

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Senator Lana Oleen at 11:05 a.m. on Monday March 13, 2000 in Room 245-N of the Capitol.

All members were present.

Committee staff present: Mary Galligan, Legislative Research Department
Russell Mills, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Judy Glasgow, Committee Secretary

Conferees appearing before the committee: Senator Alicia Salisbury

Others attending: See Attached Sheet

Upon comments by Senator Vidricksen and discussion and consensus of all members of the committee it was determined that the second meeting at 2:00 p.m. previously scheduled. would not be needed and that a final draft of the abortion bill would be provided to all members for their review following committee action at the regular meeting. This change in schedule will assist members of the committee who will be participating in a Senate Transportation committee outside of Topeka..

Chairman Oleen opened hearing on

SCR 1635–Memorializing congress-unfunded mandates of federal judiciary

Chairman Oleen recognized Senator Salisbury, a proponent of **SCR 1635**. Senator Salisbury stated that this was the result of a case in 1983 in a federal district court in Kansas City, Missouri which ended with the court mandating the local government to impose a tax on residents in that area. (Attachment 1) Fifteen states are urging passage and ratification of a U.S. Constitutional amendment to clarify and preserve the intent and integrity of the United States Constitution, using the resolution method to garner support..

Committee members questioned the circumstances which allowed this to occur and after discussion Senator Vratil moved that copy of the resolution be provided to each member of the United States Supreme Court, each member of the 10th Circuit Court of Appeals, the Federal Appellant Court that covers Kansas, each Federal District Court Judge in the state of Kansas, each member of the Kansas Supreme Court, Kansas Court of Appeals and each Kansas District Judge. Senator Vidricksen seconded the motion. The motion passed.

Senator Vidricksen moved to favorably pass the amended resolution to the full Senate. Senator Harrington seconded the motion. The motion passed.

Chairman Oleen ask the committee to return to **Sub HB 2581 Partial birth abortion.**

Chairman Oleen opened the discussion of the bill. Senator Biggs moved to reinsert the word “viable” in lines 15 and 27. Senator Harrington seconded the bill. The motion carried.

Senator Becker moved to restore the reference to women’s life “or health of the pregnant women” in the abortion law. Senator Jones seconded the motion. After discussion by the committee Senator Bleeker offered a substitute motion that would substitute all the language to reflect “irreversible” and restore current law with the exception of repealing of Section 6721, which is the partial birth language. Senator Harrington seconded the motion. After discussion by the committee, the motion failed. Following discussion by the committee Senator Becker withdrew his primary motion with Senator Jones in concurrence as the second to the motion.

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS, Room 245-N Statehouse, at 11:00 a.m. on March 13, 2000.

Senator Vratil then moved to amend Sub HB 2581 by striking everything after line 12 and substituting the contents of SB 357 beginning with line 13; with modifications to ban partial birth abortions and making preservation of the pregnant woman's health an exception to the post viability abortion law. Senator Becker seconded the motion. During discussion of the bill Senator Bleeker made a substitute motion changing the language offered in Senator Vratil's motion to be consistent with current law noting two exceptions, the life of the mother and the health provision would be defined as a continuation of the pregnancy that would cause a substantial and irreversible impairment to a major bodily function. Senator Harrington seconded the substitution motion. The motion failed. Returning to the motion of Senator Vratil, The motion carried.

Senator Jones moved to clarify that both physicians involved in determining the need for a post-viability abortion must be licensed in Kansas. Senator Vratil seconded the motion. The motion carried.

Senator Vidricksen moved to favorably report S Sub for Sub HB 2581 to the full Senate. Senator Vratil seconded the motion. The motion passed. The Chairman directed that Senators Biggs, Bleeker and Harrington be recorded as voting no on the motion, as they requested such action.

Chairman Oleen indicated that the bill would be delivered to members of the committee as soon as it was proofed and ready for committee member distribution. The bill would be read into the Senate when it was completed by the revisor. She commended the committee on their work on the issue, recognizing the different views and perspectives of the individual committee members.

The meeting adjourned at 12:20 p.m. The next meeting will be March 14, 2000, at 11:00 a.m.

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

GUEST LIST

DATE: MARCH 13, 2000

NAME	REPRESENTING
Carla Norcott-Mahany	PPKM
Lachara Cole	Sen. Apom Office
Barbara Halderon	KANSAS for JUST
Bruce Dimmitt	Kansas for Life
Lauri Williams	Office of Governor

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VICE-CHAIRMAN:
WAYS AND MEANS

MEMBER:
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CONFIRMATIONS
CORRECTIONS AND JUVENILE
JUSTICE
ECONOMIC DEVELOPMENT
INTERSTATE COOPERATION
KANSAS WORKFORCE INVESTMENT
PARTNERSHIP
ORGANIZATION, CALENDAR, RULES
UTILITIES
WORKERS' COMPENSATION FUND

ALICIA L. SALISBURY
VICE PRESIDENT • KANSAS SENATE

Testimony
Before the Senate Federal and State Affairs Committee
March 13, 2000
SCR 1635

The United States Constitution establishes our nation's democracy as one which employs a separation of powers between the Legislative, Executive and Judicial Branches of government.

The U.S. Constitution clearly charges the legislative branch with the sole authority to levy taxes. (Article I, Sec. 8; Sixteenth Amendment)

In 1983, a case began in a federal district court in Kansas City, Missouri, and ended with the court imposing a tax on residents in that area. In 1990, the Supreme Court, in a ^{five} ~~one~~ to four decision, upheld the district court's decision to impose this tax - - thereby setting the dangerous precedent under which courts continue to impose taxes in violation of the U. S. Constitution.

In 1997 a federal judge in Rockford, Illinois ordered property taxes increased by 12% and threatened public officials with fines, incarceration and loss of their voting rights if they did not vote for a tax which they believed to be illegal. He then ordered U. S. Marshals to serve his order on each individual elected official.

Ordering tax monies spent by the judicial branch of government, that branch of government which is neither responsible nor accountable to the people for its actions, makes a mockery of the credo expressed by the Founders in the Declaration of Independence and the Constitution that there shall be no taxation without representation.

To understand just how far the Supreme Court and the inferior courts of the United States have strayed from the constraints of the Constitution one only needs to review the printed record of our Republic's Founders. The *Federalist Papers* are a good start.

The *Federalist Papers* were written by Alexander Hamilton, James Madison and John Jay to explain the proposed Constitution to the people of New York and the colonies. In *Federalist 33* Hamilton asked rhetorically: "What is the power of laying and collecting taxes but a *legislative power*, or a power of *making laws*, to lay and collect taxes?" And in *Federalist 78* he spelled out the role the Founders envisioned for the judicial branch in the new Republic. "The

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judiciary,” he wrote, “has no influence over either the sword or the purse, no direction either of the strength or of the wealth of the society. It may be truly said to have neither Force nor Will, but **merely judgment**.”

Fifteen states, including three of our border states, are urging passage and ratification of a U. S. Constitutional amendment to clarify and preserve the intent and integrity of the United States Constitution. These states are: Missouri, Colorado, Tennessee, Michigan, Alaska, New York, Louisiana, Arizona, South Dakota, Massachusetts, Nevada, Delaware, Oklahoma, Alabama and Utah.

Such an amendment, when adopted by 38 states, would protect taxpayer rights from judicial taxation by prohibiting the courts from ordering any state or political subdivision, or an official of such state or political subdivision thereof, to levy or increase taxes.

The proposed amendment reads:

“Neither the Supreme Court nor any inferior court of the United States shall have the Power to order or instruct a State or political subdivision thereof, or an official of such State or political subdivision, to levy of increases taxes.”

The decision of the court to allow the imposition of state and local taxes by federal courts to fund remedial plans violates the limits of authority granted to the judiciary under *Article III* of the U. S. Constitution; and *Article I*, Section 8 which grants to the legislative branch the sole authority to levy and increase taxes. It is true that the courts have power to order the remedy of constitutional violations, but they do not have the power to make the remedial law, to fund the law by increasing taxes without voter approval, to set aside state constitutional tax limiting provisions, nor to execute the law.