



Final Update and Tobacco Vote Record

2009 California Legislative Session

During the 2009 legislative session of the California Legislature 13 bills, two budget bills, one joint resolution and one proposed constitutional amendment were introduced that were tobacco-related. Of these, only four bills were passed by both the Assembly and the Senate and sent to the Governor's desk. Governor Arnold Schwarzenegger signed one of these bills into law and vetoed the other three bills. The only tobacco-related bill signed into law this session will allow the California Attorney General to negotiate amendments to the Master Settlement Agreement. This legislation went into effect when it was signed into law on August 5, 2009, as it was designated as an urgency bill.

The Center for Tobacco Policy & Organizing analyzes and monitors the progress of tobacco-related bills that are introduced in the California Legislature. Throughout the year, the Center sends out regular updates about this legislation to keep local advocates informed about the tobacco-related activity that is occurring at the State Capitol. In addition, the Center maintains an online Bill Tracker available at www.Center4TobaccoPolicy.org/bills. The Bill Tracker is updated as often as legislative activity occurs and contains summaries of the bills, status updates, vote information, a list of organizations that support or oppose the bill, information about tobacco interests' lobbying efforts and links to media stories. At the end of each legislative session, the Center produces an annual vote record that summarizes the outcome of each bill and how each Member voted.

This final update contains summaries, legislative histories, and the position on the bills taken by the major voluntary health organizations (American Lung Association in California (ALAC), American Heart Association (AHA) and American Cancer Society (ACS)) for each of the 11 bills that received at least one floor vote. The positions taken by the voluntary health organizations

represent the tobacco control position for each bill. This update also briefly reviews the six bills that only received committee votes or no votes at all. Full summaries and status updates on these six bills are available on the Center's [Bill Tracker](#). Following the final update is the 2009 Tobacco Vote Record that contains details about how every Assembly Member and Senator voted on the 11 tobacco-related bills that received at least one floor vote. The final section is a special Q&A that summarizes the five bills introduced this legislative session that would have increased the state's tobacco tax.

Source: Copies of the legislation and vote information may be obtained at <http://www.leginfo.ca.gov>

BILLS THAT WERE SIGNED BY THE GOVERNOR

SB 53: Authorizing the Attorney General to Negotiate Amendments to the Master Settlement Agreement (DeSaulnier – D, Concord)

Senate Bill 53 authorizes the Attorney General to negotiate amendments to the Master Settlement Agreement (MSA). The amendments negotiated by the Attorney General could not materially adversely alter, limit or impair the rights and remedies of the state MSA funds bondholders, the security of their bonds or the rights of the participating jurisdictions (the counties and cities that receive MSA funds) to receive MSA payments. Prior to this law, the Attorney General was unable to agree to any amendments with the other 46 settling states and negotiate changes to the MSA even if these changes would result in increased MSA payments.

Legislative History: Passed the Senate (36-0 on April 16) and the Assembly (74-0 on July 9). The Governor signed SB 53 into law on August 5 and the law went into effect immediately because it was classified as an urgency bill.

Tobacco Control Position: No Position

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BILLS THAT WERE VETOED BY THE GOVERNOR

AB 574: Prohibiting Smoking at Hospitals (Hill – D, San Mateo)

Assembly Bill 574 would have prohibited smoking in all areas of a general acute care hospital and throughout the entire campus of that hospital. This would have included buildings, parking areas, plazas, vehicles, underground passages and sidewalks. Public sidewalks that are adjacent to but not owned by the hospital and hospital property that is not part of the medical campus and not used for healthcare related purposes would not have been subject to these smoking prohibitions. The hospital would have been required to post signs at building entrances and other conspicuous locations stating that smoking is prohibited on the hospital campus. Hospitals would have been able to refer or provide patients, staff and visitors with smoking cessation services. This bill specifically did not preempt local jurisdictions from passing additional smoking prohibition ordinances stronger than this bill. This bill stated that violations of this section would not have been punishable as a misdemeanor or as an infraction.

Legislative History: Passed the Assembly (46-25 on May 18) and the Senate (21-15 on August 27). The Governor vetoed the bill on October 11. The veto message is available at http://gov.ca.gov/pdf/press/2009bills/AB574_Hill_Veto_Message.pdf.

Tobacco Control Position: ALAC Support; ACS/AHA No Position

AB 625: Prohibiting Sale or Distribution of Novelty Lighters (Lieu – D, Torrance)

Assembly Bill 625 would have prohibited all manufacturers, distributors, importers or retailers from selling, distributing or offering for promotion an operable novelty lighter. A novelty lighter would have been defined as any lighter typically used for lighting cigarettes, cigars or pipes that is (1) designed to appear as a toy; (2) has audio or visual effects; or (3) resembles in form or function, objects typically recognized as appealing to persons under the age of 12. Violations would have been punishable as an infraction with a fine of up to \$500. Enforcement would have been handled by the State Fire Marshal, any police officer or any local code enforcement officer.

Legislative History: Passed the Assembly (47-27 on May 18) and the Senate (23-12 on August 27). The Governor vetoed the bill on October 11. The veto message is available at [http://gov.ca.gov/pdf/press/2009bills/AB625_Lieu_Veto_Message\(1\).pdf](http://gov.ca.gov/pdf/press/2009bills/AB625_Lieu_Veto_Message(1).pdf).

Tobacco Control Position: No Position

SB 400: Authorizing Enforcement Action Against Sales of Electronic Cigarettes (Corbett – D, San Leandro)

Senate Bill 400 would have authorized the Department of Public Health to take enforcement action to halt the sale or distribution of electronic cigarettes that have not been approved by the Food and Drug Administration. The bill would have defined any article that can deliver inhaled doses of nicotine by delivering a vaporized solution,

including but not limited to electronic cigarettes, as a drug. This enforcement authority would have been granted to the Department through existing authority that requires the Department to regulate the manufacture, sale, labeling and advertising of food, drugs, devices and cosmetics in conformity with the federal Food, Drug and Cosmetic Act.

Legislative History: Passed the Assembly (50-29 on September 8) and the Senate (24-14 on September 11). The Governor vetoed the bill on October 11. The veto message is available at http://gov.ca.gov/pdf/press/2009bills/SB400_Corbett_Veto_Message.pdf.

Tobacco Control Position: AHA Support; ACS/ALAC No Position

BILLS THAT WERE PASSED BY ONLY ONE HOUSE

ABX3 2: Budget Legislation with Tobacco Tax Increase (Evans – D, Santa Rosa)

This legislation was part of a package of budget bills and it included broad tax changes related to gas taxes, oil severance taxes and tobacco taxes. Specifically for tobacco, this legislation would have increased the state cigarette tax by \$1.50 per pack and the tax rate on other tobacco products by an equivalent rate. The new revenues collected from this tax would have been deposited into the state's General Fund.

Legislative History: Passed the Senate (22-17 on June 29). The Assembly did not vote on this legislation.

Tobacco Control Position: ACS Support; AHA/ALAC No Position

ABX3 39: Budget Legislation with Tobacco Tax Increase (Evans – D, Santa Rosa)

This legislation was part of a package of budget bills and it included broad tax changes related to gas taxes, oil severance taxes and tobacco taxes. Specifically for tobacco, this legislation would have increased the state cigarette tax by \$1.50 per pack and the tax rate on other tobacco products by an equivalent rate. The new revenues collected from this tax would have been deposited into the state's General Fund

Legislative History: Passed the Assembly (44-31 on June 28). The Senate did not vote on this legislation.

Tobacco Control Position: ACS Support; AHA/ALAC No Position

SB 4: Prohibiting Smoking in State Parks and State Beaches (Oropeza – D, Long Beach)

Senate Bill 4 would have prohibited smoking at state beaches. For state parks, the authority to prohibit smoking in state parks would have been given to each park district superintendent. The smoking prohibitions would not have included parking lots at state parks and beaches and violations would have been punishable by a fine of \$100. New signs about the smoking prohibition would only have been posted when existing signs were going to be replaced. The smoking prohibitions could have only been enforced after signs were posted to notify the public of

the smoking prohibitions. However, warnings would have been allowed to be issued prior to the signs being posted.

Legislative History: Passed the Senate (21-14 on May 14). The Assembly did not vote on this legislation.

Tobacco Control Position: Support

SB 364: Prohibiting Cancer Center Leadership from also Holding a Leadership Position for a Tobacco Company (Florez – D, Shafter)

Senate Bill 364 would have prohibited any officer, director or board member of a general acute care hospital that is designated as a comprehensive cancer center by the National Cancer Institute and that also accepts state funds from holding any of the following positions: (1) an officer, director or board member of a company that manufactures or sells tobacco; or (2) an officer, director or board member of a company that has violated state or federal controlled substances laws or regulations within the past five years.

Legislative History: Passed the Senate (21-15 on May 21) and failed to pass the Assembly (25-38 on September 2).

Tobacco Control Position: No Position

SB 602: Strengthening Penalties for Violations of Tobacco Sales to Minors Laws (Padilla – D, San Fernando Valley)

Senate Bill 602 would have made changes to the Cigarette and Tobacco Products Licensing Act, to increase the penalties authorized by that Act for violations of the Stop Tobacco Access to Kids Enforcement (STAKE) Act or Penal Code Section 308 (which both prohibit sale and distribution of tobacco products to minors). Under current law, the Board of Equalization (BOE) can only take action against retailers for violations of the sales to minors laws if the state youth purchase survey is higher than 13 percent. This legislation would have deleted that language and allowed BOE to take enforcement action regardless of the state youth purchase survey numbers. SB 602 would also have increased the penalties under the Licensing Act for convictions or violations of the STAKE Act or Penal Code Section 308.

Legislative History: Passed the Senate (23-13 on June 3). The Assembly did not vote on this legislation.

Tobacco Control Position: Support

SB 603: Creating Annual Fee for and Limiting Issuance of State Tobacco Retailer License (Padilla – D, San Fernando Valley)

Senate Bill 603 would have required retailers to pay an annual \$100 fee to renew their state license. This legislation would have also prohibited a license from being issued for any retailer that is located within 600 feet of a public or private elementary or secondary school and prohibited a new state tobacco retailer license from being issued to any retailer located in an area of overconcentration. SB 603 would also have increased the penalties for convictions of violations of the STAKE Act or Penal Code

Section 308. Prior to the author removing SB 603 from consideration, the bill was proposed to be amended and these amendments would have included language that preempted local governments from enacting certain types of policies.

Legislative History: Passed the Senate (21-16) on June 3. The Assembly did not vote on this legislation.

Tobacco Control Position: Support through last version in print; Oppose as proposed to be amended

SJR 8: Requesting the FDA to Prohibit Sales of Electronic Cigarettes until Proven Safe (Corbett – D, San Leandro)

Senate Joint Resolution 8 would have requested that the Food and Drug Administration (FDA) prohibit all sales of electronic cigarettes until the FDA finds them to be safe. This is a resolution, meaning that sales of electronic cigarettes would not have been prohibited if the resolution was adopted, but rather that the California Legislature supports stopping the sale of electronic cigarettes until they are deemed safe by the FDA.

Legislative History: Passed the Senate (22-13 on July 16). The Assembly did not vote on the resolution.

Tobacco Control Position: Support

BILLS THAT ONLY RECEIVED COMMITTEE VOTES OR DID NOT GET VOTED ON

Six other tobacco-related bills were introduced during the 2009 legislative session but did not make it far enough in the legislative process to receive a floor vote in either house. These six bills are:

AB 89: Increasing the Tax on Cigarettes (Torlakson – D, Antioch)

ACA 22: Increasing the Tax on Cigarettes (Torlakson – D, Antioch)

AB 689: Changing the Definition of a Tobacco Product (Calderon – D, Montebello)

SB 57: Making Changes to the Major Risk Medical Insurance Program (Aanestad – R, Grass Valley)

SB 600: Increasing the State Tobacco Tax (Padilla – D, San Fernando Valley)

SB 601: Restricting Eligibility for State Tobacco Retailer Licenses (Padilla – D, San Fernando Valley)

SB 600 received a lot of attention and support from the tobacco control community during the 2009 session. This legislation would have increased the state tobacco tax by \$1.50 per pack and dedicated 15% of the new revenues for tobacco control and lung cancer efforts. SB 600 was passed by several Senate committees, but was ultimately held in the Senate Rules Committee and did not receive any floor votes. A special Q&A titled **Legislation to Increase California's Tobacco Tax** is provided at the end of this Tobacco Vote Record to summarize the legislative efforts surrounding SB 600 and other tobacco tax increase legislation during the 2009 legislative session.

2009 TOBACCO VOTE RECORD

Below is the Tobacco Vote Record for the California Legislature during the 2009 legislative session. The vote record shows how every Assembly Member and Senator voted on eleven tobacco-related bills, five that received floor votes in both houses, one that was only voted on by the Assembly and five that were only voted on by the Senate. Each Senator appears on both the table on page six and page seven as each table shows how the Senator voted on five of the ten bills.

Key: Y – voted yes on the bill, N – voted no on the bill, NV – absent or did not vote on the bill, N/A – legislator not a member of that house at time of vote.

The “Y” and “N” refer to how the legislator actually voted on the legislation, not how the legislator voted in relation to the tobacco control position on the bill. To understand exactly what a yes or no vote means in relation to the tobacco control position, it is important to refer to the tobacco control positions that are included with each bill on the previous pages.

Note: Curren Price is listed on the vote record twice since he was in the Assembly for part of the 2009 legislative session and in the Senate for the remainder of the session. Each table reflects his votes while he was elected to that specific house and reads N/A for any votes that occurred while he was not a member of that house.

Assembly Member	AB 574	AB 625	ABX3 39	SB 53	SB 364	SB 400
Adams, Anthony (R-59)	N	N	N	Y	N	N
Ammiano, Tom (D-13)	Y	Y	Y	Y	Y	Y
Anderson, Joel (R-77)	N	N	N	Y	N	N
Arambula, Juan (I-31)	Y	Y	NV	Y	NV	Y
Bass, Karen (D-47)	Y	Y	Y	Y	Y	Y
Beall, Jim Jr. (D-24)	Y	Y	Y	Y	N	Y
Berryhill, Bill (R-26)	N	N	N	Y	N	N
Berryhill, Tom (R-25)	N	N	N	Y	N	N
Blakeslee, Sam (R-33)	NV	N	N	Y	N	N
Block, Marty (D-78)	Y	Y	NV	Y	NV	Y
Blumenfield, Bob (D-40)	Y	Y	Y	Y	N	Y
Brownley, Julia (D-41)	Y	Y	Y	Y	NV	Y
Buchanan, Joan (D-15)	Y	Y	Y	Y	NV	Y
Caballero, Anna (D-28)	Y	Y	N	Y	N	Y
Calderon, Charles (D-58)	Y	Y	Y	NV	Y	Y
Carter, Wilmer Amina (D-62)	Y	Y	Y	Y	Y	Y
Chesbro, Wes (D-01)	Y	Y	Y	Y	NV	Y
Conway, Connie (R-34)	N	Y	N	Y	N	N
Cook, Paul (R-65)	NV	N	N	Y	N	N
Coto, Joe (D-23)	Y	Y	Y	Y	NV	Y
Davis, Mike (D-48)	Y	Y	Y	Y	Y	Y
De La Torre, Hector (D-50)	Y	Y	Y	Y	Y	Y
de León, Kevin (D-45)	Y	Y	Y	Y	Y	Y
DeVore, Chuck (R-70)	N	N	N	Y	N	N
Duvall, Mike (R-72)	N	N	N	NV	N	N
Emmerson, Bill (R-63)	NV	N	N	Y	N	N
Eng, Mike (D-49)	NV	NV	Y	Y	Y	Y
Evans, Noreen (D-07)	Y	Y	Y	Y	Y	Y
Feuer, Mike (D-42)	Y	Y	Y	Y	N	Y
Fletcher, Nathan (R-75)	NV	N	N	Y	N	N
Fong, Paul (D-22)	Y	Y	Y	Y	Y	Y
Fuentes, Felipe (D-39)	Y	Y	Y	Y	Y	Y
Fuller, Jean (R-32)	N	N	N	Y	N	N

Assembly Member	AB 574	AB 625	ABX3 39	SB 53	SB 364	SB 400
Furutani, Warren (D-55)	Y	Y	Y	Y	NV	Y
Gaines, Ted (R-04)	N	N	N	Y	N	N
Galgiani, Cathleen (D-17)	Y	Y	Y	Y	N	Y
Garrick, Martin (R-74)	N	N	N	Y	N	N
Gilmore, Danny (R-30)	N	N	N	Y	N	N
Hagman, Curt (R-60)	N	N	N	Y	N	N
Hall, Isadore (D-52)	Y	Y	NV	Y	NV	Y
Harkey, Diane (R-73)	N	NV	N	Y	N	N
Hayashi, Mary (D-18)	Y	Y	Y	Y	Y	Y
Hernandez, Ed (D-57)	Y	Y	Y	Y	Y	Y
Hill, Jerry (D-19)	Y	Y	Y	Y	N	Y
Huber, Alyson (D-10)	N	N	N	Y	N	Y
Huffman, Jared (D-06)	Y	Y	Y	Y	Y	Y
Jeffries, Kevin (R-66)	N	NV	N	Y	N	N
Jones, Dave (D-09)	Y	Y	Y	NV	NV	Y
Knight, Steve (R-36)	N	N	N	Y	N	N
Krekorian, Paul (D-43)	Y	Y	Y	NV	NV	Y
Lieu, Ted (D-53)	Y	Y	Y	Y	NV	Y
Logue, Dan (R-03)	N	N	N	Y	N	N
Lowenthal, Bonnie (D-54)	Y	Y	Y	Y	Y	Y
Ma, Fiona (D-12)	Y	Y	Y	Y	Y	Y
Mendoza, Tony (D-56)	Y	Y	Y	Y	NV	Y
Miller, Jeff (R-71)	N	N	N	Y	N	N
Monning, William (D-27)	NV	Y	Y	Y	Y	Y
Nava, Pedro (D-35)	Y	Y	Y	NV	Y	Y
Nestande, Brian (R-64)	N	N	N	Y	N	N
Niello, Roger (R-05)	N	N	N	Y	N	N
Nielsen, Jim (R-02)	N	N	N	Y	N	N
Perez, John (D-46)	Y	Y	Y	Y	N	Y
Perez, V. Manuel (D-80)	Y	Y	N	Y	NV	Y
Portantino, Anthony (D-44)	Y	Y	Y	Y	Y	Y
Price, Curren Jr. (D-51)	NV	NV	N/A	N/A	N/A	N/A
Ruskin, Ira (D-21)	Y	Y	Y	Y	NV	Y
Salas, Mary (D-79)	Y	Y	Y	Y	Y	Y
Saldaña, Lori (D-76)	NV	NV	Y	Y	Y	Y
Silva, Jim (R-67)	N	N	N	Y	N	N
Skinner, Nancy (D-14)	Y	NV	Y	Y	Y	Y
Smyth, Cameron (R-38)	N	N	N	Y	N	N
Solorio, Jose (D-69)	Y	Y	Y	Y	Y	Y
Strickland, Audra (R-37)	N	N	N	Y	N	N
Swanson, Sandre (D-16)	Y	Y	Y	Y	NV	Y
Torlakson, Tom (D-11)	Y	Y	Y	Y	Y	Y
Torres, Norma (D-61)	Y	Y	Y	Y	N	Y
Torrice, Alberto (D-20)	Y	Y	Y	Y	NV	Y
Tran, Van (R-68)	N	N	N	Y	N	N
Villines, Michael (R-29)	NV	N	NV	Y	N	N
Yamada, Mariko (D-08)	Y	Y	Y	Y	Y	Y

Senator	AB 574	AB 625	ABX3 2	SB 4	SB 53
Aanestad, Sam (R-04)	N	N	N	N	Y
Alquist, Elaine (D-13)	Y	Y	Y	Y	Y
Ashburn, Roy (R-18)	N	N	N	N	Y
Benoit, John (R-37)	N	Y	N	N	Y
Calderon, Ronald (D-30)	Y	Y	NV	Y	NV
Cedillo, Gil (D-22)	NV	NV	Y	NV	NV
Cogdill, Dave (R-14)	N	N	N	N	Y
Corbett, Ellen (D-10)	Y	Y	Y	Y	Y
Correa, Lou (D-34)	Y	Y	N	NV	Y
Cox, Dave (R-01)	N	N	N	N	Y
Denham, Jeff (R-12)	N	N	N	N	Y
DeSaulnier, Mark (D-07)	Y	Y	Y	Y	Y
Ducheny, Denise Moreno (D-40)	NV	Y	Y	NV	Y
Dutton, Bob (R-31)	N	NV	N	N	Y
Florez, Dean (D-16)	Y	Y	Y	Y	Y
Hancock, Loni (D-09)	Y	Y	Y	Y	Y
Harman, Tom (R-35)	N	Y	N	N	Y
Hollingsworth, Dennis (R-36)	N	N	N	N	Y
Huff, Bob (R-29)	N	N	N	N	Y
Kehoe, Christine (D-39)	Y	Y	Y	Y	Y
Leno, Mark (D-03)	Y	Y	Y	Y	Y
Liu, Carol (D-21)	Y	Y	Y	Y	Y
Lowenthal, Alan (D-27)	Y	Y	Y	Y	Y
Maldonado, Abel (R-15)	Y	N	N	Y	Y
Negrete McLeod, Gloria (D-32)	Y	Y	N	Y	Y
Oropeza, Jenny (D-28)	NV	NV	Y	Y	NV
Padilla, Alex (D-20)	NV	NV	Y	Y	Y
Pavley, Fran (D-23)	Y	Y	Y	Y	Y
Price, Curren Jr. (D-26)	Y	Y	Y	N/A	N/A
Romero, Gloria (D-24)	Y	NV	Y	Y	Y
Runner, George (R-17)	N	N	N	N	Y
Simitian, Joe (D-11)	Y	Y	Y	Y	Y
Steinberg, Darrell (D-06)	Y	Y	Y	Y	Y
Strickland, Tony (R-19)	N	Y	N	N	Y
Walters, Mimi (R-33)	N	N	N	N	Y
Wiggins, Patricia (D-02)	Y	Y	Y	Y	Y
Wolk, Lois (D-05)	Y	Y	Y	Y	Y
Wright, Rod (D-25)	N	Y	Y	NV	Y
Wyland, Mark (R-38)	N	N	N	N	Y
Yee, Leland (D-08)	Y	N	Y	Y	Y

Senator	SB 364	SB 400	SB 602	SB 603	SJR 8
Aanestad, Sam (R-04)	N	Y	N	N	N
Alquist, Elaine (D-13)	Y	Y	Y	Y	Y
Ashburn, Roy (R-18)	N	N	N	N	N
Benoit, John (R-37)	N	N	N	N	NV
Calderon, Ronald (D-30)	Y	N	Y	Y	Y
Cedillo, Gil (D-22)	NV	Y	Y	Y	Y
Cogdill, Dave (R-14)	N	N	N	N	N
Corbett, Ellen (D-10)	Y	Y	Y	Y	Y
Correa, Lou (D-34)	N	Y	N	N	Y
Cox, Dave (R-01)	N	N	N	N	N
Denham, Jeff (R-12)	N	N	N	N	N
DeSaulnier, Mark (D-07)	Y	Y	Y	Y	Y
Ducheny, Denise Moreno (D-40)	Y	Y	NV	Y	NV
Dutton, Bob (R-31)	N	N	Y	N	N
Florez, Dean (D-16)	Y	Y	NV	NV	NV
Hancock, Loni (D-09)	Y	Y	Y	Y	Y
Harman, Tom (R-35)	N	N	Y	N	N
Hollingsworth, Dennis (R-36)	N	N	N	N	N
Huff, Bob (R-29)	N	N	N	N	N
Kehoe, Christine (D-39)	Y	Y	Y	Y	Y
Leno, Mark (D-03)	Y	Y	Y	Y	Y
Liu, Carol (D-21)	Y	Y	Y	Y	Y
Lowenthal, Alan (D-27)	Y	Y	Y	Y	Y
Maldonado, Abel (R-15)	Y	Y	NV	Y	Y
Negrete McLeod, Gloria (D-32)	Y	Y	Y	NV	Y
Oropeza, Jenny (D-28)	NV	Y	Y	Y	NV
Padilla, Alex (D-20)	Y	NV	Y	Y	NV
Pavley, Fran (D-23)	Y	Y	Y	Y	Y
Price, Curren Jr. (D-26)	N/A	Y	N/A	N/A	Y
Romero, Gloria (D-24)	NV	Y	Y	Y	Y
Runner, George (R-17)	N	N	N	N	N
Simitian, Joe (D-11)	Y	Y	Y	Y	Y
Steinberg, Darrell (D-06)	Y	Y	Y	Y	Y
Strickland, Tony (R-19)	N	N	N	N	N
Walters, Mimi (R-33)	N	N	N	N	N
Wiggins, Patricia (D-02)	Y	Y	Y	Y	Y
Wolk, Lois (D-05)	Y	Y	Y	Y	Y
Wright, Rod (D-25)	Y	NV	Y	Y	Y
Wyland, Mark (R-38)	N	N	N	N	N
Yee, Leland (D-08)	Y	Y	Y	N	Y

LEGISLATION TO INCREASE CALIFORNIA'S TOBACCO TAX: QUESTIONS AND ANSWERS ABOUT THE 2009 LEGISLATIVE SESSION

How many bills were introduced in the 2009 legislative session that would have increased the state's tobacco tax?

Five bills were introduced that would have increased the state tobacco tax beyond its current level of \$.87/pack. Of these bills, two received a floor vote, one moved forward in the committee process and two did not see any legislative action.

The two bills that received floor votes were both budget bills, ABX3 2 and ABX3 39. As part of the legislature's efforts to adopt a budget for Fiscal Year 2009-2010, a \$1.50 tobacco tax increase was inserted into two budget bills that were voted on by the Assembly and the Senate. Ultimately, neither of these bills passed and separate budget legislation was adopted without a tobacco tax increase.

The main bill that was active throughout the legislative session was SB 600. This bill would have increased the tobacco tax by \$1.50/pack and was sponsored by the three major voluntary health organizations: American Cancer Society, American Heart Association and American Lung Association in California. The bill was passed by three Senate Committees but was held up in the Senate Rules Committee at the end of the legislative session.

AB 89 and ACA 22 would have increased the state tobacco tax by \$2.10/pack and \$1.48/pack respectively. Neither of these bills received any committee hearings or votes.

How would the increased tax revenues have been allocated?

For the two budget bills, ABX3 2 and ABX3 39, all of the new revenues would have been dedicated towards the state's general fund.

For SB 600, 85 percent of revenues would have been allocated to the General Fund. The other 15 percent of revenues would have been allocated into the newly created Tobacco Control and Lung Cancer Research Account. The revenues in this account would have been divided as follows: (1) 45% to the Department of Public Health, Tobacco Control Program to fund tobacco control programs including local health departments, competitive grants and media; (2) 10% to the Department of Education for programs to prevent or reduce tobacco use; (3) 10% to the University of California for tobacco related research; (4) 20% to the University of California for the establishment and administration of a Lung Cancer Early Detection and Treatment Research Program; and (5) 15% to support law enforcement efforts on tobacco-related laws. This final 15% for law enforcement would have been divided as follows: (1) 40% to the BOE to enforce laws related to distribution and retail sale of tobacco products; (2) 40% to the Department of Public Health for programs to provide training and enforcement of laws to reduce illegal sales of tobacco to minors; and (3) 20% to the Attorney General for enforcing tobacco-related laws.

For AB 89 and ACA 22, the revenues would have been appropriated to (1) education; (2) children's health care; (3) tobacco cessation services; (4) lung cancer research; and (5) general health care.

How did legislators vote on these bills?

The full floor vote information for ABX3 2 (voted on by the Senate) and ABX3 39 (voted on by the Assembly) is available above in the Tobacco Vote Record tables. For SB 600, there were three Senate committee votes held on the legislation. Below is the vote information for those three committee votes:

Passed Senate Appropriations Committee 8-5 (August 27, 2009)

Voted in Favor - Kehoe, Corbett, Hancock, Leno, Oropeza, Price, Wolk, Yee

Voted Against - Cox, Denham, Runner, Walters, Wyland

Passed Senate Revenue and Taxation Committee 5-3 (August 26, 2009)

Voted in Favor - Wolk, Alquist, Florez, Padilla, Wiggins

Voted Against - Walters, Ashburn, Runner

Passed Senate Health Committee 6-3 (June 17, 2009)

Voted in Favor - Alquist, Cedillo, DeSaulnier, Leno, Pavley, Wolk

Voted Against - Strickland, Aanestad, Cox

Absent or Not Voting - Maldonado, Negrete McLeod

What is the outlook for tobacco tax legislation in 2010?

There are many factors that make it likely that there will be tobacco tax increase legislation introduced in the 2010 legislative session. However, the two-thirds vote requirement for passing taxes remains a significant barrier to passing a tobacco tax. The continuing financial crisis in California creates the possibility that a tobacco tax increase will be considered to raise revenues for the General Fund in the 2010 session. In 2009, all three of the tobacco tax bills that were voted on would have dedicated all or a large portion of the increased revenues to the General Fund. In addition, California's cigarette tax is relatively low compared to other states. California's cigarette tax ranks 32nd in the nation and is one of only four states that have not increased the tobacco tax since 2002. Finally, there is strong support for an increase in the state's tobacco tax. A July 2009 public opinion survey conducted by Fairbank, Maslin, Maullin & Associates found that 73% of California voters support a \$1.50 tobacco tax increase. When compared to other tax increases, California voters prefer a tobacco tax increase, with 40% of voters selecting a tobacco tax increase as their first preference, ahead of increasing taxes on the wealthy, oil drilling or alcoholic beverages.