

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Chairperson David Corbin at 11:10 a.m. on February 5, 2002, in Room 519-S of the Capitol.

All members were present except:

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: Duane A. Goossen, Director, Division of Budget  
Sally Finney, Kansas Health Care Access Coalition  
Carter Headrick, Campaign for Tobacco Free Kids  
Tom Bell, Kansas Hospital Association  
Jerry Slaughter, Kansas Medical Society  
Terri Roberts, Kansas State Nurses Association  
Mark Tallman, Kansas Association of School Boards  
Frances Kastner, Kansas food Dealers Association  
Terry Presta, Petroleum Marketers and Convenience Store Association  
Karl Peterjohn, Kansas Taxpayers Network  
Ron Hein, R.J. Reynolds Tobacco Company

Others attending: See attached list.

Senator Praeger moved to introduce a conceptual bill which would create a tax amnesty program similar to programs other states have enacted, seconded by Senator Jenkins. The motion carried.

Senator Lee moved to introduce a bill which would codify the interim tax committee's recommendation that the Property Valuation Division provide documentation or a narrative regarding statutory interpretation and implementation of all use valuation procedures by a date certain, seconded by Senator Jenkins. The motion carried.

Senator Jenkins moved to introduce a bill which would change the statutory definition of "fair market value" to include an exclusion for real estate commissions, seconded by Senator Haley. The motion carried.

**SB 450—cigarette taxation; increasing the rate**

**SB 451—Sales and compensating use taxation; increasing the rate**

Duane A. Goossen, Director of the Budget, testified in support of **SB 450** and **SB 451**, which are proposals included in the Governor's budget plan. He noted that **SB 450** would raise the cigarette tax 65 cents per pack and would increase revenue for the State General Fund by \$111 million in FY 2003 and that **SB 451** would raise the state sales tax by a quarter cent and would produce \$95 million for the State General Fund. He emphasized that the increases are necessary to maintain vital services in education and social services, and without new revenues, the state will be facing serious budget cuts. To illustrate the financial difficulties facing the state, he discussed the statistics regarding FY 2000 through 2003 shown on an outline of the State General Fund attached to his written testimony. He noted that the projected budget deficit for FY 2003 is \$426 million and that the gap does not take into account that revenue collections are currently almost \$200 million behind the FY 2002 revenue projections. He also discussed the Governor's restoration and enhancement package for the FY 2003 budget and the effect of several tax cuts enacted over the past seven years. (Attachment 1) In conclusion, he explained that the Governor has not proposed closing the whole gap with tax increases but has proposed \$206 million to begin addressing a \$426 million cut that would otherwise have to be made. He said the Governor's approach is an attempt to provide some hope that the most vital

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services can carry forward in this fiscal year and on into next year without significant cuts. He commented that legislators will still have to make several difficult decisions as the budget comes to the floor of the Senate.

Sally Finney, Executive Director of the Kansas Public Health Association, testified in support of **SB 450** on behalf of the Kansas Health Care Access Coalition which includes 34 organizations with a common bond regarding the benefits of reduced cigarette consumption. She contended that increasing the tax on cigarettes makes good health policy because fewer cigarettes would be smoked each year, many adult smokers will quit, and many children will not become smokers and thus will be saved from a smoking related death. In addition, she contended that increasing the tax on cigarettes makes good fiscal policy as taxpayers currently pay more than \$70 million annually to treat tobacco related diseases. (Attachment 2)

Carter Headrick, representing the Campaign for Tobacco Fee Kids in Washington, D.C., testified in support of **SB 450**. He commented that the public health community agrees with the tobacco industry that raising the cost of cigarettes will decrease consumption for both underage smokers and adults. In support, he quoted a statement published by the R.J. Reynolds Tobacco Company as follows: "If prices were 10 percent higher, the 12 to 17 incidence would be 11.9 percent lower. He also quoted the following statements published by the Philip Morris Company: (1) "It is clear that the price has a pronounced affect on the smoking prevalence of teenagers in that the goals of reducing teenage smoking and balancing the budget would both be served by increasing the federal excise tax on cigarettes." (2) "Jeffery Harris of MIT calculated that the 1982-1983 round of price increases caused two million adults to quit smoking and prevented 600,000 teenagers from starting to smoke." (3) "A high cigarette price more than any other cigarette attribute has the most dramatic impact on the share of the quitting population. Price, not tar level, is the main driving force for quitting." Mr. Headrick went on to say that numerous economic studies have documented that cigarette tax or price increases reduce both adult and underage smoking. The general consensus is that for every 10 percent increase in the price of cigarettes, the overall consumption of tobacco products will decrease by 4 percent in the general population and by 7 percent for kids who either do not start smoking or stop smoking. Furthermore, research studies have shown that, among all adults and youths, cigarette price increases were even more effective in reducing smoking for males, blacks, Hispanics, and lower income persons.

Mr. Headrick also discussed the issue of cross border sales of cigarettes and smuggling resulting from an increased tax on cigarettes. He contended that the argument that cross border sales will increase if taxes increase ignores the established fact that the lion's share of smoking reduction following a tax increase inevitably comes from the related reduction in the number of people who smoke and in the number of cigarettes the remaining smokers consume. For example, he noted that a survey in California found that soon after the state's 50 cent cigarette tax increase went into effect in 1999, no more than 5 percent of all continuing smokers were purchasing cigarettes in nearby states, from Indian reservations, military bases, or over the Internet. He commented that every state that has significantly increased its cigarette tax has significantly increased its revenues despite the lost sales caused by the related smoking decline and despite any associated increases in cigarette smuggling or other tax avoidance. He noted that every state bordering Kansas, with the exception of Colorado, is considering a tobacco tax increase. Nebraska is considering a 50 cent per pack increase, Missouri is considering a 41 cent tax increase, and Oklahoma is considering a \$1.00 tax increase. He further noted that, in the second year after New York increased its tax on cigarettes by 55 cents per pack in 1999, making the total tax \$1.11, state cigarette tax revenues increased by \$50 million as cigarette sales slightly increased. In his opinion, cigarette sales increased in the second year because smokers became tired of driving across the border to purchase cigarettes and returned to their normal pattern of purchasing them from convenience stores. He pointed out that 60 percent of all smokers buy their cigarettes by the pack and do not drive a great distance to get their next pack.

With regard to the argument that a cigarette tax is regressive and will punish lower income citizens, Mr. Headrick noted that, while new cigarette tax increases will raise cigarette prices, many smokers will avoid the higher prices by quitting, cutting back, or switching to cheaper cigarettes. Lower income smokers are much more likely than higher income smokers to quit or cut back in response to price increases. In fact, all smokers who quit and many who cut back because of a cigarette tax increase actually save money by spending less on cigarettes. For example, one study showed that lower income smokers actually reduced their overall expenditures on cigarettes in response to cigarette taxes. In addition, those who stop smoking in response to a cigarette tax increase would greatly improve their health, which would significantly reduce their health care costs. He pointed out that, because their higher rate of illness and disabilities, smokers have substantially higher annual and lifetime health care costs than nonsmokers or former smokers. Health care expenditures

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caused by smoking currently total more than \$89 billion per year nationally paid directly by smokers either through direct health care payments or through increased health insurance premiums. Smokers who quit end up with more money in their pockets not only due to no longer spending money on tobacco but also due to a reduction in their health insurance premiums and long-term medical costs. In conclusion, Mr. Headrick said, in poll after poll, low income Americans, along with all other Americans, strongly support higher cigarette taxes in order to prevent and reduce smoking. He noted that a significant number of smokers generally support a higher cigarette price increase because they want to quit, and the increase is one way to help them quit.

Tom Bell, Kansas Hospital Association, testified in support of **SB 450**. He pointed out that the tax on cigarettes has not increased since 1985 and that other states have tapped this revenue resource to a much greater degree than Kansas. In his opinion, an increase in the cigarette tax will have a positive fiscal and health impact on the state. (Attachment 3)

Jerry Slaughter, Kansas Medical Society, testified in support of **SB 450**. He stated that increasing the tax on cigarettes would have a positive impact on youth because they will become not only healthier but also better students. In addition, the additional tax revenue will be a plus for the state at a time when the budget needs help. (Attachment 4)

Terri Roberts, Executive Director of the Kansas State Nurses Association, testified in support of **SB 450**. She informed the Committee that the average age a Kansas child has their first cigarette is 12. She believes that **SB 450** holds great promise for reducing youth consumption of tobacco because young persons are significantly more price sensitive than adults. She pointed out that 44 states have raised their cigarette excise tax since Kansas last raised its cigarette tax. In her opinion, a significant cigarette tax increase is the most effective way to reduce consumption and thus combat the negative consequences that accompany tobacco usage. (Attachment 5)

Mark Tallman, representing the Kansas Association of School Boards and the Kansas National Education Association, testified in support of **SB 450** and **SB 451**, although he does not support any particular revenue plan. He explained that schools continue to ask for more financial support because they are being asked to do more than ever, and meeting those expectations takes more money. For example, last month the President signed a bill which commits the nation to bringing every student to proficiency levels in basic skills and leaving no child behind. He noted that the overwhelming percentage of educational resources in pursuing the federal goals will continue to come from the states. He believes that Kansas is closer to the goals than most states because of state funding and the willingness of school boards to raise their local option budgets. He discussed the reasons he believes that the bills are the best of the three options presented to deal with the state budget problem, and he also outlined the consequences of not increasing state funding for public education. In conclusion, Mr. Tallman said that the bills will not meet all the needs of education; therefore, a broader tax package will ultimately be required. (Attachment 6)

Senator Corbin called attention to written testimony in support of **SB 450** submitted by the following (Attachment 7):

Kevin Walker, American Heart Association  
Gary Brunk, Kansas Action for Children, Inc.  
Bruce Beal, DCCA  
Paul Klotz, Association of Community Mental Health Centers of Kansas, Inc.  
Debra Zehr, Kansas Association of Homes and Services for the Aging  
J. Edgar Rosales, M.D., FAAP, American Academy of Pediatrics  
Robert P. Moser, Jr., M.D., Kansas Academy of Family Physicians  
Joyce Volmut, Kansas Association for the Medically Underserved  
Margaret Hartman, Lansing Parents as Teachers  
Mary L. Baskett, Kansas Head Start Association  
Stephanie Sharp, American Cancer Society  
Bob Harder, United Methodist Church  
Ben Coates, Catholic Social Services  
Jim Pelch, American Lung Association  
Jane Adams, Keys for Networking, Inc.

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Frances Kastner, Kansas Food Dealers Association, testified in opposition to **SB 450** and **SB 451**. Noting that grocery stores are a vital part of any community, she contended that, rather than targeting the sales of individual products, the economic woes the state is experiencing should be shouldered by all Kansas citizens. (Attachment 8)

Terry Presta, representing the Petroleum Marketers and Convenience Store Association (PMCA), testified in opposition to **SB 450**. He argued that current taxing rates are sufficient and should not be changed in the face of a short-term shortfall in state revenues. He believes that it is better for the long-term health of the state's economy to balance this year's revenue shortfall by the drawing down of the state ending balance. In his opinion, the state should immediately allow the lottery to expand as other states have done in order to increase state revenues. That revenue could be used to shore up the 2003 budget and rebuild the ending balance. He objects to an increase in the cigarette tax because the price increase will make convenience stores less competitive in the market place. (Attachment 9)

Tom Palace, Executive Director of PMCA, submitted written testimony in opposition to **SB 450**. His testimony outlines the reasons he believes the bill would be detrimental to the convenience store industry and to the state. (Attachment 10)

Karl Peterjohn, Kansas Taxpayers Network, testified in opposition to **SB 450** and **SB 451**. (Attachments 11 and 12). With regard to **SB 450**, Mr. Peterjohn commented that, if truth in advertising applied to the government, it could be called the western Missouri retail development act of 2002. He noted that Kansas taxes are already higher in a variety of categories that place retailers located near the Missouri border at a disadvantage. In addition, he argued that taxpayers need relief from the automatic tax hikes that exist in current law. He contended that an increase in the state's cigarette tax will promote tax evasion and smuggling. In his opinion, Kansas has simply raised taxes in recent decades instead of setting priorities and making tough decisions about the level of government services. He urged the Committee not to continue this trend.

With regard to **SB 451**, Mr. Peterjohn pointed out that Kansas' sales tax is already the highest in a five state region. He contended that an increase in the sales tax would send a clear signal to Kansans who live or work close to the state line to take their shopping out of state. He noted that he opposes the bill along with other tax hikes, fee expansions, and revenue enhancement bills being considered by the Kansas Legislature.

Ron Hein, representing R.J. Reynolds Tobacco Company, gave final testimony in opposition to **SB 450**. He discussed the reasons an increase in the cigarette tax would adversely effect both consumers and retailers. He emphasized that an increase in the cigarette tax would increase cross-border purchases and organized smuggling of cigarettes. He asked the Committee to consider a recent study which shows that cigarette taxes are regressive, extracting a far greater percentage of income frm modest wage earners compared to those with high incomes. (Attachment 13)

There being no others wishing to testify, the hearings on **SB 450** and **SB 451** were closed.

The meeting was adjourned at 12:10 p.m.

The next meeting is scheduled for February 6, 2002.

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