

MINUTES OF THE HOUSE COMMITTEE ON APPROPRIATIONS.

The meeting was called to order by Chairperson Representative Kenny Wilk at 9:00 a.m. on February 13, 2002, in Room 514-S of the Capitol.

All members were present except: Representative McCreary, Excused

Committee staff present: Amy Kramer, Legislative Research  
Becky Krahl, Legislative Research  
Alan Conroy, Legislative Research  
Paul West, Legislative Research  
Deb Hollon, Legislative Research  
Jim Wilson, Revisor of Statutes  
Mike Corrigan, Revisor of Statutes  
Nikki Feuerborn, Committee Secretary

Conferees appearing before the committee: Representative Ward Loyd  
Representative Ray Cox  
Gary Brunk, Kansas Action for Children  
Jack Brier, KS Development Finance Authority

Others attending: See Attached

Representative Campbell moved for the introduction of legislation concerning agreement for administration regarding jurisdiction at the local level. Motion was seconded by Representative Hermes. Motion carried.

Representative Hermes moved to introduce legislation concerning local government investment authority regarding thirty year treasury bonds. Motion was seconded by Representative Neufeld. Motion carried.

**Hearing on HB 2593–Kansas development finance authority, securitization of tobacco litigation settlement receipts; bonds**

Representative Ward Loyd presented testimony in favor of the proposed tobacco securitization authority which would create a public-private corporation, the Great Plains Tobacco Settlement Financing Corporation, under the umbrella of the Kansas Development Finance Authority (Attachment 1). The management of the corporation would be comprised of six compensated legislators and five compensated KDFFA directors. All proceeds derived from any securitization would be deposited into the Kansas Endowment for Youth Fund which was created by the Legislature in 1999. What happens to the money in the KEY Fund would be a matter of public policy for decision by the members of the Legislature.

Representative Ray Cox, who served on a select committee to study the impact of such securitization, said that in 1999 he was opposed to the bill but has since changed his mind and is in total support of the proposed measure which would guarantee a revenue stream to the state for at least 20 years. At this point, even though the tobacco companies have agreed to continue payments for an indefinite period of years, there could be bankruptcy and reorganization among the companies which would definitely alter the payments. There is also the implication that foreign countries will be entering into lawsuits against tobacco companies and this would drain their assets.

Committee members pointed out that raising cigarette taxes by \$.65 would alter the market thus lowering the tobacco companies ability to continue their settlement payments as well as what impact that could have on the bond rating. There was also reluctance to look to the tobacco money, either by direct payment or through the sale of bonds, as a temporary budgeting solution for the state. The Committee discussed the expense of using the bond market and the option of asking the investment advisors of KPERS to look at securitizing the money bonds as an investment opportunity which would translate that the state would not have the expense of brokerage fees.

Gary Brunk, Kansas Action for Children, appeared before the Committee in opposition to any plan that would use tobacco funds for short-term fiscal problems for the state (Attachment 2). This money was ear-marked

for children's plan and it should remain intact for that purpose.

Jack Brier, Kansas Development Finance Authority, appeared as neutral before the Committee and stated that if they believed that the state would receive 100% of the tobacco revenues under the master settlement agreement, then there is no reason to consider why these funds should be securitized and take a net present value of that amount. The five basic risks that could occur to skew the funding plan:

1. The miracle cure for addiction of nicotine.
2. The issue of those who roll their own cigarettes.
3. Whether or not the tobacco companies will continue to pay as they have agreed to pay.
4. The concentration of revenues based on one source, one industry.
5. At some point in the future, foreign countries will have some success in the lawsuits and the impact that might have.

This legislation does not securitize any source of revenue; it creates a framework which is designed with the board comprised of 11 persons spending whatever time and effort it takes to determine whether or not and at what time a securitization, a partial securitization, or no securitization should occur. This would also require approval of the State Finance Council. The corporation would be created so bond purchasers would understand that the state of Kansas would have no direct affiliation, no guarantee either implied, understood, or any circumstances.

In response to a Committee request for the current present value of the future receipts to Kansas under the master settlement agreement, Mr. Brier and Alan Conroy of Legislative Research reported that the estimated payments over the next 20 years would be \$1.6 billion. The tobacco companies agreed in the master settlement agreement to pay forever. Bonds cannot be issued for more than 20 years, and whether this would disturb the remainder of the payment would be part of the financing structure.

Representative Spangler voiced strong opposition to the bill stating it is wrong for the citizens of Kansas to pay for money to bond brokers without knowing the full cost. If the proposed cigarette tax is imposed, the bonds will not be A bonds because tobacco consumption will go down. If the cost is 3% for \$700 million or the total amount of \$1.6 billion for twenty years, this would cost the state a great deal of money by causing unnecessary finance charges for money that is already owned by the state.

Mr. Brier pointed out that on Page 10, Section 4, Subsection c, of the bill there was a section which was added last year which becomes a policy issue for the Legislature dealing with the Kansas Development Finance Authority (Attachment 3). This agency is not supported by appropriations but rather from the fees from transactions, both for the state and for others. Missouri has authorized their financing authority to be able to do multiple jurisdiction bond financing which includes hospitals which are in Kansas. Kansas does not have that authority. The opportunity for financing was lost last year for the fly-over bridge in Argentine district of Kansas City because one-half was in Missouri. Mr. Brier again explained that this section has nothing to do with securitization, but is a public policy issue.

The Kansas Development Finance Authority does not use the competitive bidding process under any circumstances. All contracts are on a negotiated basis whether they are with bond lawyers or investment bankers. This includes the Secretary of Administration who actually sells the assets to the subsidiary corporation. The eleven-member corporate board would make the investment decisions.

In response to questions, Mr. Brier stated that from his experience in serving on the KPERS board more than ten years ago, there have investment advisors who have their own authority to invest based upon their expertise in foreign, fixed income, or domestic equities. KPERS no longer makes their own investments.

Representative Spangler requested that Mr. Brier, in his role as a conferee on this bill, contact the investment advisors of KPERS and ask they if they are interested in doing a swap of assets for this debt ratio, what that would cost us, what KPERS would charge, and set that up as a policy alternative. This could be set up quicker, it would not be a rigorous procedures as the State Finance Council and transfer the funds the state is scheduled to receive for a swap of dollars. Representative Nichols asked for Mr. Brier to provide examples of what other states have received who have securitized their tobacco settlements. He also voiced concern about setting up a corporation which would have the ultimate power of deciding upon the length of time of securitization and the basis for it. Mr. Brier replied that in all the transactions that have occurred a structure that is identical from one jurisdiction to another, no matter the location.

Chairman Wilk closed the hearing on **HB 2593**.

Representative Schwartz, Chairperson of the Agriculture and Natural Resources Committee, presented the Budget Committee report on the Governor's budget recommendations for the Kansas Department of Agriculture for FY 2002 and moved for the adoption of the Budget Committee recommendations for FY 2002 with observations (Attachment 4). Motion was seconded by Representative Klein. Motion carried.

Representative Schwartz, Chairperson of the Agriculture and Natural Resources Committee, presented the Budget Committee report on the Governor's budget recommendations for the Kansas Department of Agriculture for FY 2003 and moved for the adoption of the Budget Committee recommendations for FY 2003 with comments (Attachment 4). Motion was seconded by Representative Klein. Motion carried.

Representative Schwartz, Chairperson of the Agriculture and Natural Resources Committee, presented the Budget Committee report on the Governor's budget recommendations for the Animal Health Department for FY 2002 and moved for the adoption of the Budget Committee recommendations for FY 2002 (Attachment 4). Motion was seconded by Representative Klein. Motion carried.

Representative Schwartz, Chairperson of the Agriculture and Natural Resources Committee, presented the Budget Committee report on the Governor's budget recommendations for the Animal Health Department for FY 2003 and moved for the adoption of the Budget Committee recommendations for FY 2003 with observations (Attachment 4). Motion was seconded by Representative Klein. Motion carried.

Representative Klein of the Agriculture and Natural Resources Committee, presented the Budget Committee report on the Governor's budget recommendations for the Kansas State Fair for FY 2002 and moved for the adoption of the Budget Committee recommendations for FY 2002 (Attachment 4). Motion was seconded by Representative Schwartz. Motion carried.

Representative Klein of the Agriculture and Natural Resources Committee, presented the Budget Committee report on the Governor's budget recommendations for the Kansas State Fair for FY 2003 and moved for the adoption of the Budget Committee recommendations for FY 2003 with observations (Attachment 4). Motion was seconded by Representative Schwartz. Motion carried.

Representative Klein of the Agriculture and Natural Resources Committee, presented the Budget Committee report on the Governor's budget recommendations for the Kansas Water Office for FY 2002 and moved for the adoption of the Budget Committee recommendations for FY 2002 (Attachment 4). Motion was seconded by Representative Schwartz. Motion carried.

Representative Klein of the Agriculture and Natural Resources Committee, presented the Budget Committee report on the Governor's budget recommendations for the Kansas Water Office for FY 2003 and moved for the adoption of the Budget Committee recommendations for FY 2003 adjustments and notations (Attachment 4). Motion was seconded by Representative Schwartz. Motion carried.

Representative Schwartz, Chairperson of the Agriculture and Natural Resources Committee, presented the Budget Committee report on the Governor's budget recommendations for the State Conservation Commission for FY 2002 and moved for the adoption of the Budget Committee recommendations for FY 2002 (Attachment 4). Motion was seconded by Representative Klein. Motion carried.

Representative Schwartz, Chairperson of the Agriculture and Natural Resources Committee, presented the Budget Committee report on the Governor's budget recommendations for the State Conservation Commission for FY 2003 and moved for the adoption of the Budget Committee recommendations for FY 2003 with recommendations (Attachment 4). Motion was seconded by Representative Klein. Motion carried.

Copies of the State Water Plan Expenditures were distributed to Committee members (Attachment 5).

Chairman Wilk adjourned the meeting at 10:25 a.m. The next meeting is scheduled for Thursday, February 14, 2002.

CONTINUATION SHEET