

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 10:40 A.M. on March 24, 2008, in Room 123-S of the Capitol.

All members were present except:

Senator Donald Betts, Jr. - excused

Committee staff present:

Jill Wolters, Senior Assistant, Revisor of Statutes
Alan Conroy, Director, Kansas Legislative Research Department
Kristen Clarke Kellems, Assistant Revisor of Statutes
Jason Long, Assistant Revisor of Statutes Office
Audrey Dunkel, Kansas Legislative Research Department
Aaron Klaassen, Kansas Legislative Research
Leah Robinson, Kansas Legislative Research Department
J. G. Scott, Kansas Legislative Research Department
Jarod Waltner, Kansas Legislative Research Department
Melinda Gaul, Chief of Staff, Senate Ways & Means
Mary Shaw, Committee Assistant

Conferees appearing before the committee:

Representative Gene Rardin
Dr. Roy Jensen, University of Kansas Cancer Institute
Dr. Karen Kelly
Senator Marci Francisco
Senator Roger Reitz
Ron Hein, Reynolds American, Inc., and Kansas Restaurant & Hospitality Association
Whitney Damron, on behalf of Flint Oak, LLC
Stuart Little, representing Penn National Gaming, Inc.
Father H. Setter
Alan Cobb, Americans for Prosperity
Bill Nigro, President KCBRC Coalition
Curt Diebel, Store Owner
Tom Jacob, Store Owner
Phil Bradley, KLBA
Joan Corpstein, Kansas Department on Aging

Others attending:

See attached list.

Chairman Umbarger turned the Committee's attention to discussion of:

SB 652--Appropriations for FY2009 and FY2010 for capital improvements for various state agencies

Senator V. Schmidt moved, with a second by Senator Teichman, to reconsider action taken on SB 652, Capital Improvements Budget. Motion carried on a voice vote.

Senator Schmidt moved, with a second by Senator Kelly, to amend SB 652 to regarding the University of Kansas School of Pharmacy to add wording that the funding would be part bonding authority, State General Fund and/or Special Revenue funding and recommend SB 652 favorable for passage as amended. Motion carried on a roll call vote.

SB 658--Appropriations for FY 2009 through FY 2013 for various state agencies

Senator Teichman moved, with a second by Senator Goodwin, to reconsider action taken on SB 658, Appropriations for FY 2009 through FY 2013 for various state agencies. Motion carried on a voice vote.

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Senator Tiechman moved, with a second by Senator Morris, to conceptually introduce a new bill in regard to KAN-ED, and address the reduction of the statutory progress of the Kansas Universal Services Fund. Following discussion, Senator Teichman withdrew her motion and Senator Morris agreed, the second to the motion.

Senator Teichman moved, with a second by Senator Schodorf, to amend **SB 658** to fund Kan-Ed at \$5.5 million from the Kansas Universal Services Fund and \$4.5 million from the State General Fund to reach the full \$10 million. Motion carried on a voice vote.

Senator Teichman moved, with a second by Senator Schodorf, to recommend **SB 658** favorable for passage as amended. Motion carried on a roll call vote.

The Chairman opened the public hearing on:

SB 660--State-wide prohibition on smoking in indoor public areas

Jason Long, Assistant Revisor of Statutes, briefed the Committee on the bill (Attachment 1).

The Chairman welcomed the following conferees:

Representative Gene Rardin testified in support of **SB 660** and provided testimony on behalf of his wife Juanita who has been undergoing treatment for lung cancer at the University of Kansas Medical Center (Attachment 2).

Dr. Roy Jensen, Director, University of Kansas Cancer Institute, testified as a proponent on **SB 660** (Attachment 3). Dr. Jensen noted that he strongly supports the bill. He appeared before the Committee as a medical scientist with a long history of research on cancer and with the responsibility for an institution committed to the public's health. He also noted that science has proven that there is no safe level of exposure to secondhand smoke.

Dr. Karen Kelly, Deputy Director, University of Kansas Cancer Center, spoke in support of **SB 660** (Attachment 4). Dr. Kelly explained that by enforcing smoke free laws, thousands of lives will be saved and suffering of Kansans that see sees in her clinics every day will be prevented.

Senator Marci Francisco testified as a proponent on **SB 660** (Attachment 5). Senator Francisco mentioned that she appears before the Committee on behalf of a number of constituents in her district. She provided information to the Committee from several business owners in Lawrence with their positive comments following the smoking ban that was enacted in the city of Lawrence.

Senator Roger Reitz appeared before the Committee as a proponent on **SB 660** (Attachment 6). Senator Reitz explained that all the material that had been presented so far is true and it is hard to get the concept across. He noted that the costs to the general public reach astronomical proportions for illnesses, affecting insurance premiums and tax dollars for Medicare and Medicaid.

Ron Hein, Legislative Counsel, on behalf of Reynolds American, Inc. (Attachment 7), and Kansas Restaurant & Hospitality Association, testified in opposition to **SB 660** (Attachment 8). Mr. Hein referred to his testimony under the Kansas Restaurant and Hospitality Association that they have agreed to a major concession, which would be that the ban would prohibit smoking areas in restaurants unless the smoking area was in a separate and distinct room, separated by floor-to-ceiling walls which should eliminate any but the most insignificant exposure for non-smokers.

Whitney Damron, on behalf of Flint Oak, LLC, testified in opposition to **SB 660** (Attachment 9). Mr. Damron explained that if the State of Kansas enacts legislation such as **SB 660** that makes no provision for private club exemptions, the members and patrons of Flint Oak will register their opposition to this change in state law by seeking out premium hunting and outdoor recreational opportunities in states that do allow it.

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Stuart Little, representing Penn National Gaming, Inc., presented testimony in opposition to **SB 660** (Attachment 10). Mr. Little expressed concern if **SB 660** is enacted, the economics of the facilities for lottery destination gaming will be dramatically and adversely impacted, as will revenues to the state, local governments and additionally the addictions fund.

Father H. Setter, Pastor, All Saints Catholic Church, Wichita, spoke before the Committee as an opponent on **SB 660** (Attachment 11). Father Setter felt that there is no need for a legislated smoking ban since legitimate, practical and common sense restrictions are currently in place based upon the individuals who own and operate private businesses and have decided their businesses should or should not be smoke free.

Alan Cobb, State Director, Kansas Americans for Prosperity, testified in opposition to **SB 660** (Attachment 12). Mr. Cobb explained that they are in opposition to the bill because it infringes upon businesses and personal property rights and freedoms.

Bill Nigro, President, Kansas City Business Rights Coalition, spoke as an opponent on **SB 660** (Attachment 13). Mr. Nigro mentioned that this issue should be left up to the small business owners in the State and because it could result in job losses with the regulations that would be put in place.

Curt Diebel, President, Diebel's Sportsmens Gallery, testified as an opponent on **SB 660** (Attachment 14). Mr. Diebel requested exemptions for tobacco shops and noted that most of his customers smoke cigars for the taste, relaxation and camaraderie of fellow smokers.

Tom Jacob, on behalf of Cigar Chateau, LLC, spoke in opposition to **SB 660** (Attachment 15). Mr. Jacob explained that they are tobacconists, not a smoke shop. He mentioned that premium tobacco is a product of leisure, pleasure and socializing - it is a lifestyle choice.

Phil Bradley, representing the Kansas Licensed Beverage Association, testified in opposition to **SB 660** (Attachment 16). Mr. Bradley provided past legislative testimony on smoking ban bills which he presented to the Committee. He noted that the Association members oppose the bill because it limits the choices of adults and businesses about a legal product.

Joan Corpstein, Chief Counsel, Kansas Department on Aging, testified as a neutral conferee on **SB 660** (Attachment 17). Ms. Corpstein explained that the Department on Aging is responsible for the regulation of adult care homes in Kansas and some residents are life-long smokers. They are requesting that an additional exemption be added to the bill that adult care homes be exempt from the Kansas uniform smoking prohibition act, provided, the adult care homes would give notice to potential residents and employees of their smoking policy prior to their admission or employment.

Written testimony was submitted by:

Roderick Bremby, Secretary, Kansas Department of Health & Environment (Attachment 18)

Linda DeCoursey, American Heart Association (Attachment 19)

Lisa Benlon, Legislative/Government Relations Director, American Cancer Society (Attachment 20)

Michelle Bernth, Senior Vice President of Marketing & Advocacy, American Lung Association (Attachment 21)

Terri Roberts, Executive Director, Kansas State Nurses Association (Attachment 22)

Carolyn Gaughan, Kansas Academy of Family Physicians, Wichita (Attachment 23)

Mary Jayne Hellebust, Executive Dir., Tobacco Free Kansas Coalition, Inc., Topeka (Attachment 24)

Jon Hauxwell, Hays, Kansas (Attachment 25)

Rear Admiral John Babb, Health and Human Services Regional Health Administrator for Region II, Westwood (Attachment 26)

James Dixon Gardner, M.D., Primary Care Physicians of Manhattan (Attachment 27)

Donna Gerstner, Assistant Superintendent, Garden City Recreation (Attachment 28)

Teresa Walters, Clean Air Emporia (Attachment 29)

Joan Cosvert, RN, Manhattan (Attachment 30)

John Todd, Wichita (Attachment 31)

Marcia Locke, Junction City (Attachment 32)

Marcia Locke, for Rob Dennell, Director, K-State Terry C. Johnson Center for Basic Cancer Research

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(Attachment 33)

Brenda Lindstrom, R.N., Riley (Attachment 34)

Roger Smith, Vice Chair, Tobacco Free Wichita Coalition (Attachment 35)

Mayor Dion Avello, Derby (Attachment 36)

Thomas R. Devlin, Chairman, Flint Hills National Golf Club & Flint Oak Ranch (Attachment 37)

Paul Lyons, Councilman, City Council of Overland Park (Attachment 38)

Linda Davies, R.N., Abilene (Attachment 39)

Atalie Tompkins, Abilene (Attachment 40)

Kansas Public Health Association (Attachment 41)

James Behan, City Commissioner, Garden City (Attachment 42)

Charles Pomeroy, Topeka (Attachment 43)

Matt Goolsby, Wichita (Attachment 44)

Veterans of Foreign Wars (Attachment 45)

Chad Austin, Vice President, Governmental Relations, Kansas Hospital Association (Attachment 46)

Dan Morin, Director of Governmental Affairs, Kansas Medical Society (Attachment 47)

Leon F. Vinci, Director of Public Health, Johnson County (Attachment 48)

Marcia Nielsen, PhD, Executive Director, Kansas Health Policy Authority (Attachment 49)

Matt Wagner, Student Body President, Kansas State University (Attachment 50)

Jeff Martin, Armour Amusement, Kansas City (Attachment 51)

Peggy Johnson, Exec. Director, Wichita Medical Research & Education Found. (Attachment 52)

Rusty Wilson, Manhattan (Attachment 53)

Karl Peterjohn, Executive Director, Kansas Taxpayers Network (Attachment 54)

The Chairman closed the public hearing on **SB 660**.

Senator Wysong moved, with a second by Senator Steineger, to amend **SB 660** and adopt a balloon amendment regarding some exemptions on **SB 660** (Attachment 55). Motion carried on a voice vote.

Senator Schodorf moved, with a second by Senator Taddiken, to amend **SB 660** to add an exemption for Flint Oaks. Motion failed on a voice vote.

Senator Wysong moved, with a second by Senator Kelly, to recommend **SB 660** favorable for passage as amended. Motion carried on a roll call vote.

The meeting adjourned at 12:00 p.m. The next meeting was scheduled for March 25, 2008.