

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 12:30 A.M. on March 31, 2005 in Room 319-S of the Capitol.

All members were present except:

Representative Paul Davis- excused  
Representative Mario Goico- excused

Committee staff present:

Chris Courtwright, Legislative Research Department  
Emalene Correll, Legislative Research Department  
Gordon Self, Revisor of Statutes  
Richard Cram, Department of Revenue  
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Senator James Barnett  
Hal Hudson, National Federation of Independent Businesses  
Ken Daniels, Midway Wholesale  
Lew Ebert, KCCI

Others attending:

See attached list.

**SUBSTITUTE FOR SENATE BILL 257 (Sub. SB 257) - Income tax credits for employer contributions to employee health benefit plans and health savings.**

Ms. Correll briefed the committee on **Sub. SB 257**. She stated that the substitute amends four statutes that are a part of an act under which refundable tax credits may be claimed by certain small employers who contribute to health benefit plans made available to eligible employees. In general, the proposed amendments change the schedule of tax credits and add health savings accounts to the employer contributions that qualify for a tax credit. The bill applies to small employers (those employing at least two and not more than 50 eligible employees, a majority of whom are employed in Kansas) who have not contributed to a covered employee's health insurance premium or health savings account in the previous two years (Attachment 1).

Senator James Barnett, primary sponsor of the **Sub. SB 257**, addressed the Committee (Attachment 2). He stated that Health Savings Accounts (HSAs) represent one of the fundamental changes in how individuals pay for health care. They bring responsibility into the loop of health care expenditures and provide tax incentives to save for future health care needs. The Kansas Department of Research has documented that small businesses in Kansas represent the major source of health care insurance to Kansas workers. He called attention to attachments that reflected results of surveys performed during 2004 with small businesses across the state.

The Senator suggested two benchmarks that could be used to determine the success of the program would be to follow the uptake of businesses participating in the program and monitor the number of uninsured Kansans.

Chairman Wilk asked if the Senator would consider the request for some type of reporting or accountability tracking a friendly provision to the bill. The Senator stated it would not be a problem.

Hal Hudson, National Federation of Independent Businesses, rose in support of **Sub. SB 257** (Attachment 3). He stated that on their state ballot mailed to members last fall, they asked: "Should legislation be enacted to double the income tax credit for employers who provide health care insurance coverage for their employees, and simplify employer qualification". Of those responding, 82% said yes, while only 9% said no, and 8% were undecided. They support **Sub. SB 257** because it is a first step to encourage small employers and their employees to obtain and pay for health care insurance.

Ken Daniels, Midway Wholesale, testified in favor of **Sub. SB 257** (Attachment 4). The bill basically doubles

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on March 31, 2005 in Room 519-S of the Capitol.

the credit in the beginning, simplifies the calculations, and shortens the period from five years to three years. HSAs, as approved by Congress in December 2003, may well be the single best solution available now to slow down the galloping increases in health care costs. An important feature is the HSAs force consumers to pay attention to the costs of the health care they are receiving, and give them a big stake in controlling those costs. It also helps small businesses get started on providing insurance if they haven't been providing it. He urged passage on the bill.

Law Ebert, KCCI, stated that the Kansas Chamber supports Sub. SB 257, tax credits for employers (Attachment 5). Currently, there is a tax credit offered for employers, but this bill makes the credit more attractive and applicable to contributions made by employers to HSAs. As health care costs increase, more and more employers are looking into health insurance for their employees and this bill encourages employers to take advantage of the savings HSAs could bring their companies.

Mr. Cram addressed the issue of the fiscal note. He stated that it was based on past credit usage. The Department compiles data, published in an annual report, that reflects the number of businesses that have claimed this credit and the amount that has been allowed. In FY 2003 there were 87 businesses that claimed \$140,000 in tax credit and usage has continued to increase each year. They have just revised the fiscal note, based on the latest amendments and it would have a fiscal impact of \$200,000 for 2006, assuming that this bill would stimulate additional growth in the number of businesses that would participate.

Chairman Wilk stated that it had been requested that the bill be passed out of the committee in a timely way, and he questioned whether the Senator would assure the Committee that they would consider some type of accounting measure be added to the bill, that would in turn become part of a bigger health care proposal. The Senator stated that if it could be crafted and accomplished during this session he was interested in doing that, however, he didn't want to delay the bill. He would work with the Chairman, but added that under the bigger picture the Kansas Health Policy Authority, which they hope to see advanced in both houses, provided the broadest plan.

Seeing no other conferees for Sub. SB 257 the Chairman closed the hearing.

Representative Huff made the motion that the Taxation Committee recommend Sub. SB 257, favorably for passage. Representative Kelley seconded the motion. The motion carried.

The Chairman thanked the Committee for the work they had done this session. He commended the new members for their interest and diligence to learn more about taxation.

Representative Thull made the motion to approve the minutes from the March 4, 8, 9, 10 and 15<sup>th</sup> committee meetings. Representative Huff seconded the motion. The motion carried.

Representative O'Malley requested on behalf of a Taxation Sub-Committee that a bill be introduced on the "Investment in Excellence Fund". Representative Owens seconded the motion. The motion carried.

The meeting was adjourned at 1:15 p.m. There are no further meetings scheduled.

The minutes for March 31, were sent to Committee members and approved on April 1, 2005.



March 2, 2005

## Health Savings Accounts

Health Savings Accounts (HSAs) were authorized by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (P.L. 108-173) and are designed to help individuals save for future qualified medical and health expenses on a tax-free basis.

- Any individual covered by a qualified High Deductible Health Plan (HDHP) may establish a Health Savings Account as long as the individual is not covered by a health benefit plan that provides coverage for any benefit also covered by the qualified High Deductible Health Plan. Individuals may have coverage through insurance or otherwise for accidents, long term care, vision, dental, specific diseases, and disability, along with a qualified High Deductible Health Plan.
- Individuals eligible for Medicare and persons covered by Medicaid or TRICARE are not eligible to open a Health Savings Account, but persons eligible for Veterans Affairs health benefits may utilize a Health Savings Account unless such persons have used such benefits, including prescription drug benefits, in the past three months. Dependent children cannot have Health Savings Accounts.
- Amounts contributed to a Health Savings Account remain under the control of the individual who opens the account (account beneficiary) and are completely portable. Joint accounts are not permitted.
- Unused funds in a Health Savings Account are available for expenditure in later years, unlike the forfeiture provisions of Flexible Spending Accounts.
- To encourage savings for health expenses after retirement, Health Savings Account holders age 55 to 65 are allowed to make additional "catch up" contributions to their accounts. In 2005, the additional contribution may be up to \$600.
- Funds distributed from a Health Savings Account are not taxed if the funds are used for qualifying medical expenses as defined by the Internal Revenue Service in IRS publication 502. Qualified medical expenses include amounts paid by the account holder for the medical care of a spouse or dependent. Funds used for other than qualified medical expenses will be taxed and, for individual account holders who are not disabled or over age 65, will be subject to a ten percent tax penalty.

A High Deductible Health Plan is one that has for 2005:

- an annual deductible of not less than \$1,000 for self-only coverage and \$2,000 for family coverage, and

---

\* These amounts are indexed annually for inflation.

- a total annual out-of-pocket expense (the sum of the deductible, copays, and other out-of-pocket expenses, excluding premiums) of not more than \$5,100 for self-only coverage and \$10,200 for family coverage.

A qualified plan may provide first dollar coverage for preventive care as defined by the Secretary of the Treasury. Health maintenance organizations, preferred provider organizations, and other like entities may offer qualified health benefit plans as may accident and health insurers.

The Internal Revenue Service notes tax-advantaged contributions to a Health Savings Account can be made in three ways:

1. An individual and family members can make tax deductible contributions to the account even if the account holder does not itemize deductions.
2. An account holder's employer can make contributions that are not taxed to either the employer or the employee.
3. Employers with cafeteria plans can allow employees to contribute untaxed salary through a salary reduction plan.

Contributions may be made by either the employer or the account holder, or both. If contributions are made by the account holder, they are considered as an "above-the-line" deduction. If contributions are made by the employer, they are not taxable to the employer (excluded from income). Contributions may also be made by others on behalf of an eligible individual account holder, but may be deducted only by the account holder. All contributions are aggregated to determine whether the individual has contributed the maximum allowed. Contribution limits for 2005 are the lesser of:

- The annual deductible under the individual's High Deductible Health Plan; or
  - \$2,650 for individuals with self-only coverage, and
  - \$5,250 for those with family coverage.

Employer contributions, according to the Internal Revenue Service, can vary based on part-time or full-time employment. The contributions must be "comparable", *i.e.*, the same dollar amount or percentage of the employee's deductible for all employees in the same "class."

For additional information about Health Savings Accounts go to <http://www.treas.gov/offices/public-affairs/hsa/> or contact Melissa Calderwood, Emalene Correll, or Terri Weber in the Legislative Research Department.

JIM BARNETT  
 SENATOR, 17TH DISTRICT  
 CHASE, COFFEY, GREENWOOD  
 LYON, MARION, MORRIS, AND OSAGE  
 COUNTIES



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS  
 CHAIR: PUBLIC HEALTH AND WELFARE  
 MEMBER: FEDERAL AND STATE AFFAIRS  
 FINANCIAL INSTITUTIONS AND  
 INSURANCE  
 GOVERNOR'S HEALTH CARE  
 COST CONTAINMENT COMMISSION  
 HEALTH CARE STABILIZATION FUND

**House Taxation Committee  
 Testimony Re: SB 257**

**March 31, 2005**

Chairman Wilk and other distinguished members of the House Taxation Committee, thank you for the opportunity to testify in support of SB 257.

This legislation will help our state address the issue of the uninsured. This is not a cure all, by any means. However, SB 257 does reflect the wishes and desires of the majority of small business owners in our state. Surveys have demonstrated broad interest in providing a fundamental change in how we pay for health care. Additionally, businesses are not interested in subsidies. They are asking for programs such as health savings accounts and improved and streamlined ability to enjoy tax credits when new health care insurance is provided to their employees.

- ✓ Health savings accounts represent one of the fundamental changes in how individuals pay for health care. They bring responsibility into the loop of health care expenditures and provide tax incentives to save for future health care needs. Health Savings Accounts provide an investment for the future, similar to IRAs. They are deposited interest bearing accounts and provide transferability, helping future Kansans address the need for health insurance affordability.
- ✓ Kansas Legislative Research Department has demonstrated that small businesses in Kansas represent the major source of health care insurance to Kansas workers. Over 95% of Kansas businesses have fewer than 50 employees.
- ✓ I am attaching the results of surveys performed during 2004 with small businesses across the state. Please note Figure 6 that represents strong support for Health Savings Accounts. I also ask that you review Figure 9 reflecting the Effect of Tax Credits on Offering Health Insurance.

Thank you for the opportunity to speak in support of this legislation. I am happy to stand for questions.

Senator Jim Barnett

HOME  
 1400 LINCOLN  
 EMPORIA, KS 66801  
 620-342-5387  
 E-MAIL:  
 SENATORJB@SBCGLOBAL.NET

DISTRICT OFFICE  
 1301 W. 12TH AVE., STE. 202  
 EMPORIA, KS 66801  
 620-342-2521  
[HTTP://WWW.KSLEGISLATURE.ORG/JBARNETT](http://www.kslegislature.org/jbarnett)

Hs Taxation Committee  
 March 31, 2005  
 Attachment 2

**KANSAS BUSINESSES**

**Number of Business Establishment by Number of Employees\***

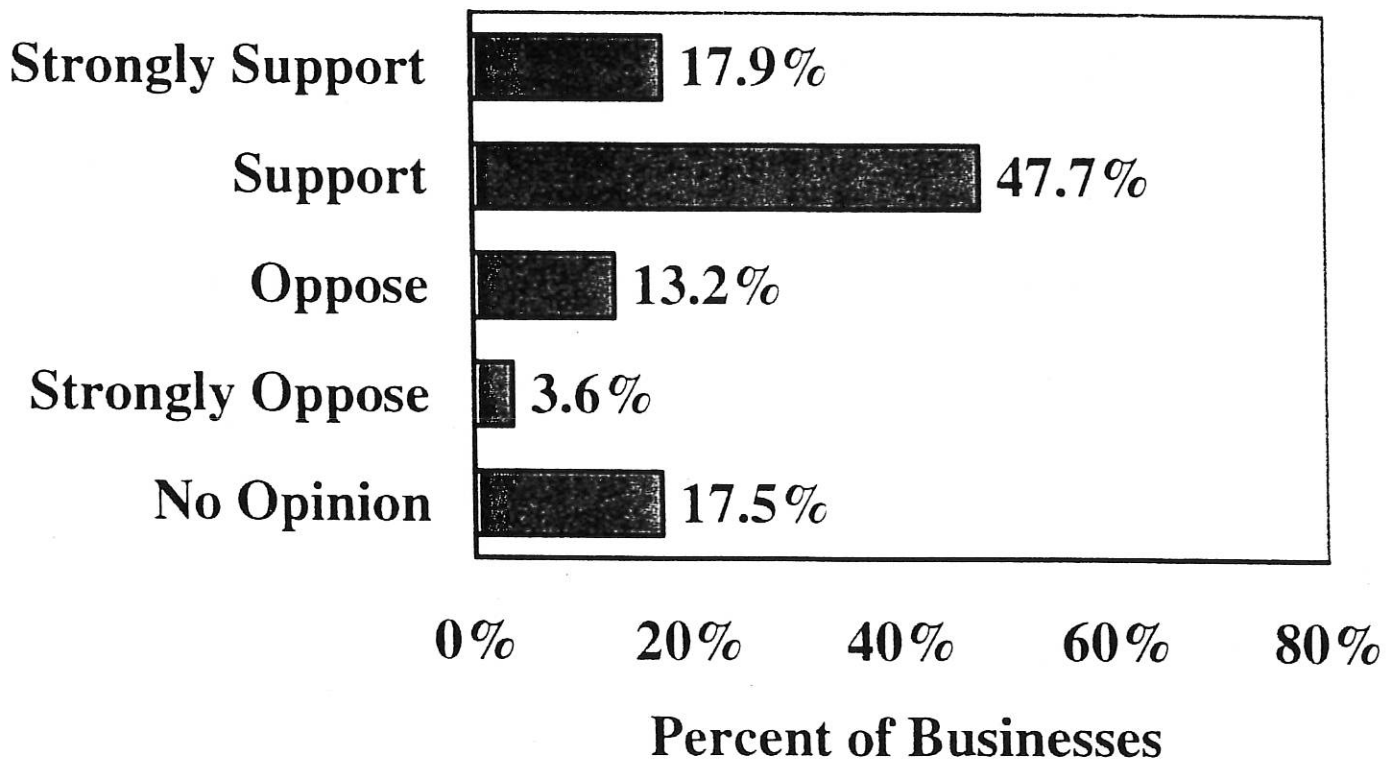
**2002**

	Total	1-4	5-9	10-19	20-49	50-99	100-249	250-499	500-999	1000 or more
No of Businesses	75,077	40,602	14,600	9,684	6,492	2,090	1,162	302	98	47
Percent of Total		54.1	19.4	12.9	8.6	2.8	1.5	0.4	0.1	0.1

95.1 percent of Kansas businesses have fewer than 50 employees.

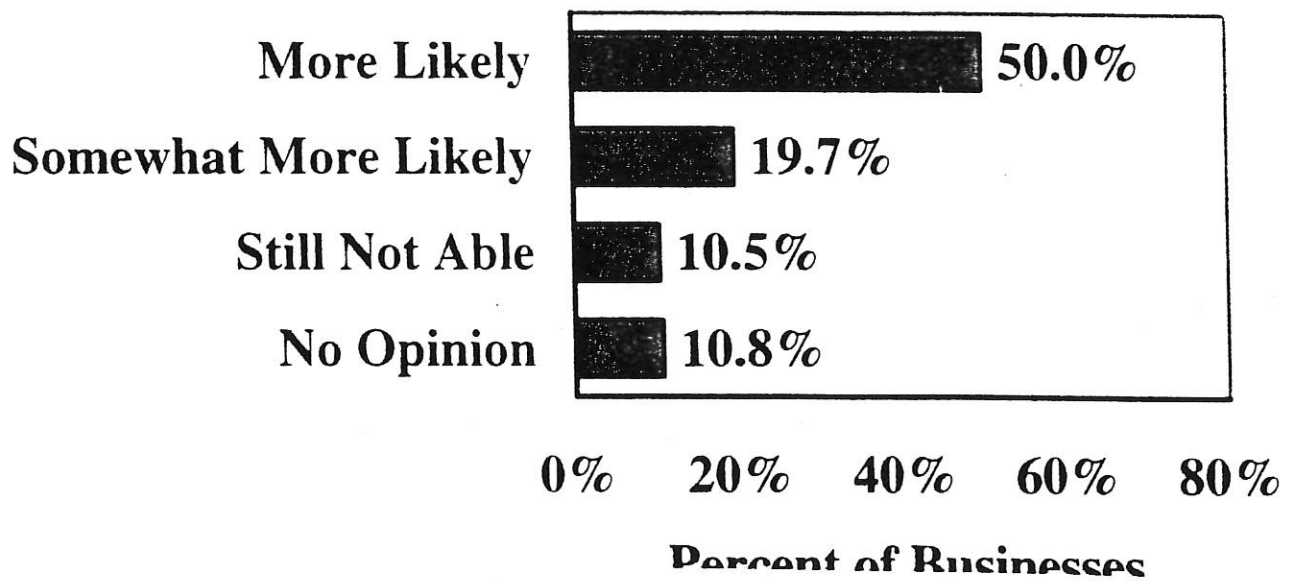
\*Source: 2002 County Business Patterns, U.S. Census Bureau

**Figure 6. Support for Health Savings Accounts**





**Figure 9. Effect of Tax Credits on Offering Health Insurance**



KANSAS

Statement by  
Hal Hudson, State Director  
National Federation of Independent Business  
Before the  
House Taxation Committee  
Re: SB 257  
Thursday, March 31, 2005

Mr. Chairman and Members of the Committee:

Thank you for allowing me to speak with you in support of SB 257. My name is Hal Hudson, and I am State Director for NFIB – the National Federation of Independent Business.

For more than 10 years health care, health insurance, availability and cost, have ranked as the number one problem or cause for concern by small business owners – across our nation and in Kansas.

SB 257 represents an attempt to provide small part of the solution – a small piece of the puzzle.

On our state ballot mailed to members last fall, we asked: **"Should legislation be enacted to double the income tax credit for employers who provide health care insurance coverage for their employees, and simplify employer qualification?"**

Of those responding, 82% said yes, while only 9% said no, and 8% were undecided. SB 257 addresses a portion of our proposal.

We sought to increase the credit to \$70 per employee per month, and make it available to all employers of 50 or fewer. Some thought doubling this tax credit, and making it simpler for an employer to qualify, would be a strong incentive for employers to pay all or part of the cost of health insurance for their employees.

By making it simpler, we meant that it should apply to all small employers – not just those who have not provided insurance coverage in the past two years. It also should apply to all employees – not just those whose income is below a certain level. SB 257 doesn't do all that, but it is a good start.

The statute that SB 257 would amend has been on the books for several years, and it has received very little acceptance by small employers. That is, in part, because a \$35.00 monthly tax credit, for which you may have to pay out \$300-\$400 each month, and wait until next April for the credit to reduce your income tax liability – is not much incentive.

SB 257, as passed by the Senate, would double the credit to \$70.00 per month per employee, and would allow the credit to be applied to Health Savings Accounts (HSAs). We are very pleased to see this language providing that the income tax credit for the employer may be used in connection with a high deductible health benefit plan and contributions to a health savings account.

We are supporting SB 257 because it is a first step to encourage small employers and their employees obtain and pay for health care insurance.

We urge you to vote to send SB 257 to the floor without amendment, and to encourage its enactment by the full House.



Midway Sales & Distributing, Inc. d/b/a

**MIDWAY WHOLESALE**

Topeka • Salina • Lawrence • Manhattan • Elwood • Kansas City • Wichita

**Presentation to the House Taxation Committee  
March 31, 2005**

**By Kenneth L. Daniel  
C.E.O., Midway Wholesale  
and  
Volunteer Board Member, Kansas Health Partners Benefit Association**

**Mister Chairman and Members of the Committee:**

**My name is Kenneth Daniel. I would like to testify in favor of Senate Bill 257.**

**The Kansas Health Partners Benefit Association (The “Partnership”) is the private, non-profit contractor to the Kansas Business Health Policy Committee, the public entity created by you in 2001, currently headed by Commissioner Praeger, who was appointed by the Governor.**

**At present, there are 1030 Kansans insured by Allied National’s “Cost Saver” insurance plan, which the Partnership brought into the Kansas market with the approval of the Business Health Policy Committee.**

**A number of employers who bought the “Cost Saver” policy did so with the help of the present Kansas Small Business Health Insurance Credit, which has been in effect for four years. The current credit has been little used because it is too small and too complicated. Last year’s total credits were less than \$100,000.**

**✓ Senate Bill 257 basically doubles the credit in the beginning, simplifies the calculations, and shortens the period from five years to three years. And, it allows employers complete flexibility if they wish to subsidize HSAs for their employees.**

House Taxation Committee  
March 31, 2005

**We are very confident that the larger, simpler credit called for in SB257 will result in many more “Cost Saver” policies and Health Savings Account plans being sold. It will also help with other types of policies. And, any licensed Kansas health insurance agent can help his clients access the tax credit.**

**✓ Health Savings Accounts as approved by Congress in December of 2003 may well be the single best solution available now to slow down the galloping increases in health care costs.**

**✓ The most important feature is that HSAs force consumers to pay attention to the costs of the health care they are receiving, and give them a big stake in controlling those costs.**

**Another key HSA feature is that out-of-pocket expenditures by the consumer are completely tax-deductible except in rare cases. Because the deductions are “above the line”, every employee, even those with low wages, save on taxes.**

**✓ The purpose of SB257 is to help small businesses get started on providing insurance if they haven’t been providing it, but wean them off the tax credits gradually over 36 months. In the case of HSAs, there is the additional benefit of tax savings to both the employer and employee.**

**The Partnership has proven that employers who start offering insurance will go to great lengths to continue. Furthermore, those who start with “limited” policies are highly likely to go to more comprehensive plans. Almost all of our “Cost Saver” policies have been replaced with more generous plans in the second or third year.**

**The Partnership worked closely on this bill with Senator Barnett, a special subcommittee in the Senate, the Department of Revenue, the Insurance**



**THE KANSAS  
CHAMBER**

The Force for Business

835 SW Topeka Blvd.

Topeka, KS 66612-1671

785-357-6321

Fax: 785-357-4732

E-mail: [info@kansaschamber.org](mailto:info@kansaschamber.org)

[www.kansaschamber.org](http://www.kansaschamber.org)

## Legislative Testimony

**SB 257**

**March 31, 2005**

**Testimony before the Kansas House Taxation Committee  
By Lew Ebert, President and CEO**

Chairman Wilk and members of the Committee;

The Kansas Chamber and its over 10,000 small, medium and large business members support SB 257, tax credits for employers. Currently, there is a tax credit offered for employers, but SB 257 makes the credit more attractive and applicable to contributions made by employers to Health Savings Accounts (HSA's).

As health care costs increase, more and more employers are looking into HSA's for their employees and SB 257 makes the credit applicable to this type of health insurance plan and encourages employers to take advantage of the savings HSA's could bring their company.

We encourage this committee to recommend SB 257 and provide additional incentives for companies to offer health insurance to their employees.

Thank you for your time and I will be happy to answer any questions.

*The Kansas Chamber, with headquarters in Topeka, is the statewide business advocacy group moving Kansas towards becoming the best state in America to do business. The Kansas Chamber and its affiliate Chamber Federation, have more than 10,000 member businesses, including local and trade organizations. The Chamber represents small, medium and large employers.*

Kansas House Taxation Committee  
March 31, 2005  
Attachment 5