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PORTLAND
City Club
BULLETIN

Mayfair Room • Benson Hotel
FRIDAY . . . 12:10 P. M.

PORTLAND, OREGON - April 29, 1966 - Vol. 46, No. 48

NOTE: This week's meeting is being held in joint session with members of the Multnomah Bar Association in recognition of Law Day—U.S.A., May 1st.

THE SPEAKER:

R. W. Nahstoll

Past President, Oregon State Bar

HIS TOPIC:

***How Does "Civil Disobedience"
Stack Up With The Rule of Law?***

For several years, May 1st has been designated as the National observance of "Law Day—U.S.A." It is set aside as a special occasion to reflect upon the significance of concepts which might otherwise become platitudinous—"The Rule of Law," "Equal Justice Under Law," "Government of Law, Not Men."

What relation to these principles is borne by events of current times: What of Watts?—the Birmingham Jail?—Berkeley?—Selma?—"Sit-ins"?—and draft-card burning? How do they square with Law Day—U.S.A., and the ideals it honors?

Richard W. Nahstoll, who will tackle these challenging questions, has been a City Club member since 1947, and is a former chairman of the Civil Rights Committee of the Oregon State Bar, and a member of the original Board of Oregon Chapter of the American Civil Liberties Union. A graduate of Michigan State University and University of Michigan Law School, "Dick" Nahstoll was admitted to the Oregon State Bar in 1947. He was national winner of the American Bar Association's 1964 Ross Essay Contest on the subject, "The Role of the Federal Courts in the Reapportionment of State Legislatures". He served as President of the Oregon Bar in 1964-1965 and has been extremely active in local, state and national legal committees and commissions. He is associated with the firm of Lindsay, Krause and Nahstoll in Portland.

Printed in this issue of the *Bulletin* and scheduled for presentation, discussion and action at next week's meeting, May 6, 1966, are two reports on measures on the state ballot for the May primary election:

**Superintendent of Public Instruction Constitutional Amendment, and
Cigarette Tax Bill.**

PORTLAND CITY CLUB BULLETIN

Published each Friday by the

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Foundation, Inc. The regular FRIDAY LUNCHEON MEET-
INGS are held in the Mayfair Room of the Benson
Hotel.

REPORT
ON
**SUPERINTENDENT OF PUBLIC INSTRUCTION
CONSTITUTIONAL AMENDMENT**

(State Measure No. 2)

Purpose: Repeals present constitutional provision requiring that Superintendent of Public Instruction be elected by people, thereby permitting legislature to determine method of selecting Superintendent of Public Instruction.

* * *

To the Board of Governors,
The City Club of Portland:

THE ISSUE

State Ballot Measure No. 2, to be voted upon at the May 24, 1966 primary election, would repeal Article VIII, Section 1 of the Oregon Constitution. Article VIII, Section 1, as interpreted by the Oregon Supreme Court, requires that the Superintendent of Public Instruction be elected by the people. The repeal of the Section would permit the Legislature to enact statutes providing for a different method of selection.

Thus, if a person believes the office should be appointive, he should vote for this measure, as the office cannot be appointive unless this constitutional amendment is approved. If a person believes the office should remain elective and the Legislature should not have the power to make it appointive, he should vote against this measure.

SCOPE OF RESEARCH

The Committee interviewed State Senator Ben Musa; State Representative Katherine Musa; Dr. Leon P. Minear, State Superintendent of Public Instruction; Mr. Cecil Posey, Executive Secretary of Oregon Education Association; Mr. Robert V. Crosier, Field Representative of Oregon Federation of Teachers, and Mrs. Shirley Gold, President of Portland Federation of Teachers. Subcommittees interviewed informally several other members of the Oregon Legislature, several members of the State Board of Education, Dr. Walter Blake, a candidate for the Office of Superintendent, and several District School Superintendents. The Committee studied the briefs and the opinion of the Oregon Supreme Court in the case of *State ex rel Musa v. Minear*, 80 Or. Adv. Sh. 539 (April 21, 1965), Oregon Statutes relating to education, and other relevant material.

ADMINISTRATION OF EDUCATION IN OREGON

In general, the State Board of Education is charged with responsibility for establishing policy at the state level, within the framework of the Oregon Constitution and statutes, for the administration and operation of the primary and secondary public schools of the State of Oregon, while local boards are in direct control of the schools. The State Board consists of seven members appointed by the Governor for seven-year terms, the term of one member expires each year, and the appointments are subject to confirmation by the State Senate. The board members may not be engaged in teaching nor participate in the administration of any school. The Superintendent of Public Instruction is the chief administrative officer of the State Board and the executive head of the State Department of Education.

At one time County School Superintendents were elected by the people, but this position was changed some years ago to an appointive post. District School Superintendents and the Chancellor of the State System of Higher Education are appointed by their respective boards. At the federal level, the comparable office of U. S. Commissioner of Education is an appointive office.

HISTORY OF THE SUPERINTENDENCY IN OREGON

Article VIII, Section 1 was a part of the original Oregon Constitution. It provided that the Governor should be the Superintendent of Public Instruction for at least the first five years of statehood, but thereafter "it shall be competent for the Legislative Assembly to provide by law for the election of a superintendent * * *." After an initial period during which the Governor acted as Superintendent, the Legislature enacted statutes providing for the election of the Superintendent by the people, beginning in 1874. This system prevailed until 1961 when the Legislature enacted a statute, Oregon Laws 1961, Chapter 624, Section 1, providing for the "election" of the Superintendent by the State Board of Education. In 1951, the Legislature submitted to the people a proposed revision of Article VIII, Section 1 of the Oregon Constitution which would have prescribed appointment of the Superintendent by the State Board of Education, but the measure was rejected by the people in the General Election of 1952 with approximately 46½ per cent of the votes for the measure, and 53½ per cent opposed.

In the spring of 1965, Senator Ben Musa initiated a proceeding in the nature of *quo warranto* in the Oregon Supreme Court to test the constitutionality of the 1961 statute; *State ex rel Musa v. Minear*, 80 Or. Adv. Sh. 539 (April 21, 1965). The Court held that Article VIII, Section 1 of the Oregon Constitution required that the Superintendent be elected by the people, that the 1961 statute was therefore unconstitutional, but that Dr. Minear would continue to hold the office until a successor was elected. After the Supreme Court decision, the Legislature, which was still in session, adopted this proposed constitutional amendment and referred it to the people.

The Legislature also enacted Oregon Laws 1965, Chapter 519, which provides that the State Board of Education shall appoint the Superintendent if the people adopt this constitutional amendment, but that he shall be elected by the people if they reject the constitutional amendment. Chapter 519 further provides that if the people adopt this constitutional amendment, the Superintendent of Public Instruction must have been a resident of Oregon for five years immediately preceding his appointment and must hold an administrative certificate, but no qualifications for the office are prescribed in the event that the people reject the amendment. Although names of two candidates for nomination to this office will appear on the ballot in the Primary Election of 1966, the office becomes appointive by virtue of Chapter 519 if the people adopt this constitutional amendment and in that eventuality there will be no election for Superintendent in the General Election of 1966.

TREND IN OTHER STATES

According to data furnished by the Council of Chief State School Officers, the following situation prevails. The State Superintendent is elected by the people in twenty-two states, appointed by the Governor in five states and appointed by the State Board of Education in twenty-three states. Of the twenty-three states in which he is now appointed by the State Board, the method of selection has been changed since 1945 from election by the people in nine states and from appointment by the Governor in five states. During the same period of time no state changed from appointment to election by the people, and no state changed from appointment by the State Board to appointment by the Governor.

ARGUMENTS FOR THE MEASURE

1. The best qualified person is more likely to be placed in the position if it is appointive rather than elective.
2. There is no reason for the chief primary and secondary school officer to be selected differently at the state level than at the district, county and federal level where he is appointed, nor is there any reason for him to be selected differently than other heads of state departments who are appointed.
3. If the office is elective, the Department of Education will probably lose a considerable part of the Superintendent's time and attention while he campaigns for re-election or for higher office.

4. The State Board of Education would be unable to see that its policies were carried out if it could not select its Superintendent, thereby making it an advisory body rather than a policy-making board.

5. The trend in other states is away from an elected Superintendent and toward a Superintendent appointed by the State Board.

ARGUMENTS AGAINST THE MEASURE

1. The system of government should not be permitted to become less democratic and less responsive to the will of the people by reducing the number of elective offices.

2. Election by the people is the best method of selecting the best person for public office.

3. Because more state and local tax money is spent on education than anything else, the position of Superintendent of Public Instruction is more important, and therefore more worthy of being an elective office than the various appointed state department heads.

4. Unless the office is kept elective, the professional educators, rather than the people, will be in control of the State Department of Education, and educational policy will no longer be responsive to the people.

COMMENT

In the early days of statehood, when the population was small and the activities of state government relatively limited, it was feasible to require that virtually all of our state officials be elected by the people. The passage of time has brought a substantial increase in the population of the State of Oregon and an even greater expansion in the scope of activity in which government engages. These changes have resulted in a considerable increase over the years in the responsibilities of the State Department of Education with the end result that it is much more important now than formerly that the Superintendent of Public Instruction be the best qualified person in the State of Oregon in terms of training, experience and ability in the field of primary and secondary education.

It would appear that the State Board of Education is in a far better position than the public generally to identify the best qualified person, and that the public would be well advised to utilize the experience and knowledge of the Board by delegating to it the selection of the Superintendent. The Superintendent should be chosen on the basis of professional qualifications in the field of primary and secondary education, rather than political skills, yet the latter is more likely to produce an election victory than the former.

The public would probably regard the election of a Superintendent as one of the least important of the many items to be voted upon, would not understand the merits and deficiencies of rival candidates as they relate to the requirements of this position, nor be particularly concerned as to which candidate is elected. Such a situation provides an opportunity for a special-interest group or an extremist group to get its man elected by the liberal expenditure of campaign funds, to the detriment of education and the public generally.

The elective process has proven to be the best method of filling important offices requiring political skills and decision-making ability over the full range of governmental activity, such as Legislator and Governor. As to such offices, there is no one profession or specialty from which the candidate must rise in order to be considered as best qualified. It does not follow, however, that when the duties of a lesser office require that the holder of that office be the best qualified person available in a particular profession or specialty, a general election will produce the best man. Experience has shown that such offices are better filled by appointment. There is no reason why this should not be as true of the Superintendent of Public Instruction as it is of the State Health Officer, State Highway Engineer, Chancellor of the State System of Higher Education, and many other department heads in state government who are appointed.

Also, a highly-qualified person who could be induced to take the position on an appointive basis might be uninterested if he had to run for election every four years.

If the office is elective, when an incumbent is opposed for re-election, he will probably give first priority to his re-election campaign for several months during election years, to the detriment of the performance of his official duties. Also, a successful candidate in a state-wide election for Superintendent might be tempted by his success to seek election to higher office. If he is so inclined, he could be expected to spend considerable time during his term of office campaigning for the higher office, to the detriment of the performance of his official duties.

The fact that so much state and local tax money goes into education does not make the office of State Superintendent so different from the heads of other departments of state government that he should be elected when they are appointed; this is a difference in degree rather than in kind. The direct control of the schools and much of the money is in the hands of the local boards and their appointed superintendents, not the State Superintendent.

The change from elected to appointed Superintendent would not result in abandonment of our democratic principles. The same change has been made in the past in connection with other state and local offices, including the comparable office of County School Superintendent, when it was thought the change was advantageous. At the federal level, the voters have never elected any of the department heads in the executive branch of government, yet the federal government is considered to be based upon democratic principles.

Changing the office from elective to appointive would not result in turning over control of education to the professional educators. The policy-making decisions in the State Department of Education are entrusted to the State Board of Education, under whom the Superintendent works, and state law prohibits teachers and school administrators from serving on this Board. In addition, the electorate has a voice in educational matters through the election of local school boards, through local school bond and tax elections and, finally, through the election of the Governor and the Legislature who, between them, appoint the State Board and have the power to enact laws concerning education.

It is the responsibility of the State Board of Education to make policy. It is the responsibility of the Superintendent to carry out the policy of the Board and supervise the day-to-day operation of the department. If the Board does not have the power to select the Superintendent and to discharge him when it is dissatisfied with his performance, there is nothing the Board can do to force the Superintendent to carry out its policies. A person with views on educational matters entirely different from the policies adopted by the Board could be elected by the people, resulting in an impasse to the disadvantage of education that would be worse than if either side were in complete control and able to carry out its views.

The situation is comparable to a business corporation where the Board of Directors sets the policy with the president, its principal subordinate executive officer, conducting the day-to-day operations of the corporation in accordance with the policies set by the Board. The Board cannot carry out its responsibilities if it does not have the power to select and remove its principal subordinate officer. The Board has such power in business corporations, and the State Board of Education should have similar power.

The national trend is definitely away from an elected State Superintendent and toward a Superintendent appointed by his governing board. Since World War II, nine states have changed from an elective to an appointive Superintendent, and no state has changed from an appointive to an elective Superintendent. During the same period of time in Oregon, we changed from elective to appointive County School Superintendents.

In summary, it appears to your Committee that the disadvantages of choosing a State Superintendent of Public Instruction by popular election substantially outweigh the advantages, and that Article VIII, Section 1 of the Oregon Constitution, which requires that the office be elective, should be repealed.

RECOMMENDATION

Your Committee recommends that the City Club go on record as favoring the proposed constitutional amendment and recommends a "yes" vote on State Ballot Measure No. 2.

Respectfully submitted,

Manley Bakkensen
James W. Durham, Jr.
Mason Janes
A. Thomas Niebergall
Robert H. Persellin, M.D.
Richard G. Rust
Jack L. Hoffman, *Chairman*

Approved April 14, 1966 by the Research Board for transmittal to the Board of Governors.

Received by the Board of Governors April 22, 1966 and ordered printed and submitted to the membership for presentation and action.

REPORT
ON
CIGARETTE TAX BILL
(State Ballot Measure No. 1)

Purpose: Levies a tax of 4 cents per package on cigarettes. One-half proceeds applied to property tax relief; one-half divided equally between cities and counties.

* * *

To the Board of Governors,
The City Club of Portland:

I. INTRODUCTION

Your Committee was established to study and report to the membership on the state ballot measure appearing on the primary election ballot, which measure would levy a tax of four cents per package on cigarettes, with half the proceeds to be used for property tax relief and half divided equally between cities and counties.

The measure was placed on the state ballot by action of the Oregon Legislature during the 1965 session, with the passage of House Bill 1207.

II. SCOPE OF RESEARCH AND BIBLIOGRAPHY:

Your Committee interviewed the following persons:

- Terry D. Schrunk, Mayor, City of Portland.
- George Annala, Manager, Oregon Tax Research.
- George R. Pederson, Supervisor, Research and Planning Section, Oregon State Tax Committee.
- David S. Barrows, Attorney, who has served as legal counsel for tobacco industry interests.

Materials studied by your Committee include:

- "Cigarette Taxes in the United States", Volume XIV, 1965,
Tobacco Tax Council, Richmond, Virginia.
- "Cigarette Tax Facts", Series 1, 1964,
Tobacco Tax Council, Richmond, Virginia.
- "Comparative State Cigarette Tax Collections", August 1965,
National Tobacco Tax Association, Chicago, Illinois.
- "Report of the Legislative Interim Tax Study Committee",
State of Oregon, January 1965.
- "Tax Commission Bulletin",
Oregon State Tax Commission, February 1966.
- "Probable Receipts from Cigarette Tax Law",
Oregon State Tax Commission, June 1964.
- House Bill 1207, Cigarette Tax Bill,
Oregon State Legislature, 1965.
- House Bill 1226, Property Tax Relief Act,
Oregon State Legislature, 1965.
- Supplementary material on State Ballot Measure #1 and #2,
League of Women Voters of Oregon, 1966.

III. HISTORICAL BACKGROUND

The voters of the State of Oregon have rejected a cigarette or a cigarette and tobacco tax six times since 1926. The City Club of Portland has studied each of these tax measures. The recommendation of each of the committees and the City Club action as well as the voting record in each of these elections is as follows:

Year and Tax	City Club Action		Electorate	
	Committee Recommended	Club	Yes	No
November, 1926 (Cigarette & Tobacco Tax)	Yes	No	62,254	123,208
November, 1942 (Cigarette Tax)	No	Yes	110,643	127,366
June, 1945 (Cigarette Tax for School Support)	No	Yes	60,321	67,542
October, 1947 (Cigarette Tax)	Yes	Yes	103,794	140,876
November, 1952 (Cigarette Tax)	Yes	Yes	233,226	413,137
November, 1956 (Cigarette Tax)	No	No	280,055	414,613

Some of the principal reasons for committee or City Club disapproval of previous cigarette tax measures were:

1. Disapproval of the principle of selective taxation for the general good.
2. Widespread distribution of funds to schools should not be made without regard to need.
3. Funds should not be earmarked for specific purposes.
4. There was greater need for revision of the entire tax and fiscal system of the state than for a makeshift measure such as a cigarette tax.

Experience Elsewhere

The Federal government has taxed cigarettes since 1864. The rate has varied from eight mills per pack of twenty cigarettes, to ten cents per pack of twenty. The present Federal rate is eight cents per pack and has been in effect since 1951.

Forty-eight states and the District of Columbia presently tax cigarettes. Oregon and North Carolina are the only two states which do not levy a tax specifically on cigarettes. North Carolina, however, has a general sales tax which, in the case of cigarettes, includes a tax of one cent per pack. Oregon, thus, is the *only* state which does not tax the sale of cigarettes.

State cigarette taxes range from two to eleven cents per pack of twenty cigarettes. Thirty-nine of the states levy six or more cents per pack. The most common rate is eight cents per pack, which amount is levied by twenty-two states.

In addition to the cigarette tax, twenty-three states also levy a general sales or gross receipts tax which applies to cigarettes. The amount of general sales or gross receipts tax levied by the states varies from six to thirteen mills per pack of twenty cigarettes.

A tax on cigarettes is also levied in 254 cities and seven counties in the United States.

State and Federal taxes on cigarettes on the average account for over 51 per cent of the retail price. State and Federal taxes range between 36.5 per cent of the average retail price, in Oregon, to 56.2 per cent in Texas.

Total revenue from all states levying cigarette taxes in 1965 were almost one and one-third billion dollars after payment of the cost of affixing stamps or decals to indicate payment of the tax. In the four years from 1961 to 1965 state revenues from cigarette taxes increased almost 35 per cent. This is due in part to the increase in the sale of cigarettes and in part to increases in the amount of tax levied per pack of cigarettes. Typically, a cigarette tax does not remain constant. No state which had a cigarette tax in 1951 has the same rate today as it did then. In every case the original tax rate per pack has been raised.

The proposed Oregon cigarette tax, State Ballot Measure #1, levies a tax of four cents per pack of twenty cigarettes. This is considerably below the amount levied in most states.

IV. ARGUMENTS FOR AND AGAINST

A. Arguments for:

1. Oregon is the only state which receives no revenue from the sale of cigarettes.
2. Property taxes would be lower with a cigarette tax than without one.
3. Cost of administration, including payment to distributors for affixing stamps or decals, would be less than seven per cent of collections.
5. The tax can be legally avoided by not smoking cigarettes.
6. "Cigarette smoking may be hazardous to your health" and should be discouraged.

B. Arguments against:

1. The tax is discriminatory in taxing users of tobacco and in taxing users of tobacco only in the form of cigarettes.
2. The tax is a form of sales tax which by its nature tends to be regressive.
3. Oregon retailers will lose some sales of cigarettes and other commodities to neighboring states.
4. The amount of property tax relief would be small.
5. Cigarettes will cost more per package.

V. DISCUSSION

House Bill 1207 provides for a tax of four cents per pack of twenty cigarettes to be collected from the distributor by his purchase of stamps or decals to be affixed to each pack. The tax does not apply to cigarettes sold on military posts or to packs of five or fewer cigarettes which are given away without charge as promotional samples. Revenues after costs of administration have been paid are to be divided as follows:

Fifty per cent to a Local Property Tax Relief Account which is set up separately in Oregon Laws ORS 310.705 through 310.755.

Twenty-five per cent to be distributed to cities.

Twenty-five per cent to be distributed to counties.

Distribution to individual cities and counties would be made on the basis of population. Of the twenty-five per cent set aside for cities, each city would receive a share which is equal to the percentage of its population to the total population of all cities in the state. Of the twenty-five per cent allotted to counties, each county would receive a share which is equal to the percentage of its population to the total population of the state.

The fifty per cent of the revenues from the cigarette tax which is set aside in the Local Property Relief Account (ORS 310.705 through 310.755) is divided among taxing districts within each county in accordance with the taxable value of all taxable property. A district with taxable property value totaling \$100,000,000, for example, would receive twice the amount in property tax relief funds as a district with \$50,000,000 in taxable property. Taxing districts which are the richest in terms of per capita taxable property would thus receive the largest per capita amounts in terms of property tax relief.

The amount of revenue estimated to be obtained from the cigarette tax by the State of Oregon is \$10,000,000.⁽¹⁾ Administrative costs are estimated at about \$155,000. Payments to distributors for affixing the stamps or decals, at \$.00167 per pack, are estimated at \$430,000. This is approximately one and two-thirds cents per carton of ten packs for opening the case, opening the carton, affixing

⁽¹⁾See Appendix A, certificate filed with the Secretary of State on the "Estimate of Financial Effects."

a stamp or decal to each pack, reclosing the carton and repacking the case. The State Tax Commission indicates that this is a reasonable payment to the distributors compared to payments made in other states.

The local property tax relief account, which would receive fifty per cent of the revenues from the cigarette tax, would get about \$4,925,000 annually. This represents tax relief of about \$1.50 per \$1,000 of assessed valuation on a uniform 25 per cent ratio. The fifty per cent share to be divided between the cities and counties would give each city about \$2.20 per resident and each county about \$1.25 per resident. The difference in the amount per resident between cities and counties is due to the fact that while the amount shared by each is the same, there are more county residents than city residents.

The total amount to be collected, \$10,000,000, is small in comparison to the amount of property tax in all taxing districts in the state. In the 1965-66 biennium, total property tax levies and assessments in Oregon amounted to \$280,565,094. The cigarette tax would thus provide only about 3.6 per cent of the amount of all property taxes now assessed and levied in the state.

Although the one and one-half per cent property tax limitation measure is not yet on the ballot, your Committee feels that it is appropriate to compare the revenue gains and losses from this measure and the cigarette tax. The additional revenue to the state from the cigarette tax would be only \$10,000,000. According to the State Tax Commission the revenue loss from the 1½ per cent property tax limitation would be \$128,700,000 or about thirteen times the gain from the cigarette tax.

The administration of the tax offers no problems, according to the information obtained by the committee. With the number of states, cities and counties presently levying cigarette taxes, most of the problems of administration have been solved.

Taxes on other tobacco products, although levied by the federal government and some states, are costly to administer for the amount of revenue received. Where levied, these taxes bring in less than 5 per cent of the total tobacco tax revenues.

Mayor Schrunk of the City of Portland favors the tax because it would give added revenues to cities which are too dependent on property taxes at present. In his opinion, the money which Portland would get—about \$780,000—could be used for small capital improvements rather than requiring the city to go to the voters for each of these small items.

The League of Oregon Cities is on record favoring the proposed cigarette tax measure.⁽²⁾

The Oregon AFL-CIO opposes the cigarette tax measure as part of its continued opposition to all forms of sales taxes.⁽³⁾

Vending machine operators do not oppose the tax in the amount proposed.

Distributors, vending machine operators and retailers will undoubtedly lose some cigarette sales. There would still be a favorable tax differential between Oregon (four cents per pack rate) and all its neighboring states except California. Tax rates in the states bordering Oregon were as follows on November 1, 1965:

State	Rate per pack of 20 cigarettes
California	3 cents
Nevada	7 cents
Idaho	7 cents
Washington	11 cents

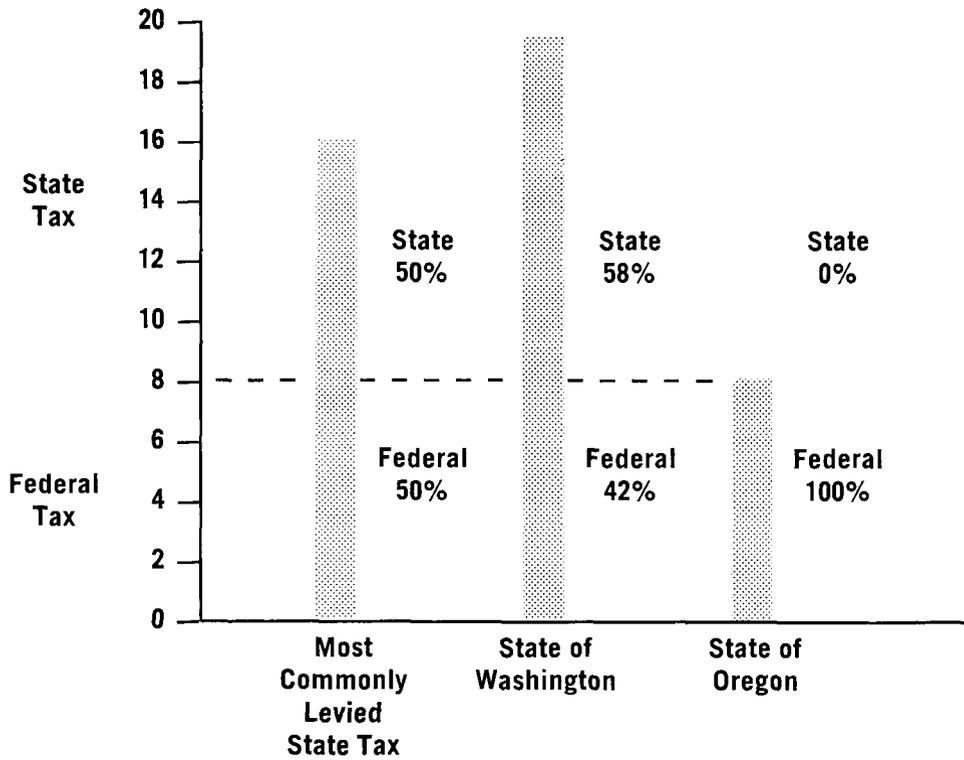
The revenues from cigarette taxes are shared by state and federal governments in all cases except for Oregon and North Carolina. North Carolina, as previously stated, includes cigarettes in its sales tax. The amount of cigarette taxes and the per cent share going to federal and selected state governments is shown in the following chart.

(2) See Appendix B, Resolution favoring State Ballot Measure No. 1.

(3) See Appendix C, Resolution opposing State Ballot Measure No. 1.

**STATE AND FEDERAL CIGARETTE TAXES FOR SELECTED STATES
SHOWING TOTAL TAX AND PER CENT RECEIVED BY
STATE AND FEDERAL GOVERNMENTS**

**Total
Cigarette Tax-
cents per pack**



VI. CONCLUSIONS

The proposed cigarette tax carries with it all of the principal features which have caused the City Club or its committees at times to disapprove similar measures. It is a selective tax for the general good and includes earmarked funds distributed to taxing districts without regard to need. Of more importance, it does not represent any attempt at revision of the state tax system except to reduce property taxes somewhat and give cities and counties additional sources of revenue.

The use of selective taxes for the general good, the use of earmarked funds and the distribution of funds without regard to need are common to state tax systems, including Oregon's. The use of cigarette taxes by federal, state, county and city governments is well established. The amount of the proposed tax—about half that levied in most states—is reasonable although the experience of other states indicates that cigarette taxes tend to increase, once they are levied.

While the small amount of property tax relief which would be provided by this measure is far from a revision of the state tax system, there is evidence that the voters of Oregon desire some sort of property tax relief.

The climate regarding a cigarette tax in 1966 may well have changed from that which existed in 1956 when last it was brought before the voters. The increased and continuous pressure to relieve the burden placed on property taxes, the desire to find new sources of revenues, and the recent publicity regarding the health hazards of smoking cigarettes could well influence the voters, as it did your Committee, in reaching its decision.

Oregon is the only state which receives no revenue from the sale of cigarettes, thus depriving itself of revenues available to all other states.

VII. RECOMMENDATION

Your Committee recommends that the City Club go on record in favor of taxing the sale of cigarettes, and recommends a "Yes" vote on State Ballot Measure No. 1.

Respectfully submitted,

Charles F. Feike
George W. Friede
William Gittelsohn
Charles M. Lowry
C. E. McMurdo
Forrest Blood, *Chairman*

Approved April 21, 1966 by the Research Board for transmittal to the Board of Governors.

Received by the Board of Governors April 25, 1966 and ordered printed and submitted to the membership for presentation and action.

APPENDIX A

CERTIFICATE TO BE FILED WITH THE SECRETARY OF STATE

Pursuant to ORS 254.180 and ORS 254.190

We, the undersigned, hereby certify that we have read and considered House Bill No. 1207 and Senate Joint Resolution No. 31, adopted or enacted by the Fifty-third Legislative Assembly, 1965 Regular Session, which will be referred to the electorate for their approval or disapproval at a Special Election to be held throughout the state on May 24, 1966.

It is our opinion that House Bill No. 1207 only will require an "Estimate of Financial Effects".

Here follows our statement as to the impact of this measure on the state's fiscal structure:

"ESTIMATE OF FINANCIAL EFFECTS: If the voters approve this measure, it is estimated, based on present population figures, that the state would collect an additional \$10,000,000 per year. Annual state administrative costs would be approximately \$155,000 plus distributor costs of affixing stamps, estimated at \$430,000. The 50 per cent of net collections earmarked for property tax relief would amount to about \$4,925,000 annually, or \$1.50 per \$1,000 of assessed value, beginning with 1967-68 property tax rolls.

The 50 per cent share divided equally between cities and counties would yield about \$2,460,000 in additional annual revenue for each. Each city would receive about \$2.20 per resident and each county \$1.25 per resident.

Due to the payment dates set out in the measure, anticipated collections in the first year (1966-67) would be less than estimated in the previous paragraphs."

Respectfully submitted,

TOM McCALL (signed)
Secretary of State

ROBERT W. STRAUB (Signed)
State Treasurer

CHARLES H. MACK (Signed)
Commissioner and Chairman,
State Tax Commission

FREEMAN HOLMER (signed)
Director, Department of
Finance and Administration

Salem, Oregon
February 9, 1966

APPENDIX B**CIGARETTE TAX REPORT**

Adopted by Delegates to the 40th Annual Convention
of the League of Oregon Cities
November 14-16, 1965

**SUPPORTING PROPOSED CIGARETTE TAX
THAT PROVIDES FOR SHARING REVENUES WITH CITIES**

WHEREAS, the 1965 Oregon legislature passed Chapter 525, Oregon Laws, 1965, which refers to voters at the state primary election in May, 1966, a proposed four-cent-per-pack cigarette tax; and

WHEREAS, net proceeds from the proposed tax would be distributed one-fourth to cities, one-fourth to counties, and one-half to the Property Tax Relief Account for use in offsetting local property taxes; and

WHEREAS, distribution from this new source of revenue would provide the cities and counties of Oregon needed new funds and would also provide relief to property taxpayers; and

WHEREAS, the proposed tax would impose less burden upon cigarette users than that imposed by neighboring states and by most other states in our nation,

NOW THEREFORE BE IT RESOLVED, that the League of Oregon Cities go on record as supporting approval by voters of the proposed cigarette tax as being a substantial source of needed new revenue to cities and counties and as a means of offsetting the burden of local taxes upon property owners.

APPENDIX C**CIGARETTE TAX REPORT****RESOLUTION NO. 7 (adopted)****OPPOSING BALLOT MEASURE NO. 1—TAX ON CIGARETTES**

Introduced by Marr, Brown and McDonald.

Referred to Committee on Law and Legislation.

Whereas, the 1965 legislative session has referred a proposal to the voters of Oregon to establish a tax of four cents per package upon cigarettes, and

Whereas, it has long been the policy of organized labor, both prior to and subsequent to the merger of the AFL and CIO to oppose all forms of sales taxes, both general and selective, and

Whereas, this policy is still in effect as the policy of the Oregon AFL-CIO, therefore, be it

RESOLVED, that the Oregon AFL-CIO go on record as reiterating our continued opposition to all forms of sales taxes and urge the voters to oppose Measure No. 1 at the polls on May 24, 1966.