

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:34 A.M. on February 12, 2008, in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Athena Andaya, Kansas Legislative Research Department
Bruce Kinzie, Office of Revisor of Statutes
Karen Clowers, Committee Assistant

Conferees appearing before the committee:

Senator Roger Ritz
Senator Jim Barnett
Dr. Roy Jensen, Director, University of Kansas Cancer Center
Dr. David Meyers, Professor of Internal Medicine & Preventive Medicine, KU School of Medicine
Leon F. Vinci, Director, Johnson County Public Health Department
Dr. Howard Rodenberg
Terri Roberts, Executive Director, Kansas State Nurses Association
Mary Jane Hellebust, Executive Director, Tobacco Free Kansas Coalition
Garry Winget, Kansans for Addiction Prevention
Rod Bremby, Secretary, Department of Health and Environment
Senator David Wysong

Others attending:

See attached list.

Senator Jean Schodorf requested introduction of a bill regarding *ex parte* communication between judges and case workers in child custody cases. Senator Journey moved, Senator Goodwin seconded, to introduce the bill. Motion carried.

The Chairman opened the hearing on **SB 493–State-wide prohibition on smoking in indoor public areas.**

Senator Roger Reitz appeared in support, stating tobacco usage is a major contributor to several devastating diseases and secondhand smoke contributes to these diseases (Attachment 1). The costs to the general public, insurance premiums, Medicaid, and Medicare are becoming astronomical. Senator Rietz encouraged enactment of the bill and the county-by-county vote.

Senator Jim Barnett spoke in favor, stating it is the responsibility of government to protect the safety and welfare of its citizens (Attachment 2). **SB 493** represents sound public policy to ensure that Kansans do not inhale carcinogens when in public buildings and he supports the opportunity to offer that choice on November 4, 2008.

Dr. Roy Jensen testified in support, indicating reducing and eliminating exposure to cigarette smoke will save lives (Attachment 3). Lung cancer is the leading cancer killer in the U.S. By eliminating exposure to cigarette smoke, lives will be saved. Studies have shown smoke-free policies and regulation do not have an adverse effect on the hospitality industry and implementation of this bill will provide a level playing field for all businesses.

Senator David Wysong presented supporting testimony on behalf of Dr. Richard Carmona, 17th Surgeon General of the United States, in support of the bill (Attachment 4). Cigarette smoking is the leading preventable cause of death in the United States and cited data from *The Health Consequences of Involuntary Exposure to Tobacco Smoke - A Report of the Surgeon General* published in 2006.

Dr. David Meyers appeared as a proponent, stating cigarette smoking is the leading cause of preventable illness and premature death in the United States (Attachment 5). Dr. Meyers provided a summary of scientific data on the hazards of second hand smoke. Research shows that smoking is a health hazard, secondhand smoke is a health hazard, and bans on public smoking result in health benefits.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:34 A.M. on February 12, 2008, in Room 123-S of the Capitol.

Leon Vinci spoke in support, indicating Johnson County was the first county in Kansas to pass a resolution creating restrictions on smoking in public places and places of employment (Attachment 6). Other counties and municipalities have since enacted restrictions, some stricter with various exemptions resulting in a patchwork of protection extending across the State. Mr. Vinci encouraged this "consistency issue" be addressed. He also proposed to either:

- add a date certain by which all counties would come into compliance,
- pass the measure without the county by county vote, or
- make the bill effective statewide once 50% of the State enacted the restrictions.

Dr. Howard Rodenberg testified in favor, as an advocated of clean indoor air (Attachment 7). Dr. Rodenburg stated a recent survey shows that over 70% of Kansas favor clean indoor air laws and by placing the issue in the hands of the voters legislators can demonstrate that they are responsive to the will of the people.

Terri Roberts appeared in support, and proposed deletion of New Section 9, which requires a local ballot on the issue (Attachment 8). Ms. Roberts voiced concern that well financed tobacco companies will fight tobacco restrictions at the local level to defeat the initiative, county by county.

May Jane Hellebust spoke in support, but also voiced concern on the county by county vote fearing the tobacco industry could pour excessive funds into a media blitz to defeat the measure (Attachment 9).

Garry Winget spoke in favor, indicating a statewide smoking ban is critical in a market based economy where the profit motive comes before health concerns of staff or customers (Attachment 10). It is often difficult for owners in rural communities that have only one restaurant or bar to make the move to smoke free without the backing of a state law. Mr. Winget thinks the bill is good public policy and encouraged favorable passage of the bill.

Senator David Wysong testified as a proponent, stating **SB 493** is about saving lives (Attachment 11). There are several myths concerning indoor clean air laws. Many business owners claim clean air laws ruin local business. The reality is several studies have shown that clean air laws do not kill local businesses. Another myth is that clean air laws are anti-smoker. These laws are anti-smoke and seek to protect everyone's right to breath clean air. Restaurant and bars are already regulated with public health and safety laws so the argument that business owners should be able to use their property with no restriction is a fallacy. And last, people do not choose to work in these places. Young people and minorities are disproportionately represented among restaurant and bar workers, it is often a choice between supporting themselves and their families' or endangering their health.

Dave Pomeroy appeared in support, stating several restaurants have the perception (Attachment 12) . The passage of a statewide smoking ban in public places will save the lives of many Kansas and make for a healthier state.

Secretary Rod Bremby testified in support, indicating Kansas is not alone in banning public smoking (Attachment 13). Secretary Bremby suggested changing the language of the bill to "the Kansas smoking restriction act" rather than characterizing the act as one of "prohibition" and requested resources be provided to Kansas Department of Health and Environment to launch a public education program to support the smoking restriction legislation.

Written testimony in support of **SB 493** was submitted by:

- Robert Vancrum, Greater Kansas City Chamber of Commerce (Attachment 14)
- Chad Austin, Vice President, Kansas Hospital Association (Attachment 15)
- Dan Morin, Kansas Medical Society (Attachment 16)
- Teresa Walters, Executive Director, Emporians for Drug Awareness (Attachment 17)
- Kathleen B. Sexton, City Manager, City of Derby (Attachment 18)

The Chairman indicated the hearing on **SB 493** would continue tomorrow.

The meeting was adjourned at 10:25 A.M. The next scheduled meeting is February 13, 2008.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 2-12-08

NAME	REPRESENTING
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Chad Austin	KHA
Phil Bradley	KLBA
Lin WL	OJA
Cyndi Hermualto-Legg	KHAC
Paula Marmont	KDHE
BT Rodman	SOS
Billie Hare	Sunborn Corp
Suzanne Winkle	Ks Action for Children
HOWARD BOESENCH	SEE
DRUE HEINEMANN	Am. Cancer Society
LISA BENLON	AMER. CANCER Soc.
Adam Reel	N/A
David Kensing-er	Penn National Gaming
Matt Hickam	Kensing-er + Associates
Terri Roberts	Ks. State Nurses Assn.

ROGER REITZ

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TOPEKA

SENATE

COMMITTEE ASSIGNMENTS

MEMBER: COMMERCE
 ELECTIONS AND LOCAL GOVERNMENT
 FEDERAL AND STATE AFFAIRS
 UTILITIES

Five Kansas Senators support a bill that would ban smoking in the workplace and in public areas throughout the state. In the bill, as drafted, exceptions would not be accepted and, if passed, the law would be presented to all voters in Kansas for final ratification. Tobacco usage is a major contributor to causes of devastating diseases such as stroke, heart attack, cancer of the head and neck, bladder and lung. Second hand smoke has categorically been proven to contribute to these diseases as well. This cannot be overstated. We are talking about disease, death, and heartache by family and friends.

Moreover, the costs to the general public reach astronomical proportions for these illnesses affecting all of our insurance premiums, to say nothing about our tax dollars for medicare and medicaid. We cannot continue to tolerate this upward pressure on our health care dollar.

We want to bring this issue to the people of Kansas, who, county by county, would be allowed to make their wishes known. The legislators vote and governor's approval would allow this to happen.

Government cannot stop tobacco use but it can still do more to discourage it, all for the better.

Roger P. Reitz M.D.
 Kansas Senator District 22

Senate Judiciary

2-12-08Attachment 1

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



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS
CHAIR: PUBLIC HEALTH AND WELFARE
VICE CHAIR: KANSAS HEALTH POLICY AUTHORITY
OVERSIGHT COMMITTEE
MEMBER: FINANCIAL INSTITUTIONS AND
INSURANCE
HEALTH CARE STABILIZATION FUND
ORGANIZATION, CALENDAR AND RULES

SENATE JUDICIARY COMMITTEE

February 12, 2008

Senate Bill 493 - State-wide prohibition on smoking in indoor public areas.

Chairman Vratil and other distinguished members of the Senate Judiciary Committee, I am honored to come before you and speak in support of Senate Bill 493.

The Kansas Health Policy Authority has offered a broad and comprehensive health care reform package to the 2008 Kansas Legislature. Thanks to the members of the KHPA board, advisory councils, and the Health for all Kansans Steering Committee, a state-wide clean air policy was included in their reform package.

I believe one of the most important responsibilities of government is to protect the safety and welfare of our citizens. Senate Bill 493 represents sound public policy to ensure that Kansans do not inhale carcinogens when in public buildings. The legislation also protects one of our most important freedoms, the right to vote.

I am confident that a majority of the people of Kansas do want to breathe clean and safe air. We have the historic opportunity to offer Kansans that choice on the November 4, 2008, ballot.

I commend the leadership of the Kansas Senate, both from the Republican and Democratic parties, for expressing support of this legislation. Majority Leader Derek Schmidt has played a critical role in bringing forth a bill that has a chance of passing the legislature and being signed into law. I also commend Governor Kathleen Sebelius for her willingness to join with the Kansas Legislature and Health Policy Authority in our mutual effort in making Kansas healthier and providing a safer environment for our citizens.

Thank you again for the opportunity to come before your committee.

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Senate Judiciary
2-12-08
Attachment 2

Testimony Before the Senate Committee on Judiciary
9:30 am, Tuesday, February 12, 2008
123 South, Kansas State Capitol

Testimony in Support of the Kansas Uniform Smoking Prohibition Act
by Roy Jensen, MD
Director, University of Kansas Cancer Center

Mr. Chairman and Members of the Committee:

I am pleased to have received an invitation to appear before you today and provide testimony in support of SB 493, the Kansas Uniform Smoking Prohibition Act. I am appearing here today as the director of the University of Kansas Cancer Center and on behalf of my colleagues, including my deputy director, Karen Kelly who is a world-renowned lung cancer specialist. More importantly I am also here on behalf of the 1,530 people who died from lung cancer in Kansas this past year.

It is our goal at the KU Cancer Center to eliminate deaths from cancer in our state. As most of you know we are building a world-class cancer center to obtain the National Cancer Institute designation. As a Cancer Center, we can treat patients, we can diagnose, and we can develop novel therapies for patients, but we can't create public policy that has the potential to save more lives than we can imagine. SB 493 can do this and goes hand in hand in fulfilling our mission at the KU Cancer Center.

This issue is one that we have addressed in past legislative sessions, but never before do I believe we have such momentum and such a need than we do now to pass this legislation into law. I cannot think of another opportunity that can directly affect and impact the number of deaths from tobacco than with this measure.

There is a disconnect between what we know and what we actually do. We know that by reducing and eliminating exposure to cigarette smoke, we will save lives. Twenty-two states and the District of Columbia have passed statewide smoking bans. 37 NCI designated cancer centers are located in those 22 states.

Lung cancer is the number one cancer killer in the United States and in Kansas. Nearly 5,500 people died from cancer this year in Kansas and of those 1,530 were lung cancer deaths. Lung cancer kills more people in Kansas and the United States than breast, colon, and prostate cancers combined. This is unacceptable.

In 2006 the United States Surgeon General issued a landmark report stating there is no risk-free level of secondhand smoke exposure. He concluded the only way to fully protect nonsmokers is

to completely eliminate smoking in indoor spaces by implementing policies that establish smoke-free environments.

The Surgeon General also concluded that smoke-free policies and regulations do not have an adverse economic impact on the hospitality industry. By implementing a statewide law, the playing field is leveled for all businesses, and more importantly, lives will be saved.

The health effects of secondhand smoke speak for themselves. Even a short amount of exposure to secondhand smoke causes adverse health effects.

Now is the time to put the lives of our families, children and all residents of Kansas first by passing a statewide smoking ban. Do this because we can reduce the number of deaths from lung cancer and save lives. But more importantly, it is the right thing to do.

I appreciate this opportunity to testify today. I would be happy to respond to any questions you may have.

Respectfully submitted,

Roy A. Jensen, MD



Smoking Statistics Fact Sheet
University of Kansas Cancer Center

Smoking Statistics: Kansas

- In Kansas, nearly 5,500 people will die from cancer, and of those 1,530 will be from lung cancer.¹
- Lung cancer kills more people in Kansas and in the United States than breast, colon, and prostate cancers combined.²
- The annual health care costs in Kansas directly caused by smoking is \$927 million (this amount does not include exposure to secondhand smoke).³

Smoking Statistics: National

- In 2006, the U.S. Surgeon General issued a report concluding there is no risk-free level of secondhand smoke, and the only way to fully protect nonsmokers is to completely eliminate smoking in indoor spaces by implementing policies that establish smoke-free environments.⁴
- Tobacco accounts for about 1.4 million, or about 20% of deaths from cancer annually worldwide.⁵
- The risk of lung cancer in non-smokers exposed to passive smoking increases by 30%, and the risk of heart disease increases by 23%.⁶
- Scientific evidence has shown conclusively that smoking causes health problems throughout life in addition to cancer, including heart attacks, strokes, pulmonary disease, asthma, and emphysema.⁷

Other Public Policy Statistics:

- Twenty-two states and the District of Columbia have approved comprehensive smoke-free air legislation including: Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Minnesota, Montana, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oregon, Rhode Island, Utah, Vermont, and Washington.⁸
- By implementing several comprehensive tobacco control measures (including smoke-free workplace laws), New York City's smoking rate declined from 21.6 percent to 17.5 percent in 2006, resulting in 240,000 fewer smokers, which prevented an estimated 80,000 deaths from smoking related causes.⁹

*For more information, contact: Erica R. Brown, Cancer Communications Manager, 913-588-2598 or ebrown4@kumc.edu.

¹ American Cancer Society. *Cancer Facts & Figures 2007*. Atlanta, Ga.: American Cancer Society; 2007. Available at http://www.cancer.org/docroot/STT/content/STT_1x_Cancer_Facts_Figures_2007.asp.

² American Cancer Society.

http://www.cancer.org/docroot/STT/content/STT_1x_Cancer_Facts_Figures_2007.asp.

³ U.S. Department of Health and Human Services. *Sustaining State Programs for Tobacco Control Data Highlights 2006*. Washington, D.C.: Centers for Disease Control and Prevention; 2006.

⁴ U.S. Department of Health and Human Services. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: a Report of the Surgeon General*. Atlanta, Ga.: U.S. Department of Health and Human Services, Center for Disease Control and Prevention, Coordinating Center for Health Promotion, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.

⁵ American Cancer Society. *The Cancer Atlas*. Atlanta, Ga.: American Cancer Society, 2006. Available at:

http://www.cancer.org/docroot/AA/content/AA_2_5_9x_Cancer_Atlas.asp.

⁶ World Health Organization. *The Tobacco Atlas*. Switzerland: World Health Organization, 2002. Available at:

http://www.who.int/tobacco/statistics/tobacco_atlas/en/.

⁷ World Health Organization. http://www.who.int/tobacco/statistics/tobacco_atlas/en/.

⁸ American Lung Association. *2007 State Legislated Actions on Tobacco Issues Mid-Term Report*. New York, NY: American Lung Association, July 2007. Available at:

<http://slati.lungusa.org/reports/SLATI2007MidTermReport.pdf>.

⁹ American Lung Association. <http://slati.lungusa.org/reports/SLATI2007MidTermReport.pdf>.



RICHARD H. CARMONA, M.D., M.P.H., FACS
17th Surgeon General of the United States (2002-2006)

February 6, 2008

The Honorable David Wysong
Kansas State Senate
300 SW 10th Avenue
141-E
Topeka, KS 66612

Dear Senator Wysong:

I am writing to you to express my support for the effort you and others are making to give the citizens of Kansas the opportunity to vote for a statewide smoking ban.

As you know, experts from around the world contributed to the Report I issued in 2006 as 17th Surgeon General of the United States, *The Health Consequences of Involuntary Exposure to Tobacco Smoke – A Report of the Surgeon General*. The scientific evidence found in the Report is indisputable: secondhand smoke is not a mere annoyance. It is a serious health hazard that can lead to disease and premature death.

There is no risk-free level of exposure to secondhand smoke. The finding is of major public health concern due to the fact that nearly half of all nonsmoking Americans are still regularly exposed to secondhand smoke.

The good news is that over 20 states and hundreds of communities throughout the world have taken legislative action as a result of the 2006 Surgeon General's Report. Localities have passed legislation to ban commercial tobacco products in public places, restaurants, bars, casinos, and other workplaces. Although some feared negative impact on business revenues, their concerns are proving to be unfounded as people "vote with their feet" and show their preference for smoke-free locations.

Cigarette smoking is the leading preventable cause of death in the United States. The U.S. Centers for Disease Control and Prevention estimates that 60 million adults smoke, and that smoking is responsible for nearly 450,000 deaths each year. Nonsmokers who are exposed to secondhand smoke inhale the same toxins and cancer-causing substances as smokers. Secondhand smoke has been found to contain more than 50 carcinogens and at least 250 chemicals that are known to be toxic or carcinogenic.

The 2006 Surgeon General's Report offers these scientific conclusions:

1. Secondhand smoke causes premature death and disease in children and in adults who do not smoke.
2. Children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory infections, ear problems, and more severe asthma. Children who are exposed to secondhand smoke experience respiratory symptoms and slower lung growth.

3. Adults who are exposed to second hand smoke experience immediate adverse effects to the cardiovascular system. Nonsmokers exposed to secondhand smoke at home or work increase their risk of developing heart disease by 25 to 30 percent and lung cancer by 20 to 30 percent.
4. There is no risk-free level of exposure to secondhand smoke.
5. Many millions of Americans, both children and adults, are still exposed to second hand smoke in their homes and workplaces despite substantial progress in tobacco control.
6. Eliminating smoking in indoor spaces fully protects nonsmokers from exposure to secondhand smoke. Separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot eliminate exposures of nonsmokers to secondhand smoke.

I commend you and your colleagues for all that you are doing to protect and promote the health of all Kansans. I wish you success in achieving the statewide smoking ban, and I am standing ready to support your effort.

In Good Health,

Richard H. Carmona, M.D., M.P.H., FACS
17th Surgeon General of the United States (2002-2006)
Vice Chairman, Canyon Ranch
CEO, Canyon Ranch Health
President, Canyon Ranch Institute
Distinguished Professor, Zuckerman College of Public Health,
University of Arizona

The Cardiovascular Effects of Bans on Smoking in Public Places

Testimony given before the Judiciary Committee
of the Kansas State Senate

February 12, 2008

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Internal Medicine
Cardiovascular Disease
Public Health and Preventive Medicine
Clinical Lipidology

Senate Judiciary

2-12-08
Attachment 5

Cigarette smoking is the leading cause of preventable illness and premature death in the United States.¹ Epidemiologic or observational studies have consistently found smoking to be a health hazard. No study has ever shown smoking to be beneficial. Between 40 – 60% of cigarette smokers will die of a smoking related disease. Indeed, more women now die either of heart attack or of lung cancer than die of breast cancer. Compared to non-smokers, smokers are 15,000% more likely to acquire lung cancer and are 11,000% more likely to acquire chronic lung disease. Smokers are twice (or 200%) as likely to have a heart attack, which is explained by several mechanisms including an almost immediate increase in blood clotting after exposure to tobacco smoke. These risks increase with increasing amount and duration of smoking. Smokers lose more than 12 years of life and experience about 2.5 more years of disability as compared to non-smokers.^{3,4}

Today, it has been proved absolutely beyond question that cigarette smoking is a powerful health hazard to the smoker. Even those in the tobacco industry no longer deny this. But, passive smoking or second hand smoke is another matter. While the majority of informed persons believe it to be a health hazard, some are yet unconvinced. Allow me today to briefly summarize the available scientific data.

But first, let us review the evidentiary rules used in science, which differ from those used in the courts. Ideally, science uses controlled experiments to test a hypothesis. The scientific study design that is most accurate and least likely to be adversely influenced by bias, confounding, and the play of chance is the so called “Randomized Clinical Trial” which prospectively allocates the exposure under study in a random way and later ascertains the effect of that exposure. The problem is, to allocate non-smokers to become experimental cigarette smokers is absolutely unethical. Thus, there will never be a randomized clinical trial of smoking. As a result, we must necessarily settle for less than perfect non-experimental scientific evidence obtained from observational studies. Observational studies are unfortunately subject to the effects of possible bias, confounding, and the play of chance. One way to minimize the play of chance is to pool the results of all available studies together. This is called a meta-analysis.

The late Sir A. Bradford Hill, one of the founders of modern epidemiology and an author of the first cohort study of cigarette smoking (1954⁵) proposed the modern scientific criteria for proving causation.⁶ These include:

Strength of Association
(How large is the effect)

Dose Response Relationship
(Does the amount of exposure affect the outcome)

Consistency of Association
(Do other study find the same thing)

Temporally of Association
(Does the exposure necessarily precede the outcome)

Specificity of Association
(Does the exposure always cause the same outcome)

Biological Plausibility
(Does the expose-outcome relationship have a biologic mechanism)

For direct cigarette smoking, the association to lung and heart disease and cancer is strong, graded, consistent, prospective, specific, and biologically plausible. We must use these same criteria to judge the validity of the evidence of any health hazard of second hand smoke.

Tobacco smoke contains over 4000 chemicals, including more than 50 which are cancer-causing. Levels of second hand smoke encountered indoors are enough to allow cotinine (the most easily measured constituent of tobacco) to be detectable in 88% of exposed non-smokers.⁷ As little as 20 minutes of exposure to second hand smoke causes biological changes (such as increased blood clotting) that can cause heart attacks.⁸ Nicotine vapor

concentrations in indoor air have been shown to decrease by 90-95% after institution of a smoking ban in Italy.⁹

In a meta-analysis which pooled the results of 25 studies of adults, second hand smoke in the work place result in a 22% increase in risk of lung cancer.¹⁰ This was confirmed by a meta-analysis of 58 studies which additionally noted a significant dose-response trend.¹¹ The EPA estimates that second hand smoke increases respiratory symptoms by 30 – 60% and work related respiratory disability by 80%.¹²

Second hand smoking increased the risk of heart attack by 31% in a meta-analysis which included 29 studies.¹³ This effect is certainly less than the 200% increase in heart attacks seen in direct smokers, but is non-the-less both statistically significant and clinically important. In studies performed in countries with higher prevalence of cigarette smoking than seen in the United States, the risk of heart attack in persons exposed to second hand smoke was increased 50% in the British Regional Heart Study¹³, 62% in the 52 country INTERHEART Study¹⁴, and 156% in a case-control study performed in Greece¹⁵.

It follows that second hand smoke has been proved to have adverse health effects, including precipitating heart attacks.

In recent years, communities, states, and countries have established bans on public smoking. The effect of these bans on heart attacks have been examined in 5 studies, each of which can to some extent be criticized for design limitations. As a point of explanation, as opposed to say cancer, heart attacks were selected for study because the effect of a smoking ban would be almost immediately apparent, since heart attacks are precipitated by arterial clotting and even brief exposure to cigarette smoke induces overactive clotting. Conversely, cancer has a long latency period.

In June 2002, Helena, Montana passed a ban on public smoking.¹⁶ A court order suspended the ban in December, 2002. During the 6-month enforcement period, heart attack admissions to Helena's one hospital dropped by 40% (24 heart attacks compared to 40 in a population of 68,140) and returned to the previous baseline level after suspension of the ban. During the same time period, the number of heart attacks increased slightly in the surrounding communities.

In Pueblo, Colorado, where 23% of the 103,648 residents smoke, heart attack admission decreased by a statistically adjusted 26% (from 399 to 291) in the 18 months after a public smoking ban was enacted.¹⁷ A community 45 miles away experienced no change.

In New York, where many communities had already enacted public smoking bans, the State implemented a state-wide comprehensive smoking ban in 2003. The State Department of Health analyzed admission rate for heart attack over the preceding 9 years and found 3813 fewer admissions for heart attack after the ban (an 8% reduction over that already realized by the patchwork of local bans) with direct health care cost savings of \$56 million.¹⁸ Population exposure, as measured by cotinine levels dropped 50% after the ban.

Monroe County, Indiana (which includes the city of Bloomington) with a population of 120,563, established a ban on smoking in work places, retail stores, and restaurants (which excluded bars) in August, 2003.¹⁹ The demographically similar Delaware County with 118,769 people had no smoking ban. Over 22 months, heart attack admissions among non-smokers in Monroe County declined by 63%.

Admissions in Delaware County dropped by 10%. Among smokers, neither county experienced a significant change.

In January, 2005, the Italian government banned smoking in all public places, including cafes, bars, restaurants, and discos. Subsequent surveys documented: (1) almost universal observation of the ban,²⁰ (2) a 90-95% reduction in nicotine in the air,⁹ (3) an 8.9% decline in cigarette sales,²¹ and (4) a 7.6% reduction in cigarette consumption.²¹

In the Piedmont region of northern Italy, with a population of approximately 4.3 million, heart attack admission rates in persons under 60 years of age decreased from 52/100,00/year to 46/100,000/year, a statistically adjusted reduction of 11%.²¹ The investigators estimated that the reduction in active smoking observed with the ban could account for a 0.7% decline in heart attack admissions. Thus, the benefits were primarily seen in non-smokers.

The composite of these five observational ecologic studies, while not the ideal experimental proof of hypothesis, none-the-less satisfy all of Hill's criteria for causation and therefore prove that bans on public smoking reduce the frequency of heart attacks among non-smokers to a moderate degree.

We as yet have no evidence regarding the effect of bans on cancer and other diseases related to second hand smoke.

In Kansas, approximately 8,000 heart attacks occur each year. Using the extremes of the reductions in the 5 studies above (8% reduction in New York and 63% reduction in Italy), between 640 and 5,040 heart attacks could be prevented, or at least postponed, each year in Kansas by a ban on public smoking.

Conclusion

Given the substantial scientific evidence accumulated over more than 50 years of research:

- No longer can we question whether smoking is a health hazard. It is.
- No longer can we question whether second hand smoke is a health hazard. It is.
- No longer can we question whether a ban on public smoking results in health benefits. It does.

The only question now left for health policy makers to debate is the relationship between the size of the health and economic benefit accrued from a public smoking ban balanced against any economic, social, and political costs associated with such a ban.

Bibliography

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3. Centers for Disease Control and Prevention. Annual smoking-related Mortality, years of potential life lost, and productivity losses – United States, 1997 – 2001. *MMWR* 2005;54:625-628.
4. Taylor DH, Hasselbland V, Henley SJ, et al. Benefits of smoking Cessation for longevity. *Am J Public Health* 2002;92:990-996.
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8. Davis JW, Shelton L, Watanabe IS et al. Passive smoking affects endothelium and platelets. *Arch Intern Med* 1989;386:386-389.
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JOHNSON COUNTY HEALTH DEPARTMENT

dedicated to the prevention of disease and promotion of wellness for our community

February 12, 2008

Judiciary Committee
Topeka, Kansas

Dear Senator John Vratil, Chair :
Committee Members :

Good Morning. My name is Leon F. Vinci, DHA and I serve Johnson County as the Director of Public Health. I thank you for this opportunity to appear before you today in support of SB 493 on behalf of Chairman Annabeth Surbaugh and the Johnson County Board of County Commissioners.

In 2007 Johnson County became the first County in Kansas to pass a resolution creating restrictions on smoking in public places and places of employment. In addition to the county resolution covering the unincorporated areas, eleven municipalities in Johnson County have passed smoking restrictions that are more stringent than the current Kansas statute. As you are aware, other counties and communities in this great state have also recognized the importance of protecting the health of the public and have initiated local controls reducing exposure to tobacco smoke. In result, we currently see a patchwork of protection extending across our state. This condition can be ameliorated through the passage of a state law covering the whole state, with the health of all Kansans treated equally.

The Johnson County Board's recent vote emphasized support for SB 493 along with the assurance that local governments be allowed to impose more stringent restrictions than those outlined in state law. As you can see, this position clearly supports clean indoor air and upholds the important tenet of "local control" and "home rule".

Research supports limiting exposure to environmental tobacco smoke as sound public health policy. This is clearly a public policy issue that is very important to the Johnson County community. Johnson County Government believes that restrictions put in place by the state legislature through elections, or legislative action should serve as a floor, and not a ceiling for local communities.

Another issue at hand is that of parity. Much of the progress in Kansas has come on a city by city approach. A county by county approach through elections could bring protection to some Kansans, while leaving others unprotected. To truly improve the health of Kansans this 'consistency issue' must be addressed.

Senate Judiciary

2-12-08

Attachment 6

Health at the Highest Level

11875 South Sunset • Suite 300 • Olathe, Kansas 66061 • (913) 894-2525 • fax (913) 477-

In order to significantly *increase* the impact of this bill on the health of Kansans, I suggest three recommendations for your consideration. Please know that these recommendations are **not** being brought forward by the Johnson County Commission, but are mine as Director of Public Health for the county :

- 1) Hold elections as indicated in the current Bill, but add a date certain by which all Kansas Counties would come into compliance with Senate Bill 493. This would allow for communities who are ready to move forward now, while not leaving some unprotected indefinitely.
- 2) Pass the measure without the county by county vote, with possibly an extended date for implementation.
- 3) Follow the procedure outlined in the current Bill, but when enough counties reaching a population equal to, or greater than 50% of the state's population vote for the initiative, it becomes effective for the entire state.

The election process is a fundamental right of citizens wanting to shape the future of their communities. As you are aware as has been the case with tobacco issues, business interests often come forward with the intent of influencing public opinion. In 2006 RJ Reynolds committed 40 million dollars in 4 states to help defeat smoking restrictions and tobacco taxes (Arizona, California, Missouri and Ohio). In Arizona the funds were funneled through a group named "Non-smoker protection committee" and in Ohio "Smoke-Less Ohio."

The long term benefit of smoke free communities is reduced exposure to second hand smoke for children; reduced teen smoking and improvement in public health in Kansas. Smoking restrictions have done more to reduce smoking than any other strategy besides raising taxes on cigarettes. Smoking restrictions not only protect non smokers from the health effects and noxious odors of second hand smoke, but they also help smokers quit or cut down on smoking as well as serving to create and reinforce a nonsmoking social norm. A healthier state will result.

On behalf of the Johnson County Commission I appear before you today to urge your strong support for Senate Bill 493 and in protecting our residents and their families.

Thank you for your attention to this critically important public health measure, and I am available to respond to any questions you might have.

Yours for the Health of our State,



Leon F Vinci, DHA
Director of Public Health
Johnson County Government

Testimony in Support of SB 493

Senate Committee on the Judiciary

Howard Rodenberg, MD MPH

February 12, 2008

Chairman Vratil and Members of the Senate Judiciary Committee, I am Dr. Howard Rodenberg. Until this past November, I served as the Director of Health within the Kansas Department of Health and Environment and as State Health Officer. Today I appear before you as simply an Kansan interested in the health of our state. I appreciate the opportunity to support SB 493.

I've been involved in the clean indoor air debate since my arrival in Topeka four legislative sessions ago. Back in 2005, when I first participated in the debate, there was still some question regarding what science had shown about the harms of secondhand smoke. That question has essentially been answered by the 2006 United States Surgeon General's Report concluding that there is no safe level of secondhand smoke, and that there is no effective ventilation system that will dispose of it within an indoor environment. It's been interesting for me to watch as even opponents of clean indoor air acts have generally fallen away from any kind of clinical argument on the hazards of secondhand smoke, and often make sure to tell committee members that they are not smokers themselves and that they recognize the harms of tobacco use. I think these actions are a tacit admission that the scientific debate over the harms of secondhand smoke is effectively over. Similarly, you don't hear any arguments with the projections of lives saved, heart attacks prevented, or potential health care dollars saved. (This being said, you may hear such arguments tomorrow now that it's been mentioned!) I'm certain that other conferees will provide more detail on these clinical issues.

A recurrent point for opponents of clean indoor air is that such acts are "bad for business." Today I'm sure you'll hear from experts who can quantify the degree to which businesses are helped, or at least not hurt, in states and local communities with clean indoor air laws. I'm certain that tomorrow you'll hear from business owners who both fear the impact that a clean indoor air act might have on their revenues, and even a few tales of businesses gone under allegedly due to clean indoor air statutes. I don't blame anybody for this fear, as change is always difficult (and even more so in times of economic stress); and any business that fails wants to find a reason why. But I also think everyone in this room recognizes that many small business, including bars, survive or fail for any number of reasons. To blame these outcomes exclusively on clean indoor air acts seems to ignore the larger milieu in which these businesses operate, including a society where social smoking is decreasing in general. This seems especially true in communities where the number of liquor licenses is stable or rising even in the presence of clean indoor air rules. I've come to view the popular vote provision of SB 493 as a

tool for business to succeed...a way to find out what your customers really want so you can cater to their needs.

A second common argument against clean indoor air legislation is that it is the right of the business owner to determine what happens within their place of business. I would agree that the business owner does have that right, as long as the exercise of that right does not impinge upon the health and welfare of their patrons and employees. That's why we have occupational health regulations, especially where they pertain to exposure to hazardous substances like tobacco smoke. If we look at clean indoor air as an occupational issue, SB 493 offers more public input, and more sensitivity to local needs, than might be found through government regulation. Nobody gets to vote when OSHA or the EPA comes to town.

While these are the arguments that one hears in testimony, I'm not sure those are central issues anymore. In my observations, the issue has essentially come down to the relative roles and responsibilities of both the state and of local communities to regulate clean indoor air. We've heard that the legislature considers these decisions to best be made by local communities, while local communities are looking for the state to take the lead in establishing a level playing field throughout Kansas. While the clinician in me would like the state to simply enact a statewide clean indoor air law which applies to all locations in Kansas, these questions about local autonomy demand a more unique approach. Fortunately, Kansas has a prior model in the way by which "liquor-by-the-drink" was adopted nearly a decade ago.

I believe that SB 493 represents a unique and productive option for the state to promote the cause of health while respecting the wishes of the local community. It gives the citizens of Kansas the option of a total ban on indoor smoking in public places without exception, and addresses issues of pre-emption (the state not allowing more strict local regulation than seen in current state law) by establishing the optimal statewide "floor" as the total ban. If a county does not vote for the ban, there is no retraction past the current standard; the county can vote again at any time, and once a county votes to be consistent with the provisions of SB 493 is cannot later retract that vote. A vote to participate on the part of the county necessarily encompasses all cities within that county in the ban, establishing the "level playing field" desired by all; a vote to opt out does not prevent local communities within the county from establishing their own clean indoor air rules. Placing the issue on the general election ballot insures that the maximum number of Kansans can be involved in the decision-making process on a county-by-county basis. Most importantly, it responds to the wishes of Kansans to respect their home-rule traditions, where the voice of the people will truly be heard at a grass-roots level, where that voice reflects the community's drive for health.

As an advocate for clean indoor air, I welcome such a ballot issue. Polling sponsored by the Sunflower Foundation last year shows that over 70% of Kansans (and nearly a third of current smokers) favor clean indoor air laws. By placing the issue in the hands of the voters according to the provisions of SB 493, legislators can demonstrate that they are responsive to the will of the people. No doubt come November there will be significant

opposition to this act, and we can expect an orchestrated campaign to kill it. But I'm hopeful that Kansans are wise enough to see through the smokescreen...pun definitely intended...that will be funded by the tobacco companies and their allies.

At the start of the 20th Century, Kansas was a national leader in health policy. The time is right for Kansas to regain that lead through innovative solutions to difficult problems. SB 493 helps us to achieve that goal.

Thank you for the opportunity to appear before you today. I'll be happy to stand for any questions you might have at the appropriate time.



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SUSAN BUMSTED, M.N., R.N.
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S.B. 493 Statewide Prohibition on Smoking in Indoor Places

Senator Vratil and members of the Senate Judiciary Committee, I am Terri Roberts R.N., the Executive Director of the Kansas State Nurses Association. The Kansas State Nurses Association has taken formal positions in the past twenty years around smoking prevention, access to cessation, allocation of the master settlement agreement and clean indoor air. All of these have been aimed at supporting public policy that reduces tobacco consumption and the harmful health risks associated with second-hand smoke. Kansas would become one of the more than thirty states to pass clean indoor air laws, and this bill may have the greatest health impact of any piece of legislation passed this session.

The bill provides for a uniform statewide clean indoor air state law, which KSNA supports. It does however mandate that at the next general election following passage that each county put *opting in or out* of this “uniform statewide clean indoor law” on the ballot for the voters to vote on. Being health advocates, recognizing and acknowledging the importance of this new law, KSNA recommends that this bill would be a far better piece of legislation if **New Section 9** were removed.

We know that one county, Saline has already had their ordinance voted on by the people of the county and they supported their ordinance.

In Douglas County, their ordinance was legally challenged on its constitutionality and upheld by the Kansas Supreme Court.

The current incidence of smoking among adults in Kansas is 20%. Eighty (80%) percent of Kansans don't smoke. Why was there a referendum in Salina and a legal challenge in Lawrence? The simple answer is that the tobacco industry is working every day to promote their products and the venues in which they may be consumed. The tobacco industry is a well financed, highly motivated and logistically savvy in their approaches to fighting any and all tobacco prevention efforts. If this bill passes with New Section 9 intact, we can expect millions of dollars in expenditures by the tobacco industry to defeat the ballot initiative, county by county.

KSNA supports a statewide clean indoor air law. We believe it rises to the level of a “significant health” initiative that calls on state lawmakers to make the decision. We support the Kansas legislature making this important decision for the citizens of Kansas without the need for local ballot voting. Please consider amending the bill *to delete New Section 9* (beginning on page 5, line 8) and passing the bill out favorably. Thank You.



SMOKING ORDINANCES

Smoking Ordinances in Kansas

- Abilene-** All restaurants and workplaces smoke free
- Bel-Aire-** All restaurants and bars smoke free
- Concordia-** All restaurants smoke free
- Derby-**All workplaces smoke free 1-1-09, All restaurants and bars smoke free after 1-1-09 and
Wichita passes a similar ordinance
- Fairway-**All restaurants, bars, and workplaces smoke free
- Garden City-** All restaurants, bars, and workplaces smoke free
- Harvey County-** All restaurants, bars, and workplaces smoke free after
- Hesston-**All restaurants, bars, and workplaces smoke free
- Hutchinson-** All restaurants smoke free
- Johnson County-**All restaurants, bars, and workplaces smoke free
- Lawrence-** All restaurants, bars, and workplaces smoke free
- Leawood-** All restaurants, bars, and workplaces smoke free
- Lenexa-** All restaurants, bars, and workplaces smoke free
- Lyons-**Separately ventilated smoking areas **Mission Woods-**All restaurants, bars, and workplaces
smoke free
- Newton-**All restaurants, bars, and workplace smoke free after
- North Newton-** All restaurants, bars, and workplaces smoke free
- Olathe-**All restaurants, bars, and workplaces smoke free
- Ottawa-**All restaurants and workplaces smoke free
- Overland Park-**All restaurants, bars and workplaces smoke free on
- Parsons-**No smoking in restaurants and bars before 9:00 PM
- Prairie Village-**All workplaces smoke free
- Roeland Park-**All restaurants, bars, and workplaces smoke free
- Salina-**No smoking in restaurants and bars 5:00 AM to 9:00 PM
- Shawnee-**All workplaces smoke free, restuants and bars with less than 33% in food sales smoke
free
- Walton-** All restaurants and bars smoke free
- Westwood-**All restaurants, bars, and workplace smoke free

Overview List – How many Smokefree Laws?

Since the 1970s, the nonsmokers' rights movement has made significant progress towards clean indoor air. As of January 2, 2008, there are 2,671 municipalities with laws in effect that restrict where smoking is allowed. A state, commonwealth, or local municipality can pass a Workplace*, Restaurant**, or Bar law, or any combination of the three. We hope that the following concise statements are helpful.

As of January 2, 2008:

Local

- A total of **2,671** municipalities in the United States have local laws in effect that restrict where smoking is allowed.
- A total of **685** of these 2,650 municipalities have a 100% smokefree provision in effect at the local level – either in workplaces, **and/or** restaurants, **and/or** bars.
- There are **524** municipalities with a local law in effect that requires 100% smokefree workplaces.
- There are **488** municipalities with a local law in effect that requires 100% smokefree restaurants.
- There are **366** municipalities with a local law in effect that requires 100% smokefree bars.
- There are **327** municipalities with a local law in effect that requires **both** workplaces **and** restaurants be 100% smokefree.
- There are **364** municipalities with a local law in effect that requires **both** restaurants **and** bars be 100% smokefree.
- There are **251** municipalities with a local law in effect that requires workplaces, restaurants, **and** bars be 100% smokefree.
- There are **1,134** municipalities with a local law in effect that restricts smoking in one or more outdoor areas, including **656** that restrict smoking near entrances, windows, and ventilation systems of enclosed places; **615** that restrict smoking in public outdoor places such as parks and beaches; and **323** that restrict smoking in outdoor stadiums and other sports and entertainment venues. (Call us for more details.)

Note: Since some of the above have 100% smokefree coverage in more than one category, *the numbers are not mutually exclusive.*

State and Local

- Across the United States, **12,559** municipalities are covered by a 100% smokefree provision in workplaces, **and/or** restaurants, **and/or** bars, by **either** a state or local law, representing **62.8%** of the US population.
- **35** states and the District of Columbia have local laws in effect that require 100% smokefree workplaces **and/or** restaurants **and/or** bars.

State and Commonwealth

- A total of **26** states, along with Puerto Rico and Washington D.C., have laws in effect that require 100% smokefree workplaces **and/or** restaurants **and/or** bars:

Arizona: Workplaces, Restaurants, and Bars

California: Restaurants and Bars

Colorado: Restaurants and Bars

Connecticut: Restaurants and Bars

Delaware: Workplaces, Restaurants, and Bars

Florida: Workplaces, and Restaurants

Hawaii: Workplaces, Restaurants, and Bars

Idaho: Restaurants

Illinois: Workplaces, Restaurants, and Bars

Louisiana: Workplaces and Restaurants

Maine: Restaurants and Bars

Massachusetts: Workplaces, Restaurants, and Bars

Minnesota: Workplaces, Restaurants and Bars

Montana: Workplaces and Restaurants

Nevada: Workplaces and Restaurants

New Hampshire: Restaurants and Bars

New Jersey: Workplaces, Restaurants, and Bars

New Mexico: Restaurants and Bars

New York: Workplaces, Restaurants, and Bars

North Dakota: Workplaces

Ohio: Workplaces, Restaurants, and Bars

Puerto Rico: Workplaces, Restaurants, and Bars

Rhode Island: Workplaces, Restaurants, and Bars

South Dakota: Workplaces

Utah: Workplaces and Restaurants

Vermont: Restaurants and Bars

Washington: Workplaces, Restaurants, and Bars

Washington D.C.: Workplaces, Restaurants, and Bars

- A total of **twelve** states, along with Puerto Rico and Washington D.C, have a state law *in effect* that requires workplaces, restaurants, **and** bars be 100% smokefree.

Note: The following state laws have been passed by legislature and signed by governor but are not yet in effect:

- **Maryland** enacted a 100% smokefree workplace, restaurant, and bar law, which is scheduled to go into effect February 1, 2008.
- **Montana** enacted a 100% smokefree bar law, which is scheduled to go into effect October 1, 2009.
- **Oregon** enacted a 100% smokefree workplace, restaurant, and bar law, which is scheduled to go into effect January 1, 2009.
- **Utah** enacted a 100% smokefree bar law, which is scheduled to go into effect January 1, 2009.

*Includes both public and private non-hospitality workplaces, including, but not limited to, offices, factories, and warehouses.

**Includes any attached bar in the restaurant.

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[LS-08]



Tobacco Free Kansas Coalition
In Support of HB 493
Before the Senate Judiciary Committee
February 12, 2008

Chairman Vratil and Members of the Senate Judiciary Committee:

I am Mary Jayne Hellebust, director of Tobacco Free Kansas Coalition, which is composed of professional and voluntary health associations, wellness and tobacco prevention coalitions, and other local and state agencies committed to reducing the terrible toll of disease, death, and health costs in Kansas.

The Tobacco Free Kansas Coalition wishes to express its gratitude for the senators who have helped focus on the need for protecting all Kansans from exposure to secondhand smoke in public places. We believe SB 493 offers comprehensive, fair protection to the citizens of Kansas, without denying anyone protection through gratuitous exemptions, and without preemption of local governments' ability to pass still stronger statutes. Were it not for the substantive problems coming from the sections on county-by-county voting, the Coalition would eagerly give it unqualified support.

The consequences of this county-by-county vote provision have been discussed at length among our members. We appreciate in principle the merits of a popular vote and self-determination. However, legislative statutes usually passed by the Kansas legislature do not ask local constituents to ratify matters affecting the public health.

In particular, we believe that deferring a clean indoor air policy to a popular vote would invite and enable the intrusion of powerful outside influences and corporate interests that in other states have confused issues and redefined the objectives of an effort to restrict smoking in most public places.

A well-funded, market-savvy tobacco industry campaign could pour tens of thousands of dollars into a media blitz that could well defeat the legislature's commitment to protect all Kansans from second-hand smoke. These efforts would target population-dense counties, as they are currently beginning to in Kansas City, MO, and other areas where gaming interests are beginning. These efforts to retain smoking pollution in enclosed areas do not benefit the health of either employees or customers in these areas.

We are also concerned that there could be unexpected complications arising from a county-by-county vote. There may be ambiguities affecting municipalities which have already passed measures to protect their constituents from smoke pollution. Will they be obliged to vote

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2-12-08
Attachment 9

all over again to affirm their previous commitments? Can a general county vote dictate - or preempt - the application of this law to cities and towns within the county? What if a county rejects the law, but individual cities seek their own protection under their own ordinances?

It could well happen that the application of a county-by-county vote for clean air provisions for individual counties could well unravel the carefully crafted primary goal of the bill, which is to protect all Kansans from secondhand smoke in public enclosed areas. Voting county-by-county on this bill could easily lead to a patchwork of counties some with and some without clean air restrictions and as such create exemptions that will deny protection to many Kansans.

Currently, all comprehensive statewide clean indoor air laws have been passed by legislative action, or by a referendum in the handful of states with that power. The Kansas Department of Health and Environment estimates that 26% of our population is covered by some type of expanded clean indoor air ordinances. We hope to be able to work with the legislature to restore the intent and purpose for a statewide clean air law - strong, fair, and consistent protection of everyone's right to conduct business in public without jeopardizing health or life. And we are grateful to the legislature for again addressing this public health topic at the forefront of public health endeavors, not only in Kansas but in other states where these clean air protections are not yet provided.

KANSANS FOR ADDICTION PREVENTION

P.O. Box 16774, Wichita, Kansas 67216

Phone 316-681-0122

SENATE BILL 493: February 12, 2008

You have been presented with the facts. The scientific evidence about the dire results of smoking, and environmental (second hand) smoke are irrefutable. So why is it that there is any resistance to the passage of this bill?

- **Denial:** Although the evidence is refutable to reasonable and logical people, persons who are addicted to nicotine often deny the evidence.
- **Perceived self interest and greed:** Establishments most frequented by smokers feel that their profits will suffer because their patrons will go elsewhere. Friday night my grandson was being honored for his service in Iraq in an establishment that was horribly smoky. My wife had me put my smoke filled clothes out in the garage until they could be washed. I stank! But this organization will fight very hard for their "right" to put their patrons at risk of death. They will deny the harm that is being done.
- **Long, slow harm is hard to show:** We really panic over something that makes us immediately sick, but we are casual about something that is the third leading killer in America because cancer is a slow death. The health department may close down a restaurant because of cockroaches, mouse droppings, or someone picking up a piece of food off of the floor and serving it. Smoke is worse! It's too bad that second hand smoke does not make us vomit.

A statewide ban on smoking in public is critical because:

- **Level the competition in the marketplace:** In a market based economy, the profit motive comes before the concerns about the health of restaurant staff or customers. We have interviewed restaurant managers to get their opinion about smoking in their business. We have not found **any** that would not be pleased to go smoke free **if every restaurant in their community** went smoke free.
- **Bad local policy is still bad policy:** Frontier and rural counties may have only one restaurant, and may not have the moral courage to do what is best by banning smoking. It is harder to go against the will of the nicotine addicted twenty percent of the population if you are in a small community.

Garry Winget, President

Senate Judiciary

2-12-08
Attachment 10



TOPEKA

SENATE CHAMBER

**Testimony in Support of SB 493
Presented to the Senate Judiciary Committee
Tuesday, February 12, 2008**

COMMITTEE ASSIGNMENTS

VICE-CHAIR: FINANCIAL INSTITUTIONS
AND INSURANCEMEMBER: WAYS AND MEANS
NATURAL RESOURCESJOINT COMMITTEE ON CORRECTIONS
AND JUVENILE JUSTICEKANSAS CHILDREN'S CABINET
AND TRUST FUND

DAVID WYSONG

SENATOR, 7TH DISTRICT

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WYSONG@SENATE.STATE.KS.US

I'd like to begin by recounting some facts concerning tobacco related diseases. Because of facts you will have heard, countries from around the world...from Ireland, France, and England to New Zealand, Denmark and Norway...have initiated smoking bans in public places, and from California to Vermont and from Chicago to New York.

Four thousand (4,000) Kansans die each year.

A billion dollars are spent by Kansans on health care related to tobacco-related diseases.

\$200 million of that is spent by taxpayers for Medicaid...that's \$144 for every Kansas taxpayer, whether they smoke or not.

I will forgo discussion about second hand smoke and ask you to consider the testimony of Vice Admiral Richard Carmona, immediate past U.S. Surgeon General.

Twenty percent (20%) of Kansans smoke, while an independent statewide survey which surveyed Kansans in all 105 counties, found that more than 71% support a statewide ban.

Senate Bill 493 calls for a statewide ban on smoking in public places including restaurants, bars and casinos. It exempts 20% of hotel/motel rooms, which is the norm for states which have banned smoking; and it exempts freight trains and commercial motor vehicles. It also exempts home based businesses.

A main part of this legislation calls for the voters in our state to have the opportunity to decide if they want their county to be smoke free.

It is true that this ban is occurring all over our country and within our own state. The question arises, why don't we just let it happen? The answer simply is this legislation will begin saving lives and saving taxpayer dollars.

I have been asked how the ban would work. Ash trays and matches would disappear from establishments. If a customer lit up, the proprietor would ask the person to stop. If he or she refused, the proprietor would ask the person to leave. If he or she refuses, the proprietor would handle the situation consistent with lawful methods for handling other persons acting in a disorderly manner or as a trespasser.

Senate Judiciary

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Testimony in Support of SB 493
Presented to the Senate Judiciary Committee
February 12, 2008
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Nationally, law enforcement and health officials have reported few problems enforcing local bans.

You may hear from Big Tobacco rhetoric, such as a smoking ban directs legislation against the less fortunate.

However, quoting from Phillip Morris, "There is no such thing as a safe cigarette", meaning their own Phillip Morris brand. Also they state that if you are concerned about the health effects of smoking, you should quit.

Smoking is the No. 1 preventable cause of death in Kansas. We have laws protecting drivers on our state highways, and yet 450 people die on our roads and highways every year. Four thousand (4,000) die of tobacco-related diseases.

I would close by bringing up four myths about indoor clean air laws:

MYTH #1: Clean indoor air laws kill local businesses.

REALITY: Opponents of clean indoor air laws often fear business losses related to the laws. Because clean indoor air laws are new to these businesses, their fears are understandable, but also unfounded. The tobacco industry has propagated this false fear, especially among hospitality business owners, because these laws cut into their profits. However, scientific studies show that there is no negative impact.

Researchers undertook a comprehensive study of the quality and funding of 97 studies on the economic impact of smoke-free policies in the hospitality industry that were commissioned by the tobacco industry or organizations not associated with the tobacco industry. They concluded that all of the best designed studies that used objective measures such as sales tax receipts, included data from several years before and after the smoke-free policies were implemented, and controlled for changes in economic conditions found that smoke-free restaurant and bar laws have no impact or a positive impact on sales and employment. Studies concluding that smoke-free policies negatively impacted the hospitality industry were usually based on predictions or estimates of changes and funded by the tobacco industry, and none were published in peer-reviewed journals. The only negative economic impact is on the tobacco industry.

MYTH #2: Clean indoor air laws are prohibitionist smoking bans; they infringe on a smoker's right to smoke and are anti-smoker. They are trying to legislate morals.

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Page 3

REALITY: Smoking is certainly not a constitutional right. However, these laws are about a fundamental right: the right of everyone to breathe clean air without harm to health. These laws do not stop a smoker from smoking when his smoke does not harm others. These laws do not ban smoking in private homes, but are important public health measures for protecting everyone's right to breathe clean air in public places.

These laws are not anti-smoker. Most supporters of clean air laws have family and friends who smoke. We feel for smokers—trapped by a substance as addictive as cocaine and heroin and sold by an industry that puts profits far ahead of the health of its customers. Smokers are still welcome in all public places; it's just their smoke isn't. We are promoting clean indoor air for everyone—smokers and nonsmokers alike.

MYTH #3: Because restaurants and bars belong to the owners, they should be able to use their property with no restrictions.

REALITY: Restaurants, bars, and other facilities are rightly regulated when public health is a concern. The importance and effectiveness of sound public health and safety laws, like restaurant hygiene laws, are well established. Restaurants and bars must already follow rules that protect the public from insects and rodents, employees who refuse to wash their hands before preparing food, unsafe cooking practices that could cause food poisoning, and fire safety problems. Secondhand smoke is just as dangerous. A business would not be allowed to operate if its employees were regularly subjected to asbestos dust. Since secondhand smoke is categorized by the EPA as a Class A carcinogen, the same category as asbestos, it deserves just as stringent regulation.

There are many examples of laws that regulate the use of private property when the use of that property could harm someone else. For example, your car may be your property, but you can't disregard traffic laws simply because you reason that the car is yours and you should be able to use it as you want. Traffic laws are enacted to protect the public from harm. Clean indoor air laws are also important measures for protecting public health.

MYTH #4: People choose to work in these places. If they don't like it, they can find another job.

REALITY: Young people and minorities are disproportionately represented among restaurant and bar workers. For them or anyone else to have to choose between endangering their health and supporting themselves and their family is unfair, unacceptable and discriminatory. No one should have to change careers because of exposure to a dangerous air pollutant. Many would find it very difficult to find another type of job even if they tried.

Testimony in Support of SB 493
Presented to the Senate Judiciary Committee
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Most office workers, including many whom claim restaurant and bar workers should just find another job, currently enjoy a smoke-free working environment. Restaurant and bar workers should not be treated as second-class citizens. They deserve the same protections that most employees have enjoyed for years.

Few, if any, worker protections have come voluntarily from employers. Government has the right and the responsibility to protect workers. No business owners should be allowed to jeopardize the health of their employees because they perceive that doing otherwise might hurt business. Seventy-six percent (76%) of white collar workers already enjoy protection from second-hand smoke, but only 52% of blue collar workers get the same consideration.

I have lost 3 close family members due to tobacco. We all have lost family members or friends. It's time to do the right thing.

Senator David Wyson

When an attempt was made a few years ago in Topeka to update the city's smoking ordinance to more effectively protect non-smokers from secondhand tobacco smoke two businesses, along with the Kansas Restaurant and Hospitality Association proposed a weaker ordinance that was ultimately adopted.

The owner of The Roost Family Restaurant claimed that a stronger no smoking ordinance that would require the business to prohibit smoking would force him out of business. An effective ordinance was not adopted but the Roost Family Restaurant closed anyway. Likewise, the manager of the Golden Corral said the same thing. But I read recently in The Topeka Capital-Journal that the restaurant is now smokefree and credited the change, in part, for an increase in business.

To celebrate the end of my daughter's soccer season a few years ago we attended a gathering at Mandino's in Topeka. I suggested to the manager that he go smokefree as smoke drifted into the non-smoking area and that it was not possible to keep the smoke out. He said he couldn't afford to offend 20% of his patrons and that such a move would cause him to go out of business. They didn't eliminate smoking but closed as well. Maybe they should have appealed to the 80% who don't smoke. Of course, smokers would still have been able to eat there without being harmed.

Attached is a KDKA (Pittsburgh) story about a policy change by the Pennsylvania Restaurant Association. The association had long-held position opposed to banning smoking in indoor public places. But, as you can read, the association has changed its policy and now favors an all-inclusive smoking ban for restaurants, bars, casinos and private clubs.

The association changed its position out of concern for the health of employees in the restaurant business. This came as a result of the Surgeon General report that confirmed that secondhand smoke is a health risk. There is no safe exposure.

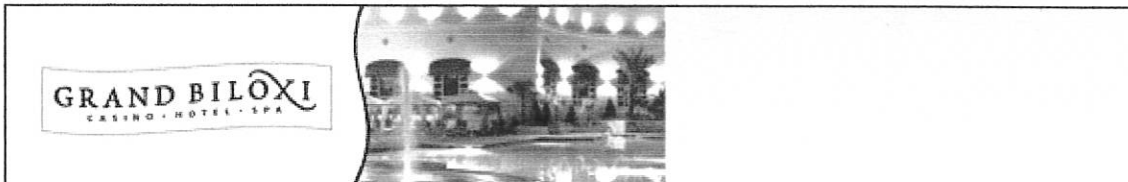
It is unfortunate that the Kansas association does not have the same concern for their employees and customers. Their only concern is their perceived idea that such restrictions are bad for business. They don't seem to understand that many of us do not patronize their businesses as a result of tobacco smoke.

There is no doubt that passage of a statewide indoor smoking ban in public places will save the lives of many Kansans and make for a healthier state. Certainly Kansas, which has a history of strong public health, can do what many states and countries such as Italy and Ireland have done and keep toxic tobacco smoke out of indoor public places.

Dave Pomeroy
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Attachment 12

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PA Restaurant Association Endorses Smoking Ban

PITTSBURGH (KDKA/AP) — The Pennsylvania Restaurant Association has reversed its long-held position on smoking and says it now favors a statewide ban in restaurants and other public places.

The group is pushing for an all-inclusive smoking ban for restaurants, bars, casinos and private clubs, said association Chief Executive Officer Patrick Conway.

"It should be done on a comprehensive, statewide basis," Conway said. "In other states, certain groups have tried to have themselves unfairly carved out of legislation."

* The association changed its position out of concern for the health of employees in the restaurant business, Conway said.

The move had been debated for years but a new report from the surgeon general sparked the association to action, the Pittsburgh Tribune-Review first reported Monday.

Surgeon General Richard Carmona last week confirmed that secondhand smoke is a health risk and suggested it be banned from restaurants, bars, casinos, sports arenas and public transit.

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“Secondhand
smoke [is]
a serious public
health hazard.”

—THE [HARRISBURG] PATRIOT-NEWS

“No exceptions
to smoking ban.”

—THE [SCRANTON] TIMES-TRIBUNE

“Loopholes
in the law will
cost lives.”

—THE PHILADELPHIA INQUIRER

“Comprehensive
smoking ban:
Let’s just do it.”

—POCONO RECORD

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agree that all workers should be
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12-3



Kathleen Sebelius, Governor
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH
AND ENVIRONMENT

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**Testimony on SB493
Kansas Uniform Smoking Prohibition Act**

**To
Senate Judiciary Committee**

**Presented by
Roderick L. Bremby, Secretary
Kansas Department of Health and Environment**

February 12, 2008

Chairman Vratil and members of the Judiciary Committee, my name is Rod Bremby. I serve as Secretary of the Kansas Department of Health and Environment. Thank you for the opportunity to appear before you today to testify in support of SB493, which proposes a statewide clean indoor air policy.

Kansas is certainly not alone in addressing the issue of clean indoor air. Twenty-six states and 9 foreign countries, including France, Ireland and the United Kingdom have passed 100% smoke-free ordinances in restaurants and/or bars that protect the health of their citizens. Already in Kansas, 2 counties and 25 cities have adopted clean indoor air ordinances, to protect the health of approximately 27% of the state's population. From Overland Park to Garden City, city leaders have been successful in protecting the working public as well as the general constituency from the harmful effects of secondhand smoke. We applaud these local initiatives, as all Kansans deserve protection from the negative health effect of secondhand smoke.

The U.S. Surgeon General has eloquently summarized the current science related to second hand smoke: "The debate is over. The science is clear. Secondhand Smoke is a serious health hazard that causes premature death and disease in children and nonsmoking adults." This 2006 report went on to conclude that there is no safe level of secondhand smoke, and that separate ventilation systems for smoking areas of enclosed spaces are ineffective in eliminating exposure to secondhand smoke.

Clean indoor air laws save lives. More than 250 Kansans die each year from exposure to secondhand smoke, and it's estimated that secondhand smoke plays a role in causing more than 2,100 new heart attacks each year. Secondhand smoke causes heart disease and respiratory disease in adults, and has been linked to asthma, inner ear infections, and

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SIDS in children. It's telling that during last year's testimony on SB 37, none of the opponents disagreed with this point. Clearly, all parties in this debate recognize we're dealing with a true hazard to health, and that eliminating exposure to secondhand smoke prevents disease and saves lives. (A copy of the Executive Summary of the Surgeon General's report accompanies this testimony for your review.)

Kansans support clean indoor air legislation. A poll conducted in the spring of 2007 by the Sunflower Foundation found that 71% of Kansas voters favor a statewide law prohibiting smoking in all indoor workplaces and public facilities. Nearly one-third of current smokers also support a smoking ban. Eighty-three percent of Kansas voters believe that secondhand cigarette smoke is a health hazard.

Data from the 2006 Kansas Adult Tobacco Survey, a population-based scientific survey, has shown a similar pattern of public opinion regarding clean indoor air. The survey indicated that more than 76% of adult Kansans will support a law in their community that will make restaurants smoke-free. In addition, almost 95% of Kansans said they would dine out with the same frequency or with a greater frequency with a clean indoor air ordinance.

It's also critical to note that support for clean indoor air policies is not simply limited to health advocates. Nationwide, business groups, national chains of restaurants and bars, and major employers have embraced clean indoor air policies as a way to enhance their customer base, improve employee productivity, and stabilize health care costs.

Clean indoor air legislation serves the legislature's cause of health reform. The best prevention measures both improve the health of Kansans and reduce health care costs. Clean indoor air legislation fulfill both of these criteria. The evidence shows that clean indoor air legislation decrease smoking rates among active smokers by 10%. More importantly, reducing the number of "social smoking" opportunities will decrease the number of teens who start smoking. From a public health view, this opportunity to improve the health of the state is worthwhile by itself.

Clean indoor air laws save money. As smoking rates fall, the resulting health care costs of tobacco use will fall as well, especially over the long term. Currently Kansas Medicaid pays an estimated \$196 million dollars per year to treat tobacco related diseases. The overall medical costs to Kansans for tobacco related disease is \$927 million annually. Even just looking at the costs of illness induced by secondhand smoke, the potential reductions in heart attacks may result in an immediate savings of \$21 million dollars in hospital charges in a single year.

The government has a duty to protect its citizens. The proposed bill requires a county by county vote, to ratify the measure in each county before it can be considered a uniform act. Statewide action is needed to insure that all Kansans are uniformly protected at a minimum level. Statewide action also sends a clear message that the legislature is interested in the health and welfare of all Kansans and is not ignoring the very real problem of secondhand smoke. Applying the terms proposed in SB493 will achieve the

goal of establishing a "floor" that dictates minimum protection from second hand smoke. A clean indoor air policy applied statewide would provide a minimum level of health protection to 100% of Kansas communities, and satisfy the desires of both the public and business owners for a policy that promotes a uniform approach to regulating exposure to tobacco smoke.

Opposition to clean indoor air acts is based on fear, not facts. Studies have shown that there are no significant negative effects on the business community where clean indoor air acts have been passed. Even in the limited Kansas data we have from Lawrence, no negative economic consequences have been noted. And while there is significant concern about people crossing state lines to access smoking establishments (such as in Missouri), nationally many states with bordering metropolitan areas have passed clean indoor air laws with no lasting negative effects. Attached to this testimony is a summary of the positive economic experiences that clean indoor air communities throughout the nation have experienced.

Small businesses unfortunately fail for any number of reasons, but they will want to blame the failure on clean indoor air acts. However, the inescapable conclusion from reviewing the data is that clean indoor air acts have no negative economic impacts within a community. Furthermore, they provide opportunities to expand business in ways that benefit the business owner, his/her employees, and the local economy as a whole. The participation of individual business owners and hospitality groups in formulating and promoting the adoption of clean indoor air ordinances in the Kansas City area demonstrates that this recognition is growing within the business community.

To avoid some of the unnecessary fear that may be inspired by the language of the proposal, the KDHE recommends that the bill be retitled, "the Kansas smoking restriction act", rather than characterizing the act as one of smoking "prohibition" since the act, as written, would merely restrict where smoking can occur. Similarly, we recommend using the word "restriction" in place of "prohibition" in the referendum question. Finally, we recommend that, if the measure is passed with the county referendum provision attached, that the legislature provide adequate resources to KDHE to launch an accurate public education campaign prior to the general election to assure that the citizenry is casting their votes based upon fact, rather than hearsay.

As noted earlier, more than 250 Kansans die, and 2,100 have heart attacks each year from exposure to secondhand smoke. A strong, statewide clean indoor air act will have a significant impact not only on the number of people who die from secondhand smoke, but also in others who are influenced to quit smoking or to not start smoking, preventing future death, disability, and saving health care costs.

Thank you for the opportunity to testify in support of SB 493. I will be happy to stand for any questions you might have.

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Economic Impact of Clean Indoor Air Laws

The 2006 Surgeon General's Report "The Health consequences of Involuntary Exposure to Tobacco Smoke" states that evidence from peer-reviewed studies shows that smoke-free policies and regulations do not have an adverse economic impact on the hospitality industry.

Below are the highlighted results from some of the studies noted in the 2006 Surgeon General's Report.

- A study (Glantz and Smith, 1994) of sales tax data in California and Colorado found no effect on restaurant retail sales in communities with clean indoor air ordinances compared to sales in communities without ordinances. The communities studied varied in population from a few thousand to more than 300,000 and the length of time the ordinances were in effect ranged from a few months to more than 10 years. A follow-up study (Glantz and Smith, 1997) found the same result.
- Studies on retail restaurant sales in a small suburb of Austin, Texas, (CDC, 1995) and in El Paso, Texas, (CDC 2004) also found ordinances banning smoking had no effect on sales.
- A New York City study actually found an increase in sales after a smoking ban. Using taxable sales data from eating and drinking establishments in New York City, Hyland and colleagues (1999) observed a 2.1% increase in sales following implementation of a citywide smoking ban in restaurants compared with sales two years before the law took effect.
- A study in California (Cowling and Bond 2005) on tax revenue data from 1990 to 2002 also found an increase in restaurant revenues after a statewide smoke-free restaurant law and an increase in bar revenues after a statewide smoke-free bar law. A study of the California smoke-free bar law found the proportion of bar patrons who reported they were just as likely or more likely to visit bars that had become smoke-free increased from 86% three months after the law took effect in 1998 to 91% in 2000 (Tang et al. 2003).
- A recent report from New York City (New York City Department of Finance, 2004) assessed all four economic indicators (sales tax receipts, revenues, employment, and the number of licenses issued) and reported increases in all four economic measures after the passage of city and state clean indoor air laws. Restaurant and bar business tax receipts had increased by 8.7%; employment in restaurants and bars had increased by about 2,800 seasonally adjusted jobs, and there was a net gain of 234 active liquor licenses for restaurants and bars.
- Glantz and Charlesworth (1999) examined hotel revenues and tourism rates in six cities before and after passage of smoke-free restaurant ordinances. The results indicated that smoke-free restaurant ordinances do not adversely affect tourism revenues and may, in fact, increase tourism (Glantz 2000).

While some organizations may site results of adverse economic impact, the Surgeon General's Report states, "Discrepancies between economic impact studies of clean indoor air laws conducted either by the tobacco industry or by non-industry-supported scientists can be traced in part to variations in the types of data analyzed. Studies commissioned by or for the tobacco industry to assess the economic impact of smoke-free restaurant and bar regulations have generally relied on proprietor predictions or estimates of changes in sales, rather than on actual sales or revenue data. Such estimates are subject to significant reporting bias and are viewed with skepticism because they do not constitute empirical data."

TESTIMONY TO SENATE JUDICIARY COMMITTEE – SB 493
Robert Vancrum, Kansas Government Affairs Specialist
February 12, 2008

The Greater Kansas City Chamber of Commerce, representing over 3,000 business members in Kansas, supports SB 493, the bill which would ban smoking in public places in the state of Kansas.

Anti-smoking legislation and its healthcare benefits are a priority for The Chamber and its members. The Chamber's Health Council of Greater Kansas City, chaired by Tom Bowser, President and CEO of Blue Cross and Blue Shield of Kansas City, has studied this issue and surveyed Chamber member businesses about their preferences for a smoking ban. Our members have indicated overwhelming support for measures to ban smoking in public places, as long as the playing field is level. Although we would have preferred last year's bill because it would guarantee statewide uniformity, we are realists and believe this bill represents a reasonable compromise which allows the people in each county to decide.

The Chamber Health Council and Chamber members report the increasing cost of healthcare and health insurance is the number one concern of area businesses and further acknowledge smoking is a prime contributor to rising healthcare costs and increased health risks for our area workforce and families.

The Greater Kansas City Chamber encourages the Kansas Senate Judiciary Committee to pass to the floor SB 493 to ban smoking in public places and encourages the full Kansas Senate to look favorably upon this bill. Thank you for your consideration and support.



Thomas L. Bell
President

February 12, 2008

TO: Senate Judiciary Committee

FROM: Chad Austin
Vice President, Government Relations

RE: Senate Bill 493 – Kansas Uniform Smoking Prohibition Act

The Kansas Hospital Association appreciates the opportunity to comment regarding the provisions of SB 493, which would establish the Kansas Uniform Smoking Prohibition Act. KHA and its members support this legislation.

Tobacco is the number one source of preventable disease worldwide and is responsible for approximately one in five deaths in the United States. Every year, nearly 4,000 Kansans die from diseases that are directly related to tobacco use. As health care providers, we feel it is necessary to take a stand to stop the use of tobacco. Second hand smoke has been proven hazardous to people's health. An international panel of experts brought together by the International Agency for Research on Cancer, an agency of the World Health Organization, determined that second-hand smoke causes cancer. Another report issued in June 2006 by the U.S. Surgeon General states that "*there is no risk-free level of exposure to secondhand smoke. Nonsmokers exposed to secondhand smoke at home or work increase their risk of developing heart disease by 25 to 30 percent and lung cancer by 20 to 30 percent*". The report, *The Health Consequences of Involuntary Exposure to Tobacco Smoke*, also cited that second-hand smoke exposure is a known cause of sudden infant death syndrome, respiratory problems, ear infections, and asthma attacks in infants and children. Kansas must take the necessary steps to begin providing an overall healthy environment to its citizens.

Kansas hospitals have been smoke free facilities since 1994. The implementation of that law took time; it was, after all, a culture change. The same will be true with the passage and implementation of SB 493. It must not be forgotten that tobacco use is not a right; it is a privilege that should be restricted when it is detrimental to others. Senate Bill 493 will help Kansas become a more healthy and safe environment. We appreciate your leadership and support on this major health issue and encourage your passage of SB 493.

Thank you for your consideration of our comments.

Senate Judiciary

Kansas Hospital Association

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fax 785.235.5114

www.KMSonline.org

To: Senate Committee on Judiciary

From: Dan Morin
Director of Government Affairs

Date: February 11, 2008

Subject: SB 493; AN ACT concerning crimes and punishments; relating to smoking; creating the Kansas uniform smoking prohibition act

The Kansas Medical Society appreciates the opportunity to appear in support of SB 493, which would allow for a county-by-county, no exception, indoor smoking ban to be placed on the upcoming November General Election ballot. The Kansas Medical Society has historically supported public policies at the local, state and federal levels that protect all people from the harmful effects of tobacco smoke. Lung cancer accounts for the most cancer related deaths in both men and women. In addition, a recent U.S. Surgeon General report on the dangers of secondhand smoke stated the evidence is now "indisputable" that it is a public health hazard.

As an organization that sees the results every day that tobacco use has on people's health every day we recognize tobacco use is contrary to the mission of promoting and protecting health. The mission of public health is to ensure conditions in which people, and entire communities, can be healthy. It is well documented that tobacco use and health are incompatible and many patients are seen daily by Kansas physicians for illnesses caused or exacerbated by tobacco use. Any person observing the adverse effects that lung cancer, emphysema, and oral cancer from chewing tobacco can have on the lives of loved ones can surely empathize with those wanting to eliminate such diseases. Since 1987, more women have died each year from lung cancer than from breast cancer. Exposure to secondhand smoke can cause children to develop asthma, bronchitis, pneumonia, other respiratory infections, and ear infections. It can also increase the risk that infants will die of Sudden Infant Death Syndrome (SIDS).

There are encouraging statistics. Female lung cancer death rates are approaching a plateau after continuously increasing for decades. Death rates have annually continued to decline significantly in men from 1991 by about 2.0% per year. We believe these trends come as a result of successful education programs and the enactment of smoking laws and regulations. The Kansas Medical Society urges members of this committee to favorably pass out SB 493.

Thank you for the opportunity to offer these comments.

Senate Judiciary

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Attachment 16



clean air EMPORIA

SMOKE FREE. GOOD FOR PEOPLE. GOOD FOR BUSINESS.

February 8, 2008

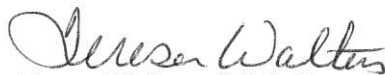
Honorable Senator Vratil, Chair, and
Distinguished Members of the Judiciary Committee:

As members of the steering committee for Clean Air Emporia, we wish to express our support of a strategy to provide a healthier environment for all Kansans by eliminating exposure to secondhand smoke.

Secondhand smoke is the third leading preventable cause of death in the United States, and is even more dangerous than regular or mainstream smoke. Through research to prepare for our efforts to propose a smoking ban in our own community, we have been struck by the overwhelming evidence that secondhand smoke represents involuntary exposure to a Class A carcinogen, that there are no safe levels of secondhand smoke exposure, and that secondhand smoke effects *all* human life.

This is an extremely critical public health issue and one that relates to personal rights, as everyone in Kansas deserves to breathe clean air in the public places where they work, where they play, and where they eat and drink.

Respectfully,



Teresa Walters, C.P.S., Executive Director
Emporians for Drug Awareness
Chair, Clean Air Emporia

Steering Committee Members:
Bobbi Sauder, Program Director, Clean Air Emporia

Margi Grimwood, USD 253, Safe & Drug Free Schools Coordinator

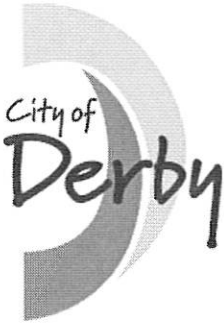
Suzanne Miller, Marketing & Education, Flint Hills Community Health Center

Judy Calhoun, Ph.D., A.R.N.P., ESU Division of Nursing

Keri Hess, ESU Division of Nursing

Mary McDaniel, ESU Student Health Services

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February 11, 2008

Senator John Vratil, Chair
Senate Judiciary Committee
State Capitol Room 123-S
Topeka KS 66612

Re: SB 493 Statewide prohibition on smoking in indoor public areas

Dear Senator Vratil & Committee Members:

Thank you for this opportunity to address the committee in favor of a bill to prohibit smoking in indoor public areas. Such a bill would address the number one public health concern in a manner that is fair to businesses and in a manner in which cities are inherently unable to do ourselves. A statewide clean indoor air act is the top priority of the City of Derby's 2008 Legislative Agenda.

Last year, the City of Derby attempted to craft a local ordinance to provide employees and the public with clean indoor air. Because of our city's close proximity to Wichita, we were unable to come up with an ordinance that would also create a level playing field for businesses, especially the hospitality industry. Derby businesses supported the measure as long as they were protected from their customers driving 15 minutes to a Wichita bar or restaurant for a smoking environment. Indeed, **any city that is in close proximity to another city will always have this conflict between good public health policy and a level playing field for business.**

While Derby joins other cities in commending the state's past intention of leaving local matters to cities to handle, **clean indoor air is indeed a matter of statewide concern and one in which cities are unable to effectively regulate.** Piecemeal passage of local ordinances will not address the widespread health concerns caused by exposure to secondhand smoke, nor will it protect Kansas residents beyond each city's political boundaries.

More than half the states have addressed clean indoor air—28 states at last count. Please make Kansas the 29th. Thank you for your consideration.

Highest regards,

A handwritten signature in cursive script that reads "Kathleen B. Sexton".

Kathleen B. Sexton
City Manager

City of Derby
City Manager's Office

611 N. Mulberry • Derby, Ks 67037-3533 • 316/788-3132 • Fax 316/788-3007

Homepage: www.derbyweb.com E-mail: CityManager@derby Senate Judiciary

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