

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Chairman Brenda Landwehr at 1:30 p.m. on March 10, 2009, in Room 784 of the Docking State Office Building.

All committee members were present.

Committee staff present:

Norm Furse, Office of the Revisor of Statutes
Melissa Calderwood, Kansas Legislative Research Department
Reed Holwegner, Kansas Legislative Research Department
Janet Grace, Committee Assistant

Conferees appearing before the Committee:

Secretary Roderick Bremby, Kansas Department of Health and Environment ([Attachment 1, 2](#))
Dr. Rick Kellerman, University of Kansas - Medical Center - Wichita ([Attachment 3](#))
Sonja Armbruster, Kansas Public Health ([Attachment 4](#))
Brad Smith, Via Christi Health System ([Attachment 5](#))
Jace Smith ([Attachment 6](#))
Dr., Karen Kelly, University of Kansas Cancer Center ([Attachment 7](#))
Dr. John Neuberger, University of Kansas - Medical Center in Kansas City ([Attachment 8, 9, 10, 11](#))
Dr. Trent Davis, Salina, Kansas ([Attachment 12](#))
Dave Pomeroy ([Attachment 13](#))
Louie Riederer, Johnny's Tavern ([Attachment 14](#))
Graham Bailey, Blue Cross Blue Shield ([Attachment 15](#))
Bob Strawn, General Atomics ([Attachment 16](#))
Teresa Walters, Emporians for Drug Awareness ([Attachment 17](#))
Cathy Porter, American Heart Association Volunteer ([Attachment 18](#))
Gail Dicus, American Heart Association Volunteer ([Attachment 19](#))
Dr. Thomas Schultz, Intern Medicine Residency. KU Medical Center- Wichita ([Attachment 20](#))
Teresa Carter, Mid-Kansas Affiliate of Susan G. Komen for the Cure ([Attachment 21](#))
Molly Johnson, Senior University of Kansas ([Attachment 22](#))
Sarah Tidwell, Kansas State Nurses Association ([Attachment 23](#))
Phil Black, Dean of Academic Affairs, Brown Mackie College - Salina ([Attachment 24](#))
Salvador Romero, Kansans for Nonsmokers Rights, Topeka ([Attachment 25](#))
Dr. James Hamilton, American Cancer Society ([Attachment 26](#))
Chad Austin, Kansas Hospital Association ([Attachment 27](#))
James Hanus, Oncology Nurse ([Attachment 28](#))
Debra Zehr, President, Kansas Association of Homes and Services for the Aging ([Attachment 29](#))
Debbie Fox, Kansas Respiratory Care Society ([Attachment 30](#))
Rev. Craig Loya, Kansas Faith Alliance for Health Reform ([Attachment 31](#))
John Neuenswander, Director of Advocacy, American Lung Association ([Attachment 32](#))
Bobbi Sauder, MSN, Clean Air Emporia ([Attachment 33](#))
Marcy Morris ([Attachment 34](#))
Donna Bartholomew, Owner, Skaets Steak Shop, Hutchinson ([Attachment 35](#))
Aubrey Patterson, Respiratory Care Shift Supervisor, Wesley Medical Center, Wichita ([Attachment 36](#))
Jayne Hellebust, Executive Director, Tobacco-Free Kansas Coalition ([Attachment 37](#))
Ron Gaches, Gaches, Braden and Association ([Attachment 38](#))
Sarah Bradshaw, Portia Turner, Michelle Wishon, Elisabeth Gaither ([Attachment 39](#))
James Gardner, Primary Care Physicians of Manhattan ([Attachment 40](#))
Jeff Levin, University Bookstore, Inc. ([Attachment 41](#))
James Sherow, Manhattan City Commissioner ([Attachment 42](#))
Bruce Snead, Manhattan City Commissioner ([Attachment 43](#))
Dan Morin, Kansas Medical Society ([Attachment 44](#))
Tracy Russell, Joyce Morrison, Clean Air Kansas ([Attachment 45](#))
Yvonne Gibbons, Del Myers, Saline County Health Department ([Attachment 46](#))
Stuart Little, Johnson County ([Attachment 46](#))

CONTINUATION SHEET

Minutes of the House Health and Human Services Committee at 1:30 p.m. on March 10, 2009, in Room 784 of the Docking State Office Building.

Others attending:
See attached list

Chairman Landwehr called the meeting to order.

SB 25 - State-wide prohibition on smoking in indoor public areas. Revisor Norm Furse provided the committee with a brief overview of **SB 25**.

The hearing today is for proponent testimony.

Secretary Roderick Bremby, Kansas Department of Health and Environment (KDHE), introduced the new State Health Director, Dr. Jason Phillips. Secretary Bremby provided the highlights from his attachments for the committee. (Attachments 1, 2) The Surgeon General is very clear and there is no more debate about the health consequences from second-hand smoke. Clean Indoor Air laws saves lives. KDHE supports this bill. **SB 25** would be instrumental in health reform and save money, as almost \$1 billion a year is spent in Kansas on tobacco related issues. Currently, 400 Kansans die each year due to second-hand smoke. Additionally, 2100 heart attacks a year are attributed to second-hand smoke. The committee proceeded with questions for Secretary Bremby. Tobacco products are the only products in the U.S. market that, when used as indicated, are life-threatening. If the products were banned totally, they would probably be available on the black market. This ban could shape the environment to have people smoke less frequently. Virginia, the home of Marlboro, passed a Clean Air Act. KDHE would not support an amendment for a statewide ban and then let the counties decided if they want to override the vote. Public health is a concern for all and is a statewide issue. KDHE's goal is to keep children from smoking. KDHE understands that parents will smoke at home. If it was an individual rights question, KDHE would not be here; it is a public health issue. A total ban on smoking would be the first of its kind in the US. It is the most effective approach (outright ban) that would affect millions of people and dollars. KDHE is monitoring effects and approaches of different Clean Air Acts around the U.S. and tobacco is the issue. It kills more Americans than anything else—440,000 each year. There are immediate reductions in emergency rooms with heart attacks when a Clean Air Act is in place.

Dr. Rick Kellerman, representing the University of Kansas Medical Center-Wichita, Medical Society of Sedgwick County, and the Kansas Academy of Family Physicians, provided testimony in favor of this bill. (Attachment 3) The medical societies emphasize the relationship between cigarette smoking and diseases (particularly the heart). A Clean Air Act (24 states have such Acts) provides an immediate reduction of heart attacks in emergency rooms. The KU hospital campus used to allowing smoking but it no longer is allowed on the campus. Public health is a good public statewide policy issue. It is confusing to have different entities in different counties concerning smoking. If smoking was banned statewide and counties were given the opportunity to vote against it, Dr. Kellerman believes most counties would vote to support a smoking ban. Four hundred people die in Kansas yearly from second-hand smoke. What is not known, but acknowledged, is the direct effect from second-hand smoke on children, the chronic ear infections, sore throats, upper respiratory infections, etc. The statistics are overwhelming with the occurrence of the type of lung cancer (squamous cell lung cancer) that second-hand smoke causes.

Sonja Armbruster, Kansas Public Health Association (KPHA), provided testimony in favor of this bill. (Attachment 4) Ms. Armbruster firmly believes the Surgeon General's report is clear and accurate. Tobacco control, including a statewide Clean Indoor Air law, is their number one priority. Ms. Armbruster's attachment provides details on KPHA's agreement on the needs for Kansas and the facts concerning second-hand smoke and the support of a comprehensive law banning it. KPHA does not support letting communities override a statewide ban. KPHA wants everyone protected and a fair and even playing field for all.

Brad Smith, Research Nurse in Cancer Control from Wichita Community Clinical Oncology Program at Via Christi Health System, supports this bill. (Attachment 5) Via Christi's mission is to provide the best healthcare to patients without regard to the ability to pay. In addition to providing care to the sick and injured, they also believe it is equally important to promote good health. One of the ways in which Via

Christi achieves this goal is by education of their patients and the public on the health risks associated with smoking. They witness first-hand the variety of ways that smoking impacts peoples lives. Lung cancer is one of the most obvious diseases related to smoking, and in its more aggressive form, is not noticed until it has already metastasized. Not all patients with lung cancer are smokers. They also care for patients who have emphysema. Via Christi supports **SB 25** as it represents an important step in protecting the health of Kansas while generating savings in smoking-related illnesses and diseases.

Jace Smith spoke in support of **SB 25**. (Attachment 6) Mr. Smith used to work in a bar and now has asthma due to second-hand smoke. Mr. Smiths asthma was diagnosed at age 21. He takes medications and uses his inhaler for his asthma and will need to do so for the rest of his life. He needs to avoid triggers for his asthma such as second-hand smoke. Mr. Smith spoke for those who need to work and are working in unhealthy environments. Employees should not have to risk their health for a paycheck. Mr. Smith encourages the committee to join the other states and make Kansas a smoke free environment. As the U.S. Surgeon General concluded when issuing a groundbreaking report in June 2006, “The debate is over. The science is clear: Second-hand smoke is not a mere annoyance, but a serious health hazard that causes premature death and disease in children and nonsmoking adults.” Any exemptions in the bill, should not put an employee’s at health risk in order to get a paycheck. Mr. Smith urges the committee to let the FDA take the lead on a total ban of smoking.

Dr. Karen Kelly, University of Kansas Cancer Center, provided testimony in favor of this bill. (Attachment 7) There are no measures to detect lung disease until the lung cancer is in the end stage. Tobacco smoke causes lung cancer in 87% of the patients presenting with this disease. One thousand five hundred thirty people died from lung cancer in Kansas last year. The use of tobacco is addictive to smokers and it exposes both smokers; and bystanders who share the environment with smokers, to the same deadly toxins. Extensive studies document the contributions of tobacco products to the causation of several types of cancers, most notably lung cancer. It kills more people than breast, colon and prostate cancers combined. Tobacco use is a major factor in chronic and acute cardiovascular disease. By enforcing smoke-free laws thousands of lives would be saved and prevent this type of pain and suffering. States that experienced the most significant decline in cancer-related deaths are states that adopted a Clean Indoor Air Act and implemented a Tobacco User fee. Sixty-four cancer centers specializing in research excellence state that second-hand smoke is a major cause of cancer. Dr. Kelly supports the bill with the exemptions because of compromise. She would prefer to have a total ban on smoking but would be willing to compromise and amend the exceptions. Nursing homes present a challenge due to a room being a home, the number of elderly that are addicted to smoking, and what area should be restricted. As a policy perspective, passing this bill will save a tremendous amount of lives with or without the exceptions.

Dr. John Neuberger, University of Kansas School of Medicine, Kansas City, Department of Preventive Medicine an Public Health, provided proponent testimony for **SB 25**. (Attachments 8, 9, 10, 11) Dr. Neuberger presented the Surgeon General’s report that provides data on second-hand smoke causing heart and respiratory issues. Numerous health problems, including heart and lung disease, result from exposure to second-hand smoke and this exposure needs to be controlled in public places and workplaces. Dr. Neuberger conducted a survey about indoor smoking and had a response rate was of 90% for cities and 50% for individuals. The survey represented more than 650,000 people. Sixty percent of respondents felt states should mandate a comprehensive indoor smoking regulation with local enforcement. Heart attacks have decreased within one-year in the states that implemented this type of ban. Our rights do not include the right to harm and potentially kill workers/patrons of the bars/restaurants. Dr. Neuberger supports a stronger ban and making it more consistent with the restrictions to minimize disparities.

Dr. Trent Davis, Neurologist, strongly supports **SB 25**. (Attachment 12) Salina is the first city in the state to enact a Clean Air ordinance. Tobacco smoke is one of the few devices that has an immediate effect on everyone. Smoking and non-smoking sections do not work. Employees in bars and restaurants often don’t have health insurance, therefore someone else is paying a large health care tab. From a financial aspect, Kansas needs to be proactive and reduce steps to have people need health care. Forty percent of children that have parents that smoke will start smoking. Employees that work in a smoke-free environment have a 38% chance of discontinuing their smoking. Kansas needs to be a smoke free state. There are larger cost savings from reduced bronchitis, pneumonia, sinusitis, sore throat, SIDS, numerous cancer types, including lung cancer, ulcers, and employee absenteeism from a Clean Air Act. Dr. Davis stated one can not opt out of other major health issues such as vaccines. One should not be able to opt out of smoking. Why is a state ban needed; why not ‘choose’ where we eat, etc? This is really an OSHA

issue. The employees are under-represented in the political system and they fear losing jobs if they speak out against smoking. Everyone is paying to take care of health issues from second-hand smoke and we will run out of money. Dr. Davis would prefer to have the exceptions removed, which would make it a stronger bill. It is the exposure nonsmokers to second-hand smoke that is the issue. Nursing homes are the elderly persons' homes. Hospitals have to set the example for others by having a smoking ban on the campus. The culture needs to be changed and it has to start somewhere. The fewer places someone can smoke will help some stop smoking, which is a positive step. Restricting smoking for public health safety is similar to having speed limits and seat belts which are in the interest of public health.

Ms. Crissa Potter provided testimony in support of this bill. Ms. Potter discussed asthma and provided a demonstration on how asthmatics breathe, like through a straw all the time. Second-hand smoke provides a severe trigger. Ms. Potter read an article from Blue Cross Blue Shield stating any amount of exposure of second-hand smoke can be harmful. Eight hours a day of second-hand smoke in a restaurant is equivalent to six cigarettes. Smoking kills people; there should be a law against it.

Dave Pomeroy provided proponent testimony for **SB 25**. ([Attachment 13](#)) Mr. Pomeroy discussed the inability to always have a choice as to where he can eat. Mr. Pomeroy rides his bicycle across the state and goes into whatever restaurant that is available. He is diabetic and needs to adhere to an eating schedule. The ability to choose between a smoking and non-smoking restaurant is not always an option in Kansas.

Louie Riederer, Johnny's Tavern, is in support of **SB 25**. ([Attachment 14](#)) Mr. Riederer has come full circle on smoking bans. He was initially against them but now fully supports them. Ninety nine percent of his customers have commented on how much they liked being in a non-smoking environment. The patrons are happier and the employees are healthier despite the fears that smoking restrictions would hurt his business. A patchwork of local ordinances now in place makes things more confusing for customers and puts owners at a disadvantage. Everybody needs to play by the same rules, whether you are a bar, restaurant or private club.

Graham Bailey from Blue Cross Blue Shield (BCBS), supports this bill. ([Attachment 15](#)) In a 12-month period they insured and paid for 32,000 heart attacks at a cost of \$34,500 each with a total cost of \$70 million in health care costs. In the Pueblo, CO, study there was an immediate reduction in heart attacks (41%) during their 3-year study. This is about \$30 million dollars in savings in health care. They looked at two other communities that did not pass a Clean Air Act. There was no change in their heart attack rates. They did not look at asthma, cancers, etc. Ten to twelve percent of healthcare costs is attributed to smoking. BCBS is a leader by not allowing smoking on their campus.

Bob Strawn, General Atomics, provided testimony in support of this bill. ([Attachment 16](#)) They asked that the State level the playing field and let the free market allocate resources regulated by a wide government. Currently there is a patchwork throughout Kansas, which this is putting cities at a disadvantage. Pass this bill to let the free market work.

Remaining proponent conferees will be added to Thursday's hearing.

Offering written testimony in support of **SB 25** were:

Teresa Walters, Emporians for Drug Awareness ([Attachment 17](#))

Cathy Porter, American Heart Association Volunteer ([Attachment 18](#))

Gail Dicus, American Heart Association Volunteer ([Attachment 19](#))

Dr. Thomas Schultz, Intern Medicine Residency KU Med - Wichita ([Attachment 20](#))

Teresa Carter, Mid-Kansas Affiliate of Susan G. Komen for the Cure ([Attachment 21](#))

Molly Johnson, Senior KU ([Attachment 22](#))

Sarah Tidwell, KSNA ([Attachment 23](#))

Phil Black, Dean of Academic Affairs, Brown Mackie College - Salina ([Attachment 24](#))

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Stuart Little, Johnson County ([Attachment 47](#))

The next meeting is scheduled for March 11, 2009.

The meeting was adjourned at 3:26 p.m.