

**Testimony in Opposition to Senate Bill 54
Kansas Senate Assessment and Taxation Committee
February 14, 2017**

Thank you, Chairman Tyson, Vice Chair Kerschen, Senator Holland and members of the Senate Assessment and Taxation Committee. My name is Bill Keip and I am a consultant to RAI Services Company, a subsidiary of Reynolds American Inc. As a former Ohio Budget Director, I frequently interacted with the Ohio equivalent of the Kansas Department of Revenue and have an appreciation of the challenges facing your committee. Senate Bill 54 attempts to move from vapor taxation based on consumable materials, (milliliters of e-liquid) to the “amount of nicotine within the liquid that is vaporized using an electronic cigarette”.

State Expenditures

Administrative costs for the current vapor excise tax, based on milliliters of e-liquid, are reasonable and simple. A 30 ml bottle of e-liquid has a greater tax than a .5 ml e-cigarette. State administrative costs to audit the tax returns are also kept to minimum.

Conversely, Senate Bill 54 proposes a difficult to administer, costly system involving expensive testing equipment. State administrative costs are likely to increase.

State Revenues

The vapor excise tax in current law, based on milliliters of e-liquid, may likely produce the maximum revenue, while the proposal to remit the tax based on nicotine content results in more variability of revenue estimates.

I estimate that the current 20 cent per ml vapor tax may produce up to \$3.0 million of vapor tax revenues for the FY2018-19 biennium.

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If asked “what is the estimate of vapor revenues under Senate Bill 54? The answer is “it depends”. It depends on the final definition of “consumable material”. It depends on the amount of nicotine in the liquid, and it depends on the actual distribution of sales for each nicotine content percent.

There will be a revenue loss for products without nicotine. If such products constitute, for example, five percent of the vapor market, then the State could lose five percent of projected revenues.

Of course, different estimators with different assumptions may provide different estimates. I defer to the Kansas Department of Revenue estimates.

If Senate Bill 54 is enacted

- Kansas may experience “unnecessary uncertainty”, may not collect projected vapor tax revenues and perhaps increase the probability of financial issues in future budget periods.
- State administrative costs may increase beyond the minimum required to collect revenues due the state.

Considering the State’s challenging budget outlook, I recommend that the Committee vote against Senate Bill 54, move ahead with the current excise tax based on milliliters of e-liquid and begin to collect the maximum tax revenues without the unnecessary administrative costs and without undue risk.

Thank you for the opportunity to present information to the committee. I will attempt to answer any questions you may have.