

MINUTES OF THE HOUSE COMMITTEE ON TAXATION..

The meeting was called to order by Chairperson Phill Kline at 9:00 a.m. on March 11, 1998 in Room 519-S of the Capitol.

All members were present except:

Committee staff present: Chris Courtwright, Legislative Research Department  
Tom Severn, Legislative Research Department  
Don Hayward, Revisor of Statutes  
Shirley Sicilian, Department of Revenue  
Ann McMorris, Committee Secretary

Conferees appearing before the committee:

Rep. Candy Ruff  
Keyta Kelly, Leavenworth County Counselor at Large  
Rep. Henry Helgerson  
Dr. Gary Doolittle, Tobacco Free Ks. Coalition  
Emily Broxterman, Smoke Free Class of 2000  
Al Maxwell, American Lung Association  
Cordell Meeks, American Lung Association  
Dr. Katie Rhodes, American Cancer Society  
Kimberly Woodard, McLane Company, Temple TX  
Brian Hallauer, Hallauer Oil, Holton

Others attending: See attached list

Chair opened hearing on:

**HB 2995 - Property tax classification of criminal detention centers**

Proponents:

Rep. Candy Ruff (Attachment 1)  
Keyta Kelly, Leavenworth County Counselor at Large (Attachment 2)

Don Hayward, staff, noted intent for halfway houses should be made clear.

Closed hearing on **HB 2995**

Chair opened hearing on:

**HB 2994 - Cigarette tax rate increase, disposition of revenues, children's health care programs fund.**

Proponents:

Rep. Henry Helgerson (Attachment 3)  
Dr. Gary Doolittle, Tobacco Free Ks. Coalition (Attachment 4)  
Emily Broxterman, Smoke Free Class of 2000 (Attachment 5)  
Al Maxwell, American Lung Association (Attachment 6)  
Cordell Meeks, American Lung Association (Attachment 7)  
Dr. Katie Rhodes, American Cancer Society (Attachment 8)

Written testimony only from:

Jerry Scott, Saline County Fire Dept. (Attachment 9)  
Terri Roberts, Kansas State Nurses Assn. (Attachment 10)  
Sally Finney, Ks. Public Health Assn. (Attachment 11)  
John Ryan, Ks. Academy of Family Physicians (Attachment 12)  
Brian Dawson, Ellis Co. Community Partnership (Attachment 13)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON TAXATION, ROOM 519-S Statehouse, at 9:00 a.m. on March 11, 1998.

Thom Rosenberg, MD, Allergy & Asthma Center, Wichita (Attachment 14)

Debra Fox, Kansas Respiratory Care Society (Attachment 15)

John Pepperdine, American Cancer Society (Attachment 16)

Opponents:

Kimberly Woodard, McLane Company, Temple TX (Attachment 17)

Brian Hallauer, Hallauer Oil, Holton (Attachment 18)

Due to lack of time, Chair announced hearing on **HB 2994** would be continued at the next meeting.

The next meeting is scheduled for March 12, 1998.

Adjournment.

Attachments - 18

# TAXATION COMMITTEE GUEST LIST

DATE:           **MARCH 11, 1998**          

NAME	REPRESENTING
Tracy Simms	Baker University School of Nursing
Candace Webb-Cohen	Washburn University F.W. May Jr.
Bridget Mburu	Tobacco Free KS. Coalition
<b>Terri Roberts</b>	<b>Kansas State Nurses Assn.</b>
Vally Finney	Kansas Public Health Assn.
Kelly Kuntala	City of Overland Park
Gary Dolette	Tobacco Free Kansas Coalition
Judy Keller	American Lung Assn. of KS.
Erin Hornish	Kansas Insurance Department
Donna Graf	Woodsenworth County
Kayla Kelly	Woodsenworth County
Greg Trueman	DOB
Steve Pickard	KDHE
Cindee C. Stallen	AHA
Marypeyne Hellebrand	Kansas Smokers Kids Initiative
Jan Broxterman	Smoke Free Class of 2000
Emily Broxterman	Smoke-Free class of 2000
Carolyn Dunitz	KDHE
Julia Francisco	KDHE

# TAXATION COMMITTEE GUEST LIST

DATE:           **MARCH 11, 1998**          

NAME	REPRESENTING
Theresa Miller	Kansas Smokeless Kids Initiative
Carol Cramer	American Cancer Society
Dawn Reed	KSWA
Al Maxwee	ALA - Kansas
<del>Carol Cramer</del>	ALA Kansas
Erik Santorius	Pete McGill Assoc.
Whitney Damron	KS Bar Assn.
Brian Hallauer	Retailer
Kimberly Woodard	Mehane Company Inc.
Denny Koch	UST PUBLIC AFFAIRS INC.
Ron Hein	RJ Reynolds Tobacco
Susan Anderson	Hein + Weir
Tom Palace	KOMA
John P. Smith	Kansas Smokeless Kids Initiative
Musheen Ameenuddin	KS Public Health Assoc.

L. CANDY RUFF  
REPRESENTATIVE FORTIETH DISTRICT  
LEAVENWORTH COUNTY  
321 ARCH  
LEAVENWORTH, KANSAS 66048  
(913) 682-6390  
  
STATE CAPITOL, ROOM 278—W  
TOPEKA, KANSAS 66612-1504  
(913) 296-7658



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
FEDERAL AND STATE AFFAIRS  
JUDICIARY  
TAXATION

**March 11, 1998**

**Testimony on HB 2995**

**Although I was not serving in the Legislature when lawmakers fashioned the reappraisal legislation of the late 1980s, my hope is that common sense prevailed. For-profit businesses, I am sure, were thought to be taxed at commercial rates. What should be considered residential property is where the problem began in Leavenworth.**

**To reiterate or clarify this blinding flash of the taxing obvious is what HB 2995 is all about. What is being added to KSA 65-501 is this: "As used in this clause, real property used for residential purposes shall not include any detention center for the supervised confinement of criminal offenders."**

**What occurred in my community to prompt this bill will be explored by my Leavenworth County appraiser and the office's attorney. As you listen to their testimony please remember this.**

**When the Corrections Corporation of America came to Leavenworth, the company proudly proclaimed its private, for-profit status. For the first time in Kansas, a private-business company would be operating a prison. In a town known for its prisons, this was a big deal.**

**CCA built its facility in our industrial park and economic development inducements were given. Its employees were offered profit-sharing and other benefits associated with profit-based companies. Local residents going to work there often reported a different kind of atmosphere that set itself apart from the government-operated corrections facilities.**

**So if it looks like a duck, walks like a duck and quacks like it duck, should it not be taxed like a duck? CCA disagreed and challenged Leavenworth County's decision to tax it at the commercial rate.**

**What CCA contends is this: Because CCA houses inmates over 30 days in a row, it should be considered a nursing-home type business. Taxing rate should be the same as residential.**

**Not hardly. The state should say, No Way. This duck is a business and should be taxed like one.**

M E M O R A N D U M

TO: Members of the Committee on Taxation

FROM: Donna K. Graf, Leavenworth County Appraiser  
Keyta D. Kelly, County Counselor at Large

DATE: 11 March 1998

RE: HB No. 2995

\*\*\*\*\*

We, at Leavenworth County, ran into a problem recently and called upon our County legislators for help. Representative Ruff answered our plea by drafting the House Bill that is before you for consideration this morning. I am here to urge you to pass this proposed legislation.

Article 11 § I of the Kansas Constitution codified at K.S.A. 79-1439 divides and sorts property into different classes so that it can be assessed accordingly. Two of those classifications concern us today. The first is K.S.A. 79-1439(b)(1)(A) - Real property used for residential purposes and the second is K.S.A. 79-1439(b)(1)(F) - Real property used for commercial and industrial purposes. At the time these classifications were set forth by the legislature and passed by the voters the two classifications probably seemed fairly clear, distinct and unambiguous. However, K.S.A. 79-1439(b)(1)(A) has been tinkered with by subsequent legislatures. The legislature at the time of passing the classifications saw the necessity of specifically enumerating that mobile home parks were residential. It later saw the necessity of defining homes used partially as daycare facilities as residential. I believe that now there is a necessity for the legislature to define whether a privately owned and operated prison is residential or commercial.

Representative Ruff's proposed bill specifically excludes detention centers from the definition of residential.

The question, in its most simplistic form is, is the prison a home or a business? Is the operator a homeowner or a businessowner? It may be that you've never considered this before because the notion of privately owned prisons is relatively new. We've always known prisons to be state or federal facilities. But, Leavenworth County has had CCA, a privately operated prison, located therein since 1992. It may be the wave of the future. CCA has challenged its assessment rate and the question of its classification will be answered by the Court if not addressed and answered by the legislature.

Time and again, the Courts have handed down the test of constitutional interpretation. The test is 'what does the term mean to a person of common understanding?' Just for the heck of it, I've asked several people from all walks of life, is a prison residential or commercial? Not a one has said residential. The purpose of prison is not to provide these people a comfortable place to live, but to protect society by locking them away. The fact they eat and sleep there is incidental to the purpose of their being there. Black's Law Dictionary, 1308-09 (6th ed., 1990) defines "residence" as a "place where one actually lives or has his home; a person's dwelling place or place of habitation; an abode; house where one's home is; a dwelling house. Personal presence at some place of abode with no present intention of definite and early removal and with purpose to remain for undetermined period, not infrequently, but not necessarily combined with design to stay permanently." Residential is a term that must combine fact and intention. If we were to open the prison doors, how many of the inmates do you

truly believe would have the intention of staying there indefinitely?

To sum up, you are all men and women of common understanding, would you consider prison "home sweet home"?

Please clarify the law, so there is no misunderstanding that a prison is a commercial facility NOT a residential facility.

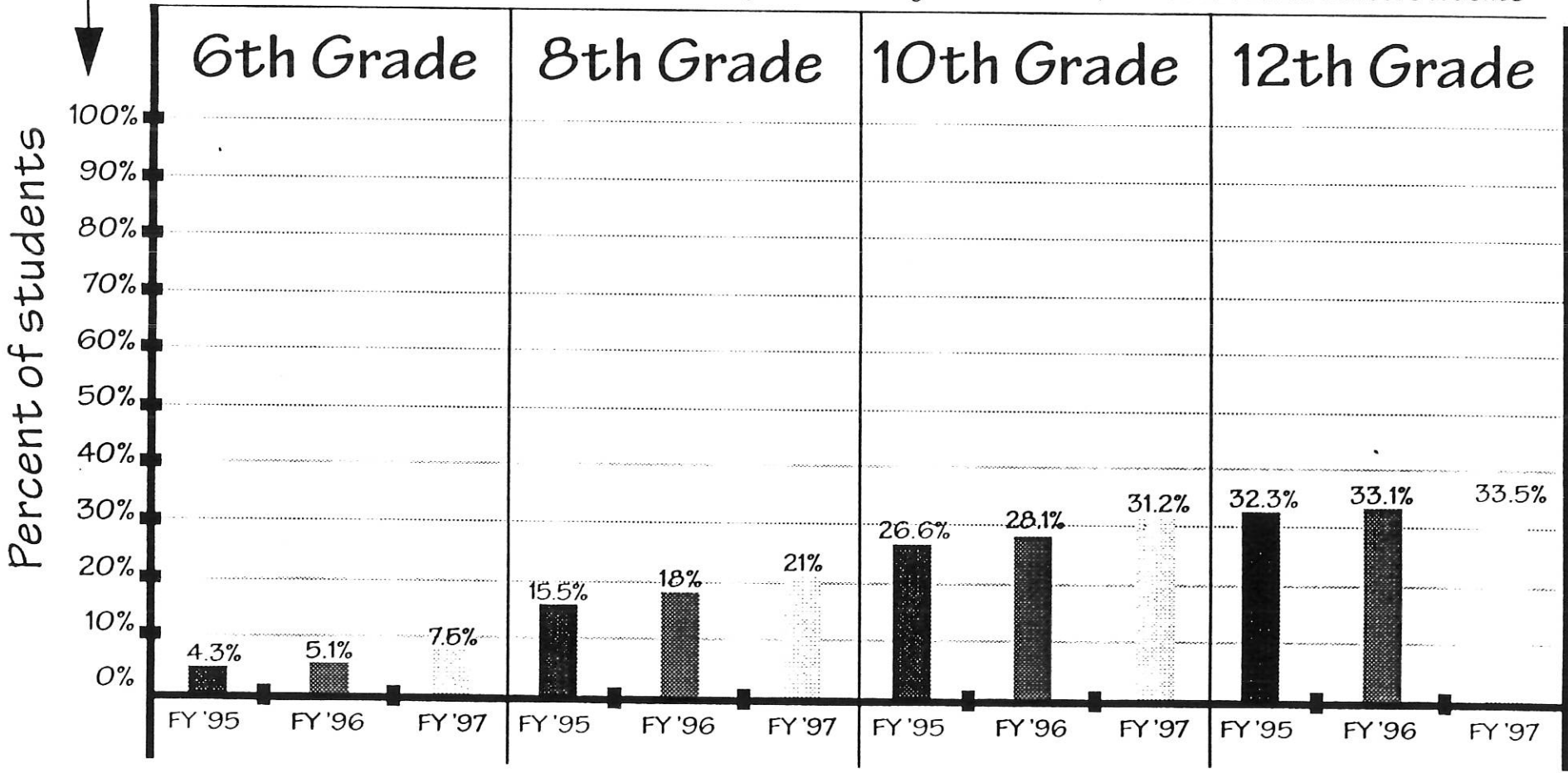
Thank you.



Percentage of 6, 8, 10, and 12th graders who indicate that they have smoked cigarettes at least once in the last 30 days.

## Usage Levels of Cigarettes by Students

Kansas Communities That Care Student Survey of 6th through 12th Graders, Public and Private School Students



FEB 25 1998

# 169 Kansans Say 'Yes' to Tobacco Tax Increases

When it comes to helping children and saving lives, Kansans by a wide majority are in favor of increasing the price of tobacco through higher state cigarette excise taxes. Even those who currently smoke support price increases. These were among the findings of a just-completed study by Mathematica Policy Research release recently by the Tobacco Free Kansas Coalition, Inc.

"Kansas voters see an increase in the excise tax on cigarettes not as a 'tax' but, instead, as a health issue," said Gary Doolittle, MC, president of the Tobacco Free Kansas Coalition. "Support for a higher excise tax grows when it is designated for uses such as insurance for uninsured children or tobacco education and smoking prevention activities." He noted that a tobacco price-increase on cigarettes prevents children from starting smoking, getting addicted and dying prematurely from smoking related diseases.

Nearly eight in ten Kansas residents surveyed indicated that they would support a 50 cents per pack tax increase, as long as the increase was earmarked for providing health insurance for uninsured children.

The survey showed 82 percent of non-smokers and 60 percent of smokers supported tobacco tax increases aimed at providing health insurance for uninsured children. Nearly three-quarters of those polled supported using a tobacco tax increase for tobacco education and prevention, with 79 percent of non-smokers and over half of the smokers (56%) supporting such use.

While still strong, support declined somewhat for using a cigarette excise tax increase for other purposes. Nearly 60 percent favored an increase in the tobacco tax as long as the increase was used to reduce sales tax on food or was earmarked cigarette tax increases fell somewhat, although 40 percent of non-smokers and 33 percent of smokers felt that tobacco taxes could support any governmental purpose.

Two-thirds of those surveyed supported higher cigarette taxes rather than increased taxes for everyone. Non-smokers were much more likely (76%) to support higher cigarette taxes than smokers (37%). The level of support was broad based, with similar support across party lines and political ideology.

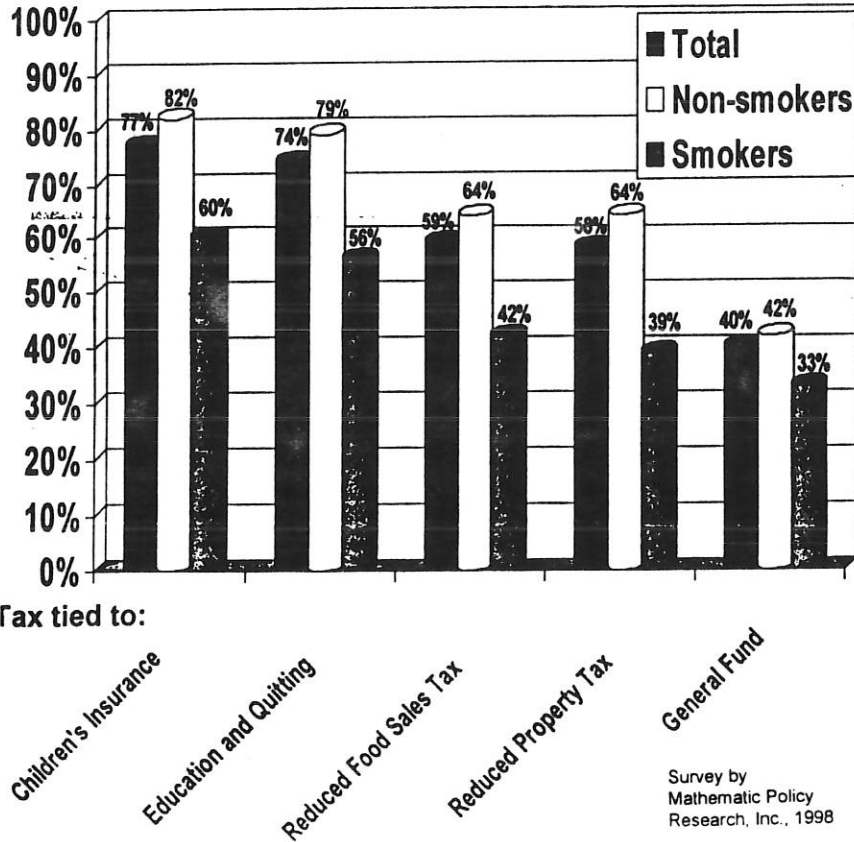
Support for increased tobacco

taxes is growing in Kansas, Doolittle noted. In a similar survey conducted two-and-a-half years ago, 71 percent of Kansans supported increased tobacco taxes linked to children's health insurance (compared to 77% today) and 66 percent approved if the increase was tied to helping educate people about tobacco health issues and helping them quit smoking (compared to 74% today.)

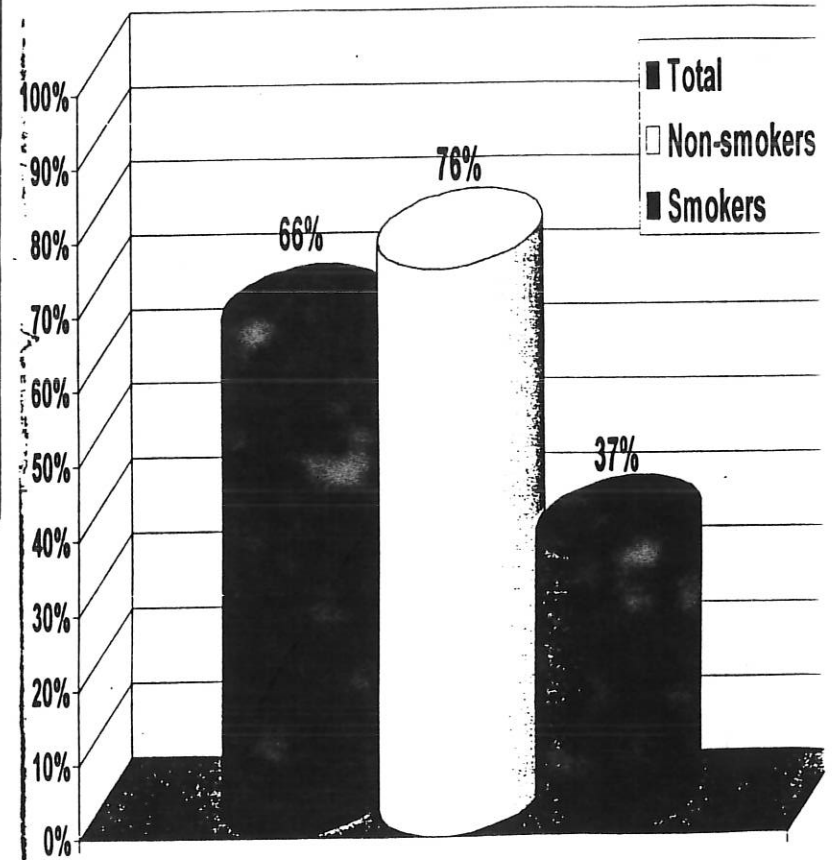
The recent survey polled both smokers and non-smokers over the age of 18. Smokers comprised 24 percent of the sample, although in Kansas 22 percent of the adult population smokes, according to Kansas Department of Health and Environment data.

The telephone poll was conducted between Jan. 22 and Feb. 9, 1998, under a contract between Mathematica and the Robert Wood Johnson Foundation, the nation's largest health philanthropy, to provide information to Smokeless States grantees on public attitudes toward tobacco policy issues. The sponsoring organization was the American Lung Association of Kansas. Questions answered by all residents are subject to a sampling error of approximately 4.6 percentage points.

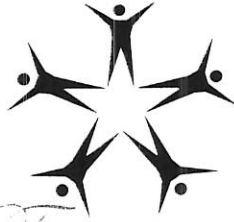
## An Increased Cigarette Excise Tax Is Supported by Kansans



## Support for smokers paying higher cigarette taxes



3-2



Tobacco *Free* Kansas Coalition, Inc.

Testimony in Support of HB 2994  
Before the Senate Committee on Assessment and Taxation  
Gary Doolittle, M.D.  
March 11, 1998

Good morning, Chairperson Kline and distinguished members of the House Taxation Committee. On behalf of the Tobacco Free Kansas Coalition, I would like to thank you for scheduling this hearing. House Bill 2994 is of major importance to all Kansans. This legislation is *powerful*. If enacted, this bill will result in saving the lives of children in Kansas. What could be more important to us as Kansans? As parents? As community leaders? And for you as leaders in our state? HB 2994 will increase the excise tax on cigarettes by 50 cents per pack. Increasing the price of tobacco means fewer children will start, fewer children will become addicted, and fewer will die prematurely of a tobacco-related illness.

Tobacco use in children, described as a pediatric disease, is a problem of epidemic proportion. According to the Kansas Department of Health and Environment, each year 11,000 Kansas children begin cigarette smoking. The average age of initiation is 12 years, long before the legal age to purchase tobacco. If the present trend continues, projection shows 150,000 Kansans presently under the age of 18 will become habitual smokers. Of these, 50,000 will die prematurely. And I can tell you as a cancer doctor, as a hospice doctor, that death will be ugly and painful. It's painful both physically and emotionally -- and the pain extends beyond the individual to family, friends, and to those of us who care for people through the dying process. It is particularly frustrating, knowing that it can be prevented.

How have Kansans responded to these alarming statistics? I am proud to say that in 1996, the Kansas Legislature passed a youth access bill in an effort to reduce the number of tobacco retailers selling to minors. Even with this law, according to our Alcoholic Beverage Control Division, 47% of Kansas youth were able to purchase tobacco products illegally in 1997. Half of our children are able to purchase their own cigarettes over-the-counter. Kansans have also responded with the development of statewide initiatives, community programs, and school-base curricula designed to educate our children about the dangers of tobacco use. Unfortunately, many children are lured into smoking even when they are adequately informed. Clearly, we need to do more. And we can do more with this **TAX INITIATIVE**.

-more-

TOBACCO FREE KANSAS COALITION, INCORPORATED

Gary Doolittle, M.D.

ASSISTANT PROFESSOR  
OF OBSTETRICS UNIVERSITY  
OF KANSAS MEDICAL CENTER

Judy Keller, B.A., M.B.A.

EXECUTIVE DIRECTOR  
AMERICAN LUNG  
ASSOCIATION OF KANSAS

Maxine Burch

CHRONIC DISEASE  
HEALTH PROMOTION  
MARION COUNTY

House Taxation  
3-11-98  
Attachment 4-1

PRN 7852727277

According to our Kansas Department of Health and Environment, a 50 cent per pack increase will result in a 21.3 percent reduction in tobacco usage by Kansas children. Why? Because twelve year old children are more price sensitive than adults. Their amount of disposable money is limited, and in effect, we are pricing them out of the tobacco market.

This health initiative will also raise revenue. According to the Kansas Department of Revenue, this “user fee” will raise \$77.4 million in revenue annually. Even when we consider the reduced rate of tobacco consumption by children and adults, \$77.4 million will be generated. If passed, HB 2994 would allow for these dollars to be spent on children’s health care services, including tobacco cessation and prevention. While this will benefit all Kansans, as a coalition, we would support this measure even if money was not raised. We consider this an essential health initiative for our children, not a way to generate revenue for the state.

How do Kansans feel about an excise tax on cigarettes? After all, we are in a “no new taxes” mode. Polls conducted within this past month indicate most adult Kansans support this tax increase legislation. Nearly 8 in 10 residents surveyed indicated that they would support a 50 cent per pack increase as long as the money was earmarked to provide health insurance for uninsured children. The survey showed 82% of non-smokers, and even more impressive, 60% of smokers were in favor of this increase. Nearly three quarters of those polled supported a tobacco tax increase if the revenue generated went to tobacco education and prevention.

Opponents of this bill will tell you we shouldn’t pass this measure because it will lead to smuggling. However, in other states where great price differences exist, cross border smuggling has not been an insurmountable problem. And we would remind you that we are targeting children with this measure. Children do not have the option to travel to other states to purchase cigarettes. Our opponents will tell you that this tax is regressive, placing an undue burden upon the poor. In reality, the *real* burden that is placed on the poor comes from the diseases caused by tobacco: cancer, heart attacks, and lung disease. When this tax results in reduced tobacco use by the poor, they will benefit tremendously.

Our opponents will say that since Congress is considering a raise in the federal cigarette tax, we don’t need to do anything in Kansas. We are pleased that this issue is receiving national attention. However, as Kansans we should not wait on a decision from Washington. The proposed Congressional legislation may never be enacted. Should we expect Congress to do what we as Kansans are able to do for ourselves? Our children cannot afford to wait. We must act now. This price increase is a major health initiative for our Kansas children. Our goal is to price children out of the tobacco market. If we succeed in passing this legislation, a measure that the overwhelming majority of Kansans support, fewer children will start smoking, fewer will become addicted, and fewer will die prematurely.

Thank you for your willingness to meet with us this morning.

## SMOKE-FREE CLASS OF



P.O. BOX 4912 • TOPEKA, KANSAS 66604

Hello, my name is Emily Broxterman and I am the Kansas Teen Ambassador for the Smoke-Free Class of 2000. I am a sophomore at Blue Valley North High School in Overland Park.

In 1996, I had the privilege of testifying for HB2544. I appreciate your passing of this bill because it has made it harder for teens to have access to tobacco products. However, there is more we can do and I am here once again to ask for your support. By adding a \$.50 excise tax on tobacco products, we can make cigarettes even less accessible to the teens in our state.

In my high school, smoking is a common thing. Our biggest problem is in the bathrooms. My classmates sneak into the restroom between passing periods and during lunch to satisfy their cravings for nicotine. When we walk into the bathrooms, the air is stuffy and full of smoke. The toilets are scarred with cigarette burns and once you leave, you reek of smoke. Its easy to feel the effects of the second hand smoke that puts the non smokers at risk. I feel like this is an embarrassment to our school, and it is sad to see my classmates sink to this level.

We have to find a way to keep cigarettes out of the hands of these teens. Educating them is not the complete answer. All kids are drilled in school with statistics and information about the dangers of tobacco. They know its deadly effects, but don't feel it applies to them. Smoking is a way to rebel against authority.

If teens had to pay more to get cigarettes, it would cut down or eliminate their usage. In Kansas, the average age to start smoking is between 12 and 13 years old. At this age, teens are not able to work, so they do not have a lot of money that they can waste on cigarettes. If we add a \$.50 excise tax, it would make them think twice about starting this deadly and expensive habit.

Most teens love to eat, party, go to the movies, and listen to CD's, while wearing trendy clothes. These are all expensive habits. If teens had to sacrifice one of these in order to get their cigarettes, maybe the cigarettes would not be as big of a priority. To teens, money is everything. Raising prices will always get their attention, whereas education can easily be tuned out.

You have to remember that adults don't start smoking, kids do. Kids should be your first priority. You have the tremendous responsibility of protecting Kansas youth. Please don't think of this as another tax, but rather a way to separate children and tobacco by boosting it out of their price range. Every day I witness smoking in my school, and every day I am a victim of second hand smoke. All teens, smokers and non smokers, will benefit from this tax. On behalf of all teens I ask you to please give this issue some consideration. Thank you.



House Taxation  
3-11-98  
Attachment 5-1

Gina Masnall, RRT  
President

Ronald Weiner, MD  
President-Elect

Al Baldwin, PhD  
Vice President

Karen Schell, BSRT, RRT  
Secretary

Wayne R. Whitney  
Treasurer

Judy S. Keller  
Executive Director

State Office

4300 SW Drury Lane  
Topeka, KS 66604-2419  
Phone: (785) 272-9290  
In State: 1-800-LUNG-USA  
Fax: (785) 272-9297



**Testimony in support of HB 2994  
Before the House Committee on Taxation  
Al Maxwell  
March 11, 1998**

Mister Chairman and members of the Committee, thank you for hearing me today.

My name is Al Maxwell. I represent the American Lung Association of Kansas, where I have been a volunteer for more than 12 years and am a past president of the Board of Directors. I am here to speak in support of House Bill 2994.

Ninety percent of adults who smoke started by age 21, and half of them were regular smokers by their 18<sup>th</sup> birthday. I know, because I started to smoke at age 10 and acquired a pack-and-a-half-a-day habit.

I also know that about half of all regular cigarette smokers will eventually be killed by that addiction. I wish I had not started smoking. I am glad I was able to stop. I stopped smoking at the age of 36 after participating in a Freedom From Smoking<sup>®</sup> workshop put on by the American Lung Association of Kansas. I sought help after my then 3-year-old son A.J. saw a promotion for the program and told me and his mother, "if you don't stop smoking you're going to die."

We were both touched that even a 3-year-old child recognized the deadly fate of smoking. It compelled us to take steps to eradicate our smoking habit and work with the American Lung Association of Kansas to root out smoking-related deaths.

When you are a teen, there are many pressures on you: pressures to be part of the crowd, pressures to stand apart. Often these pressures lead to experimentation with tobacco. But tobacco is only one of the things your money could buy. **If cigarettes are more expensive, there is a much greater chance that tobacco use will remain only a youthful experiment and not a regular, addicting purchase.** At 14, saving for new Nikes is a better choice for conforming with your peers than illegally purchasing a carton of cigarettes.

A majority of Kansans, as well as Americans, agree that higher tobacco excise taxes are good health policy. A public opinion poll was completed last month by Mathematica Policy Research for the Tobacco Free Kansas Coalition. As the chart with my testimony indicates, 77 percent of Kansas residents surveyed said they would support a 50 cents per pack tax increase when the increase is earmarked

**When You Can't  
Breathe,  
Nothing Else  
Matters<sup>®</sup>**

House Taxation  
3-11-98  
Attachment 6-1

Page 2

for providing health insurance for uninsured children. Additionally, the poll found that 74 percent of Kansas adults support using a tobacco excise tax increase for tobacco education and prevention programs.

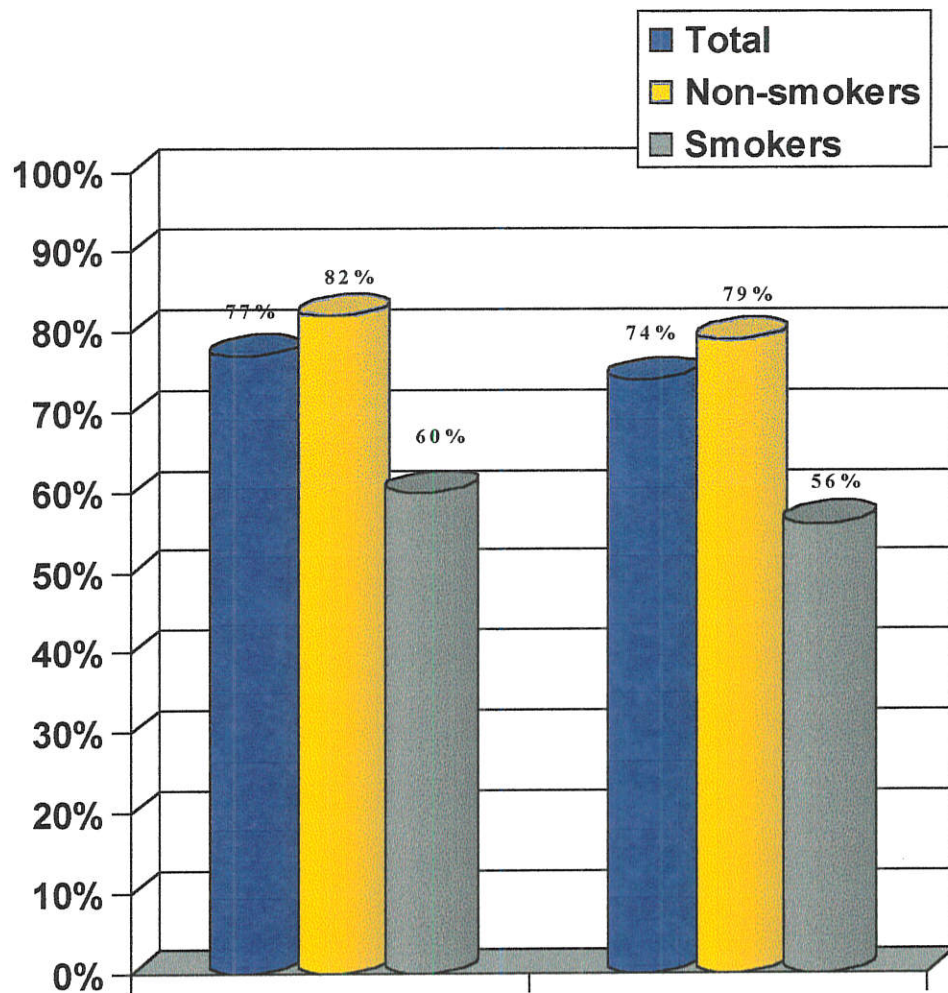
Not only do Kansans approve of an increase in the cigarette excise tax, but the approval is nation-wide for a much higher tax. The American Lung Association conducted a national public opinion survey in January and found that by a 60 percent to 36 percent majority, the public favors "increasing the tax on a pack of cigarettes by \$2.00 to deter children from smoking and to fund health programs." A slightly larger 63 percent to 33 percent majority favored the increased tax when it was characterized as a "health fee."

I urge you to vote on the side of the continued good health of today's children and support passage of HB 2994. Increasing the price of cigarettes will prevent children from becoming addicted to tobacco, getting tobacco-related diseases and dying prematurely.

Higher tobacco excise taxes will save lives in Kansas, the lives of my family and friends. I wish higher tobacco prices had taken me out of the tobacco marketplace after that first cigarette.

Thank you for your attention and please support HB 2994.

# Kansans Support an Increase in the Cigarette Excise Tax



When the tax is tied to:

Children's Insurance

Tobacco Education and Quitting

Survey by  
Mathematica Policy  
Research, Inc., 1998



Gina Marshall, RRT  
President  
Ronald Weiner, MD  
President-Elect  
Al Baldwin, PhD  
Vice President  
Karen Schell, BSRT, RRT  
Secretary  
Wayne R. Whitney  
Treasurer  
Judy S. Keller  
Executive Director

State Office  
4300 SW Drury Lane  
Topeka, KS 66604-2419  
Phone: (785) 272-9290  
In State: 1-800-LUNG-USA  
Fax: (785) 272-9297



**Testimony in support of HB 2994  
Before the House Committee on Taxation  
Judge Cordell D. Meeks, Jr.  
March 11, 1998**

Mister chairman and members of the committee, thank you for hearing me today. My name is Cordell Meeks. I am a judge in the District Court of Wyandotte County and am here as a volunteer for the American Lung Association of Kansas, where I serve on the board of directors and on the board of the national American Lung Association.

I ask you to support passage of House Bill 2994 and its goal of reducing smoking among the citizens of Kansas, especially among youth. The higher prices that passage of this bill would create for cigarettes will stop or reduce sales of this potentially deadly product to many current users and reduce the likelihood that those who have not yet become addicted will become regular smokers.

The tobacco industry's spokespeople will claim that increasing the excise tax, while it may stop young smokers, will create a hardship on adults who already are smokers and who must pay a higher price for that privilege. It will even be said that this is a regressive tax that hurts most the largest group of smokers, those in the lowest income brackets.

Paying for their smoking addiction already is a burden on the poor. The burden of illness and death caused by tobacco is borne to a greater extent by the poor. Tobacco use drains the U.S. economy of more than \$100 billion each year in health care costs and lost productivity according to the U.S. Centers for Disease Control. Kansas' portion of this cost is \$1 billion. And it is the poor, with less access to health care or health insurance, who bear the largest burden.

If these tobacco customers chose to consume less tobacco when prices rise, it is a wise health choice worth influencing.

**When You Can't  
Breathe,  
Nothing Else  
Matters®**

(more)

House Taxation  
3-11-98  
Attachment 7-1

Just as tobacco industry internal memos now coming to light show that there was a long-running strategy to market tobacco to teens, other memos show that there have been similar advertising campaigns to target African-Americans. And, perhaps not surprisingly, lung cancer rates are nearly 44 percent higher among African-Americans than whites. Lung cancer mortality rates also are higher among African-Americans than the total population.

While 22 percent of all Kansans smoke, 28 percent of Kansas African-Americans are smokers, according to data collected by the Kansas Department of Health and Environment.

This pattern of enticing and addicting different segments of the population is a cycle we can do something about by making the price of cigarettes unattractive. And higher prices will have a beneficial effect on the future health of families. A healthy, non-smoker is both better able to provide continuing support for his or her family, as well as not having to face higher medical expenses that do result from tobacco-related illnesses.

While an excise tax will hit hardest those with lower incomes, it provides the strongest financial incentive to quit. The most direct beneficiaries are those who are dissuaded from smoking by a higher tax. And, tax revenues can be used to help these smokers beat their addiction.

As former Surgeon General C. Everett Koop has said, cigarette taxes "are good for you." Koop noted that, "A cigarette tax is different because it helps almost everyone. Smokers would benefit because it would help them to quit; nonsmokers would benefit because the air they breathe would have less harmful smoke; children would benefit because fewer kids would get hooked on cigarettes."

Please help make it easier for everyone to benefit from less cigarette smoke and favorably report HB 2994 for passage. Thank you.

March 11, 1998

Submitted by: Katie Rhoads, MD  
20375 West 151, Ste. 350  
Olathe, KS 66061  
(913) 764-6996

### **Testimony for HB 2994**

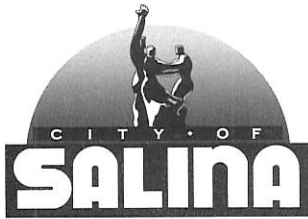
If you had the opportunity to prevent the number one cause of death in Kansas, would you take it? If you could reduce governmental expenditures on health care by half, would you do it? You now have that opportunity. A tobacco tax increase as proposed in House Bill 2994 is a health issue. Tobacco is unique because it is harmful to all users at all doses. Tobacco use produces no health benefit. Heart disease, stroke, lung cancer, and emphysema all have well known and obvious links to smoking.

However don't forget. Nearly every cancer occurs more frequently in smokers and is more difficult to treat. Heartburn is directly related to tobacco use. Medications that usually heal 95% of people only work in 60% of smokers. Smoker's hack leads to hernias. Those hernia repairs and other wound healing is impeded in smokers. Smokers lose more work and expend more dollars to treat simple illnesses, like flu, that are complicated by their smoking.

The real focus of our concern, however, should be the youth of Kansas. Kansas youth have a high rate of regular cigarette use. The public supports tobacco taxes. Even smokers support an increase to protect kids.

Increasing Kansas tobacco prices means fewer children will start, fewer children will become addicted, and fewer children will die. Pricing children out of the tobacco market prevents addiction, disease, and premature death. The price sensitivity of children is well researched to my knowledge. Selling three packs of cigarettes bundled together has not been researched as a viable option to preventing kids from buying. We can use something we know works and we know a 50 cent *per pack* increase in cigarette tax will reduce use by children 21%. We can reduce deaths. We can reduce health care costs. We can protect kids. We can tax tobacco.

Thank you for hearing my testimony this morning.



## FIRE AND EMERGENCY SERVICES

TOM GIRARD, Fire Chief

222 W. Elm Street • Salina, Kansas 67401

TELEPHONE (913) 826-7340 • FAX (913) 826-7346



For more information contact:

Jerry M. Scott

Fire Marshall

Salina Fire Department

Phone: 785-826-7340

Fax: 785-826-7346

March 11, 1998

### WRITTEN TESTIMONY

#### **HB 2994 Raising the Cigarette Excise Tax by \$.50**

Chairman Kline and members of the House Assessment and Taxation Committee, my name is Jerry Scott, and I am a Fire Marshall with the Salina Fire Department. Thank you for the opportunity to submit written in support of HB 2994.

My personal experience as a smoker, beginning when I was 12 years old, was influenced by the low price and easy access to cigarettes via peers and markets where many adults, including my teachers, did little to oppose my life choices. Tobacco was fashionable. While in the United States military in the 1960's, tobacco products were 19 cents a pack and therefore very easy to access. After my military service, I found that the price of tobacco had increased. Even though I was hooked on tobacco, and had a pack-a-day habit, the cost eventually caused me to quit. The cost is a major consideration. Increasing the excise tax to 50 cents per pack means fewer children will start smoking, fewer children will become addicted, and fewer children will die prematurely. My son smokes. He began in middle school, despite my opposition. His peers and the influence of Mr. Camel and the Marlboro man were his images through the 70's/80's. He too succumbed to the "Best Marketing Strategy in America," as proclaimed by the tobacco industry. Studies show that a 50 cents per pack excise tax increase in the price of cigarettes will reduce children's use by 21%.

Written Testimony of Jerry M. Scott  
HB 2994 Raising the Cigarette Excise Tax by \$.50  
Page 2

I truly apologize my most distinguished Representatives of the House Assessment and Taxation Committee for these most disgusting statistics that are our Kansas pride. We can make a change now by pricing children out of the tobacco market. It will prevent addiction, disease, and premature death.

The children that are addicted to cigarettes and other tobacco products are a health compromise to our future. Please support Kansas by supporting HB 2994. I have met the enemy on many fronts in far away places and would expect battle scars. But the enemy is in the markets, in the neighborhoods, in the schools, and in the shadows. That enemy is the easy access children have to cigarettes.

I have been in uniform service to my country, my state, my county, and my city for 32 years, in the fire department. As George Santanyana said, "Those who cannot remember the past are condemned to repeat it." I appeal to your genius to lead our state in reducing access of tobacco products, especially cigarettes, to minors by supporting this legislation and placing a higher cost on cigarettes in Kansas via a 50 cents per pack increase.

Most respectfully,



Jerry M. Scott  
Fire Marshall  
Supervising Injury Prevention  
Salina Fire Department.



700 SW Jackson, Suite 601  
Topeka, Kansas 66603-3731

785/233-8638 \* FAX 785/233-5222  
www.nursingworld.org/snas/ks

**the Voice of Nursing in Kansas**

Debbie Folkerts, A.R.N.P.--C.  
President

Terri Roberts, J.D., R.N.  
Executive Director

Terri Roberts J.D., R.N.

## WRITTEN TESTIMONY

March 11, 1998

### H.B. 2994 INCREASING EXCISE TAX BY \$.50 PER PACK ON CIGARETTES

Chairman Kline and members of the House Assessment and Taxation Committee, the Kansas State Nurses Association is in support of H.B. 2994: A measure that will reduce children's consumption of tobacco in Kansas by 21.3%. Raising the excise tax on cigarettes by \$.50 per pack.

HB 2994 holds one of the greatest promises of a new public policy contributing to **healthier** lives for the next generation of Kansans that is being considered by the 1998 legislature. Does this sound too good to be true? Not if we look at the hard data and facts. Because children are significantly more price sensitive than adults, we can expect at least 21% fewer children will begin smoking once this tax is enacted. The 21% number is well researched and documented, as is the 11% reduction of adult consumption that will accompany a \$.50 per pack increase in excise tax. Impacting one out of every five children who would begin to smoke would be a *phenomenal* impact...year after year...and you could make that happen.

Ten states raised the excise tax on cigarettes in 1997. Kansas ranks 34th in the amount of excise tax on cigarettes. Raising the tax by \$.50 will take Kansas to 8th in the country.

Registered nurses in Kansas, numbering over 25,000, provide care, comfort and education to those suffering the ill health of nicotine addiction and years of the cigarette smoking habit. As a profession we are committed to a campaign to eliminate smoking by children and combat the tobacco industries strategies to recruit youth smokers

We are committed to supporting public policies aimed at reducing tobacco usage among Kansas children. We hope we can count on your support for H.B. 2994, which is aimed at accomplishing that goal.

## THANK YOU



*Kansas Public Health Association, Inc.*

*Affiliated with the American Public Health Association*

*701 SW Jackson Avenue, Suite 300*

*Topeka, Kansas 66603-3729*

*785-233-3103 Fax 785-233-3439*

*E-mail [kpha@networksplus.net](mailto:kpha@networksplus.net)*

Written Testimony by Sally Finney  
Kansas Public Health Association  
March 11, 1998 to the  
Committee on Taxation

On behalf of the members of the Kansas Public Health Association, I ask you to support House Bill 2994. This bill seeks to restrict access to tobacco by Kansas children by increasing the price of cigarettes.

Tobacco usage is a major public health problem. Smoking causes nearly one out of every five deaths in Kansas, and it costs the state over \$590 million each year for health care and lost productivity. The health hazards of smoking are well documented, and we know from extensive research that eighty-nine percent of adults who smoke began their habits as children. The American Lung Association reports that nearly 89% of adults who smoke began before the age of 18. In Kansas, the average age for first cigarette use is 12 years. We also know that as tobacco prices increase, youth consumption declines. According to a study conducted by the Mathematica Policy Research, Inc., raising the price of a pack of cigarettes by \$0.50 would reduce cigarette usage in Kansas children by 21.3%.

Passage of HB 2944 will help to safeguard the lives of our children and the lives of future generations of Kansans. On behalf of the 530 members of the Kansas Public Health Association, I ask your support of this important legislation.



# Kansas Academy of Family Physicians

889 N. Maize Rd, Suite 110 ♦ Wichita, KS 67212

March 9, 1998

John M. Ryan, MD  
President

Joel E. Hornung, MD  
President-Elect

Keith A. Wright, MD  
Vice President

C.T. Allred, MD  
Secretary

Todd A. Miller, MD  
Treasurer

Diane D. Klingman, MD  
Immediate Past-President

Deborah G. Haynes, MD  
Richard L. Rajewski, MD  
AAFP Delegates

Rick D. Kelleman, MD  
John R. Eplee, MD  
Alternate Delegates

Joe D. Davison, MD  
Richard M. Glover, MD  
Carol S. Ludwig, MD  
Michael E. Machen, MD  
Robert P. Moser, Jr., MD  
Jane Murray, MD  
Diane D. Nightengale, MD  
David S. Richman, MD  
William R. Rooney, MD  
Board of Directors

Bryan Dennett, MD  
Resident Representative

Marc Enyart  
Student Representative

Carolyn N. Gaughan, CAE  
Executive Director

*Representing the  
largest medical  
specialty group  
in Kansas*

TO: Members of the House Assessment and Taxation Committee  
From: John M. Ryan, M.D., Marysville, Kansas, President of the Kansas Academy of Family Physicians  
RE: HB 2994, Cigarette Excise Tax Increase

## Written Testimony

Dear Representative Kline and members of the House Assessment and Taxation Committee,

I am writing to urge your support for HB 2994 to help decrease the number of children in Kansas who are addicted to cigarettes. Choosing to smoke may be an adult decision, but about 11,000 children in our state make that decision every year! Nearly one-third of them will eventually die of tobacco related illness. That's why I urge you to support this important bill.

This bill is about saving lives. It's a public health initiative. Studies have shown that youth are three times more price sensitive than adults. KDHE research estimates that passing this health initiative would decrease cigarette usage of children by 21%.

**As family physicians, members of our organization are advocates for patients. That's why our Board supports this bill. It may be the most important initiative you can support this year.**

We urge you to help protect the health of Kansas children by supporting this important public health initiative, HB 2994. Feel free to call me if you have questions or concerns.

Sincerely,

John M. Ryan, M.D.  
President

House Taxation  
3-11-98  
Attachment 12-1



TESTIMONY  
FOR  
HOUSE ASSESSMENT AND TAXATION COMMITTEE ON HB2994  
MARCH 11, 1998

BRIAN DAWSON, REPRESENTING THE ELLIS COUNTY COMMUNITY PARTNERSHIP

Distinguished Representatives, ladies and gentleman,

Please accept my written testimony in support of passing the House Bill 2994. HB 2994 deals with increasing the excise tax on cigarettes by \$.50 per pack. By increasing the excise tax on tobacco products children will be less likely to purchase tobacco products. If fewer children purchase tobacco we will see a decrease in addicted children, children with tobacco related diseases, and premature death of Kansas children who use tobacco products.

I would like to share with the committee members that smoking kills almost 420,00 United States citizens each year. More than AIDS, alcohol, car accidents, fires, cocaine, heroin, murders, and suicides combined. Tobacco use is the single most preventable cause of death in Kansas. Nearly one out of five deaths in Kansas are tobacco related. In Kansas, almost 11,000 Kansas youth under the age of 18 are estimated to begin smoking each year. Adults don't start smoking kids do. The 1997 Communities That Care youth Survey found that the average age for trying a first cigarette is 12 years. The younger children start using tobacco the more likely they will become addicted and damage their bodies. Cigarette taxes are an effective way to discourage tobacco use among young people because they do not have as much money to spend as adults. Faced with higher prices on tobacco products deters youth from spending their dollars on tobacco in turn saving lives.

The dollars generated from the proposed excise tax could benefit the children's

health care services, tobacco prevention services, and cessation programs of Kansas. As a prevention specialist I talk to many youth, parents, and coalition members throughout the state. There is a general consensus that we need funding and resources to better educate Kansans on the health risks of using tobacco products. A 50 cent per pack increase in the cigarette excise tax will reduce children's use by 21% while generating valuable revenue for health and prevention services.

The excise tax would help reduce youth access, fund community coalition efforts to implement and maintain tobacco programs such as prevention, education, and cessation programs. It is time for Kansas to raise its cigarette excise tax. The last time Kansas raised its cigarette excise tax was in 1985 from 16 cents to 24 cents per pack. Currently, thirty-one states have a higher tobacco tax rates than Kansas. Let's Stop the Sale and Prevent the Addiction and pass House Bill 2994. Thank you!

Respectfully,   
Brian Dawson for the Ellis County Community Partnership

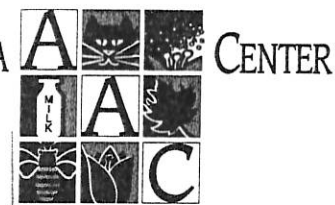


**Brian Dawson**  
Community Prevention Consultant

Regional Prevention Center  
Smoky Hill Foundation  
1106 E. 27th, Suite 10  
Hays, KS 67601  
(785) 625-5521  
Fax: (785) 625-5596



ALLERGY & ASTHMA  
Adult & Pediatric Allergy



CENTER

Testimony in support of HB 2994  
Before the House Committee on Taxation  
Thom F. Rosenberg, MD  
March 11, 1998

Mister chairman and members of the committee: I am Thom Rosenberg, a physician at The Wichita Allergy & Asthma Center in Wichita.

I ask you to support passage of HB 2994 and its goal of reducing smoking among the citizens of Kansas, especially our youth. Many of the patients I see are victims of tobacco smoke. Their smoking aggravates their allergy and asthmatic symptoms, as well as increasing health-care costs. Others suffer from breathing problems directly related to their cigarette usage.

The health effects of smoking are found in both the smoker and those who passively inhale. It is estimated by the American Lung Association of Kansas that some 2,000 asthmatic children in the state have their condition worsened by exposure to tobacco smoke. Some of that smoke is coming from their own friends and classmates.

We know that babies born to smoking mothers are more likely to have respiratory problems. Sudden Infant Death Syndrome (SIDS) has also been linked to environmental smoke. Many of these smoking parents probably began smoking in their youth, the age most likely to be influenced by the higher prices HB 2994 would produce. Higher tobacco prices mean fewer smoking children, with fewer children becoming addicted to nicotine.

The negative effects of tobacco hurt both young and old and at all socio-economic levels.

Raising the price of tobacco in Kansas will reduce consumption and thusly reduce the negative health effects of tobacco. Additionally, using revenues generated by this excise tax will aid in providing programs for tobacco use prevention and cessation programs.

Please allow EVERYONE to benefit from less cigarette smoke and favorably report HB 2994 for passage. Thank you.

House Taxation  
3-11-98  
Attachment 14-1

MAIN OFFICE: 8110 E. 32ND S  
WEST: 9235 W. CENTRAL / W1  
SOUTH: 2628 S. OLIVER / WICHITA, KS 67210

(316) 687-2828



# Kansas Respiratory Care Society

*An Affiliate of the American Association for Respiratory Care*

**Date:** March 10, 1998

**To:** Kansas House of Representatives  
House Assessment and Taxation Committee

**From:** Debra Fox, MBA, RRT  
President, Kansas Respiratory Care Society

**Subject:** **House Bill 2994**

I am writing to voice my support and the support of the Kansas Respiratory Care Society for House Bill 2994 that will increase the excise tax on cigarettes by \$0.50 per pack.

As respiratory therapists caring for the respiratory health of the children of Kansas, we are dedicated to preventing them from smoking cigarettes. Many of our therapists work with the local public school systems, talking to the children and taking educational displays into their classrooms, trying to keep them from smoking that first cigarette. We also participate in community health fairs to educate both children and their parents of the health problems resulting from cigarette smoking. We work every day with patients suffering from the ill effects of smoking. We see firsthand their struggle to breathe and the effect it has on their entire family.

This bill will help to prevent children from smoking cigarettes. By increasing the price of a pack of cigarettes by 50 cents, we will effectively price children out of the market. If we can prevent them from smoking their first cigarette, we can prevent them from having a lifetime of addiction, of lung and heart disease, and from dying prematurely.

Please vote **Yes** on HB 2994.

*Debra Fox*

Debra Fox, MBA, RRT  
President, KRCS  
(W) (316) 688-2992  
(H) (316) 733-4351  
649 North 159th East  
Wichita, KS 67230

House Taxation  
3-11-98  
Attachment 15-1



HEARTLAND DIVISION, INC.

March 4, 1998

Representative Phill Kline  
State Capitol Room 170-W  
Topeka, Kansas 66612

**Re: HB 2994, Raising the Excise Tax on Cigarettes**

Dear Rep. Kline:

Choosing to smoke tobacco may be an adult decision but 11,000 Kansas children are making the decision to smoke every year. That is why I am urging you, on behalf of the *American Cancer Society*, to support **HB 2994**. The objective of this bill is to reduce children smoking by increasing the excise tax from 24 cents to 74 cents per pack of cigarettes. According to the Kansas Department of Health and Environment, it is estimated that a 21.3% decrease in youth tobacco consumption would occur after this 50 cent per pack cigarette price increase.

1995 projections show that 153,862 Kansans under the age of 18 will become smokers during their lifetime, and 49,236 of this group will die 12 to 21 years prematurely because of tobacco use. This trend must be stopped. Because youth are so much more price sensitive than adults, raising the price of cigarettes is the most effective means of discouraging children from smoking.

Do Kansans support higher tobacco price taxes? Yes. A survey completed earlier this month shows that 77% of Kansans support a \$.50 increase in tobacco excise tax if the increase is earmarked towards providing health insurance for uninsured children. 74% of Kansas adults would support using tobacco excise tax monies towards tobacco education and cessation programs, 59% would favor the funds being used towards reduction of the food sales tax; and 58% would support earmarking for reducing property taxes. This is not surprising with only 22% of Kansans smoking. They realize that cigarette taxes are the most effective way to discourage tobacco use among children.

I urge you to support this bill. If you have any questions, please feel free to call me at 273-4422.

Sincerely,

A handwritten signature in cursive script that reads "John Pepperdine".

John Pepperdine  
Manager of Government Relations

House Taxation  
3-11-98  
Attachment 16-1



**Testimony  
of  
McLane Company, Inc.**

**Before the House Taxation Committee  
Kansas State Legislature**

**on  
Legislation to Increase the Cigarette Excise Tax  
(HB 2994)**

**March 11, 1998**

**For more information:**

**Kevin J. Koch  
Vice President, Governmental Affairs & Taxation**

**or  
Kimberly A. Woodard  
Governmental Affairs Manager**

**(254) 771-7500**

House Taxation  
3-11-98  
Attachment 17-1

**Testimony  
of  
McLane Company, Inc.**

**Before the House Taxation Committee  
Kansas State Legislature**

**on  
Legislation to Increase the Cigarette Excise Tax  
(HB 2994)**

**March 11, 1998**

---

Good morning. Mr. Chairman and members of the committee, my name is Kimberly Woodard and I serve as Governmental Affairs Manager for McLane Company, Inc. Thank you for the opportunity to speak with you today about HB 2994, a proposal to increase the state cigarette excise tax by 50 cents per pack, from the current 24 cents to 74 cents per pack. As a convenience store distributor, McLane takes a keen interest in this legislation.

McLane Company is the largest convenience store distributor in the nation. In addition, we provide distribution services to other industries throughout the country. A wholly-owned subsidiary of Wal-Mart Stores, Inc., McLane delivers food and non-food products to convenience stores, mass merchandisers, and quick service restaurants. Based in Temple, Texas, the company operates 15 distribution centers, four fast food manufacturing plants, an industry-specific software company, and a contract carrier.

Together, our consolidated companies (McLane Company and Wal-Mart) paid a total of approximately \$23.8 million in taxes to the State of Kansas in the fiscal year ending January 1998, which includes – among others – income, excise, real estate, and unemployment taxes. Additionally, we collected and remitted approximately \$95.8 million in sales taxes. Together, we employ over 13,000 people, and operate 60 stores and 1 distribution center in Kansas. McLane Company estimates its tax paid cigarette market share in the State to be 15.81% for the fiscal year ending 1997.

Prior to discussing the impact that such a tax increase will have on McLane, I would like to point out, with respect, what appears to be a mistake or, if you will, a typographical error in HB 2994, that relates to the excise tax discount allowed wholesalers.



17-2

**Testimony of McLane Company**  
**On HB 2994**  
**Page Two**

With respect to the excise tax discount allowed wholesalers, HB 2994 proposes to reduce the discount to .086%, from the current 2.65% of the face value of the tax stamp. The current 2.65% allowance computes to a monetary discount of roughly \$3.80 per case of cigarettes, while a .086% discount lowers that allowance to just 38 cents per case.<sup>1</sup>

Based on my conversations with representatives of the Kansas State Nurses Association, proponents of similar legislation previously introduced in the Senate, I have learned that it was not the intention to reduce the discount in such a substantial manner. According to that organization, the intent was to change the discount from 2.65% to .86%, which keeps intact the monetary allowance of approximately \$3.80 for wholesalers such as McLane.

McLane Company understands the need of the Legislature to find a revenue source to fund children's health care programs. However, aside from the very significant proposed 50-cent excise tax increase, McLane has other concerns with the legislation, which I will discuss below.

Excise Tax Discount

As previously stated, McLane Company opposes a decrease in the excise tax discount allowed wholesalers. In our opinion, this is an issue of equity. We are not asking for anything more, and only want to be in the same position relative to the price of the product. The purpose of the excise tax discount is not for the State to simply compensate wholesalers for the physical work of affixing tax stamps, but also for the other costs associated with administering the tax on behalf of the State.

It should be noted that McLane's costs would go up in proportion to the proposed tax increase. These increased costs are in the areas of shrinkage, stamping mistakes, bad debt risk, insurable risk, and transportation.

*Shrinkage.* When shrinkage occurs, wholesalers and retailers are still responsible for paying the tax on the stolen product, which is not a requirement of other taxes, such as sales taxes. For example, if clothing is stolen from a retail outlet, the store's owner is not responsible for paying the sales tax on those items.

*Stamping mistakes.* The stamping machinery that wholesalers use, at times, may falter and place more than one stamp on a single package of cigarettes. Such a mistake represents an unaccounted loss to the wholesaler who is not compensated for the tax that has already been paid.

---

<sup>1</sup> \$2.40 (excise tax on a carton of cigarettes) multiplied by 60 (case of cigarettes) equals \$144.00 multiplied 2.65% equals \$3.7960 (excise tax discount); \$7.40 (proposed excise tax increase on a carton of cigarettes) multiplied by 60 equals \$444.00 multiplied by .086% equals \$.38184; \$7.40 multiplied by 60 equals \$444 multiplied by .86% equals \$3.8184.





**Testimony of McLane Company**  
**On HB 2994**  
**Page Three**

*Bad debt risk.* Typically, wholesalers sell cigarettes to retailers on credit. If the retailer, at a later date, is unable to pay for the product the wholesaler must absorb the tax loss. Again, this differs from the sales tax, which allows for such credits.

*Insurable risk.* Because insurance is based upon the value of the inventory, as the value increases so to does the insurable risk.

*Transportation.* McLane's truck drivers are compensated based upon the gross value of the load, plus weight and mileage. An excise tax of this magnitude will have the effect of increasing the value of the truckload.

*Audit risk.* Again, as the value of the inventory increases, so to does the audit risk.

Finally, an increase in the cigarette excise tax of more than three times the current tax rate will obviously drive down demand for the product, thereby causing harm to both wholesalers and retailers.

We believe that we are under-compensated at the current excise tax discount. For the reasons already stated, McLane asks that the excise tax discount be kept at the current level. Short of that, we respectfully ask that Section Two of HB 2994 be amended so that the discount will be reduced to only .86% and not .086%, which will compute to a monetary allowance of \$3.8184 and is in keeping with current the allowance.

Floor Stocks Taxes

A reading of HB 2994 does not make clear whether the intent is to impose floor stocks taxes on unaffixed stamps only, or on both fixed and unaffixed stamps at all levels (i.e., wholesalers, retailers, and vending machine operators).

Because retailers carry so little stock, we believe they should be exempt from floor stocks taxes. Inclusion of this group to pay the additional tax on their existing inventory creates several problems; such as: returned product, delayed orders, and requests from wholesalers for information relative to their inventory.

*Returned product.* Typically, when a state increases its cigarette excise tax and imposes upon retailers floor stocks taxes, retailers will then seek to return to the wholesaler cigarettes and tobacco products so that these items are not in inventory on the effective date of the tax increase.

*Delaying orders.* Again, so as not to have a large amount of cigarettes and tobacco products in inventory on the effective date of a tax increase, retailers will alter their normal ordering schedule.



17-4

**Testimony of McLane Company**  
**On HB 2994**  
**Page Four**

*Requests for information.* With little time to undertake a physical inventory of product on-hand, many retailers will turn to their wholesaler for such information.

The imposition of floor stocks taxes creates problems for the distribution community, as well. Primarily, a tax increase of this magnitude, combined with floor stocks taxes, will put some retailers out of business, since many will be unable to afford the increased carrying cost of the inventory. Furthermore, tripling the tax will have the effect of disrupting the distribution chain, because of the disproportionate level of the tax as compared with surrounding states. Kansas' citizens who live and work along the borders of the state will, whenever possible, purchase product from non-Kansas retailers, which will cause fluctuations in the distribution process. Finally, the physical cost of taking inventory is an additional expense for which we have not budgeted or planned.

In order to alleviate these problems, as well as additional costs to be incurred for years to come, McLane Company asks that retailers be exempt under HB 2994 from floor stocks taxes. For wholesalers, we ask for wording similar to that included in a similar bill recently enacted in New Jersey (Assembly Bill 2157; effective January 1, 1998). When the excise tax was doubled in that state earlier this year, the Legislature sought to ease the burden of such a substantial tax increase upon wholesalers by only imposing additional taxes "on the number of cigarettes bearing stamps, and unaffixed stamps on hand, that exceed[ed] [a wholesaler's] four weeks average purchase of stamps.

\*\*\*\*\*

In summation, McLane Company would like to see the following changes made to HB 2994:

- Reinstatement of the excise tax allowance to the current rate of 2.65%, or a reduction to no lower than .86%;
- Exemption of retailers from floor stocks taxes; and
- Exemption from, or limited exposure to, floor stocks taxes for wholesalers.

Thank you for the opportunity to present McLane Company's views on HB 2994. I will be happy to answer any questions that you may have.

\*\*\*\*\*

For more information:

Kevin J. Koch  
Vice President, Governmental Affairs & Taxation  
or  
Kimberly A. Woodard  
Governmental Affairs Manager

(254) 771-7431



17-5

Mr. Chairman and members of the House Appropriations Committee.

My name is Brian Hallauer, and I am a petroleum marketer and convenience store operator in Jackson County, Kansas. I appear before you today in opposition of HB 2994

HB 2994 will increase the tax imposed on a pack of cigarettes by 50-cents. As a convenience store retailer in Holton, Kansas, I fight an uphill battle every day, competing in the market in which I pay taxes, and my competitors DO NOT. Cigarettes purchased on Indian Reservation land are void of any state excise tax because the land is classified as sovereign land. An increase of 50-cents per pack of cigarettes creates an even wider disparity between me and my competition. Competition that, regardless of whatever the tax rate is, will ultimately pay no tax. To take that a step further, by increasing the tax on cigarettes, it makes more sense for people to jump on the Internet and buy cigarettes from reservation stores tax free. Legal or not, this practice is going on as we speak today.

As you are well aware, the tobacco industry has taken a beating this past year. To have a convenience store owner testifying in opposition to an increase in a cigarette sales tax probably appears to be self-serving. However, tobacco is a legal product that as a responsible retailer I elect to sell. My cigarette sales have decreased over the years, not due to any federal law suits or increased legislation. It's due to unfair competition in my marketplace. Will an increase in the state cigarette tax change what my competition will charge for a pack or carton of cigarettes? Probably not. Will the 50-cent increase impact my future sales, you bet it will.

HOUSE TAXATION  
3-11-98  
ATTACHMENT 18-1

(Over Please)

I feel that before a decision is made to increase a tax, for whatever reason, let's make sure that the state is receiving all the tax that is due it. With regard to the Reservations, I have no problem allowing tribal members the right to buy cigarettes devoid of any state tax. It's their right. However, when cigarettes are sold to a non Native American tax free, this becomes unfair competition.

As I said earlier, it's very hard for any retailer in the Holton marketplace to compete on a day-to-day basis selling the type of products that I offer. Increasing the cigarette tax will not only impede my ability to sell cigarettes, but will also drive the tax paying public to a market that pays no state tax.

I thank you for the opportunity to appear before you today and will stand for any questions you may have.