

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on February 7, 2008 in Room 519-S of the Capitol.

All members were present except: Representative Owens - Excused.  
Representative Kinzer - Excused

Committee staff present:

Chris Courtwright, Legislative Research Department  
Gordon Self, Office of Revisor of Statutes  
Ryan Hoffman, Legislative Research Department  
Scott Wells, Office of Revisor of Statutes  
Rose Marie Glatt, Committee Assistant

Conferees appearing before the committee:

Dr. Marcia Niesen, Executive Director, KS Health Policy Authority  
Dr. Deb Clements, KS Academy of Family Physicians  
Leon Vinci, Alliance of Health Advocates  
Kimber Richter, Kansas Public Health Association  
Dr. William Orzechowshi, President of Orzechowski and Walker Consulting Firm  
Bill Nigro, Kansas City Business Rights Coalition  
Brenda Ellsworth, Pump'N Petes Convenience Store  
Bill Murphy, Quick Stop  
Chris Darrah, Dara's Fast Lane, Inc.  
Gary Kruger, Krueger's BP  
Grover Norquist, President, Americans for Tax Reform

The following bill requests were made:

Stuart Little, representing the Boys and Girls Clubs of America, requested a bill regarding a sales tax exemption, for construction only, related to a construction project. Representative Wilk moved the motion, seconded by Representative Carlson. The motion carried.

Representative Peck made a motion to introduce a bill for an income tax deduction for members of health care sharing ministries. Representative Hayzlett seconded. The motion carried.

**HB 2737 - An act increasing the rate of tax upon cigarettes and tobacco products and creating a health reform fund.**

Chris Courtwright briefed the Committee on **HB 2737** that amends the cigarette and tobacco products statutes to offer a multi-year cigarette tax increase and a one-time tobacco tax increase. The proposal would increase the cigarette tax from \$.79 to \$1.29 effective July 1, 2008, with an additional \$0.04 annually until July 1, 2013. He distributed a chart reflecting those changes (Attachment 1).

Dr. Marcia Niesen, Executive Director, KS Health Policy Authority said the purpose of Health Reform Proposal is to improve the health of Kansans - not just health insurance or health care - but the health of Kansas children, families, and communities. She described six visions on which the reform proposal is based. They are:

- 1) Quality and efficiency
- 2) Affordable, sustainable health care
- 3) Access to care
- 4) Health and wellness
- 5) Stewardship
- 6) Public engagement

She explained the detrimental effect cigarettes and tobacco products have on individuals and the state. Her testimony included 17 slides that provided statistics concerning costs associated with the use of tobacco products (Attachment 2). She said the additional funds would fund 21 programs outlined in the Health Reform Proposal. A pack of cigarettes would cost \$7.80 a pack if the actual cost of health care related expenses were added. In response to a question regarding what was done with the infusion of funds from the

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on February 7, 2008 in Room 519-S of the Capitol.

recent master settlement funds she said she did not have that specific information.

Dr. Deb Clements, KS Academy of Family Physicians, said evidence shows that tobacco and secondhand smoke costs the state millions each year, and are the leading preventable health care costs in Kansas. She urged passage of **HB 2737** for the following three reasons:

- 1) It will encourage reduction or cessation of smoking
- 2) It will discourage teen initiation of smoking
- 3) It will raise revenues for the State of Kansas (Attachment 3)

Leon Vinci, Alliance of Health Advocates, rose in support of the bill. He said with states seeing a decrease in consumption of tobacco with increased cigarette tax, long term economic benefits for health care costs burden Kansans may be revealed as well. (Attachment 4).

Kimber Richter, Kansas Public Health Association, provided seven reasons **HB 2737** should be passed (Attachment 5). For data regarding the effects of tobacco tax increases on low-income tax burden, she attached two "Campaign for Tobacco Free Kids" fact sheets, *Responses to Misleading and Inaccurate Cigarette Company Arguments Against State Cigarette Tax Increases* and *State Cigarette Tax Increases Benefit Lower-Income Smokers and Families*. In conclusion, she said the bill would save a lot of lives, reduce the burden of terrible illnesses, and would ultimately save a great deal of health care dollars.

Dr. William Orzechowshi, President of Orzechowski and Walker Consulting Firm, testified the effect of the bill on the Kansas tax base would be significant due to cross border sales. Indian tribes will continue to sell tobacco products at discount prices. People will not necessarily decrease smoking, but will purchase products, elsewhere, decreasing the Kansas tax base (Attachment 6).

Bill Nigro, Kansas City Business Rights Coalition said that the Legislature is creating an army of people that are getting angrier with government who continue to raise taxes. It is driving people across the border to buy tobacco products. This bill will create hardship for people when taxes are put in place (Attachment 7).

Brenda Ellsworth, Pump'N Petes Convenience Store, Parsons, spoke of the economic effect on her business, when taxes are increased. People travel across the border for tobacco products and purchase gasoline there as well. (Attachment 8).

Bill Murphy, Quick Stop, Atchison, spoke in opposition to the bill. He said that when Kansas last increased the tax of tobacco, he saw their tobacco sales decrease by two thirds. An additional increase could be the death knell for businesses like his. Please consider what is fair for the business community (Attachment 9).

Chris Darrah, Dara's Fast Lane, Inc., Manhattan said by increasing the price of tobacco products they will also see an increase in theft in their businesses. He asked where government will go after this well dries up? Are fat products going to be next? (Attachment 10).

Gary Kruger, Krueger's BP, Kansas City, spoke of the economic effect on his sales due to the last tax increase. He provided operating information and data from his two stores, one in Missouri and one in Kansas (Attachment 11).

Grover Norquist, President, Americans for Tax Reform, appeared in opposition to the bill. He said raising taxes is only a way to paper over the need to set budget priorities, rather than a solution to all of the state's funding woes. Experience shows that tobacco tax increases encourage illegal activities, including tax evasion, smuggling, buying and selling on the black market (Attachment 12).

The Chairman said that the public hearing on **HB 2737** would continue tomorrow morning upon adjournment of the House.

The meeting adjourned at 10:30 a.m. The next meeting is February 8, 2008.

Cigarette Tax Rates:

Current: \$0.79/ pack

July 1, 2008: \$1.29/pack

July 1, 2009: \$1.33/pack

July 1, 2010: \$1.37/pack

July 1, 2011: \$1.41/pack

July 1, 2012: \$1.45/pack

July 1, 2013: \$1.49/pack

Tobacco Products Tax Rates:

Current: 10% of wholesale

July 1, 2008: 57% of wholesale

(Cig tax goes up by rate of inflation, assumed to be 2.8%, or about \$0.04/pack per year. Tobacco products tax is one-time increase and is not tied to inflation rate.)

	Cigarettes	Tobacco Products	Total New Revenue
FY 2009	\$43.14 M	\$18.43 M	\$61.57 M
FY 2010	\$48.66 M	\$19.96 M	\$68.62 M
FY 2011	\$48.28 M	\$19.96 M	\$68.24 M
FY 2012	\$47.84 M	\$19.96 M	\$67.80 M
FY 2013	\$47.41 M	\$19.96 M	\$67.37 M
FY 2014	\$46.99 M	\$19.96 M	\$66.95 M



## **KHPA Testimony on HB 2737 to the House Taxation Committee**

February 7, 2008

**Marcia Nielsen, PhD, MPH**  
Executive Director  
Kansas Health Policy Authority

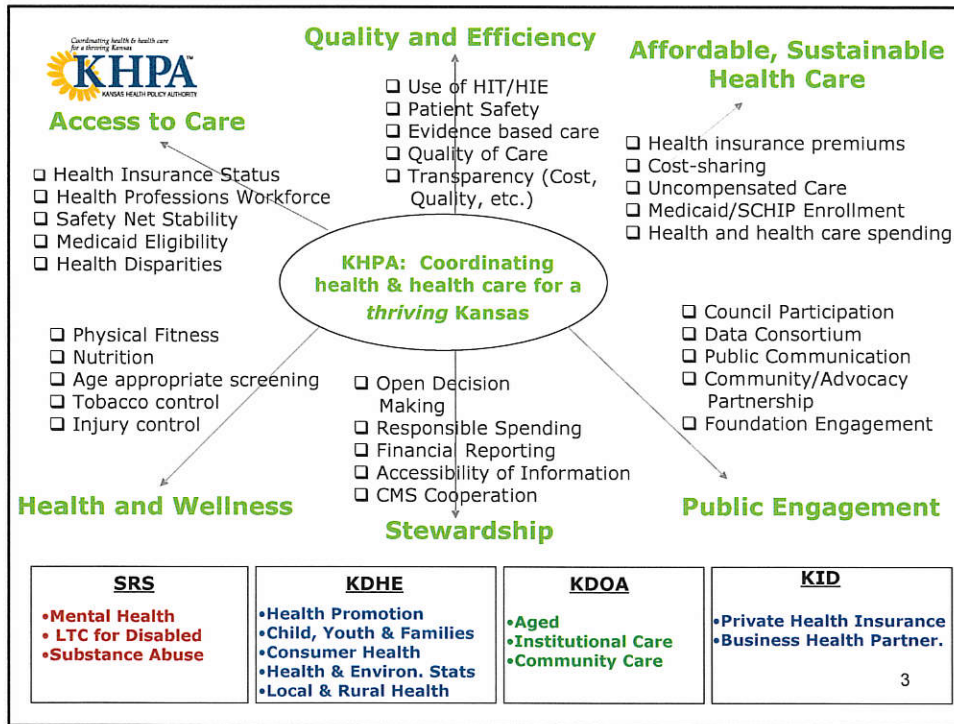
1



## **The Purpose of Health Reform**

To improve the *health* of  
Kansans – not just health  
insurance or health care –  
but the *health* of our  
children, our families, and  
our communities

2



**KHPA** **Moving Towards Health Reform in 2007**

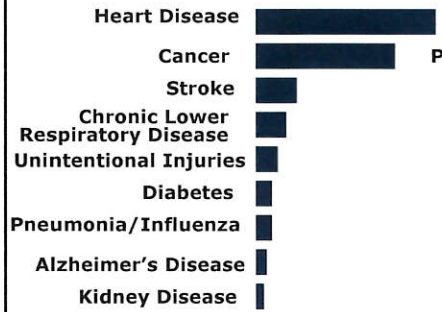
- Kansas Legislature:**
  - Legislators tasked KHPA with addressing ways to improve health care access and the general health of all Kansans (SB 11)
- Stakeholder Input:**
  - Formed *Health for All Kansans Steering Committee*
  - Formed health reform Advisory Councils
  - Held 22-City Listening Tour on health reform
- Health Reform:**
  - KHPA Board delivered health reform options to Kansas legislature on November 1

4



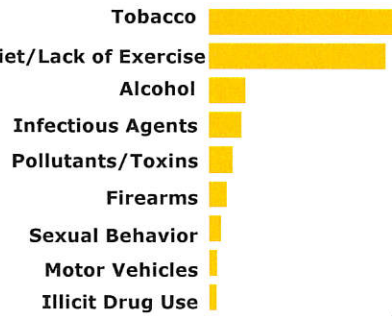
# Causes of Death United States, 2000

## Leading Causes of Death\*



Percentage (of all deaths)

## Actual Causes of Death†



Percentage (of all deaths)

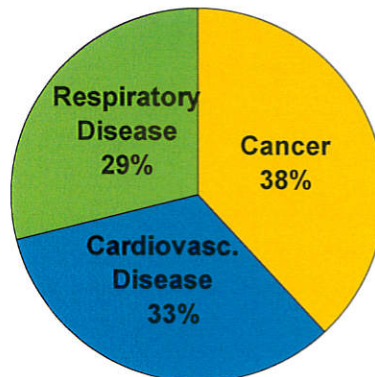
\* National Center for Health Statistics. Mortality Report. Hyattsville, MD: US Department of Health and Human Services; 2002.

† Adapted from McGinnis Foege, updated by Mokdad et. al.



# Smoking Kills Kansans

Average of 3,900 Deaths per Year  
in Kansas Due to Smoking



Source: Smoking Attributable Morbidity, Mortality and Economic Cost, CDC



## Tobacco Costs Kansans

- **Smoking is the #1 preventable cause of death in Kansas**
  - Causes 4,000 deaths annually in Kansas
  - Estimated 54,000 Kansans currently younger than 18 years old will die prematurely due to smoking
- **All Kansans pay for smoking-related health care services**
  - Health care costs due to smoking are \$7.18 per pack of cigarettes, most of which is paid by non-smokers
  - Costs \$927 million in health care costs yearly; \$196 million in Medicaid program alone
  - Annually costs taxpayers \$582 per household to pay for government expenditures on smoking-related health care services

Source: The Toll of Tobacco in Kansas, Campaign for Tobacco-Free Kids

7



## Secondhand Smoke Impacts Kansans

- **Secondhand Smoke Kills**
  - In Kansas, estimated 220-630 people die every year due to secondhand smoke and smoking while pregnant (includes adults, children, and infants)
- **Exposure to Secondhand Smoke**
  - In US, 126 million nonsmokers are exposed to secondhand smoke
  - Estimated 161,000 Kansas children exposed to secondhand smoke at home
  - In KS, 28% of workers are NOT protected by worksite nonsmoking policies

Sources: The Toll of Tobacco in Kansas, Campaign for Tobacco-Free Kids;

8



## Tobacco Use in Kansas: Starting Young

- **Adolescents (50% of smokers begin by age 14)**
  - Middle Schools:
    - 6% current smokers
  - High Schools:
    - 21% current smokers
    - 15% currently use smokeless tobacco
  - Increasing tobacco fee deters youth from smoking
    - 10% increase in tobacco use fees = 7% reduction in youth smoking and 4% decrease in overall consumption
- **Adults**
  - 20% are current smokers

Source: CDC Sustaining State Programs for Tobacco Control Data Highlights, 2006

9



## KHPA Reform Priorities

- **Promoting personal responsibility (P1)**
  - Responsible health behaviors
  - Informed purchase of health care services
  - Contributing to the cost of health insurance, based on ability to pay the cost of health insurance, based on ability to pay
- **Prevention and medical homes (P2)**
  - Focus on obesity, tobacco control, chronic disease management and incentives for primary care medical homes
- **Providing and protecting affordable health insurance (P3)**
  - Focus on small businesses, children, and the uninsured

10





## Priorities: Systems Reform and Better Health

Transforming Medical Care	Improving Public Health	Expanding Affordable Insurance
<ul style="list-style-type: none"> <li>• Transparency project: health care cost and quality</li> <li>• Health literacy</li> <li>• Medical home definition</li> <li>• Medicaid provider reimbursement</li> <li>• Community Health Record (HIE)</li> <li>• Form standardization</li> </ul>	<ul style="list-style-type: none"> <li>• Increase tobacco user fee</li> <li>• Statewide smoking ban</li> <li>• Partner with community organizations</li> <li>• Education Commissioner</li> <li>• Collect fitness data in schools</li> <li>• Promote healthy foods in schools</li> <li>• Increase physical fitness</li> <li>• Wellness for small businesses</li> <li>• Healthier food for state employees</li> <li>• Dental care for pregnant women</li> <li>• Tobacco cessation in Medicaid</li> <li>• Expand cancer screening</li> </ul>	<ul style="list-style-type: none"> <li>• Aggressive outreach and enrollment of eligible children (target population: 20,000)</li> <li>• Premium assistance for low income adults without children (target population: 39,000)</li> <li>• Small business initiatives (target population: 15,000 young adults and 12,000 employees of small businesses)</li> </ul>

11



## Why Invest More in a Broken System? Need for System Transformation

### Issue:

- Fragmented system, hard to navigate, with administrative waste
- **Lack of consumer information**
- Chronic disease related to poor health behaviors in families, schools, workplaces
- **Uninsured**

### Answer:

- Medical home to coordinate care & use of evidence based medicine
- **Health care cost and quality transparency**
- Personal responsibility, healthy behaviors, and discourage use of tobacco
- **Increase access to affordable insurance**

12



## Financing Health Reform

- KHPA's 21 Health Reform recommendations are paid for (minimum of five years) through:
  - **Increased tobacco user fee**
    - Fifty cent increase in cigarette tax, increases annually to reflect an assumption for inflation
    - Smokeless tobacco products user fee increase to 47%
    - Revenue dedicated to the "Health Reform Fund"
  - **Increased federal matching dollars**
- Hidden tax in Kansas – cost shifting
  - Around 7% of medical expenditures for the uninsured are paid through increased payments by insured
  - Reducing the number of uninsured reduces the need to cost shift
- Cost containment - built into majority of proposals
  - Long term cost containment linked to improved health status

13



## Health Reform Fund Projections

***Majority of Kansas adults (64%) support an increase in the tobacco user fee***

–Sunflower Foundation Poll, 2007

### **Tobacco User Fee Revenue Estimates:**

- 2009: \$61.57 Million
- 2010: \$68.62 Million
- 2011: \$68.24 Million
- 2012: \$67.80 Million
- 2013: \$67.37 Million
- 2014: \$66.95 Million

14



## Tobacco Taxes in Other States

Handout: "Map of State Cigarette Tax Rates"

- Average State Cigarette Tax:
  - **\$1.11 per pack**
- Average Cigarette Tax in Non-Tobacco States:
  - **\$1.22 per pack**
- State Taxes Per Pack
  - **Kansas: \$0.79; Ranks 33<sup>rd</sup> Nationally**
  - Border States:
    - Colorado: \$0.84
    - Iowa: \$1.36
    - Missouri: \$0.17
    - Nebraska: \$0.64
    - Oklahoma: \$1.03

15



## Benefits of Increased Tobacco Tax in Kansas

### Tobacco Tax Revenue

- 2002 - \$48 Million
  - 2003 - \$129 Million
- (169% increase)**

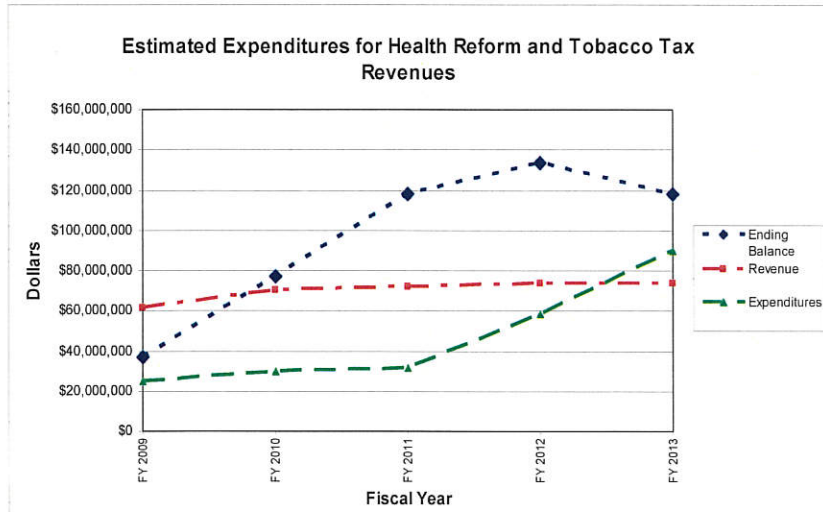
### Number of Packs Sold

- 2002 – 200 Million
  - 2003 – 164 Million
- (18% decrease)**

- Decreases the number of cigarettes sold
- *Provides a reliable and steady revenue source...Because tobacco is so addictive, no state has ever "out taxed" a tobacco revenue stream*

16

## Five Year Trend



17

Coordinating health & health care  
for a thriving Kansas



<http://www.khpa.ks.gov/>

18

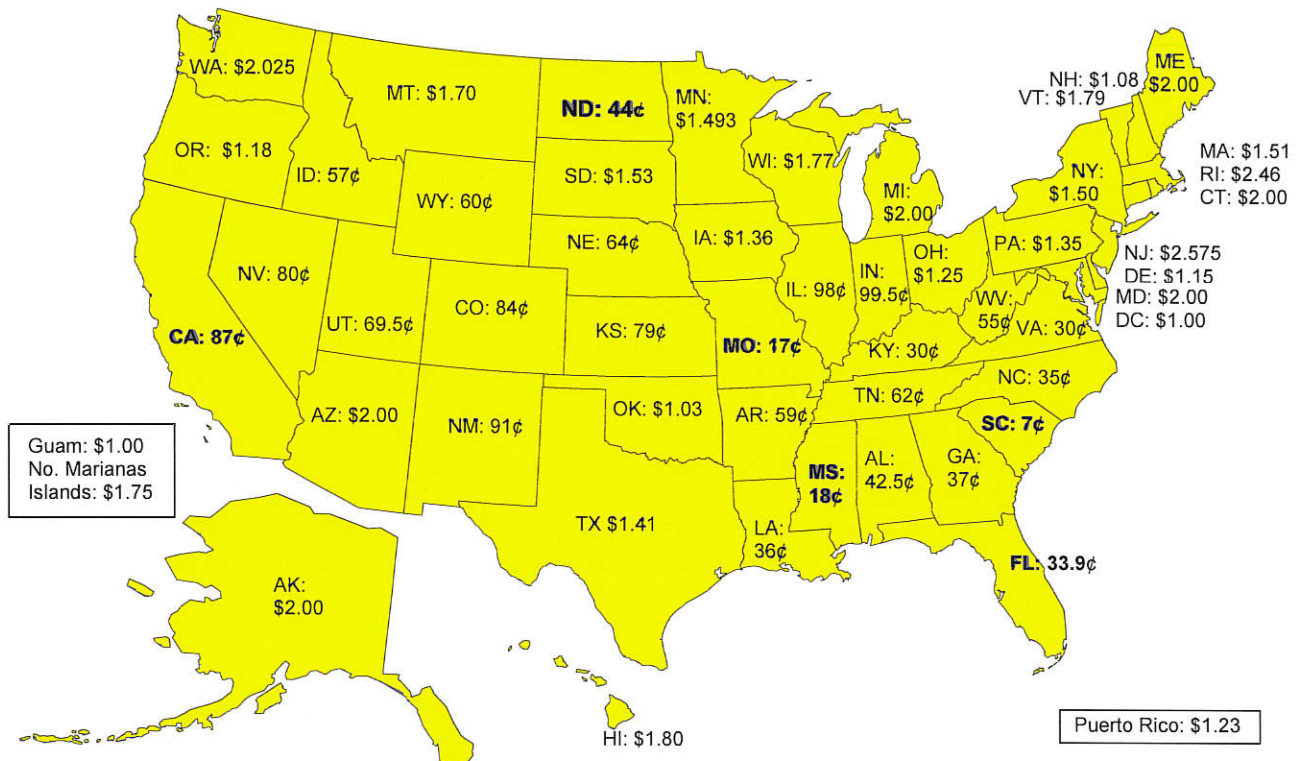


## MAP OF STATE CIGARETTE TAX RATES

Average State Cigarette Tax: \$1.11 per Pack

Average Cigarette Tax in Major Tobacco States: 33.5 cents per Pack

Average Cigarette Tax in Non-Tobacco States: \$1.22 per Pack



Map shows state cigarette tax rates in effect now and those that will go into effect this calendar year on January 1, 2008 (MD, WI). The six states that have not increased their cigarette tax rate since 2001 or earlier are marked in bold. Currently, 26 states, DC, Puerto Rico, the Northern Marianas, and Guam have cigarette tax rates of \$1.00 per pack or higher. Nine states have cigarette tax rates of \$2.00 per pack or higher. The state averages, listed above, do not include Puerto Rico (with a population larger than those in 20 different states) or any of the U.S. territories (such as Guam). Including Puerto Rico raises the state average and the non-tobacco state average slightly. The major tobacco states with extensive tobacco farming and, often, cigarette manufacturing are NC, KY, VA, SC, TN, & GA. Federal cigarette tax is 39¢ per pack. Not shown are the special taxes or fees some states place on cigarettes made by Non-Participating Manufacturers (NPMs), the companies that have not joined the Master Settlement Agreement (MSA) between the states and the major cigarette companies. Some local governments also have their own cigarette taxes, such as Chicago (68¢), Cook County, IL (\$2.00), New York City (\$1.50), and Anchorage, AK (\$1.30). The U.S. Centers for Disease Control & Prevention estimates that smoking-caused health costs and productivity losses total \$10.28 per pack sold.

*Campaign for Tobacco-Free Kids, November 27, 2007 / Ann Boonn*

For more information on state cigarette taxes and the benefits from increasing them, see:

- <http://tobaccofreekids.org/research/factsheets/index.php?CategoryID=18>
- <http://tobaccofreekids.org/reports/prices>



## Tobacco User Fee Fact Sheet

### P2 (5) Improve Healthy Behaviors in Families and Communities: Increase Tobacco User Fee

#### POLICY

Institute an increase in the tobacco user fee. It is proposed that the current excise tax on cigarettes be raised \$.50 per pack and an increase in the tax rate of other tobacco products (chewing tobacco, snuff, dip, cigars, etc.) to 57% of the wholesale price.

#### BACKGROUND

The burden of tobacco use in Kansas is great. Each year tobacco causes over 4,000 Kansas deaths, and generates nearly \$930 million in health care costs (\$196 million within the Medicaid program alone). Policy research has shown that raising the cost of tobacco products is an effective means to decrease the rates of tobacco use. A 10% increase in the price of a pack of cigarettes is associated with a 4% drop in tobacco use (in real terms, an increase of \$.50 per pack of cigarettes may result in 20,000 of the current 400,000 adult smokers in Kansas quitting). The effect is even more pronounced among price-sensitive teens, where a similar price rise results in a 7% reduction in smoking rates.

Fifty percent of tobacco smokers begin their tobacco use before the age of 14. Not only do the habits of adults begin in childhood, but tobacco also serves as a gateway to other substance use among youth. Children and adolescents consume more than one billion packs of cigarettes a year. An increase in the excise tax on tobacco products has been one of the most effective ways to discourage youth from starting to smoke. Such a policy not only serves as an effective deterrent to tobacco use, but as an acknowledgement of the health costs that all Kansans incur as a result of usage.

Tobacco use is the leading cause of preventable deaths and health care costs. Increasing levels of imposed tobacco user fees have been demonstrated to decrease smoking rates, resulting in long-term savings in lives and costs. At the end of 2005, the average state excise tax on cigarettes was \$.922 per pack and by early 2007 that figure had risen to about \$1.03 per pack. Currently the excise tax on a pack of cigarettes in Kansas is \$.79 per pack. Tobacco use costs Kansans the equivalent of \$.86 per pack of cigarettes sold to pay for the tobacco-related illness of Medicaid recipients alone. However, Kansas currently collects only \$.79 per pack of cigarettes in health impact fees to offset this expenditure (KDHE). An increased excise tax on all tobacco products would both reduce the number of youth who take up smoking and diminish the annual \$930 million health care costs associated with tobacco consumption.

Similarly, increasing the state tax on non-cigarette tobacco products will raise new state revenues and help to reduce tobacco use levels, especially among youth, thereby reducing related harms and costs as well. Put simply, the increased revenue per package of each tobacco product sold brings in far more new revenue than are lost by the reduction in tobacco product consumption and sales prompted by the tax increase.

Over 9% of adult males in Kansas currently use chewing tobacco or snuff. In rural areas, prevalence is known to exceed 17%. Among high school males, nearly 1 in 10 reports using chewing tobacco, snuff or dip and 2 in 10 report smoking cigars. These other tobacco products are currently taxed at a rate of 10% of wholesale price. To avoid making less-expensive other tobacco products gateway to cigarette addiction or an alternative to quitting or cutting back for smokers, it is important that state tax rates on other tobacco products parallel the state's tax rate on cigarettes. For the state's current cigarette tax rate of \$.79 per pack, the comparable tax rate for other tobacco products would be approximately 35% of wholesale price.

Rm. 900-N, Landon Building, 900 SW Jackson Street, Topeka, KS 66612-2220

[www.khpa.ks.gov](http://www.khpa.ks.gov)

#### Medicaid and HealthWave:

Phone: 785-296-3981  
Fax: 785-296-4813

#### State Employee Health

Benefits and Plan Purchasing  
Phone: 785-368-6361  
Fax: 785-368-7180

#### State Self Insurance Fund:

Phone: 785-296-2364  
Fax: 785-296-6995

## POPULATION SERVED

The entire Kansas population, including the 20% who currently smoke, would benefit in a reduction of the \$930 million health care cost associated with tobacco consumption. The 21% of high school students and 6% of middle school students who currently smoke would benefit from having a substantial barrier to smoking. The 9.3% of adult males and the nearly 20% of high school males who currently use some type of other tobacco products would benefit from a substantial barrier to using other tobacco products.

## Frequently Asked Questions

**Recommendation: Increase the tobacco user fee by \$.50 per pack for a total of \$1.29 and the smokeless tobacco excise tax by 47 percent. Both increases will adjust annually according to inflation.**

**Background:** Increasing tobacco user fees results in three benefits for the state of Kansas. The first and most important is a reduction in smoking and better health outcomes. Second is a corresponding reduction in smoking-related health care costs that all Kansans pay for. Third is a revenue stream that will allow us to pay for health reform. Kansas currently ranks 33<sup>rd</sup> among states in amount of the tobacco user fee at \$.79. In comparison to our neighboring states, only two have lower tobacco fees than Kansas. More important than these rankings are the statistics related to usage and death due to smoking. Twenty-one percent or 34,000 Kansas high school students smoke daily. Over 17% of high school males use smokeless tobacco. 17.8% 356,000 or adult Kansans smoke. The outcome of these usage statistics is that 3,900 Kansans die annually from the results of smoking. It is estimated that 54,000 Kansas children who smoke will die prematurely. In addition to the human toll is a financial one that is borne by Kansas taxpayers. Annual health care costs in Kansas that are directly caused by smoking total \$927 million. The Medicaid portion of this amount is \$196 million. These expenditures cost Kansas taxpayers \$582 per household annually. The revenue generated will be over \$61 million in the first year and will increase to \$71 million by the fifth year. This amount is sufficient to pay for the health reform recommendations.

**How does an increase in the tobacco user fee act as a deterrent to use?** Data indicates that for every 10% increase in the fee, there is a corresponding 7% reduction in youth smoking and a reduction in overall smoking of 4%. The reason for a higher reduction with kids is because they tend to be lighter smokers and the increased price makes the product less desirable. There is also a reduction in use among pregnant women and low-income smokers as a result of fee increases. This linkage between price and consumption is supported by a 2000 Surgeon General's report. In filings with the Securities and Exchange Commission, tobacco companies point out the link between increased cost and reduced use. Wall Street tobacco industry analysts also point to this correlation.

**How will the fee increase produce sufficient revenue if usage is declining?** In every state that has enacted an increase; the fee has proved to be an extremely stable source of revenue. In many cases, it is less volatile than even income tax projections, which change with economic cycles. One of the reasons for the stability of the revenue stream is that the increased price per pack offsets the reduction in total purchases. National statistics indicate an annual 2% decline in tobacco fee revenue. The KHPA proposal includes an annual inflationary adjustment to the fee to ensure revenue stability and the effectiveness of price as a deterrent. We will review revenues generated from the tax annually.

**Why is tobacco the only product targeted for an increase?** Smoking is the number one preventable cause of death. In fact, smoking causes more deaths than alcohol, illegal drugs, murder, suicide, accidents and AIDS combined. The KHPA recognizes the impact of obesity on health outcomes and addresses that issue in several reform recommendations. While the KHPA does not oppose a tax on food with little nutritional value, there are numerous causes of obesity in addition to poor food choices. The link between smoking and lung disease shows a direct, causal relationship.

**What does the term "tobacco user fee" refer to?** This is a fee that will only be paid by users of tobacco, which is approximately 20% of Kansans. These revenues will go into a designated health reform fund to pay for the costs of health reform. It is not unusual for users of products or services to bear the costs of usage. This is not unlike the toll that drivers on the turnpike pay daily to maintain transportation infrastructure. There is a considerable health care cost to all Kansans as a result of smoking. Shouldn't tobacco users pay for more of these costs through an increased fee since they are utilizing health care services as a result? A Sunflower Foundation poll shows that 64% of Kansans support raising the tobacco user fee.

**Legislative Action:** Change statute to increase fees and designate Health Reform fund for proceeds.



## Frequently Asked Questions

### *Topic: Medical Home*

#### **What is the definition of a medical home?**

A "Medical Home" refers to a model of enhanced health care that centers on a continuing relationship with a physician-directed medical team, usually led by a primary care physician, who provides personalized, first-contact, continuous care, and who coordinates and assumes responsibility for a patient's comprehensive health care needs. You might want to think of it as a "home base" for coordinating health care.

#### **What specific kinds of care are offered in a medical home?**

In addition to offering health care services, a medical home model of care includes features such as: (a) a focus on patient communication; (b) patient tracking with reminders for providers and patients about needed health care; (c) use of evidence based medicine and prevention; (d) coordination of care/follow up for patients who receive inpatient or outpatient health care services; (e) support for patients in the self-management of their health conditions; (f) electronic prescribing of pharmaceuticals; (g) tracking of lab tests, particularly for abnormal results or for duplicate tests; (h) tracking of referrals to other health providers; (i) surveys patients for satisfaction and goals for provider performance; (j) use of advanced electronic communications such as an interactive website, email communications, or electronic care management support.

#### **Aren't all primary care providers already providing medical homes today?**

Many primary care providers offer some features of a medical home, but there are few incentives in our health care system for providing access to the full range of medical home services. Recent research demonstrates that providing care through this model improves health outcomes in children and adults, and can help control the rising cost of health care. The Institute of Medicine has determined that the medical home is one of six aims for our health system and is the foundation of patient centered care.

Rm. 900-N, Landon Building, 900 SW Jackson Street, Topeka, KS 66612-1220

[www.khpa.ks.gov](http://www.khpa.ks.gov)

Medicaid and HealthWave:  
Phone: 785-296-3981  
Fax: 785-296-4813

State Employee Health  
Benefits and Plan Purchasing:  
Phone: 785-368-6361  
Fax: 785-368-7180

State Self Insurance Fund:  
Phone: 785-296-2364  
Fax: 785-296-6995



## **How is this different from the managed care gatekeeper model of care?**

“Managed care” was a model of health services delivery largely driven by health insurers and employers. Rather than managing health care, many believe that the focus of “managed care” was “managing cost.” Patients and providers often felt that managed care limited access to needed health services. In contrast, the medical home model of care is not designed to limit care but rather better coordinate care among providers, through a physician directed health care team. This creates a culture of preventive care and facilitates patient health which, in turn, improves quality of life and reduces health care costs. Goals of a medical home are to provide consumers with increased access to needed health services, more information about self-management of health conditions, and personalized help in navigating the complex health care system.

## **Why is it important to provide coordinated, personalized care?**

Because our health system is so fragmented – with patients, providers, and purchasers operating under a different set of financial incentives – health care costs in Kansas and across the United States continue to rise at an unsustainable rate. Indeed, we pay double per capita any other industrialized country in the world, but with far worse health outcomes. A medical model of health care places at the center of our health system the consumer-provider relationship, improved overall health status, and increased personal responsibility for our health.

## **Who is interested in advancing a medical home model of health care?**

The support for a medical home has been endorsed by the Kansas Chapters of the American Academy of Family Physicians (AAFP), the American Academy of Pediatrics (AAP), the American College of Physicians (ACP), the American Osteopathic Association (AOA), the American Medical Association (AMA), and the Kansas Association of the Medically Underserved (KAMU), representing safety net clinics across our state. As part of determining the measures and standards for a medical home in Kansas, stakeholder feedback will be solicited from all of these organizations and other various health care practitioners, such as nurse practitioners and physician assistants, rural health clinics and safety net health care clinics, and organizations with specific expertise in various aspects of the continuum of care. Expanding the person-centered medical home will require partnership with mid-level practitioners and safety net clinics, which are critical to serving the needs of rural communities and underserved areas in Kansas.

## **How much money will it cost the State of Kansas?**

This legislation directs the Kansas Medicaid/HealthWave programs and State Employee Health Plan to work with stakeholders on developing measures and standards for a medical home in Kansas. *There is no associated fiscal note.*

# Kansas Academy Of Family Physicians



7570 W. 21st St. N. Bldg. 1046, Suite C • Wichita, KS 67205 • 316-721-9005  
1-800-658-1749 • Fax 316-721-9044 • kafp@kafponline.org  
http://www.kafponline.org

Michael L. Kennedy, MD  
*President*

Terry L. Mills, MD  
*President-Elect*

Michael L. Munger, MD  
*Vice President*

Jennifer L. Brull, MD  
*Secretary*

Todd A. Miller, MD  
*Treasurer*

Brian Holmes, MD  
*Immediate Past-President  
& Board Chair*

Joel E. Hornung, MD  
Robert P. Moser, Jr., MD  
*AAFP Delegates*

Charles T. Allred, MD  
Carol A. Johnson, MD  
*Alternate Delegates*

Ronald C. Brown, MD  
Karen E. Bruce, MD  
Gene Cannata, MD  
Christian Cupp, MD  
LaDona M. Schmidt, MD  
Jon O. Sides, MD  
Gregory T. Sweat, MD  
*Board of Directors*

Marty Turner, MD  
*KAFP-Foundation President*

Jennifer Bacani, MD  
*Resident Representative*

Ernesto Mendoza  
*Student Representative*

Carolyn N. Gaughan, CAE  
*Executive Director*

*The largest medical  
specialty group in  
Kansas.*

February 7, 2008

To: House Taxation Committee  
From: Deborah Clements, MD, representing the Kansas Academy of Family Physicians  
Re: HB 2737 Tobacco Tax Bill

Rep. Wilk and Members of the House Taxation Committee:

Thank you for this opportunity to present testimony on House Bill 2737 on behalf of the Kansas Academy of Family Physicians (KAFP). Our organization has over 1,500 members across the state, of which more than 900 are practicing physicians, 155 are resident-physician members, and the others are medical students and retired members. I am here today requesting your support for HB 2737. The health effects of tobacco use are well-documented. The very sickest people that we see in our clinics, emergency rooms, and hospitals across Kansas are the people who have damaged their hearts, blood vessels, and lungs through tobacco use.

1. Tobacco and secondhand smoke costs the state millions each year, and are the leading preventable health care costs in Kansas.
  - \$927 million in health care costs in Kansas each year are directly caused by tobacco use.<sup>1,2,3</sup>
  - \$38.9 million in health care costs in Kansas each year are directly caused by exposure to secondhand smoke.<sup>1,2,3</sup>
  - \$196 million each year of the Kansas Medicaid program's total health expenditures are caused by tobacco use.<sup>1,2,3</sup>
2. Tobacco use is the leading preventable cause of death in Kansas. In Kansas, 3,900 adults die each year from their own smoking.<sup>4,5,6</sup>
3. Secondhand smoke is the third leading cause of preventable death in this country. Secondhand smoke kills 290 – 520 Kansans each year.<sup>7</sup>

Passage of HB 2737 is important for three reasons:

- It will encourage reduction or cessation of smoking
- It will discourage teen initiation of smoking
- It will raise revenues for the State of Kansas

- 1 of 3 -

*The mission of the Kansas Academy of Family Physicians is to promote access to and excellence in health for all Kansans through education and advocacy for family physicians and their patients.*

HS Taxation  
2-7-08  
Attachment 3

# Kansas Academy Of Family Physicians



7570 W. 21st St. N. Bldg. 1046, Suite C Wichita, KS 67205 316-721-9005  
1-800-658-1749 Fax 316-721-9044 kafp@kafponline.org  
<http://www.kafponline.org>

Michael L. Kennedy, MD  
*President*

Terry L. Mills, MD  
*President-Elect*

Michael L. Munger, MD  
*Vice President*

Jennifer L. Brull, MD  
*Secretary*

Todd A. Miller, MD  
*Treasurer*

Brian Holmes, MD  
*Immediate Past-President  
& Board Chair*

Joel E. Homung, MD  
Robert P. Moser, Jr., MD  
*AAFP Delegates*

Charles T. Allred, MD  
Carol A. Johnson, MD  
*Alternate Delegates*

Ronald C. Brown, MD  
Karen E. Bruce, MD  
Gene Cannata, MD  
Christian Cupp, MD  
LaDona M. Schmidt, MD  
Jon O. Sides, MD  
Gregory T. Sweat, MD  
*Board of Directors*

Marty Turner, MD  
*KAFP-Foundation President*

Jennifer Bacani, MD  
*Resident Representative*

Ernesto Mendoza  
*Student Representative*

Carolyn N. Gaughan, CAE  
*Executive Director*

*The largest medical  
specialty group in  
Kansas.*

As parents quit smoking the health impact will be more evident on tobacco-related diseases caused by exposure to secondhand smoke, especially children. Tobacco use during pregnancy causes serious harm to the fetus. Tobacco cessation saves money – preventing just one smoking-related low birth weight baby can result in the avoidance of more than \$40,000 in health care expenditures. For children, exposure to secondhand smoke results in more than 10,000 annual cases of low birth weight, more than 2,000 cases of SIDS (sudden infant death syndrome), more than 8,000 new cases of asthma, and as many as 1 million cases of exacerbated asthma.

Research compiled by the Campaign for Tobacco Free Kids<sup>8</sup> showed this information regarding the public's acceptance of significant increases in cigarette taxes:

Support for cigarette-tax increases is bipartisan. In all states, majorities of Democrats, Republicans and independents all support increasing the state tobacco tax.

To balance state budgets, voters strongly prefer increasing state tobacco taxes over either other tax increases or cuts to vital state programs.

Supporting tobacco tax increases wins votes for candidates of both parties from voters from both parties. In Kansas, 41 percent of Republicans would cross party lines to vote for a Democrat who supports a 50-cent cigarette tax increase over a Republican who opposes it.

For all these reasons we urge you to adopt HB 2737. Such an increase in the tobacco excise tax would not only decrease prevalence of tobacco use for all Kansans, but would also help to fund health reform proposals recommended by the KHPA.

Sincerely,

Deborah Clements, MD  
For the Kansas Academy of Family Physicians

1. CDC, Data Highlights 2006 [and underlying CDC data/estimates]
2. CDC's STATE System average annual smoking attributable productivity losses from 1997-2001 (1999 estimates updated to 2004 dollars)
3. CDC, "Annual Smoking-Attributable Mortality, Years of Potential Life Lose, and Economic Costs -- United States 1995-1999"

# Kansas Academy Of Family Physicians



7570 W. 21st St. N. Bldg. 1046, Suite C • Wichita, KS 67205 • 316-721-9005  
1-800-658-1749 • Fax 316-721-9044 • [kafp@kafponline.org](mailto:kafp@kafponline.org)  
<http://www.kafponline.org>

Michael L. Kennedy, MD  
*President*

Terry L. Mills, MD  
*President-Elect*

Michael L. Munger, MD  
*Vice President*

Jennifer L. Brull, MD  
*Secretary*

Todd A. Miller, MD  
*Treasurer*

Brian Holmes, MD  
*Immediate Past-President  
& Board Chair*

Joel E. Hornung, MD  
Robert P. Moser, Jr., MD  
*AAFP Delegates*

Charles T. Allred, MD  
Carol A. Johnson, MD  
*Alternate Delegates*

Ronald C. Brown, MD  
Karen E. Bruce, MD  
Gene Cannata, MD  
Christian Cupp, MD  
LaDona M. Schmidt, MD  
Jon O. Sides, MD  
Gregory T. Sweat, MD  
*Board of Directors*

Marty Turner, MD  
*KAFP-Foundation President*

Jennifer Bacani, MD  
*Resident Representative*

Ernesto Mendoza  
*Student Representative*

Carolyn N. Gaughan, CAE  
*Executive Director*

4. U.S. Centers for Disease Control and Prevention (CDC), CDC, CDC, Sustaining State Programs for Tobacco Control, Data Highlights, 2006 (and underlying CDC data/estimates)
5. State Highlights 2002: Impact and Opportunity, April 2002
6. Adult smoking from CDC 2005 BRFSS; youth smoking from state YRBS, YTS, or other state-specific surveys
7. National Cancer Institute, Health effects of exposure to environmental tobacco smoke: the report of the California Environmental Protection Agency, Smoking and Tobacco Control Monograph No. 10, NIH publication no. 99-4645, 1999
8. Campaign for Tobacco Free Kids Fact Sheet: Voters in All States Support Significant Increases in State Cigarette Taxes

*The largest medical  
specialty group in  
Kansas.*

*The mission of the Kansas Academy of Family Physicians is to promote access to and excellence in health care for all Kansans through education and advocacy for family physicians and their patients.*



**House Taxation Committee  
February 7, 2008  
Testimony of Leon Vinci for HB 2737**

Mr. Chairman and Members of the Taxation Committee,

Thank you for the opportunity to testify to HB 2737 regarding the rate increase of taxation for cigarettes and tobacco products to create the health reform fund. My name is Leon Vinci. I am here on behalf of the Alliance of Health Advocates (AHA-KS), as the Legislative Issues and Action Chair for the Kansas Public Health Association.

Alliance of Health Advocates (AHA-KS) is a group of over 60 Kansas health agencies that represents over thousands of Kansas health workforce employees, health advocates, and their families. AHA-KS came into existence in 2004 and we have been growing ever since. We have sponsored Health Day at the Capitol for the past three years, and more importantly, we collaborate together on a weekly basis during the Kansas legislative session on policies that affect the health of Kansans. As key stakeholders in the Kansas public health system, AHA is an active voice as strategic defender for Kansans health that represents thousands of members across the state. For the 2008 legislative session, AHA is co-facilitated by the Kansas Public Health Association (KPHA) and the Kansas Health Consumer Coalition (KHCC).

When the Kansas Health Policy Authority (KHPA) submitted to the Governor and Legislature on November 7, 2007 their 21 health reform recommendations, AHA diligently began to organize collaborations towards “a steady foundation to improve our health and health system”. With KHPA laying the foundation and with AHA’s steady belief to support policies that will reduce the prevalence of tobacco use in Kansas, particularly among children and youth, AHA stands as a proponent of HB 2737. As proponent and champion to improve health and to avoid the negative economic impact of tobacco use, an increase in tobacco user fees would not only decrease prevalence of tobacco use for all Kansans, but would also help to fund health reform proposals recommended by the KHPA.<sup>1</sup>

Even with the avoidance of the negative economic impact of tobacco use as a goal, today in Kansas, the negative economic effects of tobacco use are faceted and astounding. There are

---

<sup>1</sup> Kansas Health Policy Authority. 2007. Excerpts from Health Reform Recommendations. November 7, 2007.

402,400 smokers in Kansas. Of those smokers, 17.8% are adults, 21% are high school students, and 6% are middle school students. Annually, health care costs directly caused by smoking are \$927 million. Kansas Medicaid covers \$196 million of this portion. Kansas has smoking-caused productivity losses of \$863 million.<sup>2</sup>

To combat similar negative economic impacts of tobacco use, historically states have increased taxes on cigarettes and tobacco use for two reasons: to discourage smoking and to raise revenues.

As a study on cigarette consumption found, “Excise tax increases are clearly one policy weapon that is effective in reducing the consumption of tobacco. This suggests that the large state increase of the 1990’s as illustrated by Michigan’s 1994 increase of \$0.50 per pack, may have a substantial effect on the demand of cigarettes.”<sup>3</sup>

Comparatively across the nation, the average state cigarette tax is \$1.11 per pack. The average cigarette tax in non-tobacco states is \$1.22 per pack. Currently, Kansas ranks 29<sup>th</sup> nationally with cigarette tax at \$.79 per pack and ranks below two of its border states: Oklahoma ranking 20<sup>th</sup> at \$1.03 per pack and Colorado ranking 26<sup>th</sup> at \$0.84 per pack.<sup>4</sup>

With 50% of smokers beginning tobacco use at the age of 14 and with smoking as the precursor for further abuse of other substances, the youth of our State would benefit from an increase in cigarette taxation as well.<sup>1</sup> The increase in cigarette tax has found to prevent youth initiation or experimentation of smoking. The Campaign for Tobacco Free Kids estimates that a \$0.50 per pack tobacco tax increase will result in 7,900 fewer adult smokers and 15,900 fewer future kid smokers.<sup>5</sup> Supporting these findings an article states, “Increased tax rates were associated with decreased odds of experimentation. The highest quartile of tax (60-100 cents) was significantly associated with lower odds of experimentation and appeared protective against established smoking.”<sup>6</sup>

With states seeing a decrease in consumption of tobacco with increased cigarette tax, long term economic benefits for health care costs burden Kansans may be revealed as well. A cigarette tax increase can be seen as a cost effective intervention to increase Kansans public health not only

<sup>2</sup> Wellever, A. 2007. Cost-benefit of Tobacco Use Cessation. Testimony to the Senate President’s Task Force on Health Care. Kansas Health Institute. January 31, 2007.

<sup>3</sup> Meier, K. J., Licari, M. J. The effect of cigarette taxes on cigarette consumption, 1955-1994. *American Journal of Public Health*. July 1997; 87: 1126-1130.

<sup>4</sup> Centers for Disease Control. State Tobacco Activities Tracking and Evaluation (STATE) System. U.S. Department of Health and Human Services; 2007. Available at <http://apps.nccd.cdc.gov/statesystem/index.aspx>

<sup>5</sup> Kansas Public Health Association. Excerpts from Statewide Tobacco Control Initiatives. White paper. 2007.

<sup>6</sup> Thompson, C.C., Fisher, L.B., Winnickoff, J.P., Coditz, G.A., Camargo, C.A.Jr., King, C., Frazier, A.L. State tobacco excise taxes and adolescent smoking behaviors in the United States. *Journal of Public Health Management and Practice*. 2004 Nov.-Dec. 10. (6): 490-496.

with the increase taxation to create a health reform fund but as a cost effective tool that would decrease medical costs, expanding years of life. As KHPA P2 (5) recommendation states, "The policy initiative (increase in tobacco user fee) incurs no cost to the State. An increase in the tobacco user fee of \$0.50 per pack of cigarettes is expected to yield revenues of \$51.9 million in tax revenue per year... and a lifetime health savings for individuals currently alive of \$318.9 million".<sup>1</sup>

Increase in taxation on cigarette and tobacco products also have shown to place little burden on the state administration. As an article in the Journal of Public Health states, "Excise taxes place little administrative burden on states, since the wholesaler pays the tax directly to the state and the additional cost then is passed on to the consumer."<sup>7</sup>

Support is out there; not only from Kansas health advocates but also from health consumers. The 2004 Kansas Behavioral Risk Factor Surveillance System reports that more than 60% of Kansans said they would support a tax increase, ranging from less than \$0.50 to more than \$2 per pack.<sup>5</sup>

Some people don't understand why we should allocate public funds to stop what they view as a personal choice. But most people understand that tobacco is deadly, it's addictive, and it is extremely profitable. There are a lot of forces at work to get people to smoke, and once they start it is extremely difficult to stop. HB 2737 can be Kansas' commencement to improve the healthy behaviors in Kansas families and communities. To embrace and enact HB 2737 will bring many health reform opportunities now to make a difference in many Kansans lives for a lifetime. For health reform is not just about improving access but it is also about improving the health of all Kansans.

AHA-KS believes that HB 2737 will accomplish this dual purpose.

On behalf of AHA-KS and the many voices that it represents, thank you for this opportunity. Your attention is appreciated today. I will be pleased to stand for questions.

Leon Vinci  
Johnson County Health Dept  
11875 S Sunset, Ste 300  
Olathe, KS 66061  
Ph: 913-477-8364  
Fax: 913-477-8048  
[leon.vinci@jocogov.org](mailto:leon.vinci@jocogov.org)

---

<sup>7</sup> McKinley, A. 2005. Public Health: tobacco taxes and internet sales. End of year issue brief. December 31, 2005: 1-7

2008  
KPHA  
Executive  
Committee

President  
Janis  
Goedeke  
Crawford Co  
Health  
Pittsburg

President-  
Elect  
Sonja  
Armbruster  
Sedgwick  
Co Health  
Wichita

Secretary  
Ruth  
Wetta-Hall  
KUSM  
Wichita

Treasurer  
Ed Garner  
Lower Eight  
of SE KS  
Wichita

APHA Rep  
Shirley Orr  
KDHE-Office  
of Local &  
Rural Health  
Topeka

Directors:  
Eldonna  
Chesnut--  
Johnson Co  
Health  
Olathe

Heather  
Henke--  
Barber Co  
Health  
Medicine  
Lodge

Debbi  
Baugher--  
Labette Co  
Health  
Parsons

Staff:  
Elaine  
Schwartz--  
Executive  
Director  
Topeka

# KANSAS PUBLIC HEALTH ASSOCIATION, INC.

Kansas Public Health Association, Inc.

Affiliated with the American Public Health Association

P.O. Box 67085

Topeka, Kansas 66667

Phone: 785-233-3103 fax: 785-233-3439

E-mail: [director@kpha.us](mailto:director@kpha.us)

Web Site: <http://www.kpha.us>

To: The Honorable Representative Wilk,  
Chair, House Taxation Committee

Re: Testimony in support of HB 2737, An act increasing the rate of taxation imposed upon cigarettes and tobacco products

Thank you, Mr. Chairman, and members of the Committee, for the opportunity to provide testimony in support of HB 2737. I am Kimber Richter, Ph.D. and I am here to represent the 600 plus individuals and 131 organizations that belong to the Kansas Public Health Association (KPHA). I work at the University of Kansas Medical Center, where I conduct smoking cessation research and direct the University of Kansas Hospital's smoking cessation service for patients, *UKanQuit*.

KPHA strongly supports HB 2737. We believe that you should too, for the following reasons:

- Nearly **4,000 Kansans die** from tobacco-related illnesses every year
- Most Kansans **support** a tobacco tax increase
- A tobacco tax increase is the **single most effective** way to encourage smokers to quit smoking and prevent kids from starting to smoke
- Tobacco product tax increases make tobacco taxes **less regressive**
- The tax will fund Kansas Health Policy Authority (KHPA) Health Care Reform programs
- Poor smokers who continue to smoke will get **something for their money**
  - KHPA will use funds in part to expand Medicaid to more low income people
  - Kansas Medicaid has **excellent coverage for quit smoking medications**
- **Therefore, a tobacco tax increase is a Win-Win-Win investment**
  - Some tobacco users will quit
  - Those who continue to smoke will fund **tobacco treatment** (a REAL user fee)
  - Nonsmoking Kansans will pay less for uninsured smokers' health care
  - Using increased taxes to fund expanded health coverage is synergistic
    - Low-income smokers will get incentives to quit and access to treatment
    - Nonsmoking Kansans will shoulder less of their health care costs

## Rationale

Tobacco use is the number one preventable cause of death in Kansas. More than 3,900 Kansans die from cigarette smoking every year, costing Kansas more than \$927 million in health care expenditures. The direct cost paid by Medicaid for tobacco related illnesses in Kansas is \$196 million. If current trends continue, tobacco use will be responsible for more than 50,000 deaths among youth who are alive today, far more than any predicted epidemic or childhood disease, auto accidents, drug use or suicide combined.

Public support for a cigarette tax increases remains strong in Kansas. According to the 2004 Kansas Behavioral Risk Factor Surveillance System, more than 60% of Kansans said they would support a tax increase, ranging from less than \$0.50 to more than \$2 per pack. Increasing cigarette excise taxes has proven to be one of the most effective ways of

HS Taxation  
2-7-08  
Attachment 5



reducing smoking prevalence and preventing youth initiation. The Campaign for Tobacco Free Kids estimates that a \$0.50 per pack tobacco tax increase in Kansas will result in 7,900 fewer adult smokers and 15,900 fewer future kid smokers. In 2003 the Kansas legislature increased the cigarette excise tax by \$0.55 to a total of \$0.79 per package of 20 cigarettes. This tax increase dramatically increased the amount of tax collected in 2003 and reduced the number of cigarettes sold in the state by 18% according to the Kansas Department of Revenue. As of December 2006, at \$0.79 per pack, Kansas is now ranked in the bottom half of state rankings for tobacco excise tax. At 29th, the state falls below two of its border states: Oklahoma ranked 20th and Colorado ranked 26th.

For data regarding the effects of tobacco tax increases on low-income tax burden, see the two attached Campaign for Tobacco Free Kids fact sheets, "*Responses To Misleading And Inaccurate Cigarette Company Arguments Against State Cigarette Tax Increases*" and "*State Cigarette Tax Increases Benefit Lower-Income Smokers and Families.*" These describe how tobacco tax increases reduce tobacco tax burden on lower-income people. In general, cigarette taxes are regressive – low-income taxpayers pay more of their income in these taxes, on average, than do upper-income families. [The harms from smoking are regressive, too.] After a tax increase, lower income people tend to quit, reduce their smoking, and switch to cheaper brands. Hence, low income smokers end up paying a lower proportion of their income to tobacco taxes after a tax increase. Because fewer upper income people quit smoking after a tax increase, the proportion of personal income devoted to tobacco among upper income people remains approximately the same. Since the proportion of income devoted to tobacco reduces among low income people, but stays the same among upper income people, the tax becomes less regressive.

Two KHPA reform recommendations create a tremendous synergy: These are: *P2 (5) Improve Healthy Behaviors in Families and Communities: Increase Tobacco User Fee* and *P3 (2) Providing and Protecting Affordable Health Insurance: Expanding Insurance for Low-Income Kansans*. Increasing the tobacco tax will result in even more benefits if revenues can be used to expand insurance for low-income Kansans. Smokers will get something for their money. They will increase access to health care, and tobacco treatment, for the poorest Kansans—many of whom smoke. Kansas Medicaid provides excellent, farsighted coverage of tobacco treatment medications in the form of Bupropion (Zyban) the Nicotine Patch, and Varenicline (Chantix). Hence, low-income smokers who don't quit after the tax increase will have a new door opened to them – treatment with the best cessation medications available today.

Tobacco is deadly, it is addictive, and it is extremely profitable. There are a lot of forces at work to get people to smoke, and once they start it is extremely difficult to stop. At the national level, a number of groups are working to reduce the harmfulness of tobacco products, and even to reduce the amount of nicotine in cigarettes to reduce their addictiveness. But until these changes take place, it is very important that states and communities dedicate substantial resources to keep children from starting to smoke and to help smokers quit.

The members of KHPA are grateful that this Committee is considering this move. There is substantial evidence behind the effects of a tobacco tax increase as well as the strategies that will be put into place with tax revenues. The Kansas Health Policy Authority and the Kansas Department of Health and Environment have superb infrastructures for policy development and tobacco treatment programs. This bill will save a lot of lives, reduce the burden of terrible illnesses, and will ultimately save a great deal of health care dollars. It is excellent public policy.

Again, thanks for this opportunity to testify. I will be happy to stand for questions.

## RESPONSES TO MISLEADING AND INACCURATE CIGARETTE COMPANY ARGUMENTS AGAINST STATE CIGARETTE TAX INCREASES

Whenever an increase to a state's cigarette tax rate is being seriously considered, a number of misleading or false arguments against the increase typically appear. The following list presents actual arguments made by cigarette companies, or their lobbyists and allies, in various states. Some were made publicly to policymakers or the media, and others were made only behind closed doors. As outlined below, however, none of these arguments holds water when confronted with the actual, relevant facts.

- I. *Cigarette Company Myth: Cigarette tax increases are regressive and hurt poor people.*
  - A. **The cigarette companies have it backwards: it is the harms from smoking that are regressive,** with lower-income communities already suffering disproportionately from smoking-caused disease, disability, death, and costs (thanks in no small part to cigarette company marketing tactics). Raising cigarette taxes, by getting more lower-income smokers to quit and cutback, will reduce those regressive harms and costs, not only helping lower-income smokers but reducing harms and costs to their families.
  - B. **Raising cigarette taxes helps lower-income communities the most because lower-income smokers are more likely to quit because of tax increases than higher income smokers.** That means that cigarette tax increases will reduce smoking-caused harms more sharply among lower-income families and communities – and that lower-income smokers are more likely than higher-income smokers to end up getting a big tax cut. Lower-income smokers who quit because of a tax increase not only stop paying any cigarette taxes at all but also stop spending any of the other amounts they previously paid for cigarettes, and lower-income smokers who cutback can also reduce their overall expenditures on cigarette taxes or cigarettes. Calculating the cigarette tax savings and total cigarette expenditure savings for a pack-a-day smoker in the state who quits (or a two-packs-a-day smoker who cuts back to one pack) can be quite revealing, with typical savings from reducing cigarette expenditures totaling considerably more than \$1,000 per year.
  - C. **Numerous polls show that there is strong support for tobacco tax increases among lower-income communities.** Nobody wants cheap cigarettes in their neighborhoods.
  - D. **Cigarette tax increases can be used to avert cuts to programs that benefit low-income communities or to fund new programs that will do so, including funding for tobacco prevention and cessation assistance.**
  - E. **By reducing smoking rates, cigarette tax increases will reduce the large amounts low-income and other state households are already paying in state and federal taxes to cover smoking-caused government expenditures.**
  - F. **See the Campaign for Tobacco-Free Kids (TFK) Factsheet *State Cigarette Tax Increases Benefit Lower-Income Residents*, <http://tobaccofreekids.org/research/factsheets/pdf/0147.pdf>.**
- II. *Cigarette Company Myth: Cigarette tax increases unfairly target smokers and make them shoulder the burden for statewide budget problems.*
  - A. **Total state income from cigarette taxes is currently far less than conservative estimates of state smoking-caused costs.** [For actual state-specific data to show comparisons, see TFK factsheets *State Tobacco-Related Costs & Revenues* and *State Tobacco-Prevention Spending vs. State Tobacco Revenues*, <http://tobaccofreekids.org/research/factsheets/pdf/0178.pdf> and <http://tobaccofreekids.org/research/factsheets/pdf/0219.pdf>.]
  - B. **After any state cigarette tax increase, the state cigarette tax per pack, will still be far less than what the U.S. Centers for Disease Control & Prevention (CDC) estimates is the state's**

smoking-caused healthcare costs per pack (the national average is \$7.18 per pack). [See the TFK factsheet *State Cigarette Tax Rates & Rank, Date of Last Increase And Related Data*, <http://tobaccofreekids.org/research/factsheets/pdf/0099.pdf>, for state health costs per pack.]

- C. **To make the tax increase exceedingly fair to smokers (and better for public health, and even more popular among voters), the state should allocate a portion of the new tax revenues to initiate or expand programs to help adult and youth smokers quit** (e.g., quit lines, public education, school-based programs, etc.). Better yet, the state should also use some of the new revenues to fund expanded efforts to prevent more kids from cigarette addiction. [And doing all that won't cost more than a few pennies per pack of the tax, while producing future reductions in state smoking-caused costs that will reduce economic burdens on all state residents, including smokers.]
- III. *Cigarette Company Myth: The state is already getting tons of tobacco money; seeking more is excessive.*
    - A. **See IIA., above.**
    - B. **While the state also gets tobacco settlement payments, those are to reimburse the state for its past and future costs caused by the cigarette companies illegal and wrongful acts prior to the tobacco settlement (and are far less than the total of those harms and costs).** [And those illegal and wrongful acts – marketing to kids, failing to disclose known dangers and harms caused by their products, interfering with scientific research and public awareness regarding product harms, etc. – have been fully established by court rulings and in internal industry documents disclosed in various lawsuits against the companies.]
  - IV. *Cigarette Company Myth: The state (or federal, state, and local government) is already getting more per pack than the cigarette companies.*
    - A. **Every state actually suffers a net loss for every pack sold within its borders but the cigarette companies make a net profit on every pack sale.** The cigarette companies comparison between their alleged profits per pack against total state or government revenues per pack is unfair and misleading. Company profits per pack equal what the companies gain, free and clear, after paying for all their costs associated with producing and marketing the cigarettes they sell. Similarly, the state's "profit" (or loss) per pack equals the state's cigarette tax revenues minus the state's cigarette-caused costs. Doing the math shows that every state has a per-pack loss. [Subtract CDC state smoking costs per pack from state's actual or proposed tax per pack. See above for TFK factsheets containing that data.]
    - B. **It is not fair or reasonable to include tobacco settlement payments when determining state revenues or profit/loss per pack. See IIIB., above.** But even if those payments are included, the state is still running at a loss. [Dividing current state settlement receipts by the number of packs sold will provide the state's per pack settlement revenue. See above for TFK factsheets containing that data.] It is also important to note that the cigarette companies are able to take a big "business expense" tax deduction for all of their tobacco settlement payments, which reduces their taxes by at least \$1.0 to \$1.5 billion per year (thereby increasing their per-pack profits, as well).<sup>1</sup>
    - C. **Similarly, it does not make sense to include state sales tax revenues on cigarette sales since the sales tax applies to virtually all products sold in the state and is neither tobacco specific nor meant in any way shape or form to compensate the state for tobacco-caused harms.** But even if tobacco product sales tax revenues are included, the state is still running at a loss.
    - D. **Total state tobacco revenues per pack sold in the state are almost always less than the cigarette companies' total revenues per pack.** The major cigarette companies currently receive more than \$2.10 per pack in gross revenues. But each state currently receives only its current

<sup>1</sup> See, e.g., the Campaign for Tobacco-Free Kids (TFK) factsheet, *Cigarette Company Settlement-Related Price Hikes Are Excessive*, <http://tobaccofreekids.org/research/factsheets/pdf/0071.pdf>.

Responses to Cigarette Company Arguments Against State Tobacco Tax Increases / 3

cigarette tax per pack in gross revenues – and only two states have tax rates of more than \$2.10 per pack (RI at \$2.46 & NJ at \$2.40). But both of those states still have a net loss per pack sold because of state smoking-caused costs -- while the big cigarette companies profit from each and every sale.]

- E. The RJ Reynolds cigarette company, which has made this argument most aggressively, says that it has profits of only 10 cents per pack or less, but Wall Street Analysts and other experts say the major companies profits per pack are 28 to 46 cents per pack.<sup>2</sup>
- F. These analyses of cigarette company profits or revenues per pack do not even consider the fact that the whole tobacco industry's profits per pack are much larger than just the profits of the cigarette companies. It is not only the cigarette manufacturers, such as Philip Morris and Reynolds American, that gain revenues and profits from cigarette sales but also cigarette distributors and retailers. Comparing state or government-wide cigarette revenues or net losses against cigarette industry-wide revenues or profits show that the cigarette industry, as a whole, is doing much, much better than the states per each pack sold.
- V. *Cigarette Company Myth: Cigarette tax increases do not provide a reliable source of future state revenue.*
  - A. After an increase, state cigarette tax revenues sharply increase and then slowly decline because of state smoking declines -- but those declines will be gradual and completely predictable. There will be no surprises and the state can easily adapt.
  - B. State tobacco tax revenues are more predictable and stable than state income tax or corporate tax revenues, which can decline sharply because of unexpected economic recessions. [State budget reports will provide useful examples.]
  - C. A state could easily compensate for the slow and predictable tobacco tax revenue declines by periodically increasing its tobacco tax rates, instituting an automatic inflation adjustment to its tobacco tax rates, and/or implanting automatic rate increases whenever revenues fall below an established floor. The inflation adjustment, for example, could be based on the MSA inflation adjustment (i.e., an annual increase of 3% or the actual rate of inflation for the prior year, whichever is highest).
  - D. Along with the small, gradual declines in cigarette tax revenue caused by smoking declines, the state will also be accruing significant reductions to its smoking-caused costs. Over time, these savings will more than make up for any cigarette tax revenue reductions.

VI. *Cigarette Company Myth: Cigarette tax increases will promote cigarette smuggling, black markets, and smoker tax avoidance, which will eliminate state revenue gains.*

- A. Ever single state that has significantly increased its state cigarette tax rate has enjoyed substantial increases in state revenue – despite the consumption declines prompted by the tax increase and despite any related tax avoidance. The increased new revenue the state receives on each pack sold in the state greatly outweighs the revenue losses from fewer packs being sold. [See the TFK factsheet *Raising State Tobacco Taxes Always Increases State Revenues & Always Reduces Tobacco Use*, <http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf>.]
- B. The smuggling/tax avoidance problem is a lot smaller than the cigarette companies and their allies say. [See the same TFK factsheet mentioned in VI.A, above.]

Responses to Cigarette Company Arguments Against State Tobacco Tax Increases / 4

- C. There are simple, often low-cost, steps the state can take to minimize any loss of revenue from cigarette smuggling or smoker tax avoidance – and state support for comprehensive federal anti-smuggling and tobacco-internet legislation would further reduce any such revenue losses. [See the TFK factsheet outlining state-specific options for minimizing tax evasion and smuggling at <http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf>. For guidance on possible state legislation to curtail internet-based cigarette and other tobacco tax evasion, see the materials at <http://tobaccofreekids.org/research/factsheets/index.php?CategoryID=29>.]
- D. States can take steps to maximize new cigarette tax revenues by minimizing pre-increase hoarding and related revenue problems. First, state should be sure to apply the cigarette tax increase to all cigarettes held in wholesaler or retailer inventories on the effective date of the increase -- virtually all states and the federal government do this whenever they raise their cigarette tax rates but some states (e.g., Illinois and Alabama) have failed to do so in recent cigarette tax increases. Second, states should provide as little lead time as possible between the date the tax increase is passed and its actual effective date. Third, states should ensure that any wholesaler or distributor tax-stamp discounts based on a percentage of the state tax rate are adjusted to account for the increase.
- E. There are very good models and formulas available for projecting state revenues from proposed cigarette tax increases that take full account of possible increases in tax evasion and smuggling. These models show that states will still enjoy substantial additional new revenues from significant cigarette tax increases – and states that use these conservative models can be assured that there will be no "lower-than-expected" problems with future state cigarette tax revenues following the increase. [For example, TFK's model and formulas for projecting state revenues from cigarette tax increases is quite conservative.]

VII. *Cigarette Company Myth: Cigarette tax increases do not reduce youth smoking (or any smoking).*

- A. It is amazing that the cigarette companies' lobbyists and allies continue to make this argument with a straight face despite the absence of any facts to support it. In fact, the cigarette companies have repeatedly asserted and acknowledged, both publicly and in internal company documents disclosed in tobacco lawsuits, that raising cigarette prices through state tobacco tax increases or other means significantly reduces smoking, especially among kids and lower-income communities. That fact is also well established by scientific research and by the actual experiences of states that have raised their tax. [See the TFK Factsheet *Raising Cigarette Taxes Reduces Smoking, Especially Among Kids (and the Cigarette Companies Know It)*, <http://tobaccofreekids.org/research/factsheets/pdf/0146.pdf>.]
- B. The companies' fallback argument doesn't work, either. A related new cigarette company argument is that tax evasion by current smokers after cigarette tax increases is now a much bigger problem than previously and that cigarette tax increases therefore do not produce the same smoking declines as they have in the past. It is important to note that this argument acknowledges that cigarette tax increases have and still do prevent and reduce smoking rates, but argues simply that the post-tax-increase smoking declines will not be as large as in past years. In addition, this cigarette company argument also ignores the fact that: a) the declines are still substantial; b) those smokers most likely to take steps to evade the higher cigarette tax rate are the heaviest and most powerfully addicted smokers, who were and are the least likely to quit and cutback anyway. Conversely, those smokers most likely to quit or cutback after cigarette tax increases – such as youth smokers, those already trying or planning to quit, and light or occasional smokers – are also the least likely to take any extra steps (other than quitting or cutting back) to try to evade the cigarette tax increase. And any rise in smoker tax evasion would not have any significant impact on the ongoing power of cigarette tax increases to prevent kids from taking up smoking. [Also, see VI. C., above, on ways that states can reduce cigarette tax evasion, which will not only increase the amount of new revenue the state gets from its cigarette tax increase but also minimize any risk that tax evasion will reduce the power of the increase to cut current smoking levels.]

<sup>2</sup> Cigarette company profit sources include: "Tobacco Settlement Causes a Rise in Makers of Low-Price Cigarettes," *Wall Street Journal*, May 1, 2001 [citing Solomon Smith Barney tobacco analyst Martin Feldman re the major companies' profit was \$4.66 per carton (46.6 cents per pack)]; Donovan, D., "The Giant Tobacco Robbery," *Forbes Magazine*, January 22, 2001 [industry-wide profit 46 cents per pack], <http://www.forbes.com/forbes/2001/0122/062.html>; Adelman, D., *New York Times Magazine*, February 28, 1999 [Philip Morris's profit per pack on Marlboros sold in New York City was 28 cents].

5-5

VIII. *Cigarette Company Myth: Cigarette tax increases will hurt the state's economy by reducing cigarette sales and related employment, retailer revenues, etc.*

- A. Money spent on cigarette sales will not disappear when cigarette sales decline, it will simply shift to consumer expenditures on other products or to consumer savings or investments. In other words, smokers who quit or cutback will spend or use the money they formerly spent on cigarettes in other ways – and those alternative uses are likely to produce more jobs and more productive economic activity. For example, cigarette manufacturing and distributing is very capital intensive and does not create a lot of jobs for people; and shifts from spending on a consumable (especially one with such large social costs) to saving or investing is always more economically productive. In addition, most states are exporting a large portion of its own consumers' expenditures on cigarettes to those tobacco states where cigarettes are manufactured and tobacco leaf is grown – which only helps the tobacco states' economies. Shifting consumer expenditures on cigarettes to other products tends to keep the money in the state, where it will generate new jobs and other beneficial economic activity.
- B. Economic studies have found that even if smoking were entirely eliminated in the United States, the net economic effect on each state would be positive (except in a few of the major tobacco states), with more jobs created as well as other increases in productive economic activity.<sup>3</sup> Even in those states with the highest levels of tobacco farming and tobacco manufacturing, the economic consequences from the elimination of all U.S. smoking would be minimal – and the increasing diversification of those states' economies in recent years may have eliminated those net consequences altogether.
- C. A study of retailer gross revenues by the State of Maryland's Comptroller after that state's recent cigarette tax increase found that "When all taxable sales throughout the entire study area for retailers typically selling cigarettes are examined, however, there is no evidence that the increase in tobacco taxes has had a direct and measurable impact on gross revenues."<sup>4</sup>
- D. State-specific economic impact studies in New Hampshire, Texas, and Virginia found that substantial cigarette tax increases in those states would actually increase total state employment – and that reduced cigarette sales have, historically, been linked with increased state retail employment.<sup>5</sup>
- E. The cigarette tax increase will reduce direct public and private smoking-caused costs, which will further strengthen and improve the state's economy – especially since those savings will, overall, be shifted to much more productive uses.
- F. CDC estimates that productivity losses caused by smoking amount to more than \$82 billion per year – and that total does not even include business losses from cigarette breaks or from workers being less productive when on the job because of smoking caused health problems.<sup>6</sup> [CDC estimates of state productivity losses available from the TFK factsheet *State Tobacco-Related Costs & Revenue*, <http://tobaccofreekids.org/research/factsheets/pdf/0178.pdf>.]

<sup>3</sup> Warner KE, et al., "Employment implications of declining tobacco product sales for the regional economies of the United States," *JAMA* 275(16):1241-6, April 24, 1996. Warner KE & GA Fulton, "The economic implications of tobacco product sales in a nontobacco state," *JAMA* 271(10):771-6, March 9, 1994. Warner KE, "Implications of a nicotine-free society," *Journal of Substance Abuse* 1(3):359-68, 1989.

<sup>4</sup> Schafer, William Donald, Comptroller of the State of Maryland, Letter/Report to Thomas V. Miller, Senate President, and Michael E. Busch, Speaker of the House of Delegates, January 15, 2003.

<sup>5</sup> Gottlob, B., *The Fiscal and Economic Impacts of Increasing the Cigarette Tax in New Hampshire*, PolEcon Research, March 2003. Gottlob, B., *The Fiscal and Economic Impacts of Increasing the Cigarette Tax in Texas*, PolEcon Research, in press. Gottlob, B., *The Fiscal and Economic Impacts of Increasing the Cigarette Tax in Virginia*, PolEcon Research, April 15, 2004, <http://tobaccofreekids.org/pressoffice/VACigTaxReport.pdf>.

<sup>6</sup> CDC, "Annual Smoking-Attributable Mortality, Years of Potential Life Lost, and Economic Costs – United States 1995-1999," *MMWR*, April 11, 2002, [www.cdc.gov/mmwr/preview/mmwrhtml/mm5114a2.htm](http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5114a2.htm).

G. Directing the new state government revenues generated by the cigarette tax increase to reduce state budget deficits or to fund economically productive programs or projects will further strengthen and improve the state's economy.

IX. *Cigarette Company Myth: Cigarette tax increases will hurt the state's tobacco farmers.*

- A. Even eliminating all smoking in any particular state would have only a very minor impact on the overall demand for American-grown tobacco leaf – and the state cigarette tax increases being considered will not (unfortunately) even reduce smoking in the state by half. Smoking by U.S. citizens accounts for less than half of the total demand for U.S. tobacco leaf, which is also smoked worldwide in cigarettes exported from the U.S. and manufactured overseas. See <http://tobaccofreekids.org/research/factsheets/pdf/0150.pdf>, the TFK Factsheet *State Cigarette Tax Increases Will Not Hurt U.S. Tobacco Growers or Cigarette Factory Workers* [state-specific versions also available by request: [factsheets@tobaccofreekids.org](mailto:factsheets@tobaccofreekids.org).]
- X. *Cigarette Company Myth: Cigarette tax increases will reduce the state's tobacco settlement payments.*
- A. There is no automatic offset that reduces tobacco settlement payments to the state if the state increases its cigarette taxes. [There was such an offset for certain federal cigarette tax increases, but that provision expired in 2002.]
- B. The "volume adjustment" in the state tobacco settlement agreements reduces settlement payments to the states based on reductions in the nationwide (not state) cigarette sales of the major cigarette companies. The reduction in pack sales prompted by the cigarette tax increase proposed in the state would have only a miniscule impact on those nationwide sales, and an even smaller impact on the state's settlement payments.
- C. See the TFK factsheet *Effect of State Tobacco-Tax Increases on MSA and Phase II Payments to the States*, <http://tobaccofreekids.org/research/factsheets/pdf/0197.pdf>.
- XI. *Cigarette Company Myth: Cigarette tax increases will reduce state revenues by eliminating or reducing state cigarette sales to smokers in other states (e.g., it will reduce cross border sales, reduce sales to interstate smugglers, eliminate state as source for internet sales).*
- A. This argument applies only to very low-tax states or to states with cigarette tax rates significantly lower than neighboring states. But even in regard to those states, it fails.
- B. States will enjoy substantially more state revenues from increasing their state cigarette tax rate than they will lose from any corresponding reduction to their sales to cigarette smugglers, law-breaking internet sellers, or tax-avoiding shoppers from other states. In many cases the new state revenues from the cigarette tax increase will not only exceed current state tax revenues from sales to out-of-state buyers but also exceed all retailer profits from those sales to out of state buyers.
- C. States should not support the in-state sale of cigarettes to illegal smugglers, internet sellers, or tax-avoiding shoppers from other states. By raising their cigarette tax rates, states can reduce or eliminate the illegal profit margins from these illegal activities, thereby reducing these illegal activities. More specifically, in some cases terrorist organizations have been raising revenues through cigarette smuggling from low-tax to high-tax jurisdictions. By raising their cigarette tax rates, low-tax states can not only increase their own revenues but also help to stop such terrorist fundraising activities by making it much less profitable.
- XII. *Cigarette Company Myth: Cigarette tax increases will not save money because smokers dying early reduces state costs.*



### STATE CIGARETTE TAX INCREASES BENEFIT LOWER-INCOME SMOKERS AND FAMILIES

- A. The average smoker actually has significantly higher total lifetime healthcare costs than the average nonsmoker, even though the average smoker dies a lot sooner than the average nonsmoker.<sup>7</sup>
  - B. See the TFK factsheet Immorality and Inaccuracy of the Death Benefit Argument, <http://tobaccofreekids.org/research/factsheets/pdf/0036.pdf>.
- XIII. *Cigarette Company Myth: What's next, raising taxes on fatty foods? Raising cigarette tax is just the first step in public health nazi's plan to tax everything that is bad for you.*
- A. There is absolutely no consumer product or category of consumer product other than cigarettes and tobacco products that, *when used as directed*, inevitably causes disease, disability, and death and enormous social and economic costs.
  - B. There is also no consumer product or category of consumer product other than cigarettes and tobacco products that, as actually used by consumers, directly causes as much disease, disability, and death and enormous social and economic costs (as reflected in the fact that smoking kills many more people each year than alcohol, illegal drugs, murder, suicide, accidents, and AIDS, combined).
  - C. While obesity is, according to some estimates, now responsible for an enormous number of deaths each year, that total is still considerably lower than the smoking-caused death toll. In addition, the causes of obesity are numerous and diverse. The connection between fatty foods and obesity-related disease is nowhere near as direct and powerful as the causal relationship between smoking and lung cancer and numerous other diseases.

National Center for Tobacco-Free Kids, February 9, 2005 / Eric Lindblom

For additional information on state cigarette taxes and the many benefits from increasing them, see the Campaign for Tobacco-Free Kids website at <http://tobaccofreekids.org/reports/prices> & <http://tobaccofreekids.org/research/factsheets/index.php?CategoryID=18>

Please send any comments, new response ideas, or new cigarette company anti-tax arguments to:

Eric Lindblom  
 Campaign for Tobacco-Free Kids  
[elindblom@tobaccofreekids.org](mailto:elindblom@tobaccofreekids.org)  
 Phone : 202-296-5469  
 Fax: 202-296-5427

Because smoking levels are highest among people with low incomes, the cigarette companies try to argue that cigarette tax increases are regressive taxes that fall disproportionately hard on lower-income persons. But this argument turns reality upside down. Higher smoking rates among lower-income groups means they are now suffering the most from smoking and will, consequently, benefit the most from any effective new measures to reduce smoking, including increased state tobacco taxes.

The cigarette companies also say that they oppose higher cigarette taxes because they care about low-income families. But these are the same companies that have been preying on low-income and poor communities for decades. In fact, from 1998 to 2002 the cigarette companies increased the prices they charge for their cigarettes by more than \$1.00 per pack (and by more than two cents for every cent needed to cover all of their costs from the state tobacco lawsuit settlements).<sup>1</sup> The cigarette companies have no problem with levying new charges on low-income smokers when it increases their own profits. They only oppose the new charges when someone else (like a state government) gets the new revenues, instead.

The reason the cigarette companies make their regressivity arguments and oppose cigarette tax increases is simple. Cigarette tax increases reduce current smoking and stop kids from starting, thereby shrinking the companies' profits.<sup>2</sup> The companies' anti-tax arguments also fail to account for the following facts.

**Low-income smokers are much more likely to quit because of state tobacco tax increases than higher-income smokers.** In general, lower-income smokers are less likely to quit than higher-income smokers and they and their families are more likely to continue suffering from their smoking. But state cigarette-tax increases offer one of the best ways to fight that general trend. By raising cigarette prices, state cigarette tax increases work much more powerfully to prompt lower-income smokers to quit or cutback and to stop lower-income kids from every starting than they do among higher-income smokers and youths.<sup>3</sup> For example, smokers with family incomes at or below the national median are four times as likely to quit because cigarette price increases as those with higher incomes.<sup>4</sup> Accordingly, cigarette tax increases offer one of the best ways to help low-income families that currently suffer from direct and secondhand smoking to escape from the smoking-caused health risks, disease, and related costs – and lower-income smokers and families will be much more likely to have those harms and costs eliminated or reduced by a cigarette tax increase than similar families with higher-incomes. Those cost reductions (including reduced family expenditures on cigarettes) will also have a more powerful, beneficial impact on the financial health of the lower-income households compared to those with higher incomes.

**State tobacco-tax increases shift the overall tobacco-tax burden more toward higher-income smokers.** Because more lower-income smokers than higher-income smokers will quit or cutback because of cigarette tax increases, any state that significantly increases its cigarette tax rate will also end up increasing the portion of the state's total cigarette tax revenues that are paid for by higher-income smokers and reduce the portion paid by lower-income smokers.

**State cigarette tax increases give many current smokers a "tax cut."** Many current smokers (especially those with low incomes) will completely avoid the new cigarette tax by quitting and others will reduce its impact by cutting back on their smoking or switching from premium brands to cheaper cigarettes. Those that quit because of the tax increase will end up saving all the money they used to spend on

<sup>1</sup> Using data from the U.S. Centers for Disease Control and Prevention (CDC), if lower-income smokers account for 60 percent of a state's cigarette tax revenues with 40 percent from higher income smokers, a tax increase that raises the price of a pack by 25 percent will reduce the number of packs smoked by lower-income persons by about 7.25 percent and reduce the number of packs smoked by higher-income smokers by 4.25 percent. After those reductions, lower-income smokers will be paying 59 percent of all state cigarette tax revenues and higher-income smokers will be paying 41 percent. Larger cigarette tax increases would have more pronounced effects. CDC, "Response to Increases in Cigarette Prices by Race/Ethnicity, Income, and Age Groups -- United States, 1976-1993," *Morbidity and Mortality Weekly Report (MMWR)* 47(29):605-609, July 31, 1998, <http://www.cdc.gov/mmwr/preview/mmwrhtml/00054047.htm>.

<sup>7</sup> See, e.g., Hodgson, T.A., Cigarette Smoking and Lifetime Medical Expenditures, *Milbank Quarterly* 70(1): 81-115 (1992). Nusselder, W.J., et al., "Smoking and the Compression of Morbidity," *Journal of Epidemiology and Community Health* 54(8): 566-74, August 2000. Warner, K.E., et al., "Medical Costs of Smoking in the United States: Estimates, Their Validity, and Their Implications," *Tobacco Control* 8(3): 290-300, Autumn 1999.

cigarettes (not just the money they used to spend on cigarette taxes), and some of those who cut back or switch to cheaper brands will also reduce their overall expenditures on cigarettes. A study in England, for example, found that low-income smokers actually reduced their overall expenditures on cigarettes in response to increased cigarette taxes.<sup>5</sup> In the United States, every pack-a-day smoker who quits in response to a state cigarette tax increase will not only avoid the tax increase but also save more than \$1,650 per year from no longer buying cigarettes (with additional savings from also stopping other smoking-related expenditures).<sup>1</sup> Other smokers who quit or cut back would obtain similar savings. As the wife of a couple that quit smoking in response to a cigarette tax increase in Kentucky stated, "It's easier paying the bills, and groceries. You're not pinching pennies just to see what you can and can't buy," she said. "With two people not smoking now, it made a big difference."<sup>6</sup>

**Low-income voters strongly support tobacco-tax increases.** In poll after poll, lower-income Americans (along with all other Americans) strongly support higher cigarette taxes. In state polls on cigarette taxes that have collected data on income level, at least 53 percent of voters in low income families support significant cigarette tax increases.<sup>7</sup> In a nationwide poll of African Americans, more than 73 percent said that they did not think that tobacco tax increases were unfair to African Americans and more than 57 percent said that they would not be opposed to increasing cigarette taxes even if they knew that low-income smokers would be hit the hardest.<sup>8</sup>

**State tobacco-tax increases improve the health of low-income smokers and their families and significantly reduce their related costs.** Those who stop smoking in response to cigarette tax increases will greatly improve their own health, which could significantly reduce their health costs. Smokers die younger than nonsmokers but because of their higher rates of illness and disability they still have substantially higher annual and lifetime health care costs.<sup>9</sup> Nationwide, smoking-caused health care expenditures total more than \$96 billion per year, with billions being paid directly by smokers through direct health care payments and increased health insurance premiums.<sup>10</sup> Smokers who quit or cutback will also help reduce the amount of secondhand smoke their family, friends, and coworkers are exposed to – thereby producing additional health improvements and related cost savings for their families and communities.<sup>11</sup>

- Even those low-income smokers who do not quit or cutback will still benefit because the cigarette tax increase will reduce smoking among their family members and friends. The tax increase might not get them to quit, but it might stop their kids from falling victim to tobacco use.
- Smokers who do not reduce their smoking because of a cigarette tax increase will also still benefit economically, along with every other federal or state taxpayer. Right now, smoking produces a "hidden tax" that totals more than \$40 billion per year to pay for smoking-caused state and federal healthcare costs.<sup>12</sup> Smoking declines caused by state cigarette tax increases directly reduce these smoking-caused tax burdens for all taxpayers.<sup>13</sup>

**Other benefits to low-income families and communities from state tobacco-tax increases.** Low-income smokers and their communities disproportionately benefit when any of the new revenues from cigarette tax increases are directed to new programs to help people quit and to prevent kids from starting – both because smoking is more prevalent among low-income persons and because such programs are much less available to lower-income persons than to those with higher incomes.

- New revenues from state cigarette tax increases can also prevent cuts to government programs that provide critically needed services to low-income families or communities.
- An April 2002 research study actually found that, overall, both Canadian and U.S. smokers are significantly happier when cigarette excise taxes increase, perhaps because the increases help them quit or cutback or increase their resolve to do so soon.<sup>14</sup>

As an Australian economic study of the impact of a 25 percent decrease in smoking concluded:

*"In households where smoking ceased, substantial benefits would accrue in terms of the weekly funds released for alternative purchases. Added to these would be the benefits of improved health and life*

<sup>1</sup> The average price of a pack of cigarettes is about \$4.54 per pack, multiplying that by 365 days in a year produces cigarette expenditures of \$1,657.10 per year. See, e.g., Orzechowski & Walker, *Tax Burden on Tobacco*, 2006.

*expectancy resulting from smoking cessation. Relative to household income, the greatest benefits, in terms of additional available expenditure, would accrue to the poorest 20 per cent of households."*<sup>15</sup>

Given the strong support for cigarette tax increases among low-income persons and the enormous benefits those tax increases bring to low-income smokers, families, and communities, the big cigarette companies' efforts to "protect" low-income communities from higher cigarette taxes is not only patronizing and misdirected but also hostile to lower-income interests. The cigarette companies' regressivity argument should be seen for exactly what it really is: a self-serving smokescreen designed to keep smoking levels up and protect cigarette company profits.

Campaign for Tobacco-Free Kids, July 24, 2007 / Eric Lindblom

For more information on state tobacco-tax increases, see the Campaign's website at [www.tobaccofreekids.org/reports/prices](http://www.tobaccofreekids.org/reports/prices) & <http://tobaccofreekids.org/research/factsheets>.

<sup>1</sup> Campaign for Tobacco-Free Kids (TFK) Factsheets, *U.S. Cigarette Companies' Settlement-Related Price Hikes Excessive*, [www.tobaccofreekids.org/research/factsheets/pdf/0071.pdf](http://www.tobaccofreekids.org/research/factsheets/pdf/0071.pdf), and *Cigarette Tax Increases vs. Cigarette Company Price Increases (1993-2007)*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0210.pdf>.

<sup>2</sup> TFK Factsheet, *Raising Cigarette Taxes Reduces Smoking, Especially Among Kids (and the Cigarette Companies Know It)*, [www.tobaccofreekids.org/research/factsheets/pdf/0146.pdf](http://www.tobaccofreekids.org/research/factsheets/pdf/0146.pdf).

<sup>3</sup> See, e.g., U.S. Centers for Disease Control and Prevention (CDC), "Responses to Cigarette Prices By Race/Ethnicity, Income, and Age Groups – United States 1976-1993," *Morbidity and Mortality Weekly Report (MMWR)* 47(29):605-609, July 31, 1998, <http://www.cdc.gov/mmwr/preview/mmwrhtml/00054047.htm>. Chaloupka, FJ & Pacula, R, *An Examination of Gender and Race Differences in Youth Smoking Responsiveness to Price and Tobacco Control Policies*, National Bureau of Economic Research, Working Paper 6541, April 1998.

<sup>4</sup> CDC, "Responses to Cigarette Prices By Race/Ethnicity, Income, and Age Groups – United States 1976-1993," *MMWR* 47(29):605-609, July 31, 1998, <http://www.cdc.gov/mmwr/preview/mmwrhtml/00054047.htm>

<sup>5</sup> Townsend, JL, "Cigarette Tax, Economic Welfare and Social Class Patterns of Smoking," *Applied Economics* 19:355-365, 1987.

<sup>6</sup> Goetz, D, "Cigarette sales fall: Ky. tax increase leads some to quit," *The Courier-Journal*, March 11, 2006.

<sup>7</sup> TFK Factsheet, *Voters in All States Support Significant Increases in State Tobacco Taxes*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0309.pdf>.

<sup>8</sup> King, G, et al., "African Americans' Attitudes Toward Cigarette Excise Taxes," *American Journal of Public Health* 93(5): 828-834, May 2003, <http://www.ajph.org/content/vol93/issue5/index.shtml>.

<sup>9</sup> See, e.g., Hodgson, T, "Cigarette Smoking and Lifetime Medical Expenditures," *The Millbank Quarterly*, 1992; Nusselder, WJ, et al., "Smoking and the Compression of Morbidity," *Epidemiology and Community Health*, 2000.

<sup>10</sup> CDC, *Sustaining State Programs for Tobacco Control: Data Highlights 2006* [and underlying CDC data], [http://www.cdc.gov/tobacco/data\\_statistics/state\\_data/data\\_highlights/2006/index.htm](http://www.cdc.gov/tobacco/data_statistics/state_data/data_highlights/2006/index.htm).

<sup>11</sup> See, e.g., TFK Factsheet, *Secondhand Smoke, and Harm to Kids from Secondhand Smoke*, [www.tobaccofreekids.org/research/factsheets/index19.shtml](http://www.tobaccofreekids.org/research/factsheets/index19.shtml).

<sup>12</sup> Zhang, X, et al., "Cost of Smoking to the Medicare Program, 1993," *Health Care Financing Review* 20(4):1-19, Summer 1999.

<sup>13</sup> Smokers have higher lifetime healthcare costs than nonsmokers, despite living shorter lives (Hodgson, 1992 & Nusselder, 2000). Roughly half of all smoking-caused health care costs are paid by the federal or states' governments, with much of that spent on treating low-income smokers through the Medicaid program (Zhang, X, et al., "Cost of Smoking to the Medicare Program, 1993," *Health Care Financing Review* 20(4):1-19, Summer 1999; CDC, July 8, 1994). Any new government costs caused by people living longer because they no longer smoke would be more than offset by the health care savings, other reductions to smoking-caused costs, and the work productivity increases (and related new income tax revenues) from more people living longer, healthier, smoke-free lives. For full references, citations, and more details, see TFK Factsheet, *Immortality and Inaccuracy of the Death Benefit Argument*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0036.pdf>.

<sup>14</sup> Gruber, J & Mullainathan, S, "Do Cigarette Taxes Make Smokers Happier?," National Bureau of Economic Research, Working Paper No. w8872, April 2002, <http://econ-www.mit.edu/faculty/gruber/files/happy81.pdf> and <http://papers.nber.org/papers/W8872>.

<sup>15</sup> Junor, W, et al., *The Macroeconomic and Distributional Effects of Reduced Smoking Prevalence in New South Wales*, Cancer Council New South Wales, June 2004, <http://www.cancercouncil.com.au/editorial.asp?pageid=1891>.

5-17

## *THE ECONOMIC IMPACT OF CIGARETTE TAX INCREASES IN KANSAS*

Mr. Chairman and members of the committee, my name is Dr. William Orzechowski. I am the senior partner of the economic consulting firm Orzechowski and Walker. We specialize in the economics of tax and regulatory issues. Our firm has over 30 years of combined experience in analyzing cigarette tax trends. Our firm publishes the Tax Burden on Tobacco, a comprehensive survey of historical data on tobacco revenues, prices and volume at the local, state and federal levels. The book is updated each year and is widely used across the nation.

Thank you for this opportunity to provide my perspective on the tobacco excise tax increases that are being proposed.

Kansas is currently considering a cigarette tax increase proposal of 50¢ per pack followed by 4 cent increases in each of the subsequent 5 years. If passed, the Kansas cigarette tax would rise from 79¢ to \$1.29 per pack in 2008 -- a rate 658% greater than the 17¢ per pack tax in neighboring Missouri. It is well known in economics that consumers will seek lower priced substitutes if they are readily available.

Given the proximity of low-tax neighboring states, finding cheaper alternatives should not be difficult. At \$1.29 or \$1.49 (five years from now), the proposed tax would be substantially above taxes in Nebraska (64¢), and Colorado (84¢). Given the exceedingly complex nature of Oklahoma's new tribal compacts consumers could find similar savings with some OK tribal merchants where taxes as low as 5.75¢ per pack are available. These so-called exception rate compact stamps comprised 81.3 million packs in FY 2007 or about 27% of all Oklahoma cigarette sales. Adding in special "original" compact stamps at 26¢/pack jumps the total to 108 million packs. This is about 75% of total tax-paid sales in Kansas in FY 2007. Surely many of these compact packs could find their way into Kansas should it hike taxes. Certainly, the 60.75¢ special Kansas-border tax that Oklahoma currently offers tribes should be quite available. Finally, with the Internet many Kansas smokers can simply dodge high Kansas cigarette taxes by letting their fingers do the shopping tax-free.

When taxes are increased to high levels they can trigger a cross border backlash. This is all part of our system of fiscal federalism where we have 50 independent states and 50 independent tax policies. The virtue of this system is that allows competition across states. If a state tax is relatively high to its neighbors, citizens can simply "vote with their feet" by shopping in another state for a better deal. For example, high income and business taxes can cause people to take jobs and move their businesses to more favorable environments. In a similar fashion high excise and sales taxes can lead shoppers to states where taxes are lower. The advantage of our fiscal federalism is that such competition tends to keep taxes from getting too high in general.

When low-tax options are widely available the cross border dynamic is likely to lead to considerable reduction in sales for merchants in tax-increasing sales. Economists sometimes refer to this as the "elasticity of demand," or the sensitivity of demand to tax-induced price increases.

When cross border effects are included this elasticity of demand can be quite sensitive. In consequence, we see that the tax increase can often unleash many unintended cross border effects, such as smuggling, counterfeiting, and border shopping treks. For example, according to a study commissioned by the state of New York, 58% of New York smokers reported buying from sources that would not be reflected in taxable cigarette volume.<sup>1</sup> It is little wonder, then, that New York has seen its tax- paid cigarette sales volume fall by 45% since 1999 shortly before NY and NYC embarked on large tax increase.

The proposed \$1.29 Kansas tax (in 2008) could likely spawn such a dynamic. In consequence, it is estimated that the 50¢-tax hike could reduce Kansas cigarette sales by nearly 20% as Kansas merchants see their competitive edge eroded by cigarette tax increases and Internet penetration.

### Tax Incentives and the Kansas Cigarette Market

State	Tax per Pack	Savings by the Carton After 50¢ KS Tax Hike	Cross Border Profits By the Vanload
Kansas	\$1.29 (proposed 2008)	--	--
OK (Exception Rate for Tribes)	5.75¢	\$12.33	\$70,252
Missouri	17¢	\$11.20	\$63,840
OK (Tribal KS Border Compact)	60.75¢	\$6.82	\$38,902
Nebraska	64¢	\$6.50	\$37,050
Colorado	84¢	\$4.50	\$25,650

\*\* The OK excise tax is \$1.03 per pack but carries no sales tax. However, by compact, OK also permits particular tribes to buy 5.75¢/pack stamps. All OK tribal merchants near the KS border can buy 60.75¢/pack special KS border stamps.

After a 50¢ Kansas tax hike, tax savings with Missouri, Oklahoma tribes, and Nebraska would exceed the Advisory Council on Intergovernmental Relation's (ACIR) bootleg "flashpoint" of roughly \$5.89 per carton. ACIR found that tax differences above the "flashpoint" are likely to encourage investments in cigarette smuggling within a geographic region.<sup>2</sup> A typical smoker could save over \$400 per year purchasing cigarettes in Missouri. Smokers could also reap huge savings via the Internet as well. Smugglers would also be enticed as a vanload of cigarettes from Missouri to Kansas would have a gross profit potential of about \$63,000.

### Evidence of Cross Border Effects

<sup>1</sup> Kevin Davis; Matthew Farrelly, Qiang Li, and Hyland Andrew, 2006. "Cigarette Purchasing Patterns among New York Smokers: Implications for Health, Price, and Revenue," New York State Department of Health.

<sup>2</sup> The original ACIR estimate was \$2.30/carton in 1983, which would be \$5.89/carton in 2007 after adjustment for inflation. The flashpoint is not a definite trigger but rather a threshold. The further the flashpoint is exceeded, the more smuggling becomes attractive.



There is ample evidence that large cigarette tax differences among states can cause significant cross border effects. An eminent tax research group, the Tax Foundation, estimated that by 1997 Michigan had lost 30% of its cigarette market to smuggling and cross border sales.<sup>3</sup> The Michigan press took notice. The headline of the *Detroit Free Press* on February 17, 1995 read "Smugglers Win." The story was about cigarette smugglers in Michigan. And, according to the article "the money they get is more than they can get selling drugs."

When Michigan increased its cigarette tax from 25¢ to 75¢ per pack in May of 1994, Michigan cigarette sales nose-dived by 33 percent between FY 1994 and FY 1997. During the same time period, annual cigarette sales went up by 15% in Kentucky, 16% in South Carolina, 10% in Indiana, 7.5% in Tennessee, 6% in North Carolina, 4% in Missouri, and 2% in Ohio. Incredibly, the sales volume gain in the low-tax states more than matched the 300 million pack loss in Michigan and occurred during a time period when national cigarette sales volume stayed about the same.

In order to understand why Kansas retailers could suffer significant repercussions as a result of the tax, it is critical to understand the incredible changes in the national cigarette market over the last decade. Cigarette purchasing patterns have changed dramatically due to more than 120-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 in the 1997 study that the following high-tax block of states -- California, Massachusetts, Michigan, and New York -- with an average tax of 73¢ per pack, 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 had a population (65.4 million) nearly double that of the low-tax states (34.4 million).

More recent studies suggest that the current state cigarette market is even more sensitive to tax hikes, due to both rising interstate tax differences and the Internet. Moreover, because of these changes in the market, the revenue potential of cigarette tax hikes is being eroded.<sup>4</sup>

---

<sup>3</sup> "How Excise Tax Differentials Affect Interstate Smuggling," Background Paper No.26, Tax Foundation, October 1998.

<sup>4</sup> Economists Austan Goolsbee and Joel Slemrod suggest that the sensitivity of cigarette demand has increased and that an elasticity of demand exceeding (1.2) is more commonplace due to smuggling and Internet options. See Goolsbee and Slemrod, "Playing with Fire: Cigarettes, Taxes and Competition From The Internet," NBER (draft), December 21, 2004. Another recent article suggests that tax avoidance is rising and that cross border sales can take a high percentage of the recorded drop in tax-paid sales. See, Mark Stehr, "Cigarette Tax Avoidance and Evasion," *Journal of Health Economics*, December 19, 2004.

Recent cross border episodes include:

New York - It has been estimated that contraband and cross border cigarette sales took nearly 25% of the New York market before large tax hikes in 2002.<sup>5</sup> It is likely that contraband now takes over 40% of the New York market. A 2005 New York State Department of Health report estimated that nearly 60% of New Yorkers evade the New York cigarette taxes. Sales from Indian reservations alone have a market share equal to 33% of New York 2005 tax-paid cigarette sales.<sup>6</sup> This estimate of a 33% contraband share is presumably a minimum estimate, since it just reflects sales on reservations. But surveys of New Yorkers who buy tax evading product "frequently" suggest that while 33% buy from Indian reservations another 11% buy from out of state.<sup>7</sup> In other words, it could be that the tax evading share could come close to 45% of present New York tax-paid sales. More ominously, cigarette smuggling has taken a violent turn with gangs involved in a smuggling war there responsible for 3 deaths in NYC.<sup>8</sup>

Illinois - Since 2002, Cook County has increased its cigarette tax to \$2.00/pack. In response, its tax-paid sales have plummeted by over 50%. Tax paid per capita sales in Cook County were about 18.6 packs in FY 2007 compared to 135 packs per capita in nearby low-tax Kentucky

Kansas - The Sunflower State can look to its recent past as a model. Kansas increased its tax by 55¢ in FY 2003 and its tax-paid cigarette volume skidded by 22% in FY 2003. This was a drop from 208.8 million packs in FY 2002 to 163.7 million packs in FY 2003. By FY 2004 Kansas tax-paid volume had slipped to 153.5 million, a drop of nearly 27%. This was a very sensitive reaction to the tax hike, but is normal for states that border low-tax states and have a significant portion of the population living near such areas. Kansas certainly fits this category since nearly 42% of its population lives in border counties. In fact, approximately 32% of the KS population resides along the low-tax Missouri border.

Missouri, which has kept its tax rate stable at 17¢, has benefited. While Kansas sales slipped by 55 million packs after the 2002 tax hike Missouri sales went up by about 40 million packs. In fact, tax-paid per capita sales in FY 2002 were fairly close between Missouri at 99.2 packs and Kansas at 77.5 packs. However, by FY 2007 tax-paid per capita sales were almost 100% greater in Missouri (100.6 packs) compared to Kansas (53.1 packs). This is a sure indicator that Missouri retailers have reaped a commercial bounty at the expense of other states such as Kansas.

Similar reactions have occurred with other regional states that have a profile similar to Kansas. New Mexico saw its tax-paid sales fall by 30% after a 70¢ tax hike in 2003 due to the existence of tax-free tribal locations near its large cities. Nebraska lost nearly 20% of its tax-paid sales due to a

---

<sup>5</sup> See, *Organized Crime and the Smuggling of Cigarettes in the United States – the 2001 Update*, FIA, The Corporate Forensic Investigator, September, 2001, page 52.

<sup>6</sup> New York Department of Health Study; see footnote 1.

<sup>7</sup> Ibid., p. 4-15.

<sup>8</sup> "3 Die in Cig War," *New York Daily News*, 10 December 2003.

30¢ increase in 2002. Nebraska has some tax-free merchants in the Omaha area and it also borders low-tax Missouri.

### Commercial Losses – 50¢ Cigarette Tax Increase

- The Impact of a 50¢ Cigarette Tax Hike – A 50¢ per pack tax hike would cause the tax per pack to rise from 79¢ to \$1.29. It is estimated that this tax hike would drop Kansas tax-paid cigarette sales volume by approximately 18%. The subsequent 4¢ tax hikes for the next five years would like drop Kansas sales by another 5% by 2014 (a 23 % drop in sales all told)
- Loss in Cigarette Sales Volume – Cigarette volume would fall by 27 million packs if the tax were increased by 50¢ in FY 2009. Most of these sales would be lost to low-tax states, Indian Reservations, and Internet merchants.
- Loss in Kansas Gross Profits (value added) - Gross profits lost to Kansas retailers and wholesalers would be about \$20 million due to the loss of cigarette sales and sundry products.
- Convenience Store Losses – C-Store cigarette sales would fall by nearly 18 million packs. Gross profit losses on average would exceed \$11,000 per store due to the loss of cigarette volume and sundry product sales. This means each store would have to boost gross retail sales of other items by \$60,000 to make up for the damage wrought by the tax hike. At \$5/six pack, a C-Store would have to sell about **12,000** more six-packs per year to replace the lost tobacco customers that would be buying over the Internet or seeking cross border options.

### Commercial Losses – Raising the OTP Tax From 10% to 57% of Wholesale Value

The OTP Market In Kansas – It is estimated that nearly \$75 million of OTP was sold in Kansas. This included an estimated 17 million containers of smokeless tobacco product (about 84% of this moist is snuff). Cigar volume was estimated to about 78 million units. If Kansas increased its OTP tax from 10% to 57 % of wholesale value the tax would tower over the tax in Missouri (10% of wholesale value) and Nebraska (20% of wholesale value). At 57%, a Kansas consumer of premium moist snuff would have to pay about \$1.77 per can in Kansas taxes. The same can in Missouri would only be taxed at 31¢ - the savings would be about \$1.46 per can or \$14.60 per sleeve of 10. Such incentives would likely entice many tax-evading sales since many of these OTP sales do not carry a tax stamp.

Loss in STP Sales Volume Due To Increasing the OTP Tax from 10% to 57% of Wholesale Value – Overall, STP (smokeless tobacco product) volume is estimated to likely to fall by about 37%. For example, it is estimated that moist snuff tobacco volume would fall by over 6 million containers. Most of these sales would likely be lost to low-tax states and Internet merchants.

Loss in Retail Sales – The lost value of STP sales is estimated at approximately \$20 million. Sundry product sales, or products normally bought in conjunction with tobacco products, would fall by nearly \$5 million (based on past estimates of this phenomenon by Price Waterhouse).

### Consumers Hit Hard by Tax

Unfortunately, those who pay most of the cigarette taxes tend to be able to afford it the least. A report by the U.S. Congress' Congressional Budget Office (CBO) stated that excise taxes are the most regressive type of tax and tobacco excise taxes are "the most regressive of all." A more recent study by the Barents Group of KPMG Peat Marwick found that cigarette taxes are very 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 nationwide. This group paid about 15.3% of all federal income and FICA taxes, but paid over **47% of all tobacco taxes.**<sup>9</sup>

**The total tax burden on a pack of cigarettes is high in Kansas.** The current state tax is 79¢/pack and the sales tax is about 21¢/pack. Kansas also received Master Settlement Payments of about \$48.2 million in FY 2006. This settlement tax adds another 42¢. Plus the federal excise tax is now 39¢. Add those taxes up and they total \$1.81/pack. **It is important to realize that Kansas' high cigarette taxes are aimed at the working man or blue collar worker.**

According to a 2005 BLS report, average annual expenditures on tobacco were \$582 per consumer unit for construction workers and mechanics, \$482 for operators and laborers, and \$377 for service workers. By contrast, tobacco expenditures for managers and professionals were \$251. In other words, construction workers are spending on average about 131% more than do professionals on tobacco. Clearly Kansas' high cigarette tax is discriminating against blue collar workers.<sup>10</sup>

If Kansas were to install a \$1.29 cigarette tax, a Kansas consumer would have to drink nearly 13-six-packs of beer (KS tax is 10.1¢/six pack) to pay the potential \$1.29 tax on just one pack of cigarettes in Kansas. The Kansas beer tax was last increased in July of 1977.

---

<sup>9</sup> Barents Group LLC, The Burden of Consumer Excise Taxes on Lower-Income Taxpayers (Washington, D.C.), 19 May 1997. Prepared for the Tobacco Institute.

<sup>10</sup> "Tobacco Expenditures by Education, Occupation and Age," Consumer Expenditure Survey Anthology, Bureau of Labor Statistics, 2005.

Bill Nigro  
Kansas City Business Rights Coalition

Hello and thank you for the opportunity to speak with you today.

I am here before you today because I want to express my concern over the proposed tax increase on cigarettes. I am a business owner in Kansas City, Missouri. I have owned businesses in Overland Park before. I have been working on a new business plan to put myself back into the market in Overland Park again. I want to invest in and enrich the community in Overland Park again.

I cannot, with good business sense, make that investment with this tax looming ahead. Aggressive taxes like this are indicative of a city that is not interested in taking care of their existing business owners, much less courting new business owners. These are not the circumstances that make starting a new business look appetizing. I simply look to other states and the consequences of decisions like excessive tax increases.

Tennessee is a great example of overtaxing. They increased taxes to meet a budget requirement and the result was a \$33.5 Million dollar shortfall in tobacco tax revenue. I use Tennessee as an example because they have a common circumstance with Kentucky that we share with Missouri. The tax rates are significantly cheaper in Missouri and Kentucky than they are here and Tennessee. I do not want to see an aggressive tax like this aimed at tobacco users miss its revenue mark and then watch the state scramble to make ends meet.

That scramble scares me as a prospective entrepreneur and I am sure scares your current business owners. I want to stand before you and let you know that taxes like this are regressive. These taxes, even in the name of healthcare, are not beneficial. They cost more money to tax payers that are already overtaxed than should be considered a fair burden. This is not to mention that these taxes single out one minority in our population. The consideration that this would be a fair proposition and not the majority reigning over the minority is also hard to swallow.

Simply put, I do not want to open a new business in a place that does not put the interests of business owners before the private agendas of politicians. Thank you for your time and thoughtful consideration in these matters.

Pump'n Pete's  
1712 Broadway  
Parsons, Kansas 67357  
620-423-8142

I want to thank the committee for giving me this opportunity to share my view with regards to the proposed cigarette tax and other tobacco product (OTP) tax increases.

I am deeply concerned about the impact a tobacco tax and an OTP tax will have on our business. When Oklahoma took their state tobacco tax to \$10.30 per carton our stores in Miami lost 1/2 of their cigarette sales to Missouri. Along with our loss of cigarette sales we also lost our fuel sales and other category sales. When Kansas took our state tobacco tax to \$7.90 in 2002, we lost 31% of our cigarette sales to Missouri as well. We lost all of these sales because of the disadvantage we face when competing with Missouri's \$1.70 per carton tax.

I can also speak to the concerns with the increase of OTP tax. Oklahoma has a 60% tax on OTP and even though our customer count is much larger in our Oklahoma markets, our OTP sales are much less. A can of snuff retails at \$5.69 in Oklahoma while in Missouri and Kansas the retail for a can of snuff is \$3.65. The proposed tax increase would add an additional \$1.55 per can. Currently our states OTP tax is competitive and allows us to retain OTP sales and even gain sales from Oklahoma. However, if this tax becomes reality, we could potentially lose more than half of our OTP sales. I know this to be true because of the disparity of our Oklahoma OTP sales currently, which is due to the high OTP tax in Oklahoma.

According to Trend Alert, Kansas stores sold approximately 146 million packs of cigarettes in FY 2006\2007. This is about 30% lower than the 209 million packs sold in FY 2002. The decline is due to whopper tax hikes in 2002 that has sent many Kansas shoppers to low tax states like Missouri and the Internet. In FY 2002\2003, Kansas increased its cigarette tax from 24 cents to 79 cents. Meanwhile, cigarette sales in Missouri rose from 558 million packs in FY 2002 to about 600 million packs in FY 2006. Clearly many Kansas smokers were taking their business to the Show Me State. More KS cigarette tax hikes will just send even more business to Missouri.

According to the state general fund receipts, Kansas lost \$6,712,000.00 in collected funds when comparing July 2002 - January 2003 with July 2003 - January 2004. This decline was created after the last tobacco tax hike.

As a Kansas retailer, I recognize the concerns of our state legislators. I know there are programs that need revenues to fund. To help with some of these concerns, I contacted "Can Work", a program here in the state designed to help welfare recipients obtain work and no longer need assistance. The "Can Work" district supervisor came to my office. She and I reviewed the contract and discussed what plan of action we would take. We discussed our company's job description and promotional opportunities. We were both excited about the possibilities for her clients to obtain work and promote to assistant manager or manager depending on each employees job performance. I was told we had stores in 11 of her districts and we would be contacted with names of clients for us to interview and hire. That was over 5 months ago, and I have not heard from any interview candidate or a "Can Work" employee. Our business is in great need of employees and yet I could not get one welfare recipient to interview.

Pump'n Pete's  
1712 Broadway  
Parsons, Kansas 67357  
620-423-8142

Every retailer is faced with the dilemma of raising retail prices to keep up with the growing cost and expenses of doing business. I understand the state of Kansas must increase revenues to keep up with the cost of funding Kansas programs and growing expenses as well. However, before we would ever consider raising retail prices, we would complete a competitive survey. Understanding that cigarette sales represents 35% of our inside sales and Missouri has not raised their cigarette tax since Kansas last raised cigarette taxes, one fact is certain, we would not raise our retail prices. We would, instead, run a "Come back to Kansas" promotion. We would dig in and get competitive. We would also conduct our daily business better than the competition. By doing so, we would experience more foot traffic which would drive more volume of not only cigarettes sales, but other sales as well. The sales growth would produce relief for us the retailer. In essence, we would have the chance to compete with all of our strength and knowledge instead of having our hands tied with no hope of competing. By raising taxes, the state is tying our hands, restraining us from competing. We can not convince a customer to choose our store for their purchase, when we are behind by \$1.24 per pack before we ever set a retail. I understand needing revenues, but does the state understand the customer. We can not force them to pay higher taxes. We can not force them to stop smoking. They can and will choose to purchase their cigarettes and snuff through other avenues. They may choose Internet sales, black market sales, or simply drive over to Missouri. But they will choose and the retailers in Kansas will loose.

As you consider this tax increase, I ask that each of you please consider our company. I was born in Kansas and have never resided out side of the state. I have been in the convenient store business for over 20 years. We employ over 200 Kansas citizens who pay Kansas taxes and spend Kansas dollars. However, for the first time in my life, I am concerned for my job. Our company has a lot at stake if this tobacco tax and OTP tax is approved. Many of our stores are on the Missouri border and we can not with stand another loss of sales.

Please do not tie our hands so that we can not compete. We are responsible retailers who work hard at enforcing the "We card" program. We will actively participate in the "Can Work" program if we are ever given a chance. We offer our employees health insurance at a payroll deduction. We have become better retailers, by implementing technology and theft controls. We take pride in being a great place for Kansas customers to shop. Please give us this chance to compete. We can not do so if we are at a disadvantage of \$1.24 per pack of cigarettes and \$1.55 per can of snuff.

We are a Kansas retailer with serious concerns. All of us need our jobs. When the decision time is at hand, I ask each of you to remember our company. There has to be a better way to meet the states financial needs that does not create death to small businesses. One that does not tie the hands of the state's retailers. We are not asking for a hand out, we are asking for a chance to compete.

Brenda Ellsworth



**Quick Stop**  
**510 Utah Ave**  
**Atchison Kansas 66002**  
**913-367-5104**

---

Mr. Chairman and member of the House Tax Committee, my name is Bill Murphy and I own two (2) Convenience Stores in Atchison Kansas, just a stones throw from the Missouri border. I am here to oppose HB 2737. While I am sure you are aware of the variance between the Kansas tax on tobacco and the Missouri tax on tobacco, you may NOT be aware of the results of that variance.

When Kansas last increased the tax on tobacco, we saw our tobacco sales decrease by two thirds (2/3). In direct proportion to this, our customer count, the real measuring stick for our business, decreased by nearly one half. Consequently, our non tobacco sales decreased and consequently our income and ability to operate. I believe that an additional increase could be the death knell for businesses like mine. I don't mind competing with my Missouri counterparts, but the state of Kansas has put me and many others like me at a competitive disadvantage.



One thing that I have learned in the last 25 years in this business, is that the primary beneficiary of my business is the State of Kansas---Not me or my family, not my banks, or even my community—the State of Kansas. Harming my business by an unbelievable tax increase would ultimately hurt Kansas. The State of Kansas makes today .79 cents on a pack of cigarettes that I sell. For your information, I make less that .30 cents on the average. I do this to compete with my counterparts in Missouri. It is already tough.

While I am not here to discuss what these additional funds would be used for, for that is another story for another time, I am concerned that the people who would pay this additional tax are those who can least afford it.

Statistics show that smokers are generally less educated, and have lower incomes than non smokers. Let's be fair. If there is a need for additional funding, it would be every ones problem, not just smokers.

I would like to repeat myself if I may. Let's be FAIR. Let me as a business remain competitive. Don't make those who can least afford this tax bear the burden of questionable policy.

I do greatly appreciate the opportunity to make my comments here today. I strongly urge this committee to oppose HB 2737.

Thank you.

**From:** Amy Michellich [mailto:[amy@darasfastlane.com](mailto:amy@darasfastlane.com)]  
**Se** /ednesday, February 06, 2008 11:17 AM  
**To:** ...n palace  
**Subject:** RE: testimony for HB 2737 due tomorrow

Written comments for Chris Darrah:

Increasing price will increase theft. Smash and grabs at convenience stores tend to result in a huge loss in cigarettes, which are then sold by the thieves on the "black market".

Who will be able to access the tax money from the Master Tax Settlement? Is all the money for Health Care only, or will others be able to dip into the funds as well?

When do we stop taxing? It is getting out of control... fuel, cigarettes...What about a "fat tax" on fast food restaurants? Or increased taxes on alcohol?

There is a study that has shown that smokers and obese people cost the health care system less money than skinny, non-smoking, healthy people, simply because they live longer. So why don't we punish the people that are causing the problem?

Finally, why should we financially punish people? We should instead try to find ways to get people to live healthier lives.

*Amy Michellich*

Office Manager  
Dara's Fast Lane, Inc  
1115 Westport Drive Suite B  
Manhattan, Kansas 66502  
(785) 537-2882  
[amy@darasfastlane.com](mailto:amy@darasfastlane.com)

**G.A. KRUEGER, INC.**

18700 Metcalf Ave.  
Stilwell, Kansas  
Johnson County  
66085  
816.769.4435

February 7, 2008

Mr. Chairman and members of the House Tax Committee, my name is Gary Krueger. My wife and I own and operate Gary's BP located at 13015 State Line Road in Kansas City, Missouri and Krueger BP located at 7900 W. 151<sup>st</sup> Street in Overland Park, Kansas. Krueger BP (at the corner of 151<sup>st</sup> and Hwy 69), in Kansas, is four miles West and two miles South of Gary's BP, in Missouri. I am here to oppose HB 2737.

The last Kansas cigarette tax increase on July 1, 2002 resulted in the following tax discrepancies between my two locations:

Missouri tax per carton is	\$1.70 per carton
Kansas City tax per carton is	<u>\$1.50 per carton</u>
Total	\$3.20 per carton

Kansas tax per carton is \$7.90 per carton

This tax difference naturally has made the retail price of cigarettes in Kansas significantly greater than Kansas City Missouri, not to mention those Missouri border municipalities that do not have the KCMO city tax.

I would like to share some operating information from our two stores, one on the State Line Road in Missouri and one four miles West of the State line. The attachment I have prepared for you illustrates the flow of cigarette sales, customers and related sales from our Kansas store to our Missouri location since the last dramatic cigarette tax increase on July 1, 2002.

I expect that another cigarette tax increase will have the same effect that we experienced in 2002. Our Kansas customers and their business as it relates to cigarettes, tobacco and associated purchases will flow at an even greater rate to border states, such as Missouri that have lower taxes on these items.

I appreciate the opportunity to make comments today and I urge the committee to oppose HB 2737.

### Cigarette Sales

	<b>Kansas Krueger BP</b>		<b>Missouri Gary's BP</b>		<b>Difference MO-KS</b>
2001	\$196,978		\$232,903		\$35,925
2002	\$145,392	(\$51,586)	\$284,235	\$51,332	\$138,843
2003	\$144,174		\$274,675		\$130,501
2004	\$145,795		\$282,571		\$136,776
2005	\$135,238		\$304,464		\$169,226
2006	\$147,519		\$324,479		\$176,960

### Customer Count

2001	650		949		299
2002	509	-141	969	20	460
2003	528		941		413
2004	568		960		392
2005	549		959		410
2006	578		1013		435

### Total Non-Fuel Sales Including Cigarettes and Tobacco

2001	\$505,974		\$755,995		\$250,021
2002	\$418,840	(\$87,134)	\$879,233	\$123,238	\$460,393
2003	\$437,688		\$832,869		\$395,181
2004	\$445,297		\$841,025		\$395,728
2005	\$466,535		\$874,644		\$408,109
2006	\$515,491		\$947,108		\$431,617



# AMERICANS for TAX REFORM

Grover G. Norquist  
President

## Statement of Grover Norquist, President, Americans for Tax Reform

submitted to the

House Taxation Committee

on HB 2737

February 7, 2008

My name is Grover Norquist and I am the President of Americans for Tax Reform, a national taxpayer advocacy group located in Washington, D.C. I would like to thank you for the opportunity to submit testimony in opposition of HB 2737.

Raising taxes is only a way to paper over the need to set budget priorities rather than a solution to all of the state's funding woes. Just as taxpayers cannot print more money when they spend more than they earn, state governments must make responsible fiscal decisions and undertake real reform.

Experience shows that tobacco tax increases encourage illegal activities, including tax evasion, smuggling and buying and selling on the black market. Given that Kansas's current tax rate on tobacco products is 50 cents higher than in neighboring states, the temptation to purchase products across the border will be substantial. In particular, if HB 2737 were to pass, a carton of cigarettes would cost \$5 more in Kansas than in neighboring Missouri.

In general, higher taxes will deter businesses from thriving in Kansas. Higher taxes on consumers will threaten a strong economy and only further disable one that is weak. According to a study by the Small Business and Entrepreneurship Council, New York City lost \$127 million in profits for small businesses and some 10,000 jobs when it raised the tobacco tax. Eighty-eight percent of small businesses reported that they were hurt by the tax increase. This unnecessary tax increase will only remove additional money from the hands of small business owners and families who contribute greatly to the overall economic success of the state.

According to a study by Americans for Tax Reform Foundation, Kansans worked 186 days to pay off their share of the total cost of government spending and regulation last year. If this tax increase passes, the burden would only become heavier.

I urge you to oppose HB 2737. Not only would a tax increase be lethal to taxpayers and the overall Kansas economy; raising taxes is what you do when you don't govern.

HS Taxation  
2-7-08  
Attachment 12

1920 L Street NW

Suite 200

Washington, DC

20036

T: (202) 785-0266

F: (202) 785-0261

[www.atr.org](http://www.atr.org)