

Approved May 3, 2002  
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION

The meeting was called to order by Chairman Edmonds at 9:00 a.m. on April 3, 2002 in Room 519-S of the Capitol.

All members were present except: Representative Kirk, excused  
Representative T. Powell, excused

Committee staff present: Chris Courtwright, Legislative Research Department  
April Holman, Legislative Research Department  
Don Hayward, Revisor  
Winnie Crapson, Secretary

Conferrees appearing before the Committee:

Others Attending: See attached list.

**Hearing opened on**

**HB 3032 - Local compensating use tax imposed upon motor vehicles.**

Don McNeely, President of the Kansas Automobile Dealers Association, presented testimony in support of **HB 3032** (Attachment #1) on behalf of KADA members, the retail franchised new car and truck industry in Kansas. He testified that motor vehicles in Kansas carry a heavy taxation burden. They are the only pieces of tangible property subject to both state and local sales tax, personal property tax, registration fees, title fees, tire excise and motor fuel taxes. He noted a resident can vote to approve a local option sales tax or increase in local sales tax rate to fund a city and county project and then drive a short distance and avoid paying it on a purchase of a new vehicle. KADA believes current law imposing local sales tax at the point of sale as opposed to where the vehicle will be garaged or registered has imposed a significant competitive disadvantage upon many retail motor vehicle dealers and the communities where their dealers are located. Mr. McNeely noted voters within one local jurisdiction will vote May 21 to decide whether or not to rebate a proposed .5% local city sales tax and an allowance to anyone who purchases a motor vehicle within their city limits. Mr. McNeely noted that with his testimony he had presented a table of communities with franchised new car dealership indicating tax rates in descending order.

In response to questions from committee members Mr. McNeely said no other industry in Kansas has a sitage tax. He said almost every other state addresses this issue in one form or another.

Jim Clark, automobile dealer in Junction City, presented testimony in support of **HB 3032** (Attachment #2). Mr. Clark said as a former Mayor and City Commissioner of Junction City it has always seemed to him unfair that a resident of a local taxing jurisdiction can vote to approve or increase a local option sales tax and then those same voters have fled the area for big-ticket purchases. Attached to his testimony was an ad appearing in the local newspaper setting out the savings in sales tax for Junction County residents purchasing a vehicle in Butler County.

In response to questions about similar provisions on purchase of lawnmowers and other large ticket items, Mr. Clark said automobiles are the only product that currently has in place a tax collecting opportunity on the local level because they have to be registered.

Members of the Committee noted that local taxes include enhancement of roads and provision of infrastructure which benefit all businesses in the community.

In response to a question Mr. Clark said there had been attempts to credit to the county of registration the differential between sales tax paid where purchased and where sited without success.

The Committee recessed at 9:30 a.m. to reconvene at 3:30 p.m.

## CONTINUATION SHEET

The Committee reconvened at 5:45 p.m.

Harold D. Johnson presented testimony in support of **HB 3032** on behalf of the Wichita Automobile Dealers Association (Attachment #3). Mr. Johnson said he represented the dealership in Butler County whose advertisement Mr. Clark presented with this testimony. He said their dealership supports this bill although they currently have an advantage over other dealerships whose community has local sales tax.

Senator Donovan presented oral testimony in support of **HB 3032**. He said he had been involved with this subject since he came to the Senate. Sales tax is assessed at local level so people can go shopping tax wise. People still drive a few miles due to that amount of money involved. A hybrid bill says if you go elsewhere you pay the increment when you come home. Senator Donovan said Representative Tony Powell has language for such an amendment so that local entities will not lose revenue.

Representative Judy Morrison presented testimony in opposition to **HB 3032** (Attachment #4) noting they strongly opposed this bill which represents a sharp and drastic deviation from the longstanding commitment to maintain a stable and predictable tax policy in Kansas. They believe predictability in tax policy and tax law is essential. They noted in the testimony that business owners must anticipate such cost in business decisions; that economic development and site selection professionals need predictability in anticipating long term plans; and that local governments must be able to plan cash receipts in the preparation of their annual budgets and, perhaps more importantly, in financing and bond issue decisions which commit tax revenues. They described in the testimony the effects on the City of Merriam if **HB 3032** passes.

Mike Taylor presented testimony in opposition to **HB 3032** on behalf of the City of Wichita (Attachment #5). Mr. Taylor said introduction of this legislation late in the legislative session leaves inadequate time for research, analysis and thoughtful deliberation on a proposal which would make a major change in Kansas tax policy. He identified confusing, conflicting and unclear provisions of the bill. He noted that localities that have issued bonds based on revenues pledged from the local sales tax and Section 1 could be an unconstitutional impairment of contract. It deals with "motor vehicles" although the wording may include trailers and boats since they are registered. While the bill purports to be a "situs tax" it calls for the tax receipts to be distributed in the same manner as revenue received from the local sales tax.

Mr. Taylor referred to reports that the impetus for the legislation is the upcoming vote in Wichita on financing construction of a Regional Entertainment and Sports Complex and noted that although a provision is included to allow Wichita car dealers to rebate those particular local taxes, that it is a local issue. It is for the Wichita voters to decide whether to impose an additional tax on themselves and whether to allow a rebate of that local tax on local automobile sales. Mr. Taylor suggested that if the Wichita arena referendum is the reason for this proposed legislation it should wait until the vote takes place before making such a drastic change in state tax policy.

Michael Pepoon presented testimony in opposition to **HB 3032** on behalf of Sedgwick County (Attachment #6). They oppose the bill because they believe Sedgwick County could lose significant revenue by its adoption when there is the potential of losing significant funding from the State because of the revenue shortfall. Mr. Pepoon noted there seems to be no merit from a tax administration perspective. He said such significant changes in the manner in which cities and counties collect sales tax deserves more time and attention than can be given at this late date in the legislative session.

Quinn Bennion, City Administrator of the City of Merriam, presented testimony in opposition to **HB 3032** (Attachment #7). He said a city or county with motor vehicle dealerships within their borders bears the burden of providing costly services to support the operation of the dealerships and costs of those services are offset by the proceeds of the local sales taxes generated by the dealership. Mr. Bennion noted hundreds of cities across Kansas have worked aggressively and cooperatively for decades to create a favorable business climate which attracts, services and retains motor vehicle dealerships. Mr. Bennion said to offset the reduction of sales taxes from auto sales, municipalities such as Merriam will be faced with a challenge: reduce services or increase property tax and that the cost of providing city services and infrastructure to the motor vehicle dealerships will most likely shift from the new car buyer to the homeowner.

## CONTINUATION SHEET

Kenneth Sissom, Chief of Police of the City of Merriam, presented testimony in opposition to **HB 3032** (Attachment #8). He described the city of Merriam and said there are five new car auto dealerships and four small used car businesses for a total of nine requiring heavy protection costs and the need for the revenue they generate. He reported that in the past five years the Police Department has responded at these businesses to 1 robbery, 2 assaults, 2 criminal threats, 4 batteries, 7 forgeries, 13 incidents of criminal damage, 45 auto burglaries, 59 stolen autos, 678 thefts and 43 other crimes, and have worked countless traffic accidents in their vicinity. Officers spend hundreds of hours each year specifically patrolling for criminal activity in the areas of these dealerships. Mr. Sissom said any change in the way taxes are distributed now would be unfair and an extreme hardship on the citizens of Merriam as with or without these funds the city's level of responsibility to the auto dealerships will be the same.

Ed O'Malley presented testimony on behalf of the Overland Park Chamber of Commerce in opposition to **HB 3032** (Attachment #9). He said Overland Park has created an environment supportive of commercial development, including automobile dealerships, enabling the city to collect significant tax revenue and that this policy change would penalize cities that provide the infrastructure and environment to accommodate automobile dealerships. Attraction of auto dealers results in additional costs for government services such as infrastructure, street improvements, police and fire services. Loss of this revenue to local governments would force a shift in tax burden to property taxes levied on all taxpayers.

Eric Sartorius presented testimony on behalf of the City of Overland Park in opposition to **HB 3032** (Attachment #10). He said development of commercial business, including automobile dealerships, does not occur by accident but requires improvements to accommodate such development. The governing body of Overland Park has utilized significant public funds to make infrastructure improvements such as streets, bridges, traffic control systems, and ongoing maintenance necessary to accommodate these businesses. Local sales taxes help cities provide these as well as basic services such as police and fire protection and roads to local retailers. The City of Overland Park's position is that significant changes to tax policy should not occur in such a limited timeframe.

In responses to a question as to whether this would allow cities to keep taxes low, Mr. Sartorius said the policy of Overland Park is to keep property taxes low.

Ashley Sherard presented testimony on behalf of Johnson County in opposition to **HB 3032** (Attachment #11). She said it is the position of the County that this bill would unfairly redistribute sales tax revenues away from cities and counties that attract and host car dealerships to elsewhere in the state when the jurisdictions in which dealerships are located utilize substantial public funds to provide infrastructure, improvements and services necessary to support and accommodate them.

Written testimony was provided in opposition to **HB 3032** by the City Manager's office of Manhattan (Attachment #12).

Written testimony in opposition to **HB 3032** was provided on behalf of the City of Olathe by Donald Seifert (Attachment #13).

The meeting adjourned at 6:30 p.m. The next meeting will be April 4.