

Approved Monday, February 18, 1991
Date

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. ~~pm~~ on Thursday, February, 14, 1991 in room 519-S of the Capitol.

All members were present except:

Committee staff present:

Bill Edds, Assistant Revisor
Don Hayward, Assistant Revisor
Tom Severn, Research Department
Chris Courtwright, Research Department
Marion Anzek, Secretary

Conferees appearing before the committee:

Senator Richard Bond, Chief Sponsor of SB61
Chancellor Gene Budig, KS University
Jon Wefald, President of KS State University
Andrea Roberts, President of Student Body, Emporia State University
Michael Schreiner, Student Body President, University of KS
Alan Alderson, Legislative Counsel for the Tobacco Institute
Bill Sneed, Legislative Counsel for the Smokeless Tobacco Council, Inc.
Ronald Hein, Legislative Counsel for R. J. Reynolds Tobacco Co.
Bill Henry, representing Philip Morris U.S.A.

Chairman Dan Thiessen called the meeting to order at 11:07 a.m. and said we will be hearing from Proponents and Opponents today on SB61 and he recognized Senator Richard Bond, Chief Sponsor of the bill.

SB61: AN ACT increasing the rate of taxation imposed upon cigarettes and tobacco products and providing for the disposition of revenue received therefrom.

THE FOLLOWING CONFEREES ARE PROPONENTS

Senator Bond passed out handouts to the members and announced the following conferee proponents, Chancellor Gene Budig, KS University, John Wefald, President, KS State University, Andrea Roberts, Senior Student and Chairman of the Student Advisory Committee to the Board of Regents, and President of the Student Body at Emporia State University and Mike Schreiner, President of the Student Body at KS University.

SB61 is the Margin of Excellence Funding Bill. It is the bill that increases taxes on cigarettes by 9¢ a package and a 5% tax increase on other tobacco products. The legislative staff has projected that those tax increases would raise approximately \$18.M per year. It is estimated that the 3rd year of the Margin of Excellence Book (see ATTACHMENT 1) next to the last page, which outlines the Margin of Excellence, in two parts (1) Faculty salary parity \$7.8M and (2) Mission-related program enhancements at \$9.9M, at total of \$17.7M.

He said, taxes raised by this bill would approximate the level of the 3rd year of the Margin. The funds from these tax increases would be credited under the terms of the bill to the State Board of Regents, Margin of Excellence Fund.

Last year, a similar proposal called SB418 passed the Senate basically (3) times, the original version passed 26 to 13, and that bill was a 5¢ tax increase on cigarettes and a proportionate increase to other tobacco products, passed the Senate once earmarked and twice not earmarked. When it got to the House it met major opposition from the tobacco lobby.

He said, since last year there are 13 states that have passed legislation to raise taxes on cigarettes. The real goal is not to be punitive but to address the issue of funding of the Margin of Excellence in its (3rd) year.

By providing nearly full funding for the first two years of the plan, the Governor and the Legislature sent a powerful message to all Kansans that our State was committed to a major investment in the future of Kansas, but unfortunately the initial two year momentum of our work product failed last year and it failed to provide funding for the 3rd year of the Margin. The Board of Regents has strongly urged the Governor and has approved as the Board of Regents a 10¢ cigarette tax increase to be effective July, 1991.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

room 519-S, Statehouse, at 11:00 a.m./~~pm~~ on Thursday, February 14, 1991.

He said he chose not to introduce the full 10¢ because 9¢ according to research would appear to fund the Margin in its 3rd year.

Chancellor Gene Budig, Kansas University said they are here today representing the Council of Presidents of all the Regents Institutes, and we are appearing in support of Senator Bonds' proposal.

He pointed out a portion of the additional receipts is earmarked for financing the Margin of Excellence, which is a multi-year program designed to increase the level of funding to Regents Institutions. The 1980's were difficult for Kansas higher education, continued enrollment growth coupled with very modest budgetary increases stretched the capacity of the Regents Institutions to deal responsibly with the students needs and the expectations of parents and the public. During a four year period we were compelled by (2) different budget decisions to reduce costs. At the University of Kansas we had to restructure in several ways to accomodate those cuts in growing enrollments. Some classes were expanded and some sections of classes were temporarily closed and a few departments reduced.

He said, these actions had a negative affect on faculty and students moral and to make matters worse, this happened during a time that other states were continuing to invest in higher education. Education competes in a national market for its key personnel. (NO ATTACHMENT)

Jon Wefald, President of Kansas State University said the first (2) years of the Margin of Excellence, restored hope. At Kansas State in the first (2) years we were able to increase our faculty retention by about 30% and one of the most important benefits of the Margin of Excellence in the (2) years went directly to Kansas students.

He said the enhancements and the morale produced by the Margin of Excellence have been a major factor in private fund raising campaigns undertaken at our state Regent's schools. At Kansas State, the Essential Edge Campaign has achieved 72% of the \$100.M goal. (ATTACHMENT 2)

Andrea Roberts, President of Student Body, Emporia State Universtiy said she hears the problems and concerns on a variety of students issues.

She said, the Margin of Excellence Program has more postive effects, moral boosting and system wide unity than any other program she has witnessed in her college career. The Margin represented a partnership in a variety if interest and a united effort to achieve (1) goal, revitalizing higher education.

She said, the tax on this one product, cigarettes, supports another produce, quality education. Quality education is a luxury that Kansas will not be able to purchase without additional revenue. Any means of raising revenue for the year (3) Margin of Excellence is a positive step in the minds of students. (NO ATTACHMENT)

Michael Schreiner, Student Body President, University of Kansas said he has had the opportunity to be involved in a number of issues impacting higher education. The single most important of those issues has been the Margin of Excellence. The first (2) years of the Margin have produced a tremendous amount of optimism among the student population, but lack of funding during the third year has resulted in students questioning Kansas's commitment to higher education and to future progress within the state.

Students recognized the need to join in a cooperative effort with the individual universities, the Board of Regents and the Kansas Legislature in order to improve the quality of education in the state of Kansas. Through these efforts the Margin of Excellence program was developed, and students agreed to pay their part of the bargain. Students contributed more money to the first year of the Margin of Excellence than the state contributed (tuition \$10,416,319.) (state \$9,480,128.).

He said, one way to insure that we maintain excellence is to take the bold step of passing a revenue generating plan that will fund the Margin of Excellence. The cigarette tax is one alternative that will allow us to reach our goal.

He said, as a member of the Regents Committee on Tuition and Fees, he said he made the unpleasant decision to vote in favor of increasing tuition for himself and his constituents. He realized that in order to be a good leader and to fulfill his elected responsibilities he had to vote for these increases. He hoped the Legislature is willing to make the same commitment that students have made. (ATTACHMENT 3)

THE FOLLOWING CONFEREES ARE OPPONENTS.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

room 519-S, Statehouse, at 11:00 a.m./~~a.m.~~ on Thursday, February 14, 1991.

Alan Alderson, Legislative Counsel for the Tobacco Institute. He said their opposition to SB61 should in no way be interpreted as opposition to either the Margin of Excellence Program or the Regents Institutions. He said, they have several primary objections to SB61. (1) They believe the bill is guilty of Perverse Earmarking, (1-a) Assessment based upon the ability to pay and (1-b) the provision of benefits to those taxed, fall most heavily on those least able to afford them.

(2) He said SB61 is guilty of Regressivity and Unfairness, approximately 541,000 KS residents who smoke have already been hit hard by a barrage of tax increases. A 9¢ state tax increase would amount to a 34¢ per pack increase in the last 8 years, plus the 4¢ federal tax which goes into effect on January 1, 1993.

He said the (3rd) and (4th) points they want to address are somewhat inter-related which address the financial losses to this State, due to cross bordering effects of the increases and related losses to both the state of Ks and its retailers. When Ks raised its cigarette tax by 9¢ in 1985, KS cigarette sales plunged by 15.6M packs in FY 1986. The 9¢ increase in this bill is likely to cause a 14.7M pack drop (more than a 6% reduction in sales).

He urged the committee to vote against SB61 because it is bad tax policy, it's excessively regressive, it has no legitimate object for those who are taxed, and it will drive retail sales out of Kansas. (ATTACHMENT 4)

Bill Sneed, Legislative Counsel for the Smokeless Tobacco Council, Inc. said, he would address two major points. (1) Senator Bond talks about an increase of 5% on smokeless tobacco products, altho its true, its going from 10% to 15% , he pointed out your looking at a 50% increase on smokeless tobacco products. (2) In competition with Missouri which has no tax on tobacco products, so an additional tax will place us, at a more severe disadvantage. (ATTACHMENT 5)

Ronald Hein, legislative counsel for R. J. Reynolds Tobacco said they oppose SB61 which is nothing but a tax increase on the public, it doesn't tax cigarettes, it doesn't tax tobacco it taxes the people, 29% of the adults will pay this tax increase.

He said they have no objections to the Margin of Excellence Program, but he said in his 18 years around the Legislature, it is rare for him to see State Agencies come in and propose particular tax increases to fund specific appropriations to be assessed to a particular project. He said he finds it interesting that the Margin of Excellence would want to be tied to a declining tax revenue source. (ATTACHMENT 6)

Bill Henry, representing Philip Morris U.S.A. said he would emphasize two points. (1) the current differential between KS and MO in cigarette tax is 11¢ and will go to 20¢ under this proposal, with Colorado we have a current difference of 4¢, and will increase to 13¢. (2) the forecasted drops in income from the cigarette tax caused by an increase as proposed in SB61 does not mean fewer people will be smoking less in KS, rather other states' coffers will benefit because of the cross-border impact. (ATTACHMENT 7)

Chairman Thiessen adjourned the meeting at 12:02 p.m.

Elizabeth E. Taylor, Executive Director, KS Tobacco-Candy Distributors & Vendors, Inc. turned in ATTACHMENT 8 which included A PROPOSED AMENDMENT TO SB61.

GUEST LIST

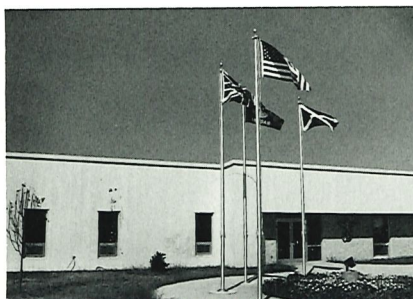
COMMITTEE: SENATE ASSESSMENT & TAXATION

DATE: THURS 2-14-91

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Susan Peterson	Manhattan	Kansas State University
John Luff Johann	Topeka	Fontana & Siffert
Ron Hein	Topeka	RJ Reynolds
Julia Stein	Topeka	RJ Reynolds
Joni Reynolds	"	American Cancer Society
Joni McBride	Topeka	26200000
Subsided	Lawrence	U.U.
FRANCES KASTNER	Topeka	Ks Food Dealer Assn
Andree Roberts	Emporia	Students Advisory Committee KANSAS BOARD OF REGENTS
Mike Schreiner	Lawrence	Univ. of Kansas
Ed Wapburn	Topeka	USAGHBURNS Co
Kristel Wardell	Topeka	ASK
Michelle Lieston	Topeka	John Peterson & Associates
DON LINDSEY	OSAWATOMIE	UTU
Tim Langland	Lawrence	Sen Jerry Kass
Allen Pickert	Lawr.	A.S.K.
Bill Sneed	TOPEKA	Smokeless Tob. Council
ELIZABETH E. TAYLOR	"	^{& VENDOR} Tobacco/Candy DISTRICTS
Tina Hoyt	Lawrence	Law. Journal
Randy C Morris	Denver, Colo.	The Tobacco Institute
Dorinda J Mitchell	Topeka Ks.	Sloan Lstrom Eisenhardt
ALAN ALDERSON	TOPEKA	TOBACCO INSTITUTE
Bill Henny	TOPEKA	Philip Morris USA
Jonathan Small	TOPEKA	KAMA.
Gloria Timmer	Topeka	Division of Budget

Keeping Kansas competitive

*Margin of Excellence
Kansas Board of Regents*



2-14-91
ATT, 1-A

On the cover

Starting from the top:

Row 1, Picken Hall, Fort Hays State University

Row 2, National Institute for Aviation Research, The Wichita State University

Row 3, Watson Library, The University of Kansas and Lake Wooster, Emporia State University

Row 4, Anderson Hall, Kansas State University and Russ Hall, Pittsburg State University

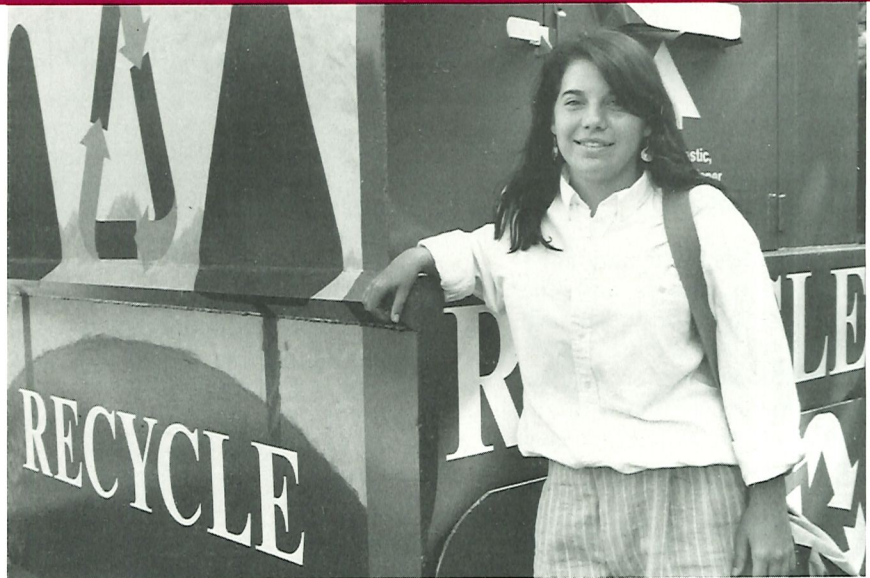
Row 5, Air Service Training Building, Kansas College of Technology

Keeping Kansas competitive

Only a first-class system of universities can keep Kansas competitive. Top students and professors flock to first-class universities, and dynamic industries seek well-trained and highly skilled workforces.

The first two years of the Margin of Excellence revitalized the Kansas Regents universities. The benefits were tangible: enhanced faculty and student morale, a plugging of the state's brain drain, an environment that supported growth in private donations and external research funding, and new opportunities to expand service to Kansas.

Regents universities have been responsible for developing talented leaders, educating the population of Kansas, boosting the state's economy, and forming partnerships with industries, communities, individuals, and other educational institutions. The successes are numerous, but their continuation depends on a renewed commitment to the Margin of Excellence.



"The Margin of Excellence is necessary if we are going to retain our best faculty. If they are being paid significantly less than what they would make at our peer institutions, there is no incentive for the top professors to stay."

*Pam McElwee of Lawrence
KU Truman and Goldwater scholar
Environmental studies/political
science major*

Advancing talented people

The Margin of Excellence gave students new confidence in the capabilities of Kansas universities. As a result, Kansas students stayed in Kansas, and the state's brain drain was halted.

The proof lies in the national scholarships, awards, and other prizes that Kansas students win. Kansas continues to be a place where students acquire a superb education, where they learn to examine complex problems and envision innovative solutions.

Kansans from Regents institutions won two of the nation's 32 Rhodes scholarships in 1990. Students from the Regents universities have won 32 Rhodes scholarships, including eight since 1975.

In 1990 four students from the Regents universities won prestigious Goldwater scholarships for outstanding math and science achievement. Only two states had more Goldwater winners than Kansas.

Students from Regents universities fared well in other competitions: two snared prized Mellon fellowships in the humanities, eight won Fulbright grants and travel awards, and one received a Truman public service scholarship.

The Regents institutions enrolled 94 National Merit finalists in fall 1990, including 77 from Kansas. The number of finalists has jumped more than 30 percent since 1987, before the Margin of Excellence.

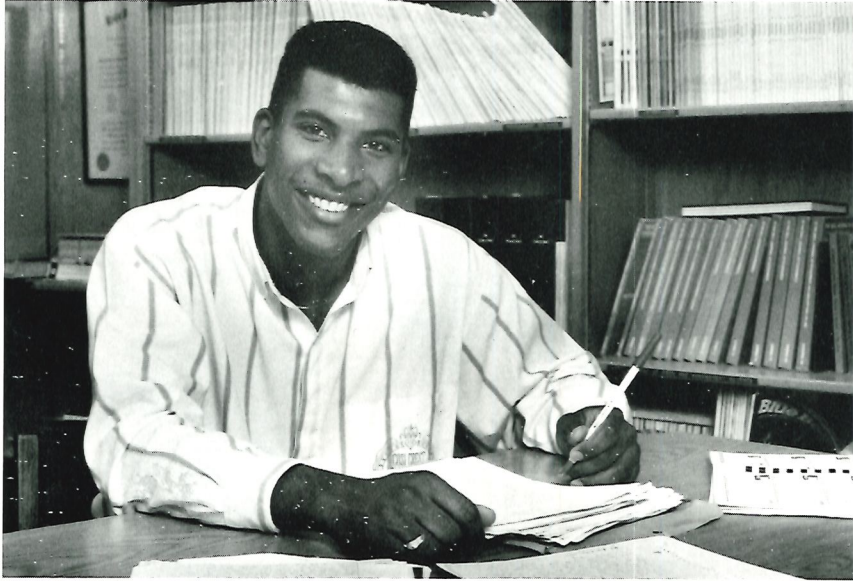
The Regents Honors Academy, a highly successful program founded to draw the state's brightest students to Kansas public universities, gives 150 top high school sophomores and juniors a chance to tackle college subjects. The summer program moves from campus to campus and has included such subjects as anthropology, history and development of Western thought, and mathematical reasoning. In a survey of honors academy graduates, 75 percent of the respondents gave the academy an A rating.

If Regents schools are to continue to attract talented students, as well as the faculty experts to teach them, Kansas must renew its commitment to the Margin of Excellence. Only first-class universities attract first-class students.



Improving math skills

Sarah Gleason of Frankfort was one of four Regents students to win prized Goldwater scholarships. At Emporia State she worked side by side with a calculus professor to find out whether students who learn the concepts behind mathematics do better than students who simply learn to perform the methods. "I think the study will show that those who've had the conceptual teaching will have a better edge on math," she says. "And then we can begin teaching more calculus classes that way."



Preparing the nation's brightest

Ray Dempsey of Winfield was named the top engineering student in the nation by the National Society of Black Engineers. The K-State grad, now working for Amoco Oil in Chicago, has spoken at conferences to high school and college students and taught other students in the learning skills program.



Encouraging analytical thinking

Julie Standfast of Benton, a stress engineer at Boeing Aircraft, began studying ways to improve airplanes while she was a student at Wichita State. Julie's research project on composite wing structures earned her first prize in a Society of Women Engineers' national competition. "I competed with people from very prestigious schools—Purdue, Rensselaer Polytechnic, Cal Berkeley, and other big-name colleges," she says. "Even though some people say that those other schools are better, I don't think they are. The universities in Kansas do just as well in preparing their students."



Understanding the political system

Brett Brenner learned firsthand how government works during his Sears internship in Washington, D.C. The KU student, a dual major in journalism and political science, conducted research and prepared press releases for House Minority Leader Robert Michel. Brenner was one of 21 students from throughout the United States chosen for the program.



Training tomorrow's scientists

Julie Halling of Hays was the regional winner of the Cora Downs Young Investigator Award from the American Society for Microbiology. Halling's research at the KU Medical Center may help identify and produce therapies for preventing septic shock, a condition that kills 50,000 to 100,000 Americans each year.



Keeping talent in Kansas

Hutchinson's Keith Loseke, Kansas' only scholar named to USA Today's 1990 All-USA academic first team, discovered a new math formula while in high school. Of the 20 first-team members chosen nationally, the K-State freshman was the only person who chose to attend a state university; most aimed for Ivy League schools.

Educating the Kansas population

Kansans have long recognized the benefits of an educated population. They have set high standards for their state educational system and have learned to expect high quality.

Only eight states have a higher percentage of adults who graduate from high school.

Kansans perform better on the ACT exam than their counterparts in 41 states. Only five states have a higher percentage of students who take the exam.

Only 11 states provide a lower student/teacher ratio in the elementary and secondary schools.

The Regents universities do more than build upon the successes of elementary and secondary schools. Through programs ranging from early childhood learning to adult continuing education, the institutions play a vital role in an educational continuum that stretches from early age through adulthood.

To serve the state's growing minority populations, the universities are developing innovative programs to give public school students opportunities to see minority teachers as positive role models. Programs such as Wichita State's Grow Your Own Teachers, a cooperative venture with local schools, colleges, and governmental groups, help to recruit minority teachers. Project participants receive full-tuition scholarships and agree to teach in a Sedgwick County public school district after graduation.

Across the country, Americans worry that the brightest students don't consider careers in education. Regents universities are helping to ensure that those who can, teach. Each summer Emporia State draws 50 of the state's brightest high schoolers to its Summer Academy for Future Teachers. The summer academy, which encourages students to pursue teaching careers, last year received a Showcase for Excellence award from the American Association of State Colleges and Universities.

Regents education extends far beyond the communities where the campuses are located. Using the latest technology, the universities make expert knowledge available throughout the state. Fort Hays State University is developing a two-way video network to deliver courses all across northwest and southwest Kansas. FHSU will expand the network and its capabilities in the next few years, thereby eliminating the distance gap in rural Kansas.

And although the University of Kansas Medical Center has its main campus on the eastern edge of Kansas and a clinical option for medical students in Wichita, it shares the expertise of its health care professionals with people throughout the state. Through consulting clinics in Chanute, Garden City, Hays, and other communities, the KU Medical Center helps physicians update their clinical skills and gives rural Kansans access to specialized medical expertise. Last year the medical center treated patients from 104 of the 105 Kansas counties.

Education is a lifelong process that demands excellence at all levels, and the Regents universities are committed to improving the process from beginning to end. The excellence of Kansas' K-12 system demands a system of public universities that ranks among the nation's best; the Margin of Excellence is central to meeting that obligation.



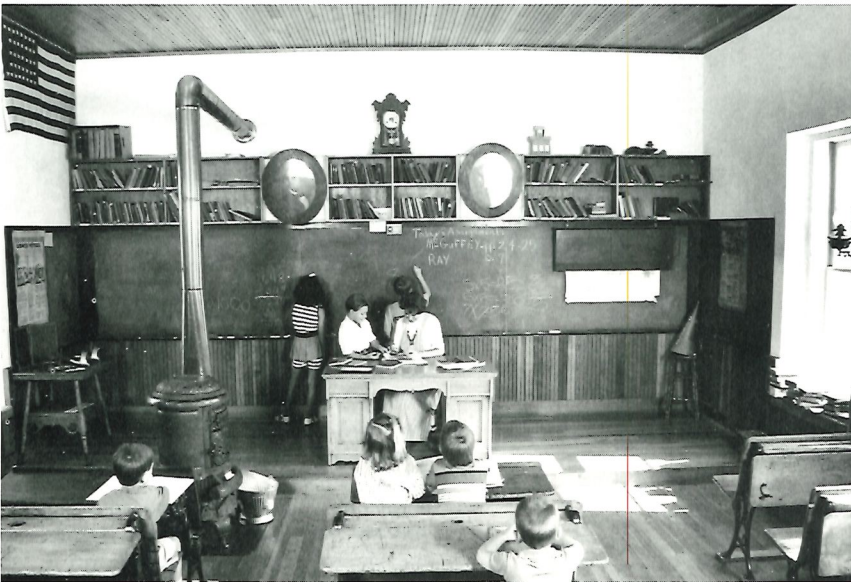
Reaching rural Kansas

Students from Scandia to Sabetha discover the excitement of Spanish through satellite broadcasts produced by the Regents Educational Communications Center, located at K-State. The center beams out the classes, and students call in to ask questions or to practice their speaking. A new facility, the \$5.9 million Bob Dole Hall, will allow the Regents universities to expand their offerings to make certain that students in all schools have the skills they need to succeed.



Pioneering new programs

Most student teachers spend a semester or year in front of a class, but FHSU students get four years of classroom experience in a school that masterfully combines teaching and technology. The new O'Loughlin Elementary School will utilize a futuristic computer network that allows teachers to provide continuous feedback as students work on reading and writing assignments. The school's learning structure and high-tech atmosphere may reshape elementary instruction and teacher training programs across the country.



Paying tribute to teachers

America has erected halls of fame honoring baseball players, cowboys, songwriters, and even greyhounds—but not teachers. Until now. Emporia State's one-room schoolhouse, long a recognized campus landmark, will become the site of the National Teachers Hall of Fame. The project, about to launch its fund drive as part of a larger capital campaign, has been endorsed by the nation's two largest teacher organizations.



Building model schools

The secret to the best schools is that teachers themselves take control of how and what they teach. Teachers at the Independence Middle School are reworking their own curriculum and measuring their impact on students during a three-year project with Pittsburg State. This program, which involves every teacher at the school, will serve as a model for other Kansas schools.



Presenting role models

"Just as children need positive parental role models, students need positive teacher role models," says Cynthia McDermott, a Wichita State student who was able to return to college full time through a Grow Your Own Teachers scholarship. "This scholarship enabled me to do what I always wanted to do: to teach high school English."

Boosting the Kansas economy

Studies show that Kansans are among the most productive workers in the nation. But in our rapidly expanding world economy, it takes more than just hard work to get ahead. In tomorrow's business world the key to economic strength will be a highly skilled workforce.

The Regents universities prepare students to meet tomorrow's high-tech demands. K-State agriculture students use computers and satellites. Pittsburg's technology students use robotics for welding. And FHSU's groundbreaking electronic learning environment guarantees that all graduates, even those who major in subjects like art or philosophy, are both computer-literate and computer-flexible.

Research conducted at the institutions provides an important economic boost. Externally sponsored research projects valued at more than \$109 million per year help attract top professors, enable universities to upgrade facilities and lab equipment, provide unique learning opportunities for advanced students, and make vital contributions to the state's leading industries.

For example, the productive life of Kansas oil fields can be extended by 10 to 20 years using techniques developed by KU engineers. The Tertiary Oil Recovery Program studies ways to enhance production for independent oil companies, which account for about 90 percent of Kansas oil production yet rarely have their own research programs. Murfina Drilling Co. in Decatur County increased production by 2,500 barrels a month using TORP techniques. University engineers visit about 15 fields a year, and more than 800 operators tap into TORP's consulting, research, and education services.

The Kansas Value-Added Center at K-State revitalizes rural Kansas by adding value to agricultural products by processing, packaging, and marketing them in the state. Each year the center helps more than 80 businesses and entrepreneurs develop new products, improve product quality, and implement new production technologies.

Our universities maintain special programs to help Kansans put research results to practical use in their day-to-day work. By involving faculty experts in physics, chemistry, technology, and related fields, Pittsburg State's Center for Technology Transfer has helped solve problems—and discover new markets—for companies manufacturing paint-drying systems, ceramic candy jars, airbridges, plastic bags, and other products. More than 200 industries and entrepreneurs have worked with the center to find technological solutions to production obstacles.

But even the world's largest companies started small, and the Regents universities help Kansans get their new businesses off the ground. Small Business Development Centers at each campus help area businesses with start-up, computerization, and marketing. And Wichita State's entrepreneurship programs, which include the Center for Entrepreneurship and an undergraduate major, teach Kansans to transform creative ideas into successful enterprises.

Special training programs conducted by Regents faculty meet the needs of Kansas industries. FHSU professors teach statistical quality control to employees of Adronics/Elrob, a New Jersey manufacturing company that opened its Hays branch in 1989. "Having the university here was a major factor in our company's decision to locate in

Hays," says Greg Robinson, vice president of the automotive communications company. "Education and training are some of the key things the auto industry is looking for."

Kansans have an impact that reaches far beyond the state. People all around the world fly in Kansas-engineered planes and eat food grown and processed with Kansas-developed agricultural techniques. Kansas researchers have tested pharmaceuticals used throughout the world and designed products that make life more comfortable and convenient for everyone.

To succeed in tomorrow's business world, Kansans must have the skills that enable them to compete globally. Kansas must renew its support for the Margin of Excellence so that public universities can continue to play a central role in the state's economic development.



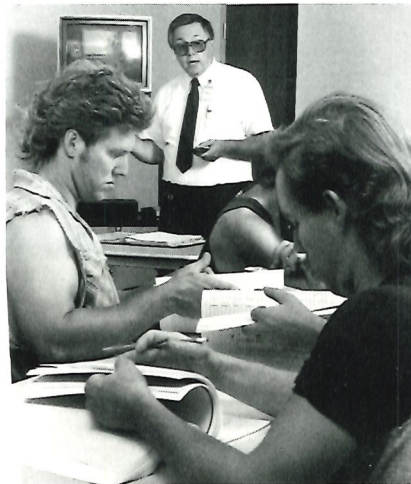
Staying ahead of the competition

Kansas will continue to make historic contributions to the science of aviation through the new National Institute for Aviation Research at Wichita State. The \$7-million facility, for which no state funds were allocated and industry contributions totaled nearly \$2 million, houses research in aircraft design, construction, performance, and safety. Research conducted in Wichita, the air capital of the world, will help keep the U.S. aviation industry ahead of international competitors.



Developing tomorrow's leaders

Derek Haas, a Derby entrepreneur who has been featured on "Good Morning America," founded his own video production company and deejay service while still in high school. He enrolled at Wichita State after attending a summer entrepreneurship camp and learning that Wichita State is the national headquarters for the American Collegiate Entrepreneurs. "If America's going to get anywhere, we've got to have an entrepreneurial mindset," he says. "At least some of us have to."



Reshaping American manufacturing

Kansas workers learn the statistical techniques that revolutionized Japanese manufacturing in special classes taught by Pittsburg State professor Larry Williamson. Employees at Superior Industries, a wheel manufacturing company with a new plant in Pittsburg, ensure product quality all the way through production and not just at the end of the line.



Understanding world markets

When Albert Neutel, president of the Reuter Organ company in Lawrence, was looking to establish a Far East market, he turned to the experts at KU's Center for East Asian Studies. The center helped in printing business cards, providing cultural information, and explaining the do's and don'ts of business in that region. Acting on the advice of the center's experts, the organ company created a growing market in Korea and Taiwan.



Achieving international recognition

Students come from around the world for pilot training at the Kansas College of Technology. A joint venture between KCT and Air Service Training, an aviation company based in Scotland, is drawing overseas students to the first Civil Aviation Authority pilot training approved outside British airspace. The international program adds another dimension to the state's reputation as a world aviation leader and pumps millions each year into the Salina economy.

Forming partnerships that pay off

The Regents system is a network of unique institutions, each with its own characteristics and strengths. Individually the universities provide distinct environments and academic programs for students. Collectively they form a vast bank of resources to serve the state's interests.

Instead of competing for the same research grants, Wichita State and KU work together on projects that utilize each university's research specialties. Agricultural fields operated by K-State and FHSU allow cooperation but not duplication. Together the two fields, separated by a single road, form the world's largest agricultural experimentation site.

Cooperative academic programs directly meet the needs of students. A Kansas City architecture program gives KU and K-State students a chance to work in urban settings designing neighborhoods and renewal projects. An Emporia State/KU/Johnson County Community College program enables Kansas Citians to earn an M.B.A. in their own community. A KU/K-State doctorate in geology combines the specialties of both universities to give students better insight into the geological resources of Kansas and America.

The Regents universities have become vital partners with Kansas communities, breathing new life into towns across the state. The nation's only community analysis research institute, based at Emporia State, works with communities wanting to expand their libraries and make them much more than book depositories. Wichita State's co-op programs place students in social agencies where they can serve community needs. And the YES tutoring program, which operates from every campus, mobilizes

college students to help schools with their efforts in dropout prevention, reading improvement, and science and math tutoring.

The quality of the Regents universities depends on a triad of support in which taxpayers, students, and private donors all play an essential role. Their investments—state appropriations, student tuition, and private donations—keep Kansas higher education competitive. But the support of all three groups is necessary if Kansas universities are to rank among the nation's best.

All campuses are aggressively pursuing fundraising activities. KU's capital campaign is approaching \$177 million, Wichita State is aiming for \$300 million over a decade, K-State is nearing \$100 million, FHSU is shooting for \$20 million, and Pittsburg State just finished raising \$10 million and is preparing to launch another campaign. Emporia State is organizing a bold effort as well.

Private donors also support more than \$14 million in scholarships and financial aid each year to encourage and enable students to attend college.

But state support is the key element. Without the state's continued commitment to higher education, other elements of the triad will drop out. Private donors give most generously when they believe the state is doing its fair share. And students and their parents invest tuition dollars where they feel quality education exists.

For two years, Kansas institutions were poised to rank among the nation's best. Students were active in improving their educations by accepting greater-than-usual tuition increases. Private donors were providing record levels of support. But the state was unable to renew its commitment to the third year.

Achieving excellence in higher education does not just happen. It requires substantial, long-term commitments. Renewing the Margin of Excellence is essential to keeping Kansas competitive.



Improving information access

KCT students work with the state Soil Conservation Service to build a system that provides immediate access to complete information about Kansas soils. The students are trained to use geographic information systems, a technology that combines computerized mapping with a database about the map. Using the soils data, Kansans can make better decisions about conservation and water quality. Geographic information systems can also be applied in Kansas by wildlife managers monitoring habitat loss and by communities choosing the best routes for emergency vehicles.



Improving health and health services

Interferon failed to be a miracle cure for cancer, but Dr. Stephen Russell of the KU Medical Center's Cancer Center believes it can help the body reject malignant cells. His research aims to activate interferon's indirect effects in stimulating macrophage cells to kill tumor cells. The medical center is known not only for its world-class research, but also for its patient care innovations: the state's first liver transplant was performed here.



Pumping new life into communities

K-State students serve communities throughout the state during summer-long community projects. K-Staters have set up youth recreation programs in Kansas City, designed nature trails near Beloit, conducted library expansion studies in Clyde, improved downtown streetscapes in Phillipsburg, and returned their talents to Kansas communities in many other ways.



Preparing for the 21st century

Guy Sutherland, a Phillips Petroleum vice president and PSU alum, is working with Kansas Senator Robert Dole to secure federal funding for a School of Technology and Applied Science expansion. The expansion, estimated to cost \$22 million, will enable Pittsburg State to equip students with the theoretical skills and hands-on experience needed by 21st century industries. "Buildings and equipment are only part of the equation necessary for students to learn," Sutherland says. "The other part is the 'people part': the excellent faculty that challenges minds to grow. We've got to have the Margin of Excellence to continue to attract the best faculty members and to be able to respond to their needs."



Changing society for the better

KU professor Ann Turnbull, winner of the international Rose Fitzgerald Kennedy Leadership Award, has changed the way Americans view families with disabled members. Her work, now being conducted in the new Robert Dole Center for Human Development, bridges the gap between disabilities research and the families it affects. The human development center, built with \$12 million in federal and private funds, is the nation's only research and training center to focus on the lifelong needs of people with disabilities.



Encouraging private giving

A partnership between KU and a private donor resulted in a new science library that provides easy access to more than 500,000 volumes and other holdings. Philip and Nancy Anschutz committed \$6.5 million to establish an endowed library fund, believed to be one of the largest endowments for collections at any public university in the country.

Kansas Board of Regents

Robert A. Creighton
Atwood

Rick Harman
Shawnee Mission

Charles H. Hostetler
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Norman W. Jeter
Hays

Shirley Palmer
Fort Scott

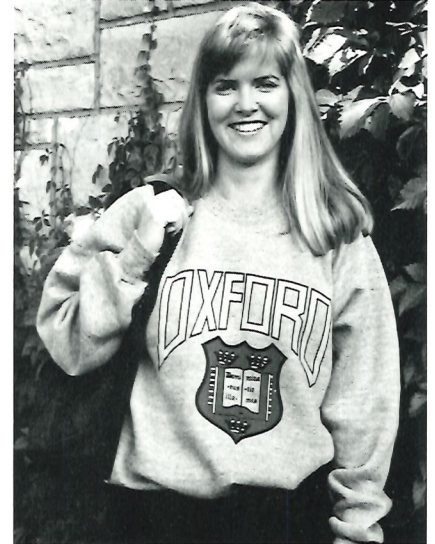
Jack S. Sampson
Hutchinson

Richard P. Senecal
Atchison

Linwood Sexton
Sedgwick

Donald C. Slawson
Wichita

Stanley Z. Koplik
Executive Director



"People don't ever want to wish a tuition increase on themselves, but students recognize the value of the Margin of Excellence and are willing to inject their dollars into improving universities. They're in college for a quality education, and they want to see that quality continue in coming years."

*Janelle Larson of Hiawatha
K-State 1990 Rhodes Scholar*

Regents Institutions

Emporia State University
Robert E. Glennen, President

Fort Hays State University
Edward Hammond, President

Kansas College of Technology
Anthony Tilmans, President

Kansas State University
Jon Wefald, President

Pittsburg State University
Donald W. Wilson, President

The University of Kansas
Gene A. Budig, Chancellor

The Wichita State University
Warren B. Armstrong, President

"A top-notch educational system, from cradle to grave, is probably the key ingredient in long-term economic development. If we have an energetic, creative, and highly skilled workforce, business success will stem from that. Education is a basic and essential ingredient in establishing a healthy state economy."

*Bill Wohlford
Chairman of Kansas, Inc.*

Margin of Excellence: The third year revisited

Board of Regents budget request for fiscal year 1992

Appropriation of the FY 1991 base budget \$626.1

Continued funding of the base budget undergirds the entire Margin of Excellence request. Investments made in the first two years of the Margin must be sustained to ensure a reasonably competitive posture.

Base budget improvements 39.8

For the Margin of Excellence to succeed, it is first necessary to offset pressures of inflation and enrollment growth. Increases in the following areas are essential to establishing a strong base budget on which to build a Margin of Excellence.

Unclassified salaries—5%
Classified employee pay plan increases
Student wages—16%
Fringe benefit rate increases
Other operating expenditures—4%
Enrollment adjustments
Servicing new buildings

Margin of Excellence

Faculty salary parity \$7.8
Mission-related program enhancements 9.9

Faculty salary and program enhancements will permit the improvement of institutional quality, condition, and performance through improved faculty recruitment and retention and through the acquisition of vitally needed instructional and research equipment.

Total FY 1992 budget request \$683.6

Total increase requested for FY 1992 \$57.5

(\$ amounts in millions)

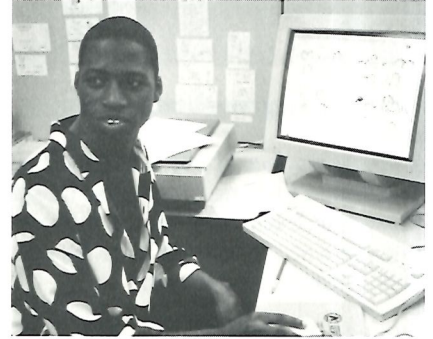
Margin of Excellence: A legacy

Cooperation has been the heart and soul of the Margin of Excellence, generating an unprecedented measure of statewide support. The Board of Regents engendered a spirit of cooperation at the outset when it pledged to self-fund a portion of the Margin through tuition increases. The Governor embraced the plan and called for a partnership for excellence at all levels of education in Kansas. In spite of a modest economic forecast, the legislature responded with nearly full funding for the first two years of the Margin.

The Margin of Excellence will likely conclude in FY 1992, but the unity and teamwork that shaped the Margin has created a mindset that will endure to the benefit of Kansans for years to come. The Board of Regents will continue its leadership by developing progressive policies designed to increase tuition revenue potential and promote student access. In September 1990 the board unanimously affirmed its support for passage of a 10-cent cigarette tax increase, the revenue from which will cover the final year of the Margin. The proposal appeals to those in the statehouse who supported the 5-cent increase in 1990, and the board expects its proactive stance to be the catalyst for favorable consideration of the measure during the 1991 session.

The Margin began as a partnership between the Board of Regents and the state, combining their tuition and tax revenue producing capabilities to improve quality in Kansas higher education. The success of that partnership has stimulated activity in the private sector, encouraging fundraising campaigns expected to yield over a half billion dollars in private support for Regents institutions. Historically an enthusiastic ally of higher education, the private sector has gained renewed confidence in the state's commitment to higher education and has responded accordingly.

The lesson to be learned for the Margin of Excellence is clear: The quest for excellence in higher education through improved levels of funding requires the cooperative efforts of the Board of Regents, the state, and the private sector. Through such vehicles as tuition, taxes, and endowments, the three principal partners must mutually commit themselves to the permanent and dedicated investments in higher education so vital to the quality of life in Kansas. For FY 1992, the Board of Regents wishes to prove conclusively that **Kansans finish what they start!**



"Writing their own greeting cards will show my students how to use English in ways other than just essays and papers. This will give them another way to be creative in using the language."

Myron Davis of Kansas City Hallmark Cards writing intern English education major from Emporia State



*This brochure has been paid for
by the alumni and friends of the
Regents institutions.*

Testimony On Senate Bill 61
Senate Taxation Committee

By

Dr. Jon Wefald
President
Kansas State University

February 14, 1991

Thank you Mr. Chairman and members of the Committee for the opportunity to testify today on SB 61.

I am Jon Wefald, President of Kansas State University. Since coming to Kansas in July of 1986, it has been my privilege and honor to accept the responsibility of leading Kansas State University. I stand before you today in support of this proposal introduced by Senator Bond and his colleagues because it will provide revenue that will help support our Margin of Excellence program.

The Margin of Excellence has instilled a new sense of pride and confidence in Kansas' higher education institutions. It has had a positive effect on our students, our faculty, and our staff as well. This commitment to higher education has given the faculty at the Regents' institutions a new sense of hope and purpose. Faculty retention at Kansas State University improved by 30 percent as a result of funding provided by the first two years of the Margin. The Veterinary Medical Center has been able to recruit some of the brightest young faculty in the nation, all of whom are board certified or board eligible. The beneficiaries of this revitalization are our students and the citizens of Kansas. We are grateful to the Governor and the Legislature for putting a great deal of faith in our institutions.

ATT.
2-14-91 2

One of the most important benefits of the Margin of Excellence in the first two years went directly to Kansas students. Prior to enactment of the first year, the best and brightest Kansas scholars were looking outside our states' borders for colleges and universities. The past two years has shown a marked increase in the quality of Kansas students electing to attend college and universities at home.

We are anxious to regain the momentum of the Margin of Excellence. In terms of faculty salaries, Kansas State has risen from 47th among the fifty land grant universities in Fiscal Year 1988 to 42nd in Fiscal Year 1989 and 37th in Fiscal Year 1990. We expect to lose some of that progress when data for the current year is available.

The list of projects funded from the initial two years of the Margin is too large to discuss fully here, but let me give you a few highlights. Funds for the operation of our Regents' Educational Communication Center, coupled with Federal funds for the construction of a new building, have resulted in a state-of-the-art facility that is unequalled in Kansas or in the midwest. Through Federal funding for the Star Schools Program, 87 satellite sites have been established in school districts across Kansas to receive educational programming.

Margin funding has been used to help support our Wheat Genetics Resource Center. Fundamental research has been conducted in genetics, plant breeding, biotechnology and genetic engineering. Special attention is being devoted to developing wheats resistant to wheat streak mosaic virus because of its devastating effects in Kansas and throughout the midwest.

We have also made significant improvements in the Library and in Computing Services with the first two years of the Margin. In the Library, we acquired

an on-line catalog system. In Computing, we were able to upgrade our mainframe computer. Because of this upgrade, we have significantly improved response time and access to on-line systems.

These are but a few examples of what the Margin of Excellence has done for Kansas State and there are many, many more at other campuses in the Regents' system.

Finally, the enhancements and the morale produced by the Margin of Excellence have been a major factor in private fund raising campaigns undertaken at our state Regent's schools. At Kansas State for example, the Essential Edge Campaign has achieved 72% of the \$100 million goal. The University of Kansas and the Wichita State University have also enjoyed very successful private campaigns.

We ask for your favorable consideration of SB 61.

Mr. Chairman, I stand for questions.

Testimony

to

Senate Committee on Taxation

by

Michael Schreiner
Student Body President
University of Kansas

February 14, 1991

2-14-91
ATT. 3

I want to thank the committee for providing me with the opportunity to testify today on what I believe is one of the most important issues facing the 1991 Kansas Legislature. How do we generate revenue to fund the third year of the Margin of Excellence?

As a student leader, I have had the opportunity to be involved in a number of issues impacting higher education. The single most important of those issues has been the Margin of Excellence. Students believe that the Margin of Excellence is essential to maintaining quality education in the state of Kansas. The first two years of the Margin have produced a tremendous amount of optimism among the student population, but lack of funding during the third has resulted in students questioning Kansas's commitment to higher education and to future progress within the state.

During the first half of the 1980's, budget cuts in higher education resulted in overcrowded classrooms, loss of quality faculty, outdated laboratory equipment, insufficient library acquisitions, a reduction of student services and a general loss of morale among the university community. Students recognized the need to join in a cooperative effort with the individual universities, the Board of Regents and the Kansas Legislature in order to improve the quality of education in the state of Kansas. Through these efforts the Margin of Excellence program was developed, and students agreed to pay above inflation rate tuition increases in order to fulfill their part of the bargain. As a matter of fact, students contributed more money to the first year of the Margin of Excellence than the state contributed (tuition \$10,416,319; state \$9,480,128).

Although the first two years of the Margin reversed Kansas's downward trend, the goal of achieving excellence has not been obtained. Unfortunately, lack of funding for the third year of the Margin halted the progress being made. Fortunately, the universities, the Board of Regents and students have not lost sight of their goal. The institutions, with the generous assistance of alumni and friends, have vigorously increased their fund raising efforts, and the Board of Regents have taken the unusual step of proposing specific revenue generating plans to support their needs. Student leaders have shared in this process by once again accepting significant increases in tuition, and attempting to sell those increases to their constituents at a time when federal financial aid dollars are decreasing.

What we ask for and pray for is that the state of Kansas share in our vision for a better tomorrow. If Kansas is to remain competitive in this increasingly complex and technologically advanced society, we must commit ourselves to a quality higher

educational system. For tomorrow's business, political, and professional leaders are being educated today.

One way to insure that we maintain excellence is to take the bold step of passing a revenue generating plan that will fund the Margin of Excellence. The cigarette tax is one alternative that will allow us to reach our goal. We all realize that increasing taxes is not enjoyable, but to contemplate the alternative is even more unpleasant.

As a member of the Regents Committee on Tuition and Fees, I made the unpleasant decision to vote in favor of increasing tuition for myself and my constituents. I realized that in order to be a good leader and to fulfill my elected responsibilities I had to vote for these increases. I hope the Legislature is willing to make the same commitment that students have made.

Thank you.

ALDERSON, ALDERSON, MONTGOMERY & NEWBERY

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MEMORANDUM

TO: MEMBERS OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

FROM: ALAN F. ALDERSON, LEGISLATIVE COUNSEL FOR THE TOBACCO INSTITUTE

RE: SENATE BILL NO. 61

DATE: FEBRUARY 14, 1991

I am Alan Alderson, appearing on behalf of the Tobacco Institute, a national association of tobacco product manufacturers. The Tobacco Institute appears in opposition to Senate Bill No. 61.

The Tobacco Institute has several primary objections to Senate Bill No. 61:

1. Perverse Earmarking. Dedicating proceeds of this 9 cent tax increase to higher education violates two of the most widely-accepted maxims of taxation: (1) Assessment based upon the ability to pay; and (2) the provision of benefits to those taxed. Cigarette taxes fall most heavily on those least able to afford them, but upper income groups will reap the most benefits. According to 1988 Bureau of the Census figures, 60% of all families with incomes in excess of \$50,000 sent their children to college, while only 22% of families with incomes less than \$15,000 did so.

This bill would ask the poor to pay for a program aimed toward the rich -- the equivalent of a regressive tax financing a regressive program. Furthermore, asking those in the less educated segment of society to pay for the cream on top of the higher education budget has no more legitimate object than taxing bicycles to pay for super highways.

2. Regressivity and Unfairness. The approximately 541,000 Kansas residents who smoke have already been hit hard by a barrage of tax increases, including an 8 cent federal increase in 1983, 13 cents in state tax increases since 1983, a 4 cent federal tax increase in 1991 and an additional 4 cent federal increase in 1993. A 9 cent state tax increase would amount to a 34 cent per pack increase in the last 8 years (not including the additional 4 cent federal tax which goes into effect on January 1, 1993).

Low income families are especially hard hit. A 1989 survey showed that 17.3% of all Kansas households had an effective buying income of less than \$10,000 per year. Passage of this bill would cause the average two-smoker family to pay an additional \$95 per year in excise taxes.

ATT. 4

The regressive impact of cigarette taxes is especially harmful to minority groups. Among blacks for example, the smoking rate of those over 18 years of age is 33%, compared to 28.5% for whites — a 15.4% higher smoking rate. Blacks comprise 5% of Kansas households and, according to the 1980 census, 46% of black households in Kansas had incomes of less than \$10,000, compared to 28% for whites. The tax increase in this bill would be particularly devastating to low income blacks.

A 33 cent per pack Kansas cigarette tax would extract a huge 3.5% of the income from a two-smoker family with a \$10,000 annual income. A two-smoker family with a \$60,000 annual income would pay less than one-half of one percent of its income for those taxes. The smoking rate is 50% greater for those with annual incomes below \$10,000 than the rate for those with incomes above \$60,000.

3. Low Marginal Financial Return. When Kansas raised its cigarette tax by 9 cents in 1985, Kansas cigarette sales plunged by 15.6 million packs in FY 1986. The 9-cent increase in this bill is likely to cause a 14.7 million pack drop (more than a 6% reduction in sales).

Cigarettes are the leading product sold in convenience stores, representing 19% of sales. Cigarettes contribute nearly 10% to total sales in chain drug stores; and more than 40% of all cigarettes are sold in supermarkets. More than \$32 million in retail sales would be lost due to this tax increase — \$21.5 million in cigarette sales and \$10.7 million in tie-in sales.

Since the recent 4-cent federal tax increase will probably lead to a 1.5% reduction in sales by itself, the total lost cigarette sales after passage of this bill could be more than 7.5%.

4. Cross Border Impact. Kansas is in a vulnerable position with respect to cigarette taxes due to significant savings which would be available on most borders. A two-smoker family would be able to save \$211 per year by purchasing cigarettes in Missouri; \$137 in Colorado; and \$105 in Oklahoma. Purchases on military bases in Kansas account for about 6% of Kansas sales and could result in a \$348 annual savings.

The sensitivity of cigarette sales to tax increases is illustrated by the decrease of Kansas' per capita sales compared to Missouri's from 93% in 1983 to the current 78% while the Kansas tax sailed to 24 cents/pack as Missouri's tax remained at a stable 13 cents per pack. The Kansas tax is now modestly above most neighboring states, but this bill would create a substantial gap.

Smokers would now be lured across into bordering states by savings of \$2.00 per carton in Missouri, \$1.30 in Colorado and \$1.00 in Oklahoma. Since nearly 25% of Kansas' population lives in counties within the Kansas City area, resulting sales losses from driving a few miles to save \$2.00 per carton, could have a severe effect on Wyandotte County, Johnson County and merchants in other outlying areas.

Attached for your consideration are several documents which show the dramatic effect of increasing the differential in tax rates between jurisdictions. Also attached is a United States map showing the current tax rates in each state. We would ask you to pay particular attention to our surrounding states and the effect this proposed increase would have on the balance.

In conclusion, we would urge you to vote against Senate Bill 61 because it is bad tax policy, it's excessively regressive, it has no legitimate object for those who are taxed, and it will drive retail sales out of Kansas.

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.

<u>TABLE ES-1</u>		
<u>SUMMARY OF TAX AND REVENUE LOSSES</u> <u>ASSOCIATED WITH CROSS-BORDER ACTIVITY</u>		
	<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.

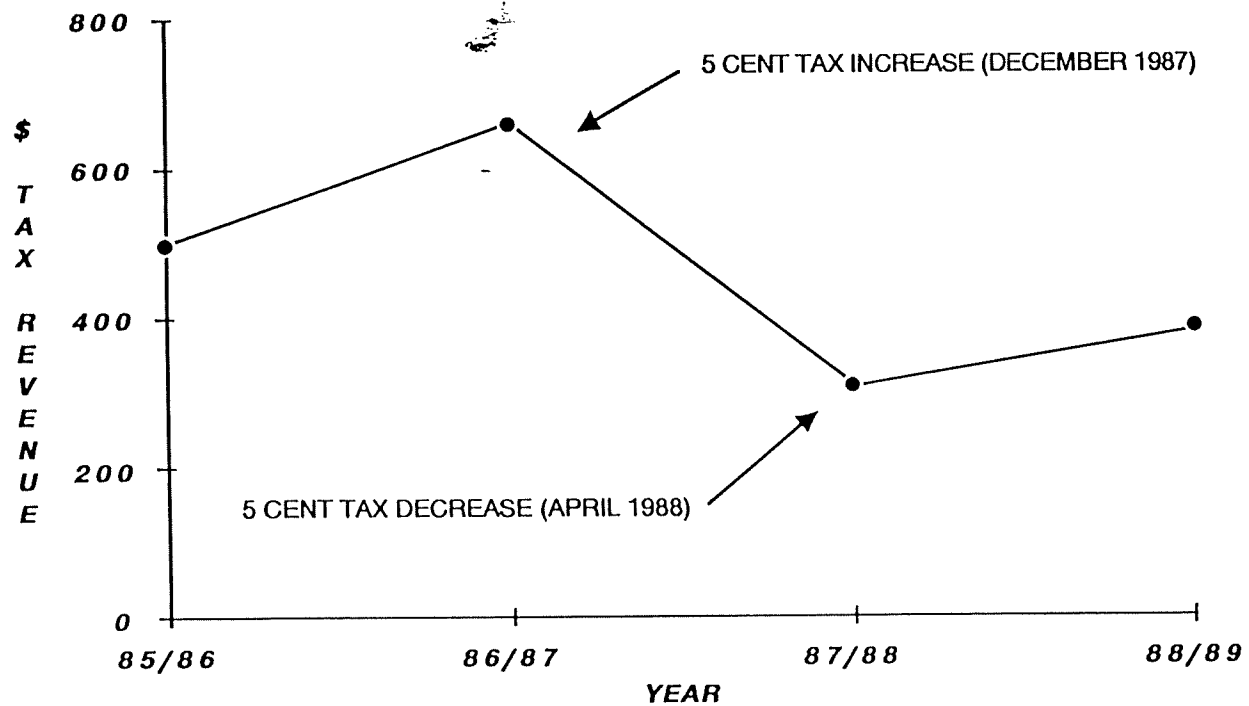
A comparison of cigarette sales in the first three quarters of 1988 vs. 1989 indicates a significant drop after the Illinois tax increase went into effect in July. During the first quarter, Illinois and Indiana both showed an increase in tax-paid cigarette sales, .4 percent and 1.2 percent, respectively. 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.

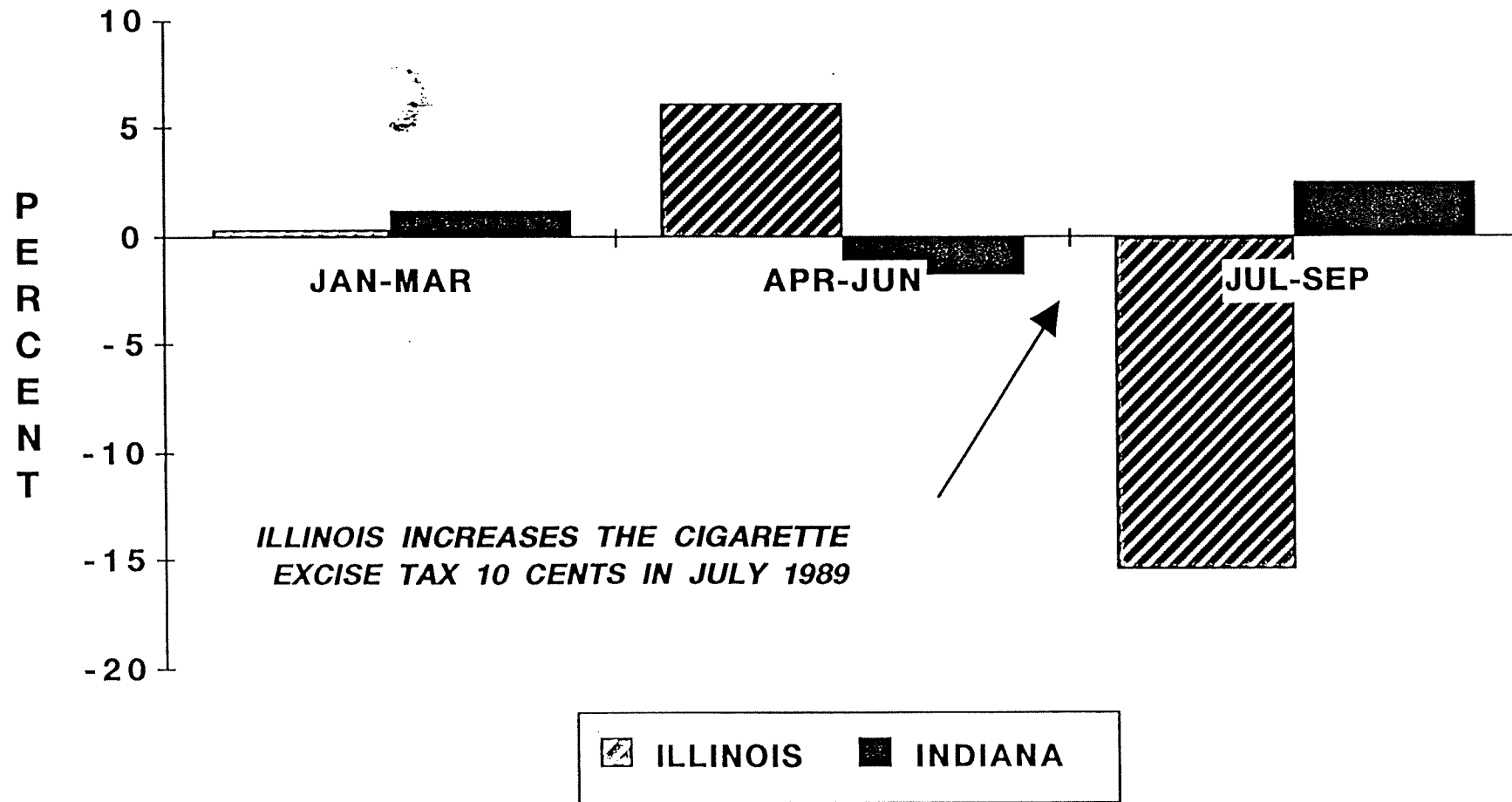
As a result of cross-border sales and bootlegging, cigarette sales have been declining in New York, while in other states, such as New Jersey, sales have been increasing. For example, comparing the period before the tax increase in the State of New York, sales in New Jersey were decreasing at a rate 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)**



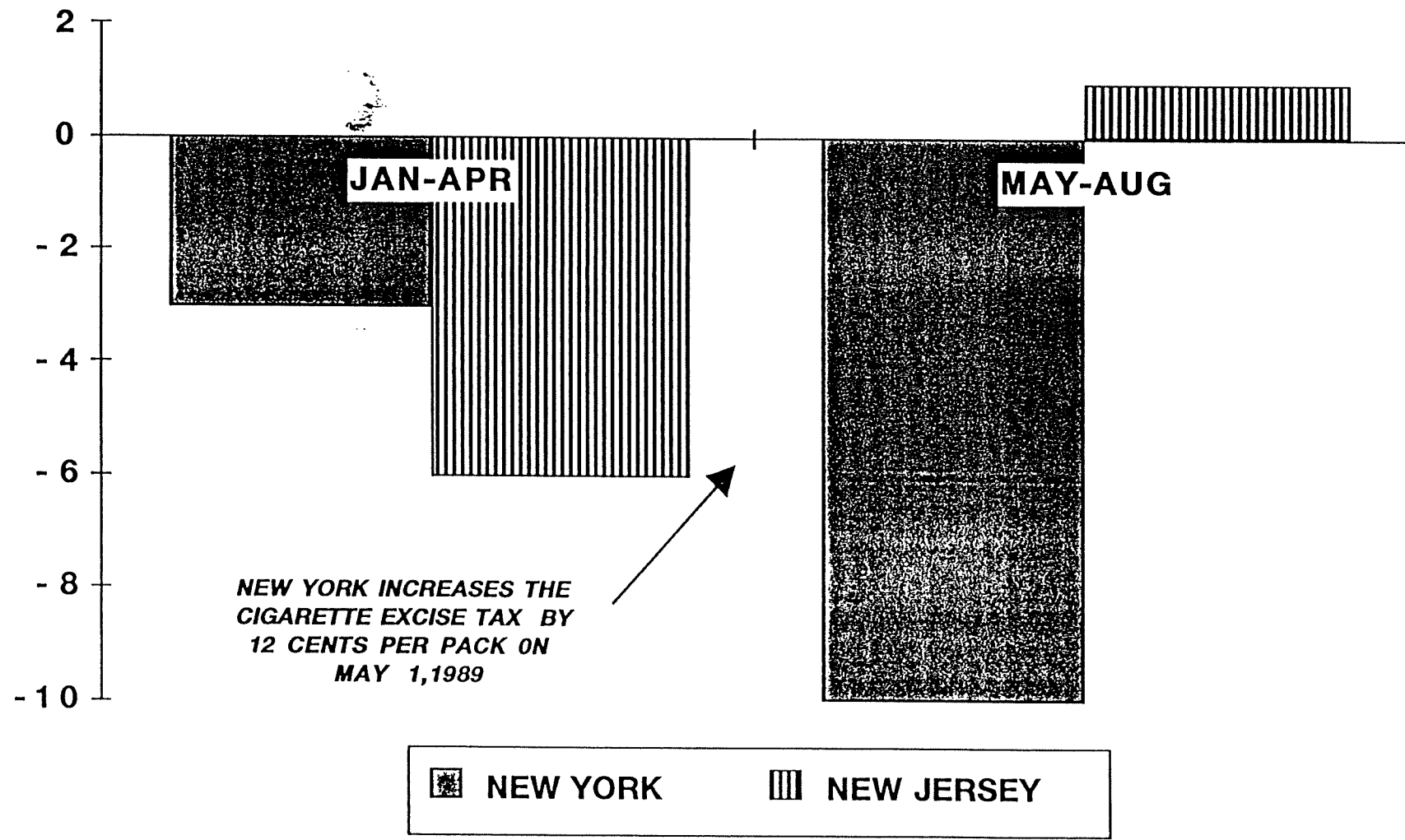
4-12

PERCENT CHANGE IN PACKS OF CIGARETTES SOLD 1988 VS. 1989



443

PERCENT CHANGE IN PACKS OF CIGARETTES SOLD 1988 - 1989



4-14



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.

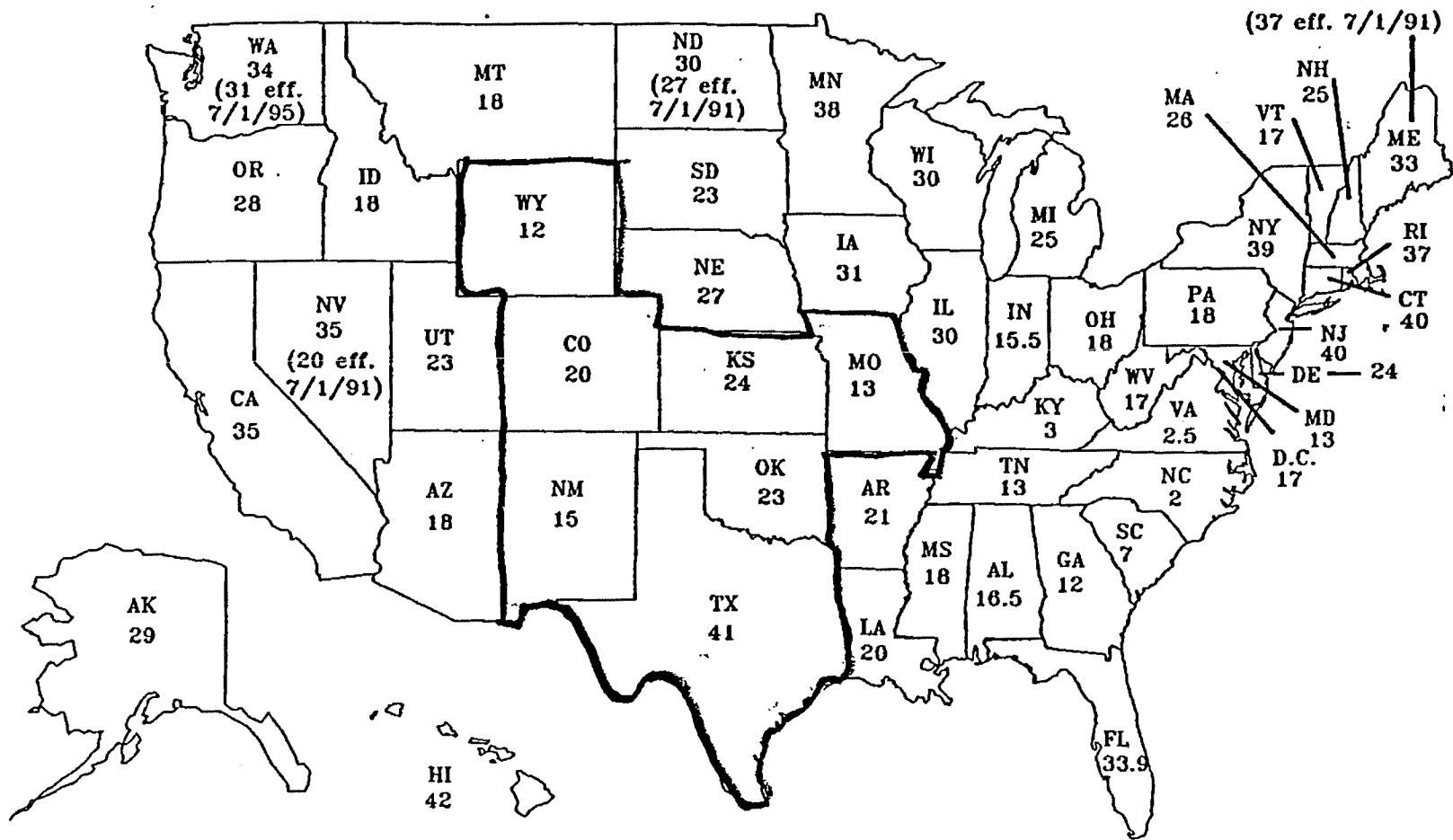
Lawmakers need to go back to the drawing board and take a second look at their consumer excise taxes. **ll**

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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State Cigarette Excise Tax Rates

Cents-per-20-pack January 1, 1991



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

THE TOBACCO INSTITUTE

PREPARED STATEMENT OF THE
SMOKELESS TOBACCO COUNCIL, INC.
IN OPPOSITION TO SENATE BILL 61

February 14, 1991

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 61. The Council represents the major domestic manufacturers 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 of those consumers who use smokeless tobacco products. They are

2-14-91
ATT. 5

typically an individual 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.

ADDITIONAL TAXATION

I am sure the Committee is aware, but I would be remiss by not reminding the Committee of the substantial federal tax increase my client incurred effective January 1, 1991. By virtue of the new tax law, my client was assessed a 25% tax increase in federal taxes on January 1, 1991, and will pay an additional 25% increase on January 1, 1993.

The bill in its current form provides the taxes on other tobacco products to be raised from a rate of 10% to 15%. Thus, you are looking at a 50% increase on smokeless tobacco products.

This issue is compounded by the fact that smokeless tobacco products are currently double taxed. There is the current

10% state excise tax and in addition a state sales tax at the time of purchase is added to the already taxed product.

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-over effect is far reaching as it relates to sales tax revenues.

CONCLUSION

The Smokeless Tobacco Council opposes enactment of Senate Bill 61 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.

A handwritten signature in cursive script that reads "William W. Sneed". The signature is written in dark ink and is positioned above the printed name and title.

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

HEIN AND EBERT, CHTD.

ATTORNEYS AT LAW

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

Telefax 913/273-9243

913/273-1441

Ronald R. Hein
William F. Ebert
Steven D. Rosel

SENATE ASSESSMENT AND TAXATION COMMITTEE
TESTIMONY RE: SB 61

PRESENTED BY RONALD R. HEIN ON BEHALF OF
R. J. REYNOLDS TOBACCO USA
February 14, 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 increase, we oppose SB 61. This is not a tax increase on tobacco and this is not a tax increase on tobacco companies. SB 61 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 the past, representatives from the Board of Regents institutions have appeared to support an increase in the cigarette tax in order to fund the Margin of Excellence Program. In my eighteen years around the Legislature, it has been my experience that it is very rare that you see a state agency lobbying the Legislature to pass a tax increase on a particular group of taxpayers. This is an extremely dangerous precedent. I have no objection to state agencies advising the Legislature that they need additional funding, but to utilize state resources to lobby for one particular group to pay a tax over another raises some brand new concerns.

R. J. Reynolds has no objections to the Margin of Excellence Program, and we do not intend for our opposition to this tax to suggest that we are opposed to the Margin of Excellence Program. Our objection is to the Board of Regents or the state institutions of higher education in this state lobbying the Legislature for the program to be paid for by tax on a select group of taxpayers in the state, that is the 29% of adults who choose to smoke. I also find it interesting that the Regents are desiring to tie their wagon to a declining tax source. As this committee should be well aware, cigarette sales have been declining, and are expected to continue to decline. I would think that the Board of Regents would not want to see their budget tied to a declining resource.

In conclusion, although we may see numerous proposals to shift taxes from one revenue source to another for purposes of accomplishing property tax relief this year, this is a tax increase on 29% of the public. We hope that you will oppose SB 61, and hope that if you are desirous of funding the Margin of Excellence Program to benefit the entire state of Kansas, that you will do so by appropriating sufficient revenues out of the State General Fund to do so.

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

ATTN 2-14-91
6.

Testimony in Opposition to SB 61
Senate Committee on Assessment and Taxation
February 14, 1991

Mr. Chairman, members of the committee, I am Bill Henry. I appear before you today on behalf of Philip Morris U.S.A., in opposition to SB61.

My client believes the policy issue on taxation, as discussed by Mr. Alderson on behalf of the Tobacco Institute, are correct and well-founded.

I wish to emphasize two points with you today: First, let's examine the current tax difference between Kansas and our bordering states:

* Current and potential border tax differences (cents per pack):

	<u>Current Rate</u>	<u>Propose Rate</u>	<u>Current Difference</u>	<u>Proposed Difference</u>
KS	24	33	--	--
MO	13	--	11	20
CO	20	--	4	13
OK	23	--	1	10
NE	27	--	(3)	6

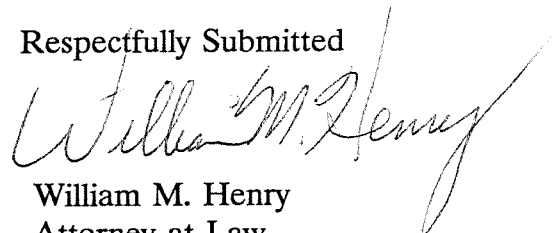
Currently, the Kansas cigarette tax is modestly above three of our four bordering states. Under the provision of SB61 our state's cigarette tax would be substantially above the cigarette taxes of our neighboring states.

Secondly, the forecasted drops in income from the cigarette tax caused by an increase as proposed in SB61 do not mean fewer people will be smoking less in Kansas; rather other states' coffers will benefit because of the cross-border impact.

The tax increase in SB61 is a 37.5% increase.

Thank you for the opportunity to express Philip Morris's opposition to SB61.

Respectfully Submitted



William M. Henry
Attorney at Law

2-14-91
ATT. 7



Kansas Tobacco-Candy Distributors & Vendors, Inc

Elizabeth E. Taylor - Executive Director

February 14, 1991

President
RONDA WASSENBERG (06-92)
Marysville, Kansas

TESTIMONY IN OPPOSITION TO SB 61

SENATE ASSESSMENT & TAXATION COMMITTEE

Vice President
TOM GUTHRIE (06-92)
Kansas City, Kansas

presented by

Secretary
ROBERT PIOTROWSKI (06-91)
Fort Scott, Kansas

Elizabeth E. Taylor, Executive Director

Treasurer
RON OSWALD (06-91)
Lawrence, Kansas

Thank you Mr. Chairman for allowing the Kansas Tobacco & Candy Distributors & Vendors to present our opposition of SB 61. 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
JOE WESTERMAN (06-92)
Iola, Kansas

Our opposition to SB 61 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.

Directors
DUANE ZARGER (06-92)
Leavenworth, Kansas

MICHAEL MADDOCK (06-92)
Overland Park, Kansas

JOHN FRAZEE (06-92)
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.

DAVID GREENE (06-92)
El Dorado, Kansas

GEORGE LAWRENCE (06-91)
Hutchinson, Kansas

DOYLE PEPPER (06-91)
Topeka, Kansas

FRANK ROTH (06-91)
Salina, 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:

Directors at Large
KENNETH HAGMAN
Pittsburg, Kansas

DAVE MINICH
Overland Park, Kansas

FRED STEVENS
Wichita, Kansas

GALE CYNOVA
Junction City, 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.

(continued)

- 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.

SENATE BILL No. 61

By Senators Bond, Winter, Langworthy, Burke, Oleen, Karr,
Bogina, Daniels, Frahm, Harder, D. Kerr, F. Kerr,
Lee, Morris, Thiessen and Vidricksen.

1-25

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

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

17 Section 1. On and after June 1, 1991, K.S.A. 79-3310 is hereby
18 amended to read as follows: 79-3310. There is imposed a tax upon
19 all cigarettes sold, distributed or given away within the state of
20 Kansas. The rate of such tax shall be ~~\$.24~~ \$.33 on each 20 cigarettes
21 or fractional part thereof or ~~\$.30~~ \$.4125 on each 25 cigarettes, as
22 the case requires. Such tax shall be collected and paid to the director
23 as provided in this act. Such tax shall be paid only once and shall
24 be paid by the wholesale dealer first receiving the cigarettes as herein
25 provided.

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

30 Sec. 2. On and after June 1, 1991, K.S.A. 79-3310b is hereby
31 amended to read as follows: 79-3310b. On or before ~~October 31,~~
32 ~~1985 June 30, 1991~~, each wholesale dealer, retail dealer and vending
33 machine operator shall file a report with the director in such form
34 as the director may prescribe showing cigarettes, cigarette stamps
35 and meter imprints on hand at 12:01 a.m. on ~~October 1, 1985 June~~
36 ~~1, 1991~~. A tax of ~~\$.08~~ \$.09 on each 20 cigarettes or fractional part
37 thereof or ~~\$.10~~ \$.1125 on each 25 cigarettes, as the case requires
38 and ~~\$.08~~ \$.09 or ~~\$.10~~ \$.1125, as the case requires upon all tax
39 stamps and all meter imprints purchased from the director and not
40 affixed to cigarettes prior to ~~October 1, 1985 June 1, 1991~~, is hereby
41 imposed and shall be due and payable on or before ~~October 31,~~
42 ~~1985 June 30, 1991~~. The tax imposed upon such cigarettes, tax
43 stamps and meter imprints shall be imposed only once under this

8-3

8-4

1 act. The director shall remit all moneys collected pursuant to this
2 section to the state treasurer who shall credit the entire amount
3 thereof to the state *general board of regents margin of excellence*
4 fund.

5 Sec. 3. On and after June 1, 1991, K.S.A. 79-3311 is hereby
6 amended to read as follows: 79-3311. The director shall design and
7 designate indicia of tax payment to be affixed to each package of
8 cigarettes as provided by this act. The director shall sell water applied
9 stamps only to licensed wholesale dealers in the amounts of 1,000
10 or multiples thereof. Stamps applied by the heat process shall be
11 sold only in amounts of 30,000 or multiples thereof, except that such
12 stamps which are suitable for packages containing 25 cigarettes each
13 shall be sold in amounts prescribed by the director. Meter imprints
14 shall be sold only in amounts of 10,000 or multiples thereof. Water
15 applied stamps in amounts of 10,000 or multiples thereof and stamps
16 applied by the heat process and meter imprints shall be supplied
17 to wholesale dealers at a discount of ~~2.65%~~ ~~1.98%~~ from the face
18 value thereof, and shall be deducted at the time of purchase or from
19 the remittance therefor as hereinafter provided. Any wholesale cig-
20 arette dealer who shall file with the director a bond, of acceptable
21 form, payable to the state of Kansas with a corporate surety au-
22 thorized to do business in Kansas, shall be permitted to purchase
23 stamps, and remit therefor to the director within 30 days after each
24 such purchase, up to a maximum outstanding at any one time of
25 85% of the amount of the bond. Failure on the part of any wholesale
26 dealer to remit as herein specified shall be cause for forfeiture of
27 such dealer's bond. All revenue received from the sale of such stamps
28 or meter imprints shall be remitted to the state treasurer daily.
29 Upon receipt thereof, the state treasurer shall deposit the entire
30 amount thereof in the state treasury. The state treasurer shall first
31 credit such amount thereof as the director shall order to the cigarette
32 tax refund fund and shall credit the remaining balance *as follows:*
33 *(a) After July 1, 1991, 27.3% to the state board of regents margin*
34 *of excellence fund; and (b) 72.7% to the state general fund. A refund*
35 *fund designated the cigarette tax refund fund not to exceed \$10,000*
36 *at any time shall be set apart and maintained by the director from*
37 *taxes collected under this act and held by the state treasurer for*
38 *prompt payment of all refunds authorized by this act. Such cigarette*
39 *tax refund fund shall be in such amount as the director shall de-*
40 *termine is necessary to meet current refunding requirements under*
41 *this act.*

located within Kansas

only to licensed wholesale dealers located within Kansas

only to licensed wholesale dealers located within Kansas

2.9%

42 The wholesale cigarette dealer shall affix to each package of cig-
43 arettes stamps or tax meter imprints required by this act prior to

5-8

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

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

31 Sec. 4. On and after June 1, 1991, K.S.A. 79-3312 is hereby
 32 amended to read as follows: 79-3312. The director shall redeem any
 33 unused stamps or meter imprints that any wholesale dealer presents
 34 for redemption within six months after the purchase thereof, at the 2.9%
 35 face value less ~~2.65%~~ 1.93% thereof if such stamps or meter imprints
 36 have been purchased from the director. The director shall prepare
 37 a voucher showing the net amount of such refund due, and the
 38 director of accounts and reports shall draw a warrant on the state
 39 treasurer for the same. Wholesale dealers shall be entitled to a refund 2.9%
 40 of the tax paid on cigarettes which have become unfit for sale upon
 41 proof thereof less ~~2.65%~~ 1.93% of such tax.

42 Sec. 5. On and after June 1, 1991, K.S.A. 79-3371 is hereby
 43 amended to read as follows: 79-3371. A tax is hereby imposed upon

1 the privilege of selling or dealing in tobacco products in this state
 2 by any person engaged in business as a distributor thereof, at the
 3 rate of ~~ten percent (10%)~~ 15% of the wholesale sales price of such
 4 tobacco products. Such tax shall be imposed at the time the dis-
 5 tributor (a) brings or causes to be brought into this state from without
 6 the state tobacco products for sale; (b) makes, manufactures, or fab-
 7 ricates tobacco products in this state for sale in this state; or (c) ships
 8 or transports tobacco products to retailers in this state to be sold
 9 by those retailers.

10 Sec. 6. On and after June 1, 1991, K.S.A. 79-3372 is hereby
 11 amended to read as follows: 79-3372. On or before ~~July 20, 1972~~
 12 *June 30, 1991*, each distributor having a place of business in this
 13 state shall file a report with the director in such form as the director
 14 may prescribe, showing the tobacco products on hand at 12:01 o'clock
 15 a.m. on ~~July 1, 1972~~ *June 1, 1991*. A tax at a rate equal to ~~ten~~
 16 ~~percent (10%)~~ 5% of the wholesale sales price of such tobacco
 17 products is hereby imposed upon such tobacco products and shall
 18 be due and payable on or before ~~July 20, 1972~~ *June 30, 1991*. The
 19 tax upon such tobacco products shall be imposed only once under
 20 this act. *The director shall remit all moneys collected pursuant to*
 21 *this section to the state treasurer who shall credit the entire amount*
 22 *thereof to the state board of regents margin of excellence fund.*

23 Sec. 7. On and after June 1, 1991, K.S.A. 79-3378 is hereby
 24 amended to read as follows: 79-3378. On or before the ~~twentieth~~
 25 *20th* day of each calendar month every distributor with a place of
 26 business in this state shall file a return with the director showing
 27 the quantity and wholesale sales price of each tobacco product ~~(1)~~
 28 *(a)* brought, or caused to be brought, into this state for sale; and
 29 ~~(2)~~ *(b)* made, manufactured, or fabricated in this state for sale in
 30 this state during the preceding calendar month. Every licensed dis-
 31 tributor outside this state shall in like manner file a return showing
 32 the quantity and wholesale sales price of each tobacco product
 33 shipped or transported to retailers in this state to be sold by those
 34 retailers, during the preceding calendar month. Returns shall be
 35 made upon forms furnished and prescribed by the director. Each
 36 return shall be accompanied by a remittance for the full tax liability
 37 shown therein, less ~~four percent (4%)~~ 2.87% of such liability as 4.5%
 38 compensation to reimburse the distributor for ~~his or her~~ expenses
 39 incurred in the administration of this act. As soon as practicable
 40 after any return is filed, the director shall examine the return. If
 41 the director finds that, in ~~his or her~~ *the director's* judgment, the
 42 return is incorrect and any amount of tax is due from the distributor
 43 and unpaid, ~~he or she~~ *the director* shall notify the distributor of

8-6

8-7

1 the deficiency. If a deficiency disclosed by the director's examination
 2 cannot be allocated by ~~him~~ to a particular month or months, ~~he or~~
 3 ~~she~~ *the director* may nevertheless notify the distributor that a de-
 4 ficiency exists and state the amount of tax due. Such notice shall be
 5 given to the distributor by registered or certified mail.

6 Sec. 8. On and after June 1, 1991, K.S.A. 79-3387 is hereby
 7 amended to read as follows: 79-3387. All revenue collected or re-
 8 ceived by the director from the licenses and taxes imposed by this
 9 act shall be deposited monthly with the state treasurer ~~and by him~~
 10 ~~or her~~ *credited who shall credit each such remittance as follows:*
 11 *(a) After July 1, 1991, 33 1/3% to the state board of regents margin*
 12 *of excellence fund; and (b) 66 2/3% to the state general fund.*

13 New Sec. 9. There is hereby created the state board of regents
 14 margin of excellence fund in the state treasury. All moneys credited
 15 to such fund shall be expended or transferred in accordance with
 16 appropriation acts solely for the purpose of financing the operating
 17 budgets and improving the quality, condition and performance of
 18 the institutions of higher learning under the jurisdiction of the state
 19 board of regents.

20 Sec. 10. On and after June 1, 1991, K.S.A. 79-3310, 79-3310b,
 21 79-3311, 79-3312, 79-3371, 79-3372, 79-3378 and 79-3387 are hereby
 22 repealed.

23 Sec. 11. This act shall take effect and be in force from and after
 24 its publication in the Kansas register.