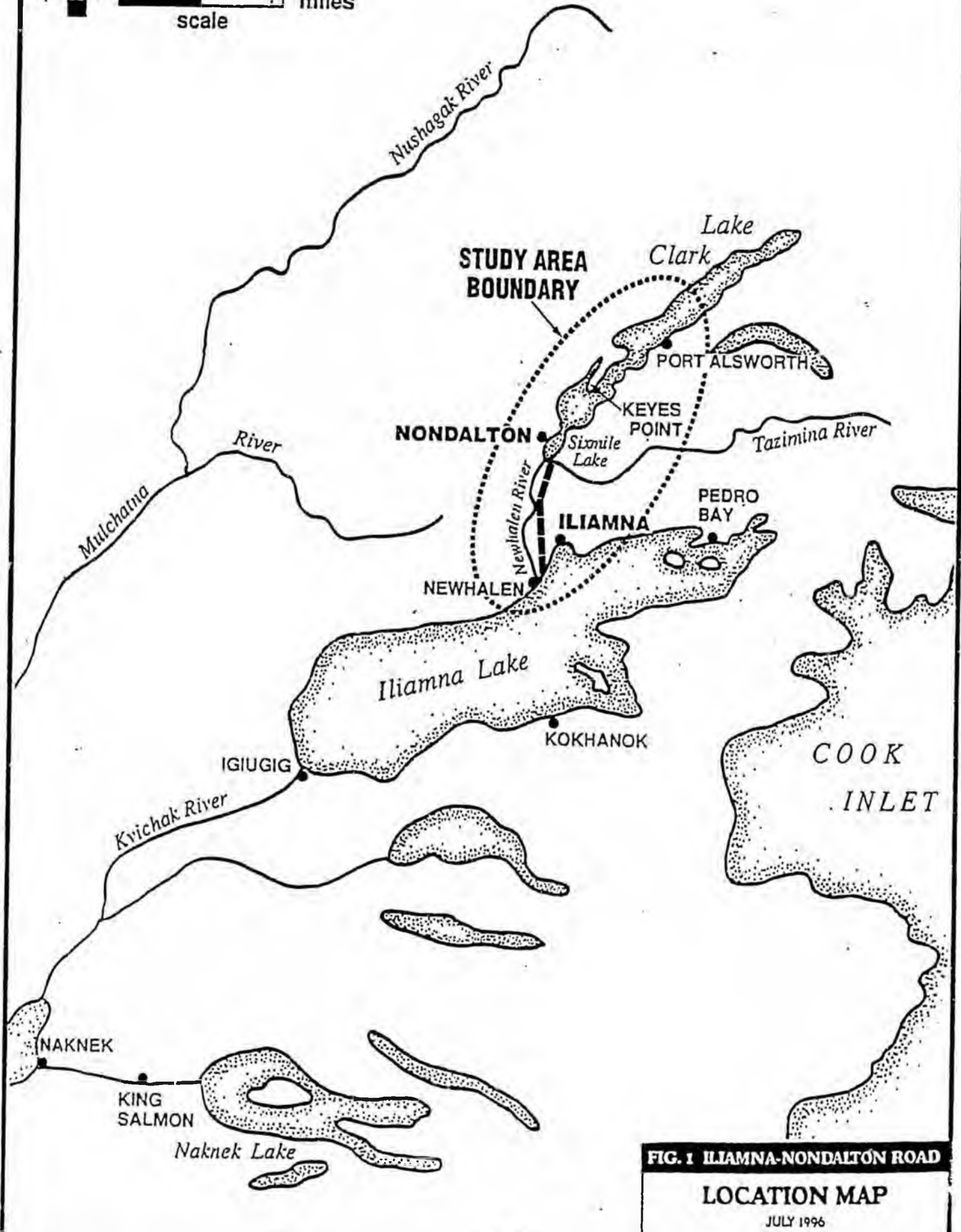
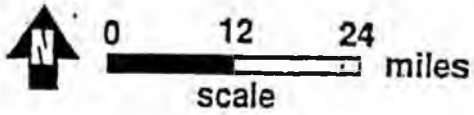
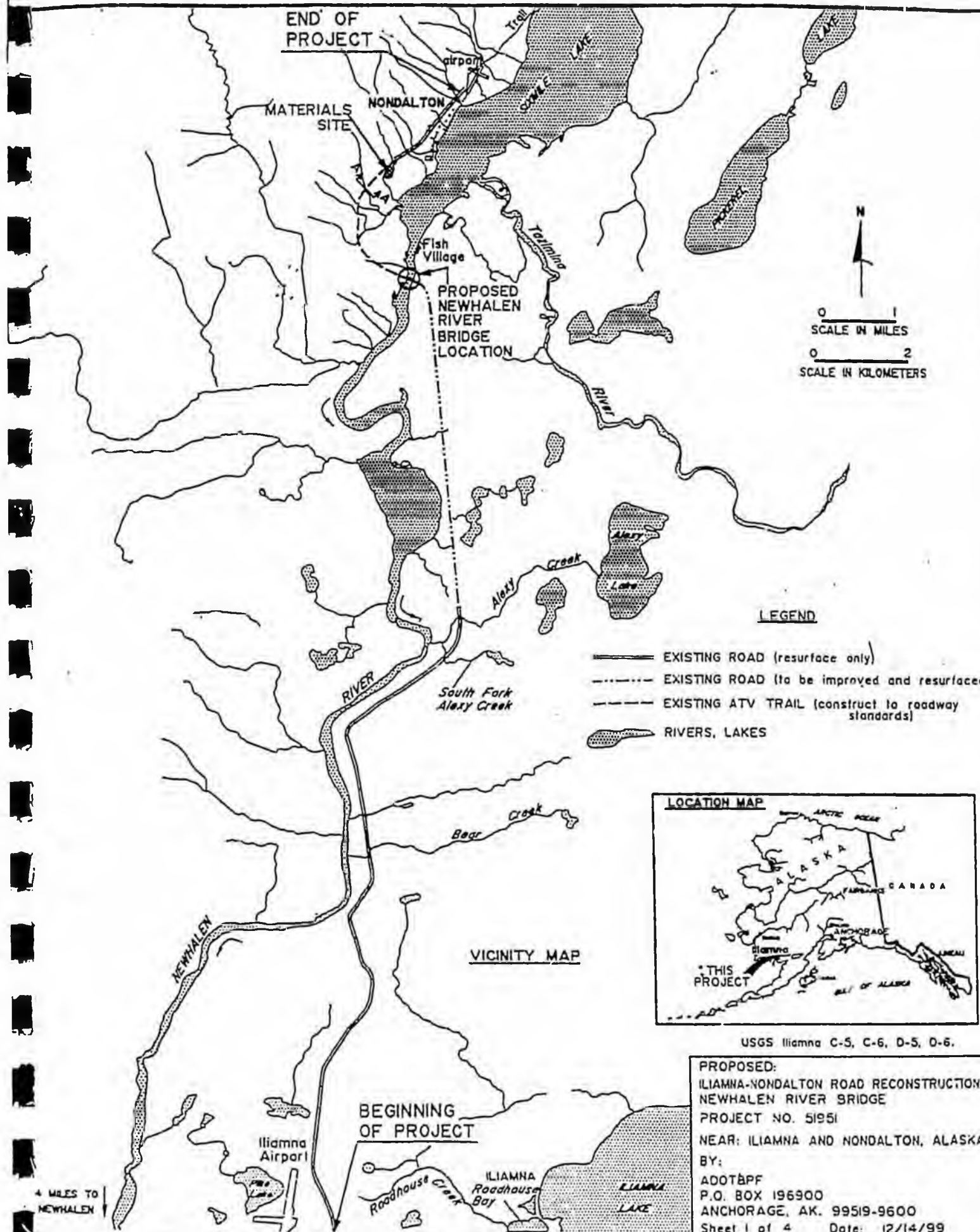


FIG. 1 ILIAMNA-NONDALTON ROAD
LOCATION MAP
JULY 1996



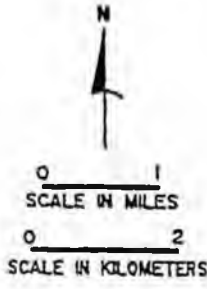
END OF PROJECT

MATERIALS SITE

NONDALTON

Fish Village

PROPOSED NEWHALEN RIVER BRIDGE LOCATION



LEGEND

- EXISTING ROAD (resurface only)
- - - EXISTING ROAD (to be improved and resurfaced)
- - - EXISTING ATV TRAIL (construct to roadway standards)
- ▨ RIVERS, LAKES



VICINITY MAP

BEGINNING OF PROJECT

Iliamna Airport

Iliamna Roadhouse Bay

ILIAMNA LAKE

4 MILES TO NEWHALEN

USGS Iliamna C-5, C-6, D-5, D-6.

PROPOSED:
 ILIAMNA-NONDALTON ROAD RECONSTRUCTION/
 NEWHALEN RIVER BRIDGE
 PROJECT NO. 51951
 NEAR: ILIAMNA AND NONDALTON, ALASKA
 BY:
 ADOIT&P
 P.O. BOX 196900
 ANCHORAGE, AK. 99519-9600
 Sheet 1 of 4 Date: 12/14/99

ILIAMNA-NONDALTON ROAD IMPROVEMENTS

Project No. STP-0214(3)/51951

ENVIRONMENTAL ASSESSMENT

January 2000



Prepared by:

*State of Alaska
Department of Transportation
and Public Facilities*

For:

Federal Highway Administration