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### Other **Viewpoints**

## Smoking ban full of 'arbitrary'

Shawnee County District Court Judge Franklin Theis made a logical ruling, as far as it went, last week when he issued a limited injunction blocking implementation of the state's smoking ban in Class A and B private clubs.

The state law would allow smoking in private clubs licensed before Jan. 1, 2009, but not those licensed after that date. Owners of a Tonganoxie club licensed after the cutoff filed a lawsuit and asked the court for a permanent injunction prohibiting implementation of the ban.

Theis agreed the date was arbitrary, but granted only a limited injunction. He didn't rule that the state couldn't discriminate against private clubs based on when they were licensed, only that there appeared to be no rational basis for the particular cutoff date. The Tonganoxie case now will have to be settled at trial.

While Theis did the right thing as far as the club's case was concerned, he walked a fine line to avoid ruling against other sections of the smoking ban that many people would clearly define as "arbitrary," including an exemption for state-owned

Operators of several Wichita bingo parlors, seeking to challenge the exemption for casinos but not competing bingo parlors, asked to intervene in the case. The parlor operators contend the smoking ban doesn't treat all gambling operations equally. Theis granted the intervention, then ruled against them.

The judge wrote that minors could enter bingo parlors but not casinos, and noted one reason for the state's distinction was to protect minors from secondhand smoke. He also said there was a difference between the revenues likely generated by casinos and those of bingo parlors.

He is right about the revenue. There is a big difference. The ability of casinos to generate revenue for the state is much greater than that of bingo parlors, and the state-owned casinos are exempt from the smoking ban, which went into effect July 1, because the state didn't want to do anything that would hurt its gambling operations.

Granted, minors can enter bingo parlors but not casinos, but the smoking ban was championed as a statewide public health issue, not simply child protection.

Theis made it clear he wasn't ruling on the merits of smoking bans or the rights of smokers, but only on whether the Legislature's exercise of power in granting exemptions to the ban passed constitutional muster.

If "arbitrary" doesn't pass constitutional muster, and we must agree that it doesn't, how does the state's decision to burden private businesses with restrictions it isn't willing to accept for its casinos pass constitutional muster?

- The Topeka Capital-Journal, via The Associated Press

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## State budget weighted against Colby

Colby Community College will see its budget cut by the state this year despite increasing its enrollment by over 2 percent in the last

Alan Waites, vice president of business affairs, said the college estimates it will be getting about \$530,000 less than it received in the 2009-2010 budget. The state gave \$97.2 million to the 19 community colleges this year. The amount going to each college is based on how much each increases enrollment. This law was put into place in 1999, said president Lynn Kreider.

This puts smaller rural colleges at a disadvantage because they are in places with fewer people than Johnson County Community College or Butler County Community College. There are simply more people to recruit from Overland Park and Wichita than from Colby.

One can argue that the college needs to concentrate more on recruiting students outside the state, especially in border states like Oklahoma, Nebraska, Colorado. But the college knows this and has added two new recruiters. One will based in Colorado and the other will recruit in Oklahoma and Texas, Kreider said.

The president said there are 50 high schools between Fort Collins, Colo., and Colorado Springs. If the college can get only one person recruited from each high school, that would give it some needed revenue. Kreider estimates that each new student is worth \$5,000. But even if the college is able to grow enroll-



Ramblings ment, surpassing urban community colleges in

growth would still be a minor miracle. The cuts are particularly unfair this year because the average enrollment growth last year was inflated due to the recession. Colleges grew by an average of 12.5 percent last year. Those in more populated urban areas saw their enrollment increase dramatically because those areas were hit harder by the recession than northwest Kansas. Butler County had a drastic increase in enrollment because so many aviation workers were laid off in Wichita during the recession, Kreider said. Many went back to school to retrain.

The percentage of the college budget represented by the state grant has dropped from 25 percent to 16 percent since the 2008-2009 school year, which is typical of higher education in Kansas and other states. Kreider said the school has lost over a million dollars in state revenue in the last year and a half.

colleges are funded, it's hard to see how Col- He says he loves K-State athletics and fishing, by will ever get back to the 25 percent level. sports and opinion writing.

He said in order to get back to 25 percent, the college would need to have a double-digit increase in enrollment.

Kreider said he thinks all community colleges should be funded equally across the board. He said he thought 50 percent of the schools' money should come from the state. Less money coming to the college from the state will hurt the entire Colby community, he noted, because the college is one of the largest employers here. The less money the school gets, the more likely it is to lay off more employees to balance the budget. If the money stays the same or shrinks, the college may eventually not be able to operate.

With a shrinking population throughout northwest Kansas and less money from the state, the fact that the college has managed to grow its enrollment at all is pretty impressive. The current state budget formula seems like a convenient way to squeeze small schools until they are no longer able to operate.

Community colleges in rural areas offer a large source of jobs and they allow young people to get an affordable education at a place close to home. The state needs to realize this and invest in these colleges to ensure they have a bright future.

Andy Heintz, a K-State journalism graduate, Without a change in the way the community is sports reporter for the Colby Free Press.

### Stricter standards costly, unnecessary

A recent notice of intent to sue the U.S. Environmental Protection Agency filed by the Friends of the Kaw could cost the agriculture industry in Kansas millions of dollars by pushing more nutrient control measures, even wastewater treatment systems.

The Friends of Kaw is a nonprofit, environmental organization which says its mission is to protect and preserve the Kansas River.

Not only would this expansion of authority hurt Kansas agriculture, small businesses, cities and others who might have to spend a lot of money to control runoff and to protect streams and water supplies, there is little evidence the standards proposed in the suit would result in improvements to water quality.

For several decades, Kansas has operated under a "narrative standard" for nutrient management. This meant the state made a verbal statement of its intention to maintain best management practices to protect water quality from agriculture (and other) storm-water runoff to limit nutrients entering surface waters.

However, in 1998 EPA directed states to adopt stricter numeric standards for nutrients, requiring a single, set number. Compliance with this type of standard is much more difficult given the variable nature of Kansas waters and runoff events.

Throughout the years, farmer and rancher Kansas are diverse. Each and every business



#### John Schlageck

 Insights Kansas Farm Bureau

members of the Kansas Farm Bureau have worked closely with the state Department of Health and Environment to develop and implement our current narrative standard. Through their farm organization, these members have responded back with their intention to intervene should this suit move forward.

"If it ain't broke, don't fix it," said Ottawa County farmer Steve Baccus, who serves as president of the state group. "By all accounts, the state's current nutrient reduction system is working."

Farmers and ranchers understand the need to maintain water quality and are using farming practices to limit the application of nutrients. They have installed millions of dollars worth of runoff control measures to ensure Kansas streams remain a valuable and available resource for everyone.

Farming and ranching operations across

is different.

Some operate small-scale livestock backgrounding operations and at the same time grow row crops. Others grow specialty crops. And still others operate commercial cattle feeding facilities or large-scale row crop businesses.

The diversity of agricultural operations and the type of aquatic ecosystems in Kansas makes the "one-size-fits-all" approach of a numeric standard costly, illogical and difficult to administer. In addition, each of those operators – when required – has worked to monitor and develop control measures as well as implement best management practices to ensure nutrients are applied within acceptable limits, or are contained to prevent runoff which could affect water quality.

During the short time this strategy has been in place, improvements to water quality have been seen and will continue to be measured. Imposition of numeric criteria will not enhance this strategy, and in fact may retard its

John Schlageck of the Kansas Farm Bureau is a leading commentator on agriculture and rural Kansas. He grew up on a diversified farm near Seguin, and his writing reflects a lifetime of experience, knowledge and passion.

#### Where to write, call

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U.S. Sen. Sam Brownback, 303 Hart Senate Office Building, Washington, D.C. 20510. (202) 224-6521 U.S. Rep. Jerry Moran, 2202 Rayburn House Office Building, Washington, D.C. 20515.

State Rep. Jim Morrison, State Capitol Building, 300 SW 10th St. Room 274-W, Topeka, Kan. 66612.

State Sen. Ralph Ostmeyer, State Capitol Building, 300 SW10th St., Room 225-E., Topeka, Kan. 66612.

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