

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

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

All members were present.

Committee staff present:

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

Conferees appearing before the committee:

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

Others attending:

See Attached List.

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

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

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

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

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

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

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

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

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

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

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

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

Jaime Fiorucci-Hughes, a student from the University of Kansas, testified in support of **SB 503**. She explained that she has been actively involved in efforts to curb youth smoking and to provide funding for comprehensive tobacco control efforts. She pointed out studies and evidence show that increasing the tax on cigarettes not only reduces youth smoking but also provides much needed funding to support vital projects. She reasoned that, if saving lives is not cause enough to increase the tax on cigarettes, the Committee should consider that Kansas has \$724 million in annual health care costs directly caused by smoking. ([Attachment 7](#)) Ms. Fiorucci-Hughes also informed the Committee that the State of Kansas put \$500,000 into its tobacco program in Fiscal Year 2003. The recommendation from the CDC's best practices was \$18 million. She commented that great things are currently being accomplished at local and state level tobacco programs and observed, "Think what we can do with an increase of revenue from tobacco tax dollars put where they need to be." She went on to say that, currently, the state is receiving about \$70 million from the Master Settlement Agreement which is being deferred to other areas. In her opinion, an excise tax

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increase would have a very positive affect if applied exclusively to a comprehensive tobacco program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The next meeting is scheduled for March 4, 2004.

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