

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Senator Lana Oleen at 11:05 a.m. on January 13, 1998, in Room 254-E of the Capitol.

All members present.

Committee staff present: Mary Galligan, Legislative Research Department
Robin Kempf, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Midge Donohue, Committee Secretary

Conferees appearing before the committee:
John Campbell, Senior Deputy Attorney General

Others attending: See attached list

Senator Oleen welcomed members of the committee and noted changes in the configuration of the meeting room which, she said, would allow for additional space for individuals attending committee meetings.

The weekly agenda was reviewed. Four bills, (SB 306, pertaining to SRS special investigators; SB 322, concerning licensure and regulation of private detectives; SB 367, regarding mortgage registration fees, and SB 374, relating to interior designers), remain in committee from the 1997 Session. Senator Oleen indicated she intended to schedule a hearing soon on SB 322 and take action on the other three sometime this week. Senator Jones requested a brief review of the bills prior to action by the committee, and Senator Oleen indicated this would be done.

Senator Oleen advised that three additional bills, (SB 393, dealing with computers and telecommunications and the gathering and maintaining of personal information by state agencies; SB 400, assignment of space and facilities in the state capitol, and SB 409, providing for coverage for prostate cancer screening), had been referred to the committee this Session.

Senator Oleen called attention to the Committee Action Index reports, copies of which were made available to committee members and which list all bills processed by the committee last year. She commented on the amount of work the committee had accomplished last Session.

Senator Oleen introduced John Campbell, Senior Deputy Attorney General, explaining that he had been invited to address the committee on the status of the current lawsuit against the major tobacco companies.

Mr. Campbell presented an overview of the lawsuit filed in August 1996 by Kansas Attorney General Carla Stovall, (Attachment #1), and identified problems the state faced in its litigation against the tobacco industry. He said there were many issues surrounding settlement of the suit but that his remarks to the committee would focus on the money issue.

Mr. Campbell discussed the terms of the settlement under which he said the states were to receive tens of billions of dollars over the next twenty-five years direct from the cigarette manufacturers. He pointed out that this portion of the settlement is now in jeopardy. As a result, he stressed the importance of a unified effort at state level to make certain the initial payment due from the tobacco companies is not converted solely to federal projects, and he urged bipartisan action by members of the legislature to persuade Congress and the President to pass the majority of the proceeds of any national settlement on to the states.

Senator Oleen advised that Legislative Post Audit staff was scheduled tomorrow to review for the committee audits of the Lottery and the Racing and Gaming Commission. She said the committee would meet Thursday at 11:10 in Room 656-S of the Landon State Office Building prior to a tour of the Memorial Building.

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL & STATE AFFAIRS COMMITTEE, Room 254-E, Statehouse, at 11:05 a.m. on January 13, 1998.

Senator Oleen recognized returning committee staff and introduced Robin Kempf, Legislative Research Department, who has been assigned to work with the committee. Richard McNelley who will serve an internship in the office of Senator Oleen was also introduced. She noted that Richard is a Clyde Hill fellow in his junior year at Washburn; that he served in the military and was stationed at Fort Riley. She invited committee members to bring their interns and pages to committee meetings.

The meeting adjourned at 11:40 a.m. The next meeting is scheduled for January 14, 1998.



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SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

JANUARY 13, 1998

Testimony of

John W. Campbell
Senior Deputy Attorney General

Madame Chairperson, members of the Committee, my name is John Campbell, I am the Senior Deputy Attorney General for the State. With your permission I will present a brief overview of the current lawsuit against the major tobacco companies, along with the identification of the biggest problem facing the State in that litigation and a request for assistance from the Legislature.

In 1994 the Attorney General of the State of Mississippi sued the major manufacturers of cigarettes. That suit primarily sought to recover state moneys spent in providing health care to those made ill by smoking. The Attorneys General of West Virginia, Minnesota, Florida and Massachusetts shortly after that sued the cigarette manufacturers.

In March of 1996 one of the manufacturers, Liggett, settled its suits with those Attorneys

General. The money in this settlement, Liggett I, was modest, however it represented the first crack in a united cigarette industry that in the preceding 40 years had successfully defended more than 350 lawsuits without ever settling or paying a dime.

In August of 1996, Kansas Attorney General Carla J. Stovall sued in the hopes of building on the Liggett I settlement. Kansas was the 11th state to file. General Stovall was the first Republican Attorney General to file suit. While it was anticipated that the monetary awards of such a suit might be limited, it was hoped that the cigarette industry's marketing practices could be severely curtailed, especially their marketing to children.

Since August of 1996 there has been a drastic change in the public's perception of the tobacco industry. In March of 1997 the Liggett company entered a second settlement with various Attorneys General including Carla Stovall. In this second settlement, Liggett II, the company admitted that cigarettes cause heart disease, lung cancer and emphysema. Further, Liggett admitted that nicotine is addictive and that the cigarette industry intentionally marketed to children. In addition, Liggett waived its legal rights and provided thousands of heretofore secret documents revealing how the cigarette industry had for years lied to the American people and Congress.

Faced with an increasingly hostile court system, press, public and Congress, in June of 1997 all of the major cigarette manufacturers attempted to settle their suits with the various states' Attorneys General. Under this proposed settlement, previously unobtainable restrictions on the marketing of cigarettes were secured. In addition, the monetary awards of settlement went

from millions of dollars in Liggett I to hundreds of billions of dollars.

40 of the states' Attorneys General have agreed to participate in this national settlement. The settlement, however, cannot be finalized until Congress has approved the settlement by enacting a number of its terms. There are many issues surrounding this approval. Nevertheless, the one I would like to focus on today deals with money.

Under the terms of the settlement the States would receive over the next 25 years tens of billions of dollars directly from the cigarette manufacturers. This portion of the settlement is now in danger. Each day it appears more likely that most if not all of the money from the settlement will go not to the states but to the federal government. Already the new 15 cent increase in federal cigarette taxes will be credited against the settlement. The Department of Defense and the federal Department of Health and Human Services are lobbying to obtain large portions of the settlement. There are calls for the federal government to file its own suit. These, combined with the claims of private individuals and organizations, labor unions and the trustees of the asbestos health care fund, are making it increasingly unlikely that the states will receive money directly from the national settlement.

The issue of money was brought to a head last week when the Wall Street Journal reported that President Clinton will ask Congress to finance a new children's health care program with money from the national tobacco settlement. The ten billion dollars asked for by the White House represents all of the initial payment due from the tobacco companies. It appears to us that the federal government is in the process of converting most if not all of the tobacco settlement

money to federal projects.

We have always assumed that the Legislature wanted us to secure the majority of the money obtainable in a national settlement with no strings attached. That goal may be slipping away from us. We need to take positive action now if we want to preserve the State's share of a national tobacco settlement. That action needs to be coordinated.

The Attorney General is sending a request today to the President of the Senate and the Speaker of the House asking that they designate a bipartisan group of members from each House to serve as a liaison between the Legislature and the Attorney General's Office in the tobacco litigation. Besides allowing for a free flow of information and ideas, this group would be of assistance in determining if and how the Legislature and/or its individual members could help in persuading both Congress and the President to pass the majority of the proceeds of any national settlement to the states.

It is widely believed that if a national tobacco settlement is to be obtained in 1998, Congress and the President will have to act before June. There are literally scores of organized participants in the national tobacco litigation. If the government of the State of Kansas is to maximize its opportunity to secure a large, no strings attached, monetary award from this litigation it must present a coordinated and united effort.

I thank the Committee for this opportunity to address the members.