

MINUTES OF THE SENATE WAYS & MEANS COMMITTEE.

The meeting was called to order by Chairperson Dave Kerr at 12:05 p.m. on March 30, 2000 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Alan Conroy, Chief Fiscal Analyst, KLRD
 Rae Anne Davis, KS Legislative Research Department
 Debra Hollon, KS Legislative Research Department
 Norman Furse, Revisor of Statutes
 Michael Corrigan, Asst. Revisor of Statutes
 Judy Bromich, Administrative Assistant to the Chairman
 Ronda Miller, Committee Secretary

Conferees appearing before the committee:

Greg Tugman, Division of the Budget
 Duane Goossen, Director, Division of the Budget
 Representative Carlos Mayans
 Ken Frahm, President, Kansas Development Finance Authority
 Leslie Casson, Financial Analyst, Kansas Development Finance Authority

Others attending: See attached list

HB 2814: Senior pharmacy assistance program

Kathie Sparks, Kansas Legislative Research Department, reviewed the supplemental note on **HB 2814** as amended by the House Committee on Health and Human Services. She noted that the bill provides statutory authority for the operation of a state-funded senior pharmacy assistance program to provide assistance to eligible individuals for the purchase of prescription drugs. She reviewed the criteria for eligibility and the program policies:

- 67 years of age or older; eligibility changes to 65 years or older commencing with FY 2003
- Income not in excess of \$14,000 for individual & household income of no more than \$16,000
- Must not qualify for any other local, state, or federal prescription drug program
- Must not be covered under any private prescription reimbursement plan
- Must not have voluntarily canceled a local, state, federal or private prescription drug program within 6 months prior to applying for enrollment
- Covers all prescription drugs covered by the Kansas Medicaid Program
- Requires copayment of not more than 30% of the cost of each prescription
- Annual maximum individual benefit of \$1,500
- Pharmacies to receive AWP-10% + \$3.90 dispensing fee or the usual and customary cost, whichever is lower
- Allows the Secretary of Aging to
 - < modify income levels, maximum benefit level, and copayment level, if it is found the appropriated funds do not meet projected expenditures for the fiscal year
 - < limit the benefits to maintenance drugs or establish a period of open enrollment of not less than 30 days which includes an enrollment period for those who become eligible during the year
- Names the Secretary of SRS as the fiscal agent for the senior pharmacy assistance program

Greg Tugman, Division of the Budget, reviewed the key assumptions that could be used to estimate the fiscal impact of the bill – the number of eligible seniors in the population, the average cost of a prescription drug, and how many prescriptions a person would use in a given year. In discussing income limits prescribed in the bill, Mr. Tugman stated that the Department of Revenue has identified 47,000 persons who are 65 or older with annual incomes of less than \$16,000.

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Duane Goossen, Director of the Division of the Budget, distributed a chart titled “Senior Service Trust Fund” which illustrated earnings on the trust fund assuming: 1) monies from the intergovernmental transfer for 5 quarters in FY 2001 and \$24 million each quarter in the two following fiscal years and 2) a steady 8% earnings ([Attachment 1](#)). The Director stated that the Budget Division can plug in different factors, but they need to know all the assumptions before they can estimate costs.

Members discussed some of the variables that could greatly impact the pharmacy program, such as a steady 8% earnings, the “banking of earnings” prior to payouts illustrated in the chart, and the lack of a definition of income.

Representative Carlos Mayans, appeared before the Committee in support of **HB 2814** and reviewed his testimony ([Attachment 2](#)). He told members that he had evaluated pharmacy plans of other states and used the best parts to make up the components of this bill. He stated that the biggest unknown factor in the bill is the number of participants. Members expressed concern about implementing any program that might become dependent on the SGF or that might be perceived as an entitlement. In answer to Senator Downey, Representative Mayans stated that he would not object if restrictions were put on income eligibility.

Karen Braman, SRS pharmacist, answered questions about assumptions made about pharmaceuticals in the fiscal note. She stated that the average prescription cost of \$36 is the average for all Medicaid beneficiaries, not for those over 67 years of age. She also noted that the cost is also dependent on other assumptions made in the bill such as types of drugs that are covered.

Written testimony from Sheila Frahm on behalf of Kellstrom Pharmacy ([Attachment 3](#)) and from House Majority Leader Kent Glasscock in support of **HB 2814** were distributed to members ([Attachment 4](#)).

The Chairman appointed a subcommittee of Senator Salisbury (Chairperson), Senator Ranson and Senator Downey to review **HB 2814** to determine some of the assumptions so that the program could be “priceable,” and to give consideration to prioritizing the population of persons who could avoid nursing home care.

The Chairman noted that usage of the earnings from the Senior Services Trust Fund as proposed in the intergovernmental transfer bill are not limited to the pharmacy program, but funding for **HB 2814** is dependent upon passage of that bill.

TOBACCO SECURITIZATION

The Chairman asked that Ken Frahm, President of Kansas Development Finance Authority, provide information to the Committee regarding tobacco securitization. Mr. Frahm noted that the Legislature had determined last year that tobacco settlement monies would be credited to the Kansas Endowment for Youth Fund. Mr. Frahm stated that KEY anticipates the receipt of \$2 billion over 30 years, and that amount is dependent on the financial health of tobacco companies and on a formula which is based, in part, on tobacco consumption. He said that KDFA is proposing that a mechanism be established so that the risk associated with receipt of the settlement monies can be passed onto bond investors. He urged the Committee to act this legislative session on this proposal because he believes there could be an overabundance of bonds in the future which will cause the interest on the risk premium to rise.

Leslie Casson, Financial Analyst, KDFA, gave members some of the historical background of the agency’s involvement in the determination that securitization would be a good option for Kansas to make the most out of tobacco settlement payments. She explained that with securitization an investor is buying a revenue stream made into a security. Securitization does not have an additional promise to pay -- if the revenue stream dries up, the issuer does not have to pay the debt. As a result of that, the investor asks for a higher premium on the interest rate and a higher coverage ratio. She told members that she believes the state can issue the bonds at 9.5% interest and invest the proceeds at 10% interest or more.

Ms. Casson reviewed the proposal contained in a document entitled “KDFA - Tobacco Settlement Securitization” ([Attachment 5](#)). In answer to a question regarding the chart “Receive As You Go vs.

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Proposed Securitization” (Attachment 5-4), Ms. Casson stated that securitization assumes a coverage ratio of 1.35. She explained that the state will receive tobacco settlements every year and if it is the amount that has been predicted, 74% will be used to make the principal and interest payments to the bond holders and the other 26% will flow directly into the KEY Fund. If the settlement payments come in below projections, the bond holder takes the risk; if they come in higher than projected, the KEY Fund receives the excess above the amount needed for debt service on the bonds. Ms. Casson stated that interest earnings and the residual are more than enough to meet the 1999 spending stipulation and keep the corpus intact. In answer to a question about what would happen if the revenue stream dries up, Ms. Casson stated that with securitization the state would still have \$415 million in corpus, assuming that the state would walk away from default on the bonds. She added that securitization would be structured to create a bankruptcy remote entity that issues bonds and that would put a legal wall between whether the bond investors could come back and try to get funds from the state. She stated that rating agencies have assured KDFA that the state’s credit worthiness would not be affected if this is structured as a securitization with nonrecourse. It was noted that these would be taxable bonds because nontaxable bond proceeds have to be spent on capital improvements.

In discussing the urgency associated with taking action on tobacco securitization this legislative session, Ms. Casson stated that the market will be saturated when \$10 billion worth of bonds has been issued and \$1.1 billion has already been issued. Other states are interested in pursuing tobacco securitization and it was pointed out that Arkansas is considering calling a special session to consider enabling legislation for this concept (Attachment 6).

In reviewing “Structure vs. Goals” (Attachment 5-6), Ms. Casson told members that if the securitization proposal passes, the Legislature might want to consider some language that would give the finance team the flexibility to modify the structure required by the market in order to maximize the benefit to the state.

Mr. Frahm said, “If you were a bond investor and somebody offered you a bond issue securitized by those payments with the risks I’ve mentioned (the inherent uncertainty of the settlement payments and decreased consumption), what kind of interest rate would you want? Investors are willing to do it for approximately 1% premium.” It was the consensus of the Committee that tobacco securitization was a good idea and should be done this legislative session. The Chairman asked that staff from KDFA and the Revisors Office work together to draft a bill and the Committee would review the draft the next day.

The Chairman complimented the staff of KDFA, noting that this was their initiative. Members stated that they thought the proposal was extremely impressive.

The Chairman adjourned the meeting at 1:30 p.m. The next meeting will be March 31, 2000.