

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Chairperson David Corbin at 10:40 a.m. on February 27, 2001, in Room 519-S of the Capitol.

All members were present except: Senators Clark, Lee, and Taddiken – Excused

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Don Hayward, Revisor of Statutes Office
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Senator James Barnett
Craig Grant, KNEA
Teresa Walters, Emporians for Drug Awareness
Nancy Lusk, Johnson County citizen
Neal Whitaker, Kansas Beer Wholesalers
Jim Scott, Kansas Association of Beverage Retailers
Tuck Duncan, Kansas Wine & Spirits Wholesale Association
Philip Bradley, Kansas Licensed Beverage Association
Chuck Magerl, Free State Brewing Company
Karl Peterjohn, Kansas Taxpayers Network
Dan Ogilvie, Ranch Mart Wine and Spirits
Magi Grimwood, Safe and Drug Free Schools, Emporia
Greg Watt, Emporia State University
Tom Laing, InterHab
Col. Don Brownlee, Superintendent, Kansas Highway Patrol
Kevin Walker, Tobacco Free Kansas Coalition, Inc.
Tom Palace, Petroleum Marketers & Convenience Store
Association of Kansas

Others attending: See attached list.

SB 312–School finance; providing revenue by increasing tax rates imposed upon alcoholic liquor and cereal malt beverages.

SB 318–Increasing the rate of taxation imposed on cigarettes and tobacco products and providing for the disposition of revenue received therefrom.

Senator James Barnett explained that he requested the introduction of **SB 312** as a means of obtaining additional K-12 funding and that he considers the increase in taxation as a “fairness tax” to the citizens of Kansas. He noted that the last increase in most alcohol taxes occurred in 1977. He outlined six negative impacts of alcohol consumption, noting that he is particularly concerned about the impact on youth. He reasoned that public policy should be considered when children can buy a can of beer at much less than one-third the price of a bottle of juice and less than one-half the price of a bottle of water. He pointed out that beer taxes have been maintained at an extremely low rate, and at the same time, researchers have found that beer consumption is associated with those who are more likely to drive while intoxicated and that beer is disproportionately preferred by youth and those who drink a lot during a typical drinking session. As to the argument that passage of the bill will cause a decrease in state revenue, Senator Barnett noted that beer consumption would have to decrease by 82 percent for that to occur. He said the proposed tax increase would cost the consumer only eight cents a can. He emphasized that alcohol kills over 6.5 times the number of youth than all illicit drugs combined. He believes that, unless the problem is addressed, the enormous costs of alcohol abuse in both human and economic terms will continue to increase. In conclusion, he said the bill answers the call for additional revenues to increase school funding as it would bring approximately \$61 million in the first year

with growth to \$71 million a year over five years. He urged the Committee to move the bill out of committee to allow debate by the full Senate. (Attachment 1)

CONTINUATION SHEET

Craig Grant, KNEA, testified in support of **SB 312**, noting that current resources are not sufficient to provide an adequate or suitable education for Kansas students. He pointed out that schools need increased funding in order to be able to spend more time with students who are not able to meet the high standards set for school children, and school districts could use extra funding to increase teachers' salaries. He observed, if the bill has an additional effect of decreasing alcohol consumption, it will have accomplished a second positive goal. (Attachment 2)

Teresa Walters, Emporians for Drug Awareness, Inc., testified in support of **SB 312**. She outlined how alcohol abuse affects all age groups. She noted that her coalition is concerned with the K-12 age group and that habits which start during those years can affect youth throughout their adulthood. She noted that one in eight American drinkers is an alcoholic or experiences problems due to the use of alcohol. She commented that the relatively static alcohol tax rates have resulted in the prices of alcoholic beverages increasing far less than those of other consumer goods. She contended that price increases reduce consumption rates among adult heavy drinkers as well as underage drinkers, and a tax increase will hardly be noticed by consumers who drink minimally. She said that the bulk of the tax increase will be paid by the relatively small percentage of drinkers who consume most of the alcohol. In her opinion, higher taxes will force the abusers to bear a more equitable share of the costs for the problems they cause, and the increase would allow the state to reclaim a valuable source of revenue that has declined dramatically over the years. (Attachment 3)

Nancy Lusk, a parent of school children in Johnson County, testified in support of **SB 312**, noting that there is no more important task than educating children. She said the bill provides funding for education in a way that poses no hardship upon anyone's ability to obtain the necessities of life. She observed that the choice is between a few cents more for a beer or other alcoholic beverage as opposed to a better education for Kansas children. In her opinion, the increased taxation would not significantly impact merchants whose stores are located near the Missouri state line. In conclusion, she called attention to attachments to her written testimony which include comments from Johnson County citizens in support of adequate funding for public education, including an increase in alcohol taxes. (Attachment 4)

Senator Allen inquired if there is any evidence that raising the price of alcohol affects the amount purchased. In response, Senator Barnett stated that studies of states with higher excise tax rates on alcohol show strong evidence that youth consumption goes down, consumption by those who drink and drive goes down, college graduation rates go up, sexually transmitted infections go down, and there are lower fatality rates on alcohol related automobile crashes. He offered to supply copies of these studies to committee members. He agreed with Senator Allen's statement that there is a definite preventative component in the bill, but noted that the primary purpose is to increase funding for education.

Neal Whitaker, Kansas Beer Wholesalers Association, testified in opposition to **SB 312**. He contended that the nearly 600 percent proposed increase in taxes on beer is an outrageous increase to taxes that are already too high. He noted that no other state taxes alcoholic beverages as Kansas does, explaining that there is a tax on gallonage when it comes into Kansas, an enforcement tax as it is sold by the retailer, and a tax on drinks sold on premise. He contended that the bill singles out the alcoholic beverage industry with a taxing system that could easily make Kansas the state with the highest taxes on beer. In his opinion, **SB 312** places prohibition in effect without a vote of the people. He commented that, if the goal is to eliminate consumption, a constitutional amendment should be drafted. He went on to say that there are statistics which clearly indicate that abusive drinkers are not the ones who cut back when the price of alcohol increases and that the price of beer is not a factor which influences teenage consumption. In conclusion, he said beer taxes are regressive, unfair, divisive, and ineffective. (Attachment 5)

Jim Scott, Kansas Association of Beverage Retailers, testified in opposition to **SB 312**, noting that he was also speaking on behalf of 700 "Mom and Pop" individual liquor stores. He pointed out the laws relating to alcohol have been on the books for 52 years and those laws are part of licensees' daily lives. He noted that, as a retailer, he has abided with the laws although he may not totally agree with all of them. He followed with a list of complaints from Kansas liquor retailers with regard to perceptions of their type of business. He believes that burdening one industry heavily is in total disregard of the negative consequences. He pointed out that Wyandotte and Johnson County businesses are already getting "slammed" by Missouri businesses which have lower prices due to lower taxation and more selling hours. In his opinion, increasing the price of beer with increased taxation will not reduce consumption by Kansans but rather will send the customer

CONTINUATION SHEET

across the state line where the price is lower. In conclusion, Mr. Scott emphasized that increased taxation on beer is a tax on working people who are already struggling financially. ([Attachment 6](#))

R.E. "Tuck" Duncan, Kansas Wine & Spirits Wholesalers Association, Inc., testified in strong opposition to **SB 312**. He noted that the bill concerns three questions; (1) the advisability of a tax increase, (2) what the tax rate should be; and (3) where the money should go. He pointed out that an increase in excise taxes is just as much a tax increase as an increase in the personal income tax or any other type of tax. He feels that excise taxes are regressive, weighing most heavily on low and middle income families. He noted that a study in 1989 estimates that states lost revenue in the amount of \$3.7 billion as a result of increases in federal alcohol, tobacco, and gasoline taxes in 1983 and 1985. He contended that an increase in the alcohol beverage taxes for the purpose of supplementing education would be unfair and arbitrary as there is no justification for making one group of taxpayers finance government activities which affect everyone. In his opinion, the bill taxes the behavior of individuals, and the question becomes, as a matter of public policy, what is the appropriate level to tax that behavior. He noted that, during the past several years, the industry has been engaged in activities to dissuade persons who should not be purchasing alcohol from purchasing it and to try to effect the hard core drunk driving issues in the state. He believes that **SB 312** is not the way to address these issues. Mr. Duncan called attention to tables extracted from a study on the burden of taxation by income group conducted by a professor of economics at the University of Kansas. He pointed out that the tables clearly indicate that alcohol taxes are very regressive. ([Attachment 7](#))

Mr. Duncan noted that, in prior papers, the Kansas Legislative Research Department indicated, "Increases in prices will, among other things remaining equal, decrease the quantity sold. Increases in taxes, which lead to increases in prices of goods or services may as a result of a decrease in the base lead to less than proportional increase in receipts. Thus, proposals to increase taxes by a substantial amount will probably result in significantly less revenue than might be projected on the assumption of zero elasticity of demand, that is, that price will not effect demand." In this regard, Mr. Duncan called the Committee's attention to a report on Kansas liquor laws prepared by the Kansas Legislative Research Department. ([Attachment 8](#)) He noted that Table 8 on page 23 of the report demonstrates that Kansas has already earmarked taxes on liquor. He pointed out that the percentages, in order to hold those harmless, are based upon zero elasticity of demand. He emphasized that the national experience indicates that an increase in taxes on alcoholic beverages will not provide the increase of tax receipts as anticipated by proponents of the bill.

Philip Bradley, Kansas Licensed Beverage Association (KLBA), testified in opposition to **SB 312** and **SB 318**. He noted that KLBA advocates safe, responsible alcohol consumption, and trains its servers to practice these principals. He said KLBA acknowledges that the state has a role in providing funding to schools and noted that, to date, the Legislature has determined that education is the responsibility of all citizens and has avoided earmarking taxes, thereby allowing them to bypass the appropriations process. He believes this is a sound principal, and measures which violate it should not be passed. In conclusion, he pointed out that alcohol industry already generates over \$76 million annually to the state and is taxed at higher rates than other businesses. ([Attachment 9](#))

Chuck Magerl, the proprietor of Free State Brewing Company in Lawrence, testified in opposition to **SB 312**. He noted that he and his colleagues reintroduced the quality of fresh, flavorful beer that was once the pride of small brewers in Kansas prior to prohibition, and their community is proud of their attention to quality. He itemized the donations Free State Brewing has made to several charitable and relief organizations in the Lawrence community. He noted that he pays federal, state, and local governments over \$790,000 per year in taxes and explained that his tax burden is greater than other businesses because he sells both wine and beer. He pointed out that wine and beer are taxed at a more aggressive rate than any other purchase in a healthy adult's life, yet **SB 312** increases that tax by 500 percent. In his opinion, the state should not count on the Kansans who drink beer to secure the public educational system. Mr. Magerl said he fears that passage of the proposal will mean the end of the line for all that he has built with his business, including the contributions to charitable organizations. He went on to note that alcohol abusers are not rational in their choices and do not stop drinking for economic reasons. He said his restaurant caters to moderate drinkers, and a typical restaurant has a net profit of 3.5 percent of sales. The proposed 500 percent increase will result in a direct attack on the life of his business and others. In conclusion, Mr. Magerl emphasized that the bill does not have fairness at its heart and would hurt many Kansans. ([Attachment 10](#))

CONTINUATION SHEET

Karl Peterjohn, Kansas Taxpayers Network, testified in opposition to **SB 312** and **SB 318**. At the outset, he distributed copies of a table from the publication, "Tax Foundation," which breaks down various state tax rates, including cigarette taxes, spirits tax, table wine tax, and beer tax. He pointed out that, although Missouri and Colorado are on the lower end for beer taxation, the lowest beer tax is in Wyoming. (Attachment 11) In his opinion, **SB 312** should be called the western Missouri retail liquor development act because a dramatic increase in alcohol taxes by the amounts proposed would significantly increase the amount of cross border traffic at the edges of the state, particularly in eastern Kansas. He believes that Kansans are currently going to lower sales tax areas (such as Missouri) for their food purchases, and raising the tax as provided in **SB 312** and **SB 318** will raise similar tax avoidance problems for the state. (Attachment 12 and Attachment 13)

With regard to the issue of the need for money for public schools, Mr. Peterjohn noted that for the first seven months of this fiscal year, state revenues are almost \$164 million above the same period last year. He noted that proponents indicate that passage of the bills would generate \$71 million in additional alcohol taxes and approximately \$10 million in cigarette taxes. He pointed out that the state of Kansas is currently spending over \$2 billion on K-12, and the combined revenue from the proposals are well under that amount. Therefore, he feels that the proposals would not have a significant effect on solving school finance. He also pointed out that there is an interesting distribution effect in **SB 312**. Raising the beer tax from 18 cents to 98 cents is a much larger percentage increase than increasing tax on spirits and hard liquor from \$2.50 to \$3.00. In his opinion, that would result in an increase in consumption of hard liquor because the tax increase for beer is not proportional. In his opinion, both bills are fatally flawed, and raising taxes on alcohol and tobacco is not the solution to the problem.

Dan Oglivie, owner of Ranch Mart Wine and Spirits in Leawood, testified in opposition to **SB 312**. He stated that he currently has many loyal customers; however, there is a limit on what a person will spend before heading for a better deal. Missouri liquor is already significantly less expensive, and an increase in tax would send a large percentage of faithful Kansas customers to Missouri. He noted that, if the bill is enacted, he will have to charge at least \$2.15 more per case of beer simply to cover taxes, with no additional mark up for the wholesaler or his store. This would be devastating to his business as well as to every other liquor store in Johnson County. (Attachment 14)

Chairman Corbin called attention to written testimony in opposition to **SB 312** submitted by Ron Hein on behalf of Kansas Restaurant and Hospitality Association (Attachment 15) and Lester Lawson on behalf of Kansas Clubs and Associates (Attachment 16). With this, the hearing on **SB 312** was closed.

Senator Barnett testified in support of **SB 318**, explaining that he requested its introduction as a means to increase state revenues for funding of specific state programs. He explained that the bill would increase the tobacco products tax from 10 percent to 12 percent and would add a dime to a package of cigarettes. The revenue generated in the first year would equal approximately \$23 million and would be distributed to regents institutions, the Kansas Highway Patrol, the Department of Corrections, student tuition relief, and care of the developmentally disabled (HCBS-DD waiver). During subsequent years, the money would be split between the regents institutions and used for targeted state employee salary enhancements. (Attachment 17)

Margi Grimwood, Safe and Drug Free Schools Coordinator in Emporia, testified in support of **SE 318**, noting that tobacco use is a major health and economic problem, and tobacco addicts a whole new crop of youthful customers each year. She said tobacco related health costs in Kansas are estimated at \$630 million per year, and the tax revenue that Kansas currently receives from tobacco products does not begin to compensate for those costs. She noted that strong evidence and success stories from other states show that raising the tax on tobacco products can significantly reduce tobacco use, especially among youth. In her opinion, the impact of an increased excise tax on cigarettes will encourage teenagers to stop smoking, and it may also discourage children from starting to smoke. In conclusion, she reasoned that higher tobacco taxes will force tobacco users to pay more of their fair share to alleviate the tax burden of all Kansans. (Attachment 18)

Greg Watt, an Emporia State University student, testified in support of **SB 318**. He reported that extrapolated information from the Board of Regent's Office indicates that there is a need for \$14.7 million above what the governor has recommended to maintain a current level of service and performance. Mr. Watt said he has only positive things to say about his experiences as a student and ambassador for governmental relations, and every dollar raised for higher education, regardless of the means, is a dollar well spent. (Attachment 19)

CONTINUATION SHEET

Tom Laing, representing InterHab for Kansans with Disabilities, testified in support of the efforts embodied in **SB 318** to address the funding shortfall for vital state programs. With regard to an increase in cigarette taxes, Mr. Laing noted that InterHab has never been officially asked to identify which revenue source should be increased, and instead, urges the Legislature to examine all options. He further noted that InterHab has not asked for earmarked revenue in the past, however, applauds the sponsor's initiative because InterHab's budget challenge is among the most under-addressed issues in the current budget. Although he finds **SB 318** encouraging, he believes the solution falls short of the needs. He pointed out that the direct care staffing crisis in the community is driven by the long-term inadequacy of the state rates. Mr. Laing explained that bringing DD workers to a comparable level with state workers in the same occupational classes would require more than \$40 million, of which only 40 percent of the total would be required from the State General Fund to match federal Medicaid dollars. (Attachment 20)

Colonel Don Brownlee, Kansas Highway Patrol (KHP) Superintendent, testified in support of **SB 318**. He noted that KHP has been working with the Legislature to fund much needed increases in both manpower and salaries for uniformed members for approximately two and one-half years, and Governor Graves recommended pay increases for KHP in his state-of-the-state address this year. Col. Brownlee commented that the dilemma of finding a resolution to the problem has come down to funding sources. He said, although KHP is not in a position to recommend tax policy, it would gratefully accept the funding provided by **SB 318** for salary enhancements if the Legislature feels it is the appropriate mechanism. (Attachment 21)

Kevin Walker, representing the Tobacco Free Kansas Coalition, offered qualified support of **SB 318** as he believes it attempts to use a major tool in the reduction of tobacco usage without using it to its fullest extent. He urged the Committee to consider redirecting a percentage of the funds towards a comprehensive tobacco control program in order to help break the cycle of addiction for many Kansas youth. He noted that economic research on the relationship between cigarette prices and youth tobacco consumption indicates that, for every 10 percent increase in tobacco prices, it can reasonably be expected that youth consumption will decrease by 7 percent. Additionally, a 4 percent decrease in adult consumption can be expected. He noted that Kansas ranks 32nd in the country in the amount of excise tax levied on cigarettes. He called attention to statistics attached to his written testimony which indicated that, in the states where cigarette taxes were increased, cigarette tax revenues increased despite the reduction in smoking and cigarette sales. He reported that a statewide pole of Kansas adults indicated that a 50 cent per pack increase in excise taxes on cigarettes is acceptable to an overwhelming majority of Kansans. (Attachment 22)

Chairman Corbin called attention to written testimony in support of **SB 318** submitted by Josie Torrez on behalf of the Kansas Council on Developmental Disabilities. (Attachment 23)

Tom Palace, Petroleum Marketers and Convenience Store Association of Kansas, testified in opposition to **SB 318**. He noted that smokers have been hard hit over the past three to four years due to tremendous price increases largely due to the Master Settlement Agreement between the state attorneys general and the tobacco industry. He contended that convenience store owners in Kansas who compete with bordering states, which have lower taxes, will be at a tremendous competitive disadvantage if the bill is enacted. He pointed out that cigarette sales make up approximately 23 percent of the gross sales in convenience stores. In addition, cigarette sales lead to the purchase of other products such as pop, coffee, and sandwiches; therefore, an increase in the price has the potential of reducing store revenues for all products. He noted that Kansas is already at a competitive disadvantage on the gasoline tax with two of the four contiguous states, and adding a 30 to 40 percent tax increase to cigarettes will have a negative impact both on convenience store marketers and on state revenues. (Attachment 24)

Chairman Corbin called attention to written testimony in opposition to **SB 318** submitted by Ron Hein on behalf of R.J. Reynolds Tobacco Company. (Attachment 25) With this, the hearing on **SB 318** was closed.

The meeting was adjourned at 12:30 p.m.

The next meeting is scheduled for February 28, 2001.