

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

The meeting was called to order by SENATOR DAN THIESSEN at
Chairperson

11:00 a.m./~~p.m.~~ on Thursday, January 25, 1990 in room 519-S of the Capitol.

All members were present except:

Committee staff present:

Don Hayward, Revisor's Office
Chris Courtwright, Research Department
Tom Severn, Research Department
Marion Anzek, Committee Secretary

Conferees appearing before the committee:

Senator Richard Bond
Warren Armstrong-Wichita State University
Gene Budig, Chancellor-University of Kansas
Jon Wefald, President-Kansas State University
Davi Anne Brewer, Legislative Dir.-Associated Students of KS
Bill Mosley-Student at Kansas University
Mike Steinle-Kansas State University
Reverend Richard Taylor-Kansans For Life At Its Best
William L. Mitchell, The Tobacco Institute
Bill Henry-Philip Morris, U.S.A.
Ron Hein-R. J. Reynolds Tobacco USA

Chairman Thiessen called the meeting to order at 11:06 a.m. and said we will be hearing Proponents and Opponents on SB418.

SB418:AN ACT relating to taxation; increasing the rate of taxation imposed upon cigarettes and tobacco products and providing for the disposition of revenue received therefrom.

Chairman Thiessen called upon the chief sponsor of SB418 Senator Richard Bond.

The following conferees were proponents of SB418.

Senator Richard Bond said SB418 has 23 co-sponsors and he said, the effect of the bill is to increase state tax on cigarettes per pack by 5¢ and other tobacco products by 5%, and other products might be described as pipe tobacco, smokeless tobacco and cigars, etc. Research estimates this tax increase would generate approximately \$12M per year, and he said, his purpose and intent as the principle sponsor of the bill is to fund the 3rd year of the margin of excellence. He said, he did not intend to speak to the importance of the margin of excellence, because following him are a number of conferees who he said, far more than him, understand the total impact and ramifications of the margin of excellence. He said, he and a number of the other legislators feel very strongly about funding the 3rd year, and they feel the first 2 years of the margin of excellence have had a significant impact on the quality of education, that the regents institutions can deliver in our State. He said, the bill was drafted in September and the language in the original bill indicated that this tobacco tax would go for a period of 18 months, believing that would approximately fund the margin of excellence at around a \$17M, more or less figure, and the dollars then would be shifted up after 18 months to fight for war on drugs in Kansas, which he felt, all are concerned about. He said the bill was prefiled in the special session early in December with 23 co-sponsors. He said, in December all of them found that as a result of the budget request, there would be in the base budget of the regents institutions, somewhere approximately a \$20M. short-fall in the base budgets of regents institutions. He said, therefore he amended the bill, and he passed a balloon of the amendment to the members. He briefed the committee on the amendment, and said the amendment would continue the tax increase permanently and to expand its use into general operations at regents institutions. He said the tax increases would become effective July 1. (ATTACHMENT 1)

Chairman Thiessen asked Senator Bond, if this is going to be a reducing fiscal note,

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported here have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

room 519-S, Statehouse, at 11:00 a.m./~~p.m.~~ on Thursday, January 25, 1990

as more people stop smoking and less being sold? Senator Bond said research took into consideration their \$12M estimate that by raising the tax on tobacco products it may discourage usage or may cause them to buy elsewhere.

Warren Armstrong-Wichita State University said he wanted to express his appreciation to Senator Bond and the co-sponsors for their recognition of the momentum that has been created by years 1 and 2 for the regents institutions and their willingness to seek alternative courses of support for higher education, that will maintain that momentum of recognizing Kansas as an opportunity to become a State of real leadership in the western region. He said, he felt the most important by-product is the creation of the whole concept of the margin of excellence, has been institutional cooperation.

He said, within the last few months the University of Kansas, and Wichita State University has signed a cooperative research agreement that brings together in cooperation a flight research labatory. He said, in support of research initiatives that are critically important to the aviation industry, which is situated in Wichita, and in addition, he said, they have provided space within the new institute for aviation research facility on the WSU campus, or the research efforts of KSU in support of Cissna Aircraft Corp.

Gene Budig, chancellor of the University of Kansas said the boost that the Margin of Excellence has given the state's regents universities has been a catalyst for more than \$400M in private fund-raising for KU, KSU and WSU. He said the margin of excellence has been essential in promoting a partnership between the State and the private sector. He said, major campaigns are about to begin on three of the campuses, at Wichita State University the commitment to excellence campaign has raised more than \$100M dollars and continuing to its next impressive goal. At Kansas State University, preparations are under way for a campaign in the range of \$100M, campaign Kansas at KU, currently has raised more than \$153M of its \$177M goal. More than \$400M will be invested in higher education in the State of Kansas through these three campaigns. These private dollars are targeted for projects on the campuses, which are beyond the normal means of State, they are not intended by those who have contributed to replace basic State support.

Jon Wefald, president of Kansas State University said that in two years the Margin of Excellence program has dramatically increased the morale and quality of university staff. He said, we have turned a brain drain into a brain gain for Kansas.

He said universities are having good luck luring nationally known professors and that top graduates of Kansas high schools are increasingly staying in the state for college educations.

Mr. Wefald said we thank Senator Bond and this committee for hearing this bill. He said, thanks to the legislature and Governor Hayden, we have had two good years because of the margin of excellence, and he said, they are deploring the money the way it was intended by the legislature. He said, they have generated \$800M a year for the State with the margin of excellence.

Senator Karr asked Mr. Wefald from the regents standpoint, we have a bill here for the margin of excellence, and we have a base reduction for the fiscal year 1990 for the system, we have fee release questions and we have 50% funding of enrollment adjustments and asked if he could give a summary of how much money it would take to recover up to that point. Mr. Wefald said the total for funding, the shrinkage deduction is \$6.34M, student wages \$1.2M, and other operating expenditures a little over \$2M, utilities for in buildings \$.60M, unclassified salaries \$3.1M, the enrollment adjustment a little over \$4M, the fee release at KS is \$750.000. and for the system it would be \$1.59, staffing and new building, for example at KS we have our new tele-communications building, and that would be \$560.000. If you total everything but the 3rd year of the margin it is approximately \$20M and then the margin as originally conceived was about \$16M making a total of \$36M.

Davi Anne Brewer, Legislative Director-Associated Students of Kansas said the ASK have been a strong supporter of the Margin of Excellence since its inception. She said, we have seen the effects of increased funding on our campuses both in faculty moral and improvements in the operations of our universities. ASK leaders recognize the financial difficulty the state is currently in and we are sympathetic to your situation. She said, they also realize that there may be opposition to raising the cigarette tax, and she said, they are comfortable with facing that opposition and would request favorable passage of SB418 if it provides funding for the Margin of Excellence.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

room 519-S, Statehouse, at 11:00 a.m. ~~pm~~ on Thursday, January 25, 1990

Senator Montgomery asked Ms. Brewer if she had any idea of the number of student body across the state, smoke cigarettes. Ms. Brewer said no, but it could increase and help.

Bill Mosley said he was here before the margin of excellence began and he is continuing at K.U. at the present time, and is an economic and political science major, and he said one of the things he noticed, was some of his best professor's are getting offers from other universities, but since the margin of excellence it has turned around. He urged the committee to continue with the margin of excellence.

Mike Steinle-KS State University said he is a graduate student, and he said when he first went to KS, the ratio of faculty and student in graduate school was about 30 to 1, and since the beginning of this semester with the increase in enrollment, combined with freezing the fee release, these classes have exploded to about 80 to 1. He said it is hard to get individual attention that you need in graduate school, when there are that many students per professor. The funding of this bill will help this problem, and he urged the committee to support SB418.

Reverend Richard Taylor-Kansans For Life At Its Best, said there is no way to tax cigarettes enough to balance out the suffering they cause in, the work place, additional hospital, medical and insurance costs. He felt, the current taxes on tobacco products could be increased ten fold and that would not equal the cost of human and economic suffering caused by this recreational drug. (ATTACHMENT 3)

Chairman Thiessen told the members they have a written statement from Craig Grant, Kansas NEA in support of SB418. (ATTACHMENT 4).

THE FOLLOWING CONFEREES ARE OPPONENTS OF SB418.

WILLIAM L. MITCHELL, The Tobacco Institute said the Tobacco Institute and the Tobacco Industry is not fighting the margin of excellence, as we do not feel that is an issue. He said, they support the Margin of Excellence 100%. He said the tobacco industry is providing about \$55M a year to the general fund of Kansas, through tax on smokers, who are citizens of Kansas. The tax is not on the tobacco industry, the tax is on the people who use cigarettes in the State of Kansas or other tobacco products in the State of Kansas.

Mr. Mitchell said page two of his testimony shows a chart of a study by the City of Evanston, Illinois showing where they decreased their excise tax on cigarettes from 15¢ per pack to 10¢ per pack, and they increased their revenue by decreasing their excise tax. He said, there are several other studies which show the same thing. He said, in Kansas City, where this problem has come forth just recently, you have a 44¢ tax in Kansas City, Mo and 16¢ of that is Federal, 13¢ is the Missouri State tax, 5¢ is Jackson County tax, and 10¢ is the Kansas City, Missouri tax, for a total of 44¢. If you raise the tax here a nickel or a dime, which I heard has been proposed at 10¢ in the House to fund welfare, so I guess, you will have a battle between the Margin of Excellence and Welfare as to who gets the most tax revenue out of the smokers of Kansas.

He asked the committee to look at the attached map in his handout showing the tax rates of the United States, in each jurisdiction, and he asked the members to pay particular attention to surrounding states and the effect that an increase in our cigarette and tobacco products taxes will have on Kansas revenues. (ATTACHMENT 5)

Bill Henry appearing on behalf of Philip Morris, U.S.A. He said Philip Morris does not question the value of the Margin of Excellence program to the citizens of Kansas but Philip Morris agrees with the Tobacco Institute that it is unfair to require only those Kansans who use tobacco products to finance the 3rd year. He said he agrees with Bill Mitchell and the Tobacco Institute. (ATTACHMENT 6)

Ron Hein representing R.J. Reynolds Tobacco USA. He said, they concur with the previous opponents of SB418 He said, on behalf of the thousands of Kansas taxpayers who will be forced to pay this hidden tax, we would urge you to defeat SB418. (ATTACHMENT 7)

Chairman Thiessen thanked the conferees and concluded hearings on SB418

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION,
room 519-S, Statehouse, at 11:00 a.m./~~p.m.~~ on Thursday, January 25, 1990

Senator Francisco moved to adopt the minutes of January 22, 1990, 2nd by Senator Langworthy. The motion carried.

Chairman Thiessen adjourned the meeting at 12:06 p.m. .

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

AN ACT relating to taxation; increasing the rate of taxation imposed upon cigarettes and tobacco products and providing for the disposition of revenue received therefrom; amending K.S.A. 79-3310, 79-3310b, 79-3311, 79-3371, 79-3372 and 79-3387 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

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

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

Sec. 2. K.S.A. 79-3310b is hereby amended to read as follows: 79-3310b. On or before ~~October 31, 1985~~ July 31, 1990, each wholesale dealer, retail dealer and vending machine operator shall file a report with the director in such form as the director may prescribe showing cigarettes, cigarette stamps and meter imprints on hand at 12:01 a.m. on ~~October 1, 1985~~ July 1, 1990. A tax of ~~\$.08~~ \$.05 on each 20 cigarettes or fractional part thereof or ~~\$.10~~ \$.0625 on each 25 cigarettes, as the case requires and ~~\$.08~~ \$.05 or ~~\$.10~~ \$.0625, as the case requires, upon all tax stamps and all meter imprints purchased from the director and not affixed to cigarettes prior to ~~October 1, 1985~~ July 1, 1990, is hereby imposed and shall be due and payable on or before ~~October 31, 1985~~ July 31, 1990.

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

1-2

1 The tax imposed upon such cigarettes, tax stamps and meter imprints
2 shall be imposed only once under this act. The director shall remit
3 all moneys collected pursuant to this section to the state treasurer
4 who shall credit the entire amount thereof to the ~~state general state~~
5 *board of regents margin of excellence* fund.

6 Sec. 3. K.S.A. 79-3311 is hereby amended to read as follows:
7 79-3311. The director shall design and designate indicia of tax pay-
8 ment to be affixed to each package of cigarettes as provided by this
9 act. The director shall sell water applied stamps only to licensed
10 wholesale dealers in the amounts of 1,000 or multiples thereof.
11 Stamps applied by the heat process shall be sold only in amounts
12 of 30,000 or multiples thereof, except that such stamps which are
13 suitable for packages containing 25 cigarettes each shall be sold in
14 amounts prescribed by the director. Meter imprints shall be sold
15 only in amounts of 10,000 or multiples thereof. Water applied stamps
16 in amounts of 10,000 or multiples thereof and stamps applied by
17 the heat process and meter imprints shall be supplied to wholesale
18 dealers at a discount of 2.65% from the face value thereof, and shall
19 be deducted at the time of purchase or from the remittance therefor
20 as hereinafter provided. Any wholesale cigarette dealer who shall
21 file with the director a bond, of acceptable form, payable to the
22 state of Kansas with a corporate surety authorized to do business in
23 Kansas, shall be permitted to purchase stamps, and remit therefor
24 to the director within 30 days after each such purchase, up to a
25 maximum outstanding at any one time of 85% of the amount of the
26 bond. Failure on the part of any wholesale dealer to remit as herein
27 specified shall be cause for forfeiture of such dealer's bond. All
28 revenue received from the sale of such stamps or meter imprints
29 shall be remitted to the state treasurer daily. Upon receipt thereof,
30 the state treasurer shall deposit the entire amount thereof in the
31 state treasury. The state treasurer shall first credit such amount
32 thereof as the director shall order to the cigarette tax refund fund
33 and shall credit the remaining balance *as follows: (a) From July 1,*
34 *1990, through December 31, 1991, 17.25% to the state board of*
35 *regents margin of excellence fund, and thereafter, to the state dan-*
36 *gerous drug law enforcement fund; and (b) 82.75% to the state*
37 *general fund.* A refund fund designated the cigarette tax refund fund
38 not to exceed \$10,000 at any time shall be set apart and maintained
39 by the director from taxes collected under this act and held by the
40 state treasurer for prompt payment of all refunds authorized by this
41 act. Such cigarette tax refund fund shall be in such amount as the
42 director shall determine is necessary to meet current refunding re-
43 quirements under this act.

After

1 The wholesale cigarette dealer shall affix to each package of cig-
2 arettes stamps or tax meter imprints required by this act prior to
3 the sale of cigarettes to any person, by such dealer or such dealer's
4 agent or agents, within the state of Kansas. The director is empow-
5 ered to authorize wholesale dealers to affix revenue tax meter im-
6 prints upon original packages of cigarettes and is charged with the
7 duty of regulating the use of tax meters to secure payment of the
8 proper taxes. No wholesale dealer shall affix revenue tax meter im-
9 prints to original packages of cigarettes without first having obtained
10 permission from the director to employ this method of affixation. If
11 the director approves the wholesale dealer's application for permis-
12 sion to affix revenue tax meter imprints to original packages of cig-
13 arettes, the director shall require such dealer to file a suitable bond
14 payable to the state of Kansas executed by a corporate surety au-
15 thorized to do business in Kansas. The director may, to assure the
16 proper collection of taxes imposed by the act, revoke or suspend
17 the privilege of imprinting tax meter imprints upon original packages
18 of cigarettes. All meters shall be under the direct control of the
19 director, and all transfer assignments or anything pertaining thereto
20 must first be authorized by the director. All inks used in the stamping
21 of cigarettes must be of a special type devised for use in connection
22 with the machine employed and approved by the director. All repairs
23 to the meter are strictly prohibited except by a duly authorized
24 representative of the director. Requests for service shall be directed
25 to the director. Meter machine ink imprints on all packages shall
26 be clear and legible. If a wholesale dealer continuously issues illegible
27 cigarette tax meter imprints, it shall be considered sufficient cause
28 for revocation of such dealer's permit to use a cigarette tax meter.

29 A licensed wholesale dealer may, for the purpose of sale in another
30 state, transport cigarettes not bearing Kansas indicia of tax payment
31 through the state of Kansas provided such cigarettes are contained
32 in sealed and original cartons.

33 Sec. 4. K.S.A. 79-3371 is hereby amended to read as follows:
34 79-3371. A tax is hereby imposed upon the privilege of selling or
35 dealing in tobacco products in this state by any person engaged in
36 business as a distributor thereof, at the rate of ~~ten percent (10%)~~
37 15% of the wholesale sales price of such tobacco products. Such tax
38 shall be imposed at the time the distributor: (a) Brings or causes to
39 be brought into this state from without the state tobacco products
40 for sale; (b) makes, manufactures, or fabricates tobacco products in
41 this state for sale in this state; or (c) ships or transports tobacco
42 products to retailers in this state to be sold by those retailers.

43 Sec. 5. K.S.A. 79-3372 is hereby amended to read as follows:

4-1

1 79-3372. On or before July 20, 1972 31, 1990, each distributor having
 2 a place of business in this state shall file a report with the director
 3 in such form as the director may prescribe, showing the tobacco
 4 products on hand at 12:01 o'clock a.m. on July 1, 1972 1990. A tax
 5 at a rate equal to ten percent (10%) 5% of the wholesale sales price
 6 of such tobacco products is hereby imposed upon such tobacco prod-
 7 ucts and shall be due and payable on or before July 20, 1972 31,
 8 1990. The tax upon such tobacco products shall be imposed only
 9 once under this act. *The director shall remit all moneys collected*
 10 *pursuant to this section to the state treasurer who shall credit the*
 11 *entire amount thereof to the state board of regents margin of ex-*
 12 *cellence fund.*

13 Sec. 6. K.S.A. 79-3387 is hereby amended to read as follows:
 14 79-3387. All revenue collected or received by the director from the
 15 licenses and taxes imposed by this act shall be deposited monthly
 16 with the state treasurer and by him or her credited who shall
 17 credit each such remittance as follows: (a) ~~From July 1, 1990, through~~
 18 ~~December 31, 1991, 33 1/3% to the state board of regents margin of~~
 19 ~~excellence fund, and thereafter, to the state dangerous drug law~~
 20 ~~enforcement fund; and (b) 66 2/3% to the state general fund.~~

21 New Sec. 7. There is hereby created the state board of regents
 22 margin of excellence fund in the state treasury. All moneys credited
 23 to such fund shall be expended or transferred in accordance with
 24 appropriation acts solely for the purpose of ~~implementing the strat-~~
 25 ~~egy, commonly known as the margin of excellence, of improving the~~
 26 ~~quality, condition and performance of the institutions of higher learn-~~
 27 ~~ing under the jurisdiction of the state board of regents. On January~~
 28 ~~1, 1992, such fund is hereby abolished.~~

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

37 Sec. 9. K.S.A. 79-3310, 79-3310b, 79-3311, 79-3371, 79-3372 and
 38 79-3387 are hereby repealed.

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

After

financing the
operating budgets
and



ASSOCIATED STUDENTS OF KANSAS

The Student Governments of the Regents Institutions

TO: Senate Assessment and Taxation Committee
FROM: Davi Anne Brewer, Legislative Director
DATE: 25 January 1990
RE: Senate Bill 418

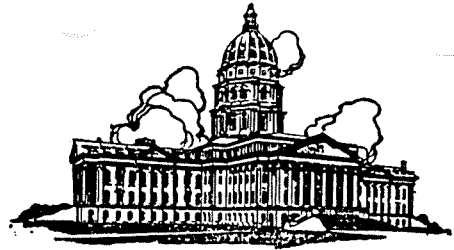
The Associated Students of Kansas have been a strong supporter of the Margin of Excellence since its inception. We have seen the effects of increased funding on our campuses both in faculty moral and improvements in the operations of our universities. As students we find it to be of the utmost importance to continue the efforts on behalf of the Margin of Excellence for 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. ASK leaders also realize that there may be opposition to raising the cigarette tax. However, we are comfortable with facing that opposition and would request favorable passage of SB418 if it provides funding for the Margin of Excellence.

SENATE ASSESSMENT AND TAXATION COMMITTEE
THURSDAY, JANUARY 25, 1990 ATTACHMENT 2

KANSANS FOR LIFE AT ITS BEST!

Rev. Richard Taylor, Box 888, Topeka, Kansas 66601

Phone (913) 235-1866 Office 1273 Harrison
(3 Blocks South of Statehouse)



January 25, 1990
Hearing on SB 418
Senate Assessment & Taxation Committee
Rev. Richard Taylor, KANSANS FOR LIFE AT ITS BEST!

A Proud Land

In 1974, when part of a word would just not come out right, my wife and I drove to Kansas University Medical Center to learn the cause of my problem.

Using a tiny mirror, the doctor looked down my throat, and said there was a leision on one of my vocal chords. He asked, "Do you smoke?" When he learned I had never bought a pack of cigarettes, he said such a growth is always benign in a non-smoker. But it must be removed and checked in the lab to make certain. Come back in 10 days.

My wife and I returned in 10 days, expecting to hear good news. The doctor, with a long face, simply looked me in the eye and said, "You have cancer on a vocal chord. It will kill you if we do not remove it."

I said, "Maybe the lab made a mistake, I'm a non-smoker." He said the lab had doubled checked and there was no mistake, but second hand smoke may have contributed to cancer on my vocal chord.

There is no way to tax cigarettes enough to balance out the suffering they cause. The economic cost of lost work time, lower worker productivity, additional hospital-medical-insurance costs run into untold billions and billions of dollars. Current taxes on tobacco products could be increased ten fold and that would not equal the cost of human and economic suffering caused by this recreational drug.

Concerned citizens support this bill and would recommend the tax be increased even more.

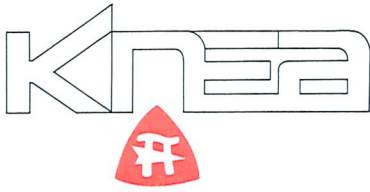
Respectfully yours,

Rev. Richard E. Taylor, Jr.

SENATE ASSESSMENT AND TAXATION COMMITTEE
THURSDAY, JANUARY 25, 1990 ATTACHMENT 3

"Of our political revolution of 1776 we are all justly proud," said Abraham Lincoln on Washington's birthday in 1842. He went on to say "how proud the title of that land" where persons declare their freedom from alcoholic beverages because they "shall find a stronger bondage broken, a viler slavery manumitted, a greater tyrant deposed. . . perfect liberty!" With per-person consumption at nearly half the national average, thousands of Kansans enjoy that perfect liberty. Concerned users and non-users are united in this R-E-A-L effort to prevent alcoholism, highway tragedy, and other suffering caused by our most abused recreational drug.

- Rehabilitation — Help alcohol-dependent persons adjust to life without the drug.
- Education — Inform children, youth & adults of effect of alcohol on mind & body.
- Amount — Encourage persons to be non-users and encourage users to use less.
- Law — Pass and enforce laws that reduce consumption and suffering.



Craig Grant Testimony Before The
Senate Assessment & Taxation Committee
Thursday, January 25, 1990

Thank you, Mr. Chairman. I am Craig Grant and I represent Kansas-NEA. I appreciate this opportunity to visit with the committee about SB 418.

Kansas-NEA supports SB 418 and its effort to help fund the "Margin of Excellence" for our regents' institutions. We have supported the margin the last two years and believe that the third year should be funded. In this tight year for finances, we believe that this increased tax would be a good way to fund the program.

Kansas-NEA supports SB 418 and hopes the committee will pass it favorably. Thank you for listening to our concerns.

SENATE ASSESSMENT AND TAXATION COMMITTEE
THURSDAY, JANUARY 25, 1990 ATTACHMENT 4

MEMORANDUM

TO: Members of the Senate Assessment and Taxation Committee
FROM: William L. Mitchell, The Tobacco Institute
RE: Senate Bill No. 418
DATE: January 25, 1990

The Tobacco Institute appears today 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. In addition, we think the tax increases proposed in Senate Bill No. 418 are not good public policy.

Attached are several documents for your consideration. First, you will find a memorandum 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 revenues 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).

Also attached 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.

Finally, we have attached 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.

Thank you for your courtesy and consideration in this matter.

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.

<u>MONTH</u>	<u>1985-86</u>	<u>1986-87</u>	<u>1987-88</u>	<u>1988-89</u>	<u>1989-90</u>
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	<u>40,770</u>	<u>141,734(1)</u>	<u>38,644</u>	<u>18,435</u>	
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

**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.

STATE CIGARETTE EXCISE TAX RATES

(As of January 1, 1990)



5-10

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

Testimony for the Senate Assessment & Taxation Committee
January 25, 1990
Re: S.B. 418

Mr. Chairman, members of the committee, I am Bill Henry and I appear before you today on behalf of Philip Morris, U.S.A. in opposition to S.B. 418.

Philip Morris does not question the value of the Margin of Excellence program to the citizens of Kansas but Philip Morris agrees with the Tobacco Institute that it is unfair to require only those Kansans who use tobacco products to finance the third year of this program.

The proposed tax represents a 20% increase in the state tax smokers of cigarettes would have to pay for using cigarettes and other tobacco products.

Philip Morris concurs with the information shared with you earlier today by the Tobacco Institute that continued increases in the tax rate on tobacco products may actually result in a decrease in revenue to the state from this area of income.

Thank you for your consideration of our position on this bill and I would be happy to respond to any questions of members of the committee now or at a later time.

Respectfully submitted,



William M. Henry on behalf of
Philip Morris, U.S.A.

WMH/mg

SENATE ASSESSMENT AND TAXATION COMMITTEE
TESTIMONY RE: SB 418

PRESENTED BY RONALD R. HEIN ON BEHALF OF
R. J. REYNOLDS TOBACCO USA
January 25, 1990

Mr. Chairman, members of the committee:

My name is Ron Hein, and Julie Hein and I represent R. J. Reynolds Tobacco.

I appear today in opposition to SB 418. You have previously heard testimony from the Tobacco Institute, and we concur with the comments that they have made.

Our objections can basically be summarized as follows:

1. This is not a tax upon a product, but a tax upon individuals, without regards to ability to pay.
2. As pointed out in earlier testimony, increasing the rate of this tax might have the effect of actually reducing the net proceeds from the tax, or, at the very least, might have the effect of raising less revenue than projected.
3. Ear marking of funds from particular sources to be used for obligations that should be the obligation of the state general fund is not good policy. It is even less appropriate since there is no causal connection between the source of the funding and the beneficiary of the funding.
4. 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 would have gone up an astounding 81%.
5. Cigarettes are already heavily taxed, with a \$.16 federal excise tax, a \$.24 state tax, and an additional sales tax on top of all that. (The sales tax is also paid on the significant portion of the cost of the cigarettes which is federal and state tax, thus resulting in double taxation.)

On behalf of the thousands of Kansas taxpayers who will be forced to pay this hidden tax, we would urge you to defeat SB 418. If the legislature believes that the Margin of Excellence program should be properly and adequately funded this year, for the benefit of all citizens of Kansas, then any increase in tax necessary to fund that project should be upon all of the taxpayers of the state who will benefit from that program.

Thank you very much for permitting me to testify on this matter, and I will yield for any questions.