

SENATE TAXATION COMMITTEE
MEETING OF APRIL 19, 1977

The meeting was called to order by Chairman Bryan. The following members were present:

Senators Gary Sheerin, Norman Ty Hilbrecht, Carl Dodge, Norman Glaser, Floyd Lamb and Richard Bryan.

The following items were considered:

AB 347 Excludes combustible gases from taxation as a special fuel.

Speaking in favor of the bill was:

Assemblyman Paul May stated this measure would benefit two taxi cab companies in Clark County. The only opposition heard in the Assembly Taxation Committee was from the Nevada Highway Department. These two taxi cab companies have taxis which are equipped to burn a clean-burning, non-polluting compressed gas. The companies told the Assembly Committee that when they equipped their cars to use this gas, they were under the impression that they would be exempt from state taxes. The Department of Motor Vehicles presently imposes a tax of six cents per gallon. The California and federal government does not tax this type of gasoline. The DMV did not find out that the cab companies were using this fuel until an exploding occurred at the taxi plant. The DMV brought suit to collect the back taxes.

Senator Sheerin stated he is concerned that in the future everyone may use the propellant and no one would be paying for the use of the highways.

Assemblyman May said there may be a need to impose a vehicle fee in which each vehicle using this type of propellant would pay it in lieu of the tax.

Mr. Jim Bell and Don Walls of Whittlesea Blue Cab Company read from a prepared statement. The statement is attached.

Senator Dodge asked why no one inquired whether it was tax exempt before equipping the cabs to use the gas.

Mr. Walls said he did not know.

Senator Sheerin stated 366.190 says the taxes hereby imposed at the rate of six cents per gallon on sale or use of special fuels. Combustible gases are included in the definition of special fuels.

Senator Dodge asked if Whittlesea Blue Cab Company is taking the position that it should escape taxation when it is using the streets, roads and highway system in Clark County. The

whole theory of the imposition of fuel taxes on the users of motor vehicles is to help build and maintain the streets and highways in Nevada. It is constitutionally protected whereby none of that money can be diverted.

Mr. Walls said it sometimes is a question of trade-offs.

Senator Sheerin asked Mr. Lien what is the import of chapter .365 in relation to .366.

Mr. Lien stated .365 is motor vehicle fuel. Chapter .366 is special fuel.

Senator Sheerin asked if those classifications of fuel were mutually exclusive of each other.

Mr. Lien said a person would not have to pay both taxes.

Senator Bryan asked what was the rationale for the imposition of the tax.

Mr. Lien stated the special fuels tax goes to the highway fund. Four and one-half cents of the motor vehicle fuel tax goes to the highway fund. One and one-half cent goes back to the cities and the counties and there is an optional 1-2 per cent which goes back to the counties. The money goes to the county regional street or road fund.

Speaking in opposition of the bill was:

Mr. Grant Bastian, of the Nevada Highway Department, stated this bill would make free use of the highways available to a certain select group of people within the state who elect to convert. It would also make available the streets and highways within the cities, which are supported by regional streets and highway monies, free to these vehicles. It is the department's concern that President Carter's Administration is considering increasing the tax on gasoline. To delete taxes on liquid gases would motivate people to convert to natural gas, butane and propane. Therefore, there would be more people traveling on the highways without paying a user tax.

Senator Bryan asked who is covered under the special fuel tax.

Mr. Bastian said it covers the natural gases.

Senator Bryan asked how much tax was levied on special fuels.

Mr. Bastian said it is usually the same as is paid on gasoline.

Senator Bryan asked what would be the fiscal impact.

Mr. Bastian said immediately there would be \$120,000 revenue lost from the highway fund per year. If there is an additional tax placed on fuel on the national level, there would be increased conversion by private citizens who would, therefore, avoid any tax.

AB 500 Requires hearing by state board of equalization on value changes for certain utility property.

Testifying in support of the bill was:

Mr. Clark Guild, Jr., representing Union Pacific Railroad, stated the purpose of the bill is to give notice to any interested person when the State Board of Equalization proposes to increase valuation of any property on the assessment. There has been circumstances where the Tax Commission would set the rate during their October meeting. Then, in the Board of Equalization hearings in February, increases in values occurred. The purpose of this bill is, in the event the State Board of Equalization proposes to increase valuation, the taxpayer would have the opportunity to be notified in advance and would be allowed to state his position. Mr. Guild related the situation which prompted this legislation. At the meeting of the State Board of Equalization of February 3, 1975, the Tax Commission was then acting in the capacity of the State Board of Equalization. This has since been changed. The staff presented to the Board of Equalization four different methods of determining valuation of railroad property and left it up to the State Board of Equalization to choose the one it desired. There was no opportunity for the railroad, absent a formal court action, to have an opportunity to present its finalized suggestion of valuation.

Mr. Jim Lien, Deputy Director of the Department of Taxation, stated what occurred in 1975 is immaterial to what is here because two new boards have been instituted since that time. The policy of the current State Board of Equalization is to give notice. However, the Department has no objection to his bill. In fact, it likes the language because it places the policy in the statute so that a future board could not reverse the policy and raise values without giving due notice.

Mr. Carl Soderblom, representing the Nevada Railroad Association, the Southern Pacific Railroad Company and the Western Pacific Railroad Company, stated that this is a much needed amendment to the present statute.

AB 262 Provides an election to pay property tax levied against certain mobile homes in quarterly installments.

Testifying in support of the bill was:

Mr. Ernest Miller, representing the Northern Nevada Mobile Home Owners Association, read from a prepared statement which cited the reasons his organization was in favor of AB 262. The statement is attached.

The Clark County Assessor's Office submitted a written statement of proposed amendments to the bill. The statement is attached. Mr. Gary Milliken, from the Clark County Assessor's Office, stated the suggested amendments increase the penalties. As the bill is currently written, those sections dealing with the penalties state the assessors would have to put a notice on every mobile home if the taxes are delinquent. When it becomes delinquent in the next payment, the assessors would have to put up the notice again. For late payers, this would have to be done four times per year. Under the suggested amendment, the first time the owner becomes delinquent, the entire amount becomes due at that time. Otherwise it would be physically impossible for the Clark County assessors to handle AB 262. The proposed sticker is also a real problem. It was tried to be amended in the Assembly. What they came out with is on page three, number two. The sticker can be mailed to the owners but it will quadruple the expenses. There will be a need for four stickers instead of one sticker.

Senator Dodge stated what really needs to be done is to work out a system of treating mobile homes as advalorem property. On one hand, mobile home owners want to be treated like a stick house and, on the other hand, they don't want to accept a market value concept which is applied on a stick home.

Mr. Milliken estimated Clark County would lose approximately \$20,000 because of AB 262.

Senator Bryan proposed a compromise amendment which would state that if in any quarter the tax becomes 10 days delinquent, the entire amount becomes due and payable.

Senator Sheerin asked why the bill limits it to the 100,000 people in the counties.

Mr. Jim Lien, of the Department of Taxation, stated the limitation was made because the rural counties were primarily against it. He felt this makes the bill inequitable. If it's going to be offered to one mobile home owner, all mobile home owners should have the same opportunity. Mr. Homer Rodriguez, Carson County Assessor, had expressed to the Assembly Taxation Committee that the small counties are opposed to the quarterly payment plan. Their primary concern was with having to have four stickers. They were also concerned about being able to keep track of the mobile homes. Most small counties don't have the manpower to police mobile home areas. It creates an additional work burden for the small county assessor's office.

Senator Sheerin asked if the cost of enforcing the bill would rise.

Mr. Milliken said it would rise considerably. To implement the program the first year, it will cost the county \$200,000.

Senator Bryan asked how many mobile homes in the county the size of Clark would have payments of over \$100 per year.

Mr. Milliken said, as of March 4, 1977, 13,920 were under \$100 and 5,315 were over \$100.

Mr. Lien said there would be an additional 2,500 mobile homes in Washoe County with payments over \$100. That makes approximately 7,500 mobile homes for both counties. State-wide there are approximately 11,000 mobile homes.

Mr. Milliken said of that 5,300, at least half of them own their own property.

Senator Bryan asked Mr. Lien to estimate how many mobile home owners would participate in this program.

Mr. Lien estimated that 5,000-6,000 would take advantage of the program out of the 11,000 eligible.

50 on Tape #1
AB 363 Provides for imposition of county cigarette tax to finance certain recreation projects.

Speaking in support of the bill were:

Mr. Bill Briare, Mayor of Las Vegas, cited many points which support the building of this complex. It cannot be disputed that the Las Vegas Convention Center has been the best investment Clark County ever made. There has been a continual building expansion program at the Convention Center. Recently a very valuable and much needed piece of land was purchased by the Convention and Visitors Authority because they are just plain running out of property. A downtown annex for purposes which are no longer feasible at the Paradise Road facility seems to be a natural solution. It is recognized that consideration is being given to finance and construct an 18,000-seat basketball pavillion on or near the University of Nevada, Las Vegas campus. The question of two arenas for sporting events arises. He questioned the need for a single-purpose facility, such as the basketball stadium, which would require using land for parking space rather than for academic purposes. A five cents per package additional tax on cigarettes is requested to help underwrite a bond issue to be approved by the voters of Clark County. The sponsors of this legislation are convinced of voter support for this additional tax. This will be a self-imposed tax. There is need for additional meeting facilities in downtown Las Vegas. Legislative authorization for permission to obtain voter approval is the first of several steps.

Senator Dodge stated if this additional tax is imposed, would that impair the legislature as far as making decisions on types of taxes that ought to be put on in the future to finance cities. An interim study has been requested on the financial

needs and integrity of the fiscal review of the cities. If it is determined there are additional financial needs of cities, the cigarette tax would be one of the areas that would be approached for relief to the cities. If an additional tax on top of the 15 cents was imposed, it might get to the point where the tax is self-defeating as far as the amount of revenue that would be raised.

Mayor Briare stated the benefits that would be derived from a facility of this nature would far outweigh the loss of future financing along the cigarette tax base.

Senator Dodge asked if Mayor Briare could assure the committee that he wouldn't have requests in this legislature during the next session for increases revenues for the City of Las Vegas.

Mayor Briare said he could not.

Senator Glaser stated he shared Senator Dodge's concern in this area. He said he wasn't convinced that even though AB 100 has been passed, that it would alleviate the Indian advantage in selling cigarettes. It will become more attractive to buy for the Indians if the 15-cent tax was imposed.

Senator Lamb stated the cities and counties should be more concerned than anyone with this bill because of using a tax base which was set aside for the cities and counties. It will be difficult to return the next session and request to put more tax on cigarettes to implement the city.

Senator Sheerin said he suspected non-smokers would use these facilities, and yet they are not going to pay for it. He asked if any consideration was given to other kinds of taxes to raise this money. What was the logic behind the decision to suggest this additional tax.

Mayor Briare said he could not answer the question.

Senator Bryan asked if the City Commission had taken a position on this bill.

Mayor Briare said it had not.

Senator Bryan stated the City Commission cannot abdicate its responsibility by deciding to leave it up to the vote of the people. The Commission should take a position.

Senator Glaser stated the room tax was originally imposed to build the convention center. He asked if there was any money left over to build additional facilities.

Mayor Briare said most of the additions after the re-funding of the bonds at the convention center have been financed out of current operating capital. That's why it was indicated that

land has run out at the Paradise Road convention site. That's why the same type of funding is being suggested downtown, but there has to be some bond underwriting guarantee.

Senator Lamb made the observation that he believed the County Commission does not favor this bill. He stated he would like to hear an opinion from the County Commission. This is the cities and counties tax. If the city didn't have the cigarette tax, it would be requesting more funding from the county.

Senator Sheerin stated it is entirely possible that this tax could be enacted and that the revenue produced by this tax might not be sufficient to take care of the bonds that are indebted. Does this bill also trigger a general obligation of the county or city in case there isn't sufficient money generated from this tax.

Mayor Briare said the proposal is that it would be a general obligation bond which would be approved by the voters with various forms of underlying methods of financing, one of which would be a five-cent cigarette tax.

Mr. Frank Scott, President of the Nevada Resort Hotel Association, said his organization supports the bill. The association felt that an increase in the room tax would not be good for the industry. It would give an advantage of Los Angeles, which also charges a six per cent room tax, particularly in bidding for conventions. The cigarette tax is an equitable tax. The hotel industry feels it is selling 75 per cent of the tobacco sold in Clark County. Therefore, the tourists would be paying for the facility.

Senator Bryan asked Mr. Lien for figures on cigarette sales in Clark County.

Mr. Lien stated that approximately \$6 million was collected in cigarette taxes last year by Clark County. He said the cigarette tax revenue is deteriorating because of increased sales by Indian smoke shops.

Senator Hilbrecht stated that while the local cigarette market might be impaired by the Indian smoke shop, the tourist market would not be impaired.

Mr. Tom Kruse, from the Department of Taxation, said that the taxes collected from the cigarette tax are almost stagnant.

Mr. Scott said he was amazed at the profits made from cigarettes in hotels. His hotel makes from its own machines alone \$3,000 per month.

Mr. Oran Gragson, from the Downtown Progress Association, stated this facility is proposed to be constructed on what is known as the Railroad Property, which is property of the Upland Industries

Upland is wholly owned by the Union Pacific Railroad. Upland Industries has proposed to provide whatever land is necessary for this facility. There is a firm option on 30 acres and a tentative option on 10 more acres. Upland Industries has also stated it will make available whatever land is needed for parking facilities. He stated this facility will increase the overall economy in Clark County to the point that it will far off set any loss incurred in the cigarette tax revenue. It will also increase the cigarette tax the cities in Clark County receive because it will bring in more tourists, who will buy more cigarettes. Every possible facility is needed in Clark County to further attract tourists. The cigarette tax revenue did not increase as much as it should. In 1976, it increased \$27,000 although the Indian reservation increased much more. It proves that the increase of tourists off set the increase of Indian sales. The city received \$4,320,756 of the cigarette tax.

Senator Dodge asked Mr. Gragson if there was a back-up plan for funding of this facility.

Mr. Gragson said there was not. This option cost only \$1 and it is good only until it is determined that the city cannot construct the vacility. Extensions are built into the option in case of difficulties. The property is being optioned for approximately one-fourth the actual value.

Mr. Myron E. Leavitt, City Commissioner of Las Vegas, stated he personally was on record as supporting the bill. He said the matter can be discussed at the next meeting and a resolution will be presented to the committee.

Senator Dodge said he was curious about the city's position in supporting this tax which could be an invasion in a potential tax base for city services. He said it seemed inconsistent that the City of Las Vegas could support this bill unless it felt there was no need to request the legislature in the next session for financial relief.

Mr. Leavitt stated he felt there is a need for financial relief, but this may not be the only source of revenue.

Senator Lamb asked where Mr. Leavitt sees this additional revenue coming from.

Mr. Leavitt said he was going to look for the state legislature to find it.

Senator Bryan requested that Mr. Lien give the Department of Taxation's analysis of this bill with the understanding that he was appearing neither as an advocate or an opponent of the bill.

Mr. Lien stated the department wants to be on the record as not opposing the sports complex in Clark County, but does have to express grave concern about raising teh cigarette tax because the cigarette tax is a deteriorating source of revenue as a result

of Indian smoke shops. It is the state's only declining revenue. The fact that a sports complex may benefit the local area and stimulate sales tax does not take into consideration that the cigarette tax is distributed state-wide on a population basis. Any deterioration of sales in any one area affects all areas in the state. In 1976, the state sold one million packs fewer than in 1975. For the first three months in 1977, the state sold 27,600 fewer tax-paid packages than it did during the first three months in 1976. This gives evidence that for the second year the tax is heading towards further deterioration of this revenue source. In 1976, Indian smoke shop sales cost the state \$1.1 million in cigarette taxes for an average of \$96,000 per month. For the first three months in 1977, the monthly average loss is \$143,000. Clark County cities lost approximately \$635,000 in revenue from this source in 1976. Projected for 1977, based on the \$143,000 month tax, the Clark County cities will lose approximately \$978,000 in revenue from this source. The loss for the City of Las Vegas in 1976 was 4442,000. The projected loss for 1977 is \$665,000. In addition, in Las Vegas alone, Indian sales have increased from 35,000 cartons in January 1976 to 99,000 in March 1977. That figure means that \$99,000 in cigarette tax and 12,700 in sales tax was lost as a result of the Las Vegas store alone. That meant a \$57,000 loss to the Clark County cities in cigarette tax in the month of March. Cigarette sales by Indian smoke shops have increased 241 per cent from January 1976 through January 1977. Overall, the packages sold increased nine per cent but the state tax packages decreased by one per cent. As of March, 13.8 per cent of the cigarettes sold in Nevada were sold by Indian smoke shops as compared to seven per cent one year ago. The Las Vegas smoke shop accounted for 10.4 per cent of all cigarettes sold in the state in March. The additional five cent economic advantage combined with the psychological impact of a higher tax rate will, in the Department of Taxation's opinion, stimulate further smoke shop sales. In addition, bootlegging becomes a problem with the tax increase. Policing bootlegging is beyond the department's capability. Countefeiting also is a potentiality with a 15-cent tax. New York and other entities have experienced a decline in revenue after increasing their tax rate. Using the 1976 pack sales, the five cent Clark County tax would generate approximately \$3 million per year. With a 33 per cent increase in smoke shops sales, that five cent increase would be negated. There would be an offset and no benefit. The department believes that since the cigarette tax is a deteriorating source of revenue to the detriment of all local governments that perhaps the legislature should consider other sources of revenue to finance the types of projects which are contemplated in AB 363. AB 100 won't be a cure all. It won't automatically stop sales from Indian smoke shops. There won't be any direct benefit to Nevada as a result of AB 100 for at least two years.

Senator Sheerin said suppose there wasn't the smoke shop issue. What then would be the Department of Taxation's position.

Mr. Lien said the department would be using the cigarette tax as a growing tax source and then, with the fact that it is being offered for a local vote, it would see no problem except the legislature's concern for expanding the tax at a later point for the benefit of all local governments.

Senator Sheerin asked if revenue bonds would be saleable if they were sold based on user fees.

Mr. Lien said, based on the success of the Las Vegas Convention Authority and the profitable situation with the present facility, it would be saleable. Some of the payments, however, will be due prior to any user fees being generated from the facility.

Senator Sheerin asked if it would be more saleable if there was revenue in front of the general obligation bonds.

Mr. Lien said it would be more saleable because general obligation debt always has first call on the tax rate.

Senator Sheerin said that would be another means of raising the funds for this facility. He asked Mr. Lien if he knew of any other means to raise the money.

Mr. Lien said the local entities would have to determine what sources they had available. There's the room tax and the ad-valorem tax. He submitted a graph which tells of the effect of this proposed tax on the tax dollars. The sheet is attached.

Senator Dodge asked Mr. Bob Warren what is the position of the other cities.

Mr. Warren, Director of the Nevada League of Cities, stated that initially 13 cities opposed this issue. Three cities took no position. There were three concerns. Firstly, it was opposed on principle that smokers shouldn't be required to pay the cost of financing recreational facilities. Secondly, there was the belief that the existing authority of fair and recreational boards to collect the transient room tax should be used to finance recreational facilities. Thirdly, it was felt there would be encouragement of additional sales from smoke shops and, possibly, additional bootlegging. However, Mr. Warren was advised if AB 100 was passed, some cities would reconsider their positions. After the position of the City of Las Vegas was presented to the 16 mayors, three cities which originally opposed the bill decided to take no position. Consequently, there are six cities which take no position and 10 which are opposed. The cities opposed are Caliente, Carlin, Carson City, Ely, Fallon, Henderson, Lovelock, North Las Vegas, Reno and Sparks. Those taking no position are Boulder City, Elko, Gatts, Wells, Winnemucca and Yerington.

Those speaking in opposition to the bill were:

Mr. Joe Midmore, representing the Tobacco Tax Council, submitted three booklets entitled, "Michigan and the Cigarette Tax," "Report of the NYS Special Task Force on Cigarette Bootlegging and the Cigarette Tax," and "Quick Topics." The booklets are attached. Mr. Midmore stated the cigarette tax revenue is deteriorating. The cigarette tax is the City of Las Vegas' third source of revenue after advalorem and sales tax. He felt the City of Las Vegas was playing with dynamite. Mr. Hal Smith, of Burroughs and Smith, wrote a letter to the Assembly Taxation Committee, which said that AB 363 could finance the proposed downtown center in Las Vegas based on historic cigarette tax revenues. Historic cigarette tax revenues are not being dealt with now because they are decreasing. He questioned Mr. Scott's figure of 75 per cent of the cigarettes being purchased by hotels. He said there was a bootlegging threat. He used the situation in the East Coast as an example. Those states with the highest cigarette taxes are having the heaviest bootlegging problem. Bootlegging was started by amateurs, but the Mafia has taken over. Since organized crime took over, hijacking, theft of cigarette stamps and stamp machines, and counterfeiting of stamps are major problems. This is spreading west. One of the new areas being considered by the Mafia is Tuscon, Arizona. That is close to home. Every study made on the bootlegging problem has recommended that the tax be lowered in order to decrease the incentive for profit on the bootlegger's part. A 15-cent tax in parts of Nevada would give these people an opportunity to profit by operating in Nevada. Putting it to a vote of the people is incorrect. They are not being asked to tax themselves. They are being asked to tax on segment of the economy.

Mr. Clyde Crutchfield, representing 16 vending companies and 10 Smith Food chain stores in Las Vegas, submitted a folder of newspaper clippings and charts. Articles are attached. Mr. Crutchfield stated that at one time he bought \$13,000 of tax stamps per week. Now he is only buying \$5600 worth of stamps per week. There are two questions involved with this issue. Firstly, is there a need for such a complex downtown? Secondly, where does the money come from? He suggested the ballot should ask if the voters want an increase in cigarette tax, an additional room tax or none of the above to pay for the downtown sports complex. Two years should be allowed to see if AB 100 is going to be effective before the cigarette tax is increased and construction is started on the sports complex. He questioned the figure that 75 per cent of the cigarettes are sold in hotels.

Mr. W.R. Patton, of the Carson-Tahoe Vending Company, stated he was not opposed to the sports complex in Las Vegas, but his industry is opposed to paying for it. He said he did not feel the revenue will be generated to pay for this project through cigarette taxation. The diminishing returns on cigarette taxes is obvious.

Senator Glaser asked Assemblyman Paul May, Chairman of the Assembly Taxation Committee, if this bill was shoed to Governor O'Callaghan. The Governor said two years ago that there would be no new taxes.

Assemblyman May answered the Governor has indicated he did not want any new taxes imposed during his term of office. Firstly, the bill provides that the question shall go to the general election in the year 1978. Secondly, the effective date on the bill was amended to become January 1, 1979. Thirdly, the measure provides for a vote in each county. It would be unlikely that any county could, within 20 days after January 1, cause the election to be placed on the ballot.

Mr. Steve Stucker, representing the City of North Las Vegas, stated he shared the concern for the financial integrity of local governments. There is concern on the effects of this bill on the City of North Las Vegas. In 1976, North Las Vegas lost approximately \$127,000 in cigarette tax and the Department of Taxation estimates that loss will increase to \$190,000 in 1977. The main reason for the loss is the sales by Indians. He questioned why section 14 of the bill limits construction to sports facilities only and excludes other recreational facilities. The definition of recreational facilities in section 12 includes convention halls. It appears the intent of this bill is to have sports facilities and not convention facilities for the use of this money.

Mr. Gragson stated the road construction would be paid by the REgional Streets and Highways Fund for the east-west route. This route will be built regardless of whether the sports complex is built or not. Regarding the Governor's opinion, he requested three amendments to the bill. Firstly, that the election be in 1978. Secondly, that the tax not be imposed until January 1, 1979. Thirdly, that the cigarette tax of five cents be imposed rather than have increments of .5 to 5 cents.

Mr. Scott explained he was in error when he said hotels sell 75 per cent of the cigarettes. He changed that figure to 66 per cent.

Mr. Lien supported Mr. Scott's figure.

Mr. Crutchfield stated that was assuming that 800,000 tourists smoke and 800,000 tourists stayed in hotels.

AB 277 Provides property tax allowance for structures with renewable resource heating or cooling systems.

Assemblyman Sue Wagner stated that AB 277 deals with property tax allowances for owners of residential buildings equipped with certain heating or cooling systems, which are specifically stated in the bill. The residential owner who has any of these stated systems is entitled to an allowance against the property tax incurred. There is a limit on the rebate allowed and a restriction that the rebate cannot be granted in any assessment year in which the system is not used. The procedure for getting the rebate is based upon the same system as is used in the Senior Citizens Property Tax Allowance Act. The bill addresses the possible alternative energy systems with the most potential in this state and those which are the most costly. The reason for

introducing a bill such as this is the strong feeling that people in this state must be encouraged to use some creativity and ingenuity in seeking alternative energy sources, which is now a critical concern and will become more so in the future.

Senator Dodge asked where the rebate comes from.

Mr. Lien said it comes from the state. This is no erosion of the county base. The county assessor sends a statement to the Department of Taxation showing the allowances granted and then the department will authorize a reimbursement to the county from the state general fund. A \$32,000 appropriation has been approved by the Assembly Ways and Means Committee to cover the reimbursement based on approximately 350 units over the next biennium with the appraised value of about \$5,000 each.

Senator Dodge asked if there was any problems with the mechanics of the bill.

Mr. Lien stated the department was pleased with the mechanical process.

Senator Sheerin moved to Do Pass and Re-Refer to Finance. Senator Glaser seconded the motion and it passed unanimously with Senators Hilbrecht and Lamb absent.

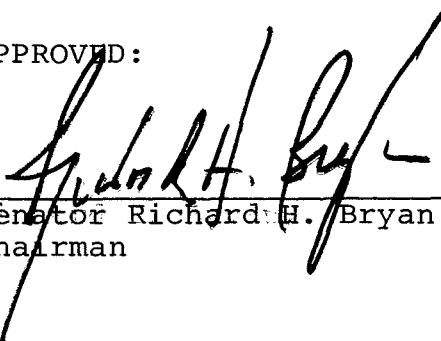
There being no further business, the meeting was adjourned.

Respectfully submitted,

Colleen Crum

Colleen Crum

APPROVED:



Senator Richard H. Bryan
Chairman

(REPRINTED WITH ADOPTED AMENDMENTS)

SECOND REPRINT

A. B. 277

ASSEMBLY BILL NO. 277—ASSEMBLYMEN WAGNER, MANN,
BARENGO, HAYES, DREYER, SCHOFIELD, HORN, WEISE,
GOMES, JACOBSEN, MURPHY, CRADDOCK AND HARMON

FEBRUARY 7, 1977

Referred to Committee on Taxation

SUMMARY—Provides property tax allowance for structures with renewable
resource heating or cooling systems. (BDR 32-543)

FISCAL NOTE: Local Government Impact: No.
State or Industrial Insurance Impact: Yes.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to property taxes; providing an allowance against taxes on residential buildings equipped with certain heating or cooling systems; providing a penalty; making an appropriation; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

- 1 SECTION 1. Chapter 361 of NRS is hereby amended by adding
2 thereto a new section which shall read as follows:
3 1. *As used in this section, "qualified system" means any system,
4 method, construction, installation, machinery, equipment, device or
5 appliance which is designed, constructed or installed in a residential
6 building to heat or cool the building by using:*
7 (a) *Solar or wind energy;*
8 (b) *Geothermal resources;*
9 (c) *Energy derived from conversion of solid wastes; or*
10 (d) *Water power,*
11 *which conforms to standards established by regulation of the department.*
12 2. *The owner of a residential building which is heated or cooled with
13 a qualified system is entitled to an allowance against the property tax
14 accrued:*
15 (a) *During the current assessment year if the building is placed upon
16 the secured tax roll; or*
17 (b) *In the next following assessment year if the building is placed upon
18 the unsecured tax roll,
19 in an amount equal to the difference between the tax on such property at
20 its assessed value with the system and the tax on such property at its
21 assessed value without the system.*

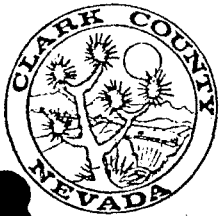
Original bill is 3 pages long.
Contact the Research Library for
a copy of the complete bill.

SENATE

DATE 4/19/77

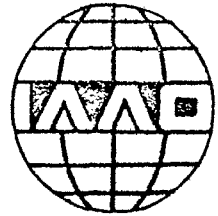
PLEASE PRINT PLEASE PRINT PLEASE PRINT PLEASE PRINT PLEASE PRINT PLEASE PRINT

TESTIFYING?	NAME	ORGANIZATION	ADDRESS	PHON
	David Boyer	United Mortgage Co	624 S. 4 TH Las Vegas	384-7272
YES	ERNEST MILLER	MOBILE HOME OWNERS NORTHERN NEVADA	40 SILVER REEF DR.	972-6212
yes	Robert F. Fletcher	" " "	94 Silver Reef Dr Reno	972-6211
yes	Grant Bastian	Nev. Hwy Dept.	Carson	882-5444
yes	CLARK GUILD JR	Union Pacific	Reno	786-2361
	Thomas Cochran	Assessor	Carson City	882-1622
Yes	Nary Milliken	Clark Co. Assessor's Off.	Las Vegas	386-4011
YES	STEVEN STUCKER	CITY OF NORTH LAS VEGAS	LAS VEGAS	649-5811
Yes?	Yvonne Rodden	Nevada State Museum	Carson City	882-6457
4	Joe Midmore	Tobacco Tax Council	Reno	747-4986



clark county assessor's office

CLARK COUNTY COURTHOUSE
200 EAST CARSON AVENUE • LAS VEGAS, NEVADA 89155
(702) 386-4011



4/19/77

JEAN E. DUTTON, *County Assessor*

K. DON DUNN, CAE, *Assistant County Assessor*

April 14, 1977

AMENDMENT TO

A. B. 262

Amend Subsection 5 of Section 1 to read as follows:

5. If any person charged with taxes which are a lien on a mobile home as defined in NRS 361.561 which taxes exceed \$100 fails to pay:

(a) Any one quarter of such taxes on or within 10 days following September 1, the entire amount shall become due and a penalty of 10% plus \$3.00 for every month or portion thereof that has elapsed since September 1.

(b) Any two quarters of such taxes on or within 10 days following December 1, the entire amount shall become due and a penalty of 10% plus \$3.00 for every month or portion thereof that has elapsed since December 1.

(c) Any three quarters of such taxes on or within 10 days following March 1, the entire amount shall become due and a penalty of 10% plus \$3.00 for every month or portion thereof that has elapsed since March 1.

(d) The full amount of taxes, together with accumulated penalties on or within 10 days following June 1 becomes due.

Amend Subsection 6 of Section 1 to read as follows:

6. Any person charged with taxes which are a lien on a mobile home as defined in NRS 361.561, who fails to pay the taxes within 10 days after the quarterly installment is due and payable, the property may be seized to satisfy any taxes and costs.

CLARK COUNTY

WASHOE COUNTY

CALENDAR YEAR 1976	Tax Dollars Collected	Tax Dollars Allocated (Back to Clark)	Tax Dollars Lost to Indian Sales	Tax Dollars Collected	Tax Dollars Allocated (Back to Washoe)	Tax Dollars Lost to Indian Sales
@ 10¢ per package	\$ 6,512,640	\$ 6,238,391	\$ 797,040	\$ 4,114,080	\$ 2,763,643	\$ 360,000
@ 15¢ per package	\$ 9,768,960	\$ 9,331,895	\$ 1,195,560	\$ 6,171,120	\$ 4,265,282	\$ 540,000
Estimated Revenue collected @ 15¢ per package and allocated if Indian Sales increased by:		Estimated 95% sold in Clark County			Estimated 73% sold in Washoe County	
10%	\$ 8,792,064	\$ 8,398,706	\$ 1,315,116	\$ 5,554,008	\$ 3,838,754	\$ 594,000
25%	7,326,720	6,998,921	1,494,450	4,628,340	3,198,962	675,000
33%	6,545,203	6,252,370	1,590,094	4,134,650	2,857,739	718,200
50%	4,884,480	4,665,948	1,793,340	3,085,560	2,132,641	810,000
75%	2,442,240	2,332,974	2,092,230	1,542,780	1,066,321	945,000

Note: 1

At present, Indian sales in Las Vegas have increased by 10% between July 1976 and February 1977. Indian sales in Reno are increasing by approximately 5% per month since starting late in 1976.

Note: 2

If the additional tax caused an increase in Indian sales of 33%, any tax benefit would be negated.

The March 14 calculations were based on the assumption that all stamps affixed by wholesalers would remain in their respective counties. This is not a true figure, as approximately only 95% of the cigarettes stamped by Clark County wholesalers and 73% of the cigarettes stamped by Washoe County wholesalers remain in the counties.

The remainder of the cigarettes stamped are sold in outlying counties.

Also, the March 14 schedule failed to reflect the amount of tax dollars that would be lost in Indian sales if the tax went to 15 cents a package.

1.

PRO-^{AR.}262 SENATE TAX COMMITTEE APR 17, 77
 MR. CHAIRMAN:
 [LADIES] GENTLEMEN:

MY NAME IS ERNEST MILLER. I'M A RESIDENT OF RENO, I WISH TO MAKE MY STATEMENT IN BEHALF OF MOBILE HOME OWNERS, THROUGH THE NORTHERN NEVADA MOBILE HOME OWNERS ASSN.

1. AFTER CONDUCTING A SURVEY OF CROSS SECTION OF MOBILE HOME OWNERS, IN NORTHERN NEVADA, IT IS GENERALLY FELT, THE CURRENT TAX LAWS CONCERNING THE PAYMENT OF, IS BORDERING, IF NOT DEALING DIRECTLY IN THE AREA OF DISCRIMINATION. TIMES HAVE CHANGED, SO THE LAWS SHOULD BE CHANGED.

I QUOTE THE LEGISLATIVE COUNSEL BUREAU REPORT OF 1974 ON TAXATION OF MOBILE HOMES: []

"EVIDENCE BEFORE THE SUBCOMMITTEE CLEARLY INDICATES THAT MOST MOBILE HOME OWNERS ARE PAYING AS MUCH AD VALOREM PROPERTY TAX AS CAN FAIRLY CHARGE THEM. UNDER THE CONSTITUTION, THEY PAY AT THE SAME MILLAGE, AND THE SAME ASSESSMENT RATIO AS DO CONVENTIONAL HOME OWNERS." I WOULD LIKE ADD, AND WITHOUT THE OPTION OF HOW TO PAY, AS AFFORDE THE CONVENTIONAL HOME OWNER.

2

1. CONTD.

I AGAIN QUOTE; "THE ONLY DIFFERENCE IN COMPUTATION IS THE RATE OF DEPRECIATION." I WOULD AGAIN LIKE TO ADD, THE AVERAGE LIFE EXPECTANCY, OF A MOBILE HOME HAS SHARPLY RISEN, AS SO THE TAXES TO HAVE INCREASED.

2. QUESTIONS! WHO ARE THE PEOPLE THAT HAVE TURNED TO MOBILE HOME LIVING? WHY HOW MANY?

FACT: ONE DOESN'T HAVE TO LOOK TO FAR TO OBTAIN FACTS ON WHO IS PARTICIPATING IN MOBILE HOME LIVING, AS THEY ARE LABORERS, DOCTORS, POLICE OFFICERS, NURSES, LEGISLATORS, INSURANCE PEOPLE THE YOUNG PEOPLE AS WELL AS OLDER PEOPLE.

THE WHY OF THIS QUESTION, MAYBE ANSWERED WITH A MULTITUDE OF ANSWERS, RANGING FROM "IT'S ALL I CAN AFFORD," TO "ALL OF MY FAMILY HAVE BEEN RAISED, AND I DON'T WANT THE HEADACHES OF THE LARGER HOME." AS FOR HOW MANY, THIS ANSWER IS IN THE THOUSANDS IN NEVADA ALONE

QUESTION IS JUST HOW MUCH MONEY IS REQUIRED TO BE INVESTED, TO BE CONSIDERED A HOME OWNER?
HOW MUCH IN TAXES MUST WE PAY?

FACT: IT IS TRUE, A STICK HOME ON A PARCEL OF LAND IS SECURED INTEREST, * HOWEVER, IS NOT A \$25-80,000.00 [DOLLAR] MOBILE HOME PERMANENTLY SET, [REF] [PERMANENT-BLACKS LAW DICTIONARY 1297] SECURED INTEREST?

QUESTION: IT HAS BEEN STATED, --- "IN SOUTHERN NEVADA, IT COULD COST SOME \$200,000.00 [DOLLARS] TO IMPLEMENT A QUARTERLY PROJECT IN BEHALF OF THE MOBILE HOME OWNERS." WHY?
WHEN THE COMPUTERS ARE ALREADY PROGRAM FOR QUARTERLY ASSESSMENTS?

MAYBE IT'S AS THOUGH ONE PERSON STATED, "THOSE DAMNED TAX PEOPLE ARE AFRAID THEY'RE GONNA LOSE THOSE DELIQUITE DOLLARS, ONCE THEY GET A PERSON DOWN, THEY DON'T WANT HIM TO GET UP AND STAY UP."

I DO NOT ADVOCATE QUARTERLY OPTIONS FOR WHAT COULD BE TERMED MINIMAL SUMS, THERE MAYBE HOWEVER, AN EXCEPTION IN LINE FOR THE ELDERLY. THE FACTS ARE, ONE LUMP SUM PAYMENTS ARE CREATING HARDSHIPS. MOST ELDERLY PEOPLE, HAVE A FIXED INCOME, AND UNDER CURRENT LAWS, PARTIAL PAYMENTS CAN NOT BE MADE.

4
I QUOTE AMERICAN JURISPRUDENCE VOL 51 TAXATION
SECTION II ARTICLE 47^[3] "THE COURTS HAVE NO
CONCERN WITH THE UNFAIRNESS OF A TAX LAW SO
LONG AS IT IS CONSTITUTIONAL.", I MAKE THIS
STATEMENT IN EFFORT TO HAVE SOME FAIRNESS IN
IN THE TAX LAWS OF NEVADA. THIS CAN ONLY BE
ACHIEVED BY YOU, THE LEGISLATORS.

A RECOMMENDATION OF "DO PASS," IS STRONGLY URGED.

— THANK YOU:

[CITES] 1. LEGISLATIVE COUNSEL BUREAU REPORT:
MOBILE HOME TAXATION. SEPT. 1974 P 13.

2. BLACKS LAW DICTIONARY 1297

3. 51 AM. JUR. 77

4. NRS. 361. TAXATION

Downtown sports complex has road woes

The Regional Street and Highway Commission Technical Committee Thursday expressed some reservations about building an east-west road to serve the proposed downtown sports complex.

The Downtown Progress Association asked the commission to give top priority to extending Ogden Avenue west to connect with Alta Drive past the Union Pacific railroad property to provide access for the proposed complex.

But the technical committee said it didn't want to commit the commission to building the road before the complex is approved. The proposal to build the facility is currently before the Legislature.

Chuck Brechler, commission managing engineer, said that although no cost estimates had been made for extending the road, it would cost at least \$1 million. And bonds would have to be sold to pay for the extension.

Brechler also said it would be better to extend Stewart Avenue rather than Ogden because Stewart extends several miles east while Ogden ends at 10th Street.

The matter will come before the commission next Thursday with no recommendation from the technical committee.

In other business, the committee agreed to study ways to solve problems with utility cuts on completed Regional Streets projects. The commission asked the technical committee to study the situation and come up with possible solutions.

Brechler noted west Charleston Boulevard was opened for gas service the day after the open grading was completed. And Tropicana Avenue, which was finished last summer, already has five utility cuts.

The engineer said he realizes building new roads encourages growth in the area, which necessitates utility expansion.

In other action, the committee:

— Agreed to pay \$114,900 for four parcels of right-of-way needed to build Michael Way.

— Approved spending \$49,650 to buy seven pieces of land for construction of the Vegas Wash drainage channel.

— Awarded Mel Anderson a contract at a \$25 per hour rate to appraise land needed for construction on Nellis Boulevard.

— Referred a long list of proposed traffic signal projects for the next fiscal year to the traffic subcommittee for its recommendation.

R. J. Smith

Sun April 9, 1977

UNLV Sports Arena Proposed

By BRYN ARMSTRONG

SUN Legislative Bureau

CARSON CITY—Construction of an 18,000 seat sports arena and a home for the continuing education program on the UNLV campus was proposed Monday to the Clark County legislative delegation.

William Morris, former regent and president of the Rebel Athletic Foundation said the facility will cost about \$15 million, and he proposed to finance it through the rebate the state receives from the federal slot tax, and if needed, bond issues and loans from the state's general fund.

Morris noted the federal slot tax rebate totaled about \$11.25

million for 1976, with \$5 million going to the University Higher Education Capital Fund and \$6.25 million to the state's distributive school fund.

Morris proposes legislation that will assign each fund \$5 million, with the excess supporting the construction of the UNLV sports continuing education sports complex, plus a sports facility at University of Nevada, Reno.

Additionally, he said, the Nevada congressional delegation is attempting to win an increase in the federal slot tax rebate 80 per cent to 95 per cent.

If that is successful, Morris declared, each campus would have available about \$2.7 million each year to support the project. Without the increase each will have \$1.5 million by June 30, 1978, based upon expected increases in the number of machines in play. In the most recent report, there were more than 55,000 licensed slot machines and the state receives a taxback of \$200 per machine.

Morris said the fees from continuing education facilities plus sports and special event rentals would pay the annual estimated \$200,000 operating costs.

He added that Las Vegas Bankers Parry Thomas and Jerome Mack had pledged substantial contributions to an endowment fund to assist in

defraying operating costs.

The complex is to be sited southeast of the present UNLV campus, generally bounded by Swanson Avenue on the west, Maryland Parkway on the east and Tropicana on the south.

Approximately 53 acre as is programmed, and 4,500 parking spaces are contemplated. The sports structure will be 90 feet high, of steel and glass construction. Food service facilities, space for the Rebel Club activities, team rooms and athletic offices are included, in addition to the main athletic and continuing education areas.

Assemblyman Paul May, D-North Las Vegas, chairman of the Assembly Taxation Committee will be the principal introducer of the bill proposed by Morris, and he said he expects at least 16 Clark Assemblyman to join as coinroducers.

The land is held in the name of UNLV, Morris told the lawmakers.

Also pending before the current session is a proposal by the Downtown Progress Association, mostly hotel and casino owners to build a sports-convention complex west of the Union Plaza Hotel, to be financed by an increase of five cents a pack in cigarette taxes.

That measure, AB363, will be before the Assembly Taxation Committee later today (Tuesday).

Morris and UNLV President Don Baepler said the two projects aren't related, but Assemblyman Darrell Dreyer noted that part of the downtown association's promotional efforts were directed at the need for a larger basketball pavilion for the university team.

an-
n-
ne

ma-
nity-
kes,
783
ada
with

Jim
both
orge
158,
Art

You Can — If You Really Want To

L.V. Swan

April 6, 1977

33 Million Broke Cigarette Habit

By JANE E. BRODY

1977 N.Y. Times News Service

NEW YORK — By the end of last year, a national survey showed, 33 million Americans — 38 per cent of those who had ever been regular smokers — had given up cigarettes. Of the 54 million Americans who still smoke, two out of three say they would like to quit and have tried to at least once.

If you would like to be among those who have rid themselves of the expense, smell, bad breath, stained fingers, nagging cough and serious health hazards of smoking, here are some tips based on the experiences of successful quitters and the formats of effective stop-smoking programs.

Cigarette smoking is a habit, a learned behavior that — like other learned behaviors — can be unlearned, or a new behavior can be learned in its place.

No matter how strong this habit or how frequently it is reinforced, anyone who wants to badly enough can break it. The secret is in the wanting. Quitting smoking is a personal decision that no one else can make for you.

Dr. Daniel Horn, director of the National Clearinghouse for Smoking and Health at the Center for Disease Control in Atlanta, has devised a self-test that can help you gain insight into your attitudes and knowledge about smoking and quitting, what kind of support you will get in trying to quit, what smoking does for you and how you use the different cigarettes you smoke during the day.

success, your approach to quitting should be tailored to the reasons you smoke. Psychological studies have defined six roles cigarettes can play in people's lives, as follows:

- **Stimulation:** to help you get going and focus on what you are doing. Stimulation smokers tend to smoke heavily in the morning, sometimes having their first cigarette of the day the moment they get up. As a substitute for cigarettes, they might try such "stimulants" as a cool shower, brisk walk, deep breathing or an exercise routine.

- **Handling:** to glean the satisfaction of manipulating an object and having something to do with your hands and mouth. Such smokers enjoy the process of taking out a cigarette, lighting up, feeling it in their mouths, watching the smoke and toying with the ashes and butt.

- **Pleasurable Relaxation:** to add to already good feelings and help you relax. Pleasure-seeking smokers tend to light up after meals or making love or finishing a task. They usually find it easy to quit, sometimes by substituting other pleasurable, but less hazardous, activities.

- **Crutch or Tension Reduction:** to relieve bad feelings, such as tension, anxiety, anger, disappointment, fear of depression. Such smokers are more likely to light up when things go wrong or the pressure builds up. They must try to face difficult situations without smoking, a task that often turns out to be much easier than the

smoker had anticipated.

- **Psychological Addiction:** to fulfill a perceived "craving" for cigarettes, which begins to grow the moment the last cigarette is stubbed out. Addicted smokers usually have to quit "cold turkey" — they can't cut down slowly since each cigarette simply reinforces the addiction. Although they find it difficult to quit, they are often more successful at staying non-smokers because they don't ever want to go through the agony again.

- **Habit:** an almost response, with little or no thought involved. Habit smokers often light up a new cigarette while the previous unfinished one is still burning in the ashtray. The habit smoker has a much easier time quitting. He has to make his smoking a conscious behavior (such as by wrapping up his pack or not carrying cigarettes or matches) and ask himself each time, "Do I really want this cigarette?"

Each smoker, then, must find his own route to quitting, and countless gadgets and schemes have been devised to help. For those who can't do it alone, there are thousands of clinics where the support of a leader (often a former smoker) and a group of fellow sufferers can be bought. Commercial clinics costing up to \$200 are widely advertised. Inexpensive nonprofit ones can be located by contacting the local chapter of the American Heart Association, American Cancer Society or American Lung Association.

The stop-smoking plan that is the basis for a number of

successful clinics and programs can also be used by individuals on their own. Although designed as a four-week program, it can be condensed to two weeks or less:

- **First week:** list the reasons you want to quit, emphasizing the positive effects, and read it daily. Complete the self-test. Wrap your cigarette pack with paper and rubber bands. Each time you smoke, write down the time of the day, what you are doing, how you are feeling and how important that cigarette is to you (on a scale of 1 to 5, with 1 the most important.) The rewrap the pack.

- **Second week:** keep reading your list of reasons and adding to it if possible. Keep wrapping your pack and recording your smoking. Don't carry matches or a lighter and keep your cigarettes some distance away (not on you or within arm's reach.) Each day try to smoke fewer cigarettes than you did the day before, systematically eliminating those that are least or most important, whichever way works best. Decide every morning how many cigarettes you can get by on that day and see how close you come.

- **Third week:** continue with

the second week's instructions. In addition, don't buy a new pack until you finish the last one and never buy a carton. Change brands twice during the week, each time choosing a brand lower in tar and nicotine. Select a time that is likely to be easy and try not smoking for 48 hours.

- **Fourth week:** continue the above. Increase your physical activity. Try to avoid the situations you most closely associate with cigarettes (for example, get up immediately after meals and do something that makes smoking difficult). Find a temporary but harmless

cigarette substitute — gum, celery or carrot sticks, toothpicks. Whenever you feel the urge to smoke, try a deep-breathing exercise: With your body limp, inhale slowly. Have a plan of action for when temptation comes, such as knitting or typing.

Many smokers find they have to quit several times before they succeed permanently at being a former smoker. So, if you fail the first time, or even the second or third, don't get discouraged or give up. Simply try again . . . and again . . . and again . . . because, in the end, if you really want to, you'll make it.

Combined sports area outlined

Plans for a major recreational-sports arena complex received an enthusiastic response from Las Vegas city commissioners Wednesday.

The plans, presented by Commissioner Roy Woofter, call for development of soccer-football, softball and baseball complexes at the city-owned Cashman Field at Washington Avenue and Las Vegas Boulevard North.

Woofter, member of the Convention Authority, said the authority is considering a joint venture with the city on a complex there, although the authority's also taking a look at other sites.

The proposal calls for the authority to fund the complex; the city probably would pay for running the programs, paying the utilities and maintaining the complex itself.

Woofter was named to head a committee to study plans and alternatives further, and City Manager Bill Adams was asked to provide utility, staffing and maintenance costs because they'd be continuing budget items if the complex was built.

"The time is long overdue to get something going as far as Cashman Field goes," Woofter said. "There's 40-some acres lying dormant."

Mayor William Briare agreed, saying it would serve the community recreational needs of both the city and county. Referring to three development alternatives presented by Woofter, he said, "It has great potential and these sure would put that property to good use."

The plan favored by Woofter calls for a \$2.78 million complex, including baseball, softball and soccer-football fields with seating capacities ranging from 3,000 to 7,000 and parking for 2,000 cars. It also allows for 12 tennis courts and handball areas and a track.

The alternative, he said, would be more flexible than another calling for a baseball stadium seating 18,000 and softball and soccer-football arenas seating 14,000 and 10,000 respectively. That plan and another calling for the same capacities with the addition of tennis courts did not carry price tags.

The \$2.78 million plan still would be large enough

to handle a minor league baseball franchise, Woofter said, and seating could be expanded as the need arose.

In addition, he said the envisioned complex would provide more activities to attract others than adults, citing a track for track and field affairs and motorcycle-motocross activities.

"Seventy-five per cent of the complex would be utilized by the community," he said. "This complex certainly would be used each and every evening."

That caused Commissioner Myron Leavitt to mention rising utility costs, and counterpart Ron Lurie said the city should investigate possible federal funding for development itself.

Tax May Not Cover Costs

L.V. Sun 4/6/77

Current figures from the State Department of Taxation have cast doubts upon the ability of a proposed cigarette tax to generate revenues for the construction of a sports-convention facility in downtown Las Vegas.

The state assembly is expected to vote on a bill proposing a five-cent county cigarette tax either Thursday or Monday.

If passed by state representatives and approved by the governor, the bill would require a special election in which county voters could adopt the five cent tax on each package of cigarettes sold in Clark County. The tax revenues would be used to help fund a proposed downtown sports complex.

If adopted, the new tax would "definitely open up the

market for tax-exempt cigarettes at all Indian colonies within the state, including one located close to Las Vegas," said Bruce Smith, tax administrator with the state department of taxation's revenue division.

Smith pointed out that cigarette sales at the Las Vegas Indian colony, usually approximately 35,000 packages per month, jumped to a figure in excess of 80,000 packages in February.

"Any further cigarette tax increase will undoubtedly send even more of the cigarette-buying public to the Indian colony where tax-exempt cigarettes are available," said Smith.

Clark County

CASHMAN FIELD SPORTS

CLARK COUNTY

WASHOE COUNTY

CALENDAR YEAR 1976	Tax Dollars Collected	Tax Dollars Allocated (Back to Clark)	Indian Sales (In tax Dollars)	Tax Dollars Collected	Tax Dollars Allocated (Back to Washoe)	Indian Sales (In tax dollars)
@ 10¢ per package	\$ 6,512,640	\$ 6,238,391	\$ 797,040	\$ 4,114,080	\$ 2,763,643	\$ 360,000
@ 15¢ per package	\$ 9,768,960	\$ 9,357,587	-	\$ 6,171,120	\$ 4,145,645	-
Estimated Revenues collected and allocated if indian Sales increased by:						
10%	\$ 8,792,064	\$ 8,421,828	\$ 876,744	\$ 5,554,008	\$ 3,731,080	\$ 396,000
25%	7,326,720	7,018,190	996,300	4,628,340	3,109,234	450,000
33%	6,545,203	6,269,583	1,060,063	4,134,650	2,777,582	478,800
50%	4,884,480	4,678,793	1,195,560	3,085,560	2,072,822	540,000
75%	2,442,240	2,339,397	1,394,820	1,542,780	1,036,411	630,000

Note: 1

At present, indian sales in Las Vegas have increased by 10% between July 1976 and February 1977. Indian sales in Reno are increasing approximately 5% per month since starting late in 1976.

Note: 2

If the additional tax caused an increase in indian sales of 33%, any tax benefit would be negated.

INDIA SMOKE SHOP IMPORTS

By Carroll County

ARIZONA COUNTY #

DATE OPENED	(1)		(2)		(3)		(4)		(5)		(6)		(7)		(8)		(9)		(10)		(11)		(12)	
	MONTH:	1/96 King	1/95 King	1/95 MOUNTAIN	6/95 King	6/95 VALLEY SMOKE SHOP	6/96 Reno	7/96 Red Cloud	8/96 INDIAN	9/96 MOUNTAIN	RENO	BATTLE MOUNTAIN	CARSON CITY	CARRISVILLE	MONTHLY TOTAL TAX \$									
1996	JANUARY	10080-	6120-	540-	35400-	201-																		53,241-
	FEBRUARY	6360-	6150-	1920-	49280-	195-																		61,905-
	MARCH	14160-	9600-	750-	64720-	262-																		59,722-
	APRIL	8010-	6540-	750-	48120-	222-																		63,642-
	MAY	12340-	9000-	720-	49200-	269-																		71,229-
	JUNE	10320-	4410-	430-	110410-	493-	3010-																	87,553-
	JULY	9240-	5550-	450-	74490-	236-	5010-	6000-																114,116-
	AUGUST	10560-	7500-	N/A	78690-	309-	11520-	1380-	1860-															111,819-
	SEPTEMBER	10920-	6360-	480-	77910-	70-	19650-	3015-	1020-															120,085-
	OCTOBER	8160-	5550-	720-	80040-	N/A	13480-	2160-	N/A															118,260-
	NOVEMBER	9510-	7770-	750-	84330-	N/A	31500-	3733-	N/A															141,233-
	DECEMBER	6150-	5160-	720-	66450-	N/A	21250-	2695-	N/A															110,465-
	TOTALS	115710-	85310-	8640-	777040-	2257-	115440-	18963-	2880-															6154740-
1977	JANUARY	6060-	5460-	690-	77140-	OUT OF BUSINESS	32160-	2053-	→															128,742-
	FEBRUARY		7175-		82000-		40440-																	
	MARCH																							
	APRIL																							
	MAY																							
	JUNE																							
	JULY																							
	AUGUST																							
	SEPTEMBER																							
	OCTOBER																							
	NOVEMBER																							
	DECEMBER																							
	TOTALS																							

552

12 Copies
1-67 Mem Br. R
of Senate Taxative
1- Bid made
1- 2000-10-16
1- 10-10-16

THIS COULD HAPPEN
IN USA AS WELL AS
N. E. O. A. A.

THE TOBACCO INSTITUTE, INC.

1776 K STREET, NORTHWEST | WASHINGTON, D. C. 20006 | 202/296-8434

J. C. B. EHRINGHAUS, JR.
Senior Vice President and Counsel

PLEASE READ

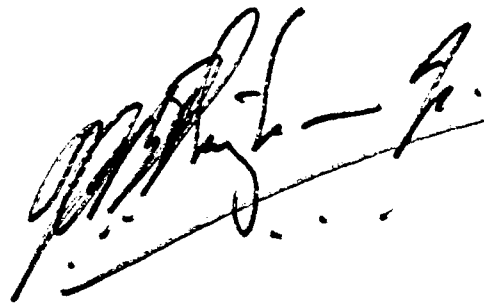
*Rec
would be that
Cigarettes & tobacco
won't be around much
longer, who pays
the funds*

March 31, 1977

TO: Tobacco Industry Officials

FROM: J. C. B. Ehringhaus, Jr.

The American Cancer Society's Target 5 program is aimed directly at the heart of the tobacco industry. Goals of the program were emphasized by witnesses at the first of eight nationwide "forums" in Los Angeles on March 22, 1977. Attached for your information is a list of quotes from statements submitted on that day. Read it and see what they want to do to us--and will, unless this industry fights back!



J. C. B. E.

yb
Enclosure

SPECIAL FUEL TAX

Whittlesea Blue Cab Company supports this legislation. We believe the legislature should approve the bill for three principal reasons:

- (1) It will clear up an ambiguity in the Special Fuel Tax Act, NRS 366
- (2) It will encourage the use of clean fuel in densely populated areas
- (3) It will encourage a practice which should guarantee some transportation in urban areas, even in the event of another gasoline crisis.

(1) Ambiguity in Special Fuel Tax Act

NRS 366.060 includes liquids and gases in its definition of special fuels. NRS 366.190 imposes a tax on liquids, 6 cents per gallon, but is silent with respect to gases.

We use natural gas by taking it from the utility gas lines at about 5 p.s.i. and compressing it to about 3,000 p.s.i.; at which pressure it is transferred to our vehicles. It is never in a liquid state, as are propane and butane. Since a tax rate is specified for liquids only, we made no provision for such an element in our cost analysis of the CNG system. That no tax applied was not an unreasonable conclusion; note that federal taxation of special fuels excludes gases. Whittlesea Blue Cab Company invested over \$160,000 based upon a good faith belief that no fuel tax was applicable.

It is now being suggested by the Motor Carrier Division that the tax provided on liquids should be applied to gases by relating the energy potential in a quantity of natural gas to a gallon of gasoline. There are no regulations on the subject, and gasoline is not, of course, even a substance taxable under the act. It is extremely unreasonable to expect the public to read the statute and make any such interpretation.

We believe the proposed amendment would clarify the law. It would not result in loss of revenue to the state, since if the tax is imposed it raises the fuel cost to the point that all users of CNG must cease to use it. At the hearing on this bill, before the Assembly Taxation Committee, a gentlemen speaking in opposition endeavored to convince the committee that users enjoy some substantial cost benefit from CNG. This is false. In fact, the use of CNG results in somewhat higher fuel cost, even without special fuel tax. We would be pleased to make all these statements under oath.

There was also presented in opposition, copies of two publications which made reference to California's practice in taxing the use of CNG as motor fuel: one described a tax on quantity consumed, the other an annual fee of \$35.00. What was not made clear was that the two articles had publication dates seven years apart. Today, only the \$35.00 annual fee applies; there is no tax on natural gas consumed.

(2) Encouraging use of clean fuel

As noted earlier, the levy on special fuel tax on compressed natural gas users will by virtue of cost increases force them to abandon the use of this fuel in motor vehicles. Natural gas is a much cleaner burning fuel than gasoline, and exhaust emissions are therefore reduced. It is noteworthy that two Las Vegas fleets operate approximately 10,000,000 miles annually in that metropolitan area on CNG; a return to gasoline would increase exhaust emissions. The last year or two has seen occasions when air pollution in Nevada's two principal metropolitan areas has been all too visible and anything which reduces this should be encouraged.

(3) Continued service

There is another reason for encouraging the dual-fuel concept. Three years ago the OPEC embargo resulted in gasoline being rationed to taxicabs in Nevada; reduction in service was necessary. This can happen again, and continuity in service must be assured. Taxicabs are the only form of urban transportation available on-call, in every part of town, 24 hours per day. The dual-fuel capability of the taxis will ensure continued service.

Stanford D. Splitter, M.D.
(Berkeley)

"It is my recommendation that consideration be given to changes in public policy that will reduce these factors, namely: Cigarette advertising; availability of cigarettes to minors and social pressures at schools and in the community."

Melvin Jensen
Jensen & Ritchey Advertising Agency

"Cigarette companies should be required to increase the prominence of the surgeon general's warning statements in all advertising."

"Pictures of models should be eliminated from all cigarette advertisements."

"We recommend that the proper government agencies be induced to approach the tobacco industry with regulations concerning the companies' sponsorship of tennis, racing and all major sporting events, especially those events that are carried on television and radio."

"Require cigarette companies to reduce all tar, nicotine and gases to absolute minimum levels."

Jerome L. Schwartz, Dr. P.H.
Chief, Health Care Research
Office of Planning & Program Analysis
California Dept. of Health
(Sacramento)

"Stepwise measures (talking about Sweden) include regulating the tobacco market through price increases, eventually barring cigarette vending machines and advertising, restricting where tobacco products can be sold, conducting mass media campaigns, and giving government support to anti-smoking organizations. It is this type of total effort, supported by the government and the general public, which is needed to overcome the smoking habit and create a nonsmoking environment."

"State Medicaid programs, ... should either sponsor or pay the cost of smoking withdrawal methods for beneficiaries. Employers should be encouraged to support and sponsor smoking cessation methods for their employees; costs could be partially deductible from income tax."

"States should be encouraged to use a portion of cigarette tax revenues for health education on nonsmoking, for mass media advertising, for smoking cessation clinics, and for research into the development of effective treatment programs."

"Mass media campaigns to promote nonsmoking and other favorable health behaviors should be funded by government and voluntary associations."

"Any state or national health insurance program developed in the United States should consider lower premiums for people who do not smoke cigarettes. As an alternative, an income tax deduction should be given to nonsmokers."

John V. Briggs
Member, California State Senate
(Sacramento)

"This bill...creates the presumption that smoking should not occur in public places unless the elected government body of a city or county determines otherwise."

Dexter Suzuki
Teacher, Kailua High School
(Honolulu)

"Increased legislation and regulations on smoking and substance abuse."

Wilbert S. Aronow, M.D.
Chief, Cardiology Section
VA Hospital, (Long Beach)

"Either tobacco smoking should be prohibited in public places or special well ventilated areas should be set aside in public places for those individuals who wish to smoke."

Larry Agran
Community Cancer Control
(Los Angeles)

"Senate Bill 189 (the Gregorio bill), if passed, would require the Senate of California to spend as much as \$2 million annually on a targeted anti-cigarette media campaign. The campaign would utilize, almost exclusively, broadcast outlets--radio and television. In my judgment, and the judgment of Senator Gregorio, this is a highly responsible and terribly important proposal..."

"The State of California, I believe, has not only a role to play but an affirmative responsibility to promote the public health through an appropriate program designed to discourage cigarette smoking."

Ann Hammond
Health Education Center
(Palo Alto)

"Perhaps our government can be urged to launch a campaign of the sort being tried in Great Britain."

Dale Houghland, Chairman
California Interagency Council on Smoking and Health
(Sacramento)

"Should movies and television be monitored and censored, i.e., should Johnny Carson smoke on camera?"

Dolphin Lair
Alleged Kidnapper

"Through the study which I have collected, I feel that cigarettes should be labeled a drug."

Salvatore V. Zagona
 Professor, Dept. of Psychology, U. of Arizona
 (Tucson)

"The toxic elements of cigarette smoke can be reduced by 50% by legislation - which will probably be the only sure way of achieving the other two goals (reducing adult and teenage smoking)."

"...[T]he consensus among our respondents at Arizona is that nothing short of legislation curbing the production and distribution of tobacco products -- with all its Prohibition-like ills -- will significantly alter smoking patterns in the United States in the foreseeable future."

George Crawford, Ph.D.
 Weber State College
 (Roy, Utah)

"Smoking should be banned from all work places."

"It would be my advice that this problem be turned over to both the federal and state governments and push for enforcement--we have enough non-smokers that I am sure we could have success."

"I think all smoking should be banned from all public schools, including faculty lounges. First, we should hire teachers who are good examples for our kids and this includes non-smokers."

"If the kids insist on going off campus to smoke, they are in violation of a possession law and they should be busted for this offense..."

"Smoking should be banned from all public buildings..."

"Smoking should be banned from TV except for news and old movies."

"Every person involved in health care should be required to attend several hours of smoking education--this includes M.D.'s."

Herm Perlmutter
 Californians for Clean Indoor Air, Inc.
 (Los Angeles)

"We do feel that the government has a right to enact smoking limitation laws and should enact such laws to promote and protect the health and welfare of its citizens."

"Because smoking is readily accepted in this society, the protection of the non-smoker will progress too slowly without legislation. Increased smoking limitation laws are needed now..."

Elfriede Fasal, M.D.
 Chief, Cancer Control Unit, Chronic Disease Control Section
 State Dept. of Health (Berkeley)

"I believe that this is the time for antismoking legislation. Highest priority should be given to legislation on all levels, federal, state and local."

"I believe we must encourage and support federal legislation that would require the United States Government to:

- . Stop all subsidies to farmers who grow tobacco.
- . Substantially increase the federal tax on cigarettes.
- . Set limits on tar, nicotine and carbon monoxide levels of cigarettes.
- . Impose restrictions on printed advertisements of cigarettes.
- . Require that the Department of Health, Education and Welfare conduct an ongoing public education program on the role of smoking and other hazardous environmental agents.
- . Establish an independent commission within the Federal Government which would have the responsibility for the formulation of a public policy on smoking.

"On state and local levels legislation should be encouraged that would limit smoking to designated areas in all enclosed facilities open to the general public as well as in places of employment."

"Legislation should be encouraged also which would ban all cigarette vending machines."

###



NEVADA CITIZEN
LEGISLATIVE ACTION GROUP

ART RADER — DIRECTOR

1486 Elizabeth
Las Vegas, Nevada 89109

RE: DOWNTOWN LAS VEGAS
CONVENTION-SPORTS ARENA

Non-Partisan Non-Profit Political Education Society

The NEVADA CITIZEN LEGISLATIVE ACTION GROUP opposes the proposed Downtown Las Vegas convention-sports arena. WHY?

UNFAIR TAX BURDEN

The complex places the burden on one segment of society: smokers. And the smokers won't even be allowed to light up inside the complex their tax dollars will finance!

A BETTER TAX

Since the hotels and motels will reap the benefits from the increased visitors the complex will allegedly attract to Las Vegas, the only fair tax to finance the complex is an increase in the room tax.

SOME DOUBTS ABOUT THE SPORTS ARENA

HIGH CRIME: The arena is to be built in a high-crime area. Arenas built in other cities in high crime areas have traditionally attracted few visitors. This is why the Brooklyn Dodgers moved from a high crime area to Los Angeles. This is why the Oakland Athletics continue to suffer at the gate despite winning three World Series -- the A's play in a high crime area. This is why University of Southern California basketball teams draw poor crowds in the Los Angeles Sports Arena. This is why the Los Angeles Lakers moved from the Sports Arena to a crime-free area in Inglewood.

WILL ENOUGH SPORTS EVENTS BE STAGED? No! Major league hockey and basketball will play at best only one or two exhibition games each year at the Downtown arena. The major league hockey and basketball leagues are shrinking in size, so there is no chance such a team will move permanently to Las Vegas and use the arena full time.

Minor league hockey and basketball will not come close to filling the arena. (Remember the attendance problems of the defunct Las Vegas Outlaws minor league hockey club???) Emerging new "major" sports

2

like indoor tennis and pro volleyball are still in embryonic stages and will never fill arenas outside large cities like Los Angeles and New York.

WILL ENOUGH NON-SPORTS EVENTS BE STAGED? No: How many concerts, ice shows, operas, plays, etc., can be scheduled without saturating the local market for these events? The Alladin Theatre For the Performing Arts has already discovered the saturation point is easily reached. The Convention Center has limited rock concerts because of crowd control problems.

COMPETES WITH EXISTING FACILITIES: The proposed Downtown complex competes with existing facilities in Las Vegas. There already are abundant theatrical stages at UNLV (2), Las Vegas High School and Strip and Downtown hotels.

GRADUATION CEREMONIES: These can be scheduled at the Theatre For the Performing Arts, at Las Vegas Stadium and at Ham Hall at UNLV. The arena is not needed for these events.

RECREATION FACILITIES: The recreation facilities proposed for the Downtown complex certainly are not needed for tourists. Such facilities already exist at most hotels. If such facilities must be built for locals, the city and county recreation departments ought properly do it.

LOSS OF TAX REVENUE: The Nevada Tax Commission opposes the increased cigarette tax because it may well decrease state tax revenue. The Downtown Progress Association has not made a case that such a revenue slack will be picked up by the increased visitors drawn to Las Vegas because of the arena-convention complex.

BAD EXAMPLES IN OTHER CITIES: Many public financed city center tourist draws across the nation are in trouble. The Queen Mary is a failure in Long Beach and has been a continuous drain on city funds. The Long Beach Civic Center, a sports arena seating 16,000, is rarely used for sports or cultural events and sits vacant weeks at a time. The Superdome in New Orleans was built way over budget and is losing vast sums of public money. It remains open only because Louisiana has guaranteed its bonds. The Superdome is a sports-convention-recreation complex similar to the proposed Downtown Las Vegas facility.

DUPLICATE UNLV ARENA: This session of the Nevada Legislature is also considering legislation authorizing the construction of an 18,000 seat sports arena, classroom and office complex at UNLV. This facility will in large part duplicate the downtown complex. Southern Nevada manifestly has no need for TWO sports arenas. Since the UNLV intercollegiate sports program is the ONLY local entity that will use an arena full time, we support the construction of the arena at UNLV.

DIVERSIFY LAS VEGAS TOURIST ECONOMY: At the Assembly Taxation Committee hearing on March 31, speakers for the Downtown Progress Association claimed the sports arena-convention center will diversify the Las Vegas tourist economy. How so? Tourists (most coming from major-league sports infested Southern California) will not come to Las Vegas in appreciable numbers for random and infrequent sporting events in the arena.

The sports arena will not diversify Downtown tourism. A Disneyland type amusement park near Downtown would do the job. So would a steam tourist train leaving from Downtown and operating to Boulder City, and thence to tours of Hoover Dam. So would an Old West town or museum near Downtown. So would a monorail or some other unusual "people mover" transportation system. So would a TV studio originating national game or variety shows from downtown.

The Downtown sports arena will not diversify Las Vegas tourism. Because it will not, we oppose its construction.

CONCLUSIONS ON THE NEED FOR DOWNTOWN FACILITY

There appears to be a legitimate need for a Downtown Las Vegas convention center. Indeed, the only business that can be reliably predicted for the downtown complex is convention trade. Thus we support the construction of a Downtown convention center funded by an increase in the room tax. The sports arena should be eliminated from the Downtown plan in favor of an arena at UNLV.

Adopted by the Board of Directors, Nevada Citizen Legislative Action Group and authorized for distribution to Nevada state legislators at a meeting held April 2, 1977.

SIGNED BY:

Jim Lawson

JAMES LAWSON, President

Samuel Marber

SAM MARBER, Secretary

Art Rader

ART RADER, Director

North Las Vegas CHAMBER OF COMMERCE

1023 East Lake Mead Boulevard
North Las Vegas, Nevada 89030
phone 702 642-9595



April 4, 1977

Assemblyman Paul May
Chairman
Taxation Committee
Nevada State Legislature
Carson City, Nevada 89701

Dear Paul:

We are contacting you in regards to AB 363 which our Legislative Committee recommended passage two weeks ago.

We have obtained additional information on this bill that needs our reconsideration of the bill as it now stands.

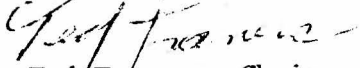
As Chairman of the Chamber of Commerce Legislative Committee, it is our recommendation to oppose this bill for passage for the following reasons:

1. There would be an increase in cigarette sales to organizations that are tax free thus depriving local entities tax dollars.
2. Cigarette sales in adjoining counties would increase with our county sales decreasing.
3. Discrimination against one segment of our business community.

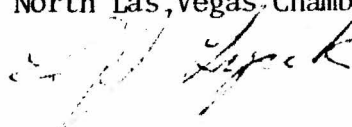
We do not recommend opposition to the Sports Complex; however, we feel that the cost of this complex should be derived from sources that would be more equitable to all concerned.

President Ed Lysek of the North Las Vegas Chamber of Commerce concurs with the above recommendation.

Sincerely,


Ted Travers, Chairman
Legislative Committee

Ed Lysek, President
North Las Vegas Chamber of Commerce



TT:EL:b



4119

please route to:

Quick Topics

National Candy Wholesalers Association
1430 K Street, N.W.
Washington, D. C. 20005
Telephone: (202) 393-6733

April 15, 1977

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____
- 7. _____
- 8. _____

TWO IMPORTANT MANUALS AND A TRUCK DRIVER'S HANDBOOK are now available at special member rates to members of the NCWA from the Private Truck Council of America, of which the NCWA is a member. A Federal Regulations Manual contains information on how the present federal regulations apply to operators of private trucks. The laws are interpreted in easy-to-understand language. A similar manual is available on state regulations, and a handbook explains rules of the road in layman's language, so the driver doesn't have to try to understand legal terminology. An order form for these books is included with this issue of Quick Topics. Members get a 10 percent discount off regular prices, so be sure to note that you are an NCWA member on your order, which should be sent directly to the Private Truck Council.

CARL ROGERS, THE STACY WILLIAMS COMPANY, Birmingham, Ala., has been named Attendance Chairman for the NCWA's National Summer Convention in Atlanta, Ga., August 5-8. His appointment was announced recently by NCWA President Don Noorda. On accepting the position, Rogers noted that this is the first time the Association has met in the South and expressed his hope that Southern wholesalers who have long wanted a convention in this area of the country will take advantage of the opportunity to get better acquainted with the NCWA. "I hope," he said, "that all confectionery distributors, particularly those who have not attended in the past, will set time aside to be in Atlanta. Distributor participation is the key to a strong association and a strong association is an important element in a strong industry. I know those who attend will find the experience well worthwhile."

THE ANTI-CAVITY SUBSTANCE FOUND IN saliva has been isolated by a research worker in a state university in New York, according to an Associated Press story dated March 22 and published in the Washington Star newspaper. The researcher is reported to have isolated the substance, being called Sialin, which normally acts in the mouth to protect against dental caries. Sialin, a peptide, can be synthesized and produced commercially. Dr. Israel Kleinberg, the discoverer of Sialin, says that several things could be used as "vehicles" to get increased Sialin into the mouth. These include, he said, chewing gum, toothpaste, and candy. He adds that the combination of Sialin and flouride could result in caries becoming a minor disease. Despite his findings, Dr. Kleinberg notes that it will take about five years to prove the safety and effectiveness of the substance.

THE NCWA IS PLEASED TO WELCOME THE FOLLOWING NEW MEMBERS to the association: Ragold, Inc., Chicago, Ill.; Dutchess Foods, Inc., Norwood, N.J.; Collins Corporation of Georgia, Atlanta, Ga.; Wally's Sales & Marketing Corp., Kingston, Pa.; Ellis, Matthes, Brennan, Inc., Maryland Heights, Mo.; Frank P. Schumann, DeRose Food Brokers, Buffalo, N.Y.; and Ray's Popcorn, Inc., Oconto Falls, Wis.

Sweeten your day with candy



566

THE CITIZENS CAMPAIGN AGAINST BOOTLEG CIGARETTES is making great strides. The newly formed organization has already recruited the services of more than 20 distinguished New Yorkers to help the campaign in its aim to pass legislation that would reduce taxes on cigarettes by 90 cents a carton, enabling legitimate dealers to compete with bootleggers. It is strongly believed that by thus taking the profit out of bootlegging, this will release the control of organized crime in the now very profitable activity. The committee is headed by former U.S. Attorney and New York State Investigation Commissioner, Paul J. Curran. Another distinguished member is Dr. Gerald Lynch, president of John Jay College of Criminal Justice in New York City. Dr. Lynch, an acknowledged expert on organized crime, states that he joined because he feels the underworld's \$100 million yearly profit in New York State can be dried up by legislation. Companion bills have already been introduced in the State Senate and Assembly that would reduce the 15-cent state excise tax by one cent and eliminate the 8-cent New York City excise tax. The Citizens Campaign has received wide media attention from the press, and from radio and television stations in the state. Working with the campaign is an Industry Steering Committee, headed by Malcolm L. Fleischer, managing director of the Retail Tobacco Dealers of America, Inc.

THE CONFECTIONERY INDUSTRY HAS WON A BATTLE IN NEW YORK STATE. In the March 18 issue of Quick Topics, we reported on legislation which would ban the sale of any candy product made to look like a cigarette, pipe or cigar. Thanks largely to the efforts of the New York State Association of Tobacco and Candy Distributors, headed by Henry Mohler, that measure has been defeated.

MASSACHUSETTS HAS DROPPED ITS CONTROVERSIAL OPEN DATING PROVISION from the proposed Massachusetts Labeling Regulation. The open dating provision would have applied to confectionery products, as well as other perishable and non-perishable foods. The decision to drop was based on lack of solid data on soft goods products. The attorney for the State's Food and Drug Division stated that the state will continue to seek an open dating regulation, but the foods to be covered have not yet been determined.

ARE YOU MOVING? HAVE YOU MOVED? Please don't forget to let us know your new address.

CONVENTION REMINDER . . . The NCWA 1977 summer convention will be August 5-8 at the Peachtree Plaza Hotel in Atlanta, Ga. In 1978, the conventions will be February 24-27 in Los Angeles and August 4-7 in Boston; and in 1979, conventions will be February 16-19 in Phoenix, Ariz. and July 27-30 in Washington, D. C. Mark your calendar and plan now to attend.

INDUSTRY DEATH . . . The NCWA regrets to report the death, on January 2, of Sidney Singer, a broker and NCWA life member living in West End, N. J. We extend our sincere sympathy to his family and associates.

CANDY CAPSULES James Klene has been elected president of the Hoosier Candy & Tobacco Club; other officers are Gerald Barsz, vice president; Richard H. Lake, treasurer; and Paul A. Scali, secretary the Henry D. Nill Company of McKeesport, Pa. has been sold to Eisenstat Candy Company Mildred Aluotto has been named vice president of Swizzels, Inc., Hoboken, N.J. the Southern Tobacco & Candy Association will hold its annual convention and exposition, May 20-22, at the Holiday Inn Rivermont, Memphis, Tenn.; contact Jane Smith, STCA, 50 Executive Park South, N.E., Atlanta, Ga. 30309 the National Association for the Specialty Food Trade will sponsor the Annual Fancy Food and Confection Show at the Rivergate, New Orleans, La. during June 12-13; contact Jean Frame, NASFT, 30 E. 42nd St., New York, N. Y. 10017 the Western Confectionery Salesmen's Association will hold its annual convention December 11-13 at the Chicago Sheraton Hotel, Chicago, Ill.

A PROPOSAL TO PROHIBIT ALL PREMIUM ADVERTISING DIRECTED AT CHILDREN has been rejected by the Federal Trade Commission, which noted that it has "carefully considered the study and the comments, and has decided to take this action because facts available to the Commission at this time do not demonstrate that all premium advertising televised to child audiences is inherently or invariably unfair or deceptive." The FTC added, however, that it will continue to monitor such advertising and evaluate it on an individual basis.

A BILL WHICH WOULD INDEX THE MINIMUM WAGE has been introduced in the U. S. House of Representatives by Rep. Dent (D-Pa.). The bill, H.R. 3744, would immediately index the federal minimum hourly wage to an indicator called the Average Hourly Earnings of Production Workers on Manufacturing Payrolls. If it becomes law, 30 days later this would result in a minimum wage of 55 percent of the average hourly earnings for the year 1976, or about \$2.79 an hour. Then, effective January 1, 1978 and every year after, the wage would be tied to 60 percent of the average hourly earnings index. Dent estimates this would result in a minimum wage of \$3.04 an hour by January of next year. The House Subcommittee on Labor Standards is conducting hearings on the bill.

MORE ON LICENSE PLATE ADVERTISING. In a recent issue of Quick Topics, we told readers about the interesting way Colonel Al Olthaus has of advertising the fact that he's a candyman -- with a license plate which says ZAGNUT. Since then, we have found another candyman with the same idea. Frank A. Lundblad, president of vanMelle, Inc., in Sudbury, Mass., sports a license plate with the name MENTOS on it. Mentos is the brand name of a line of mints and fruit drops manufactured by the vanMelle family in Rotterdam, Holland. The Lundblad family has advertised on its family car license plate since 1972.

THE CARTER ADMINISTRATION SUPPORTS STIFF PRISON SENTENCES for corporate price-fixers, said Attorney General Griffin Bell in a speech at Harvard University recently. Bell said that sentencing price-fixers to prison is a "necessary step if rhetoric about the evils of price-fixing is to be translated into effective action." He added that he supports the guidelines recently issued by the Antitrust Division of the Justice Department, calling for 18-month prison terms for some price-fixers.

SALES SLANT . . . Sales managers don't exist to make life hard. They are there to help salesmen and the firm. To the extent that you as a salesman rebel against your sales manager, you hurt yourself and endanger your own growth as a professional salesman. What are the characteristics of a positive attitude? One is loyalty. Not being a "yes-man" or following your manager blindly. Instead, giving enthusiastic support to your manager, his programs, and to your company's entire sales effort. A second positive attitude is receptivity. Many salesmen think they are so able and experienced that they won't even listen to suggestions. This is narrow and wrong. No matter how long you have done something in a certain way, there may be a better way; if yours is the right way, trying something different can prove your point. The point is don't close your eyes to your sales manager. He's working for your benefit and that of the company. -- Wholesaler Salesman's Digest.

DIVISION MANAGER WANTED TO COVER Ohio, Michigan, Indiana, Kentucky, Maryland, Washington, Virginia, and North and South Carolina. Preferably located in Ohio. Will receive salary, bonus, commission, expenses. Please write or call Bernard Rubin, F&F Laboratories, 3501 W. 48th Place, Chicago, Ill. 60632. Phone 312-927-3737.

THE U. S. INTERNATIONAL TRADE COMMISSION HAS RECOMMENDED to President Carter import quotas on raw and refined sugar. Sugar cane and sugar beets in their natural state would not be involved in the quota. Although all six commissioners agreed on the need for a quota, they did not agree on the type. Three commissioners recommended the establishment on an annual calendar year basis of a 4.275 million short ton quota. This would begin in 1977 and end in 1981 and would be on a country-by-country basis. The President would determine the allocation for each country. The other three commissioners recommended a quota of 4.4 million short tons, but each proposed a different means for allocating it, as well as different time periods. President Carter has until May 17 to consider the report and accept any or none of the recommendations.

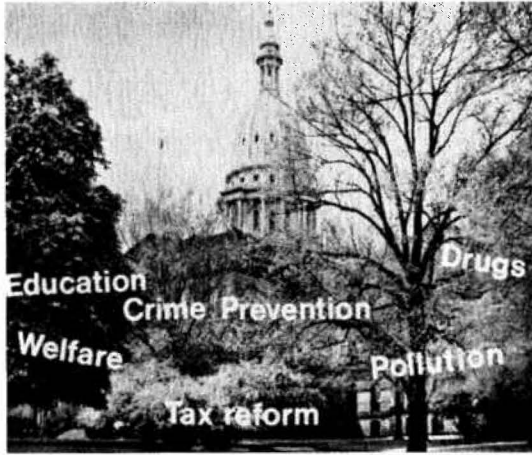
A SMALL BUSINESS JOB TAX CREDIT ACT has been introduced in the House of Representatives by Rep. Butler Derrick of South Carolina. The Act would provide an employment tax credit equal to 50 percent of the wages paid for the creation of a maximum of 10 new jobs for each business firm, with a maximum allowed credit of \$80,000. The business firm would have to pay 50 percent of the wages. Under this program, the cost to the federal treasury for the creation of permanent jobs would be approximately \$3100 per job, whereas a make-work temporary public service job would cost them between \$10,000 and \$12,000. The NCWA is working for passage of this bill through the Small Business Legislative Council of which it is a member.

CANDY BIT OF THE WEEK . . . "Who discovered America?" asked the history teacher of her young class. A small boy raised his hand and answered, "Ohio." "Ohio?" said the puzzled teacher. "Johnny, Columbus discovered America." "I know," said the pupil, "but I couldn't remember his first name."



**MICHIGAN
AND THE
CIGARETTE TAX**

The cigarette tax issue



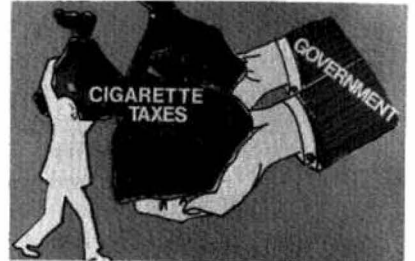
People today are demanding from government new and expanded programs, the revamping and restructuring of existing programs, and more comprehensive services...in such areas as education, drugs, crime prevention, tax reform, welfare, and pollution control. An ever-mounting pressure is on state legislative bodies to raise additional revenues to cope with these demands.

All too often in their urgent search for immediate funds, legislators have turned to the cigaret tax, and many times losing sight of the fact that...cigarettes don't pay taxes...people pay taxes. The cigaret smoker is now shouldering a tax burden that has become unprecedented in today's society.

This can be seen in the fact that the average state tax on a package of cigarets increased by only 1¢ to 6¢ during the 5 years prior to 1964. However, in the past eleven years the average state

tax has grown by 6¢ to 12¢, double the 1964 rate.

Today almost one-half of what consumers must pay for a pack of cigarets goes to the Federal, state and local governments in the form of taxes.



Unfair tax

People who enjoy smoking cigarettes are carrying a disproportionate share of governmental revenues and expenses.

In Michigan, cigarette smokers pay a state tax burden equal to 86% of what corporations pay to the state...a tax burden equal to 14% of all individual income taxes collected by the state.

The cigarette tax falls heaviest on those who are least able to pay.

It taxes heavily a product which comprises a larger portion of lower income consumers' budgets than those of more affluent consumers. Since the percentage of income spent on cigarettes falls as income rises, the Michigan cigarette tax is levied at a higher effective rate on lower income groups than on higher income groups.

For example, a Michigan family earning \$3,000 a year and with two members who enjoy smoking is required to pay 4.6 percent of its income in cigarette taxes.

If this family made \$8,000, its cigarette tax burden would amount to 1.7 percent of the family income...and the family making \$20,000 must pay only 0.7 percent of its income in cigarette taxes for the pleasure derived from smoking...and 25.5 percent of all Michigan households make less than \$8,000 a year.

Let's look at it another way. Cigarette taxes increase the weekly grocery bill of this Michigan family by 8%.

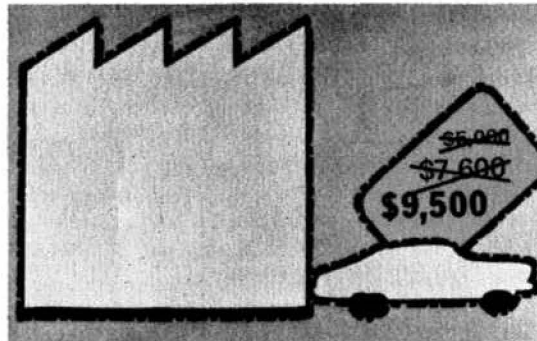
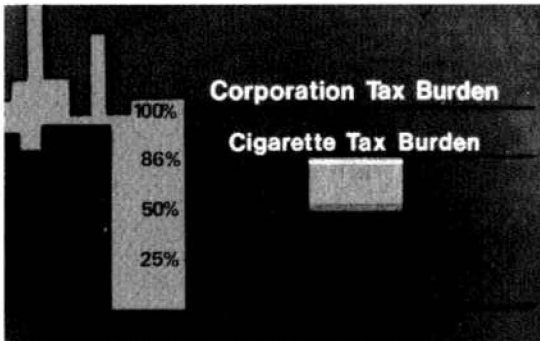
If they were required to pay the same tax burden on other products that is paid on cigarettes, they could not afford many of the things they own today. Consider an automobile with the factory sales price of \$5,000.

Should the state of Michigan tax a car in the same manner as cigarettes, its cost would jump to \$7,600.

But cigarettes also carry a Federal tax.

If automobiles carried the same total tax burden that cigarettes do, the price would jump to

\$9,500. With prices like these, how many Michigan families could afford the pleasure of owning an automobile? How many cars would the automobile industry sell? How many people would be forced out of work? What effect would all this have on state revenues?



Cigarette sales and tax revenues

In the past, some tax levying authorities assumed that cigaret prices could be continuously raised by tax increases without affecting sales.

The following facts will show that this simply is *not* true.

In states where the cigaret tax has remained at a more reasonable level, tax paid sales have shown excellent growth. And, of course, when legitimate sales increase, tax revenues also increase.

In Maryland where the cigaret tax remained at six cents per pack from 1961 to 1974 sales grew steadily, and increased sales were accompanied by increased tax revenues. The past seven years in neighboring Indiana prove this fact. In fiscal 1975 state revenues from cigaret tax collections alone were up over 28% since 1968. Although bordered

by three states with much higher tax rates, Indiana has withstood pressure to raise its tax.

Now let's look at the other side of the coin. What happens to cigaret sales in states that have enacted recent cigaret tax increases? In most cases revenue officials never fully realize the extent of the damage caused by an increase in the cigaret tax. Ohio's cigaret business grew about the same as Indiana's until 1967 when the tax was increased. Sales dropped the following year. Another tax increase in 1969 caused further losses in sales. In mid-fiscal 1972 the tax was raised to 15 cents. In 1973 cigaret sales dropped to their lowest level in the past 12 years as a result of that increase. Sales in 1974 and 1975 showed slight gains but they are still below the 1967 level.

Without that additional tax burden, increasing cigaret sales would have resulted in increased cigaret tax revenues.

In Illinois, cigaret sales enjoyed excellent growth until tax problems began in 1965. By 1970 cigaret sales had declined to about the same level they were 10 years earlier. In January of 1971 the City of Chicago placed an additional nickel tax on cigarets sold within the city, discouraging sales and encouraging bootlegging.

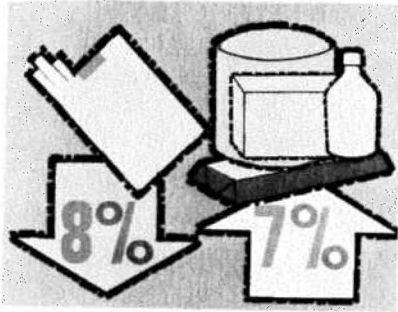
Let's summarize the effect of some recent state tax increases.

Eleven states increased their cigaret tax rates in fiscal 1971. Sales in these states were growing at an annual rate of 4.8% before the increases occurred. In the twelve months following these tax

hikes, cigaret sales dropped by 3.9%. In other words, cigaret sales in the eleven states were 8.7% lower than they would have been had increases not occurred.

Additional taxes caused lower volume and lost profits to the thousands of wholesalers and retailers in the business community...sales and profits that would have generated tax revenues for state governments.

Cigarette taxes and other products



Higher cigaret taxes not only cause an increase in the price of cigarets, they also cause the prices of other products to increase.

If cigaret sales drop 8% following a tax increase, wholesalers must increase the prices on all their other products by an average of 7% just to maintain their same level of profits.

In addition, cigarets are traffic builders...they draw customers into 61,753 retail outlets across this state that sell tobacco products. And when people stop buying cigarets...the tax revenues derived from the sales and profits on other products suffer as in-store traffic declines.

Cigarette taxes and crime

The tax problem has another serious aspect. In states with high cigaret tax rates, the criminal element has quickly become involved.

The legitimate cigaret industry is confronted daily with the threat of underworld violence and personal injury. Insurance rates have soared as cigaret warehouses have been turned into armed camps and delivery trucks into armored cars.

A documented report by the New York State Commission of Investigation tells how organized crime operates its "cigaret business." The report followed detailed investigation and public hearings.

How big is the problem in New York? The Commission reported that ONE out of every SIX

cigarets smoked in New York State comes from illegal channels.

In New York City, these cigarets number ONE out of every FOUR smoked.

That's big business amounting to 40 million cartons per year...110 thousand cartons every day. And every carton results in lost sales, lost profits to legitimate business and lost tax revenues.

Cigaret bootlegging is a fact! Here's what a confessed bootlegger said in the recent New York hearings...

"It was easy. I'd drive down South, load up my car with cigarets at \$1.69 a carton, and peddle them in New York City for three bucks.

"In a few weeks I had a sweet thing going.

"My original customers became distributors...and I guess you could say I was their wholesaler. I quickly went from the trunk of my car, to U-Haul trailers, to trucks.

"I was in business from 1966 through 1969. Over these three years, I averaged 3,500 cartons a week. My partner and I cleared a profit of \$546,000.

"We were never arrested.

"We weren't the only ones. Hundreds were operating as we were. And I never heard of any of them going to jail.

"The only reason we quit was because the big boys in the syndicate moved in, and our risk of being hijacked got too great.

"It was good while it lasted, but we were no match for the big time operators."

The total revenue losses reported by Commission of Investigation economists for the six

years 1966-71 are staggering:

New York City and State lost 384 MILLION DOLLARS in cigaret excise tax and sales tax revenue.

But even this tremendous loss is dwarfed by the fact that in the same six years, the legitimate cigaret distributors and retailers lost...

...more than TWO BILLION DOLLARS in gross sales.

If you think this type of activity happens only in places like New York and Chicago--you are wrong. Michigan officials recognize the millions of dollars involved in illegal cigaret sales in this state...a problem that began to assume major proportions following the cigaret tax increase in 1970.

While we would like to believe that cigaret smuggling in Michigan is the work of a few profit-seeking individuals, pictures made by

Michigan law enforcement officers reveal the hand of organized crime.

Illegal cigarets have been brought into Michigan disguised as laundry...concealed in the back of campers...or packed into travel trailers.

In one instance, cases of sweet potatoes actually contained...thousands of packs of cigarets.

Many times instead of transporting cigarets from another state, they simply steal a truck load of them...that way they cost nothing.

The criminal element ranges from the small-time operator dealing in a few hundred cartons...to large organizations.

The high tax on cigarets has provided Michigan bootleggers with an insatiable market of consumers.

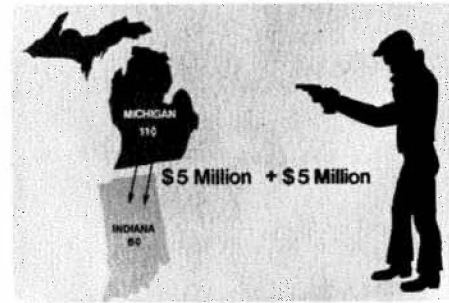


The Michigan story

Data supplied by Michigan's Tax Department show that since 1964 cigaret sales grew at a rate of about 2.9% each year until the tax was raised from 7 cents to 11 cents per pack in 1970. As a result, cigaret sales dropped in 1970 and 1971. After showing yearly gains from 1972 through 1974, gains below the growth that would have occurred if the tax rate had not been increased, sales dropped again in 1975.

A recent analysis by Michigan's Tax Department indicated that had the cigaret tax not been increased, 422 million more packages of cigarets could have been sold over the past five years. A total of \$120 million in retail sales was lost by the

business community...sales that would have provided millions of dollars in profits and sales tax revenues.



And, of course, Indiana with a tax rate almost one-half that of Michigan is undoubtedly picking up millions of dollars in sales that would have normally crossed the counters of tax-paying businesses and on which Michigan taxes would have been collected. Revenue officials estimate that in the fiscal year 1974 almost \$10 million were lost due to the high tax rate. About \$5 million can be attributed to the availability of cheaper cigarets in Indiana and in military outlets, and it is suspected that much of the remaining \$5 million were lost as a result of bootlegging and hijacking.

Action in Michigan

Michigan residents who enjoy smoking cigarettes are demonstrating that they CANNOT and WILL NOT pay the exorbitant prices caused by today's high cigarette tax.

Now is the time to take remedial action...before the problems caused by a high cigarette tax get out of hand as they have elsewhere.

The only feasible and real solution to these problems is to LOWER THE CIGARET TAX. Paul Curran, Chairman of the Commission of Investigation in New York State, put it this way in summing up his report:

"As long as cigarettes have a high value...a high retail price as a result of taxes...their value will be as good as cash.

"...since substantial bootlegging began when the tax went to 10 cents per package, it is plain that it can be ended only by a reduction to some amount below 10 cents per package."

The State of Michigan can and should take the lead by lowering its tax.

Who would lose by lowering the cigarette tax in this state? ORGANIZED CRIME.

Who would gain from such a reduction?

First of all...Government! The State of Michigan would no longer be forced to police organized crime and pay for an increasing number of criminal investigations.

The state would regain the tax revenue it is entitled to on the millions of cigarettes being sold illegally. In addition, revenues derived from a healthier business climate would flow into the state treasury.


Who would gain by such a reduction? The



proprietors of over 61,000 retail and wholesale outlets that depend on the legal sales of cigarettes...cigarette sales that aid in generating the sale of other products.




And finally, who would gain by such a reduction? The people! Yes, THE PEOPLE of Michigan. Not only those people who enjoy smoking, but every man, woman, and child who deserves the opportunity to grow up in a society and community where their lives are not threatened by organized crime.

We must continue our tradition of good and responsible government and heed the plea for tax relief.

**Who will gain
from a lower tax?**

**Who will gain
from a lower tax?**
 **GOVERNMENT**

**Who will gain
from a lower tax?**
 **GOVERNMENT**
 **BUSINESS**

**Who will gain
from a lower tax?**
 **GOVERNMENT**
 **BUSINESS**
 **PEOPLE**



mtiac

**MICHIGAN TOBACCO
INDUSTRY
ADVISORY
COUNCIL**

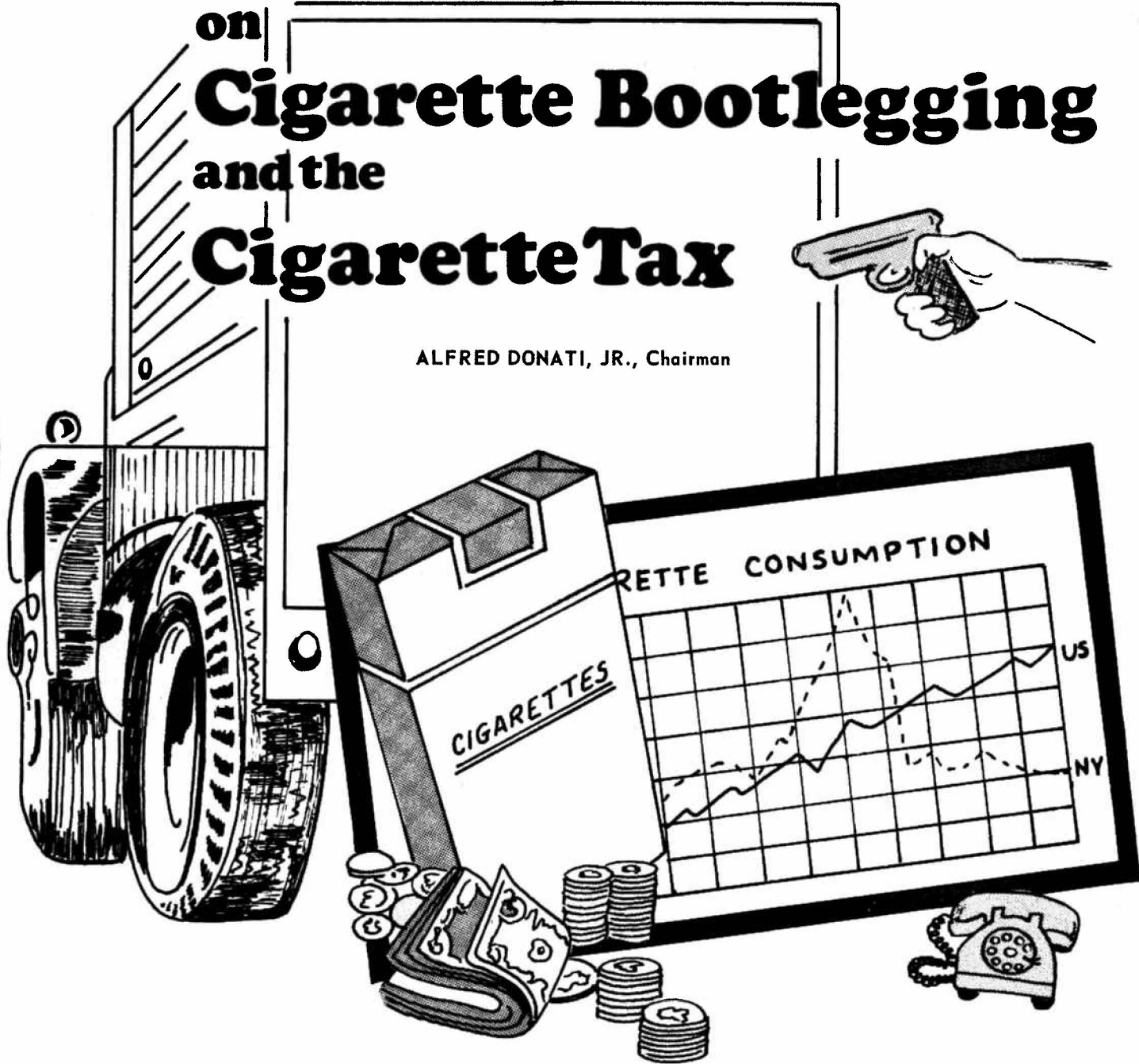
Michael R. Spaniolo, Chairman

SECOND REPORT

of the NYS Special Task Force

on Cigarette Bootlegging and the Cigarette Tax

ALFRED DONATI, JR., Chairman



New York State
Department of
TAXATION and FINANCE
JAMES H. TULLY, JR., Commissioner

DECEMBER 1976

NEW YORK STATE SPECIAL TASK FORCE
ON CIGARETTE BOOTLEGGING AND THE CIGARETTE TAX

December 14, 1976

James H. Tully, Jr., Commissioner
New York State Department of Taxation & Finance
State Campus
Albany, New York 12227

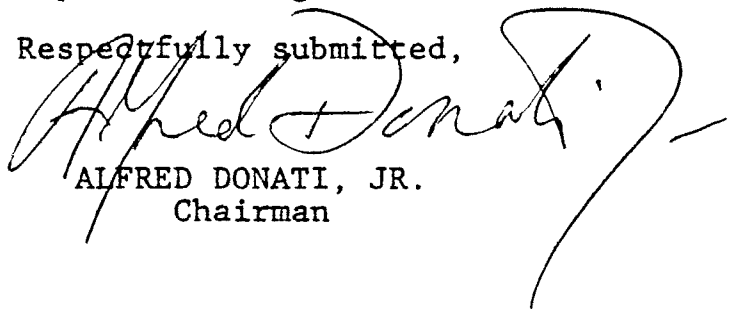
Dear Commissioner Tully:

On May 12, 1976, this Task Force transmitted to you its first Report, embodying certain recommendations. Since that time it has continued its studies of various matters relating to the cigarette bootlegging problem in New York State.

As a result, the Task Force has agreed upon certain additional recommendations for your consideration and they are respectively tendered in this second and final Report.

The members of the Task Force again wish to express to you their thanks and appreciation for having been given the opportunity to serve in this important assignment.

Respectfully submitted,



ALFRED DONATI, JR.
Chairman

**SECOND
REPORT**
of the
NYS Special Task Force
on
Cigarette Bootlegging
and the
Cigarette Tax

ALFRED DONATI, JR., Chairman



New York State
Department of
TAXATION and FINANCE
JAMES H. TULLY, JR., Commissioner



Members of the Special Task Force interrogate a "mystery" witness, an admitted former cigarette bootlegger, during the hearing in New York City. Pictured, from left, are Joseph H. Reohr, Jr., Richard W. Brevoort, Louis M. Jacobson, John J. Garry, Chairman Alfred Donati Jr., Frederick G. Hicks, Lieutenant Gerald Looney and Arthur R. Rosen. At rear, Consultant Morris Weintraub.

The Special Task Force on Cigarette Bootlegging and the Cigarette Tax

ALFRED DONATI JR., Chairman

*Director, Special Investigations Bureau
State Department of Taxation and Finance*

JOHN J. GARRY

*Administrative Director
Department of Taxation and Finance*

FREDERICK G. HICKS

*Director, Miscellaneous Tax Bureau
Department of Taxation and Finance*

JOSEPH H. REOHR, JR.

*Principal Excise Tax Examiner
Department of Taxation and Finance*

RICHARD W. BREVOORT

*Former Deputy Administrator
New York City Finance Administration*

LOUIS M. JACOBSON

*Metropolitan Deputy Tax Commissioner
Department of Taxation and Finance*

ARTHUR R. ROSEN

*Deputy Counsel
Department of Taxation and Finance*

GERALD E. LOONEY

*Lieutenant
Division of State Police*

JOSEPH A. MATTHEWS

*Assistant Chief Budget Examiner
State Division of the Budget*

MORRIS WEINTRAUB, Consultant

Council Against Cigarette Bootlegging

NEW YORK STATE SPECIAL TASK FORCE
ON CIGARETTE BOOTLEGGING AND THE CIGARETTE TAX

C O N T E N T S

	<u>Page</u>
Letter of Transmittal	
Introduction	1
1. The Federal Role	1
2. State Recommendations	3
A. Change of Type of Cigarette Tax Stamp	3
B. Tax Reduction	5
C. Other Recommendations	7

Introduction

In March 1976, State Tax Commissioner James H. Tully, Jr. established this Task Force. On May 12, we issued an interim Report, speedily prepared so the Legislature could consider its recommendations prior to adjournment of the 1976 session. The Task Force has continued to study matters connected with its assigned mission.

The Task Force considered additional problems and possible solutions, including the role which should be taken by the federal government in this troublesome area. Another influence was new evidence from continuing investigations, especially into cigarette tax stamp counterfeiting, which have been conducted by the Special Investigations Bureau of the Department of Taxation and Finance. Finally, related to the counterfeiting investigations, the Task Force has evaluated a change in the cigarette tax stamp used by the State of New York.

1. The Federal Role

Cigarette bootlegging and tax stamp counterfeiting flourish by reason of the profits obtainable from the differential in state cigarette tax rates. It is acknowledged that the problem is not confined to certain states or even to certain sections of the country, but is widespread in the United States. While substantial reduction of the cigarette tax by any individual state would reduce the problem there, few states can afford to relinquish these revenues. Further, the problem would continue rampant among the other states. Thus, the best answer to the

nationwide problem of cigarette bootlegging and counterfeiting is federal elimination of such differentials, and imposition of a uniform cigarette tax rate throughout the United States.

Because of the diverse factors affecting state determinations of their cigarette tax rates, it would be unrealistic to expect achievement of a nationwide uniformity through joint efforts of the states alone. The federal government must provide the framework, either by direct establishment of a uniform rate in lieu of state imposed cigarette taxes, or by federal incentives which would make it worthwhile for the states to voluntarily join in establishing a uniform rate.

To avoid apprehension in low tax-rate states, that establishment of such a uniform rate will result in higher taxes to their citizens, a formula must be established at the same time, on the basis of which federal cigarette tax revenues would be allocated to the states. This "sharing" would guarantee that low-tax states receive at least as much revenue as a state-imposed tax would provide - for example, based upon cigarette consumption in the state. Thus no state would receive more, or less, than its proportionate share of cigarette tax revenues because of a uniform federal cigarette tax.

The federal cigarette tax could be collected by the cigarette manufacturers both easily and inexpensively. Costs of administering the tax would be minimal, since cigarettes are manufactured by fewer than a dozen major corporations. In comparison, the New York State system alone, which is based on regulation of "agents" and "wholesalers", must supervise over 2,000 entities.

While no "hard" figures are available, it is estimated that federal, state and local governments lose \$400 million a year in lost excise, sales, corporate income and personal income taxes as a result of bootlegging and counterfeiting. Other "losers" are legitimate businessmen, their employees and investors.

Until we can establish a nationwide uniform cigarette tax, the federal government should immediately enact a strong and effective cigarette contraband bill. Such a bill would make it a federal felony to transport cigarettes interstate for unlawful purposes. The National Tobacco Tax Association has drafted such a bill for introduction in the 95th Congress early in 1977, and this Task Force supports that bill.

Passage of a cigarette contraband bill would add federal enforcement resources and activities to the states' fight against crime in the cigarette industry. It would be a major blow against the criminal element now reaping substantial profits from illicit cigarette activities, and draining badly-needed revenue from the states.

2. State Recommendations

A. Change of Type of Cigarette Tax Stamp

As indicated in its initial Report (p. 16), the Task Force has considered a different kind of cigarette tax stamp for New York. This received substantial impetus on September 16, when Commissioner Tully announced culmination of a six-month investigation by the Special Investigations Bureau into cigarette tax stamp counterfeiting. This ring is believed

to have been depriving the State and City of millions of dollars of cigarette tax revenues annually. Counterfeiting machines were seized, and certain wholesalers and alleged counterfeiters were arrested.

The results of that investigation demonstrated clearly the extensive, serious, and high revenue-loss impact of cigarette tax stamp counterfeiting. In addition, this Task Force has been advised by the Special Investigations Bureau that evidence secured during that investigation indicated that cigarette bootleggers and counterfeiters operated in all but a few of the states in this country.

The Task Force concludes that a different type of stamp - more difficult to counterfeit, easily and quickly changeable, and readily recognizable by members of the public as well as enforcement officers - should be used on cigarette packages (initially, in the City of New York). Such a changed stamp would also lend itself to a public education advertising campaign, promote effective law enforcement against counterfeiting operations, and provide important assistance in reducing revenue loss from counterfeiting operations. Use of the new tax stamp together with a public advertising campaign, and increased enforcement funded by the measures recommended in the Task Force's May 12 Report (p. 13), would provide a significant additional measure of law enforcement effectiveness. As a result, the Task Force has concluded that a less-drastic tax reduction is necessary than was originally recommended by this Task Force. Yet, the

same degree of pressure upon the cigarette bootleggers and counterfeiters can be anticipated.

B. Tax Reduction

The Task Force has further studied elimination of the New York City cigarette excise tax, and reduction of the New York State tax. Among the major additional considerations were the continuing sluggishness of the national economy and its impact upon the continuing economic and fiscal problems faced by the City and State of New York, as well as the effect of a change of the type of cigarette tax stamp now being used.

We believe it is possible to cut taxes and increase revenue; because the revenue losses would be more than made up by increased excise and sales tax revenues on sales by legitimate businesses.

The Task Force still believes that the 8¢ per package New York City tax should be repealed in its entirety. However, the recommended reduction in the New York State tax need not be as much as the 2¢ (from 15¢ to 13¢) per package proposed in the initial Report. A reduction instead to 14¢, combined with the repeal of the 8¢ City tax, could increase total excise and sales tax revenues by \$7.4 million. Of course, New York City's share in the revenue would be protected, as indicated below.

While the bootlegger or counterfeiter would have the additional 1¢ per package, 10¢ per carton, potential profit margin, it would be counter-balanced by the additional law enforcement effectiveness achieved through the factors described at p. 4, above.

We recommend that the tax reduction take effect beginning with the fiscal year commencing April 1, 1978. The Task Force has modified its formula for distribution of the revenues to be derived from the increase in sales, which will result from the tax reduction.

The Task Force's recommendations are as follows:

i. The New York City cigarette excise tax of 8¢ per pack should be repealed, effective April 1, 1978.

ii. The New York State cigarette excise tax of 15¢ should be reduced by 1¢ to 14¢, effective April 1, 1978.

iii. There should be established a "base cigarette revenue year", which is recommended to be calendar year 1977. The "base cigarette revenue year" will establish total revenues deriving to the State of New York and to the City of New York from both cigarette excise taxes. The anticipated increase in revenues from the cigarette excise tax inuring to the State of New York, over its "base cigarette revenue year", would be applied in its entirety to the City of New York up to the level of total revenue which was received by the City during its "base cigarette revenue year". Any additional revenue beyond this amount (which could be over \$7 million a year) would be allocated thereafter between the State and City on an equitable basis. Provision should be made for regular, periodic pay-overs to the City of New York, on a monthly or quarterly basis, from the commencement of the tax reduction program. By using comparisons with the State and City base years, and estimates where necessary, we would not interrupt the regular and orderly flow of revenue from the cigarette tax to the City.

The Task Force wishes to emphasize that the formulas proposed are not inflexible. The State and City may of course agree upon

other equitable formulas. While these formulas may be flexible, the Task Force believes that the tax cut must be initiated, to take a significant step in the fight against the cigarette bootlegging and counterfeiting problems pending federal action.

C. Other Recommendations

The Task Force also recommends that the Commissioner of Taxation and Finance establish an entity within the Department to collectively enforce and administer all State government functions relating to the cigarette industry, (except the actual collection of the excise tax), in order to increase the effectiveness, efficiency and uniformity of such enforcement and administration.

The Task Force reaffirms the remaining recommendations made in its Report of May 12, 1976.

Respectfully submitted,

SPECIAL TASK FORCE ON CIGARETTE
BOOTLEGGING AND THE CIGARETTE TAX



ALFRED DONATI, JR.
Chairman

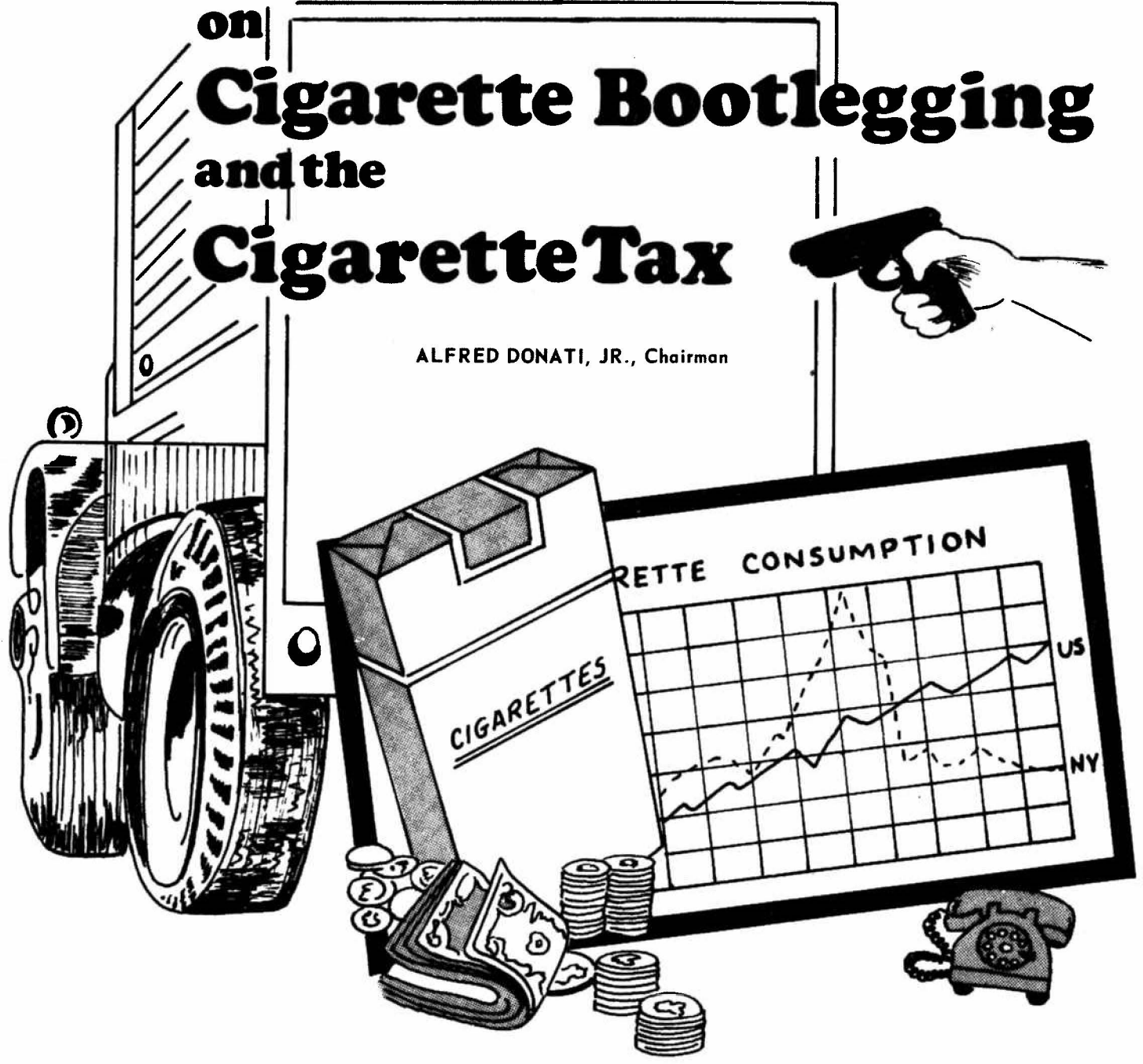
Members:

John J. Garry
Louis M. Jacobson
Frederick G. Hicks
Arthur R. Rosen
Joseph H. Reohr, Jr.
Richard Brevoort
Gerald E. Looney

Morris Weintraub, Consultant

REPORT of the NYS Special Task Force on Cigarette Bootlegging and the Cigarette Tax

ALFRED DONATI, JR., Chairman



New York State
Department of
TAXATION and FINANCE
JAMES H. TULLY, JR., Commissioner

MAY 1976

NEW YORK STATE SPECIAL TASK FORCE
ON CIGARETTE BOOTLEGGING AND THE CIGARETTE TAX

May 12, 1976

James H. Tully, Jr., Commissioner
New York State Department of Taxation & Finance
State Campus
Albany, New York 12227

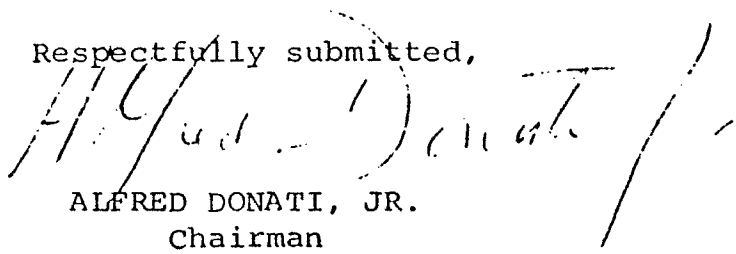
Dear Commissioner Tully:

In forming the New York State Special Task Force on Cigarette Bootlegging and the Cigarette Tax and appointing its members on March 16, 1976, you directed that it make appropriate studies dealing with the problems of enforcement of the law, and the economic impact resulting from its widespread violation. You also requested that the Task Force prepare recommendations to be considered by you for possible referral as legislative proposals for the present session of the Legislature.

The Task Force has acted promptly to discharge its responsibilities. Mindful of the role of organized crime in the smuggling of cigarettes into this State, it has sought information and advice from enforcement officials and industry representatives, among others, by means of public hearings in New York City and Syracuse to determine the extent of the problem and possible means to cope with it. Similarly, the Task Force has looked into the infiltration of contraband into the field of legitimate retailers, and has weighed the effects of this activity and of cigarette bootlegging on the economic well-being of the State.

On the basis of its studies and hearings, the Task Force has reached certain specific conclusions. From them, it has agreed on several recommendations for your consideration, and they are respectively tendered herewith, together with the thanks and appreciation of the members of the Task Force for the opportunity to serve in this important assignment.

Respectfully submitted,


ALFRED DONATI, JR.
Chairman

REPORT
of the
NYS Special Task Force
on
Cigarette Bootlegging
and the
Cigarette Tax

ALFRED DONATI, JR., Chairman



New York State
Department of
TAXATION and FINANCE
JAMES H. TULLY, JR., Commissioner



Members of the Special Task Force interrogate a "mystery" witness, an admitted former cigarette bootlegger, during the hearing in New York City. Pictured, from left, are Joseph H. Reohr, Jr., Richard W. Brevoort, Louis M. Jacobson, John J. Garry, Chairman Alfred Donati Jr., Frederick G. Hicks, Lieutenant Gerald Looney and Arthur R. Rosen. At rear, Consultant Morris Weintraub.

The Special Task Force on Cigarette Bootlegging and the Cigarette Tax

ALFRED DONATI JR., Chairman

*Director, Special Investigations Bureau
State Department of Taxation and Finance*

JOHN J. GARRY

*Administrative Director
Department of Taxation and Finance*

FREDERICK G. HICKS

*Director, Miscellaneous Tax Bureau
Department of Taxation and Finance*

JOSEPH H. REOHR, JR.

*Principal Excise Tax Examiner
Department of Taxation and Finance*

RICHARD W. BREVOORT

*Former Deputy Administrator
New York City Finance Administration*

LOUIS M. JACOBSON

*Metropolitan Deputy Tax Commissioner
Department of Taxation and Finance*

ARTHUR R. ROSEN

*Deputy Counsel
Department of Taxation and Finance*

GERALD E. LOONEY

*Lieutenant
Division of State Police*

MORRIS WEINTRAUB, Consultant

Council Against Cigarette Bootlegging

NEW YORK STATE SPECIAL TASK FORCE
ON CIGARETTE BOOTLEGGING AND THE CIGARETTE TAX

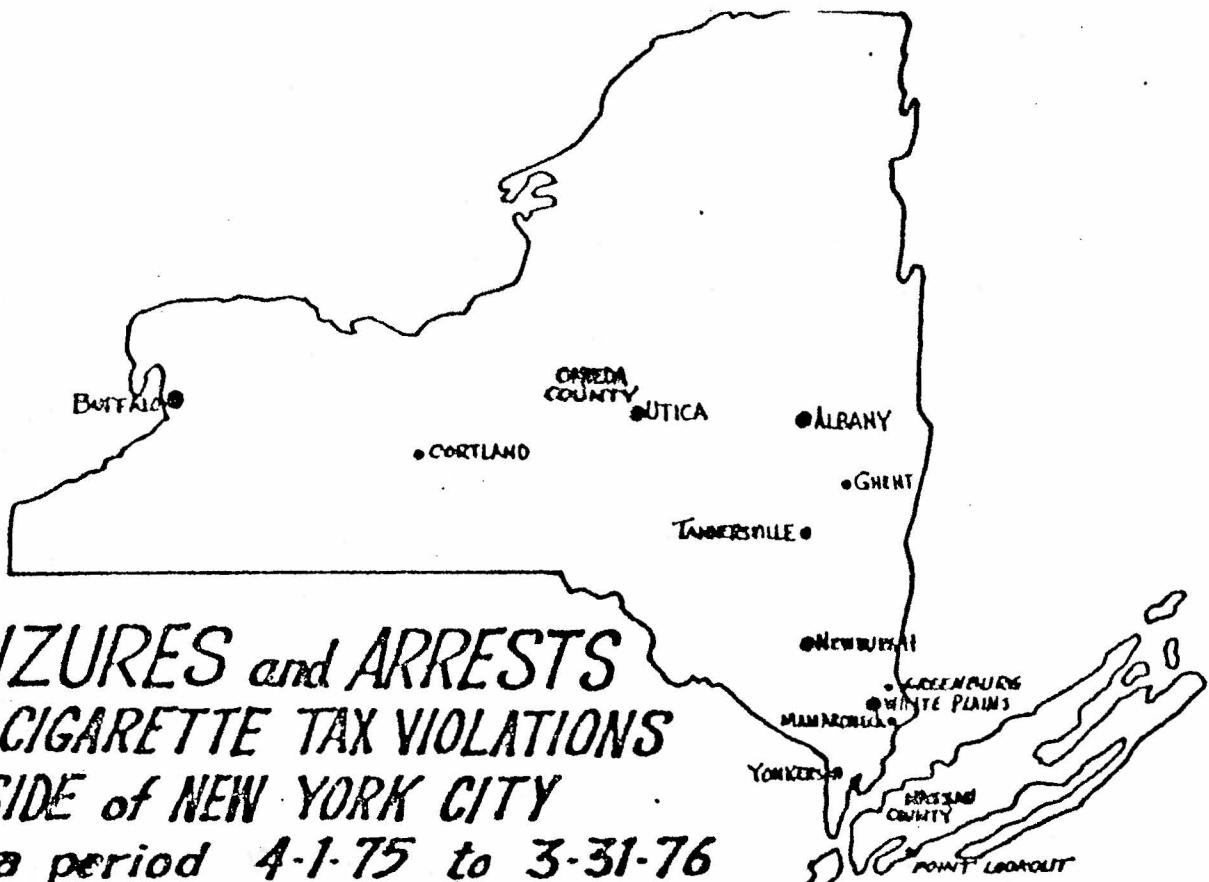
I N D E X

	<u>Page</u>
Letter of Transmittal	
I. Introduction.....	1
II. Recommendations.....	3
III. Discussion of Recommendations	
A. Economic Matters.....	5
1. Reduction of the Cigarette Excise Tax.....	5
B. Administrative Matters.....	9
1. Licensing and Related Factors.....	9
2. Absorption by the State of the City's Administration of the Cigarette Tax.....	12
C. Law Enforcement.....	13
1. Additional Funding of Law Enforcement Efforts Against Criminal Violations of Cigarette Tax Laws.....	13
2. Amendment of the Criminal Procedure Law to Permit Judicially Ordered Eavesdropping in Connection with Criminal Violations of Cigarette Tax Laws...	13
3. Transfer to the State of Title to Vehicles Seized Containing Contraband.....	14
4. Transfer of Criminal Penalty Provisions from Tax Law to Penal Law.....	15
D. Other Recommendations.....	16
E. Further Study.....	16

Appendices A - E



Tax Commissioner Tully, center, responds to a question on the State Tax Department's cigarette tax enforcement program in an interview with television personality Rose Ann Scamardella during the press conference announcing the appointment of the Special Task Force. Chairman Donati is at left. Also shown are two disguised undercover agents of the Tax Department's Special Investigations Bureau. Cigarettes and vending machines seized as contraband by SIB agents during recent weeks are in the background.



**SEIZURES and ARRESTS
FOR CIGARETTE TAX VIOLATIONS
OUTSIDE of NEW YORK CITY
for a period 4-1-75 to 3-31-76**

One of the charts prepared for the Task Force at its public hearings.

INTRODUCTION

State Tax Commissioner James H. Tully, Jr. on March 16, 1976 announced the formation of the New York State Special Task Force on Cigarette Bootlegging and the Cigarette Tax, and the appointment of its members.* The Task Force was charged with examining and making recommendations relating to the flourishing criminal activity commonly known as cigarette bootlegging, and the resulting deterioration of the economic health of legitimate cigarette businesses in this State. Accordingly, the Task Force has closely examined the problems and is herewith making recommendations relating to the fight against cigarette bootlegging, the economic impact of the cigarette tax, and to potential avenues of relief from the harmful effects of those problems on the cigarette business and the economy of this State, as well as to related matters.

The Task Force held its first meeting within hours of the Commissioner's announcement of its creation on March 16 and immediately determined that in order to make a meaningful contribution toward solving these problems it would want to present some legislative proposals prior to the adjournment of this year's Legislature which would be both effective and have a realistic chance to pass. To do otherwise would be to relegate the efforts of this Task Force to that of a study group--at least until the 1977 legislative session. By then, according to some sources, "it might be too late."

The Task Force held public hearings on March 29, 1976 in New York City and on April 12, 1976 in Syracuse, at which testimony was taken and statements were submitted relating to all three major areas with which the inquiry is concerned--that is, the areas of law enforcement, economic matters and administrative matters.**

From the outset, this body faced the very difficult task of arriving at solutions to problems which have vexed the State, the cigarette business and law enforcement officials for years. It soon became apparent that the problems presented could not be overcome by a single solution. Thus, for example, the solution most commonly proposed--to roll back the cigarette tax--itself presented the major

*The membership of the Task Force is set forth in Appendix A to this Report.

**A copy of the Chairman's Opening Statement at the March 29 hearing is marked as Appendix B to this Report; the schedule of witnesses at the March 29 hearing is marked as Appendix C; the schedule of witnesses at the April 12 hearing is marked as Appendix D; Appendix E sets forth some of the significant statistics presented to the Task Force.

problem of a potential loss of revenues to New York State and to New York City. On the other hand, a singular approach, based on law enforcement efforts, would help stem the tide but would not, alone, turn it. Moreover, an administrative approach, such as regulation through licensing, without balancing factors, ran the risk of simply imposing an additional burden upon already harassed legitimate dealers in the cigarette business.

Accordingly, it became apparent that it is necessary to take a multi-faceted approach to the solution of the problems presented which would include a combination of economic, administrative and law enforcement elements. That is the approach taken by this Task Force and described in this Report.

In order to achieve an appropriate balance and synthesis of the conflicting elements indicated above, we have determined to divide our focus and recommendations into two parts: (1) those which can be formulated and presented to this legislative session and which are the subjects of this Report, and (2) those requiring longer term evaluation which will be the subject of future Reports and recommendations, including those for presentation to the 1977 Legislature. Moreover, because of the short time available to finalize this Report, we do not herein fully detail the background, basis and evidence underlying our recommendations. They will be detailed in subsequent Reports, or earlier where Executive or Legislative consideration of a particular matter requires additional detail, and also in memoranda in support of proposed legislation. The recommendations made here are thus the product of intensive effort and reflection over and above the background material presently incorporated in this Report.

RECOMMENDATIONS

On the basis of its findings thus far on the cigarette tax and cigarette bootlegging and its deleterious effects upon cigarette businesses in this State, with the resultant closing of businesses and loss of employment, this Task Force has arrived at its initial recommendations for legislation relating to these matters. A summary of those legislative recommendations follows.

1. To eliminate cigarette bootlegging, the 8¢ per pack New York City cigarette excise tax should be repealed and the New York State cigarette excise tax now at a level of 15¢ per pack should be reduced to 13¢ per pack. Accordingly, this Task Force recommends that the 1977 Legislature enact such repeal and reduction if economic circumstances then permit.

2. Require the uniform statewide licensing of every dealer in cigarettes in the State of New York, including manufacturers, agents, wholesalers, vending machine operators (and vending machines), retailers, and cigarette "missionary men", and provide for the establishment of a plan and structure for promulgating and administering related regulations and procedures in order that the licensing system be complete and workable, including the setting of realistic fees, report and audit requirements, and computerization of the licensing machinery.

3. Effectuate the absorption by New York State of the function and responsibility of the Cigarette Tax Unit in the Special Investigations Division of the City of New York's Finance Administration and the related unit in the Finance Administration's Audit Bureau, effective July 1, 1976. Legislation may not be necessary to effect this recommendation under the provisions of Tax Law Article 20 Section 475; however, if that Section does not provide sufficient authority, additional legislation should be enacted to effect this recommendation.

4. Increase the effectiveness and level of intensity of law enforcement measures against cigarette bootlegging through steps including, but not limited to, the following:

- a. Earmark income and transfer cost savings from those sources provided by other recommendations herein (that is, from licensing, and from the absorption of the functions of the aforementioned New York City Cigarette Tax Unit), as well as from certain other sources, such as auctions of seized contraband cigarettes, for allocation and use at the discretion of the Commissioner of the Department of Taxation and

Finance, through the Department's Special Investigations Bureau, to investigate and enforce cigarette tax laws involving criminal violations.

- b. Amend the Criminal Procedure Law to permit courts to issue eavesdropping (including wiretapping) warrants in matters involving evasion of or conspiracy to evade the Tax on Cigarettes imposed by New York State under Article 20 of the Tax Law and the Cigarette Tax imposed by New York City under Title D of the Administrative Code of the City of New York, where the violations involved are felonies. Legislative Proposal No. 32 of the Department of Taxation and Finance would accomplish the aforesaid purposes and this Task Force accordingly hereby endorses that Legislative Proposal.
- c. Provide that in cases where the law now permits seizure of a vehicle involved in violation of the Cigarette Tax Law and where the number of cartons in such vehicle is 50 or more, title to that vehicle shall presumptively pass to the State of New York where the owner of that vehicle has criminally facilitated the violation involved and provide that under those circumstances the burden of showing entitlement to return that vehicle shall be upon the owner of the vehicle if he seeks to retrieve it.
- d. Transfer the criminal penalties for violation of cigarette tax laws from those sections of the Tax Law where they presently appear to appropriate section(s) of the Penal Law.

In addition to the foregoing, this Task Force also recommends:

5. That, in conjunction with any other steps taken to treat the problems which are the subjects of this Report, the Department of Taxation and Finance mount an effective public education campaign, including use of publicity through all media, to aid in the enforcement of all aspects of the cigarette tax laws.

6. That the State of New York makes every effort to amend Section 377 of Chapter 10A of Title 15, United States Code, to make failure to file interstate shipment of untaxed cigarettes to other than a licensed agent, a felony.

DISCUSSION OF RECOMMENDATIONS

A. Economic Matters

Reduction of the Cigarette Excise Tax

Conclusive evidence was presented to the Task Force at its hearings, that substantial revenue losses to both the City and State of New York result from the illicit traffic in cigarettes. At present, the price differential between the lowest taxing State, North Carolina, and the highest taxing area in the United States, New York City, is 21¢ due to the excise tax, plus the sales tax differential. There was substantial testimony however, showing that cigarette bootlegging is a problem of significant proportion not only in New York City but also in Pennsylvania, Massachusetts, New Jersey, Connecticut, Rhode Island, and to a degree, in Upstate New York.

The profitability of the bootlegging operation thus ranges from 21¢ per pack in the New York City metropolitan area, minus the cost of procurement, shipment and disbursement of the illicit cigarettes, to 13¢ a pack in the Upstate New York area, where the profit seems to be marginal. The testimony indicated that divergent bootlegging operations are currently in existence. In metropolitan New York and in Pennsylvania, Connecticut, New Jersey and Massachusetts, where the tax range is from 18¢ to 23¢, the testimony showed that illicit cigarettes are smuggled to these States by several methods.

The method presenting the major problem is the sophisticated organized crime operation, which includes hijacking and other crimes of violence, as well as counterfeiting and the distribution of cigarettes carrying the stamp of other states. There is evidence that hijacked and counterfeited cigarettes are distributed by licensed wholesalers as well as others, through legitimate retail outlets where the retailer has no knowledge that he is purchasing and selling illegal merchandise. Hijacking, which has risen to significant proportions, is of course, much more profitable but counterfeiting also returns substantial profits. Moreover, the evidence gathered by the Task Force indicates that more sophisticated business methods recently have been

incorporated in this business, apparently with the increased involvement of organized crime, and that the contraband is more and more found to be distributed through otherwise legitimate retail outlets, especially the innumerable very small outlets which have sprung up in New York City which sell cigarettes at prices discounted well below those of larger, more established dealers. In addition, contraband is also distributed by some relatively larger retail operators who succumb to the temptation of dealing in untaxed cigarettes because of the narrow margin of profit on the taxed product and the severity of competition from discount operations.

The evidence also indicates that certain very small discount dealers provide the ultimate "legitimate" outlet for the bootlegged product and exist because of the high volume generated by the fact that their discount prices will lure the smoker away from his usual supplier, (e.g., the cigarette stand in his office building, his local tobacconist, his local grocery or candy store).

Another problem is the private entrepreneur who normally rents a truck, buys cigarettes in North Carolina and transports them northward to disburse them through apartment buildings, construction sites and parking lots of large businesses, and in many other locations. This method of operation has attained significant proportions and has also been reported throughout New York.

The "honest" citizen of New York State who buys cigarettes across the borders of neighboring states, represents another route for illegal cigarette traffic. There is evidence that this practice is substantial in the Upstate area along the Vermont border because of the low taxes in both Vermont and New Hampshire.

Factual evidence presented at the hearings also showed that the 8¢ tax differential between New York City and Upstate New York virtually forces the legitimate tobacco retailer to buy his cigarettes through an Upstate retailer to avoid the higher tax. This practice, in addition to the obvious advantage it gives the consumer purchasing cigarettes outside the City of New York, also contributes significantly to revenue losses within the City.

Testimony has shown that still another method of obtaining illicit cigarettes in the State of New York is through its Armed Forces installations where no State Tax is imposed.

In addition to the illegal tax-evading practices described above, a loss of 2,300 jobs within the cigarette industry of New York State has resulted from declining legitimate sales. Agents and wholesalers thus not only deal in much smaller volume, but the personal security risks in selling cigarettes have increased distributors' costs to the point where it is even more profitable to do business with a bootlegger now than it would have been six or seven years ago. These costs are incurred by the industry because of the need to carry expensive insurance, to install elaborate burglar systems and to require private security forces to trail vehicles transporting cigarettes within the State in an attempt to stop hijacking.

It is the conclusion of this Task Force that repeal of the New York City cigarette excise tax alone would not eliminate cigarette bootlegging. It is probable that a combination of repeal and regulatory system including complete licensing would substantially curtail the problem by reducing the profit incentive, but the problem would not be eliminated, for several reasons. First, so long as a reasonable price differential exists in conjunction with the very high density market of New York City, there will be sufficient profit incentive from that combination for bootlegging to continue. Moreover, the differential in taxes which supplies the bootleggers' profit unfortunately need not be as great now that the bootlegging importation and distribution systems and personnel have been established, as was required in order for bootlegging to have the incentive to increase to the extent it has in recent years, simply because now that such systems and personnel are "in place" it requires less profit to continue to run it than it did to establish it. Consequently, a reduction of taxes back to the level just below the tax at which cigarette bootlegging flourished would not be sufficient to eliminate the profit differential; the reduction in taxes would have to be reasonably below the critical level above which bootlegging began to flourish. Accordingly, elimination of the problem would require not only repeal of the New York City tax but also reduction of the New York State tax, back to the level of approximately 13¢ per pack.

If cigarette bootlegging was eliminated through reduction of the State excise tax to 13¢ and if the other recommendations in this Report relating to licensing and law enforcement were effectuated, the revenue expectations for the State of New York would be as follows:

FISCAL YEAR 1977-78

	<u>13¢ Excise Tax</u>	<u>Present Excise Tax</u>
Population	18.1 million	18.1 million
Estimated consumption - per person	3,050	3,050
Adjusted NYS consumption	2,760,250	2,760,250
Excise Tax Due - State	\$358,932,500	\$414,884,025
Excise Tax Actually Collected	\$358,932,500	\$336,500,000
Expected NYC Excise Tax	0	\$ 55,000,000
Total Expected Excise Tax Collected	\$358,932,500	\$391,500,000
Additional NYC Sales Tax Collected	\$ 6,878,000	0
Additional NYS Sales Tax Collected	\$ 10,478,000	0
Tax Revenue Collected	\$376,288,500	\$391,500,000
Net Revenue Loss	\$ 15,211,500	

These figures describe the increase in New State revenue expected to accrue from increased sales and from increased profits resulting from lower prices, but do not reflect increases in corporation taxes, unincorporated business taxes and income taxes and other less tangible but important benefits such as increased employment and increased purchasing power.

The Task Force recognizes, however, that in view of the difficulty the State and New York City have experienced recently in achieving balanced budgets and in formulating economic plans to meet financial emergencies, it is unrealistic to expect repeal and reduction of these taxes effective in this fiscal year. Accordingly, it is hoped that this recommendation will be favorably considered by the 1977 Legislature.

Moreover, because of the economic situation noted above, the Task Force also recognizes that there may be some reluctance to accept the likelihood that cigarette sales by legitimate dealers will increase sufficiently to warrant a reduction of the State excise tax. In that event, the Legislature may choose to repeal only the 8¢ per pack New York City excise tax. This will be a solid blow against bootlegging but, because the process will be incomplete, it is even more important that the other major recommendations made in this Report namely, those relating to licensing and those relating to increased law enforcement be enacted.

B. Administrative Matters

1. Licensing and Related Factors

At present, New York State requires agents and wholesalers to be licensed. An agent is normally referred to as a jobber, the individual to whom the cigarette companies dispense cigarettes and who is charged with purchasing and affixing stamps for the New York State Department of Taxation and Finance. Agents and wholesalers are licensed with the State when they commence operations and remain licensed until no longer in business or until their license is revoked or suspended by the Department. No licensing fee is required by New York State.

New York City requires agents and wholesalers to obtain a license on an annual basis for a fee of \$10; retailers are licensed annually for \$2. At present, New York City has 87 licensed agents, approximately 1,500 licensed wholesalers and 20,000 licensed retailers. There is little or no possibility of policing these New York City licensing operations with the limited staff available.

It is the recommendation of this Task Force that a uniform statewide licensing requirement be enacted applicable to every cigarette manufacturer who does business in the State of New York, and to every agent, wholesaler, vending machine operator (as well as vending machines themselves), retailer, and cigarette "missionary man". The license fee schedule should be sufficient to provide revenues necessary to offset the cost to administer the licensing operation, to administer and control an adequate reporting system, and to hire, train and oversee an adequate enforcement operation.

The purpose of any licensing operation of the cigarette industry by the State or City should be to provide a means to prevent smuggled or bootlegged cigarettes from entering the normal distribution channel without being detected. In addition, a good licensing operation would help prevent the licensure of criminal elements. Thus, legitimate businessmen would escape having to do business with people who deal in illegal activities. The third major reason for a good licensing system would be to provide the revenues for the administration of the system performing the two functions outlined above.

The licensing operation of both the State and City fail miserably on all three counts and their present form should be abandoned.

We wish to emphasize strongly that our concept of the licensing operation here recommended would be one administered in such manner that it does not simply add to the cigarette dealers' burdens or costs of doing business, but effectively attains the objectives above with a minimum of complexity and detail. The transition from an industry rife with cigarette bootlegging to one without professional bootlegging after rollback of the cigarette excise tax, will be accelerated and made more complete through use of the controls available under a licensing system in conjunction with increased law enforcement, as part of the "mop-up" operations against the bootleggers. Further, increased tax revenues (both excise and sales tax) which are expected to result from the increase in legitimate cigarette sales after the total excise tax is reduced is, of course, a very important predicate of the program proposed in this Report and the controls available through the licensing system will be a significant weapon to ensure collection of those increased revenues.

At the same time, it is, of course, inevitable that some additional burden will be placed upon legitimate dealers, by way of fees, reports, and audits. We feel, however, that on balance, the advantages of such a system to the people of the State of New York, as well as to those in the cigarette business, far outweigh the disadvantages of the additional requirements. This was also the opinion of the witnesses who commented on the subject of licensing at the Task Force hearings, including representatives of wholesalers and retailers. It was their consistent opinion that their objection would be to a licensing system which was not properly enforced rather than to licensing as such, because an unenforced system would simply add work and costs to their operation whereas a vigorously enforced system, together with intensive enforcement of criminal laws, would help eliminate criminal elements from the cigarette business and would have other salutary policing effects.

The suggested fee schedule under the proposed licensing system and the anticipated revenues to be produced thereby

over a three-year period would be as follows:

	<u>FEE</u>	<u>APPROX. NO.</u>	<u>REVENUE</u>
AGENTS	\$300 yr.	230	\$ 207,000
WHOLESALE DEALER	200 yr.	2,000	1,200,000
VENDING MACHINE OPERATOR			
1 to 50 machines	50 yr.	470	70,500
50 to 250 machines	100 yr.	20	6,000
over 250 machines	200 yr.	10	6,000
CIGARETTE VENDING MACHINE			
Per machine	6-3 yr.	70,000	420,000
RETAIL DEALER	25-3 yr.	80,000	2,000,000
CIGARETTE MISSIONARY MEN	30 yr.	3,000	270,000
			<u>\$4,179,500</u>

The revenue to be derived from this fee schedule would approximate \$3 million during the first year of every three-year cycle and \$580,000 during each of the other two years.

It is recommended that any excess of revenues resulting from the license fees, over the costs of administering the licensing program, be earmarked for cigarette tax law enforcement purposes through the Special Investigations Bureau of the Department of Taxation and Finance.

It is further recommended that in implementing the licensing system, each agent and wholesaler, vending machine operator be required to file reports with the State as specified by Regulations of the Tax Commission. Precise content of the reports would be determined by the government agency to which the reports are filed. The Task Force contemplates that, where necessary, legislation would include authorization for such important related functions as an adequate audit program at all licensing levels by the appropriate Bureau of the Department of Taxation and Finance.

It is recommended that the proposed licensing requirements become effective January 1, 1977, but that enabling legislation be enacted by the current Legislature so the State may make necessary preliminary preparations in the meantime.

2. Absorption by the State of the City's Administration of the Cigarette Tax

This Task Force recommends the elimination of those responsibilities of the City of New York for the collection and enforcement of the New York City cigarette tax, which are now carried out by the City Finance Administration's Cigarette Tax Unit of the Special Investigations Division and the related unit in the Finance Administration's Audit Bureau, and recommends that those functions be absorbed and administered by the State, and that appropriate administrative machinery be established to do so. Section 475 of Article 20 of the Tax Law appears to provide sufficient authority for this recommendation to be accomplished without additional legislation upon consent of the City of New York. Moreover, the City has indicated it has no objection to the recommendation here made and accordingly this recommendation may be effectuated by voluntary agreement. If, however, such agreement cannot be finalized or if Section 475 is deemed not to provide sufficiently precise authority, it is urged that this recommendation be effectuated with additional legislation.

It is estimated that enactment of this proposal would result in a savings to the City of New York of approximately \$375,000 with little or no cost to the State of New York. The actual amount saved should be recouped by the State from other appropriate revenues paid by the State to the City so that there is neither gain nor loss to the City as a result of this measure. The resultant cost savings should be transferred to the use of the State's cigarette tax law enforcement unit, namely, the Special Investigations Bureau of the Department of Taxation and Finance. In this manner, additional funds would be obtained for law enforcement through administrative efficiency rather than through taxes or diversion of revenues from other programs.

It is recommended that the transfer from the City to the State of the functions above described be achieved by July 1, 1976 or as quickly thereafter as possible.

C. Law Enforcement

1. Additional Funding of Law Enforcement Efforts Against Criminal Violations of Cigarette Tax Laws

There was unanimity from all witnesses appearing before this Task Force that increased funding of criminal law enforcement efforts against criminal violations of the cigarette tax laws is absolutely essential, but that law enforcement efforts alone are not enough to cure the problem.

This Task Force recommends that State law enforcement efforts against criminal law violations in this area be additionally funded, as indicated above, by earmarking for such purposes (a) the savings (estimated at approximately \$375,000) which result from the absorption by the State, of New York City's administration of the City cigarette tax; (b) the excess of revenues generated by license fees over the costs of administering the license program and (c) the net funds produced from the sale at auction of cigarettes seized for violation of cigarette tax laws (the net amount being after the deduction of any sum payable to any law enforcement agencies, or informants, where required by law).

It should be particularly noted that the increased funding derived from the foregoing sources would not involve the diversion of funds from any other source of revenue or from any program or from the curtailment or elimination of any program. Accordingly it should be emphasized that the funds so generated should not be deposited to the general revenue fund of the State but specifically allocated and earmarked as aforesaid.

2. Amendment of the Criminal Procedure Law to Permit Judicially Ordered Eavesdropping in Connection with Criminal Violations of Cigarette Tax Laws

It was the unanimous recommendation of law enforcement officers appearing before this Task Force that the fight against the criminal element involved in cigarette bootlegging--especially because of the sophisticated techniques which organized crime brings to this activity--requires the use of eavesdropping, particularly wiretapping in order to be effective. It was emphasized in this regard that only judicious use would be made of eavesdropping. Its use would be limited and monitored by the terms of court orders authorizing it in a specific instance, pursuant to the legislation proposed herein, and by statutory and case law, as well as by the selection process of the law enforcement officers who would have the authority to apply to a court and supervise the effectuation of a court order.

Accordingly, it is the conclusion of the Task Force that such authority is essential to an effective law enforcement effort in this area, especially against the organized criminal element now entrenched in it. It is the recommendation of the Task Force that the Criminal Procedure Law be amended to permit judicial issuance of eavesdropping (including wiretapping) warrants in matters involving evasion of or conspiracy to evade the Tax on Cigarettes imposed by New York State under Article 20 of the Tax Law and the Cigarette Tax imposed by New York City under Title D of the Administrative Code of the City of New York, where the violations involved are felonies. This Task Force hereby endorses Legislative Proposal No. 32 of the Department of Taxation and Finance, which would accomplish these purposes.

3. Transfer to the State of Title to Vehicles Seized Containing Contraband

Under present law, a vehicle containing more than ten cartons of cigarettes without tax stamps may be seized by law enforcement authorities (Tax Law, Article 20, Section 477-a). However, present provisions of law for retaining possession of such a vehicle provide only cumbersome procedures which are infrequently enforced (i.e., to transfer title to the vehicle to the State requires a forfeiture proceeding by a city corporation counsel or a county District Attorney, depending upon where the seizure is made. This is practically never done because of the priority of other work in those offices). The result is that, in most instances, the vehicles are ultimately returned to the violator. Moreover, in many instances, vehicles are used from rental agencies which frequently are "in cahoots" with the bootlegger. Indeed, sometimes the bootleg operation has a substantial ownership interest in the rental agency involved.

Perhaps the three most essential elements to a cigarette bootlegging operation are money, the telephone, and a transport vehicle. In order to overcome the difficulties encountered by law enforcement agencies, and described above, the Task Force recommends that upon the seizure of a vehicle containing contraband, title to that vehicle shall presumptively pass to the State of New York. The burden shall then be upon the owner of the vehicle who seeks to retrieve it to show entitlement to its return. Such a showing would vary depending upon the particular circumstances involved. Vehicles of legitimate, unsuspecting rental agencies would not be endangered. On the other hand, the agency which, though not actively assisting, nevertheless closes its eyes to the frequent seizure of its vehicles by the same users, should not be permitted to continue in business

without any sanction whatsoever.

In order to provide additional protection to the innocent individual transporting cigarettes for his own use, the number of cartons required to be in the vehicle before this provision would become operative should be set at 50. (The 10 carton figure, however, would remain in the present provision of law, that is, applicable to a seizure where the burden remains upon the State to establish a forfeiture). Also, to protect the innocent rental agency, it would also be a part of this new provision that it would be operative only if against the owner of a vehicle whom it can be shown had criminally facilitated the violation involved.

4. Transfer of Criminal Penalty Provisions from Tax Law to Penal Law

Tax Law Section 481 provides criminal sanctions for certain prohibited acts regarding the cigarette tax and contains legal presumptions to be used in prosecutions involving the proscribed conduct. It is recommended that this section be transferred to the Penal Law. Enforcement agents and prosecutors have stated that such a "cosmetic" change would result in a substantive improvement in cigarette tax compliance and judicial enforcement of these laws.

D. Other Recommendations

In addition to the foregoing, it is also recommended that:

1. An intensive public education campaign utilizing all media be initiated by the Department of Taxation and Finance to aid in the enforcement of all aspects of the cigarette tax law. Such publicity would not be limited to violation of the criminal provisions of the cigarette tax laws involved in bootlegging but would also relate to significant civil law provisions such as certain of those involved in the licensing programs and the enforcement of a mandatory minimum sales price.
2. Chapter 10A of Title 15, United States Code, presently provides that one who ships untaxed cigarettes into another State to a consignee other than a licensed agent shall file with that State's tobacco tax administrator information relating to such shipment. Failure to do so is a misdemeanor punishable by six month's imprisonment and a \$1,000 fine. The Chapter should be amended to make failure to so file a felony and thereby provide additional deterrent to the crime of cigarette smuggling and additional incentive to Federal investigative agencies and prosecutors to pursue such violations.

E. Further Study

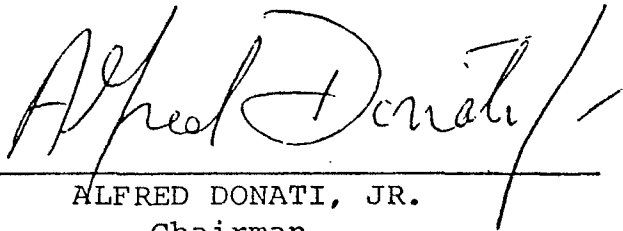
The Task Force is considering further measures looking toward final solutions to the problems in the cigarette industry, including the possibility of establishing a Cigarette Tax Authority to administer collectively under one agency all government functions relating to this industry, except the actual collection of the excise tax, or establishing such an entity within the Department of Taxation and Finance. The Task Force is also studying other steps which may be taken to help solve the problems presented without the necessity for legislation, including the possibility of changing the type of tax stamp required on packages of cigarettes.

The concept of a uniform Federal cigarette tax, or even a uniform regional tax, e.g., for the northeast region, has a great deal of merit from the point of view of providing an ultimate solution to the problems encountered in this field and will be examined closely by the Task Force. However, because there is little likelihood of enactment of these concepts into legislation

in the near future, other avenues for combating these problems must be pursued in the meantime, as is done in this Report. Other steps which can be taken by the Federal Government, such as through better, more effective use of Regulations of the Interstate Commerce Commission to prevent the bootlegging of cigarettes, also merit further study.

Respectfully submitted,

SPECIAL TASK FORCE ON CIGARETTE
BOOTLEGGING AND THE CIGARETTE TAX


ALFRED DONATI, JR.
Chairman

Members:

John J. Garry
Louis M. Jacobson
Frederick G. Hicks
Arthur R. Rosen
Joseph H. Reohr, Jr.
Richard Brevoort
Gerald E. Looney

Morris Weintraub, Consultant

APPENDIX A

MEMBERS OF THE NEW YORK STATE SPECIAL TASK FORCE
ON CIGARETTE BOOTLEGGING AND THE CIGARETTE TAX

Alfred Donati, Jr.	<u>Chairman</u> , Director Special Investigations Bureau, New York State Department of Taxation & Finance (DT&F)
John J. Garry	Administrative Director (DT&F)
Louis M. Jacobson	Metropolitan Deputy Tax Commissioner (DT&F)
Frederick G. Hicks	Director, Miscellaneous Tax Bureau (DT&F)
Arthur R. Rosen	Deputy Counsel (DT&F)
Joseph H. Reohr, Jr.	Principal Excise Tax Examiner (DT&F)
Richard Brevoort	Former Deputy Finance Administrator of New York City
Gerald E. Looney	State Police Lieutenant
Morris Weintraub	Consultant. Mr. Weintraub is with the Council Against Cigarette Bootlegging.

APPENDIX B

OPENING STATEMENT OF ALFRED DONATI, JR., CHAIRMAN,
"NEW YORK STATE SPECIAL TASK FORCE ON CIGARETTE
BOOTLEGGING AND THE CIGARETTE TAX", AT ITS PUBLIC
HEARING OF MARCH 29, 1976 IN NEW YORK CITY

Good morning. My name is Alfred Donati, Jr. I am the Director of the Special Investigations Bureau of the New York State Department of Taxation and Finance, and the Chairman of this "Special Task Force on Cigarette Bootlegging and the Cigarette Tax." I would first like to thank those of you here for the interest and concern your presence today demonstrates.

The cigarette tax is imposed on the sale or use of cigarettes within the State of New York, and last year it produced a significant one-third of a billion dollars of revenue.

It might have brought in even more revenue to this financially hard-hit State--perhaps as much as \$75 million to \$100 million more--without the sale of even one additional pack of cigarettes, except for two very important reasons:

One. The disparity in the taxes on cigarettes between the State of New York and the State of North Carolina--a difference of as much as 26 cents per pack--makes the bootlegging of untaxed cigarettes into New York tempting and highly profitable, particularly for organized crime.

Two. Contraband cigarettes in the past have been retailed mainly through businesses which don't normally deal in tobacco products, such as beauty parlors, barber shops, and other such business places, as a convenience to their customers and an added source of revenue for themselves--and even, as another example, from the back of a station wagon at a construction site. In recent months, however, the State has discovered that these untaxed cigarettes are being increasingly sold in legitimate retail outlets. In other words, more and more business men and women, who are law-abiding in other respects, have become law-violators by evading the cigarette tax. Moreover, they are assisting in robbing the State of much needed revenue at the same time that they are becoming accomplices of big-time racketeers and small-time hoodlums. Perhaps most tragic the legitimate retailers who have become tax-evaders by selling contraband are subjecting themselves to arrest and criminal prosecution with resultant disgrace to their families as well as themselves.

Governor Carey and Commissioner Tully are well aware of cigarette bootlegging and cigarette tax evasion as the serious problems which

they are. The creation of this Task Force is evidence of their concern with these problems and evidence that they want all the action we can generate, all the clout we can bring to bear against the organized criminals and any of their retailer-accomplices.

The Governor and the Commissioner have made the point that the cigarette tax is an important part of the revenue that helps finance our schools, our health programs and other vital public services. Every dollar stolen from the cigarette tax revenue is a dollar that must come from some other tax source so that, in the long run, the real loser is John Q. Public. The New Yorker who buys untaxed cigarettes does not get a bargain--he simply helps increase the taxes he must pay in other ways. The only winners are the cigarette bootlegger and his accomplices.

Moreover, cigarette bootlegging is a national problem. Many other states, in addition to our own, are faced with the same situation because of the wide disparity between their State and North Carolina in the size of their cigarette tax. We have worked with several neighboring States to try to exert united action against the bootleggers, with limited success. But we intend to keep trying. And, in connection with the national scope of this problem, I should mention that this Task Force intends to examine what role Federal legislation may have in helping solve some of these problems.

We also face a certain amount of public indifference in this fight--I'll call it indifference, but it's really a moral breakdown, as a matter of fact. The man or woman who conducts an ostensibly honest business except when it comes to selling untaxed cigarettes has shown a shameful willingness to compromise with the very basics of right and wrong. And, of course, the same goes for the customer who knowingly buys untaxed cigarettes.

The creation of this Task Force also evidences the concern of this Administration with the broader economic problems created by cigarette bootlegging--the problems of the closing of tobacco businesses in this State because of the unfair competition of purveyors of untaxed cigarettes--and the problem of the resultant loss of jobs. And we intend to help stem that loss of business and that loss of jobs.

At our hearing today, which is the first of several we plan to hold throughout the State in the next several months--our next is scheduled April 12 in Syracuse--we will hear the testimony of a variety of witnesses. We intend, as a Task Force, to sift through

this testimony so as to sort out the solid evidence from which we may provide recommendations to Commissioner Tully, including legislative proposals which will have real meaning and real prospects of being implemented.

Before I call the first witness, I would like to introduce the members of this panel:

On my immediate right, John J. Garry, the Administrative Director of the Department of Taxation and Finance and next to him the Department's Metropolitan Deputy Tax Commissioner, Louis M. Jacobson. Next to Mr. Jacobson is Richard Brevoort, former New York City Deputy Finance Administrator, and seated after Mr. Brevoort is Principal Excise Tax Examiner Joseph H. Reohr, Jr.

On my immediate left is the Department's Director of the Miscellaneous Tax Bureau, Frederick G. Hicks, and seated next to him is State Police Lieutenant Gerald E. Looney. Next to Lieutenant Looney is the Department's Deputy Counsel, Arthur R. Rosen.

And seated here behind me is our consultant, the well known expert in the fight against the illegal cigarette traffic, Morris Weintraub, of the Council Against Cigarette Bootlegging.

The Task Force now calls its first witness, Mr. Albert Sohn.

APPENDIX C

NEW YORK STATE SPECIAL TASK FORCE ON CIGARETTE BOOTLEGGING
AND THE CIGARETTE TAX

SCHEDULE OF WITNESSES AT 3/29 HEARING

10 A.M.: OPENING STATEMENT BY CHAIRMAN ALFRED DONATI, JR.

<u>TIME</u>	<u>MINUTES</u>	<u>WITNESS</u>
10:05	30	Albert Sohn, Chief Accountant, State Investigation Commission
10:35	15	Daniel McGowan, Deputy Inspector, New York Police Department
10:50	15	John Kase, Chief, Organized Crime Bureau, District Attorney's Office, Nassau County
11:05 - 11:15		(RECESS)
11:15	30	Bootlegger
11:45	20	Patrick Vecchio, Assistant Director, Special Investigations Bureau, Department of Taxation & Finance
12:05	15	Beverly "Lurry" Starkey, New York City Cigarette Tax Investigations Unit
		LUNCH RECESS
2:00	15	Page Sutherland, Executive Vice President, Tobacco Tax Council
2:15	25	Wholesalers: Milton Bloomrosen, Al Fisher, Harold Levine, Ronnie Rosenberg, Lenny Schwartz
2:40	25	Employees: Murray Baratz, Secretary-Treasurer, Local 805, International Brotherhood of Teamsters; Edward Herman (truck driver who was shot); Carlos Vargas (truck driver who was hijacked); Richard Zimmerman (salesman who was held up)
3:05 - 3:15		(RECESS)
3:15	25	Vending Operators: Fred Yolan (went out of business, New York City); Stanley Goldsand (went out of business, Nassau and Suffolk Counties); Myron Bruck; Abe Simon
3:40	25	Retailers: Edward H. Snyder; Bernard H. Green; Joseph Sarensky

APPENDIX D

NEW YORK STATE SPECIAL TASK FORCE ON CIGARETTE BOOTLEGGING
AND THE CIGARETTE TAX

SCHEDULE OF WITNESSES AT 4/12 HEARING

A.M. SESSION

Opening Statement by Chairman Alfred Donati, Jr.

WITNESSES

Jane Kirsch - New York State Department of Taxation & Finance,
Albany

Richard Jones - Pitney Bowes Corporation

Robert Harding - American Decal Corporation

Statement of Thomas Sardino, Chief of Police, Syracuse

Eugene Pike, John Zadzilka, Arthur Maloney - New York State
Department of Taxation & Finance, Buffalo District Office

Patrick Vecchio, Assistant Director, Special Investigations
Bureau, New York State Department of Taxation & Finance

LUNCHEON RECESS UNTIL 2:00 P.M.

P.M. SESSION

William Tandy, Deputy Attorney General in Charge of the State-wide
Organized Crime Task Force

Cigarette Wholesalers: Arnold Gordon (Jack Gordon Tobacco Co.),
Syracuse, New York, and President of the Upstate Cigarette
Wholesalers Association; Perry Tzetzto (Tzetzto Bros.), Buffalo,
New York

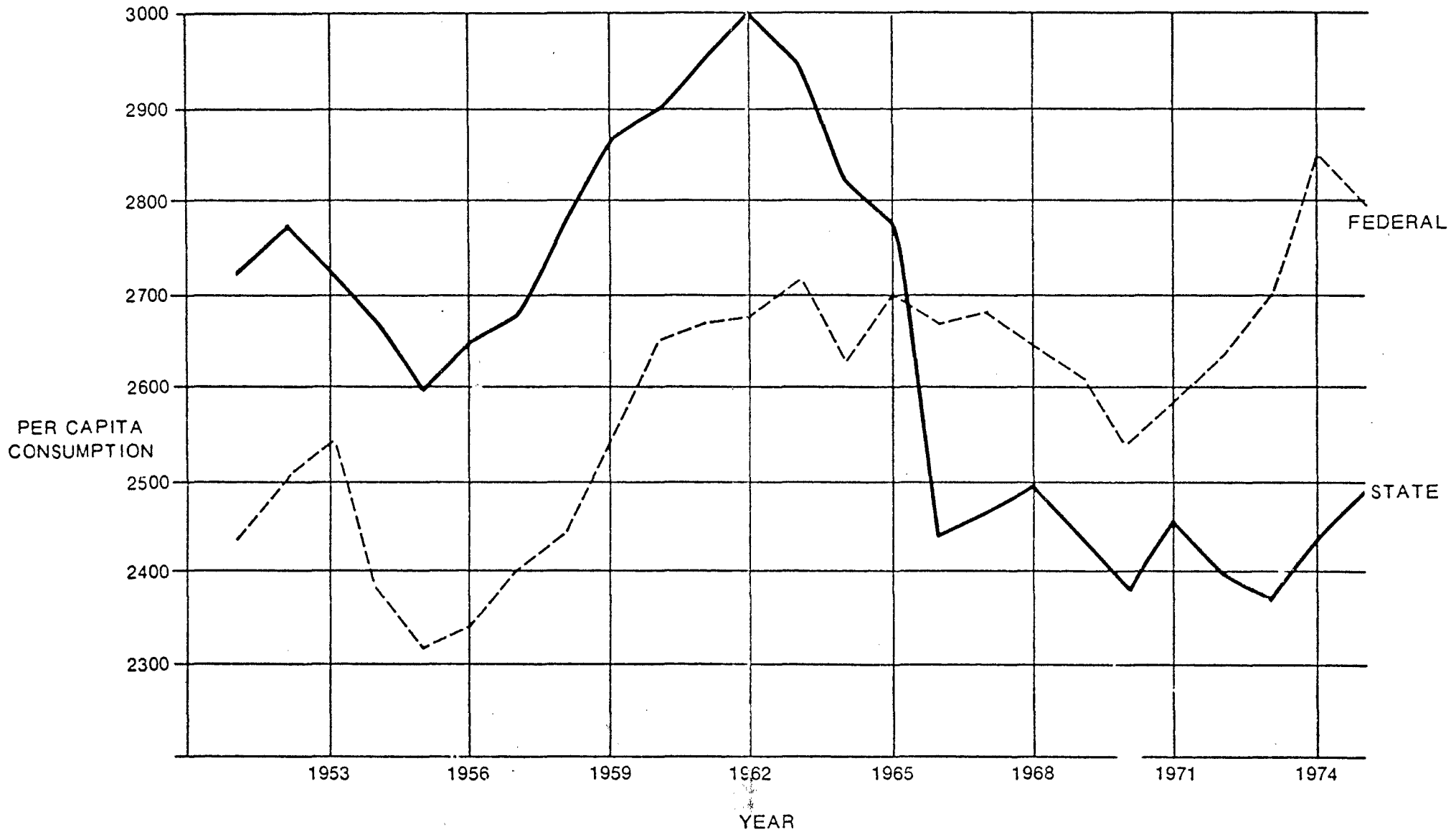
Retail Cigarette Dealers: Daniel J. Mathias (Wm. E. Mathias, Inc.),
Buffalo, New York; Robert W. Butler (W. J. Coulson Co., Inc.),
Albany, New York

Vending Machine Dealers: William Wood (Rowe International),
Syracuse, New York

APPENDIX E

The Task Force has received statistical data from many sources concerning the effect of the cigarette tax bootlegging on the revenues of the City and State. Analysis of this data revealed that because of different bases there are slight differences in amounts; however, all statistics lead to the same conclusions. It is the finding of the Task Force that the revenues depicted in the attached graph and charts are an accurate representation of revenue losses; however, data was introduced to indicate that incorrect population statistics were used in compiling 1975 statistics and, for that reason, revenue losses for that year are understated.

COMPARISON OF PER CAPITA CIGARETTE CONSUMPTION FEDERAL VS. NEW YORK STATE



NEW YORK STATE CIGARETTE TAX LOSSES

Year ended June 30	New York State Adjusted Consumption Per Capita	Population New York State	Adjusted New York State Consumption (Packs)	Excise Tax Due	Excise Tax Actually Collected	Dollar Loss On Uncollected Excise Tax	Dollar Loss On Uncollected New York State Sales Tax	Total N.Y.S. Cigarette Tax Losses Excise - Sales Tax
1972	2,919	18,367,000	2,680,663,000	\$ 348,459,384	\$ 293,877,000	\$ 54,582,384	\$ 7,251,484	\$ 61,833,868
1973	2,990	18,265,000	2,730,617,000	\$ 409,592,550	\$ 327,192,000	\$ 82,400,630	\$ 10,063,864	\$ 92,464,494
1974	3,123	18,101,000	2,826,471,000	\$ 423,970,650	\$ 333,255,000	\$ 90,715,672	\$ 11,466,461	\$ 102,182,133
1975	2,986	18,120,000	2,705,316,000	\$ 405,797,400	\$ 336,549,000	\$ 69,248,400	\$ 9,510,114	\$ 78,758,514
Totals						\$ 296,947,086	\$ 38,291,923	\$ 335,239,009

NEW YORK CITY CIGARETTE TAX LOSSES

(Based upon Population Percentages)

Year Ended June 30	New York State Adjusted Consumption (Packs)	Population Ratio City to State	Consumption in New York City (Column 1 x 2)	Excise Tax Due @ 4¢ Per Pack	Excise Tax Actually Collected	Dollar Loss On Uncollected Excise Tax	Dollar Loss On New York City Sales Tax	Total N.Y. City Cigarette Tax Losses Excise + Sales
1972	2,680,663,000	42.72%	1,145,179,234	45,807,169	\$ 30,394,106	\$ 15,413,063	\$ 4,936,033	\$ 20,349,096
1973	2,730,617,000	41.96%	1,145,766,893	45,830,676	\$ 29,456,909	\$ 16,373,767	\$ 5,624,389	\$ 21,998,156
1974	2,826,471,000	41.80%	1,181,464,878	47,258,595	\$ 30,033,982	\$ 17,224,613	\$ 6,123,350	\$ 23,347,963
1975	2,705,316,000	41.76%	1,129,739,62	45,189,598	\$ 30,405,100	\$ 14,784,498	\$ 7,614,016	\$ 22,398,514
Totals						\$ 63,795,941	\$ 24,297,788	\$ 88,093,729