

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS.

The meeting was called to order by Chairperson Steve Morris at 10:40 a.m. on January 10, 2001 in Room 123-S of the Capitol.

All members were present except: All present

Committee staff present:

Alan Conroy, Chief Fiscal Analyst, Kansas Legislative Research Department  
Deb Hollon, Kansas Legislative Research Department  
Amory Lovin, Kansas Legislative Research Department  
Carolyn Rampey, Kansas Legislative Research Department  
Norman Furse, Revisor of Statutes  
Mike Corrigan, Assistant Revisor of Statutes  
Julie Weber, Administrative Assistant to the Chairman  
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

Carla Stovall, Attorney General, State of Kansas

Others attending: See attached guest list

Chairman Morris asked the Committee members to check with him ahead of time to coordinate bill introductions.

The Chairman welcomed Attorney General Carla Stovall, State of Kansas, who spoke to the Committee regarding water litigation, the tobacco master settlement agreement and the Blue Cross and Blue Shield Settlement. The following information was distributed to the Committee:

- Letter dated December 20, 2000, addressed to The Honorable Parris N. Glendening, et. al., from the National Association of Attorneys General (Attachment 1), concerning three important issues regarding protection of payments to the States under the Master Settlement Agreement (“MSA”) prescribing the terms of settlement of the States’ lawsuits against the tobacco companies:
  - the need to allocate a substantial portion of MSA payments to support tobacco prevention and public health programs.
  - the potential for the filing of a voluntary or involuntary bankruptcy petition by one or more tobacco companies as a result of judgments in class action proceedings.
  - the potential for downward adjustments in payments by virtue of the Non-Participating Manufacturer adjustment.
- Letter dated December 20, 2000, addressed to Senator Jim Costa, President of NCSL Executive Committee, et. al., from the National Association of Attorneys General, regarding the same issues as listed in Attachment 1 above (Attachment 2).
- A list of the members of the Sunflower Foundation: Health Care for Kansans Board of Trustees (Attachment 3).

Senator Morris noted that later on in the meeting during water litigation the Committee would probably go into executive session.

### **Tobacco Settlement**

Attorney General Stovall mentioned that as a result of the 1998 settlement which is called the Master Settlement Agreement (MSA), that all the tobacco billboards have been taken down. There has been a significant decrease in tobacco advertising targeted to young people. The Association of Attorneys General, as well as individual Attorneys General, continue to monitor the marketing practices of cigarette manufacturers to be sure that they are not marketing to children in violation of the agreement. Attorney General Stovall continued explaining additional information regarding the tobacco settlement.

## CONTINUATION SHEET

### **Blue Cross and Blue Shield of Kansas, Inc., Settlement Agreement Regarding Charitable Obligations**

Attorney General Stovall gave background regarding the settlement and some history regarding Blue Cross and Blue Shield. She noted that after the state district court judge's initial decision, the Attorney General entered into settlement negotiations and ultimately settled the case. As a result of the settlement, which was also approved by the Insurance Commissioner who was involved as an intervener as well, \$75 million dollars was paid by Blue Cross and Blue Shield to go for the charitable obligations for the State of Kansas. The Attorney General explained the following information regarding the fund:

- the \$75 million dollars was put in a separate foundation called the Sunflower Foundation, Healthcare for Kansans.
- the fund will be governed by an independent board of directors, eight people chosen by the Attorney General and one person chosen by Blue Cross Blue Shield.
- It will be the Foundation's responsibility to govern this public money and their determinations will be important in setting the parameters as to what this money should go for and what health needs in Kansas should be addressed.
- the \$75 million is a permanent endowment.
- the Trustees are authorized to spend only the interest off the corpus which is currently invested in the Wichita Community Foundation because it was a charitable organization that had investment expertise.

Committee questions and discussion followed.

### **Overview of Water Litigation**

Attorney General Stovall briefed the Committee regarding the three water lawsuits. Attorney General Stovall mentioned that there are three different lawsuits with two of the lawsuits against different states and she briefed the Committee regarding each lawsuit. The Attorney General mentioned that the lawsuit against Nebraska concerning the Republican River is very important because it involves about two to three times much water as that of the Arkansas River and the Colorado lawsuit. It also supplies municipal, industrial, recreational and irrigational uses in Junction City, Manhattan, Topeka, Lawrence and Kansas City and is a river that impacts a lot of people. Committee questions and discussion followed.

Attorney General Stovall updated information concerning the lawsuit the state is involved in against the State of Colorado concerning the Arkansas River. The Attorney General's office has requested \$970,000 for the Colorado lawsuit for FY 2002. The Governor recommended \$870,000 in his budget report for FY 2002. The Attorney General noted that the state won the liability phase of the Colorado lawsuit after ten years of litigation. The Attorney General has taken the position of encouraging further compliance by Colorado to the water compact and that the state would prefer money damages to reimburse the state for the water loss.

Senator Adkins moved, with a second by Senator Schodorf, that the open meeting of the Senate Committee on Ways and Means be recessed for a closed executive meeting for the purpose of consulting with the Attorney General and members of the staff of the Attorney General and other persons regarding water law litigation and disputes, that the consultation shall be on matters which relate to this subject, that the closed executive meeting is justified because the consultation is privileged in the attorney-client relationship, that the Senate Committee on Ways and Means resume the open meeting in room 123-S of the statehouse at 12 noon on January 10, 2001, and that this motion, if adopted, shall be recorded in the minutes of the Senate Committee on Ways and Means and shall be maintained as part of the permanent records. Motion carried. The Committee recessed at 11:20 a.m.

The Chair resumed the Senate Committee on Ways and Means at 12:00 noon and adjourned. The next meeting is scheduled for January 11, 2001.