

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on March 4, 2005 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

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

Conferees appearing before the committee:

Secretary Wagnon, Department of Revenue
Representative Jene Vickrey
Representative Bob Bethell
George McCrary, Baldwin Athletic Club, Baldwin
Scott Hudson, Maximus, Topeka
Brian Walburn, Walburn's Athletic Club, Emporia
Karleigh Venneman, Phase I Fitness, Pittsburg
Brian Clark, Golds Gym, Merriam & Olathe
Kathy Damron, YMCA's of Kansas
John Peterson, Kansas Health and Fitness Association
Gregory M. Ferris, Governmental Affairs Consulting, Wichita
April Holman, Kansas Action for Children (written testimony only)
David Corbin, Department of Revenue
Larry Baer, League of Kansas Municipalities

Others attending:

See attached list.

Representative Edward O'Malley made a motion to introduce a bill regarding a modification to the Transportation Development District Act. Representative Dillmore seconded the motion. The motion carried.

SB 105 - Countywide retailers' sales tax in Miami County

SB 105 would amend a local sales tax statute to ratify the results of a November, 2004, election in Miami County relative to extending an existing quarter percent sales tax earmarked for road construction and improvement for an additional five year period. The law also would be amended to clarify that Miami County has authority to seek voter approval of additional five-year extensions.

The Chairman opened the public hearing on **SB 105**.

Representative Vickrey stated the bill would allow the will of Miami County voters to be fulfilled (Attachment 1). The renewal of the 1/4 cent sales tax for transportation passed in the last general election by a margin of 2-1. It had local support for the following four reasons:

- ▶ High profile projects completed since 2001 have given widespread public confidence.
- ▶ Provides ability to address transportation infrastructure for one of the fastest growing counties in Kansas.
- ▶ Improvements have been distributed with equity addressed real and recognized priorities showing thoughtful planning.
- ▶ Reduces reliance on property tax.

Discussion followed regarding the process of authorization from the legislature *after* the voters had passed a 1/4 cent sales tax increase. Staff stated that although this is an exception to the current processes, the state had made this exception in at least two prior occasions in the 1990's, for Ottawa and Jackson Counties.

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There being no other conferees, the Chairman closed the hearing on **SB 105**.

HB 2501- Reauthorization of school district ad valorem tax levy and exemption therefrom

Mr. Courtwright stated that **HB 2501** is a bill that the legislature had to pass. The bill re-authorizes the 20 mill school finance levy for the next two school years as well as the \$20,000 residential "home stead" exemption from the 20 mill school levy. If the Legislature would choose to not pass the bill, there would be \$480.2 million less local effort in FY 2006. The governor's budget assumes that **HB 2501** will be enacted. The Chairman stated that he was currently working with staff to draft a balloon regarding the 20 mill lockbox concept that had been discussed, and they would return to **HB 2501** for Committee consideration.

There being no conferees for or against **HB 2501**, the Chairman closed the hearing on **HB 2501**.

HB 2204 - Sales tax exemption for membership charges of health and fitness organizations and businesses

Mr. Courtwright stated the bill proposed a new sales tax exemption for membership charges, including initiation fees from organizations and businesses whose primary purposes is to provide facilities, equipment, instruction or education to promote the health and fitness of members or the organizations or businesses. The fiscal note is estimated, by the Department of Revenue, to be \$1.8 million for FY 2006.

The Chairman opened the public hearing on **HB 2204**.

George McCrary - Baldwin Athletic Club appeared in support of **HB 2204**. He stated that one of the major purposes of the Kansas Health and Fitness Association was to promote health and fitness throughout the State of Kansas (Attachment 2). Last year obesity and related diseases were the second leading cause of preventable deaths in America. His testimony included eight sources of data on the correlation between increased physical activity, fitness, and wellness programs and reduced medical costs to individuals, companies, and government.

Scott Hudson, Maximus, Topeka rose in support of **HB 2204** (Attachment 3). He stated that the bill would encourage Kansans to join health and fitness clubs by removing the sales tax from dues paid to join those clubs. Removal of the sales tax does not put dollars in the owners till, but it makes participating less expensive. In the past the legislature has removed sales tax in areas to make them more affordable –two examples are utility bills and prescription drugs.

Brian Walburn, Walburn's Athletic Club, Emporia testified in support of **HB 2204** (Attachment 4). He stated that the bill is a positive and economical method of chipping away at the rising cost of medical costs associated with obesity. The bill has no losers. Existing club members are treated fairly and equitably, more Kansans can afford access to health and fitness, and Kansas will incur significant savings over the next several years.

Karleigh Venneman, Phase I Fitness, Pittsburg stood in support of **HB 2204** (Attachment 5). Many of the clubs in Kansas are women only clubs and some of these members would not work out if they had to work out in a co-ed environment. Many members of clubs live in cities where there are no alternatives except clubs where sales tax is charged. Sales tax should never discriminate, and the bill fixes a problem that makes one citizen pay a tax on the exact same service that someone else does not pay. This bill would undo the unfair penalties that are being assessed on health club members.

Brian Clark, Golds Gym, Merriam & Olathe appeared in support of **HB 2204** (Attachment 6). Traditionally the Kansas Legislature has refused to treat groups of taxpayers differently and has resisted passing legislation that does. When this type of inequity is pointed out, the Legislature has generally corrected the inequity. **HB 2204** corrects the different treatment of certain Kansas taxpayers that are using the same services.

April Holman, Kansas Action for Children, submitted written testimony in opposition of **HB 2204** (Attachment 7). Although they support efforts to encourage healthy lifestyles, they oppose the proposal to accomplish this goal through further erosion of the Kansas sales tax base.

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Kathy Damron, YMCA's of Kansas, testified from a neutral position (no written testimony). She reviewed the history of tax treatment of health and fitness organizations. The difference between a for-profit health and fitness club and a YMCA or YWCA is that the latter has a charitable mission; to serve the mission of building strong and healthy communities of families and kids. As such, they have a policy that no one is turned away by virtue of their inability to meet the minimum standards for membership or program fees. She spoke of the amount of scholarships that had been awarded throughout the state. The YMCA's of Kansas were granted sales tax exemptions on their program fees and membership dues, not as a way to promote health and fitness, but to help subsidize the scholarships that are given to children.

John Peterson, Kansas Health and Fitness Association, (no written testimony) clarified that there are types of exemptions that are given almost exclusively to not-for-profit organizations, exemptions for property tax, income tax and certain sales tax, for materials and products. The Health and Fitness Organizations are not seeking those types of exemptions. He reviewed the history of taxes imposed on sports, games and other recreational activities, stating that the health and fitness businesses do not believe they come under that category. However the Department of Revenue, by regulation, has placed them there. They need a specific exemption that would differentiate them from sports, games and recreational activities.

Gregory M. Ferris, Governmental Affairs Consulting, Wichita, stated he had been working with the Health and Fitness Organizations for a year (no written testimony). The purpose of the bill was to encourage physical activity by a providing a lower fee structure. The 5.3% tax would simply be removed from the bill. They anticipate that this would encourage people to increase their activity levels, as well as improve the retention rate of those organizations.

In response to the Chairman's request, Secretary Wagon gave a brief history on the definitions of sports, games and recreational activities, as they pertain to health and fitness organizations, rules and regulations for that language and time line of tax exemptions.

The Chairman closed the hearing on **HB 2204**.

HB 2057 - Property taxation, valuation of rebuilt motor vehicles

Mr. Courtwright stated that **HB 2057** would amend the motor vehicle tax valuation statute, effective FY 2006, to provide a reduction of 25% of the original mid-point class valuation amounts for certain vehicles with rebuilt salvage titles or which formerly had non-highway titles because they had been wrecked or damaged, pursuant to a flood or fire. The fiscal note could reduce motor vehicles taxes by \$2.5 million the first year and could grow by that amount for all subsequent years.

Representative Huff offered a balloon on **HB 2057** (Attachment 8) and asked Representative Bethall to explain the balloon.

Representative Bethell stated the amendment would cause a lessening of the work and therefore the concern that some have had concerning the labor required for the County Treasurers or their staff. HB 2057 would insert language to reduce the classification, by two classes (Attachment 9). The only issue that must be considered is that to initialize the lower valuation of "salvage title" vehicles the owner of that vehicle must present at the County Treasurer's office the first year only. To solve this problem, when the Kansas Department of Revenue sends their renewal notices during the first year after passage, include a notification of the new issue concerning the "salvage title" effect on the valuation. The responsibility of the change is clearly the owner of the vehicle.

Representative Owens moved that the amendment on **HB 2057** be adopted. Representative Brunk seconded the motion. The motion carried.

Representative Brunk made the motion that **HB 2057**, as amended, be passed out favorably. Representative Goico seconded the motion. The motion carried.

HB 2131 - Delay of destination sourcing rules for sales tax purposes until action of Congress

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The Chairman opened the floor for discussion on Streamlined Sales Tax Program (SSTP).

Topics included: Possibility of a simplified approach to non-local tax by assessing one rate to be used for remote sales to all locations; limitation and violation of the Commerce clause that would disadvantage interstate commerce; complexity of issue due to 19 different local tax rates; burden placed on small retailers for conversion, possibility of exemption for small business; moratorium on SSTP until a national program is enacted.

The meeting recessed at 10:30 a.m. for the House session, and reconvened at 11:15 a.m.

The Chairman opened the floor for continuation of the discussion on SSTP. Participants in the discussion were Secretary Wagnon, David Corbin, Larry Baer, staff and all Committee members. Topics included: ramifications of SSTP to small communities, past election results, Department of Revenue's efforts to facilitate conversion for small businesses, philosophy of SSTP implementation agreement of 34 states, the legality of exemption from the SSTP for small businesses, activities of various committees at the National level, public perception of SSTP program.

Representative Edward O'Malley made an announcement that there would be a sub-committee meeting on the "Investment in Excellence" fund on Monday at 1:00 p.m.

The Chairman adjourned the meeting at 1:30 p.m. The next meeting is scheduled for March 8, 2005.