



STANDING COMMITTEE ON CROWN AND CENTRAL AGENCIES

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STANDING COMMITTEE ON CROWN AND CENTRAL AGENCIES

Mr. Tim McMillan, Chair
Lloydminster

Mr. Buckley Belanger, Deputy Chair
Athabasca

Mr. Denis Allchurch
Rosthern-Shellbrook

Mr. Fred Bradshaw
Carrot River Valley

Mr. Dan D'Autremont
Cannington

Mr. Warren McCall
Regina Elphinstone-Centre

Mr. Randy Weekes
Biggar

[The committee met at 19:50.]

Bill No. 143 — *The Tobacco Tax Amendment Act, 2010*

Clause 1

The Chair: — I'd like to welcome everyone to the committee tonight. This is a meeting of the Crown and Central Agencies Committee. Tonight we are meeting to discuss the Bill 143, *The Tobacco Tax Amendment Act, 2010*.

My name is Tim McMillan. I'm Chair of the committee. We have Mr. Weekes, Mr. Allchurch, and Mr. Bradshaw. We have Mr. Belanger, the Vice-Chair, and Mr. Yates is substituting in for Mr. McCall. With those introductions I will ask the Minister of Finance to introduce his officials, if he has any opening statements, and then we'll open the floor for questions as we're discussing again Bill 143, the tobacco amendment Act, 2010. Mr. Minister.

Hon. Mr. Gantefoer: — Thank you, Mr. Chair. And thank you to committee members for joining us tonight. Finance officials that we have with us tonight are, on my left is Doug Matthies, the deputy minister. To his left is Margaret Johannsson, the assistant deputy minister of the revenue division. To my right is Doug Lambert, the director of the revenue programs branch of the revenue division. Behind the bar is Dick Carter, my chief of staff.

And, if I could, Mr. Chair, I'd like to introduce the two guests that have joined us this evening: Rhae Ann Bromley, the director of communications from the Heart and Stroke Foundation of Saskatchewan is here, as well as Lynn Greaves of the Saskatchewan Coalition for Tobacco Reduction, and we'd like to welcome them to be in attendance for the discussion of this very important piece of legislation.

Mr. Chair, I have some brief comments to make before I open it up to questions that members of the committee may have. This government and governments before have been working to reduce the harmful effects of smoking on Saskatchewan citizens. We know that smoking is the leading cause of preventable illness, disability, and premature death in Canada. The measures announced in this budget and being brought forward through this tobacco tax amendment Act continue that good work.

This appears to be a lengthy piece of legislation but in reality it accomplishes three things. First, it increases the tobacco tax rates as announced in the budget. Second, it establishes a First Nations tobacco tax refund program in legislation. This requires adding a number of definitions, establishing a new tobacco marking system, commonly referred to as black stock, including enforcement and penalty measures, and establishing regulatory provisions to provide for weekly tax-free purchases for First Nations on-reserve, and provides for exemptions for ceremonial use of tobacco. Third, it includes some housekeeping amendments related to such things as duty-free sales and establishes rules for any future tobacco manufacturer that may set up in Saskatchewan. With that I'd be pleased to answer questions that members of the committee may have.

The Chair: — Mr. Yates.

Mr. Yates: — Thank you very much, Mr. Chair. As the minister I'm sure got from my comments on the second reading of this Bill, we also share with the members of the government a joint desire to improve the health of our citizens and to remove tobacco and the ill effects of tobacco on our health and improve the overall well-being of the population in that manner. Mr. Minister, I have a few questions dealing with some policy issues around the issue though.

Was a legal opinion obtained by the Department of Finance in regards to the decision around the changes for First Nations?

Hon. Mr. Gantefoer: — Thank you, Mr. Member. Yes indeed, the department received legal advice on this issue.

Mr. Yates: — Thank you very much. Would the minister be prepared to share that legal advice with us, with the committee?

Hon. Mr. Gantefoer: — I think we recognize that there may be some legal challenges on this legislation, and so it probably would be inappropriate to get into specific detail. We have received legal advice, and it is the belief of that legal advice that we can defend against a court challenge.

And actually there has been other provinces that have been challenged, notably BC [British Columbia], where they had a consumer quota regime that had been challenged unsuccessfully a couple of times in a couple of cases. So the advice we have is that we're on reasonable legal grounds.

Mr. Yates: — Thank you very much. Mr. Minister, what actions were undertaken by the government to satisfy responsibilities, the legal responsibilities of duty of consult? And are we potentially going to face any challenges in that way?

Hon. Mr. Gantefoer: — There has been really a long-standing history of consultation in this whole issue and, you know, certainly going right back as far as 1999, where Ms. Junor made a motion, that I seconded at the time, establishing an all-party committee on tobacco control who went around the province from one end to the other and very extensively consulted with Aboriginal and non-Aboriginal people in regard to the issues of tobacco and made some key recommendations in 2000.

Since then there have been consultations with the Ministry of Finance. Back in 2005, consulted with First Nations on reducing the tax exempt limit from three cartons per week to one, and the introduction of black stock on marked tobacco. In October of 2006, the Heart and Stroke Foundation report, *Connecting the Dots*, made recommendation to increase taxes and establish quotas for tax exempt cigarettes. In 2007 the Heart and Stroke Foundation made presentation to the government of the day and later to the opposition, continuing to press for the case in *Direction: More Action*. In December 2008, the Heart and Stroke Foundation made a further presentation to the Standing Committee on Human Services. 2009 the Heart and Stroke Foundation again released a report entitled *Building on Success: Reducing Tobacco Use in Saskatchewan* that was submitted to all MLAs [Member of the Legislative Assembly]

in this regard.

And recently with First Nations, Minister Hutchinson contacted the FSIN [Federation of Saskatchewan Indian Nations] just prior to the Premier's address to the chamber of commerce in Saskatoon where the Premier provided a heads-up and was talking about the issue of changes to address the issue of tobacco usage. And as late as April 19th Minister Hutchinson and myself met with Vice-chief Morley Watson from the FSIN who was accompanied by Chief Austin Bear from Muskoday First Nation and Chief Wallace Fox from the Onion Lake First Nation.

So we have been having these discussions with many stakeholders, including First Nations, and those discussions will continue because there's more work to be done and more insight that needs to be gathered as to details about the exemption for ceremonial and cultural uses of tobacco. And we recognize we need further dialogue in those specific regards.

Mr. Yates: — Thank you very much. Mr. Minister, are you aware at this time, is the government facing any legal challenge on this legislation?

Hon. Mr. Gantefoer: — There have certainly been some comments in First Nations country that there may be the intention of First Nations to challenge the legislation, but in reality, since this is not legislation as of yet, it's premature to see if a challenge will indeed occur. But there is a strong possibility that once the legislation is brought into law that that challenge may indeed happen.

Mr. Yates: — Thank you very much, Mr. Minister. I just want to reconfirm, in your today's second reading speech you indicated, I believe, a \$39 million increase in revenue as a result of measures taken.

Hon. Mr. Gantefoer: — The total I confirm is 35.7 and it's made of two components, if you like. The first component is a revenue related to the increased tax rate and that amounts to \$23.8 million. The revenue related to the lower tax exemption limit is \$11.9 million.

[20:00]

Mr. Yates: — Thank you very much. How does our tax rate compare now with other jurisdictions in Canada?

Hon. Mr. Gantefoer: — The latest figures we have on a package of 25 cigarettes: in British Columbia, the tax is four dollars and sixty-two and a half cents; in Alberta, it's \$5; in Saskatchewan, it's 5.25; in Manitoba, five twelve and a half; in Ontario, three dollars and eight point eight cents; and Quebec, two dollars and fifty-seven and a half cents. So we are slightly higher than other jurisdictions.

Mr. Yates: — Thank you very much. And my final question, Mr. Minister, before turning it over to my colleague if he has any questions, is any of the new revenue generated as a result of this tax measure going to be utilized to deal with some of the negative health effects from tobacco use?

Hon. Mr. Gantefoer: — Certainly the revenue will go into the

General Revenue Fund that is used to fund a massive health budget that deals with the issues of cancer and diabetes and any of the unintended consequences of smoking. And certainly we recognize statistically that the incidence of smoking in First Nations community is significantly higher than non-First Nations. And so hopefully that this will indeed address some of the health issues in that population in a meaningful way.

The Chair: — Mr. Belanger.

Mr. Belanger: — Thank you very much. Just a couple of questions, well one question in particular and one statement. The whole notion of the work being done by the Heart and Stroke Foundation, you know, we certainly, we're privy to some of their presentations and some of the incredible statistics that they provided as information to many of us as MLAs.

And my question revolves around the notion of the First Nations and this whole tobacco issue. If there was a presentation made to you as a minister, and let's take a, you know, any particular community, let's say Lloydminster. And in Lloydminster there was evidence that suggested within a 50-block radius, say in the southwest part of Lloydminster we found there was an incredible problem with smoking with middle-aged men. Would you put the same conditions on that particular area as you have in relation to the First Nations tobacco situation that you described earlier?

Hon. Mr. Gantefoer: — I certainly . . . I mean it's a very hypothetical question. The issue before us is, what is a reasonable amount of tobacco to provide for personal use? Because the ceremonial or cultural usage is recognized and provision is to have that exempted. And what is a reasonable level of tax-free tobacco for personal use? And that is where we've tried to establish a level that recognizes individuals' access to tax-free tobacco in First Nations community and set out the regulations in law under which that can happen so that that right is protected.

It's a question of reasonableness. A carton a week is eight packages a week, and from a health standpoint we think that that is a high enough level for personal use. And we have established and recognized clearly First Nations' right to have an exemption for cultural and spiritual and ceremonial use, and that is being provided for.

Mr. Belanger: — I'm assuming, again picking Lloydminster as an example . . . We're picking out of the air basically because they're a border city as an example. I'm sure they have a city charter that discusses common taxation and where you'd go to find a happy medium between Alberta's less tax-friendly rules versus Saskatchewan's tobacco tax and you indicated the difference.

Obviously if there was a study that indicated that there was heavy use in that area and setting aside the tax issue in that there were some significant health problems with middle-aged men in that particular area, I'm just wondering if you would take the same initiative.

It's not a far-off scenario. That could happen because, as I mentioned, when you're privy to some of the detail and some of the statistics that the Heart and Stroke Foundation provided

with us, they've done some pretty incredible studies. So if we provided evidence to you that lend credence to what my position and point is today, would you be in the same position? Because it's not hypothetical. There is studies that confirm what I'm saying. And it may not be particular to Lloydminster but it is particular, in some instances that don't involve First Nations. Would you put the same initiative as you have with the First Nations community?

Hon. Mr. Gantefoer: — Thank you, member. I think that we are operating in the world of reality, and certainly from a Canadian community health survey in 2007-2008, for example, from self-reported smokers age 12 and older, there was a 45 per cent usage in the Aboriginal population as compared to 23 per cent in the non-Aboriginal; for pregnant women 12 years and over, for the Aboriginal population, 43.8 per cent as compared to 7.9 per cent for the non-Aboriginal population.

So clearly, I think it's clear that we can see that there is a very strong statistical need to address the situation in the First Nations community as it is continued increased usage or price for tobacco that will affect everyone. The incidence of start-up by deterring people by higher prices has been shown to be very positive, particularly young people starting up, with the prices in a very significant deterrent.

And that the issue is, is that we've been urged to take stronger measures for years, going back to the previous administration which took significant steps in order to deter and destabilize and denormalize the use of tobacco. And this government feels that the issue is urgent and there's a strong public interest and support for the action that we've taken both in the non-Aboriginal and the Aboriginal population.

Mr. Belanger: — The concluding comment I would make is that you claim that the premise of this particular action and your government's action of limiting tobacco access to First Nations people, it's for their health. And certainly from my perspective, and I think many people would agree, we will now be watching with vigour and much anticipation for the other initiatives plaguing the First Nations and Métis communities' health. Things like diabetes. Things like the increase of TB [tuberculosis] and some of the overcrowded houses we have. The lack of drug and rehab services in some of our communities, the dangerous road conditions, addressing the high unemployment problem and the resulting socio-economic challenges they face. The early childhood services.

This is a clear message from the First Nations community that we can't feign concern in one area and ignore all the rest. So as clear as I can be and as succinct as I can be tonight, we'll be watching with vigour and much anticipation to see what your government does in relation to meeting some of the other challenges that are plaguing our First Nations and our Métis communities. Thank you.

Hon. Mr. Gantefoer: — If I may respond, I think this but one small step in an ongoing program or progression of steps that have been taken in terms of this issue and the improvement of health of our citizens in Saskatchewan generally and certainly in First Nations in particular. There are huge challenges that you address, and I think that governments, current and future, are going to have to meet those challenges as they're able to

because they are real. And it's a significant challenge for the people of Saskatchewan to meet those challenges, and it's also in the best interest of Saskatchewan that those challenges are met. So your point's well taken.

The Chair: — Are there any other questions or comments from committee members? Seeing none, we'll proceed to the vote on the clauses.

[Clause 1 agreed to.]

[Clauses 2 to 21 inclusive agreed to.]

The Chair: — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: Bill No. 143, *The Tobacco Tax Amendment Act, 2010*. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried. I would ask a member to move that we report Bill No. 143, *The Tobacco Tax Amendment Act, 2010* without amendment.

Mr. Allchurch moves. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried. With that, I'd like to thank the minister and his officials for coming tonight. And I believe Mr. Yates has a comment.

Mr. Yates: — Thank you very much, Mr. Chair. I'd just like to thank the minister and their officials for coming this evening and our representatives from the Heart and Stroke Foundation and Cancer Society. We appreciate you taking the time this evening to help us get this legislation through. It's an important piece of legislation.

The Chair: — Go ahead, Mr. Minister.

Hon. Mr. Gantefoer: — If I may, Mr. Chair, I'd like to thank the committee for their questions and their support for this piece of legislation. And I would like to thank our guests and the officials from the ministry and committee members for their time here tonight.

The Chair: — Well thank you very much. With that I will entertain an adjournment motion. Mr. Bradshaw. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried. This committee now stands adjourned.

[The committee adjourned at 20:14.]