

MINUTES OF THE HOUSE JUDICIARY COMMITTEE.

The meeting was called to order by Chairman Michael R. O'Neal at 3:30 p.m. on March 12, 2003 in Room 313-S of the Capitol.

All members were present except:

Representative Jeff Jack - Excused
Representative Rick Rehorn - Excused

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department
Jill Wolters, Revisor of Statutes
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

Candy Shively, Deputy Secretary, Social & Rehabilitation Services
Kathy Porter, Office of Judicial Administration
Ron Hein, R.J. Renyolds Company
Kathy Damron, Altria Group, Inc.
Representative Stephanie Sharp
Kevin Walker, American Heart Association
Gwendolyn Cargnel, American Cancer Society
Ron Pope, Kansas Trial Lawyers Association
Sally Finney, Kansas Public Health Association

The hearing on **SB 70 - repeal SRS pass through assistance to family**, was opened.

Candy Shively, Deputy Secretary, Social & Rehabilitation Services, explained that the proposed bill would repeal the requirement that SRS pass through \$40 of child care support collected to a custodial parent who receives public assistance. Federal law allows SRS to recover the cost of providing temporary assistance to families which benefit from child support. As part of the recovery costs SRS must reimburse the federal government 60% of that which is received. ([Attachment 1](#))

The hearing on **SB 70** was closed.

The hearing on **SB 71- Kansas Payment Center, removal of sunset provision**, was opened.

Candy Shively, Deputy Secretary, Social & Rehabilitation Services, informed the committee that if the proposed bill was not adopted then the Kansas Payment Center would no longer be able to operate and that the state would be penalized by the federal government for not having centralized unit for the collection and disbursement of child support payments. Ms. Shively also commented that there have hardly been any complaints with the Kansas Payment Center and therefore doesn't see the need to continue the Oversight Committee. ([Attachment 2](#))

Kathy Porter, Office of Judicial Administration, agreed with Ms. Shively that the complaints have dwindled to almost none. ([Attachment 3](#))

The hearing on **SB 71** was closed.

The hearing on **SB 48 - appeal bonds in litigation involving signatories or successor of the tobacco litigation agreement**, was opened.

Ron Hein, R.J. Renyolds Company, explained that the proposed bill would set a cap on the amount of an appeal bond that would be required for defendants to pay in civil cases against tobacco companies that are part of the Master Settlement Agreement. The maximum appeal bond would be \$25 million. Currently, the rule on appearance bonds are the bonded person must put down 10% of the bond. Twelve other states have passed legislation limiting the amount of appeal bonds in any case and four others passes similar legislation to **SB 48**. ([Attachment 4](#))

CONTINUATION SHEET

MINUTES OF THE HOUSE JUDICIARY COMMITTEE at 3:30 p.m. on March 12, 2003 in Room 313-S of the Capitol.

Kathy Damron, Altria Group, Inc., suggested that the purpose of the bill was to protect the state's interest in receipt of its annual revenue from the Master Settlement Agreement by ensuring that the tobacco companies do not go bankrupt due to civil judgements (Attachment 5)

Representative Stephanie Sharp, would prefer that it would apply all industries in the State, not just tobacco. (Attachment 6)

Kevin Walker, American Heart Association, opposed the bill due to the fact that it was granting special protections to a company that is not worthy of special legislation to protect it. (Attachment 7)

Gwendolyn Cargnel, American Cancer Society, also spoke in opposition because the bill was designed to grant special treatment to one industry. (Attachment 8)

Ron Pope, Kansas Trial Lawyers Association, opposed placing limitations on appeal bonds because it sets a dangerous precedent for other industries to seek similar protections. Also, by decreasing the appeal bonds, it would lengthen the date of the court time and would discourage settlements. (Attachment 9)

Sally Finney, Kansas Public Health Association, opposed the bill because, when used as directed, tobacco kills, and doesn't understand why the state would support such an industry. (Attachment 10)

The hearing on **SB 48** was closed.

The committee meeting adjourned at 5:45 p.m. The next meeting was scheduled for March 13, 2003 at 3:30 p.m. in room 313-S.

Kansas Department of

Social and Rehabilitation Services

Janet Schalansky, Secretary

House Judiciary Committee

March 12, 2003

Senate Bill 70: Permanent moratorium on the child support pass through requirement

Integrated Service Delivery

Candy Shively, Deputy Secretary

785-368-6200

For additional information contact:
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H. JUDICIARY

3-12-03

Attachment: 1

Kansas Department of Social and Rehabilitation Services
Janet Schalansky, Secretary

House Judiciary Committee
March 12, 2003

**Senate Bill 70: Permanent moratorium on the child support
pass through requirement**

Mr. Chairman and members of the committee, I appear before you today to speak in support of Senate Bill 70.

This bill leaves in effect the moratorium that has been in place since FY 2000 and repeals the state statute requiring, entirely at state expense, that SRS pass through to a family receiving cash assistance benefits (TAF), up to \$40 per month of current support collected by the Child Support Enforcement Program.

Prior to October 1996, all states were required to pass through at least a portion of monthly support collections made on behalf of TAF families. Without the pass-through requirement, those collections would have reimbursed the state and federal governments for public assistance benefits. The federal government participated in the cost of pass-through by waiving its 60% share of such collections. Effective October 1, 1996, the federal mandate for pass-through was abolished and federal financial participation in the cost of pass-through ended.

States are still authorized by federal law to make pass-through payments if they choose to do so. The current Kansas statute re-establishing pass-through payments was enacted in 1997.

The dilemma we face is that federal law requires the State to pay the U.S. Dept. of Health and Human Services (HHS) 60% of all child support collections in a TAF case, even if all or part of the collection has been passed through to the family. Consequently, \$40 of child support passed through to a cash assistance family costs the State \$64 — the \$40 paid to the family plus the \$24 paid to HHS. By eliminating the pass through provision, \$16 of the \$40 collected becomes revenue for the SRS Fee Fund.

Child support pass-through is also less helpful to families than might be expected. Families receiving food stamps, for example, would lose in food stamps benefits about one third of what they would gain from pass-through. A family receiving the maximum \$40 of child support would lose \$13 in food stamps, leaving a real gain of only \$27 for the month. Other income-based benefits the family receives, such

as subsidized housing, may also cause the real benefits of pass-through to dwindle away.

In recent years, the Legislature has recognized the disproportionate cost of pass-through relative to its impact upon families. *Provisos* have been enacted for each fiscal year from 2000 through 2003 to prohibit SRS from making any pass-through payments.

In anticipation that a similar *proviso* would be enacted for FY 2004, or that this state statute would be repealed, the SRS budget submitted for FY 2004 did not include the estimated cost of pass-through payments. If SRS were required to comply with the mandate of the state pass-through statute, the additional cost for FY 2004 is estimated to be over \$1.1 million (all state dollars).

Also, in recent years, federal legislation has been proposed that would renew and expand federal financial participation in pass-through payments. The variations and limitations of those proposals have rarely been compatible with our Kansas statute, and we believe that our state would be best served by enacting a new statute, should pass-through once again become financially feasible.

In closing, I would like to stress three points:

- Enacting SB 70 will not change the amount that families have been receiving from the SRS Child Support Enforcement Program for four years, i.e., since July 1, 1999.
- Requiring SRS to initiate pass-through payments on July 1, 2003, would require appropriation of an additional \$1.1 million (state dollars) to SRS, over and above the Governor's Budget Recommendation.
- Pending federal legislation, introduced by the Bush administration and widely supported in the Congress, will renew federal funding of pass-through payments. Passage of SB 70 will position the state to take maximum advantage of the new legislation.

For these reasons, I ask you to support Senate Bill 70.

Kansas Department of

Social and Rehabilitation Services

Janet Schalansky, Secretary

House Judiciary Committee

March 12, 2003

SB 71: Repealing the Kansas Payment Center sunset provision

Integrated Service Delivery

Candy Shively, Deputy Director

785-368-6200

For additional information contact:
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Marianne Deagle, Director

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H. JUDICIARY

3-12-03

Attachment: 2

**Kansas Department of Social and Rehabilitation Services
Janet Schalansky, Secretary**

House Judiciary Committee
March 12, 2003

SB 71: Repealing the Kansas Payment Center sunset provision

Mr. Chairman and members of the committee, I appear before you today to speak in support of Senate Bill 71. This bill amends the basic statute governing the Kansas Payment Center by deleting subsection (h), the sunset provision. Currently, the statute is scheduled to sunset on July 1, 2003.

The Kansas Payment Center, or KPC as it is commonly called, began operations in October 2000. The KPC receives, posts, and disburses child support and maintenance payments for nearly all support orders in Kansas. The KPC also maintains payment histories and provides related services to the Kansas courts, to SRS, and to parents in cases handled at the KPC.

Each month, the Kansas Payment Center processes more than 155,000 individual payments, worth a total of \$27 million. In the course of serving more than 618,000 parents and children since its operations began 28 months ago, the KPC has processed over three-quarters of a billion dollars in support payments.

Title IV-D of the social security act requires the State to operate a centralized unit for collection and disbursement of certain support payments, including income withholding performed by employers. The KPC satisfies this federal requirement and related operational mandates, such as timely disbursement of payments and maintenance of records. SRS, in collaboration with the Office of Judicial Administration, contracted with Tier Technologies, Inc. to operate the KPC on behalf of the State of Kansas.

The 2001 Legislature enacted a sunset provision to insure the KPC would be re-examined by the Legislature following a reasonable period of adjustment to the new procedures for payment processing. This is the sunset measure SB 71 will repeal.

An Oversight Commission was also created during the 2001 Session, to monitor the progress of the KPC. The Oversight Commission has expressed approval of the improvements achieved at the KPC during the past two years, particularly in the areas of customer services and customer satisfaction. The Oversight Commission was established under a separate statute (K.S.A. 74-99a01), which is also scheduled to sunset on July 1, 2003. Although we at SRS appreciate the role played by the Oversight Commission, we defer to the wisdom of the Legislature concerning the Commission's duration. SB 71, as passed by the Senate, does not interfere with the upcoming sunset of the Oversight Commission.

Since 2001, our experience with the KPC has been marked by significant improvements, particularly as automated solutions have been brought into production and people have become more familiar with the KPC and its operations. We continue to monitor the KPC closely, to hold the KPC contractor accountable for their errors and to anticipate and prepare for new challenges. Our goal is continual improvement, with error prevention a top priority.

As many of you are aware, the Kansas Payment Center has made it possible to offer a number of valuable services that were not feasible when payments were processed in each individual county. A few of those services are described in the attachment. One unexpected windfall of the KPC has been that people traveling or stationed outside the United States may still keep track of their Kansas child support case by reviewing the payment history via the Internet. Care has been taken to make sure the viewable information includes only what has traditionally been in the public record and that more personal information remains private.

If SB 71 is not enacted and the KPC statute is allowed to sunset July 1st, the full scope of the resulting chaos for SRS, for the judicial branch, and most importantly, for families is difficult to imagine. The following are issues we can foresee:

- Ending the KPC July 1st would place Kansas at risk of being found out of compliance with Title IV-D state plan requirements and facing the loss of significant federal funding.
- Two full years of planning and development preceded implementation of the KPC. It would be difficult for the judicial branch and SRS to do the level of planning necessary for the courts to resume responsibility for payment processing by July 1st.
- An abrupt, unplanned change in payment procedures would keep district court trustees, CSE staff, and CSE enforcement contractors from completing normal enforcement activities while dealing with organizational issues. This would seriously reduce support collections across the State, and full recovery would be slow in coming.

In closing, I would note that enactment of this bill creates no new fiscal impact upon SRS. Funding for the KPC contract, including federal financial participation (66% of eligible costs), is included in the SRS budget submitted for FY2004.

Since the 2001 Legislative Session, the Kansas Payment Center has proven its value to the citizens of Kansas. I encourage you to support SB 71.

Special Services of the Kansas Payment Center

The Kansas Payment Center offers parents, the legal community, employers, title searchers, and public offices a number of valuable services.

- The KPC Website at www.kspaycenter.com provides general information about the Kansas Payment Center, including the toll free numbers for use by parents and employers. The KPC Website also allows people to review case payment history. Information is limited to items that have traditionally been public records.
- Toll free telephone access to pre-recorded information about the KPC and case-specific information, through use of a personal identification number, is available 24/7. During regular business hours (8 a.m. to 5 p.m. Monday– Friday, except State holidays), parents may call and connect with a customer service representative. The toll free number for parents and general inquiries is 1-877-572-5722.
- Custodial parents who receive payments from the KPC have the option to authorize direct deposits into a bank account, eliminating postal delays and the risk of lost or stolen KPC checks.
- The KPC provides employers a single location where they may send support withheld from wages pursuant to a Kansas support order. Before creation of the KPC, large employers often had to mail checks to several Kansas counties.
- Employers in the US and Canada have 24-hour, toll free telephone access to pre-recorded information that is specifically geared to employers' needs. During regular business hours, an employer may also connect with the KPC customer service unit for personal assistance. The toll free employer number is 1-877-729-6367.
- Employers have the option to transmit support payments to the KPC using EFT (electronic funds transfer). Not only does this improve speed and accuracy at the KPC, it reduces the repetitious tasks and mailing costs for the employer.

Attachment



State of Kansas

Office of Judicial Administration

Kansas Judicial Center
301 SW 10th
Topeka, Kansas 66612-1507

(785) 296-2256

March 12, 2003

Testimony Regarding SB 71 House Judiciary Committee

Kathy Porter
Office of Judicial Administration

I am here to testify in support of Senate Bill No. 71, which would amend K.S.A. 2002 Supp. 23-4,118, the statute that authorizes the Kansas Payment Center (KPC), only by removing subsection (h) which provides, "The provisions of this section shall expire on July 1, 2003."

The Office of Judicial Administration (OJA) worked closely with the Kansas Department of Social and Rehabilitation Services (SRS) in the development and the September 2000 implementation of the KPC. Prior to implementation of the KPC, support-related payments were made to the local office of the clerk of the district court or the local court trustee. Cooperation between Tier Technologies (the vendor operating the KPC), SRS, and OJA was necessary to make the transition from the local systems to the centralized system as successful as possible. OJA staff worked with SRS and Tier to establish procedures to streamline the flow of data between the courts of KPC, and to address other issues as they arose.

Although the transition period did contain many challenges, it appears operations at the KPC are running smoothly. During the first several weeks and months of KPC operations, other OJA staff and I fielded numerous calls from Kansas citizens experiencing difficulty or delay in receiving support payments. However, within the last year, I can only recall two or three instances where such contacts were made with our office. In those cases, we contacted KPC staff and these problems were quickly remedied.

The collection and disbursement of support-related payments has been effectively turned over to the KPC. The structures and operations in the local courts which previously performed this function are no longer in place. There is simply no way to go back to the previous methods of collection and disbursement. Therefore, and because the KPC's operations appear effective, I urge the passage of Senate Bill No. 71.

KP:mr

H. JUDICIARY

3-12-03

Attachment:

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HEIN LAW FIRM, CHARTERED

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Ronald R. Hein

Attorney-at-Law

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**Testimony re: SB 48
House Judiciary Committee
Presented by Ronald R. Hein
on behalf of
R. J. Reynolds Tobacco Company
March 12, 2003**

Mr. Chairman, Members of the Committee:

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

Senate Bill 48 would cap the appeal bond in cases involving tobacco companies that are signatories to the Master Settlement Agreement, which agreement delivers millions of dollars to Kansas every year.

The Master Settlement Agreement is vitally important to our state. It delivers millions of dollars in revenues, and will continue to do so for years to come. It also delivers real benefits to the state through its non-monetary provisions. Without minimizing those, it is the settlement monies that provide the reason the legislature should pass Senate Bill 48.

The ability of the tobacco companies to meet their obligations under the Master Settlement Agreement ultimately depends upon their financial health. If the companies become insolvent or are forced into bankruptcy, the tobacco companies could well be unable to meet their financial obligations to Kansas and every other state. It may seem far-fetched to worry about the financial health of tobacco companies, but the litigation onslaught they are facing presents a real risk.

Within the last several years, R.J. Reynolds and the other tobacco companies have faced gargantuan judgments. One class action in Florida resulted in a Verdict of \$145 billion. Two individual suits in California resulted in verdicts of \$28 billion and \$3 billion. These latter two verdicts were reduced by the trial judge, but the class action verdict in Florida was not.

In virtually every state, any defendant can appeal a judgment, but in most states if a defendant does not post a bond equal to the size of the judgment, the plaintiff can seize the defendant's assets even while a defendant is appealing. This means, for example, that a plaintiff could seize the bank accounts of a defendant, or its manufacturing facilities, or any property located anywhere that the plaintiff can find. This cov

H. JUDICIARY

3-12-03

Attachment: 4

defendant out of business or into bankruptcy, even though they may have strong arguments on appeal.

With respect to tobacco companies, experience is showing that they are likely litigation targets and that some juries have awarded mammoth verdicts. In Kansas such a verdict would result, under our state's current law, in a requirement that the company post a bond equal to the amount of the judgment, plus interest and costs. The company may simply be unable to do that.

Already, 12 other states have confronted this issue, and passed limitations on appeal bonds. In eight of those states (Florida, North Carolina, Kentucky, Georgia, Virginia, Indiana, Ohio, and Michigan), the limits that were passed applied to any defendant, not just tobacco companies. In four other states (Nevada, West Virginia, Louisiana, and Oklahoma) the limits that were passed closely resemble Senate Bill 48, and apply only to tobacco companies.

Why choose one approach over the other? Frankly, if the legislature saw fit to pass a bond limitation bill that applied to all types of defendants, we would support that. Legislation introduced in 2001 in the House to accomplish that was supported by the Kansas Chamber of Commerce and Industry. Eight states thought that was the way to go. But a real issue for all of those states was the protection of their MSA monies, and four states decided to limit the bond only in cases involving MSA signatories. That is the approach taken here.

SB 48 solves the problem Kansas would face if the tobacco companies were hit with a large judgment in this state. It would require them to post a sensible bond, but not one that by itself could force them into bankruptcy. It would not change the substantive law in any way to help them. All it would do is let them pursue their appeal to the end. Under current law, if the defendant ultimately would lose and perhaps be driven out of business. Nothing in this bill changes that.

SB 48 addresses a specific problem in a narrow fashion. It follows the lead of 12 other states, each of whom has recognized that this could be a real problem. SB 48 hurts nobody, and protects the plaintiff while the case is on appeal, because it provides that if the tobacco companies are shown to be dissipating their assets the judge can require a higher bond.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

**Kathy
Damron**

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Topeka, Kansas 66612-2205

Testimony Supporting SB 48
Presented on behalf of
Altria Group, Inc.
Before the House Judiciary Committee
March 12, 2003

Chairman O'Neal and Members of the Committee:

My name is Kathy Damron, appearing before you this afternoon on behalf of Altria Group, Inc., the parent company of Philip Morris.

We are supporting Senate Bill 48 as an important step in protecting the historic Master Settlement Agreement between the states and tobacco companies. Under Kansas law a litigant can be required to post an appeal bond of at least 100% of the judgment. The proposal articulated in SB 48 would keep the present law and rules applicable but would limit the appeal bond for MSA signatories to \$25 million for any judgment in civil litigation.

The purpose of the bill is to protect the state's interest (and the interest of all other states) in receipt of its annual revenue from the MSA by ensuring the MSA companies have the capacity to appeal potentially bankrupting civil judgments.

How much revenue does this represent to Kansas? According to the Kansas Division of Budget, these dollars are extremely significant:

FY 2000 Settlement Revenue	\$68 million
FY 2001 Settlement Revenue	\$52 million
FY 2002 Settlement Revenue	\$60 million
FY 2003 est. Settlement Revenue	\$57 million
FY 2004 est. Settlement Revenue	\$56 million

These settlement dollars are having a tremendous impact on the daily lives of thousands of Kansans. They are being used to fund a variety of programs that otherwise would be reliant upon the state general fund to finance, competing with scarce resources for education, public safety, health care and other SGF programs. These MSA funded programs are important to Kansas. They are important to your constituents.

H. JUDICIARY

3-12-03

Attachment: 5

In considering this legislation, Kansas joins many other states where the proposed appeal bond limits have been enacted or are receiving strong consideration this year. Louisiana, Nevada, West Virginia and Oklahoma passed bills very similar to SB 48 last year. In other states where caps exist, the limits apply more broadly to virtually all defendants. Attached to my testimony is a chart of these states where limits exist.

SB 48, like the proposals enacted in the other states, offers no substantive protections to tobacco manufacturers; instead, the proposed bill merely ensures that a full appeal of a potentially ruinous judgment may occur before the financial soundness of the tobacco companies, and hence MSA payments, are threatened.

We respectfully ask that you give your support to SB 48.

ENACTED APPEAL BOND LEGISLATION**Tobacco Specific**

State	Date Approved	To Whom Limits Apply	Amount of Appeal Bond Limit	Scope of Appeal Bond Limit
Louisiana	6/25/2001	Master Settlement Agreement signatories only	\$50,000,000	Applies to all money judgments
Nevada	5/29/2001	All Master Settlement Agreement signatories	\$50,000,000	Applies to all forms of judgments in civil litigation
Oklahoma	4/10/2001	All Master Settlement Agreement signatories	\$25,000,000	Applies to all forms of judgments in civil litigation
West Virginia	5/2/2001	All Master Settlement Agreement signatories	\$100,000,000 for all portions of a judgment other punitive damages; \$100,000,000 for the punitive damages portion of a judgment	Applies to all civil litigation and provides that consolidated or aggregated cases shall be treated as a single judgment for purposes of the appeal bond limits

Non-Tobacco Specific

State	Date Approved	To Whom Limits Apply	Amount of Appeal Bond Limit	Scope of Appeal Bond Limit
Florida	5/9/2000	All litigants in class actions	\$100,000,000	Applies to punitive damages only
Georgia	3/30/2000	All litigants	\$25,000,000	Applies to punitive damages only
Indiana	3/14/2002	All litigants	\$25,000,000	Applies to all judgments in civil litigation regardless of legal theory
Kentucky	3/29/2000	All litigants	\$100,000,000	Applies to punitive damages portion of a judgment
Michigan	5/8/2002	All litigants	\$25,000,000 plus COLA every 5th year	Applies to all judgments in civil litigation
Mississippi*	4/26/2001	All litigants	\$100,000,000	Applies to all litigation subject to court rule
North Carolina	4/5/2000	All litigants	\$25,000,000	Applies to all non-compensatory damages
Ohio	3/28/2002	All litigants	\$50,000,000	Applies to all forms of judgments in civil litigation
South Carolina	5/26/2000	All litigants	No bond required	Stays execution on civil judgments during appeal process
Virginia	3/10/2000	All litigants	\$25,000,000	Applies to punitive damages portion of a judgment

Notes

* Created by court rule rather than legislation.

State of Kansas

House of Representatives

COMMITTEE ASSIGNMENTS

MEMBER: COMMERCE AND LABOR
HEALTH AND HUMAN SERVICES
ETHICS AND ELECTIONS
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SERVING LENEXA AND SHAWNEE

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TOPEKA

March 12, 2003

**Testimony in opposition to Senate Bill 48
House Committee on the Judiciary**

Mr. Chairman, Members of the Committee, thank you for allowing me time to present testimony before your committee today. I stand before you as a concerned citizen to oppose Senate Bill 48.

As you have heard, despite their pleas, the tobacco companies are not in the poorhouse, they are not in bankruptcy, but unlike virtually any other business in the United States, the tobacco companies are making money during recession. When every other company in Kansas is experiencing significant deficits, massive layoffs, and hefty cuts in benefits to their employees, the tobacco companies are thriving, even according to their own documents.

SB 48 would limit the appeal bonds tobacco companies would have to secure against a judgment to \$25 million. Why are we protecting an industry that has done nothing for the state of Kansas, when so many companies like Sprint, Boeing, Payless Shoe Source, and others that employ Kansans and support our communities, are not included in the bill? In fact, I would purport that the better public policy decision would be to exempt all Kansas industries, EXCEPT the tobacco industry.

To that end, Senator Derek Schmidt, the lone dissenter of this bill in the Senate commented that his "objection to this bill is that it applies only to tobacco companies. If it is good policy to cap appeals on bonds – and I believe it is – we should apply that policy to all businesses or other appellants and not create a special benefit for tobacco companies."

Attached to my testimony you will find suggested language that turns this bill from one that favors one industry, to a pro-business bill that helps and encourages those companies that contribute to the well-being of Kansans every day and need a break in tough times. I would encourage discussion and inclusion of this language in SB 48.

Stephanie Sharp

H. JUDICIARY

3.12.03

Attachment: 6

6-2

SENATE BILL No. 48

By Committee on Judiciary

1-22

Proposed amendment
Representative Stephanie Sharp
March 11, 2003

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AN ACT concerning ~~the tobacco, relating to the master settlement agree-~~
~~ment; appeal bonds [in certain litigation]~~

civil procedure; relating to

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

Section 1. (a) ~~The appeal bond that an appellant in civil litigation~~
~~under any legal theory involving a signatory or a successor to a signatory~~
~~of the master settlement agreement, as defined in K.S.A. 2002 Supp. 50-~~
~~6a02, and amendments thereto, may be required to post to stay execution~~
on a judgment during an appeal or discretionary review shall ~~be set in~~
~~accordance with existing law and court rules, except that in no case shall~~
~~an appeal bond exceed \$25,000,000, regardless of the total value of the~~
judgment.

Except as provided in subsection (b),

not

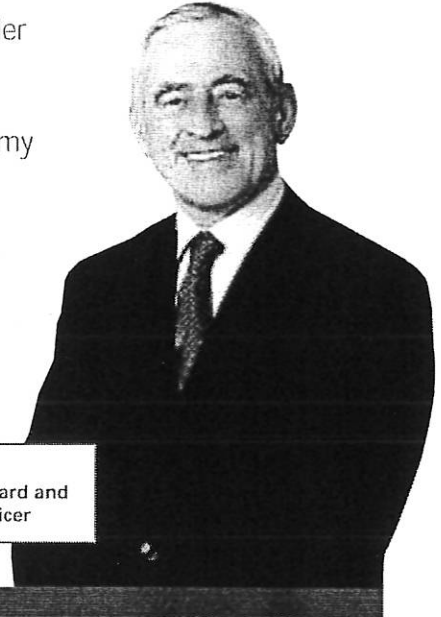
(b) If it is proved by a preponderance of the evidence that the ap-
pellant ~~for whom the bond has been limited pursuant to this section~~ is
intentionally dissipating or diverting assets outside of the ordinary course
of its business for the purpose of avoiding payment of the judgment, the
court shall enter such orders as are necessary to prevent the dissipation
or diversion of assets.

Sec. 2. This act shall take effect and be in force from and after its
publication in the Kansas register.

To Our Shareholders:

2001 witnessed a number of remarkable events and actions, both for Philip Morris Companies Inc. and the world.

The terrorist attack on September 11 provided a stunning reminder that we live in an uncertain global environment, and presented the most trying circumstances in recent memory. I would like to extend my sympathy to the victims and their families and salute our employees for their actions in the aftermath of the attack. They displayed extraordinary compassion by providing their time and resources to help those in need. The company responded with donations of food, water and other emergency supplies, and committed \$10 million in direct support to the Red Cross and other relief agencies.



Geoffrey C. Bible
Chairman of the Board and
Chief Executive Officer

Last year, we took a number of strategic actions to drive the company's future financial performance. Among the highlights, we:

- Continued to invest in the development, retention and motivation of our talented and fully engaged employees.
- Completed an \$8.4 billion initial public offering (IPO) of Kraft Foods Inc. common stock and used the proceeds to pay down a portion of the debt associated with the Nabisco acquisition.
- Continued to build our businesses, with strong performance in worldwide food and tobacco, while our beer business showed signs of improvement.

As a result of those actions, we:

- Met our earnings target, with underlying diluted earnings per share up 8.9% to \$4.04.
- Repurchased \$4.0 billion of our common stock and raised the dividend 9.4%, to an annualized rate of \$2.32 per share.
- Outperformed the S&P 500 Index, with a total return of 9.2%, including price appreciation and dividends, reflecting our strong fundamentals.

Experienced team ensures a seamless transition

For decades, a hallmark of Philip Morris has been the strength of our senior management team, so I am especially pleased to report that the Board of Directors has announced its intention to elect Louis C. Camilleri as President and Chief Executive Officer, effective April 25, 2002, following the Annual Meeting of Shareholders.

I have the highest regard for Louis and his capabilities. Time and again, he has demonstrated his people skills, his ability to deliver results and to deliver them with precision, his thorough knowledge of our businesses across the world and his superb strategic and financial acumen.

I am confident that Louis and the company's management team will maintain our long-standing commitment to build leaders and brands, to generate profitable growth and to provide steady returns for shareholders, while ensuring that we operate as a responsible manufacturer and marketer of consumer packaged goods.

I also want to acknowledge the invaluable role played by William H. Webb, Vice Chairman and Chief Operating Officer, and a member of the Board of Directors, who will be retiring in August 2002. During his 35 years of distinguished service to Philip Morris, Bill was one of the key architects of

our international expansion, having led Philip Morris International from 1993 to 1997 before assuming his role as Chief Operating Officer. He fostered a tremendous spirit throughout our organization, and is respected and admired by his colleagues. I know I speak for all of them in thanking him and wishing him well.

Delivering business growth worldwide

Our tobacco and food businesses extended their leading positions in markets around the world during 2001 and generated good income growth, while our beer business showed encouraging signs of improvement. The Business Review section of this report provides details of our results.

In domestic tobacco, Philip Morris Incorporated (PM USA) captured a record retail market share of 50.8%, according to data from IRI/Capstone, and generated strong profit growth while increasing its leading share of the premium segment. In addition to building *Marlboro's* retail share to a new record of 38.2% and increasing *Parliament's* retail share to 1.2%, PM USA sustained retail share for *Virginia Slims* and *Basic*. PM USA successfully demonstrated its ability to strike the optimal balance between sustained long-term share growth and income growth.

In international tobacco, Philip Morris International Inc. (PMI) delivered solid volume growth and achieved record shares in many of its most important markets. It continued to invest in strengthening *Marlboro*, already the world's most dynamic brand, as well as its portfolio of other leading international brands, including *L&M*, *Philip Morris*, *Chesterfield*, *Bond Street*, *Lark* and *Parliament*. PMI continued to increase its leading shares in the fastest-growing segments of the industry, including the American-blend category.

Kraft Foods Inc. (Kraft) delivered very strong performances both in North America and internationally, driven by new food and beverage products and synergies. During 2001, new products contributed \$1.1 billion to Kraft's revenues, and the integration of Nabisco is proceeding smoothly. For the year, Kraft exceeded its first-year synergy target of \$100 million in savings.

In North American food, Kraft Foods North America, Inc. (KFNA), continued to focus new product activities on the key consumer growth platforms of Snacks, Beverages, Convenient Meals, and Health & Wellness. Volume gains from new product launches, coupled with record productivity savings and Nabisco synergies, fueled strong income gains.

In international food, Kraft Foods International, Inc. (KFI), achieved accelerated growth and higher income last year,

driven by volume gains, productivity savings and Nabisco synergies. KFI's strategic investments last year included acquiring coffee companies in Bulgaria, Romania and Morocco, and the Stollwerck confectionery business in Russia and Poland.

In beer, Miller Brewing Company (Miller) showed improvement during the year, with fourth-quarter results up significantly from weak results in the year-earlier period. Miller announced new alliances with Skyy Spirits LLC and Allied Domecq PLC early in 2002, and will launch a strong portfolio of ready-to-drink beverages in the fast-growing flavored malt beverage category. We remain optimistic that Miller can show continued improvement in 2002.

Strengthening our brands through innovation

Our businesses are driven by the success of a brand portfolio that is unmatched in the consumer packaged goods industry, with 92 brands each generating \$100 million or more in annual revenues. Thirteen of our brands generated \$1 billion or more each in annual revenues. In tobacco, billion-dollar brands include *Marlboro*, *Basic*, *Virginia Slims*, *L&M*, *Parliament* and *Philip Morris*; in food, the *Nabisco* trademark, *Kraft*, *Oscar Mayer*, *Post*, *Maxwell House* and *Philadelphia*; and in beer, *Miller Lite*.

The growth of our brands is driven by constant innovation, which is key to our future. In addition to the many business challenges we face, the major social issues that will likely grow in importance include lifestyle changes; health and nutrition; both mandatory and voluntary marketing limitations; and environmental impact. Innovation will play a crucial role in meeting all these challenges. At Kraft alone, the new-product pipeline is fed by more than 2,000 employees who are involved in core research and development activities. We are committed to innovation as a way to ensure continued success and the future growth of our businesses.

Reaffirming our commitment to deliver shareholder value

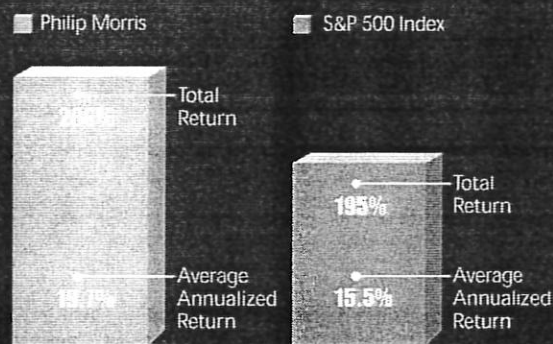
One cornerstone of our corporate philosophy is to provide continued value to shareholders through a balanced program of dividends and share repurchases.

We have consistently increased the dividend in line with earnings growth, and I am pleased to report that once again, in August, we increased our dividend by 9.4% to an

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Philip Morris Shareholder Return vs. S&P 500 Index

(June 30, 1994 through December 31, 2001)



Shareholder return includes stock appreciation and reinvestment of dividends.

annualized rate of \$2.32 per share. That marks the 34th time in 32 years that we have raised the dividend.

We have made it clear that we will continue to buy back our shares as long as our stock remains significantly undervalued. During 2001, we repurchased 84.6 million shares of our common stock at a cost of \$4.0 billion.

In total, we increased shareholder value by funding \$8.8 billion in dividends and share repurchases in 2001. Our success in the current economic climate underscores both the strength of our global businesses and the steadfast manner in which we continue to deliver value to shareholders.

When I became CEO in June 1994 and Chairman in February 1995, the senior management team and I determined that one of our most important goals was delivering long-term shareholder value. Since that time, we have successfully outperformed the market, as shown in the chart above. This performance reaffirms for us the importance of adhering to the fundamental strategies that drive our success.

Another measure of our ability to increase shareholder value is economic value added (EVA) or after-tax net operating profit minus the cost of capital. Based on the most recent Stern Stewart Performance 1000 rankings, Philip Morris was number one in EVA for the three-year period 1998 to 2000 among major U.S. corporations, surpassing many enterprises with much larger market capitalizations.

Proposing a new name for our parent company

As indicated in our proxy statement, we have proposed a change in the name of our parent corporation, from Philip Morris Companies Inc. to Altria Group, Inc., subject to shareholder approval at our next Annual Meeting of Shareholders on April 25, 2002.

We believe that the new name and its timing are appropriate and in the long-term best interests of the corporation for several reasons. Since the parent corporation shares the same name as our two tobacco operating companies, Philip Morris Incorporated and Philip Morris International Inc., the change to Altria Group, Inc., will help to eliminate the confusion that often surrounds references to the tobacco subsidiaries versus the parent. The new name also reflects the fact that we have evolved into a substantially larger, more diverse enterprise than we were originally, through such actions as the acquisition of Nabisco and the Kraft IPO.

Successfully managing litigation challenges

During 2001, we met the continuing challenge posed by litigation with a considerable level of success, despite the variety of cases and issues we confronted.

PM USA successfully defended cases tried in New York, New Jersey, Ohio, West Virginia and Florida, while losing the *Boeken* case in California. We filed our appeal brief in the *Engle* class action and are preparing to file our brief in the *Boeken* appeal. Although our intermediate appeal in the *Henley* case did not produce the desired outcome, the California Supreme Court has agreed to review the case in connection with its review of other tobacco cases.

Throughout the year, trial and appellate courts continued to reject efforts by unions, Native American tribes and foreign governments to seek recovery of health care costs from PM USA and other cigarette makers. There are now ten unanimous decisions issued by eight different federal and three state appellate courts, making it clear that such claims are without legal merit. The U.S. Supreme Court's decision declining to review a federal appeals court ruling that upheld the dismissal of such claims brought by Guatemala, Nicaragua and Ukraine should help convince state and federal courts that similar claims should be rejected. We continue to believe the federal government's case should be dismissed, but are preparing for possible trial in 2003.

In litigation outside of the U.S., we continued to successfully defend and conclude cases, including claims in key European and South American countries. In a closely watched case, an appellate court in France also reversed a trial court decision in favor of a smoker in an individual case brought against a competitor.

Successful management of our litigation challenges remains a high priority, and we will continue to devote the human, financial and strategic resources necessary to achieve that goal.

Aligning our businesses with societal expectations

We continue to align our actions with societal expectations of how our products, particularly tobacco, should be produced, advertised and marketed.

In the U.S., we have conveyed our position in favor of meaningful, tough and effective regulation of cigarettes by the Food and Drug Administration. We have also indicated our support for sensible and practical measures to regulate tobacco products worldwide. In addition, we continued to devote major resources to the research and development of new reduced-risk tobacco products, both in the U.S. and internationally. We believe such products respond to societal concerns and will benefit from sensible regulation.

We continued to expand and enhance our Youth Smoking Prevention programs in the U.S. and around the world. Our commitment to these programs is real and for the long term. In addition, PM USA has encouraged state legislators to use a significant portion of funds from the Master Settlement Agreement on youth smoking prevention efforts.

In 2001, we continued to further improve and build upon our compliance programs and took a significant step in responding to an ever-changing societal and regulatory environment by creating and filling the new position of Chief Compliance Officer. We have also strengthened compliance teams in all the operating companies. These teams are continuing to build world-class compliance systems to ensure that we continue to meet or exceed our legal obligations, as well as our own corporate commitments and policies across the board.

Building a prosperous future

As I enter the final months of my term as Chairman and CEO, I want to express my deepest thanks to our employees, Board of Directors, shareholders, customers and suppliers for their support. With all the challenges we faced, it is particularly gratifying for me to reflect on the focused manner in which we pursued and met our key goals of expanding our businesses and profitability, ensuring our financial integrity and rewarding shareholders, while working to meet societal expectations. Toward that end, we continued to energize the company by entering new markets and product categories, making acquisitions, completing the Kraft IPO, proposing a name change and taking substantive actions to address the litigation and public policy challenges surrounding our businesses.

While the senior management team sets direction and goals, we naturally rely on our deep pool of talented

employees around the world to drive results. We invest considerable resources in the training and development of all our employees, including vigorous leadership programs, and continue to foster a culture that rewards achievement, prudent risk-taking and a broad world view.

We are committed to the principle that our employees reflect the world around us. Accordingly, we are very proud of the diverse workforce we have fostered over decades of developing our employees. In 2001, people of color represented 28% of our U.S. employees, while more than 37% were women. In our professional and management ranks in the U.S., people of color and women made up 19.5% and 34.1% of our employees, respectively.

We are proud of our ambitious supplier-diversity program, which allows capable and competitive minority-owned and women-owned businesses to grow and develop with us as trusted partners. In 2001, we spent more than \$1.4 billion through this program, earning us the distinction of being inducted into the Corporate Supplier Diversity Billion Dollar Roundtable.

In addition, for more than 45 years, the Philip Morris family of companies has been committed to giving back to our communities, and has donated \$1 billion in cash and in-kind contributions in the last decade alone.

As we prepare for a smooth management transition, I am confident that the components are firmly in place for future growth. We entered 2002 with good momentum, and we project solid earnings per share growth again this year. Of course, the strength of the U.S. dollar versus foreign currencies and economic weakness in certain international markets represent continuing challenges, but I am optimistic that we can meet those challenges.

Finally, I want to say that during my career at Philip Morris, it has been an honor for me to work alongside an exceptionally fine group of women and men, and to contribute as best I could to driving the extraordinary growth of this great company. Our employees will continue to ensure the prosperity of the company, its shareholders and their communities.



Geoffrey C. Bible
Chairman of the Board and Chief Executive Officer
March 5, 2002

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Kevin C. Dellsperger, M.D., Ph.D.

Chairman of the Board-Elect
Bill G. Lynch

President-Elect
John Windle, M.D.

**Immediate Past
Chairman of the Board**
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Executive Vice President
Glenn R. Horn

**Chief Operating Officer
Field Operations**
Robert W. Schultz

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**American Heart Association
Testimony In Opposition to SB 48
House Judiciary Committee
Wednesday, March 12, 2003 – 1:30 pm**

Representative O'Neal and members of the committee, I am Kevin Walker, senior director of advocacy for the American Heart Association. I appear before you today in opposition to SB 48.

This bill creates special protections for certain companies within the tobacco industry. This precedent is dangerous and sends the wrong message to the people of this state. To my knowledge, there is nothing wrong with the current system relating to appeal bonds, and as is often said, "If it ain't broke, don't fix it."

Granting special protections to the tobacco industry is a slap in the face to the thousands of businesses in Kansas who contribute so much more to this state than the tobacco industry has ever dreamed of doing. Why would we even consider offering special treatment to a limited number of companies within an industry that has for years deceived consumers and contributed to the death and disability of millions?

This industry, despite the doom and gloom they profess, has significant resources domestically and internationally to cover appeal bonds in the tens of billions of dollars without risk of bankruptcy according to industry analysts.

I see no compelling reason to offer this special treatment and urge this committee to reject this bill.

H. JUDICIARY

3-12-03

Attachment: 7

March 12, 2003

Statement in Opposition of Senate Bill 48 Under Review by the House Committee on the Judiciary

Chairman O'Neal, Members of the Committee, and guests:

My name is Gwendolyn Cargnel and I am the Government Relations Director for the American Cancer Society, I represent over 270,000 volunteers and supporters in Kansas, and on their behalf, I oppose Senate Bill 48, a bill that is designed to grant special privileges and immunities to the tobacco industry.

This bill caps the amount the tobacco industry has to pay toward an appeal bond for the compensatory damages portion of a civil judgment. This type of wide-sweeping protection has not been granted to any other business or industry in Kansas.

The Tobacco companies are attempting to garner support for this bill by stating the payments received by the state from the Master Settlement Agreement are in jeopardy. This is just not true. In fact the big tobacco companies used their obligation to make tobacco lawsuit settlement payments to the states as an excuse for massive cigarette price increases. These price hikes since the state's first settlements brought the tobacco companies more than \$20 billion dollars per year in additional new revenue. This is at least \$10 to \$12 billion more per year than what the tobacco companied actually needed to cover all of their ongoing settlement-related costs.

This demonstrates to what lengths the tobacco companies are willing go to manipulate the public and pubic policy officials. Our supporters believe the tobacco industry has consistently given misleading information to the public in order to generate more profits. This bill grants special privileges and immunities which are unnecessary and undeserving.

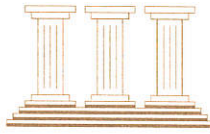
Why should the legislature give special protection to an industry that has no difficulty putting the lives of this great state's citizens in danger? You shouldn't, there is no need to grant one more advantage to an industry which has historically not been forthcoming.

On behalf of the American Cancer Society and its 270,000 volunteers I urge you to oppose Senate Bill 48.

H. JUDICIARY

3-12-03

Attachment: 8



KANSAS TRIAL LAWYERS ASSOCIATION

Lawyers Representing Consumers

TO: Members of the House Judiciary Committee

FROM: Ron Pope
Kansas Trial Lawyers Association

RE: 2003 SB 48

DATE: March 12, 2003

Chairman O'Neal and members of the House Judiciary Committee. I am Ron Pope, KTLA president elect of the Kansas Trial Lawyers Association. We are a statewide, nonprofit organization of lawyers who represent consumers and advocate for the safety of families and the preservation of the civil justice system. I appreciate the opportunity to appear before you today in opposition to SB 48.

KTLA opposes SB 48, which places limitations on appeal bonds. This amendment applies an appeal bond limit of \$25 million on judgments. This is special legislation sought by the tobacco industry which sets a dangerous precedent for other industries to seek similar protections while eliminating the rights of individuals. A limit of \$25 million is insufficient in cases where individuals have suffered major injuries or deaths by powerful corporations.

What is the problem to be solved with this legislation? In reality, these types of verdict amounts are extremely rare in Kansas. I am not aware of any situation in Kansas where posting an appeal bond was a problem for any judgments that have been entered. However, a verdict in Kansas of this amount would reflect major injuries and damages to individual Kansans by a very powerful corporate wrongdoer. This industry continues to profit heavily, both in the United States and abroad, from the sale of their dangerous product. These are well-diversified companies with the financial capability of paying and posting the bond. They are not at risk of bankruptcy.

R.J. Reynolds, on its website, admits that the company "has been subject to significant litigation for many decades; however, the volume of litigation against Reynolds Tobacco and the tobacco industry has remained manageable...Accordingly, the company's ability to defend these cases remains solid and intact." (http://www.rjrt.com/TI/TIlitigation_cover.asp)

SB 48 benefits **only** the tobacco industry. Keep in mind that Kansas citizens were among those harmed by the tobacco industry. As a result of that harm, the tobacco industry was required by the Master Settlement Agreement to reimburse Kansas for the costs of providing health care to Medicaid recipients. And now, that same industry is asking for special consideration should the industry be found responsible for future damages and misconduct in excess of \$25 million.

H. JUDICIARY

Terry Humphrey, Executive Director

Fire Station No. 2 • 719 SW Van Buren Street, Suite 100 • Topeka, Ks 66603-3715 •

E-Mail: triallaw@ink.org

3-12-03
Attachment: *9*

SB 48 sets a dangerous precedent in Kansas. Amending our state policy to benefit the tobacco industry not only jeopardizes possible future cases brought by individual Kansans, but also opens the door for other industries and corporations to seek similar special protection. The costs of these corporate benefits are then born by individual Kansas consumers.

In addition, Kansans who have suffered these catastrophic injuries and damages may find themselves facing needless delays without the assurance that they will be fairly compensated when the appeal process is over. The provisions within SB 48 would encourage frivolous appeals by the tobacco industry. Currently, Kansas law includes statutory procedures for delays and enforcement of judgments that afford reasonable and timely protections to a party for obvious errors or modifications that need to be made to a judgment.

Under K.S.A. 60-262(a), all judgments, except injunctions and receiverships are automatically stayed following entrance of judgment for 10 days. In its discretion, the Court may stay the execution of any judgment pending a motion for new trial; to alter or amend the judgment; for relief from the judgment or order; for judgment as a matter of law; or for amendment to the findings of fact. Otherwise, a judgment is the final determination of the rights of the parties in an action. A judgment becomes effective when it is entered pursuant to K.S.A. 60-258. Obviously then a judgment is "effective" before appeal.

The bond requirements as specified in SB 48 are insufficient. Currently, Kansas law requires bond to be set at/or greater than the amount of judgment. Reducing the bond limit for tobacco companies sends the wrong message to wrongdoers.

Decreasing bond requirements will also result in:

- (a) A delay of payment of judgment rather than deciding a legitimate issue of law that needs to be decided on appeal;
- (b) Increasing the leverage of a wrongdoer. A victim may feel forced to settle for a lesser amount, fearing the consequences of delays that are necessarily caused by appeals. This fear would be perpetuated because the wrongdoer is not been required to post a bond for the full value;
- (c) Possibly allowing for evasion of judgment responsibilities by disposal of assets. This statute puts the onus on the victim to prove that the wrongdoer is in fact wrongfully disposing of assets;
- (d) Discouraging settlements on the part of the wrongdoer unless it is for a much smaller amount. Since the wrongdoer does not have to immediately utilize its assets for payment of the judgment, the wrongdoer gets the benefit of the time value of money, which could easily outpace the amount of interest accruing on the judgment.

Thank you for the opportunity to express KTLA's opposition to SB 48. This bill sets the policy precedent of rewarding a corporate wrongdoer with special protections at the risk of the individual rights of Kansans. It removes current judicial discretion and statutory protections to victims against needless or unreasonable delays and imposes an insufficient bond limit, which unfairly benefits the wrongdoer. We respectfully request the committee to vote against passage of SB 48.

**KANSAS
PUBLIC
HEALTH
ASSOCIATION, INC.**

KANSAS PUBLIC HEALTH ASSOCIATION, INC.
AFFILIATED WITH THE AMERICAN PUBLIC HEALTH ASSOCIATION
215 SE 8TH AVENUE
TOPEKA KANSAS 66603-3906
PHONE: 785-233-3103 FAX: 785-233-3439
E-MAIL: kpha@networksplus.net
WEB SITE: HTTP://KPHA.BLUESTEP.NET

To: House Judiciary Committee
From: Sally Finney, CAE
Re: SB 48
Date: March 12, 2003

I thank you for the opportunity to appear before you today. On behalf of the state's public health community, I ask that you oppose Senate Bill 48, a bill giving special protection to the tobacco industry in matters of civil litigation.

Tobacco, when used as directed, kills. This undeniable fact distinguishes this consumable product from all others. Yet even in the face of this information, the tobacco industry has continued for decades to promote the use of its products throughout the world. By its very nature, the tobacco industry must recruit new users to replace those who die from the consumption of its products. Why, then, should the State of Kansas give preferential treatment to such an industry by limiting the amount of appeal bonds? We believe this is a matter that should continue to be handled as it has been - by our judicial system.

Again, on behalf of the Kansas Public Health Association, I ask that you oppose SB 48. Thank you for your time.

H. JUDICIARY

3-12-03

Attachment: 10