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Carson High School

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Friday, February 7, 2003
Nevada State Legislature
Senate Judiciary Committee

TESTIMONY IN SUPPORT OF SENATE BILL 50

Good morning Mr. Chairman and members of the committee. For the record, my name is Ashley Bauer, and I am a member of Carson City's Teens Against Tobacco Use (TATU) program. This is Maria Urbina, she is also a member of Teens Against Tobacco Use as well as Carson City High School's student body president.

We are here today to speak out strongly in favor of Senate Bill 50.

This bill really is about the Big Tobacco Industry versus what is in the best interests of public health and kids across the state.

This bill is strongly supported by the American Lung Association, American Heart Association, and American Cancer Society. In addition, hundreds of other nationally-recognized leaders and organizations have publicly called for the repeal of preemption. In the interest of saving time, we will submit the detailed comments of some of these organizations and individuals to your secretary to be distributed to the committee.

There are literally thousands of students throughout the state of Nevada who are actively working to expose the tobacco industry and their unethical practices—including the practice of preempting local communities from being able to take common-sense measures to protect themselves from tobacco. The amount of suffering this state goes through because of tobacco-related disease and death is a serious issue. The youth in this room are here today because we genuinely believe our local communities' efforts to protect their citizens from the health consequences of tobacco are limited because of preemption.

In closing, we ask you to vote in support of this bill and with that vote you will be helping us protect our health as well as the health of our younger brothers and sisters. Please, vote in favor of Senate Bill 50.

Thank you.

Americans for Nonsmokers' Rights

Helping you breathe a little easier

WHAT THE HEALTH COMMUNITY SAYS ABOUT PREEMPTION

December 19, 2002

CONGRESSIONAL ADVISORY COMMITTEE ON TOBACCO POLICY AND PUBLIC HEALTH (Co-Chairs: C. Everett Koop, M.D. and David A. Kessler, M.D.), *Final Report*, July 1997

"Any Federal or State regulation of tobacco products should contain unambiguous non-preemption provisions, expressly clarifying that higher standards of public health protection imposed by State and Local governments are preserved."

ASSOCIATION OF STATE AND TERRITORIAL HEALTH OFFICIALS, *Policy Statement on Tobacco Use Prevention and Control*, July 2000

"Advocate for local government legislative and regulatory autonomy to control tobacco. Support initiatives to repeal preemptive statutes or replace preemptive language in existing state legislation with specific non-preemptive language. Support the inclusion of specific anti-preemption language in all tobacco control legislation and oppose legislation containing any preemptive language. Expose legislative tactics that seek to rescind existing local tobacco control ordinances or invoke 'super-preemption' of all local tobacco control legislation through language added to minor or unrelated bills."

CENTERS FOR DISEASE CONTROL AND PREVENTION, *Morbidity and Mortality Weekly Report*, November 3, 1995

"Local action by communities has proven to be effective in enforcing youth access legislation and reducing tobacco use among young persons. However, the tobacco industry has been equally successful in weakening local control and community involvement through state laws containing preemption provisions."

CENTERS FOR DISEASE CONTROL AND PREVENTION, *Reducing Tobacco Use: A Report of the Surgeon General*, 2000

"Because regulations in general may be more effective if generated and enforced at the local level, considerable energy is devoted to the issue of opposing or repealing preemption of local authority by states. Public health analyses have resulted in strong recommendations that state laws not preempt local action..."

AMERICAN MEDICAL ASSOCIATION, *Journal of the American Medical Association*, July 19, 1995

"Local communities should continue to control smoking in public. State legislatures should assume responsibility for ensuring smoke-free areas. Any preemptive tobacco laws should be repealed by public demand."

**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, *Healthy People 2010 Objectives*,
November 2000**

Target: "Eliminate laws that preempt stronger tobacco control laws...Retain year 2000 target" to "[r]educe to 0 the number of States that have clean indoor air laws preempting stronger clean indoor air laws on the local level."

INSTITUTE OF MEDICINE OF THE NATIONAL ACADEMY OF SCIENCES, 1994

"Repeal the federal law that precludes [i.e. preempts] states and local governments from regulating tobacco promotion and advertising within their jurisdictions."

AMERICAN PUBLIC HEALTH ASSOCIATION, *Resolution 9410*, 1994

The American Public Health Association "(1) Opposes state and federal laws preempting local governments' ability and authority to enact their own more stringent restrictions on alcohol and tobacco availability; and (2) Supports local governments' home rule to sue their zoning, planning, and other local police powers to control alcohol and tobacco problems, including advertising and access."

AMERICANS FOR NONSMOKERS' RIGHTS, *UPDATE*, Winter 1992

"The tobacco industry clearly recognizes preemption as their best tactic against tobacco control. We know this through their behavior and through recently leaked internal documents... The only answer is NO PREEMPTION, ever. There's never a benefit to the public from preemption, and there's always a cost."

AMERICAN CANCER SOCIETY, *State Preemption of Local Tobacco Control Laws*, March 1992

"RESOLVED: That the American Cancer Society opposes any preemption clauses that are intended to remove or restrict power and authority from a unit of local government or regulate clean indoor air and/or other tobacco control laws."

AMERICAN HEART ASSOCIATION, *American Heart Association Public Policy Agenda for the 107th Congress, 2001-2002*

"[T]he Association supports public policies in accordance with the following set of core principals for federal legislation: ...oppose federal preemption of state and local statutes."

AMERICAN LUNG ASSOCIATION, *Policy Principle on Tobacco*, April 1999

"The American Lung Association/American Thoracic Society opposes all forms of preemption of state and local tobacco control authority. The ability of any government entity to enact tobacco control legislation is a cornerstone of an effective tobacco control policy."

There is no trade-off worth the price of preempting a state or community's right to pass tobacco legislation."

NATIONAL ASSOCIATION OF AFRICAN AMERICANS FOR POSITIVE IMAGERY, March 1, 1996

"NAAAPI strongly opposes any preemption language regarding tobacco in any state bill... As African Americans, we are particularly opposed to state preemption of local laws, not only with respect to tobacco but in other issues as well. In many states, African Americans are concentrated in a few cities while the state population is overwhelmingly white... Therefore, on principal we support the concept of local decision-making."

CAMPAIGN FOR TOBACCO-FREE KIDS, *Actions Speak Louder than Words*, 1996

"Any state-level tobacco control legislation should contain language expressly allowing local government authority to take stronger measures if necessary. Local control should be viewed as a public health tool to be protected and encouraged."

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Americans for Nonsmokers' Rights

Helping you breathe a little easier

THE TOBACCO INDUSTRY ON WHY IT NEEDS PREEMPTION

December 15, 2002

"We could never win at the local level... So the Tobacco Institute and tobacco companies' first priority has always been to preempt the field, preferably to put it all on the federal level, but if they can't do that, at least on the state level."

Victor L. Crawford, Former Tobacco Institute Lobbyist, Journal of the American Medical Association, 7/19/95

"Our record in defeating state smoking restrictions has been reasonably good. Unfortunately, our record with respect to local measures...has been somewhat less encouraging... Over time, we can lose the battle over smoking restrictions just as decisively in bits and pieces - at the local level - as with state or federal measures."

Raymond Pritchard, Brown and Williamson, US Tobacco & Candy Journal, 7/17/86

"It's barely controlled chaos [at the local level]. We can't be everywhere at once."

Walker Merryman, The Tobacco Institute, San Francisco Examiner, 5/12/91

"You can't sue every place every time... or even send people to challenge every proposal every place anymore."

Thomas Lauria, The Tobacco Institute, San Jose Mercury News, 5/8/94

"When you have 95,000 local units of government in this country, and you have a finite amount of resources, then the smart thing to do is to try to limit the potential for mischief [i.e. seek preemption]."

Walker Merryman, The Tobacco Institute, Los Angeles Times, 3/25/90

"I've learned from experience that as soon as I'm identified as a representative of the Tobacco Institute, I lose all credibility. They just sneer us away... so I try to work behind the scenes whenever I can."

Ron Saldana, The Tobacco Institute, Los Angeles Times, 8/24/86

"Here our objective is to work... to insure that we maintain the environment of accommodation and that we are positioned to fend off attempts to remove preemption or strengthen the level of statewide restriction."

"Philip Morris and the Hospitality Industry" Bates No.:204551733/7347, 1995

"The anti-smoking movement has become more sophisticated in its efforts to enact bans and restrictions on smoking... They have adopted a 'Pac-man' strategy where they attempt to gobble up one community at a time... The 'Pac-man' strategy makes sense for the antis because it is easier for a group of extremists to have an impact on the local level than in larger jurisdictions.... The solution to 'Pac-man' is statewide pre-emption."

Tina Walls, Philip Morris internal document, Bates No: 2041183751, 1994

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