

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman David Corbin at 10:40 a.m. on March 3, 2004, in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Chris Courtwright, Legislative Research Department
Martha Dorsey, Legislative Research Department
Gordon Self, Revisor of Statutes Office
Shirley Higgins, Committee Secretary

Conferees appearing before the committee:

Senator Jim Barnett
Tony Wellever, Kansas Health Institute
Paula Marnet, Kansas Department of Health and Environment
Dr. Verlin K. Janzen, Kansas Academy of Family Physicians
Gwendolyn Cargnel, American Cancer Society
Kevin Walker, American Heart Association
Jaime Fiorucci-Hughes, student, University of Kansas
Ron Hein, R.J. Reynolds Tobacco Company
Terry Presta, Presto Convenience Stores
Whitney Damron, Conwood Company, LP and Swedish Match North America
Lee Stolfus, American Legion Post 5 in Emporia
Gary Post, Lyon County Appraiser

Others attending:

See Attached List.

Senator Corbin called the Committee's attention to the minutes of the February 20, 23, and 24 meetings.

Senator Donovan moved to approve the minutes of the February 20, 23, 24, 2004, meetings, seconded by Senator Goodwin. The motion carried.

SB 503—Cigarettes and tobacco products tax rate increase; revenue for tobacco use prevention and control program

Senator Jim Barnett testified in support of **SB 503**. He pointed out that smoking is the leading cause of preventable death and disease in Kansas, and direct medical costs are tremendous. He explained that **SB 503** would fund **SB 336**, which enables Kansas to implement the Center for Disease Control's (CDC) smoking cessation plan over a period of five years. He emphasized that the CDC plan could save thousands of lives and greater than \$1 billion in health care costs. He noted that the CDC model has been instituted in other states. To fully fund the program, the bill would raise tax on tobacco products from 10% to 13%, and the cigarette tax would raise 8 cents per pack the first year and 6 cents each year thereafter. (Attachment 1) Senator Barnett explained that a technical error was made in the preparation of the fiscal note on the bill. The bill will not reduce State General Fund dollars as the fiscal note suggests.

Chris Courtwright, Kansas Legislative Research, confirmed that, due to a technical error, the fiscal note on **SB 503** indicates a loss of approximately \$22 million to the State General Fund. He noted that the intent of the bill was to hold the State General Fund harmless and earmark all the new revenue from tobacco tax increases for the CDC program fund. When preparing the fiscal note, the Department of Revenue misread some of the earmarking language in the bill.

Tony Wellever, Kansas Health Institute, testified in support of **SB 503**. To illustrate the projected savings which would result from smoking cessation programs, he referred to charts entitled: Tobacco Use Prevention Expenditures and Medicaid Savings Estimate, Tobacco Use Prevention Expenditures and Health Care

CONTINUATION SHEET

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE at 10:40 a.m. on March 3, 2004, in Room 519-S of the Capitol.

Savings, Tobacco Use Prevention Expenditures and Health Care Savings (Time Lag), and Tobacco Use Prevention Expenditures and Health care Savings (Sensitivity Analysis, Twenty Percent Reduction). He explained that the data on projected savings was calculated by the Campaign for Tobacco-Free Kids. He pointed out that a one percentage point per year decline in smoking for a five-year program would mean that approximately 98,700 Kansans would have quit smoking or would never have started to smoke. In conclusion, Mr. Wellever, commented that an investment in smoking cessation programs will yield benefits for the entire state that are far in excess of the expenditures. (Attachment 2)

Paula Marmet, Kansas Department of Health and Environment (KDHE), noted that the Department has no position on **SB 503**. However, she presented testimony in support of **SB 336**, a related bill which was heard by the Senate Ways and Means Committee. She pointed out that tobacco use is tied to chronic diseases which have a tremendous impact on health care expenditures in Kansas. She emphasized that tobacco use is the single most preventable cause of death and disease in Kansas. She explained that a strong science base has been established that substantiates the effectiveness of state tobacco use prevention programs and that the CDC has prepared a guidance document to assist states in implementing effective programs. States who have invested in tobacco use prevention programs have made tremendous gains in cutting tobacco use, thus decreasing health care expenditures due to tobacco related diseases. Based on the experience of other states, Ms. Marmet feels that Kansas would cut tobacco use rates by half within ten years of implementing a prevention program. However, KDHE currently does not have the resources to support a program of this scale. (Attachment 3)

At this point, Senator Corbin commented that **SB 503** does not concern tobacco use but concerns the issue of raising taxes on tobacco products to fund **SB 336**. He noted that the question the Committee raises is, "What is happening to the tobacco money that is already being received by the state?"

Dr. Verlin Janzen, M.D., testified in support of **SB 503** on behalf of the Kansas Academy of Family Physicians. He noted that some of the sickest patients seen by doctors across the state are those who have damaged their hearts, blood vessels, and lungs through tobacco use. He noted that, nationwide, an estimated \$89 million is spent annually on health care costs related to smoking. To prevent health these health care problems, he contended that the state must educate the public through programs developed in accordance with the practices established by the CDC. In order to help protect the citizens of Kansas from the harmful effects of tobacco, Dr. Janzen urged the Committee to support **SB 503**. (Attachment 4)

Gwendolyn Cargnel, American Cancer Society, testified in support of **SB 503**. She informed the Committee that tobacco use contributes to almost 90% of all lung cancer cases and 30% of other cancers. She pointed out that the bill would produce tax revenue which would go directly to the funding of the comprehensive tobacco control program established by **SB 336**. (Attachment 5)

Kevin Walker, American Heart Association, testified in support of **SB 503**. He maintained that, to effectively combat the deadly and costly impact of smoking, it is imperative that the State of Kansas launch a plan similar to the plan outlined in **SB 336**. He contended that the plan will decrease smoking rates within the state and thus save the state money in health care costs related to tobacco use. (Attachment 6) As to questions concerning the tobacco revenue already being received by the state, Mr. Walker noted that the funds have been obligated elsewhere other than tobacco control. For this reason, the Heart Association and others request that the excise tax be increased and dedicated to a comprehensive tobacco control program.

Jaime Fiorucci-Hughes, a student from the University of Kansas, testified in support of **SB 503**. She explained that she has been actively involved in efforts to curb youth smoking and to provide funding for comprehensive tobacco control efforts. She pointed out studies and evidence show that increasing the tax on cigarettes not only reduces youth smoking but also provides much needed funding to support vital projects. She reasoned that, if saving lives is not cause enough to increase the tax on cigarettes, the Committee should consider that Kansas has \$724 million in annual health care costs directly caused by smoking. (Attachment 7) Ms. Fiorucci-Hughes also informed the Committee that the State of Kansas put \$500,000 into its tobacco program in Fiscal Year 2003. The recommendation from the CDC's best practices was \$18 million. She commented that great things are currently being accomplished at local and state level tobacco programs and observed, "Think what we can do with an increase of revenue from tobacco tax dollars put where they need to be." She

CONTINUATION SHEET

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE at 10:40 a.m. on March 3, 2004, in Room 519-S of the Capitol.

went on to say that, currently, the state is receiving about \$70 million from the Master Settlement Agreement which is being deferred to other areas. In her opinion, an excise tax increase would have a very positive affect if applied exclusively to a comprehensive tobacco program.

Senator Corbin called the Committee's attention to written testimony in support of **SB 503** submitted by Terri Roberts, Kansas State Nurses Association (Attachment 8); Judy Keller, American Lung Association (Attachment 9); and Dr. Jon Hauxwell, Tobacco Free Kansas Coalition, Inc. (Attachment 10).

Ron Hein, representing R.J. Reynolds Tobacco Company, testified in opposition to **SB 503**. He noted that, just two years ago, cigarette taxes were increased by approximately 230%. When fully implemented, the bill would result in an increase of 287% over that increase. Since 2000, Kansas smokers have also seen a significant increase in the cost of cigarettes resulting from federal excise tax increases. In addition, the cost has increased due to the Master Settlement Agreement between the state attorneys general and the tobacco industry. From 1998 to 2002, the national average price per pack rose from \$2.04 to \$3.57. The average cost of a pack in Kansas as of November 2002 was \$3.76, and \$1.93 of that amount goes to federal, state, and local government. Mr. Hein pointed out that the new tax rate under the bill would be significantly higher than the rate in surrounding states. He noted that, since 1989, cigarette purchasing patterns have changed dramatically due to state cigarette tax increases. The tax differential between high and low tax states have created substantial increases in cross-boarder purchases and in the organized smuggling of cigarettes. In conclusion, Mr. Hein discussed a study which shows that cigarette taxes extract a far greater percentage of income from modest wage earners than those with high incomes. (Attachment 11)

Terry Presta, Presto Convenience Stores, testified in opposition to **SB 503**. At the outset, he noted that the establishment of a tobacco use prevention program is a laudable and worthy goal and that the Master Settlement Agreement reached with the tobacco industry a few years ago provides funds to be used by states for educational and smoking cessation programs such as the program related to **SB 503**. However, very few states are using the funds to fund anti-smoking activities. In his opinion, supporters of the bill should convince legislators of the need to secure needed funds from the stream of monies from the settlement. Mr. Presta went on to say that another increase in the state excise tax imposed on cigarettes is fiscal folly. In this regard, he called attention to a copy of State General Fund receipts for the first six months of Fiscal Year 2004. The report shows cigarette excise tax receipts down 8.7% from the prior year. He noted that the excise tax was raised from \$2.40 to \$7.90 per carton two years ago, making Kansas cigarette prices the highest in the region. Due to the tax increase, consumers switched to other means such as the Internet to get around the state and legitimate retailers. In conclusion, Mr. Presta urged the Committee to reject legislation which would make his industry more noncompetitive. (Attachment 12)

Whitney Damron, representing Conwood Company, LP, and Swedish Match North America, testified in opposition to **SB 503**. He noted that the State of Kansas currently receives millions of dollars from excise and sales tax on cigarettes and tobacco products. In addition, it has been projected that the state will receive over \$1 billion from the Master Settlement Agreement over the next 25 years. In his opinion, there are adequate revenues available from those sources to finance tobacco use prevention programs. He went on to say that consumers of other tobacco products (smokeless products) are subjected to a tax increase every year as the products are taxed at the wholesale level. As shown in a chart attached to his written testimony, the average annual increase in state revenues from taxes on smokeless products for the past six years is 6.6%. Mr. Damron also called attention to a chart which demonstrates that consumers of premium moist snuff have seen their taxes increase significantly since 1995. He argued that the provision for a 30% increase on other tobacco products in **SB 503** is not warranted or justified. In closing, he noted that his clients are committed to denying underage youth access to tobacco products and have supported programs which do not require an increase in taxes. (Attachment 13)

Senator Corbin called the Committee's attention to written testimony in opposition to **SB 503** submitted by Dr. Philip Bradley on behalf of the Kansas Licensed Beverage Association (Attachment 14) and Marlee Carpenter, Kansas Chamber of Commerce and Industry (Attachment 15).

There being no others wishing to testify, the hearing on **SB 503** was closed.

CONTINUATION SHEET

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE at 10:40 a.m. on March 3, 2004, in Room 519-S of the Capitol.

SB 507—Exemption from taxation of motor vehicles of residents serving in military outside the state

Senator Jim Barnett testified in support of **SB 507**. He noted that active military men and women are required to pay property tax on their automobiles while out of the state and serving our country. He explained that the Lyon County Appraiser raised the issue in community discussions and subsequently requested that the State of Kansas grant an exemption for active military personnel as a matter of fairness. The exemption would also reduce the unpleasant burden placed upon county officials as they attempt to collect tax from the families of those serving in the military. (Attachment 16)

Senator Barnett clarified that the bill would exempt automobiles registered in the name of the active military man or woman. If the automobile is also registered under the name of the spouse of the military man or woman, it would be exempt. He noted that the Kansas Association of Counties is not opposed to the bill.

Staff clarified that federal law provides property tax relief for non-Kansas residents that are assigned to duty in Kansas. However, the bill addresses Kansas residents who are assigned to duty outside the state and do not take the vehicle with them. Current state law provides that a vehicle owned by a Kansas resident who takes it out of the state is exempt from property tax.

Lee Stolfus, Adjutant of American Legion Post 5 in Emporia, testified in support of **SB 507**. He noted that the American Legion Post 5 has worked closely with the support group for the local Army Reserve Unit which was activated and sent to Iraq. He emphasized that the bill would relieve some of the financial burden for both the service members overseas and their families at home. He argued that, given the price they have paid by leaving their families and jobs, the tax should not be collected. (Attachment 17)

Senator Taddiken asked Mr. Stolfus if he would be agreeable to amending the bill with language narrowing the exemption to the primary family vehicle. Mr. Stolfus had no objection, noting that the intent of the bill was not to create a loophole.

Gary Post, Lyon County Appraiser, testified in support of **SB 507**. He reported that 50% of the U.S. forces in Iraq soon will be part time military personnel who will often be making less money than they made in their civilian job. When the spouse comes to the courthouse to renew tags, paying the required property taxes may be the straw that breaks the camel's back. (Attachment 18)

Senator Oleen commented that motor vehicle tags are renewed at different times, according to the first letter of the owner's last name. She noted that, if the renewal does not come up while a Kansan is serving in the military overseas, the exemption would not apply. However, a person whose name came up during the same period of time would get the exemption.

There being no one else wishing to testify, the hearing on **SB 507** was closed.

The meeting was adjourned at 12:00 p.m.

The next meeting is scheduled for March 4, 2004.

SENATE ASSESSMENT AND TAXATION COMMITTEE
GUEST LIST

DATE: March 3, 2004

NAME	REPRESENTING
Verlin K. Jarzen	KS Academy Family Physicians
Jim Barnett	KS Senate
TOM PALACE	PMCA OF KANSAS
JERRY PRESTO	Presto C Stores
Richard Cram	KDOR
Mike Heyler	KASFA
HATHY DAMRON	Philip Morris
Mike Hein	RRR
Ron Hein	RRR
Whitney Damron	Conwood Co. L.P. / Swedish Match N.A.
Karl Peterjohu	Kansas Taxpayers Network
D. S. KOOHL	UST
Pat Hulshell	American Cyan
DIANE ALBERT	KDOR
Deann Williams	KMCA
Kina Portner	Sen. Barnett
LARRY R. BAER	LKM
Chase Finnell	Dept. of Admin.
BILL BRADY	KS Gov't Consulting

JIM BARNETT
 SENATOR, 17TH DISTRICT
 CHASE, COFFEY, GEARY, GREENWOOD
 LYON, MARION, MORRIS, OSAGE, AND
 WABAUNSEE COUNTIES



TOPEKA

SENATE CHAMBER

**Testimony
 Senate Bill 503**

COMMITTEE ASSIGNMENTS
 CHAIR: HEALTH INSURANCE ISSUES
 WORKING GROUP
 VICE CHAIR: PUBLIC HEALTH AND WELFARE
 VICE CHAIR: FINANCIAL INSTITUTIONS AND
 INSURANCE
 MEMBER: FEDERAL AND STATE AFFAIRS
 HEALTH CARE STABILIZATION
 FUND OVERSIGHT

Chairman Corbin and other distinguished members of the Senate Assessment and Taxation Committee, thank you for the opportunity to speak in support of SB 503.

Smoking is the largest cause of preventable death and disease in Kansas. The direct medical costs of tobacco are tremendous at \$724 million per year. Smoking leads not only to death, but also to disability and contributes to our burdensome Medicaid budget.

SB 336, as passed by the Kansas Senate, would enable the State of Kansas to implement the Center for Disease Control's smoking cessation plan that could save thousands of lives and greater than \$1 billion in healthcare costs. The program would help 98,700 adults quit smoking.

The program would implement the CDC model for smoking cessation over a period of 5 years. If implemented, 35,600 youth would be prevented from addicted use. The program would prevent 33,100 early smoking deaths, and \$1.241 billion would be saved in total medical spending over 5 years.

Similar programs have been implemented in a number of other states, including California, Massachusetts, and Florida. Science supports the success of this program.

We continue to struggle with unlimited demands on our limited state budget. We will never come close to limiting long-term healthcare costs unless we invest in near-term prevention efforts.

I ask for your support of this program. The minimum recommended state annual tobacco control budget equals \$18.1 million per year for 5 years. To achieve that goal, SB 503 has been introduced to raise tax on tobacco products from 10 to 13%. A cigarette tax increase has also been included to raise 8 cents the first year, and 6 cents each year thereafter. This amount of money would fully fund the Center for Disease Control's recommended model for smoking cessation.

Thank you for your consideration of SB 503.

Signed:

Senator Jim Barnett

JAB/gkp

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*Senate Assessment & Taxation
 3-3-04 Attachment 1*

Testimony on Senate Bill No. 503

March 3, 2004

Anthony Wellever

Vice President,

Kansas Health Institute

- Mr. Chairman, members of the Committee, my name is Tony Wellever and I am Vice President of the Kansas Health Institute, a non-partisan, non-profit health policy research organization located in Topeka.
- I am appearing today at the invitation of Senator Barnett. I appeared before his Working Group on Health Insurance Reform on December 19, 2003 and presented testimony about the number of years it would take for an investment in a tobacco use cessation and avoidance program to “break-even” in terms of reduced Medicaid expenditures related to tobacco.
- I presented this estimate. (Chart 1) I estimated that it would take approximately 24 years for Medicaid smoking-related savings to equal an investment of 90.3 million dollars in smoking cessation programs. Senator Barnett asked if I would make a similar estimate for total medical cost savings related to an integrated tobacco use prevention program. I am here today to share that estimate with you.
- The projected savings I am about to show you were calculated by the Campaign for Tobacco-Free Kids, a public health advocacy organization focused on reducing tobacco use. I have not seen the model employed, but I believe it is based on one prepared by the U.S. Centers for Disease Control and Prevention.
- I used the Campaign for Tobacco-Free Kids’ projections to make some assumptions about savings over time and represent them graphically.
- I assumed a five-year expenditure of 90.3 million dollars. (\$18.1m/yr.)
- The Campaign for Tobacco-Free Kids projected lifetime adult health care savings of \$814.3 million and lifetime youth health care savings of \$427.2 million, for a total health care savings of \$1.24 billion. (Chart 2)
- Based on my previous work with the Medicaid estimate, I made the following assumptions. I assumed that approximately 70 percent of the

*Senate Assessment & Taxation
3-3-04
Attachment 2*

adult lifetime savings would occur in the first 15 years after quitting smoking. Because of numerous factors – including the deaths of people who had previously smoked – I estimated that the cost savings per year would taper off over the next 20 years.

- I assumed that the health costs of youths not taking up smoking would not begin to become apparent until 15 years after the beginning of a smoking cessation program. Approximately 40 percent of the savings would be achieved between years 15 and 30. And in the next 15 years, as the youth cohort continues to age, cost savings per year will increase.
- Finally, I added the youth curve to the adult curve to get total health care savings.
- In this estimate, there is no break-even point, because savings in every year exceed expenditures.
- However, this estimate does not reflect reality. A smoking cessation program will not be up and running from the moment it is funded. There will be an implementation time lag. The program has to be designed; tested; and implemented at the local level. And then it will take time for the message to be acted upon and for smokers to actually quit smoking. (Chart 3)
- Therefore, I assumed that there would be a two and a half year lag between the beginning of the program and the first cost savings. When you make this assumption, program expenditures do exceed program benefits for the first five years and some months. After that, cost savings exceed program expenditures.
- The Campaign for Tobacco-Free Kids estimates a one percentage point per year decline in smoking for a five-year program. That would mean that after five years, approximately 98,700 Kansans would have quit smoking or would never have started to smoke. What if this projection is too rosy? What if some people resume smoking or youths begin to smoke as adults? I performed the following sensitivity analysis. (Chart 4)
- I assumed that adult and youth health care savings would be 20 percent less than those projected by the Campaign for Tobacco-Free Kids. Even so, benefits – reduced health care expenditures – exceed program expenditures

almost immediately. Even if a time lag were factored in – which I did not do – the break even point would not be greater than seven years.

- Now. Who gets these savings? How are they allocated? The benefits of the intervention will be shared by the entire state:
 - Medicaid savings -- \$141.5 million
 - Lower premiums (rate of increase) for state employees
 - Lower premiums for insured
 - Result of fewer medical expenditures
 - Result of less cost shifting of expenses from uninsured
 - Unspent millions can be spent on other goods and services.
 - Indirect cost savings: productivity, loss of productive life, etc. (Estimated by the Campaign for Tobacco-Free Kids at \$741 million per year.)

- In short Mr. Chairman, it is highly likely that an investment in smoking cessation will yield benefits to the state far in excess of expenditures.

- Mr. Chairman, I'd be happy to answer any question I can.



KANSAS
HEALTH
INSTITUTE

Legislative Testimony
March 3, 2004

Senate Assessment and Taxation Committee

March 3, 2004

Senate Bill 503

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Anthony Wellever

Vice President

Kansas Health Institute

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For additional information, contact:

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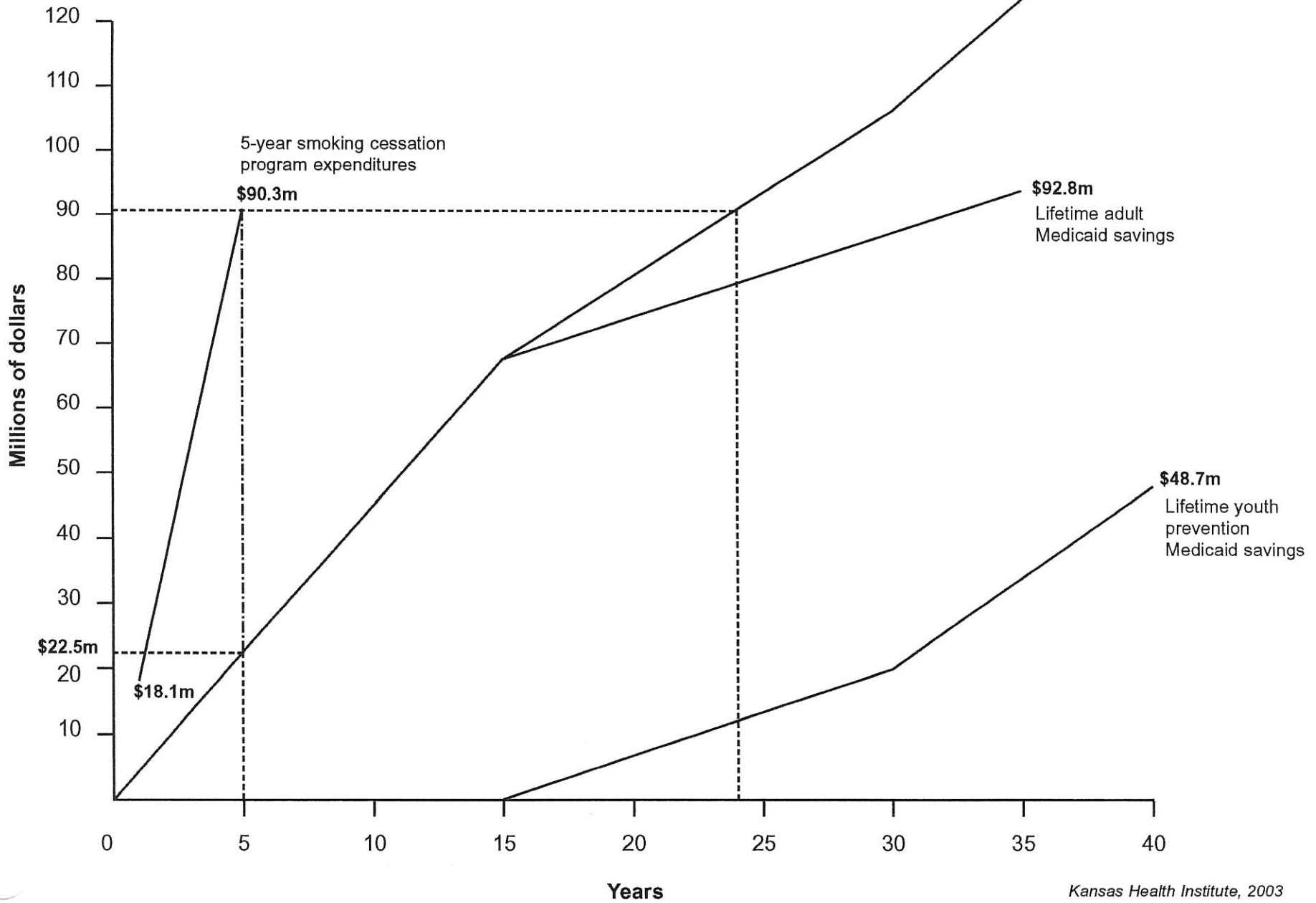
E-mail: twellever@khi.org

Web site: www.khi.org

Healthier Kansans Through Informed Decisions

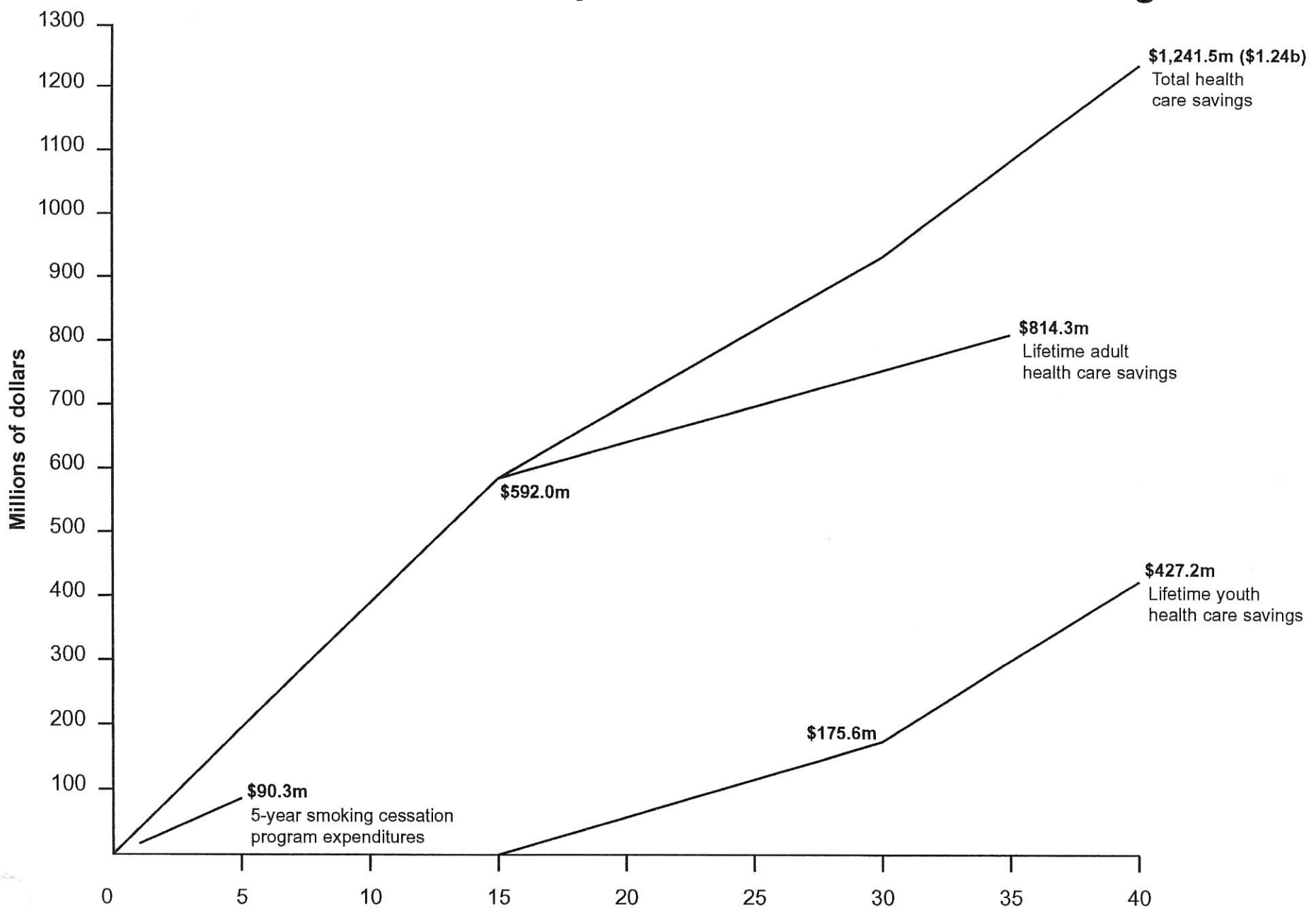
The Kansas Health Institute is an independent, nonprofit health policy and research organization based in Topeka, Kansas. Established in 1995 with a multi-year grant from the Kansas Health Foundation, the Kansas Health Institute conducts research and policy analysis on issues that affect the health of Kansans.

Tobacco Use Prevention Expenditures and Medicaid Savings Estimate

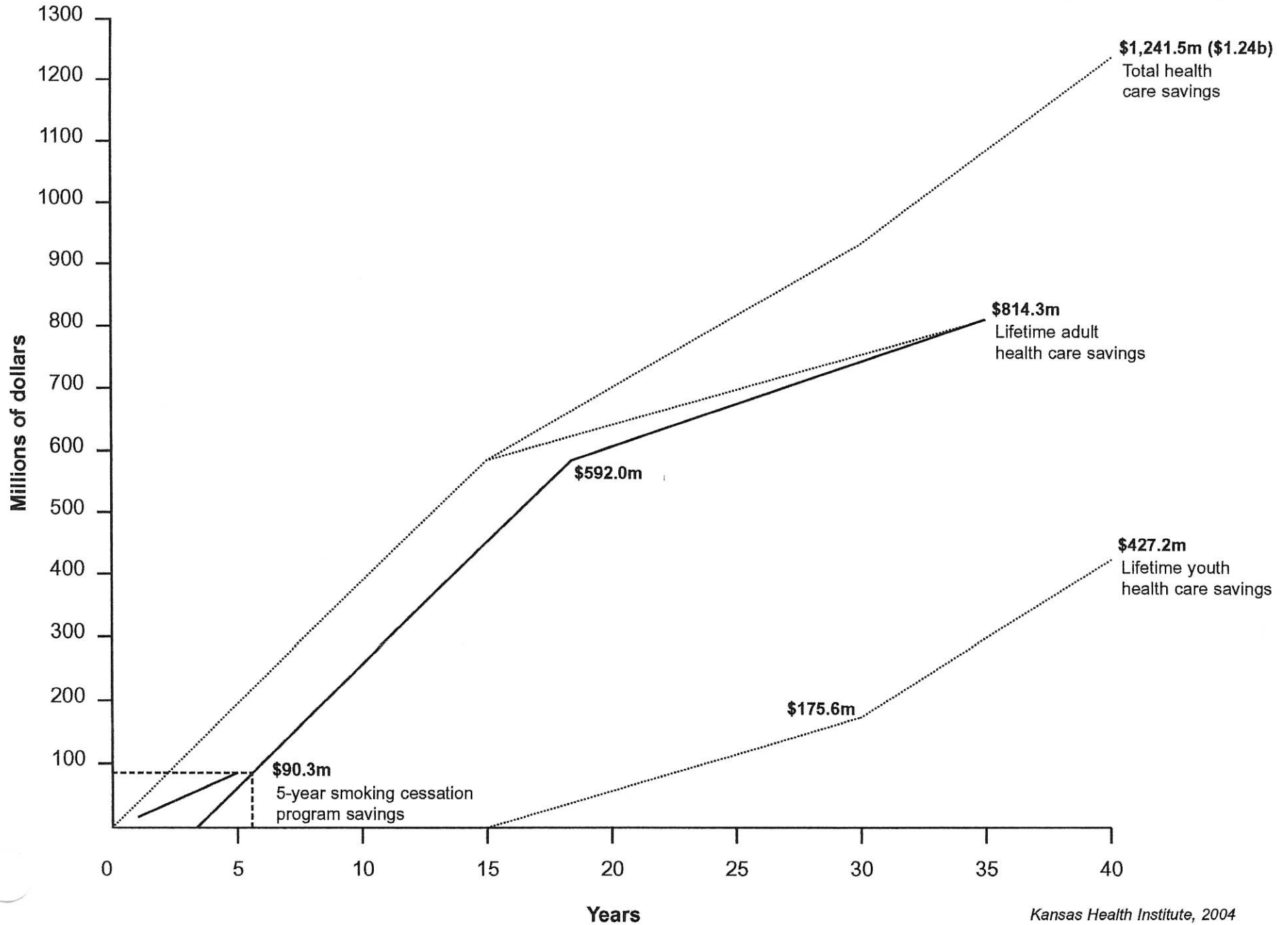


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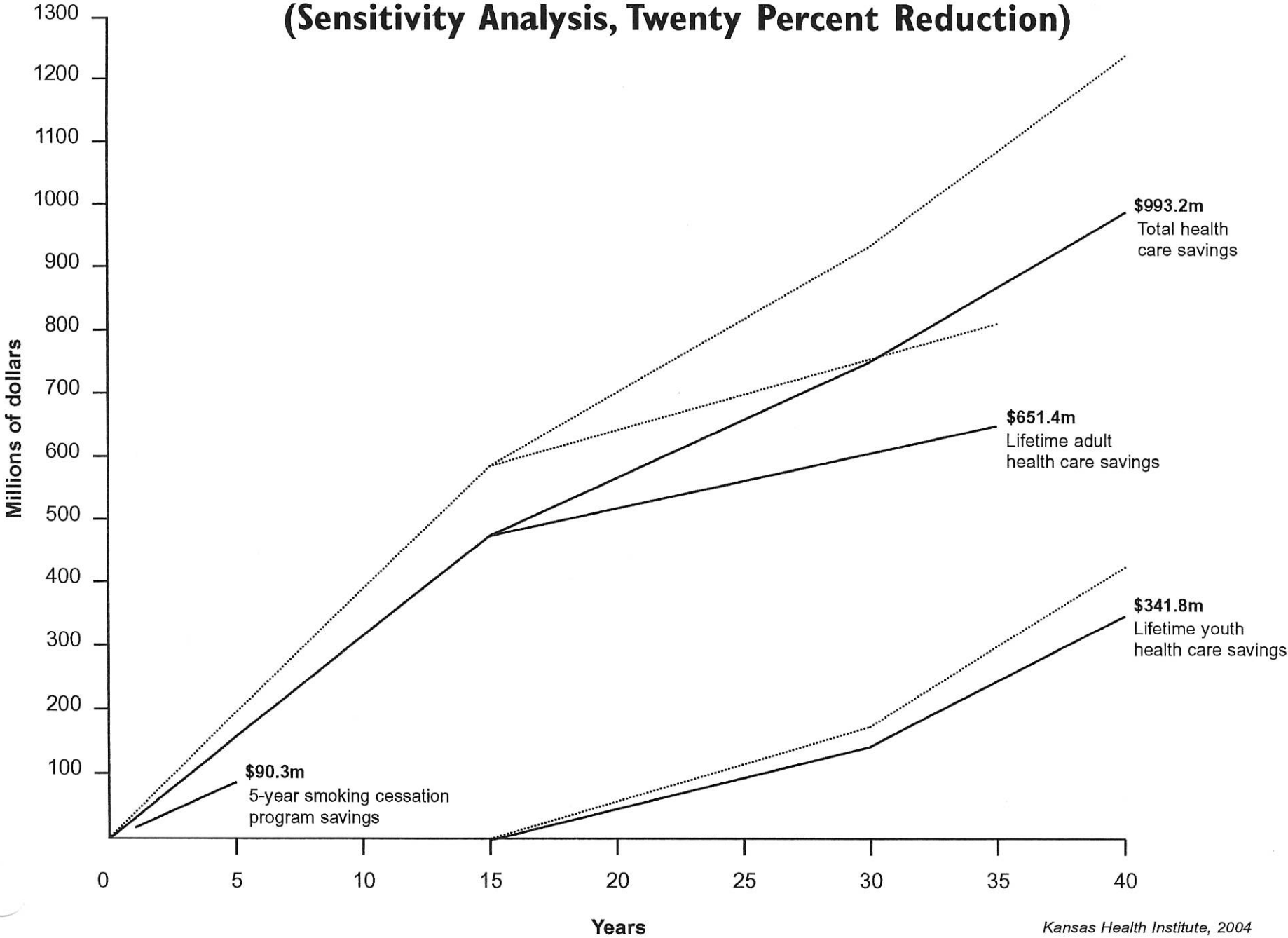
Tobacco Use Prevention Expenditures and Health Care Savings



Tobacco Use Prevention Expenditures and Health Care Savings (Time Lag)



Tobacco Use Prevention Expenditures and Health Care Savings (Sensitivity Analysis, Twenty Percent Reduction)





K A N S A S

RODERICK L. BREMBY, SECRETARY

DEPARTMENT OF HEALTH AND ENVIRONMENT

KATHLEEN SEBELIUS, GOVERNOR

Testimony on SB 336
Establishment of a Tobacco Use Prevention Program

To

Senate Ways and Means Committee

By Paula F. Marmet
Director, Office of Health Promotion

Kansas Department of Health and Environment

February 5, 2004

Chairman Morris and members of the Senate Ways and Means Committee, my name is Paula Marmet and I am the director of the Office of Health Promotion in the Division of Health at the Kansas Department of Health and Environment. Thank you for the opportunity to appear before you today regarding Senate Bill 336, which proposes to establish a tobacco use prevention program within the Department of Health and Environment.

Cost of Tobacco Use in Kansas

Tobacco use is the single most preventable cause of death and disease in Kansas. Most people who use tobacco begin using it in early adolescence, typically by age 16; almost all first use occurs before high school graduation. Currently, 22% of Kansas adults use tobacco, 21 % of high school students are current tobacco users. History shows us that of current teen smokers, one third will quit, one third will continue to use tobacco and suffer illness and reduced health, while one third will eventually die prematurely due to diseases caused by tobacco addiction. If current trends continue, nearly 50,000 youth who are alive today will die prematurely due to tobacco related diseases. Tobacco use is addictive; nearly 500,000 Kansas adults currently smoke. More than 1/2 of all smokers report that they have tried to quit in the past year. Less than 6% of smokers are able to quit in any given year.

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Senate Assessment & Taxation
3-3-04
Attachment 3

The health costs of tobacco are enormous. Tobacco currently costs Kansas \$724 million in direct medical costs, plus another \$741 million in indirect (lost productivity) costs per year. This includes \$153 million in Medicaid program expenditures. These costs will continue at this level or increase into the second quarter of this century if smoking rates are not reduced.

Prevention Works

A strong science base has been established over the past 2 decades that substantiate the effectiveness of state tobacco use prevention programs. The Centers for Disease Prevention and Control has prepared a guidance document, *Best Practices for Comprehensive Tobacco Control Programs* to assist state programs in implementing effective, comprehensive programs. Nine components have been identified in building an effective statewide Program. These include:

- 1) Community programs to reduce tobacco
- 2) Chronic disease programs to reduce the burden of tobacco-related diseases
- 3) School programs
- 4) Enforcement
- 5) Statewide programs
- 6) Counter-marketing
- 7) Cessation programs
- 8) Surveillance and evaluation
- 9) Administration

States who have invested in comprehensive tobacco use prevention programs have made tremendous gains in cutting tobacco use and in decreasing health care expenditures due to tobacco related diseases. For example: since 1990, California has cut its youth smoking by more than ½ and has experienced a faster decline in adult smoking than anywhere else in the country. The drop in lung cancer was significant within the first 10 years of their tobacco prevention program as a result of the declines in smoking. Similarly, Massachusetts accomplished a decline in adult smoking of 22% and decline in youth smoking by 27% in less than 10 years. More recently, Florida, Oregon, Mississippi and Minnesota have implemented comprehensive programs and are experiencing similar impressive results. The studies to date indicate that a state will save \$3 for every \$1 invested into tobacco use prevention at a comprehensive level.

Investment Cost of Tobacco Use Prevention

Based upon the experience of other states, there is every expectation that Kansas would cut tobacco use rates by half within 10 years of implementing a comprehensive tobacco use prevention program, thereby producing the medical cost savings projected above. In their *Best Practices* recommendations, the CDC recommends an investment of \$18.1 million per year to adequately fund tobacco use prevention in Kansas. An annual investment of \$18.1 million per year for 5 years is projected to save 33,100 adult lives and the lives of 35,600 youth who are alive at the time of the investment. From a medical expenditure perspective, this same 5 year investment is projected to accrue into a lifetime savings of \$814.3 million in health care savings among adults and an additional \$427.2 million additional healthcare savings over the adult lifetimes of the youth who would be prevented from starting to smoke. If the strategies shown to be effective were fully implemented, the rates of tobacco use among young people and adults could be cut in half by 2010.

SB336 provides for the establishment of a comprehensive statewide tobacco use prevention program, and provides for the establishment of a tobacco use prevention and control fund. It does not specify what source of funds or how much money will be deposited in this new fund. Currently, the KDHE does not have resources to support a program of this scale. Current funding consists of approximately \$1.7 million in federal and private grants that fund specific program activity. While the grant funds are used in a manner completely consistent with elements of a comprehensive tobacco use prevention program, they are not adequate to support all components proposed in SB 336. Our program focus to date has been in working with local health agencies to build partnerships at the local level and building partnerships with other state agencies and organizations that will provide the network to initiate all components of a comprehensive program. More than 50 counties have identified tobacco use prevention as a priority to improve the health of their community and receive technical assistance from the state staff. Should funds become available, local communities, working with existing staff would be in a position to expand the program in an efficient and effective way towards development and implementation of a statewide, comprehensive tobacco use prevention program.

Thank you for the opportunity to speak on behalf of SB 336. I will be happy to answer questions at this time.

March 3, 2004

To: Senate Assessment & Taxation Committee
Re: Senate Bill 503
From: Verlin K. Janzen, MD

Senator Corbin, Senator Allen, and Committee Members,

Thank you for this opportunity to present the position of the Kansas Academy of Family Physicians on Senate Bill 503. My name is Verlin K. Janzen, MD, and I am President-elect of the KAFP. We have over 1,430 members in our organization, including over 825 practicing physicians, 155 resident-physician members, medical student members, and retired members. I am a family physician at the Hutchinson Clinic in Hutchinson, Kansas where I've been privileged to practice for the past 8½ years.

As a physician, some of the *very sickest* patients we see in our offices, emergency rooms, and hospitals across our state are *those individuals who have damaged their hearts, blood vessels, and lungs through tobacco use*. We see:

- Patients with coronary artery disease that can often be treated with angioplasty and stenting, or less frequently today, by surgery to bypass the blocked coronary arteries. Often, this first event is sufficient to compel many to quit smoking – but others are unable to overcome their addiction to cigarettes – even after such a serious and potentially life-threatening event. Those who continue to smoke are at very high risk for recurrent blockages often leading to second, third, and sometimes even more procedures – or to an eventual heart attack resulting in permanent damage and weakening of the heart muscle.
- Due to smoking, we also see patients with chronic bronchitis and emphysema. In the later stages, these are the folks that struggle to walk 20 feet, or that arrive in our office in a wheel chair pulling their oxygen tank so they can breathe. Or they are the grandparents, such as those I just saw last week, who are unable to visit their grandkids in Colorado because of the extreme shortness of breath they experience at an altitude.
- And, we see other patients, young and old, with repeated hospitalizations, recurrent sinus or ear infections, all due to smoking related illness.

The human toll is staggering, and the price tag is astounding! Nationwide, it has been estimated that \$89 billion is spent annually on smoking related health care costs. **That's \$89 billion a year - spent on a totally preventable disease.** I could recount many, many examples of patients I've seen in the last month who have caused irreparable damage to their bodies because of tobacco use, and who now when they know they should quit smoking, are unable to do so. What even worries me more are the junior high and high school kids who smoke – some only now and then, but others on a regular basis. Twelve and thirteen year olds, who admit to smoking regularly, even in front of their parent who accompanies them to their school physical. There doesn't seem to be the negative stigma associated with smoking that was common when I was growing up. Although statistics, both in Kansas and at the national level, have shown the number new

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smokers amongst high school students to be slowly dropping – this is not the case in junior high students. This is very concerning and in urgent need of attention.

SB 503: We must develop programs in Kansas to educate the public and to control and reduce tobacco use – to prevent the health problems that I have described. Programs need to be developed in accordance with the best practices and according to evidence-based strategies that work. The CDC, as some of you are probably aware, has published guidelines of best practices that have been successful in other states. We need to keep youth from smoking that first cigarette and from buying that first can of “spit tobacco.” We need to provide cessation programs to our schools, work places, and communities. We need to protect our citizens from the adverse effects of tobacco use and from second hand smoke. The *Journal of the American Medical Association*, in a study published in 2001, tells us that even a half hour of secondhand smoke exposure causes changes in the arteries feeding the heart that are almost identical to that seen in habitual smokers. Nonsmokers' heart arteries show constriction of the arteries supplying blood and oxygen to the heart muscle. The same half hour of secondhand smoke exposure stimulates platelets in the blood to clump together and form a blood clot. If sufficiently large, this clot can, and often does, occlude an artery leading to a sudden heart attack – often without the commonly known and expected warning sign of exercise induced chest pain.

Smoking has dire consequences for many of our patients – your friends, neighbors, and constituents – and even when they want to, many are unable to quit. It is so important that we do all we can to prevent new smokers, and to assist those who are addicted to quit.

Finally, though this bill may not have the right amount and the funding issues may not be entirely worked out, we must do something to provide education and assistance to the citizens of this state to help protect them from the harmful effects of tobacco. For all these reasons, we support the concept and urge your serious consideration of SB 503 to meet the education needs I've described.

Thank you for the opportunity to speak to you today.

Sincerely,

Verlin K. Janzen, MD
President-elect, Kansas Academy of Family Physicians



March 3, 2004

Senate Committee on Assessment and Taxation
SB 503

Chairman Corbin and Members of the Committee:

My name is Gwendolyn Cargnel, Director of Government Relations for the American Cancer Society. I represent more than 5,000 volunteers and supporters in Kansas, and on their behalf, I would like to thank you for the opportunity to speak in support of Senate Bill 503.

Tobacco use not only costs the state financially but it also costs the state in human life. While lung cancer is the leading cause of cancer death in both men and women, it is ironically the most preventable. Tobacco use contributes to almost 90% of all lung cancer cases and 30% of other cancers. This year alone an estimated 1,700 Kansans will be diagnosed with lung cancer and 1,600 will die. Unlike other forms of cancer, early detection has not yet been demonstrated to improve survival. The 5-year relative survival rate for all stages combined is only 15%.

Senate Bill 503 will protect Kansans in two ways. First, simply by raising the price of cigarettes consumption will decrease. Studies have shown that a 10% increase in the price of tobacco products will lead to an approximate 7% decrease in consumption by youth and a 4% decrease by adults. This not only causes children that are currently smoking to quit, it also prevents many from even starting.

Secondly, this bill will reduce smoking because part of the revenue from the tobacco tax will go to fund the Comprehensive Tobacco Control Program that SB 366 will establish. This program, developed by the Centers for Disease Control and Prevention, has been proven to cut smoking rates significantly in states where it has been implemented.

This bill is a win/win for citizens of Kansas. Not only does SB 503 fight the top leading cause of chronic disease by increasing the price of tobacco products, but it also funds a proven program that will save the state millions in health care costs in years to come. I urge this Committee to recommend SB 503 for passage to the Senate.

Heartland Division, Inc.
Kansas City Metro Office

6700 Antioch Road, Suite 100, Merriam, KS 66204-1200 t (913) 432-3277 / 1 (877) 580-7095 f (913) 432-1732
Cancer Information 1 (800) ACS-2345 www.cancer.org

Senate Assessment & Taxation
3-3-04 Attachment 5

Cardiovascular diseases
and stroke claim the
lives of more Americans
than the next seven
leading causes of death
combined.

American Heart
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Fighting Heart Disease and Stroke

Greater Kansas City Division

6800 West 93rd St.

Overland Park, KS 66212

(913) 648-6727

fax (913) 648-0423

www.americanheart.org/ks

Kevin Walker

**American Heart Association
Testimony in Support of SB 503**

**Senate Assessment and Taxation Committee
3 March 2004**

The American Heart Association supports SB 503 and we encourage this committee to recommend this bill favorable for passage to the full Senate. When the Kansas Legislature last passed a cigarette tax increase we testified that fewer cigarettes would be sold and revenue to the state treasury would increase. As you are aware, both of these predictions were realized and they again will be true if you pass this increase.

We also have testified in front of numerous legislative committees, including this one, that the benefits of a cigarette tax increase were often temporary due to many economic factors. To effectively combat the deadly and costly impact of smoking it is imperative that the State of Kansas launch a comprehensive tobacco control plan similar to the plan outlined in SB 336 - a bill that every member of this committee supported during final action on February 11, 2004.

If Kansas fails to enact a comprehensive tobacco control plan we will no doubt continue to see spiraling health care costs that will continue to claim a higher percentage of the state budget each year. This increase will consume more and more of the state's budget and keep valuable resources away from areas such as schools, roads and economic development.

The comprehensive plan you approved in SB 336 will save the state money, but only if you fund the plan appropriately. You have the opportunity to break the strangle hold that rising health care costs have on the state by supporting SB 503 and dedicating the new revenue to fully implement the plan you approved in SB 336.

Testimony in Support of Senate Bill 503
Senate Taxation Committee
March 3, 2003

Chairman and members of the committee, my name is Jaime Fiorucci-Hughes and to begin with I would like to thank you for the opportunity to speak today in support of Senate Bill 503. I have been intensely involved on the local, state and national level in efforts to curb youth smoking and provide greater funding for comprehensive tobacco control efforts. Today a potential tax increase is before you and I would like to make some points to illustrate how this would be beneficial for our state to enact such a bill.

Studies agree and evidence shows that increasing the tax on cigarettes will not only reduce youth smoking but provides much needed funding to support vital projects and balance budgets. When you consider the fact that 3,800 Kansans die yearly from a smoking related cause it seems essential to take action to lower the rates of those who take up this deadly habit. Studies in state after state show increased taxes as a sure-fire way to set teen smoking on the decline. It is predicted that for every 10% increase in the price of cigarettes youth smoking will decrease by about 7% which is just the action that should be taken to also decrease the number of deaths due to this product.

If saving lives is not cause enough to pass this tax increase you should consider the fact that Kansans have \$724 million in annual health care costs directly caused by smoking. By decreasing the number of smokers once again this will have a dramatic effect on the amount being shelled out to cover the aftereffects of long time smokers. Also, every state that has significantly increased their cigarette tax enjoys a rise in revenue (despite the decrease in smokers). This revenue would be best invested to fund comprehensive tobacco programs on the state level with funding that matches the minimum recommendation by the Center for Disease Control sitting at \$18 million or more. Budgets for the 2003 Fiscal year ranked Kansas 45 among all states when it came to funding such programs by spending a mere half a million. Increasing this tax would allow not only money to balance budgets but put Kansas higher on the scale and show the concern we have for the death toll this product leaves behind.

When considering the facts it is hard to see any drawbacks to increasing this tax. Saving the lives of our citizens should be a cause to support and Kansas would also see the financial benefits that would come from such action. I encourage your support and thank you greatly for your time.

Jaime Fiorucci-Hughes
1126 Ohio Street, Apt 4
Lawrence, KS 66046

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Attachment 7



1208 SW TYLER
TOPEKA, KANSAS 66612-1735
785.233.8638 * FAX 785.233.5222
www.nursingworld.org/snas/ks
THE VOICE AND VISION OF NURSING IN KANSAS

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TERRI ROBERTS J.D., R.N.
EXECUTIVE DIRECTOR

Contact: Terri Roberts J.D., R.N.
Kansas State Nurses Association
1208 SW Tyler
Topeka, Kansas 66612-1735
Phone 785.233.8638/ troberts@ksna.net

S.B. 503 INCREASING THE EXCISE TAX ON TOBACCO PRODUCTS

Earmarking 23% of funds for Tobacco Prevention

March 3, 2004

Senator Corbin and members of the Senate Assessment and Taxation Committee, the Kansas State Nurses Association is supportive of increased taxes on cigarettes to reduce consumption and the proposal contained in S.B. 503 which earmarks 23% of the tobacco tax funds for the Tobacco Use Prevention and Control Program fund to benefit Kansas. The two step increases in tobacco tax (\$.08 June 1, 2004, \$.06 January 1, 2005) proposed in S.B. 503 will generate an additional \$11.08 million in tax revenue for the state, which is a source of some additional revenue. In addition to generating significantly more revenue for the state general fund, the last two step increase in tobacco tax a couple years ago has generated a *twenty-percent reduction* in tobacco sales—which can only have positive health consequences for the citizens of Kansas.

Tobacco use is the leading cause of preventable deaths in Kansas and this bill is designed to provide adequate funding to address this serious health problem. Registered nurses are concerned about the long-term health effects of tobacco use and support public policies that discourage use and promote prevention. This bill does both of these.

Thank you for your support.

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The mission of the Kansas State Nurses Association is to promote professional nursing, to provide a unified voice for nursing in Kansas and to advocate for the health and well-being of all people.

CONSTITUENT OF THE AMERICAN NURSES ASSOCIATION

Attachment 8

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In State: 1-800-LUNG-USA
Fax: (785) 272-9297
www.kslung.org



**To Members of the Kansas Senate
Taxation Committee
Re: SB 503
Submitted by Judy Keller, Executive Director
American Lung Association of Kansas
March 3, 2004**

Thank you for the opportunity to tell you of the American Lung Association of Kansas's support for Senate Bill 503 to increase the excise tax on tobacco and designate funding for a comprehensive tobacco control program for the state as outlined in Senate Bill 336.

By now, fortunately, most Americans know that tobacco is a deadly product. In Kansas it is responsible for one of every five deaths. It costs the state of Kansas \$153 million in Medicaid payments annually. Health care expenditures in Kansas directly related to smoking cost \$724 million every year, with an additional \$741 million for lost productivity.

Senate Bill 503 improves the health of all Kansans in two important ways. First, there is substantial evidence that increasing the excise tax on tobacco will decrease consumption—especially by children. Second, the bill designates a portion of these new funds to establish the framework for comprehensive, statewide tobacco use prevention and control that we know works. Senate Bill 336 is based on the US Centers for Disease Control best practices in fighting tobacco; this companion bill, Senate Bill 503, will put best practices into action. The states that have implemented these practices have witnessed dramatic reductions in smoking prevalence and are now seeing a reduction in medical and financial costs associated with tobacco use and saving lives!

Senate Bill 503 represents an opportunity to make profound improvements in the public and financial health of our state, and we encourage your support.

Thank you.

**Improving Life,
One Breath
at a Time™**

Please fight lung disease by remembering us in your will.

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Tobacco *Free* Kansas Coalition, Inc.

**Testimony in Support of SB 503
Assessment and Taxation Committee
Wednesday, March 3, 2004
from Jon Hauxwell, M.D.**

I am writing to you to support the passage of SB 503.

As a Kansas Family Physician, I am deeply concerned about the impact of tobacco disease on our society, and our failure heretofore to adequately address it. There are several reasons why Kansas should increase funding for tobacco prevention and cessation programs:

The state's funding of such programs is woefully inadequate, given the magnitude of the problem. Tobacco disease has become an ongoing public health crisis. Using tobacco is the greatest cause of preventable death in the country, and breathing others' smoke is the third leading cause. The dramatic increase in tobacco industry marketing expenditures since the Settlement is especially troubling, despite ostensible restrictions, which did little to reduce these companies' ability to market their products aggressively to either children or adults.

The evidence is conclusive that state tobacco prevention and cessation programs work - to reduce smoking, and to save lives and money. Thirty years of research in tobacco use reduction has provided a framework for what works, with state efforts serving as virtual laboratories for developing and evaluating comprehensive approaches. Implementation of a comprehensive tobacco reduction strategy would produce a substantial decrease in prevalence rates, and in resultant disabilities and deaths. Only comprehensive programs work. These include statewide education and countermarketing; community- and school-based programs; establishing smoke-free workplaces and public spaces; developing cessation expertise and availability; enforcement of youth-access and public smoking laws; and surveillance/evaluation measures.

Finally, the state has a clear source of revenue to address the problem. Despite recent budget shortfalls, the state is collecting more tobacco-generated revenue than ever before from tobacco taxes and the Tobacco Settlement. It would take less than 10% of this revenue to fund a comprehensive program at the minimum level recommended by the CDC.

As a physician, I have spent countless hours in my office and at the bedsides of patients suffering and dying from tobacco diseases. These dramas don't often play out in the public eye, but I can assure you they are gut-wrenching, and occur frequently.

I urge you to pass SB 503. It represents both the fiscally-responsible and the compassionate course of action.

Sincerely,

Jon Hauxwell, MD

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HEIN LAW FIRM, CHARTERED

5845 S.W. 29th Street, Topeka, KS 66614-2462

Telephone: (785) 273-1441

Telefax: (785) 273-9243

Ronald R. Hein

Attorney-at-Law

Email: rhein@heinlaw.com

Testimony re: SB 503

Senate Assessment and Taxation Committee

Presented by Ronald R. Hein

on behalf of

R. J. Reynolds Tobacco Company

March 3, 2004

Mr. Chairman, Members of the Committee:

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

RJR opposes SB 503, which would increase the Kansas cigarette tax 8 cents from 79 cents to 87 cents per pack after 6/1/04 and an additional 6 cents to 93 cents per pack after 6/1/05. This bill will hurt consumers and retailers alike. This bill, when fully implemented, would result in an increase in cigarette taxes of 287% over the rate just two years ago.

History of past tax increases

Cigarette taxes in Kansas have been raised substantially in recent years. Not only have excise taxes been raised, but Kansas smokers have seen significant increases in the cost of cigarettes resulting from federal excise tax increases (62.5% increase since 2000) and the increased costs resulting from the Master Settlement Agreement (MSA) between the state attorneys general and the tobacco industry. Lastly, Kansas smokers have to pay increased sales tax on the increased cost of cigarettes resulting from the MSA and the increased taxes, which are compounded when the sales tax is collected. Since the sales tax has also been increased, both at the state and, in some cases, at the local level, consumers have had to pay that additional tax as well.

Under the MSA, Kansas will collect \$1.6 billion over the next 25 years from the nations' largest cigarette manufacturers. (Although payments are calculated over a 25-year time-frame, in fact they go on in perpetuity.) This means that Kansas smokers will pay approximately \$1.6 billion over the next 25 years to the state of Kansas in addition to the excise taxes and sales taxes they are paying on cigarettes.

Nationally, from 1998 to 2002, the average price per pack rose from \$2.04 to \$3.57. In 2002, the government collected \$1.67 of the average pack of cigarettes. **The average cost of a pack in Kansas as of 11/02 was \$3.76, and \$1.93 of that amount goes to federal, state, and local government.**

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Effect on Kansas Retailers.

Kansas retailers should also be concerned. The new \$0.93 tax would be higher than the new rate in Nebraska, **five times** the existing Missouri tax (17¢), **almost five times** the tax in Colorado (20¢), and **more than four times** the Oklahoma rate (23¢). Colorado also does not impose a sales tax on cigarettes, making the differential even higher.

Cigarette purchasing patterns have changed dramatically since 1989. High-tax states have seen tax reported sales plunge, while low-tax states have seen a corresponding increase.

With low tax Missouri, Colorado and Oklahoma on its borders, Kansas' retailers already confront a competitive challenge and this bill would make that worse. Nearly 25% of Kansas' population lives in the greater Kansas City area, which borders Missouri. Kansas consumers could save as much as \$7.40 per carton purchasing in Missouri, assuming their existing tax rate. These margins exceed the Advisory Commission on Intergovernmental Relation's bootleg "flashpoint" of \$3.80 per carton. Tax differences above the "flashpoint" are likely to encourage serious investments in cigarette smuggling. Kansas retailers, and ultimately state law enforcement budgets, would be vulnerable to smuggling.

The Cross Border Threat

Cigarette purchasing patterns have changed dramatically due to state cigarette tax increases since 1989. High-tax states have seen tax reported sales plunge, while low-tax states have seen a corresponding increase. The Tax Foundation examined this shift in a 1996 study, The Effect of Excise Tax Differentials on Smuggling and Cross Border Cigarette Sales. They discovered that tax differentials between high and low-tax states were creating substantial increases in both casual cross-border purchases and the organized smuggling of cigarettes. In a subsequent study, the Tax Foundation estimated that cross-border sales represented nearly 14% of total U.S. sales in 1997.

The Tax Foundation noted that the following high-tax block of states -- California, Massachusetts, Michigan, and New York -- with an average tax of 73¢ per pack at that time, sold fewer cigarettes than the following low-tax states -- Indiana, Kentucky, Missouri, New Hampshire, North Carolina, Tennessee, and Virginia -- with an average tax of 13¢ per pack. Yet the four high-tax states have a population (65.4 million) nearly double that of the low-tax states (34.4 million). In 1995, for the first time in history, the low-tax block sold more cigarettes (4.4 billion packs) than the high-tax block (4.3 billion packs). Since then, the gap has widened. In FY 2000, tax-reported sales in the low-tax block were 20% greater than such sales in the high-tax block.

Senate Assessment and Taxation Committee

SB 503

March 3, 2004

Regressivity

A study by the Barents Group of KPMG Peat Marwick shows that cigarette taxes are incredibly regressive, extracting a far greater percentage of income from modest wage earners compared to those with high incomes. Barents looked at U.S. families in the bottom half of the income distribution, those earning approximately \$30,000 a year or less. While this group represents roughly 50% of all households in the country, it earns only 16% of all income generated. This group pays about 15.3% of all federal income and FICA taxes, but pays over **47% of all tobacco taxes.**

Barents found that while most excise taxes are regressive, tobacco excise taxes are the most regressive of all. While the bottom half of U.S. households only reaped 16% of all income, they paid 47% of tobacco taxes, 17% of wine taxes, 30% of gas taxes, 30% of distilled spirits taxes and 34% of beer taxes. Clearly, the Kansas cigarette tax hike will harm those with modest incomes the most.

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



March 3, 2004

Dear Senator Corbin and Committee Members:

My name is Terry Presta. I am President of Presto Convenience Stores and the legislative chairman of the Petroleum Marketers and Convenience Store Association of Kansas (PMCA). I appear before you today in opposition to the proposed cigarette tax increase associated with SB 503.

The establishment of a Tobacco Use Prevention Program is a laudable and worthy goal. However, I remind the committee that it was only a few years back that the State Attorney Generals from around the country forced the major tobacco companies into the Master Settlement Agreement (MSA). During this national, very public debate, the public was told that tobacco was bad for you, it could kill you, and it costs the States million upon millions of dollars. The public was told that we must impose this massive (\$5.00/carton) tax upon cigarette smokers to recoup some of these costs, but more importantly this money would fund educational and smoking cessation programs, like those contemplated in SB 503. All of the States are bringing in tens of millions of dollars every year from these MSA payments. To date, very few states are indeed using the funds to fund anti smoking activities in their State. Instead, the funds have been used for every other function of State government. The use of these monies is as varied as there are different states. I believe the public was sold and promised that the MSA settlement would fund these types of programs. If this type of cessation program is needed in Kansas, I believe that the supporters of this bill should convince their fellow legislators of that need and secure the needed funds from that stream of monies in the MSA settlement. If the savings are there to be had, then this should be an achievable goal.

Furthermore, another increase in the State excise tax imposed on Kansas cigarettes is fiscal folly. After I was asked to testify last week on the 26th, I ran a copy of an e-mail advertising cigarettes over the internet for \$14.95 per carton. The next day, the 27th, I ran another copy of a similar ad from a different, international company. I have attached copies of both of these ads for your examination. I have also attached a copy of State General Fund tax receipts for the first six months of FY 2004. This report shows cigarette excise tax receipts down 8.7% from the prior year. The legislature two years ago, raised the \$2.40 per carton excise tax to \$7.90 per carton making Kansas cigarette prices the highest by far, in the region. At the time, our industry warned that you may increase revenue in the short run but over time consumers would switch to other means to get around the State and legitimate retailers. (I believe this trend will accelerate in the future as more smokers get on line.) You are now seeing this prediction come to fruition in the form of lowered tax receipts at the state level, but it lags the pain we retailers have seen the last two years. Quite frankly, our industry is made up of small retailers in every city in every district in Kansas. Most have struggled the last two years and can not stand another anti competitive adjustment to cigarettes (or gas) from the Kansas Legislature.

Petroleum Marketers and Convenience Store Association of Kansas
201 NW Highway 24 • Suite 320 • PO Box 8479
Topeka, KS 66608-0479
785-233-9655 Fax: 785-354-4374

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Our industry has brought forth several win-win revenue solutions like Video lottery, Sunday sales and one strength beer sales to this legislature. To date, there appears to be little interest in legislation that both enhances State revenue and helps the prospect of your independent businessman as represented by PMCA. I urge this committee to reject any and all attempts to make our industry more non-competitive on items that we sell to the public. I urge you to instead reconsider other more positive measures that can shore up the state treasury and help us survive these difficult retail times. Thank you.

Terry Presta
PMCA Legislative Chairman

STATE GENERAL FUND RECEIPTS *6 MONTHS*

July-January, FY 2004

(dollar amounts in thousands)

	Actual FY 2003	FY 2004			Percent Increase-- FY 2004 Over	
		Estimate*	Actual	Difference	FY 2003	Estimate
Property Tax:						
Motor Carriers	\$ 10,945	\$ 10,750	\$ 12,877	\$ 2,127	17.7 %	19.8 %
General Property	0	8,500	7,834	(666)	--	(7.8)
Motor Vehicle	0	1,200	999	(201)	--	(16.8)
Total	\$ 10,945	\$ 20,450	\$ 21,711	\$ 1,261	98.4 %	6.2 %
Income Taxes:						
Individual	\$ 1,064,097	\$ 1,114,000	\$ 1,109,089	\$ (4,911)	4.2 %	(0.4) %
Corporation	29,197	58,800	73,759	14,959	152.6	25.4
Financial Inst.	14,986	16,500	13,674	(2,826)	(8.8)	(17.1)
Total	\$ 1,108,280	\$ 1,189,300	\$ 1,196,522	\$ 7,222	8.0 %	0.6 %
Estate/Succ Tax	\$ 28,377	\$ 27,000	\$ 31,998	\$ 4,998	12.8 %	18.5 %
Excise Taxes:						
Retail Sales	\$ 941,761	\$ 980,000	\$ 971,221	\$ (8,779)	3.1 %	(0.9) %
Comp. Use	131,190	130,000	126,866	(3,134)	(3.3)	(2.4)
Cigarette	77,157	75,500	70,445	(5,055)	(8.7)	(6.7)
Tobacco Prod.	2,670	2,850	2,782	(68)	4.2	(2.4)
Cereal Malt Bev.	1,363	1,475	1,329	(146)	(2.5)	(9.9)
Liquor Gallonage	8,871	9,500	9,498	(2)	7.1	0.0
Liquor Enforce.	23,288	24,300	23,949	(351)	2.8	(1.4)
Liquor Drink	3,939	4,250	4,177	(73)	6.0	(1.7)
Corp. Franchise	9,695	13,000	13,438	438	38.6	3.4
Severance	36,501	49,600	47,658	(1,942)	30.6	(3.9)
Gas	27,473	39,500	37,464	(2,036)	36.4	(5.2)
Oil	9,027	10,100	10,194	94	12.9	0.9
Total	\$ 1,236,435	\$ 1,290,475	\$ 1,271,362	\$ (19,113)	2.8 %	(1.5) %
Other Taxes:						
Insurance Prem.	\$ 34,216	\$ 34,350	\$ 40,586	\$ 6,236	18.6 %	18.2 %
Miscellaneous	2,357	2,300	2,383	83	1.1	3.6
Total	\$ 36,573	\$ 36,650	\$ 42,969	\$ 6,319	17.5 %	17.2 %
Total Taxes	\$ 2,420,610	\$ 2,563,875	\$ 2,564,561	\$ 686	5.9 %	0.0 %
Other Revenue:						
Interest	\$ 12,561	\$ 7,200	\$ 7,761	\$ 561	(38.2) %	7.8 %
Transfers (net)	(82,208)	(15,300)	(13,121)	2,179	--	14.2
Agency Earnings and Misc.	31,793	77,300	82,208	4,908	158.6	6.3
Total	\$ (37,855)	\$ 69,200	\$ 76,849	\$ 7,649	-- %	(11.1) %
TOTAL RECEIPTS	\$ 2,382,755	\$ 2,633,075	\$ 2,641,410	\$ 8,335	10.9 %	0.3 %

* Consensus estimate as of November 3, 2003. Excludes \$450 million to State General Fund due to issuance of a certificate of indebtedness.

NOTES: Details may not add to totals due to rounding.

Subj: **\$14.95 Malboro/Camel Cartons -- No Shipping Charges!**
Date: 2/27/2004 9:01:15 AM Central Standard Time
From: CheapCigarettes@entertainmentupdates.com
To: tpresta1@aol.com

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<i>Cambridge</i>	<i>Viceroy</i>
<i>Camel</i>	<i>Virginia Slim</i>
<i>Capri</i>	<i>Winston</i>
<i>Carlton</i>	<i>Century</i>
<i>Doral</i>	<i>L & M</i>
<i>Eve</i>	<i>Chesterfield</i>
<i>Export A</i>	<i>Commander</i>
<i>GPC</i>	<i>Lucky Strike</i>
<i>Kent</i>	<i>Players</i>
<i>Kool</i>	<i>Bucks</i>
<i>Lark</i>	<i>Barclay</i>
<i>Malibu</i>	<i>Belair</i>
<i>Marlboro</i>	<i>True Blue</i>
<i>Merit</i>	<i>Magna</i>
<i>Misty</i>	<i>Max</i>
<i>Monarch</i>	<i>Saratoga</i>
<i>Montclair</i>	<i>Tall</i>
<i>More</i>	<i>Satin</i>
<i>Natural Blend</i>	<i>Silva Thin</i>
<i>Newport</i>	<i>True Green</i>
<i>Now</i>	<i>Roger</i>
<i>Old Gold</i>	<i>Native All Natural</i>
<i>Pall Mall</i>	
<i>Parliament</i>	
<i>Pyramid</i>	
<i>Raleigh</i>	

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TESTIMONY

**TO: The Honorable David Corbin, Chairman
And Members Of The
Senate Committee on Assessment and Taxation**

**FROM: Whitney Damron
On Behalf Of:**

- **Conwood Company, LP**
- **Swedish Match North America**

**RE: SB 503 - Cigarettes and Tobacco Products Tax Rate Increase;
Revenue for Tobacco Use Prevention and Control
Program.**

DATE: March 3, 2004

Good morning Chairman Corbin and Members of the Senate Committee on Assessment and Taxation. My name is Whitney Damron and I appear before you today on behalf of Conwood Company, LP (Headquarters: Memphis, TN) and Swedish Match North America (Headquarters: Richmond, VA) in opposition to SB 503 that would impose increased taxes on cigarettes and tobacco products to fund tobacco use prevention programs and increase general fund dollars at the expense of my clients and their customers.

First of all, my clients are opposed SB 503 as special interest legislation that would impose a tax on consumers to finance a new state program and bureaucracy that, if the Legislature deems meritorious, should be subjected to the scrutiny of the budgetary process of the Kansas Legislature and receive funding through State General Fund Revenues. The State of Kansas receives literally tens of millions of dollars from excise and sales tax on cigarettes and tobacco products, in addition to the \$1+ billion the state is projected to receive from Master Settlement Agreement signatories over the next 25 years. We would suggest there are adequate revenues available from these sources to finance programs of this nature, if found to be worthwhile in the budget review process.

*Senate Assessment & Taxation
3-3-04
Attachment 13*

Secondly, consumers of tobacco products (OTP = Other Tobacco Products) are subjected to a tax increase each and every year, as these products are taxed at the wholesale level. As prices increase, so do state revenues. Included with my testimony is information obtained from the Kansas Department of Revenue that clearly shows the state has received more revenue from OTP taxes in each of the past six years (1997-2002) even though the state tax rate of 10 percent of the wholesale price of the product has remained constant. The average annual increase in state revenues for this period of time is 6.6 percent.

Included with my testimony is a chart that demonstrates the increase in excise and sales taxes on a can of premium moist snuff since 1995. As this chart shows, consumers of tobacco products have seen their taxes increased significantly during this time and the 30 percent increase found in SB 503 on Other Tobacco Products is simply not warranted nor justified.

Also included are charts that identify the current and proposed increased excise and sales tax rates and amounts collected on a can of premium moist snuff.

In closing, I would respectfully note that my clients are committed to denying underage youth access to tobacco products. They have consistently supported initiatives, both legislative and non-legislative, that serve to prevent and reduce access to tobacco products by minors, such as the *We Card* program. We would suggest sponsors of this legislation look at successful programs found in other states, such as the one implemented by the Office of the Attorney General in the State of Nevada, that have significantly reduced youth access to tobacco products by creating an atmosphere of cooperation between law enforcement agencies, health care professionals, tobacco product retailers, tobacco companies and interested parties. Such programs have proven highly-effective at improving retailer compliance with state laws, reducing youth access to tobacco products and maximizing scarce financial resources, rather than requiring additional revenues.

On behalf of Conwood Company, LP and Swedish Match North America, I respectfully ask for your opposition to SB 503.

Thank you.

Attachments

How OTP Taxes Work

Unlike other state excise taxes in Kansas (beer, wine, cigarettes, or gasoline), the OTP tax is an ad valorem tax.

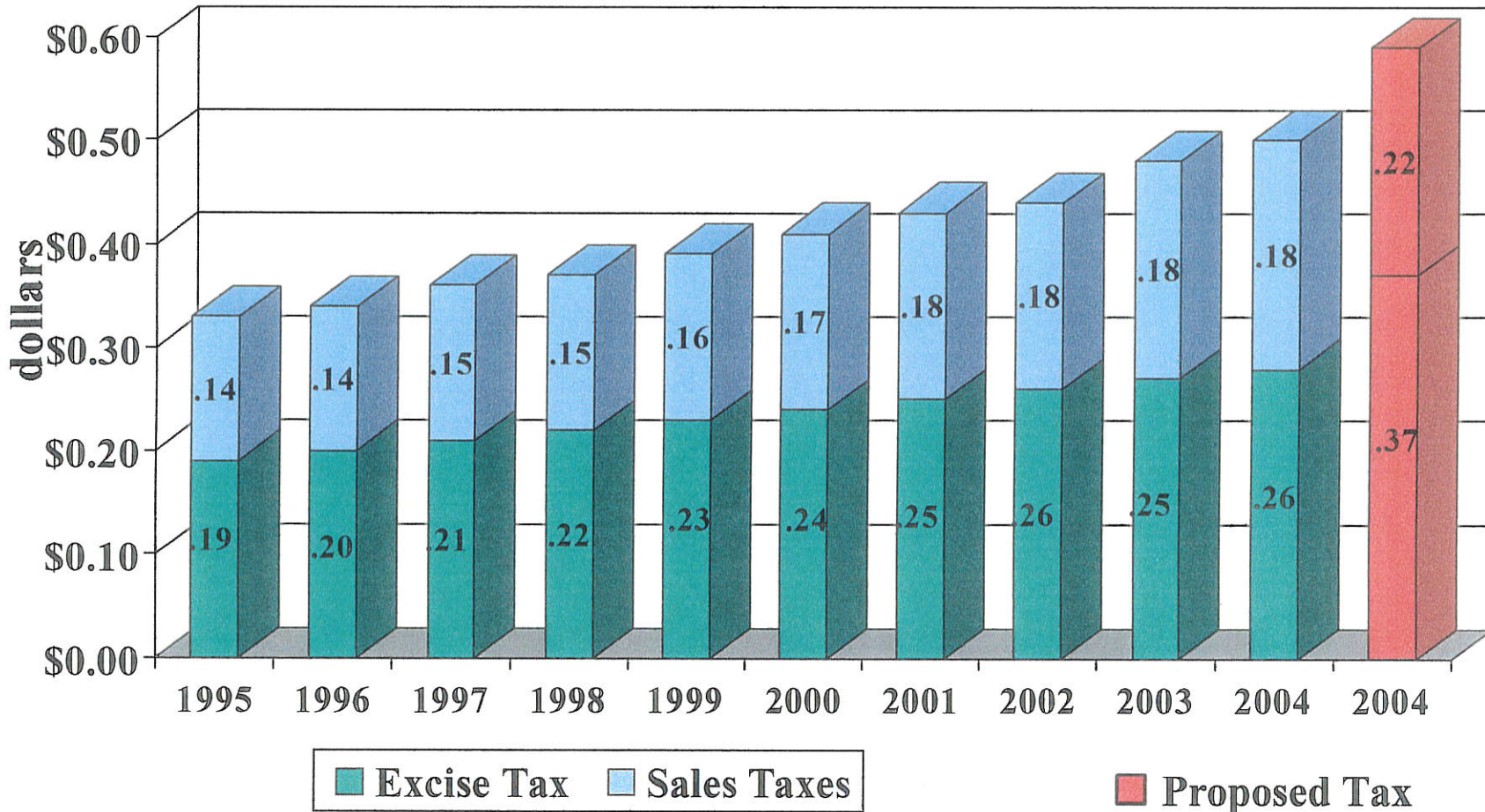
METHODOLOGY

Other Tobacco Products (OTP), including moist snuff, are taxed based on a percentage of their wholesale price.

RESULT

Every time the wholesale price increases on moist snuff the tax automatically increases as well. In practice, the wholesale price for moist snuff increases at a rate greater than inflation and therefore increases the excise tax without any action by the Legislature.

Kansas EXCISE and SALES taxes* on a can of Premium Moist Snuff has increased every year.



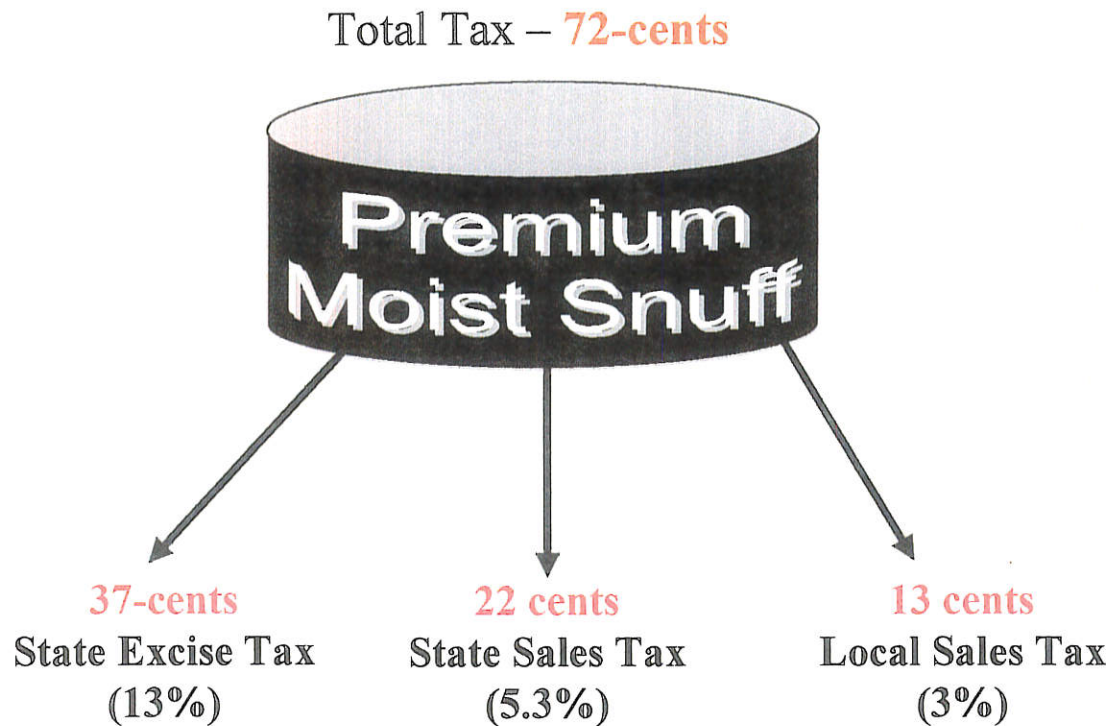
Since 1995, the tax per can has increased **33%**.

* Includes state, local sales and excise taxes.

Note: Chart includes 10% State excise tax added to the wholesale price and a 5.3% state sales tax and 3% maximum local sales tax added to the average retail price of a premium moist snuff can.

Source: Industry data.

Proposed Tax Increase on Moist Snuff Would be 72-cents per can. (As Proposed in SB 503)

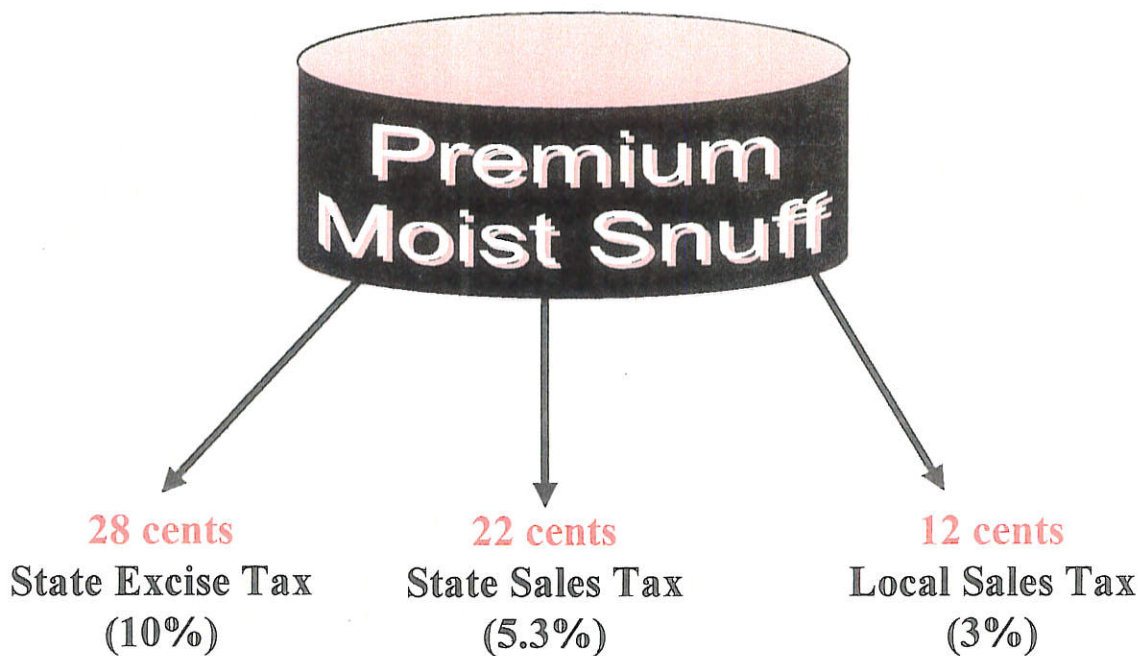


Note: Chart computes sales and local tax to the average retail price of a premium moist snuff can.

Source: Industry data.

Moist Snuff Consumers already pay 62-cents per can in state taxes. (Current KS Law)

Total Tax – 62-cents



Note: Chart computes sales and local tax to the average retail price of a premium moist snuff can.

Source: Industry data.

STATE OF KANSAS

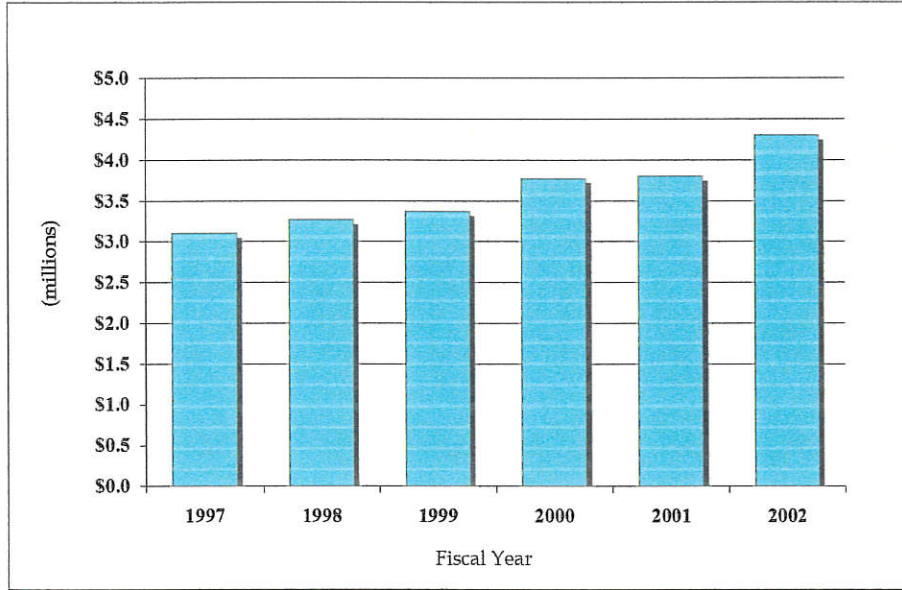


DEPARTMENT OF REVENUE ANNUAL STATISTICAL REPORT

FISCAL YEAR ENDING
JUNE 30, 2002

Tobacco Products Tax to State General Fund after Refunds

The tobacco products tax was reenacted in 1972. The tax rate is 10% on the wholesale price of tobacco products.



<u>Fiscal Year</u>	<u>Amount Collected</u>	<u>Percent Change</u>
1997	\$3,103,308	6.1%
1998	\$3,268,883	5.3%
1999	\$3,368,976	3.1%
2000	\$3,773,422	12.0%
2001	\$4,091,692	8.4%
2002	\$4,301,982	5.1%



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*Testimony on SB-503, March 3, 2004
Senate Assessment and Taxation Committee*

Chairman, and Senators of the Committee,

I am Philip Bradley representing the Kansas Licensed Beverage Assn., a group of men and women, in the hospitality industry, who own and manage bars, clubs, caterers, restaurants and hotels where beverage alcohol are served. Thank you for the opportunity to present testimony today.

We oppose SB-503.

Although we support the funding of education and underage prevention programs, we believe that it is bad public policy to earmark revenues to specific projects. We believe that the Legislature should see the merits of these programs and fund them from the state general fund through the budgeting procedure. It has long been a tenant of Kansas legislators that tax revenue should flow to the state general fund and be allocated each year through the legislative process.

Also we oppose targeted taxes. We believe that the funds the state needs for general state needs should come from the taxes that all citizens pay, sales, property and income. Targeting individual industries only makes that industry less competitive in the market place and drives consumers to other states or on-line sales outlets where Kansas receives no tax revenue. This year the legislature is considering many roll backs and tax benefit to individual industries for just that reason. We ask that you apply consistent reasoning here as well.

We urge you not to pass SB-503.

As always I will make myself available for questions. Thank you for your time.

Dr. Philip B. Bradley
Executive Director

*Senate Assessment & Taxation
3-3-04
Attachment 14*



**THE KANSAS
CHAMBER**

The Force for Business

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Topeka, KS 66612-1671

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Fax: 785-357-4732

E-mail: info@kansaschamber.org

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Legislative Testimony

SB 305- 503

Wednesday, March 3, 2004

**Testimony before the Kansas Senate Assessment and Taxation Committee
By Marlee Carpenter, Vice President Government Relations**

Senator Corbin and members of the Committee;

For businesses to grow and expand the cost of doing business in the state cannot increase. In addition, the state needs to be competitive in all areas of taxes for all types of businesses.

The Kansas Chamber adopted a position in 2002 that states that taxes should "not be targeted toward any single industry or particular segment of our state's business community"

We urge you to remove the targeted tax provisions from SB 305.

The Kansas Chamber is the statewide business advocacy group, with headquarters in Topeka. It is working to make Kansas more attractive to employers by reducing the costs of doing business in Kansas. The Kansas Chamber and its affiliate organization, The Kansas Chamber Federation, have nearly 7,500 member businesses, including local and regional chambers of commerce and trade organizations. The Chamber represents small, large and medium sized employers all across Kansas.

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3-3-04
Attachment 15

STATE OF KANSAS

JIM BARNETT
SENATOR, 17TH DISTRICT
CHASE, COFFEY, GEARY, GREENWOOD
LYON, MARION, MORRIS, OSAGE, AND
WABAUNSEE COUNTIES



TOPEKA

SENATE CHAMBER

Testimony

Senate Bill 507

COMMITTEE ASSIGNMENTS
CHAIR: HEALTH INSURANCE ISSUES
WORKING GROUP
VICE CHAIR: PUBLIC HEALTH AND WELFARE
VICE CHAIR: FINANCIAL INSTITUTIONS AND
INSURANCE
MEMBER: FEDERAL AND STATE AFFAIRS
HEALTH CARE STABILIZATION
FUND OVERSIGHT

Chairman Corbin and other distinguished members of the Senate Assessment and Taxation Committee, thank you for the opportunity to speak in support of SB 507.

Currently, active military men and women are serving and protecting our country while being required to pay property tax on automobiles within the state of Kansas.

Gary Post, Lyon County Appraiser, has raised this issue during recent community discussions and has asked that the state of Kansas grant an exemption for active military duty personnel. This seems to be the right thing to do, recognizing the sacrifice they are already making. As well, this will reduce the unpleasant burden placed upon county officials as they attempt to collect this tax.

I appreciate your willingness to consider this issue and ask for your favorable consideration.

Signed:

Senator Jim Barnett

JAB/gkp

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1-800-432-3924
E-MAIL: BARNETT@SENATE.STATE.KS.US

*Senate Assessment & Taxation
3-3-04 Attachment 16*

**THE AMERICAN LEGION
BALL-McCOLM POST 5
2921 W 12th Ave.
Emporia, Kansas 66801
1-620-342-1119**

March 2, 2004

Chairman Corbin and members of the Senate Assessment and Taxation Committee, thank you for the opportunity to testify in favor of Senate Bill 507.

I am Lee Stolfus from Emporia, Kansas where I was City Engineer and Public Work director for 30 years. I'm here today as Adjutant of American Legion Post 5 in Emporia and a 36 year retired veteran along with Commander Bill Gardner also retired with 22 years active service. We are here in support of Senate Bill 507.

Kansas, particularly, Emporia has had State and National recognition as the founder of Veterans Day.

The State of Kansas has always been a supporter of Veterans and Veterans Affairs.

The recruiting and retention of the National Guard and the Reserve Programs are a major concern to many of us. The combined reserve organizations now represent two major parts of our State and National Defense.

We should do whatever we can to ease the financial burden on Service Personnel ordered out of Kansas in preparation for overseas duty and while overseas.

The American Legion Post 5 in Emporia has worked closely with the Support Group of our local Army Reserve Unit which was activated and sent to Iraq. Part of that unit is back home now and others are still there and still others are on the way to Iraq as resent as last week. Families needed and appreciated our help. Senate Bill 507 will certainly relieve some of the financial burden on our service members overseas and their families here at home. Given the price they have paid by leaving their families, jobs and their homes and possibly facing the ultimate sacrifice, we should not be collecting this tax.

Therefore, we completely support Senate Bill 507

*Senate Assessment & Taxation
3-3-04
Attachment 17*

In support of Senate Bill No. 507

3-3-2004

Good Morning!

Permit me to introduce myself, my name is Gary Post, employed by Lyon County as their Appraiser. A position I have held for 5 years. It is indeed my privilege and pleasure to appear before this committee today.

The Armed Forces on duty in Iraq was about 40% Reserves and Guard Units; according to the television news channel I was watching the other day after this first rotation—50% of the US forces will be part time military personnel.

Those men and women are often making less money that they made in their civilian job. When the spouse comes to the courthouse to renew tags we are required to collect property taxes. This can be the straw that breaks the camel's back.

I urge you to allow the vehicles of active personnel who are absent this state because of military orders to be exempt from vehicle property taxes.

I fully realize this not a tax reduction, but a tax shift to us civilian folks who rely on these part-time soldiers more than ever.

We need to give this small break.

Thank you, and best regards

Senate Assessment & Taxation
3-3-04
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