

MINUTES

SPECIAL COMMITTEE ON ASSESSMENT AND TAXATION

November 15-16, 2004
Room 313-S—Statehouse

Members Present

Representative John Edmonds, Chairman
Representative Tom Sawyer, Ranking Minority Member
Senator Les Donovan
Senator Janis Lee
Senator Lana Oleen (November 15)
Representative Steve Huebert
Representative David Huff
Representative Bill McCreary
Representative Jim Miller
Representative Arlen Siegfried
Representative Tom Thull

Staff Present

Chris Courtwright, Legislative Research Department
Martha Dorsey, Legislative Research Department
Gordon Self, Revisor of Statutes Office
Carol Doel, Committee Secretary

Conferees

Representative Harold Lane
Representative Nile Dillmore
Joan Wagon, Secretary of Revenue
Roger Hamm, Department of Revenue
Richard Cram, Department of Revenue
Jeff Scott, Department of Revenue
Tom Whitaker, Kansas Motor Carriers Association
Eileen King, Kansas County Treasurers Association
Jay Befort, Legal Counsel, Department of Revenue
Terry Claudell
Eldon Goble
Carol Rinney
Steven Stenger
Rick Carnahan
Terry Franz
Charlie Brand
Larry Eckert
Rich Eckert

November 15, 2004

Morning Session

Chairman Edmonds called the meeting to order and recognized Chris Courtwright, Principal Economist, Kansas Legislative Research Department, to present a briefing on the consensus revenue estimate. Mr. Courtwright reported that estimates for the State General Fund are developed using a consensus process that involves the Division of the Budget, the Legislative Research Department, the Department of Revenue, and three consulting economists from state universities. This estimate is the basis from which the Governor and the Legislature build the annual budget. Detailed information was provided for the Committee to review ([Attachment 1](#)).

Prior to opening the public hearing on Motor Vehicle Sales Tax, the Chairman recognized Richard Cram, Department of Revenue, who gave a review of the Pennsylvania Approach to Private ("Isolated or Occasional") Car Sales Tax ([Attachment 2](#)).

Representative Harold Lane addressed the Committee regarding the Motor Vehicle Sales Tax, stating that this tax is unfair as it puts a burden on people who can least afford such a hardship to their budget. Representative Lane stated that he and his cosponsors have drafted a bill to repeal the law in SB 147, which was passed in the 2004 Session. In his testimony, Representative Lane included letters and e-mails from individuals expressing their dissatisfaction with the current law ([Attachment 3](#)).

Tom Whitaker, Executive Director, Kansas Motor Carriers Association, presented testimony on behalf of the 72 towing and recovery company members to bring to the Committee's attention what they believe was an unintended result of passage of Section 7 of House Substitute for SB 147. They requested that the Special Committee on Assessment and Taxation recommend adoption of an amendment to KSA 79-3603 (o), which would require that the sales tax be collected only on the public auction sale price for vehicles sold under the provisions of KSA 8-1103, the Towing and Recovery Lien Law ([Attachment 4](#)).

Next to address the Committee was Eileen King, Riley County Treasurer. She presented the following recommendations:

- Repeal the law;
- Make it fair to everyone;
- Flag suspect transactions for further review;
- Integrate the valuation system into the VIPS system;
- Have a floor or minimum value; and
- Eighty percent of NADA value, with the ability to allow for high mileage and condition of vehicle, integrated into the VIPS system ([Attachment 5](#)).

Terry Claudell appeared before the Committee in opposition to the Motor Vehicle Sales Tax, stating that he recently bought a car with his daughter, who saved her own money to make the purchase. The Kelly Blue Book gave the approximate value of the car at \$5,700. When they went to pay the taxes on the vehicle, the value was deemed to be \$10,600 with a tax cost of \$796. Mr. Claudell felt that he was being penalized for being honest.

Next to appear in opposition to the current motor vehicle sales tax was Mr. Eldon Goble, who felt that he was being unfairly taxed on a new vehicle that he recently purchased.

Representative Nile Dillmore addressed the Committee, stating in his opinion, the Motor Vehicle Sales Tax Law should be repealed and time should not be wasted on trying to fix it (Attachment 6).

Carol Rinney came in protest to the Vehicle Tax Law, as she had bought a car for \$2,800 and when she went to pay the taxes on the car, it was valued at \$7,400.

A Jackson County plumber, Steve Stenger, related that he bought a 2000 Chrysler Town and Country mini-van for \$11,000. When he went to secure financing, he was told that the vehicle appraised at \$10,500. When he went to the county treasurer to register it, he was told that it was worth \$13,300.

Rich Carnahan addressed the Committee in protest of the Vehicle Tax Law. In his protest he stated that he bought a 2002 Dodge Intrepid, his wife's company car, for \$4,800, but when he registered to pay his taxes, the vehicle was valued at \$12,283.

Terry Franz, an Overland Park, Kansas resident, has been in the auto business since 1974. He is currently the finance manager at a local Kansas City dealership. Mr. Franz founded the only charity in the nation that gives free cars to less fortunate individuals. Even though the car is given to charity, taxes have to be paid according to the way the system is currently set up.

A Miami County resident, Charlie Brand, also appeared in opposition to the current Vehicle Tax Law. He related that he bought a Pontiac on E-Bay for \$661. It was wrecked in the front and he spent about \$800 in repairs, which made the total paid for the car just over \$1,400. When he went to the county treasurer, the value of the car was determined to be \$1,800.

Rich Eckert and his father, Larry Eckert, addressed the Committee, asking for a repeal in the Vehicle Tax Law, as well as a refund for taxes which he felt were overpaid.

Richard Cram, Department of Revenue, was asked what the state would owe in refunds at the end of a year if they were to be given. His estimate was \$4 million. Mr. Cram stated that a file of written complaints would be made available to the Committee.

Chairman Edmonds concluded the public hearing on Vehicle Sales Tax.

Chairman Edmonds asked Roger Hamm, legal counsel for the Department of Revenue, to explain how the depreciation issue works with reference to property tax on cars. Mr. Hamm explained that the ad valorem tax is a tax levied in proportion to the value of the thing(s) being taxed. Depreciation schedules were supplied to the Committee for review (Attachment 7).

Chris Courtwright, Legislative Research Department, informed the Committee of proposed legislation regarding tax on isolated sales of motor vehicles (Attachment 8).

Chairman Edmonds addressed the Committee regarding the information which had been delivered during the morning session, and closed the discussion on this Topic.

Afternoon Session

Roger Hamm supplied the Committee with information regarding the depreciation on pick-ups versus SUVs (Attachment 9).

Chairman Edmonds opened the floor for discussion on Confidentiality and Disclosure of Tax Information, and asked Representative Huff to deliver the subcommittee report on this subject. Representative Huff reported that there were nine items that the Committee covered with the Department of Revenue. He reported he had been told that the Kansas Chamber, Sprint, Hallmark, and some of the other big companies are 100 percent behind this. Representative Huff then asked Secretary of Revenue Wagnon to address the Committee regarding this Topic. Secretary Wagnon supplied each member with a copy of the proposed legislation regarding confidentiality and disclosure of tax information (Attachment 10).

Chris Courtwright, delivered a briefing to the Committee on conclusions and recommendations on Confidentiality and Disclosure of Tax Information (Attachment 11).

Chairman Edmonds called for a decision by the Committee with reference to Confidentiality and Disclosure of Tax Information.

Representative Huff moved that the bill summarizing the subcommittee report be recommended for regular legislative session. The motion was seconded by Representative Sawyer. A vote was taken. Motion passed.

The Committee was directed back to Motor Vehicle Sales Tax, with Chairman Edmonds requesting a decision by the Committee.

Senator Lee moved that a bill be introduced to repeal the Motor Vehicle Sales Tax Law, replace it as specified by the Department of Revenue, and issue refunds according to the new provisions for setting the tax amounts. Senator Oleen made a second to the motion.

After Committee discussion, Senator Lee amended her motion to make it retroactive with the work to be done within the Department of Revenue and not be outsourced. A second was made by Senator Oleen.

Representative McCreary commented that he would like to repeal the law and replace it with a transfer fee.

At the request of Representative Huff, Senator Lee stated her motion would make the law retroactive to July 1, 2004, and would require a system be implemented whereby, a person going to the courthouse would provide information regarding the transaction and price of the car. If the people at the treasurer's office feel it is an inappropriate value, they will flag it, and that flag will go to the state level, where the Department of Revenue then has the opportunity to review the transaction. A vote was taken. Motion adopted.

Representative Sawyer made a motion that the penalty language be made more legible. Motion was seconded by Representative Huff.

Senator Donovan made a substitute motion that—in addition to making the language more legible—language be added on the title, to the attention of both the buyer and the seller, that the information must be true and correct and a penalty would be imposed if it was not found to be so. This motion also was seconded by Representative Huff. A vote was taken. Motion adopted.

Representative Sawyer made a motion that the Pennsylvania Approach be made a part of the law. Senator Oleen made a second. A vote was taken. Motion adopted.

Representative Sawyer moved for the introduction of a bill as previously amended. Representative Huff seconded the motion. A vote was taken. Motion passed. The bill will be introduced.

Senator Lee moved that the 2005 Legislature look at the valuation of motor vehicles for property tax purposes. Senator Donovan made a second to the motion. A vote was taken. Motion passed.

Consideration of Motor Vehicle Sales Tax, was concluded.

Chairman Edmonds directed the Committee's attention to the two topics related to Delinquent Taxes and Professional/Liquor License Renewal.

Martha Dorsey, Legislative Research Department, delivered a briefing on both Topics giving background information as well as policy options (Attachments 12 and 13).

Jeff Scott, Compliance Enforcement Executive Manager, Department of Revenue, provided the Committee with a summary of the Department's revised license tax clearance proposal regarding these Topics. Attached was a list of licenses which the Department is considering adding to the proposal (Attachment 14). The Committee took no action on Delinquent Taxes and Professional/Liquor License Renewal. These Topics were removed from further consideration.

Chairman Edmonds opened the floor for discussion on Monitor Streamlined Sales Tax Implementation, and recognized Chris Courtwright, who gave a briefing on both the background and the proposed legislation (Attachment 15).

Senator Lee made a motion that there be a continuation of active participation in the multi-state streamlined sales association. Representative Sawyer seconded the motion. A vote was taken. Motion adopted.

Further discussion on this Topic was concluded.

Representative Huff moved the minutes of the October meeting be adopted. Representative Sawyer made a second to the motion. A vote was taken. The minutes of the October meeting were adopted.

Written testimony was presented for Committee review from Kansas Building Industry Association and the Home Builders Association of Greater Kansas City regarding Excise Tax (Attachments 16 and 17). Also presented was written testimony from David Dorau, Lenexa, Kansas, and Charles Henry, Director of Revenue/Treasury, Wyandotte County, Kansas City, Kansas regarding Motor Vehicle Sales Tax (Attachments 18 and 19).

With no further business before the Committee, the meeting was adjourned.

November 16, 2004

Chairman Edmonds opened the meeting and recognized Chris Courtwright, who briefed the Committee regarding Attorneys' Fees and State Board of Tax Appeals Orders (Attachment 20).

Chairman Edmonds opened the floor for Committee discussion and action.

Representative McCreary made a motion that HB 2540 (Attorney's Fees) be reintroduced to the 2005 Legislature in its current form. Representative Siegfroid seconded the motion. A vote was taken. Motion adopted.

Attention was directed to Delinquent Tax Collection, with Martha Dorsey giving a briefing on the issue. This included the background, Committee activities, and recommendations (Attachment 21).

Jay Befort, Attorney, Legal Services, Department of Revenue, addressed the Committee with a summary of the revised HB 2540 regarding delinquent tax collection (Attachment 22).

Chairman Edmonds requested Committee action on HB 2540.

Representative Tom Sawyer moved the introduction of a bill with proposed language by the Department of Revenue. Representative Thull seconded the motion. A vote was taken. Motion adopted.

Chris Courtwright, gave a briefing, which included the background, Committee activities, and proposed legislation on Franchise Tax Administration (Attachment 23). At the Chairman's request, Mr. Courtwright walked through the details of the five policy options given in his briefing to the Committee.

Representative Huff made a motion for the introduction of three bills to the 2005 Legislature:

- *Restoration of corporate charter forfeiture provisions;*
- *Elimination of language indicating that reports filed with the Secretary of State should reflect financial condition of entities; elimination of the need for the Secretary of State, now collecting only a fee, to grant extensions; and changing the name of the franchise fee collected by the Secretary of State to "annual report fee," so as to avoid confusion with the franchise tax collected by the Department of Revenue; and*
- *Restoration of the "zero rule" to the franchise tax formula, so as to avoid collection of less revenue than had been assumed by 2004 Legislature.*

Representative Sawyer seconded the motion. A vote was taken. Motion carried.

Chairman Edmonds directed the attention of the Committee to Excise Tax Authority of Municipalities. Chris Courtwright, was recognized to give the Committee a briefing on the background and proposed legislation (Attachment 24). Representative Siegfroid was asked to give the subcommittee report on this Topic with the resultant decision that the bill should restore uniformity and serious consideration should be given to constitutional change that protects from errors.

Representative Siegfroid moved that bills similar to SB 308 and SCR 1615 be introduced to the 2005 Legislature. Representative Sawyer seconded the motion. A vote was taken. Motion adopted.

Chairman Edmonds offered the Committee the option of revisiting any of the nine Topics.

Senator Lee requested a return to Delinquent Taxes and Professional/Liquor License Renewal and made a motion that legislation be introduced for tax credits for professional licenses, which would include attorneys and the liquor licenses, as well. The legislation would be modeled after the revised legislation that was presented by the Department of Revenue. The motion was seconded by Representative Huff. A vote was taken. Motion adopted.

With no further discussion, Chairman Edmonds closed the discussion on all topics.

Written testimony was submitted for Committee review by a representative of the Home Builders Association of Greater Kansas City regarding excise tax (Attachment 25).

There was no further business before the Committee. Chairman Edmonds adjourned the meeting.

Prepared by Carol Doel
Edited by Martha Dorsey

Approved by Committee:

December 30, 2004
(date)