

Approved

Date

Keith Roe
3/21/90

MINUTES OF THE House COMMITTEE ON Taxation

The meeting was called to order by Representative Keith Roe at
Chairperson

9:00 a.m. ~~pm~~ on March 19, 1990 in room 519-S of the Capitol.

All members were present except:

Representative Crowell, excused
Representative Long, excused

Representative Smith, excused
Representative Spaniol, excused

Committee staff present:

Tom Severn, Research Department
Chris Courtwright, Research Department
Don Hayward, Revisor's Office
Lenore Olson, Committee Secretary

Conferees appearing before the committee:

Senator Richard Bond
Stan Koplik, Kansas Board of Regents
Davi Anne Brewer, Associated Students of Kansas
Bill Mitchell, The Tobacco Institute
Professor Dwight Lee, The Tobacco Institute
Elizabeth Taylor, Kansas Tobacco-Candy Distributors & Bendors, Inc.
Bill Henry, Phillip Morris Company
Ron Hein, R.J. Reynolds Tobacco USA
Bill Sneed, Smokeless Tobacco Council, Inc.
Joyce Oaks
Marian Ercse
Arthur Boyers

Senator Bond testified in support of SB 418, stating that the original purpose of this bill was to fund the third year of the Margin of Excellence. He also stated that about half of the shortfall above the Governor's budget for Regent's institution requests will be met if this bill is passed. Senator Bond requested that SB 418 be passed with the revenues earmarked specifically for higher education in the Regents' institutions.

Stan Koplik, Kansas Board of Regents, testified in support of SB 418, stating that this bill takes dead aim on boosting hope and optimism at the Regents campuses, and all Kansans will benefit from a much improved and more dynamic university system. (Attachment 1)

Davi Anne Brewer, Associated Students of Kansas, testified in support of SB 418, stating that they recognize the financial difficulty the state is in currently and support additional revenue measures, specifically SB 418, if it provides funding for the Kansas Board of Regents institutions. (Attachment 2)

Bill Mitchell, The Tobacco Institute, testified in opposition to SB 418, stating that it is unfair and inequitable to ask users of tobacco products to pay for a wholly-unrelated program. He also stated that cross-border sales and bootlegging activity will cause actual tax revenue losses. (Attachment 3)

Professor Lee, The Tobacco Institute, testified in opposition to SB 418, stating that: (1) the tax increase will cost Kansas merchants millions of dollars in sales that will be lost to adjacent states, and (2) the cigarette excise tax is an extremely discriminatory and regressive tax. (Attachment 4)

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Taxation

room 519-S, Statehouse, at 9:00 a.m. ~~p.m.~~ on March 19, 1990.

Elizabeth Taylor, Kansas Tobacco-Candy Distributors & Vendors, Inc., testified in opposition to SB 418, stating that the end result of this taxation is to deliver additional business opportunities away from Kansas and into other states. Ms Taylor presented several amendments to SB 418 as shown on (Attachment 5)

Bill Henry, Phillip Morris Company, testified in opposition to SB 418, stating that he supports the third year Margin of Excellence funding, but that for FY 1991, based upon the budget action of the Senate, there will be not one penny generated for the Margin of Excellence, as the bill now stands.

Ron Hein, R.J. Reynolds Tobacco USA, testified in opposition to SB 418, stating that it is, pure and simple, a general tax increase on citizens in this state - approximately 29% of the adults will pay this tax increase. (Attachment 6)

Bill Sneed, The Smokeless Tobacco Council, testified in opposition to SB 418, stating that this tax would be an extraordinarily heavy and punitive levy and is neither fair nor an effective way of providing financial support to higher education. (Attachment 7)

Joyce Oaks testified in opposition to SB 418, stating that it is a discriminatory tax to one group of people. She also stated that if this bill is passed, she will purchase her cigarettes on Indian reservations. (Attachment 8)

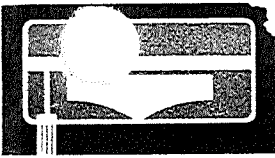
Marian Ercse testified in opposition to SB 418, stating that she is already discriminated against because she is a smoker. She also stated that she will buy her cigarettes outside Kansas if this bill is passed.

Authur Boyers testified in opposition to SB 418, stating, "I believe we are the only group in all of the 50 states to be given this honor - to finance the Margin of Excellence programs." (Attachment 9)

Chairman Roe concluded the hearing on SB 418.

The minutes of March 15 and March 16, 1990, were approved.

The meeting adjourned at 9:55 a.m.



KANSAS BOARD OF REGENTS

SUITE 609 • CAPITOL TOWER • 400 SW EIGHTH • TOPEKA, KANSAS 66603-3911 • (913) 296-3421

TESTIMONY TO HOUSE TAXATION COMMITTEE

Dr. Stanley Z. Koplik, Executive Director
Kansas Board of Regents
March 19, 1990

Chairman Roe and Members of the Committee:

It is unusual for me to appear before this committee offering testimony in support of a specific tax measure. But, at the same time, our Kansas Regents institutions are facing unusual stress to deliver the necessary quality education expected by our citizens.

The origins of Senate Bill 418 can be traced back to a desire by twenty-two Senate sponsors to sustain the purposes and spirit embodied in The Margin of Excellence plan initiated by the Regents and enthusiastically supported by the Kansas Legislature for the past two years. Indeed, our Kansas Regents institutions have made notable progress in their abilities to recruit and retain highly sought-after faculty and improve the reputational and substantive quality of our academic offerings. Kansans have much to be proud of with regard to the measured efforts of our universities. Our march toward fulfilling the goals and objectives of The Margin of Excellence are seriously threatened by the current financial dilemmas faced by our state. Senate Bill 418 represents a bold and innovative approach to maintaining the success of The Margin of Excellence because it proclaims that "Kansans finish what they start."

There is another dimension to the importance of your favorable consideration of Senate Bill 418 which I want to bring to your attention. Each of our universities is currently engaged in major private fund raising activities. For example, for the past two years, and we anticipate over the next several years, The University of Kansas, Wichita State University and Kansas State University will collectively raise \$500 million from private sources. The recent successes at these universities can, in large part, be attributed to the private sector's feeling that the State of Kansas is doing all it can in fulfilling its responsibilities to its public universities. This statement can be reaffirmed and thereby provide significant dividends in support of our institutions through the state's assertion that it is continuing its commitment by identifying a new and separate revenue source for keeping the spirit and enthusiasm for The Margin of Excellence in the forefront of the public agenda. Senate Bill 418 takes dead aim on boosting hope and optimism at the Regents campuses. In the final analysis, all Kansans will benefit from a much improved and more dynamic university system.

Thank you for your consideration of this important matter.



ASSOCIATED STUDENTS OF KANSAS

The Student Governments of the Regents Institutions

TO: House Taxation Committee
FROM: Davi Anne Brewer, Legislative Director
DATE: 19 March 1990
RE: Senate Bill 418

The Associated Students of Kansas have been a strong supporter of the Margin of Excellence since its inception. We have seen the effects of increased funding on our campuses both in faculty moral and improvements in the operations of our universities. As students we find it to be of the utmost importance to continue these efforts on behalf of our state university system. There is ongoing cooperative actions by the students in paying the increased tuition, by the universities and their private fund drives and by the Kansas legislature in the past two years in providing state monies for educational excellence. ASK leaders recognize the financial difficulty the state is in currently and are sympathetic to your situation. As a result we are willing to support additional revenue measures.

We support passage of SB418 if it provides funding for the Kansas Board of Regents institutions.

MEMORANDUM

TO: Members of the House Taxation Committee
FROM: William L. Mitchell, The Tobacco Institute
RE: Senate Bill No. 418 (As Amended by Senate Committee)
DATE: March 19, 1990

I am Bill Mitchell, representing the Tobacco Institute. Also here today as a representative of the Tobacco Institute is Alan Alderson. The Tobacco Institute appears in opposition to Senate Bill No. 418.

It is the Tobacco Institute's position that it is unfair and inequitable to ask users of tobacco products to pay for a wholly-unrelated program. This so-called "margin of excellence" bill is really nothing more than a funding mechanism for the Board of Regents institutions' operating budgets. The passage of this bill would be asking the thousands of users of tobacco products in this State to bear an extraordinary burden to fund programs which have no relationship to the object of the tax. It is no wonder that the press has had a field day with the "smoking for higher education" jokes.

In addition, we think the tax increases proposed in Senate Bill No. 418 are not good public policy. Because of the high degree of sensitivity any price differential has with cross-border sales and bootlegging activity, studies have shown that even relatively small differences in prices between taxing jurisdictions will cause actual tax revenue losses -- not just marginal reductions.

Furthermore, study after study has shown that this type of regressive consumer excise tax is unfair -- hitting lower and middle class families the hardest. Those who can least afford it carry the greatest share of the tax burden. Ironically, by the passage of this bill, you will be asking the least educated groups to pay a greater share of this State's bill for higher education.

Attached are several documents for your consideration. First, you will find a memorandum labeled Exhibit 1 from the City Manager of Evanston, Illinois, reporting cigarette tax revenues for a period of several years. These reports show that a cigarette tax reduction from 15¢ per pack to 10¢ per pack caused an increase in cigarette tax revenue subsequent to the tax reduction. The increase in revenues is said to have been caused by the fact that smokers had previously purchased cigarettes in neighboring jurisdictions where state and local taxes were substantially lower. According to the Evanston statistics, retail cigarette sales increased by approximately 68% (after netting out the month of March -- the cigarette tax reduction was phased in on April 4, 1988).

3/19/90

Attachment 3

Also attached, as Exhibit 2, is a study entitled, "An Estimate of Cigarette Excise Tax Patterns, Cross-Border Activity, and Retail Impacts in New York," dated September of 1989. We would ask you to consider the information contained in this study as well, in that it also appears to support the conclusions reached by the City Manager of the City of Evanston, Illinois.

Exhibit 3 is a multiple page document with graphic data illustrating the results of the Evanston, Illinois, the Illinois vs. Indiana and the New York vs. New Jersey price differential studies and their effects on cross-border sales and bootlegging activity.

Finally, we have attached as Exhibit 4 a map of the United States showing the tax rates in each jurisdiction. We would request you to pay particular attention to surrounding states and the effect that an increase in our cigarette and tobacco products taxes will have on revenues.

For all of the reasons stated, we respectfully urge you to vote against Senate Bill No. 418.

CITY OF EVANSTON
CITY COUNCIL MEMORANDUM

For Information Only _____ XX

Scheduled For Committee Consideration _____ Committee _____

Scheduled For Council Consideration _____ Introduction _____ Adoption _____

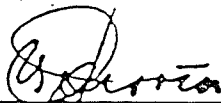
September 11, 1989

To: Mayor Barr and Aldermen
From: Joel M. Asprooth, City Manager
Subject: Cigarette Tax Revenues - August 1989

Below is a chart showing the net cigarette tax revenue by month from March 1985 to August 1989. These figures reflect all adjustments to revenue, including the reimbursements to Cook County, refunds to distributors, the County's share of tax stamp purchases, and the administrative service fee the City receives for collecting the County tax.

MONTH	1985-86	1986-87	1987-88	1988-89	1989-90
MARCH	32,218	2,904	206	40,475	22,965
APRIL	45,905	133,859	1,788	13,147(2)	22,823
MAY	46,399	18,322	9,678	43,022	48,759
JUNE	41,111	20,386	2,785	36,285	31,262
JULY	52,087	29,309	15,871	31,867	28,314
AUGUST	31,350	25,933	32,551	38,973	38,251
SEPTEMBER	58,675	30,367	(5,600)	18,902	
OCTOBER	45,825	42,537	66,434	43,232	
NOVEMBER	33,460	39,715	50,520	38,066	
DECEMBER	31,038	131,508	62,406	20,826	
JANUARY	38,679	42,160	32,560	42,341	
FEBRUARY	40,770	141,734(1)	38,644	18,435	
TOTALS	497,517	658,734	307,843	385,571	192,374

Footnotes: (1) - Rate increased from 10¢ to 15¢ per pack
(2) - Rate decreased from 15¢ to 10¢ per pack



City Manager

JMA:ls

EXHIBIT 1

33

AN ESTIMATE OF CIGARETTE EXCISE
TAX PATTERNS, CROSS-BORDER
ACTIVITY, AND RETAIL IMPACTS
IN NEW YORK

September 1989

EXECUTIVE SUMMARY

A. Background and Purpose

When adjacent or nearby states levy uneven excise taxes on cigarettes, a market imperfection is created--the same pack of cigarettes costs more in one state than it does in an adjacent state. This imperfection provides people in the high tax state with the incentive to cross the border into the low tax state to purchase cigarettes. Via this cross-border activity, low priced cigarettes are substituted for high priced cigarettes. This cross-border activity reduces tax revenue and business sales in the high tax state while increasing tax revenue and business sales in the low tax state.

The purpose of this report is to analyze the demand for cigarettes in New York and estimate the incidence of cross-border cigarette activity. Estimates are developed both for the current level of cross-border activity and for increases in cross-border activity resulting from a 12 cent excise tax increase and a proposed 7 cent additional tax increase.

These effects are examined in greater detail in the border and retail analyses. The border effect analysis presents the losses resulting from cross-border activity in the major border counties of New York. The retail effect analysis estimates the lost tie-in sales with cigarettes at the border county level. Tie-in sales are those additional items such as soft drinks, beer, milk products, and groceries that are purchased on average along with cigarettes. These tie-in sales are lost to New York retailers when residents cross the border to purchase cigarettes.

B. Results

1. Current Cross-Border Activities

There is currently a significant degree of cross-border cigarette activity in New York, where 53 percent of the population is concentrated in 12 counties near the border. Much of the cross-border activity is apparently concentrated in the high tax New York City area.¹

- o In 1988, approximately 9.89 packs per capita were purchased out-of-state and brought into New York to avoid state and local taxes. This represents about 177.8 million total packs.
- o These out-of-state packs represented an estimated \$44.1 million in forgone tax receipts to the state of New York and New York City in 1988.
- o In 1988, businesses lost sales revenue of approximately \$176.5 million due to lost cigarette sales.

2. Effects of a Consumer Excise Tax Increase

a. Effect of a 12 Cent Tax Increase

While it is difficult to predict with accuracy what can happen when New York increases its excise tax to 33 cents/package, this analysis suggests (based on 1988 conditions) that the tax will further increase the incentives for state residents to engage in cross-border cigarette activities.

¹ The cigarette excise tax in the state of New York was 21 cents/pack and New York City was 29 cents in 1988.

- o The analysis suggests that the effect of the tax increase would be lost cigarette sales to New York retailers of 10.24 packs per capita, in addition to losses created by current tax differentials. This represents 184.0 million packs of cigarettes.
- o These packs also represent \$89.0 million of lost tax revenues², and \$182.7 million in lost gross sales revenue to New York retailers beyond current losses.
- o As summarized in Table ES-1, these effects added to current tax and sales revenue losses would bring total estimated tax losses to \$133.1 million and the total losses of business sales revenue to \$360.5 million.

TABLE ES-1

SUMMARY OF TAX AND REVENUE LOSSES
ASSOCIATED WITH CROSS-BORDER ACTIVITY

	<u>Lost Tax Revenue*</u>	<u>Lost Cigarette Sales Revenue</u>
Current Losses	\$44.1 million	\$176.5 million
Additional Losses Associated With 12 Cent Tax Increase	\$89.0 million	\$184.0 million
TOTAL	----- \$133.1 million	----- \$360.5 million

*These tax receipts would have been collected by the state of New York if cigarettes were purchased within the state.

²The lost tax revenue is the tax receipts which would have been collected by the state of New York if cigarettes were purchased within the state rather than outside of the state's borders.

b. Effect of a 19 Cent Tax Increase

In addition to estimating losses associated with a 12 cent tax increase, our analysis examines the effect of a 19 cent excise tax increase in 1988. If New York had increased its excise tax to 38 cents/package in 1988, our analysis suggests an additional \$161.3 million of tax revenue would have been lost, representing \$289.2 million in lost business revenues. As summarized in Table ES-2, this would bring total estimated tax losses to \$205.4 million and the total losses of cigarette sales revenue to \$465.7 million.

	<u>Lost Tax Revenue</u>	<u>Lost Cigarette Sales Revenue</u>
Current Losses	\$44.1 million	\$176.5 million
Additional Losses Associated With 19 Cent Tax Increase	\$161.3 million	\$289.2 million
TOTAL	\$205.4 million	\$465.7 million

c. Border Effect

The border effect presents the tax losses and cigarette sales losses for each of the 12 major border counties in New York most likely to be affected by the tax increases. For example, Table ES-3 presents the border county losses assuming a 12 cent tax increase in 1988.

TABLE ES-3

LOST CIGARETTE TAX AND SALES REVENUE IN
NEW YORK BORDER COUNTIES WITH 12 CENT TAX INCREASE

<u>County</u>	<u>Lost Tax Revenue*</u> <u>(Million \$)</u>	<u>Lost Cigarette</u> <u>Sales Revenue</u> <u>(Million \$)</u>
Kings	24.8	60.1
Queens	20.1	49.9
New York	16.1	38.9
Bronx	13.1	31.6
Westchester	7.5	22.5
Richmond	4.1	9.8
Orange	2.5	7.5
Rockland	2.3	6.9
Dutchess	2.2	6.7
Broome	1.8	5.4
Rensselaer	1.3	3.9
Chautaugua	1.2	3.7
Other Border		
<u>Counties</u>	<u>7.5</u>	<u>22.5</u>
TOTAL	104.9	269.4

* These tax receipts would have been collected by the state of New York if cigarettes were purchased within the state.

d. Retail Effect of Cross-Border Activity

When people cross the border to purchase cigarettes, they purchase additional items such as soft drinks, milk products, and groceries. If New York had increased its excise tax by 12 cents in 1988, our retail analysis suggests that, in addition to lost cigarette sales revenue, \$330.5 million in tie-in sales would be lost to border county retailers. Similarly, had New York increased its excise tax by 19 cents in 1988, our retail

analysis suggests that, in addition to lost cigarette sales revenue, \$428.6 million in tie-in sales would be lost to border county retailers. These are summarized in Table ES-4.

TABLE ES-4

SUMMARY OF RETAIL LOSSES IN NEW YORK
WITH 12 AND 19 CENT TAX INCREASES

	<u>Lost Cigarette Revenue</u>	<u>Lost Retail Revenue*</u>
Total Losses Associated With 12 Cent Tax Increase	\$360.5 million	\$330.5 million
Total Losses Associated With 19 Cent Tax Increase	\$465.7 million	\$428.6 million

* This represents the tie-in sales lost to border county retailers.

The following graphs demonstrate the negative effect cigarette excise tax increases have on sales and tax receipts because of sales losses due to bootlegging and cross-border purchases. The first graph displays the change in revenue after EVANSTON, ILLINOIS increased the local excise tax on cigarettes 5 cents, and then two years later, decreased the tax by 5 cents. The following two graphs chart the percent change in tax-paid packs of cigarettes sold in (1) INDIANA vs. ILLINOIS and (2) NEW YORK vs. NEW JERSEY after a tax increase was implemented in Illinois and New York.

EVANSTON, ILLINOIS

As chart 1 indicates, Evanston, Illinois increased the local excise tax on cigarettes by 5 cents from 10 cents to 15 cents in December of 1987, raising the total tax on cigarettes in Evanston to 67 cents (including federal, state and sales tax). Prior to the tax increase, revenues had increased 32 percent over the previous year. The year following the tax increase, 1988, cigarette tax revenues declined over 53 percent. The decrease in sales was due to cross-border sales to states such as Indiana, where state and local taxes total only 15.5 cents, or other cities in Illinois that had either no local cigarette tax or a lower local tax.

On April 4, 1988, to discourage cross-border cigarette sales, the city of Evanston reduced the local tax by 5 cents. According to the data provided by the office of the Evanston City Manager, cigarette tax revenues increased 25 percent in 1989. Therefore, lower cigarette taxes have greatly increased retail cigarette sales and expanded tax revenues.

ILLINOIS VS. INDIANA

On July 1, 1989, Illinois increased the state excise tax by 10 cents, raising the total state tax to 30 cents per pack. Therefore, an individual purchasing cigarettes in Chicago, Illinois now pays 66 cents in taxes alone on a single pack of cigarette. In Indiana, the total cigarette tax is 31.5 cents per pack, less than half the tax in Chicago.

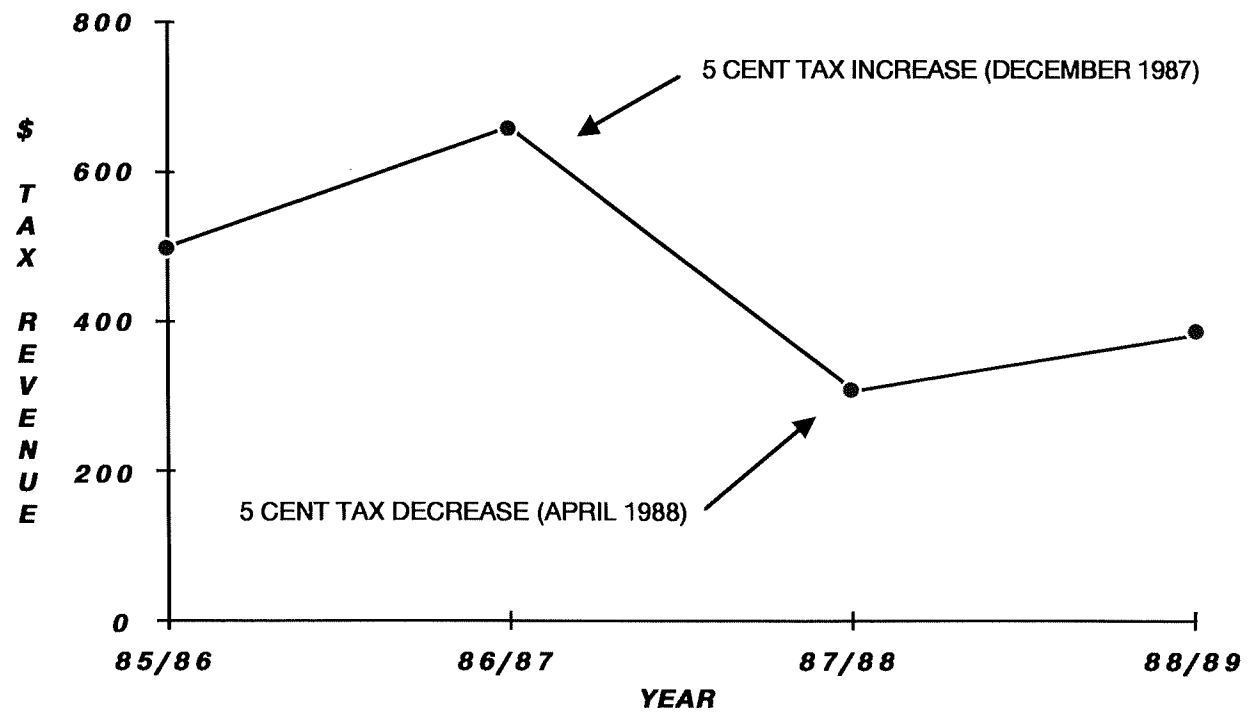
A comparison of cigarette sales in the first three quarters of 1988 vs. 1989 indicates a significant drop after the Illinois tax increase went into effect in July. During the first quarter, Illinois and Indiana both showed an increase in tax-paid cigarette sales, .4 percent and 1.2 percent, respectively. During the second quarter, Illinois showed an increase of more than 6 percent, while Indiana showed a decrease of 1.8 percent. After the tax increase was implemented in July 1989, sales in Illinois dropped by more than 15 percent vs. 1988, while sales in Indiana increased by almost 3 percent.

NEW YORK VS. NEW JERSEY

New York State increased the cigarette excise tax in May 1989 to a rate of 33 cents per pack. Including federal, state and local taxes, a New York City resident pays 62 cents in taxes on a single pack of cigarettes.

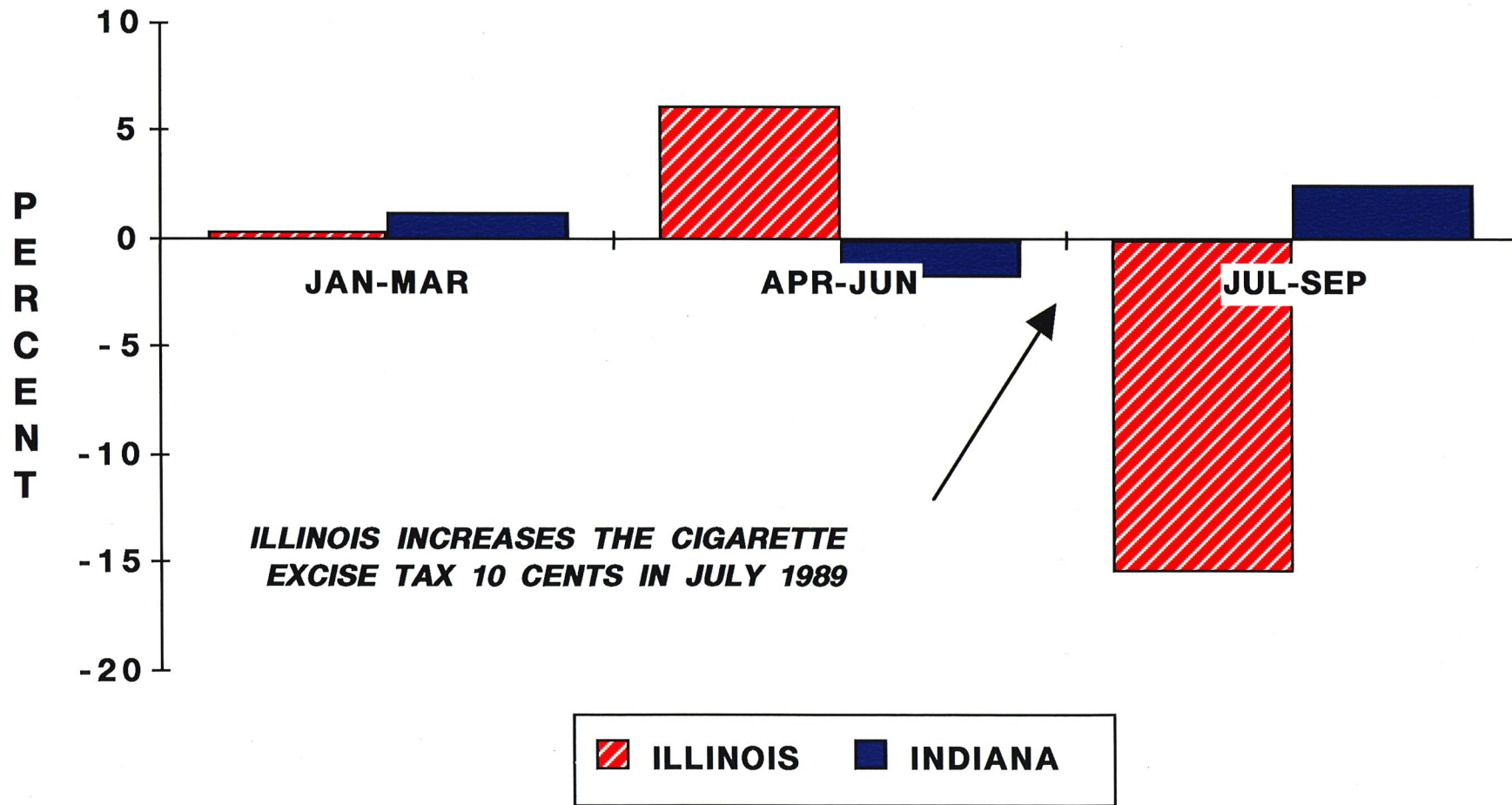
As a result of cross-border sales and bootlegging, cigarette sales have been declining in New York, while in other states, such as New Jersey, sales have been increasing. For example, comparing the period before the tax increase in the State of New York, sales in New Jersey were decreasing at a rate twice that of New York. After New York increased its cigarette tax, sales in New Jersey increased, while sales in New York decreased almost 10 percent. At the old tax rate of 21 cents per pack, the New York State's Tax Commissioner estimated the state lost \$25 million in tax revenues because of cigarette bootlegging and this was before the tax was increased more than 55 percent.

**CHANGE IN CIGARETTE TAX REVENUE 1985 - 1989
IN EVANSTON, ILLINOIS (\$THOUSANDS)**



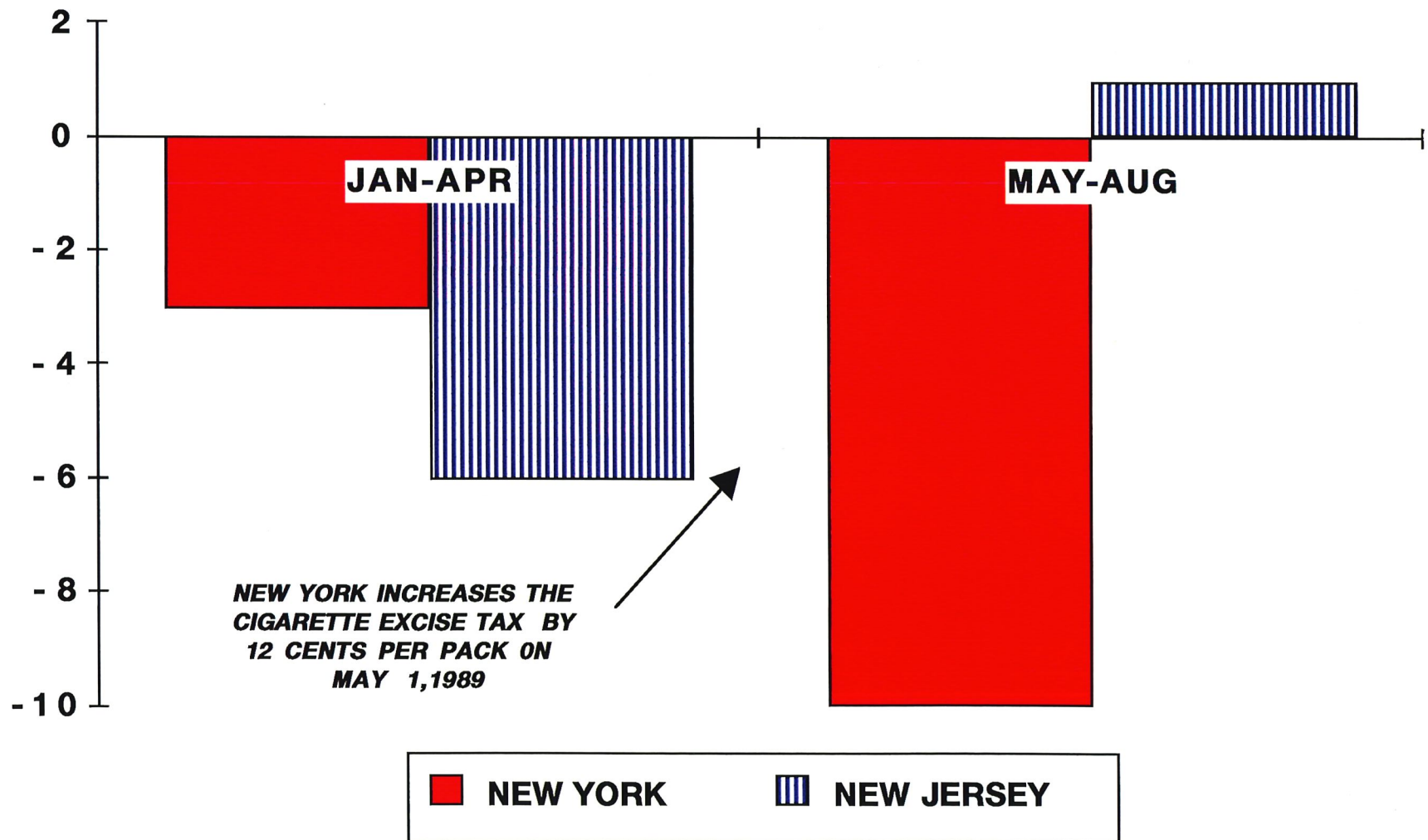
3-12

PERCENT CHANGE IN PACKS OF CIGARETTES SOLD 1988 VS. 1989



3-13

PERCENT CHANGE IN PACKS OF CIGARETTES SOLD 1988 - 1989



8-14

Bootlegging:

When Tax Laws Encourage Lawbreaking

by David F. Vite

Most consumers will search for the best price on a product they buy frequently. This may entail going to a different market or an outlet mall to compare, but certainly not to another state. However, this, too, has become a practice of consumers, and one that has become so popular, it's hurting the state itself.

The problem that I am talking about is bootlegging, and the root of the problem is inconsistent state consumer excise taxes on products such as tobacco, gasoline and alcohol. States that levy higher excise taxes on such products create an incentive for bootlegging. The overall results: declines in state retail sales, jobs and tax revenue. And whether petty or major in scale, everyone seems to be doing it these days.

The reality of bootlegging is that the very state government that is looking for increased revenue takes the loss in the end.

For example, Illinois, which levies a 30 cent-per-pack state consumer excise tax on cigarettes, has experienced a surge in bootlegging. The Illinois Department of Revenue estimates a loss of up to \$13 million in tax reve-

nue annually. One truckload carrying 500 cases of bootleg cigarettes can result in a potential tax loss of \$188,000 to the state.

However, when you look at Illinois' border states and compare their per-pack taxes — Kentucky (3 cents), Missouri (13 cents) and Indiana (15.5 cents) — the motivation is clear. And two-thirds of Illinois' population is concentrated in seven border counties.

Similarly, in Florida, a significant part of the estimated \$125 million annual sales of non-tax-paid cigarettes are bootlegged. This comes as no surprise when you consider that North Carolina levies a 2 cent-per-pack tax as opposed to 24 cents in Florida. Bootleggers make incredible profits: 22 cents per pack, \$2.20 per carton and \$132 per case of 60 cartons. A semi-truck holding 560 cases could bring in \$73,920.

And price disparities between California and other states can range as high as 33 cents per pack, \$3.30 per carton, \$198 per case. By avoiding the taxes, bootleggers can make a profit of nearly \$200,000 per load on a semi-tractor-trailer rig.

The list continues. Minnesota recently joined 13 other states to set up a

telephone hotline to combat growing tobacco bootlegging. However, law enforcement efforts to curtail the cross-border activities remain ineffective.

It is increasingly difficult to understand why state budgeters, who should know that tobacco tax increases represent a poor long-term choice as a revenue raiser, continue to enact them. Consumption is not growing, but bootlegging is. Tobacco retailers and distributors have repeatedly told legislatures that such activities would increase as long as consumer excise taxes continue to rise. And facts have borne this out.

Further, study after study has shown that consumer excise taxes on cigarettes are unfair, hitting the lower- and middle-class families the hardest. Those who can least afford it carry the greatest share of this tax burden.

Lawmakers need to go back to the drawing board and take a second look at their consumer excise taxes. **lll**

David F. Vite is president of the Illinois Retail Merchants Association, one of the largest state retail associations in the United States.

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3-15

STATE CIGARETTE EXCISE TAX RATES

(As of January 1, 1990)

3/16



EXHIBIT 4

State's tax is approximate, based on 40% of wholesale price.

TOPEKA, KANSAS

19 MARCH 1990

MY NAME IS DWIGHT LEE

PROFESSOR OF ECONOMICS UNIV. OF GA.

I HAVE SPECIALIZED IN THE FIELD OF PUBLIC FINANCE,
HAVING WRITTEN AND TAUGHT IN THE AREA FOR A NO. OF YEARS.

I AM HERE AT THE REQUEST OF THE TOBACCO INSTITUTE
TO SHARE SOME INFORMATION THAT IS PERTINANT TO
THE PROPOSED 5 CENT INCREASE IN THE STATE EXCISE TAX ON
CIGARETTES.

TWO GENERAL POINTS THAT I WOULD LIKE TO MAKE

1. THE TAX INCREASE WILL COST KANSAS MERCHANTS MILLIONS
OF DOLLARS IN SALES, SALES THAT WILL BE LOST TO ADJACENT
STATES.

2. THE CIGARETTE EXCISE TAX IS AN EXTREMELY DISCRIMINATORY
AND REGRESSIVE TAX.

IMPOSES A FAR GREATER BURDEN ON MINORITIES AND THE POOR,
AS A PERCENTAGE OF INCOME, THAN IT IMPOSES ON THE MORE
AFFLUENT.

KANSAS CURRENTLY IMPOSES AN EXCISE TAX ON CIGARETTES OF 24 CENTS PER PACK, A TAX THAT IS HIGHER THAN IS BEING IMPOSED IN EVERY ADJACENT STATE EXCEPT NEBRASKA

KANSAS' CIGARETTE EXCISE TAX IS CURRENTLY

\$1.10 PER CARTON HIGHER THAN OKLAHOMA'S.

\$.40 PER CARTON HIGHER THAN COLORADO'S

\$1.10 PER CARTON HIGHER THAN MISSOURI'S

WITH A 5 CENT PER PACK INCREASE IN THE KANSAS TAX, THESE PER CARTON DIFFERENCES WOULD BE

\$.60 FOR OKLAHOMA

\$.90 FOR COLORADO

\$1.60 FOR MISSOURI.

AND A CARTON OF CIGARETTES WOULD COST MORE IN KANSAS THAN IN NEBRASKA.

→ \$1.20

AS AN ECONOMIST I CAN ASSURE YOU THAT THESE PRICE DIFFERENCES CAN, AND WILL, HAVE A SIGNIFICANTLY NEGATIVE EFFECT ON CIGARETTES SALES IN KANSAS.

FOR EXAMPLE, IF THE PROPOSED TAX INCREASE IS INACTED, A KANSAS FAMILY OF TWO, EACH A PACK AND HALF A DAY SMOKER, WOULD SAVE

\$65.70 PER YEAR BY PURCHASING THEIR CIGARETTES FROM OKLAHOMA,

\$98.55 PER YEAR BY PURCHASING THEIR CIGARETTES FROM COLORADO,

\$175.20 PER YEAR BY PURCHASING THEIR CIGARETTES FROM MISSOURI,

THERE CAN BE NO DOUBT THAT ^{Savings} PRICE ~~DIFFERENCES~~ SUCH AS ^{These} ~~THESE~~ WILL MOTIVATE KANSAS SMOKERS TO OBTAIN MORE OF THEIR CIGARETTES OUTSIDE THE STATE

I'M NOT NECESSARILY TALKING ABOUT PROFESSIONAL BOOTLEGGING HERE,

ALTHOUGH SOME WOULD NO DOUBT BE ENCOURAGED.

AND IN THIS REGARD ITS WORTH NOTING THAT

1. IT IS ONLY A SHORT DRIVE ALONG INTERSTATE 70 FROM MANY POPULATED AREAS OF KANSAS TO MISSOURI.

2. KENTUCKY IS ONLY ABOUT 300 MILES FROM THE KANSAS BORDER.

3. THERE ARE MILITARY BASES NEAR POPULATION CENTERS IN KANSAS.

A STUDY IN 1985 BY THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS FOUND THAT MILITARY BASES ACCOUNTED FOR 6.3% OF ALL CIGARETTE SALES IN KANSAS IN 1983. AND THE STATE EXCISE TAX ON CIGARETTES WAS ONLY 11 CENTS PER PACK AT THAT TIME.

1. ALL THE DISTANCES HERE, ^{included the distance to Kentucky} ARE SIGNIFICANTLY LESS THAN THAT BETWEEN NORTH CAROLINA AND NEW YORK CITY, A DISTANCE THAT SMUGGLERS HAVE NOT FOUND TO BE MUCH OF AN INCONVENIENCE.

Kansas citizens who obtain cigarettes from Kentucky will save \$2.60 per carton if the proposed excise tax increase is enacted.

the 2 smoker family mentioned earlier would save \$284.70 per year.

BUT QUITE APART FROM PROFESSIONAL LARGE SCALE BOOTLEGGING,

IT IS EASY FOR PEOPLE TO PICK UP A FEW EXTRA CARTONS OF CIGARETTES WHILE IN A NEARBY STATE, OR ON A MILITARY BASE, FOR THEMSELVES OR FOR FRIENDS.

THIS DOESN'T REQUIRE THAT THEY MAKE A SPECIAL TRIP ACROSS STATE LINES, OR TO A MILITARY BASE ALTHOUGH SOME WILL.

BUT REGARDLESS OF WHETHER SPECIAL TRIPS ARE MADE OR NOT, OR WHETHER PROFESSIONAL BOOTLEGGING IS A FACTOR OR NOT, THE EVIDENCE IS CLEAR THAT DIFFERENCES AMONG STATES IN CIGARETTES PRICES AFFECT THE LOCATION OF CIGARETTE SALES.

IT SHOULD BE NOTED THAT SINCE THE LAST CIGARETTE EXCISE TAX INCREASE IN OCTOBER 1985, THAT PER CAPITA CIGARETTE SALES IN KANSAS HAVE FALLEN BY 12%. ONLY ABOUT 6% OF THIS DECREASE CAN BE EXPLAINED BY THE TREND IN PER CAPITA CIGARETTE CONSUMPTION.

ALSO CONSIDER THAT
IN 1987 MINN. INCREASED THE PRICE OF CIGARETTES BY 12.5 %
WITH A TAX INCREASE AND IN 1988 SALES DECLINED BY 12.1%.

Pub
tax
ir

IN 1987 UTAH INCREASED THE PRICE OF CIGARETTES BY 10.1%
WITH A TAX INCREASE AND IN 1988 SALES DECLINED BY 18.1%.

MORE RECENTLY

CALIFORNIA RAISED ITS CIGARETTE EXCISE TAX TO 35 CENTS PER PACK ON JANUARY 1, 1989, AND CIGARETTE SALES FOR THE YEAR DROPPED 11.5 % BELOW 1988 SALES.

IN NEW YORK THE STATE EXCISE TAX ON CIGARETTES WAS INCREASED TO 33 CENTS ON MAY 1, 1989. OVER THE PERIOD FROM MAY 1989 THROUGH NOVEMBER 1989 CIGARETTES SALES IN NEW YORK WERE 12% BELOW SALES OVER THE SAME PERIOD IN 1988.

changes in Smoking
THESE FIGURES DO NOT REFLECT ~~DIFFERENCES IN THE AMOUNT SMOKE~~D IN THE DIFFERENT JURISDICTIONS.

THEY REFLECT DIFFERENCES IN WHERE PEOPLE BUY THEIR CIGARETTES.

ACCORDING TO A STUDY BY THE RESEARCH FIRM PRICE WATERHOUSE, APPROXIMATELY 80% OF THE SALES DECLINE DUE TO A STATE CIGARETTE TAX INCREASE IS DUE TO CROSS BORDER SALES

Also in response to the New York increase cigarette sales in New Jersey, which had been declining, experienced an increase.

WHAT DOES THIS EXPERIENCE MEAN FOR KANSAS?

CONSIDER THE FACT THAT

THE AVERAGE PRICE OF A PACK OF CIGARETTES IN KANSAS IS CURRENTLY ABOUT \$1.36

THEREFORE, A 5 CENT INCREASE IN THE EXCISE TAX WILL INCREASE THE PRICE ABOUT 3.7%

ASSUMING A CONSUMER RESPONSE SUGGESTED BY THE EXPERIENCE IN OTHER STATES, AND BY THE PROXIMITY OF KANSAS TO STATES WITH LOWER PRICED CIGARETTES, A REASONABLE ESTIMATE IS THAT CIGARETTE SALES IN KANSAS WILL DECLINE BY APPROXIMATELY 4.0% IF THE 5 CENT EXCISE TAX INCREASE IS IMPOSED.

A 4.0% DECLINE REPRESENTS A LOSS IN CIGARETTE SALES IN KANSAS OF SOMEWHAT OVER 9.4 MILLION PACKS.

THIS REPRESENTS LOST SALES OF APPROXIMATELY \$12,860,000 TO KANSAS MERCHANTS.

CONVENIENCE STORE OWNERS ARE PARTICULARLY HARD HIT BECAUSE CIGARETTES REPRESENT 19% OF ALL CONVENIENCE STORE SALES.

AND WE ARE TALKING HERE ONLY ABOUT THE LOST FROM CIGARETTE SALES.

CIGARETTES ARE COMMONLY PURCHASED IN CONJUNCTION WITH OTHER PRODUCTS.

ASSUMING VERY CONSERVATIVELY THAT WITH THE SALES LOSS OF A CARTON OF CIGARETTES THERE IS ALSO THE LOSS OF \$5.00 WORTH OF OTHER PRODUCTS,

THEN KANSAS RETAILERS WILL LOSE ~~OVER~~ ANOTHER \$5.4 MILLION + IN SALES. ~~of this~~

THIS REPRESENTS A TOTAL LOSS IN SALES OF OVER \$18.2 MILLION TO KANSAS MERCHANTS.

IT SHOULD BE POINTED OUT THAT THE STATE NOT ONLY DOESN'T COLLECT THE EXCISE TAX ON THE LOST CIGARETTE SALES, IT ALSO LOSES THE SALES TAX ON THE LOST SALES OF BOTH CIGARETTES AND OTHER PRODUCTS.

THIS LOST REVENUE IS ESTIMATED TO BE APPROXIMATELY \$792,000.

SO THE PROPOSED TAX WILL IMPOSE SIGNIFICANT SALES AND PROFIT LOSSES ON KANSAS BUSINESSES.

IT SHOULD ALSO BE EMPHASIZED THAT WE ARE TALKING ABOUT MORE THAN LOST REVENUE FOR KANSAS MERCHANTS HERE.

LOST REVENUE FROM SALES WILL ALSO BE ACCOMPANIED BY LOST JOBS AND EMPLOYMENT OPPORTUNITIES IN KANSAS.

ANOTHER SERIOUS PROBLEM WITH THE CIGARETTE EXCISE TAX IS THAT IT IS AN EXTREMELY UNFAIR TAX.

IT IS WELL DOCUMENTED THAT EXCISE TAXES ARE VERY REGRESSIVE TAXES (THEY IMPOSE A GREATER BURDEN, AS A PERCENTAGE OF INCOME, ON THE POOR THAN ON THE RICH).

AND THE CIGARETTE TAX IS PROBABLY THE MOST REGRESSIVE OF ALL EXCISE TAXES.

ACCORDING TO A STUDY CONDUCTED BY THE CITIZENS FOR TAX JUSTICE, EXCISE TAXES ON TOBACCO PRODUCTS IN THE STATE OF KANSAS TOOK 7 TIMES MORE, AS A PERCENTAGE OF INCOME, FROM THOSE WITH INCOMES OF \$9,000 OR LESS COMPARED TO THOSE WITH INCOMES OF \$60,000 OR MORE.

INCREASING THE CIGARETTE EXCISE TAX WOULD OBVIOUSLY INCREASE THIS DISPROPORTIONATE BURDEN ON BLUE COLLAR WORKERS, MINORITIES, THE RETIRED, AND OTHERS ON FIXED INCOMES.

ANY ADDITIONAL REVENUE FROM THE PROPOSED TAX INCREASE WILL BE USED FOR BETTER EDUCATIONAL OPPORTUNITIES THAT WILL PROVIDE BENEFITS TO ALL CITIZENS OF KANSAS.

SIMPLE TAX JUSTICE ARGUES AGAINST PAYING FOR THESE BENEFITS WITH A DISCRIMATORY TAX THAT FALLS DISPROPORTIONATELY ON THE POOREST CITIZENS OF KANSAS.

*(only 30% of the citizens
of the poorest 30%*



Kansas Tobacco-Candy Distributors & Vendors, Inc.
Elizabeth E. Taylor - Executive Director

March 19, 1990

President
JOE WESTERMAN
Iola, Kansas

TESTIMONY IN OPPOSITION TO SB 418

Vice President
RONDA WASSENBERG
Marysville, Kansas

HOUSE TAXATION COMMITTEE

Secretary
ROBERT PIOTROWSKI
Fort Scott, Kansas

presented by

Elizabeth E. Taylor, Executive Director

Treasurer
RONALD OSWALD
Lawrence, Kansas

Thank you Mr. Chairman for allowing the Kansas Tobacco & Candy Distributors & Vendors to present our opposition of SB 418. Our organization represents small business owners, primarily family owned and operated, across Kansas. Most of our companies distribute tobacco and candy products as well as groceries, juices, snacks, paper products, etc. Most of our families have owned their businesses for an average of 20 years.

Chairman of the Board of Directors
GALE CYNOVA
Junction City, Kansas

Directors
TOM GUTHRIE
Kansas City, Kansas

Our opposition to SB 418 stems primarily from the philosophy of selecting one legal product and taxing it over other legal products. The end result of this taxation is to deliver additional business opportunities away from Kansas and into other states. This method of taxation serves as a disincentive to do business in Kansas. Kansas distributors already have fierce competition with Nebraska, Tennessee, Arkansas, Missouri and Oklahoma on these very products.

GEORGE LAWRENCE
Hutchinson, Kansas

DOYLE PEPPER
Topeka, Kansas

RICHARD REGNIER
Leavenworth, Kansas

JOHN FRAZEE
Paola, Kansas

Further, it is appalling to us that this Legislature, in a time so troubled by taxation questions, would even consider taxing one small group to benefit the needs of all. We agree that our educational system and the students and families who are served by it are very important indeed. However, because this importance reaches all, we prefer seeing another method of taxation used. Perhaps, an appropriate method would be income taxation of which we would support an increase instead of taxing one product over another.

JOE GREGORY
Pittsburg, Kansas

DENNIS KUESTER
Lawrence, Kansas

Directors at Large
MIKE CARSON
Wichita, Kansas

If, in fact, this Legislature chooses to move forward with taxation of one product over another, then we strongly recommend that the needs of those small business owners be met through the attached amendments. These amendments do the following:

KENNETH HAGMAN
Pittsburg, Kansas

DAVE MINICH
Overland Park, Kansas

- limit the sale of tax stamps to Kansas licensed wholesalers. This amendment would encourage enhanced ability to do business within the state. Current audit requirements placed on wholesalers within the state are unfairly administered due to the lack of ability to perform these same audits on distributors buying the tax stamps from as far away as New York.

TOM POPEK
Kansas City, Kansas

FRED STEVENS
Wichita, Kansas

(continued)

913-354-1605 (FAX 913-354-4247) 933 Kansas Avenue Topeka, KS 66612

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Attachment 5

- enhance the "administrative" discount found in the tax stamp application from 2.65% to 2.9%. This amendment would mean 3/4 of 1 penny per pack total "administrative" discount per pack, up from the current \$.00636 per pack.

- apply the same "administrative" discount of 2.9% to the tobacco product as well.

Further consideration for amendments not found in our proposed balloon is that of cash collection by the state for purchase of cigarette tax stamps. This suggestion would only be supported along with an amendment to require cash sales for cigarettes from the wholesaler to the retailer. This would result in a cash flow enhancement to the state of approximately \$4 million. Wholesalers would benefit by having immediate access to the receipts as well. We suggest that if the cash option were explored, perhaps there would be less or no need to increase the tax on this legal product.

In summary, we appreciate the opportunity to present our opposition of any taxation which singles out one particular legal product over another. We feel taxing a few users of one product in an effort to benefit many is an injustice to our Kansas business owners.

*unilateral
44 - based out of state*

SENATE BILL No. 418

By Senators Bond, Winter, Langworthy, Martin, Oleen, Karr, Moran, Morris, Anderson, Bogina, Daniels, Frahm, Francisco, Gaines, Harder, Kanan, F. Kerr, Lee, McClure, Montgomery, Strick and Vidricksen

12-28

13 AN ACT relating to taxation; increasing the rate of taxation imposed
14 upon cigarettes and tobacco products and providing for the dis-
15 position of revenue received therefrom; amending K.S.A. 79-3310,
16 79-3310b, 79-3311, 79-3312, 79-3371, 79-3372, 79-3378 and 79-
17 3387 and repealing the existing sections.

18
19 *Be it enacted by the Legislature of the State of Kansas:*

20 Section 1. *On and after June 1, 1990*, K.S.A. 79-3310 is hereby
21 amended to read as follows: 79-3310. There is imposed a tax upon
22 all cigarettes sold, distributed or given away within the state of
23 Kansas. The rate of such tax shall be ~~\$.24~~ \$.29 on each 20 cigarettes
24 or fractional part thereof or ~~\$.30~~ \$.3625 on each 25 cigarettes, as
25 the case requires. Such tax shall be collected and paid to the director
26 as provided in this act. Such tax shall be paid only once and shall
27 be paid by the wholesale dealer first receiving the cigarettes as herein
28 provided.

29 The taxes imposed by this act are hereby levied upon all sales of
30 cigarettes made to any department, institution or agency of the state
31 of Kansas, and to the political subdivisions thereof and their de-
32 partments, institutions and agencies.

33 Sec. 2. *On and after June 1, 1990*, K.S.A. 79-3310b is hereby
34 amended to read as follows: 79-3310b. On or before ~~October 31,~~
35 ~~1985~~ *July 31* June 30, 1990, each wholesale dealer, retail dealer
36 and vending machine operator shall file a report with the director
37 in such form as the director may prescribe showing cigarettes, cig-
38 arette stamps and meter imprints on hand at 12:01 a.m. on ~~October~~
39 ~~1,~~ ~~1985~~ *July* June 1, 1990. A tax of ~~\$.08~~ \$.05 on each 20 cigarette's
40 or fractional part thereof or ~~\$.10~~ \$.0625 on each 25 cigarettes, as
41 the case requires and ~~\$.08~~ \$.05 or ~~\$.10~~ \$.0625, as the case requires,
upon all tax stamps and all meter imprints purchased from the di-
42 rector and not affixed to cigarettes prior to ~~October 1,~~ ~~1985~~ *July*

5-4

1 June 1, 1990, is hereby imposed and shall be due and payable on
 2 or before ~~October 31, 1985~~ ~~July 31~~ June 30, 1990. The tax imposed
 3 upon such cigarettes, tax stamps and meter imprints shall be imposed
 4 only once under this act. The director shall remit all moneys collected
 5 pursuant to this section to the state treasurer who shall credit the
 6 entire amount thereof to the ~~state general~~ state board of regents
 7 margin of excellence fund.

8 Sec. 3. On and after June 1, 1990, K.S.A. 79-3311 is hereby
 9 amended to read as follows: 79-3311. The director shall design and
 10 designate indicia of tax payment to be affixed to each package of
 11 cigarettes as provided by this act. The director shall sell water applied
 12 stamps only to licensed wholesale dealers in the amounts of 1,000
 13 or multiples thereof. Stamps applied by the heat process shall be
 14 sold only in amounts of 30,000 or multiples thereof, except that such
 15 stamps which are suitable for packages containing 25 cigarettes each
 16 shall be sold in amounts prescribed by the director. Meter imprints
 17 shall be sold only in amounts of 10,000 or multiples thereof. Water
 18 applied stamps in amounts of 10,000 or multiples thereof and stamps
 19 applied by the heat process and meter imprints shall be supplied
 20 to wholesale dealers at a discount of ~~2.65%~~ ~~2.19%~~ 2.9%
 21 from the face value thereof, and shall be deducted at the time of purchase or from
 22 the remittance therefor as hereinafter provided. Any wholesale cig-
 23 arette dealer who shall file with the director a bond, of acceptable
 24 form, payable to the state of Kansas with a corporate surety au-
 25 thorized to do business in Kansas, shall be permitted to purchase
 26 stamps, and remit therefor to the director within 30 days after each
 27 such purchase, up to a maximum outstanding at any one time of
 28 85% of the amount of the bond. Failure on the part of any wholesale
 29 dealer to remit as herein specified shall be cause for forfeiture of
 30 such dealer's bond. All revenue received from the sale of such stamps
 31 or meter imprints shall be remitted to the state treasurer daily.
 32 Upon receipt thereof, the state treasurer shall deposit the entire
 33 amount thereof in the state treasury. The state treasurer shall first
 34 credit such amount thereof as the director shall order to the cigarette
 35 tax refund fund and shall credit the remaining balance as follows:
 36 (a) ~~From~~ After July 1, 1990, through ~~December 31, 1991~~, 17.25%
 37 to the state board of regents margin of excellence fund, and there-
 38 after, to the state dangerous drug law enforcement fund; and
 39 (b) 82.75% to the state general fund. A refund fund designated the
 40 cigarette tax refund fund not to exceed \$10,000 at any time shall be
 41 set apart and maintained by the director from taxes collected under
 42 this act and held by the state treasurer for prompt payment of all
 43 refunds authorized by this act. Such cigarette tax refund fund shall

located within Kansas

only to licensed wholesale dealers located within Kansas

only to licensed wholesale dealers located within Kansas

2.9%

1 of the tax paid on cigarettes which have become unfit for sale upon
 proof thereof less ~~2.65%~~ ~~2.16%~~ of such tax. 2.9%

2 Sec. 4- 5. On and after June 1, 1990, K.S.A. 79-3371 is hereby
 3 amended to read as follows: 79-3371. A tax is hereby imposed upon
 4 the privilege of selling or dealing in tobacco products in this state
 5 by any person engaged in business as a distributor thereof, at the
 6 rate of ten percent ~~(10%)~~ 15% of the wholesale sales price of such
 7 tobacco products. Such tax shall be imposed at the time the dis-
 8 tributor: (a) Brings or causes to be brought into this state from
 9 without the state tobacco products for sale; (b) makes, manufactures,
 10 or fabricates tobacco products in this state for sale in this state; or
 11 (c) ships or transports tobacco products to retailers in this state to
 12 be sold by those retailers.
 13

14 Sec. 5- 6. On and after June 1, 1990, K.S.A. 79-3372 is hereby
 15 amended to read as follows: 79-3372. On or before July 20, 1972
 16 ~~31 June 30, 1990~~, each distributor having a place of business in this
 17 state shall file a report with the director in such form as the director
 18 may prescribe, showing the tobacco products on hand at 12:01 o'clock
 19 a.m. on July June 1, 1972 1990. A tax at a rate equal to ten percent
 20 ~~(10%)~~ 5% of the wholesale sales price of such tobacco products is
 21 hereby imposed upon such tobacco products and shall be due and
 22 payable on or before July 20, 1972 ~~31 June 30, 1990~~. The tax upon
 23 such tobacco products shall be imposed only once under this act.
 24 The director shall remit all moneys collected pursuant to this section
 25 to the state treasurer who shall credit the entire amount thereof to
 26 the state board of regents margin of excellence fund.

27 Sec. 7. On and after June 1, 1990, K.S.A. 79-3378 is hereby
 28 amended to read as follows: 79-3378. On or before the twentieth
 29 20th day of each calendar month every distributor with a place of
 30 business in this state shall file a return with the director showing
 31 the quantity and wholesale sales price of each tobacco product ~~(1)~~
 32 (a) brought, or caused to be brought, into this state for sale; and
 33 ~~(2)~~ (b) made, manufactured, or fabricated in this state for sale in
 34 this state during the preceding calendar month. Every licensed dis-
 35 tributor outside this state shall in like manner file a return showing
 36 the quantity and wholesale sales price of each tobacco product
 37 shipped or transported to retailers in this state to be sold by those
 38 retailers, during the preceding calendar month. Returns shall be
 39 made upon forms furnished and prescribed by the director. Each
 40 return shall be accompanied by a remittance for the full tax liability
 41 shown therein, less four percent ~~(4%)~~ ~~2.67%~~ of such liability as 2.9%
 42 compensation to reimburse the distributor for his or her expenses
 incurred in the administration of this act. As soon as practicable

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1 after any return is filed, the director shall examine the return. If
2 the director finds that, in his or her the director's judgment, the
3 return is incorrect and any amount of tax is due from the distributor
4 and unpaid, he or she the director shall notify the distributor of
5 the deficiency. If a deficiency disclosed by the director's examination
6 cannot be allocated by him to a particular month or months, he or
7 she the director may nevertheless notify the distributor that a de-
8 ficiency exists and state the amount of tax due. Such notice shall be
9 given to the distributor by registered or certified mail.

10 Sec. 6-8. On and after June 1, 1990, K.S.A. 79-3387 is hereby
11 amended to read as follows: 79-3387. All revenue collected or re-
12 ceived by the director from the licenses and taxes imposed by this
13 act shall be deposited monthly with the state treasurer and by him
14 or her credited who shall credit each such remittance as follows:
15 (a) From After July 1, 1990, through December 31, 1991, 33 $\frac{1}{3}$ %
16 to the state board of regents margin of excellence fund; and there-
17 after, to the state dangerous drug law enforcement fund; and
18 (b) 66 $\frac{2}{3}$ % to the state general fund.

19 New Sec. 7-9. There is hereby created the state board of regents
20 margin of excellence fund in the state treasury. All moneys credited
21 to such fund shall be expended or transferred in accordance with
22 appropriation acts solely for the purpose of implementing the strat-
23 egy, commonly known as the margin of excellence, of financing
24 the operating budgets and improving the quality, condition and per-
25 formance of the institutions of higher learning under the jurisdiction
26 of the state board of regents. On January 1, 1992, such fund is
27 hereby abolished.

28 New Sec. 8. On January 1, 1992, there is hereby created
29 the state dangerous drug law enforcement fund in the state
30 treasury. All moneys credited to such fund shall be expended
31 or transferred in accordance with appropriation acts solely for
32 the purpose of aiding the waging of the war against dangerous
33 drugs in this state by providing financial assistance for state
34 and local law enforcement agencies, the court system and pro-
35 grams providing drug treatment, counseling and education.

36 Sec. 9-10. On and after June 1, 1990, K.S.A. 79-3310, 79-3310b,
37 79-3311, 79-3312, 79-3371, 79-3372, 79-3378 and 79-3387 are hereby
38 repealed.

39 Sec. 10-11. This act shall take effect and be in force from and
40 after its publication in the statute book *Kansas register*.

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HEIN AND EBERT, CHTD.

ATTORNEYS AT LAW

5845 S.W. 29th, Topeka, Kansas 66614

913/273-1441

Ronald R. Hein

William F. Ebert

HOUSE TAXATION COMMITTEE

TESTIMONY RE: SB 418

PRESENTED BY RONALD R. HEIN ON BEHALF OF

R. J. REYNOLDS TOBACCO USA

March 19, 1990

Mr. Chairman, members of the committee:

My name is Ron Hein, and I am legislative counsel for R. J. Reynolds Tobacco.

On behalf of our customers who will pay this tax, we oppose SB 418. This is not a tax increase on tobacco and this is not a tax increase on tobacco companies. SB 418 is, pure and simple, a general tax increase on citizens in this state. According to the Tobacco Institute, approximately 29% of the adults will pay this tax increase.

At a time when the voters are begging their legislators not to have anymore tax increases, this direct tax increase on hundreds of thousands of Kansans is being considered.

You have already heard testimony today that a cigarette tax increase is a regressive tax, that hits the poor harder than anybody else. In addition to that, this tax is being paid by a minority of the people in order to fund a program that benefits all Kansans.

In addition, you have also heard testimony about what this tax will do on border sales. It is possible that you will be able to measure the lost cigarette tax collections resulting from an increase in the rate, but it is doubtful that you will be able to measure the lost sales tax revenue or gasoline tax revenue which results from persons purchasing tobacco products and at the same time, gasoline and other grocery articles across the state line. Do not be deceived that simply because you're increasing the rate of the tax that the state will necessarily collect more tax revenue.

The cigarette tax was raised from \$.16 to \$.24 in 1985. If this bill is passed, in the six years from 1984 to 1990, state cigarette taxes will have gone up an astounding 81%.

Lastly, I wish to address the issue of constituent input on this issue. R. J. Reynolds does notify various smokers rights groups and individuals interested in this type of legislation. We did so in this instance. We do not send sample letters, although we do not condemn that approach. Form letters are universally utilized by public relations organizations, marketing groups, politicians, lobbying organizations, and numerous others in this computer generated letter era in which we live.

However, R. J. Reynolds did not do that. We simply informed the public that SB 418 was pending. The letters from these groups and individuals have been personally written and prepared by the voters themselves.

Thank you for considering our views today, and I would be happy to yield for any questions.

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PREPARED STATEMENT OF THE
SMOKELESS TOBACCO COUNCIL, INC.
IN OPPOSITION TO SENATE BILL 418

March 19, 1990

Mr. Chairman, Members of the Committee:

My name is Bill Sneed and I am Legislative Counsel for the Smokeless Tobacco Council, Inc. The Smokeless Tobacco Council, Inc., an association of smokeless tobacco manufacturers with its headquarters in Washington, D.C. appreciates the opportunity to present testimony in opposition to Senate Bill 418. The Council represents the major domestic manufacturers of smokeless tobacco products as well as the millions of consumers of smokeless tobacco products in Kansas and throughout the nation. I have attached an exhibit to my remarks which lists the members of the Smokeless Tobacco Council.

Initially, let me unequivocally state that the Council and its various members support all of the various goals encompassed in higher education. Many of the member companies are actively involved in scholarship programs and donations to various institutions of higher education throughout the United States. However, we submit that the tax proposal under consideration by this committee to increase the tax on smokeless tobacco products from 10% to 15% is neither fair nor an effective way of providing financial support to higher education.

FAIRNESS

Initially, it is important to point out the demographics

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of those consumers who use smokeless tobacco products. They are typically an individually between the ages of 20 and 35 years old, a high school graduate, and retain jobs which are commonly referred to as blue collar occupations. Thus, it is imminently clear as has been demonstrated by other opponents of the bill that the proposed tax would be severely regressive in nature and affect those individuals with the least amount of financial ability to pay for such a tax. In this era of attempting to provide various types of tax relief to those Kansas citizens with the least amount of financial wherewithal, we contend approval of the proposed bill would go directly to those Kansas citizens whom the Legislature has been attempting to provide tax relief for during this session. In short, a tax on smokeless tobacco is a highly regressive tax because its burdens are concentrated on people with relatively low incomes.

This issue is compounded by the fact that smokeless tobacco products are currently double taxed. There is the current 10% excise tax and in addition a sales tax at the time of purchase is added to the already taxed product.

Additionally, the bill in its current form provides the taxes on cigarettes to increase 5¢ or 24¢ to 29¢. However, the proposal on other tobacco products is to raise the rate from 10% to 15%. Thus, you are looking at just under a 21% increase on cigarettes in contrast to a 50% increase on smokeless tobacco products.

CROSS-OVER ISSUE

You will hear testimony today of the problems that occur due to the significant differences in state tax rates between the various states. Although you could argue that a 15% tax rate versus a 10% tax rate in another state could lend only minor bootlegging of products, in our case it is even more dramatic. Currently the state of Missouri has NO tax on smokeless tobacco products. This is even more dramatic in that even in Jackson County in Missouri there is NO tax on smokeless tobacco products. Thus, we believe that a 50% increase in the tax in Kansas will lead to a major loss in tax revenue.

Further, the impact extends well beyond the immediate impact on smokeless tobacco sales and tax revenues. Again, as has been testified by other opponents, people who travel to buy smokeless tobacco will buy other things as well as long as they are making the trip. Thus, the cross-cover effect is far reaching as it relates to sales tax revenues.

CONCLUSION

The Smokeless Tobacco Council opposes enactment of Senate Bill 418 because it believes such a proposed tax would be an extraordinarily heavy and punitive levy. Further, the burden of the tax would be shouldered predominately by citizens with comparatively low incomes and despite the regressive and punitive character of the proposed tax, little contribution would be made to the State of Kansas.

We appreciate this opportunity to appear before the committee today and we will be happy to answer any questions.

Respectfully submitted,

SMOKELESS TOBACCO COUNCIL, INC.

William W. Sneed
Legislative Counsel

SMOKELESS TOBACCO COUNCIL
MEMBERS

Brown & Williamson Tobacco Corporation
Louisville Galleria
Post Office Box 35090
Louisville, Kentucky 40232

Conwood Company, L.P.
813 Ridge Lake Boulevard
Post Office Box 217
Memphis, Tennessee 38101

Helme Tobacco Company
Post Office Box 10379
250 Harbor Drive
Stamford, Connecticut 06904

National Tobacco Company
Post Office Box 32980
3029 Muhammad Ali Boulevard
Louisville, Kentucky 40232

R. C. Owen Company
Post Office Box 1626
310 North Blythe
Gallatin, Tennessee 37066

The Pinkerton Tobacco Company
Post Office Box 11588
6630 West Broad Street
Brookfield Office Complex
Richmond, Virginia 23230

UST (U. S. Tobacco Company)
100 West Putnam Avenue
Greenwich, Connecticut 06830

SMOKERS' RIGHTS

Ladies & Gentlemen of the Legislature,
Thank you for the opportunity to speak before you.
My name is Joyce Oke, I am a smoker
and a voter and I'm opposed to increase
the cigarette tax for the purpose of
helping support the Reagan colleges.

I feel this is a discriminatory tax to one
group of people. It would be the same
as taxing owners of FORD products
not the others for highway taxes. One
group should not be taxed for the benefit
of all people.

Some people say you can tax something
out of existence. What would happen
if people would stop smoking because
of the high taxes?

Where would you get your money
for the Reagan colleges? Who would
you tax then?

Let's see how about - Pepsi drinkers?
Popcorn eaters?
Cable TV watchers?
or how about just only state of KS emp

ounds silly & discriminatory doesn't it?

Not only smokers feel this way about
the taxation. I know lots of non-smokers
who also are against this tax because
they realise you ~~can't~~ can do the
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SMOKERS' RIGHTS

same to them on other products and it's not fair.

Smokers are not second class citizens. We do have rights.

- 1- one right is fair & equal taxation.
- 2- another is the right to vote & vote for elected officials who respect our right as citizens of the state of Kansas.

This tax is segregating one group of people for a sin tax.

If these taxes are passed I will not purchase my cigarettes in this state. I will purchase on Indian reservations and I won't be alone.

Smokers are like any other groups of people. Bikers, Drs, lawyers.

I'm speaking on behalf of the local smokers rights chapter and we have lots of chapters across the state. I have a ^{DATE} sampling of ^{that} signatures of ~~many~~ ^{thousands} of voters who opposed the increase of cigarette taxes. These 953 people went to protect their smokers rights & fair taxation.

Individual we may sound like a squeaky little mouse but together we roar like a lion.

1-800-535-6883

SMOKERS' RIGHTS

I only hope you vote to ~~keep~~
slay the tax increase and
find some other way that is
more fair to all people to raise
the needed money without
discriminating against smokers.

Stop using smokers as a dumping
ground for raising taxes. We are
voters & tax payers.

Thank you

Light up for Education in Kt

Now when we light up or see other tobacco products we smile!

We are now a very special group of people in Kt. We have been selected by our state leg. to finance the Margin of Excellence program ~~in Kt~~. I believe we are the only group in all of the 50 states to be given this honour.

So non-smokers smile when you see us use our tobacco product, knowing that we are not only enjoying a freedom to do as we choose, we are also paying for the M & E ^{Program} plus your share ~~of the bill~~.

We hope that those who benefit from this, keep in mind the old adage - beware - don't bite the hand that feeds you.

Arthur E. Boyers

3/19/90

Attachment 9