

## MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on January 25, 2005 in Room 519-S of the Capitol.

All members were present except:

Representative Nile Dillmore- excused  
Representative Lana Gordon- excused  
Representative Nancy Kirk- excused  
Representative Bruce Larkin- excused

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:

Representative Pat Colloton, Legislator  
Representative Julie Menghini, Legislator  
Representative Willa DeCastro - Legislator  
Representative Geraldine Flaharty - Legislator  
Ronald R. Hein, Kansas Hearing Aid Association  
Barb Hinton, Legislative Post Auditor

Others attending:

See attached list

The Chairman opened the floor for bill introductions.

Representative Colloton requested a bill introduction regarding a sales tax exemption for a non-profit organization, that provides therapeutic, residential, psychiatric treatment for children. Representative Huff moved the request be introduced as a committee bill. Representative Owens seconded the motion. The motion carried.

Representative Menghini moved a motion that would authorize a quarter cent sales tax increase, subject to voters approval, for Crawford county, for road and bridge improvement. Representative Treaster seconded the motion. The motion carried.

**HB 2040 - Sales tax exemption for hearing air repair.**

Mr. Courtwright explained that the bill is a follow-up bill to a new sales tax exemption that was enacted during the 2004 session relating to the purchase of hearing aid replacement parts and batteries. The intent of the bill was that repairs of hearing aids and batteries would also be tax exempt. This bill would insert the words *repair and* to the language on page 6, line 8. There is a fiscal note of approximately \$89,000 to the state general fund.

The Chairman opened the public hearing on **HB 2040**.

Representative Willa DeCastro, co-sponsor of the bill, stated that since the passage of the bill she had become aware that the intent was omitted (Attachment 1). **HB 2040** would correct the language to include the labor portion of repair and replacement services. She suggested placing the bill on the consent calendar.

Representative Geraldine Flaharty, co-sponsor of the bill, stated that this was a clean-up bill that adds language that provided the services originally intended (Attachment 2). It would also alleviate additional paperwork by dealers and the Department of Revenue that resulted in very little revenue. She questioned the data accuracy on which the fiscal note was based, suggesting that the revenue would be lower.

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on January 25, 2005 in Room 519-S of the Capitol.

Ron Hein, Kansas Hearing Aid Association (Attachment 3) supports the passage of **HB 2040**. He reviewed the history of original bill and explained the bookkeeping difficulties incurred by hearing aid dispensers and manufacturers of hearing aids.

The Chairman closed the hearing on **HB 2040**.

The Chairman opened the public hearing on **HB 2031**.

Barbara Hinton, Legislative Post Auditor, explained that the content of **HB 2031** removed language on lines 30-34 relating to an audit requirement.

Ms. Hinton, stated that **HB 2031** had been introduced by the Legislative Post Audit Committee and would remove the requirement for Legislative Post Audit to "take any audit steps" necessary to ensure that the tax abatements the Secretary of Revenue reports to them each year are made in accordance with law, and to issue a report to the Legislature at least once every three years on their findings(Attachment 4). She cited three reasons the Post Audit staff believed this requirement should be repealed.

Discussions followed regarding: original intent of the bill, processes that have been completed under the current law and ramifications if the bill fails.

The Chairman closed the public hearing on **HB 2031**.

Ms. Hinton provided a brief explanation on how legislators can request an audit and what actually happens during an audit.

The meeting adjourned at 9:35 a.m. The next meeting is January 26, 2005.



WILLA DECASTRO  
REPRESENTATIVE 96TH DISTRICT  
MAJORITY CAUCUS CHAIR



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
MEMBER: HEALTH & HUMAN SERVICES  
K-12 EDUCATION  
SOCIAL SERVICE BUDGET  
JT. COMMITTEE ON CHILDREN'S ISSUES

Jan. 25, 2005

Chairman Wilk  
Tax Committee

Chairman Wilk and members of the tax committee I want to thank you for hearing HB 2040. This is a correction of a bill passed last year dealing with hearing aids. The intent was that hearing aids, repairs of hearing aids and batteries dispensed by a person licensed in the practice of dispensing and fitting hearing aids would be exempt of taxes.

Since the passage of the bill, it has come to my attention by those who dispense that part of the intent was omitted. On page 6, line 8 contains the correct language.

This corrected language brings hearing aids dispensed by audiologist to be treated the same at those dispensed by a physician. The intent is that repair also covers parts, as these are not unbundled by those performing the service.

Thank you for consideration of HB 2040 and I am hopeful that you will make the suggested corrections and pass the bill favorably to the Committee of the Whole.

Rep. Willa DeCastro

A handwritten signature in cursive script, appearing to read "Rep. Willa DeCastro". The signature is written in dark ink on a white background.

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TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

RANKING MINORITY MEMBER: TOURISM  
MEMBER: EDUCATION  
ENVIRONMENT  
HEALTH & HUMAN SERVICES  
JOINT COMMITTEE ON  
PENSIONS, INVESTMENTS &  
BENEFITS

HOUSE BILL 2040

January 25, 2005

This is a clean-up bill. Frankly, last year when the sales tax exemption on hearing aid sales was passed, we neglected to include repairs. This is causing lots of paperwork by dealers and the Department of Revenue and bringing in very little revenue. I believe the intent of last year's bill was to exempt cost of hearing aids from sales tax. We included batteries but not repairs in our wording.

It is my understanding that the Department of Revenue is basing their fiscal note on 50% of sales of new hearing aids. I believe this is a high estimate but have no hard data to support a definite amount.

I hope you will pass this bill quickly, possibly for the consent calendar. I will stand for questions about this or the original bill passed last year.

Hs Taxation Committee  
January 25, 2005  
Attachment 2

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*Ronald R. Hein*  
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**Testimony re: HB 2040**  
**House Taxation Committee**  
**Presented by Ronald R. Hein**  
**on behalf of**  
**Kansas Hearing Aid Association**  
**January 25, 2005**

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Hearing Aid Association (KHAA), the professional association for licensed hearing aid fitters and dispensers in the state.

The KHAA supports the passage of HB 2040. Prior to the 2004 Session, sales of hearing aids were exempt from sales tax if they were prescribed by a physician licensed to practice medicine and surgery. However, a few people who purchased hearing aids without seeing a physician first for a prescription had to pay sales tax. In the 2004 session, the law was changed to exempt all sales of hearing aids so the person who needed a hearing aid would not have to see a physician first to obtain a prescription.

The sponsor of last year's bill, Rep. Geraldine Flaherty, was under the impression that the language would have covered repairs of hearing aids as well. Unfortunately, none of us caught that the exemption did NOT include repairs of such devices in last year's bill.

We were originally advised by the Department of Revenue (DOR) that the fiscal note would be negligible, but after further review, DOR adjusted the fiscal note upward. Regarding the fiscal note as it applies to repairs, representatives of the KHAA met with Revenue, and discussed how repairs of hearing aids are handled. The vast majority of hearing aid dispensers send the hearing aid to the manufacturer for repair. Universally, manufacturers utilize a flat fee for the cost of repair, which flat fee may vary from manufacturer to manufacturer or from product line (e.g. digital device) to product line. However, the flat fee does NOT vary by virtue of the extent or cost of the repair. As a result, the cost of the parts used for the repair and the labor used for the repair are commingled.

Pursuant to current law, the cost of the parts used in a repair are exempt from sales tax, but the repairs would be taxable. When the manufacturers do not break out the cost for repairs vs. parts on the flat fee bill sent to the dispenser/customer, the DOR, pursuant to their other protocols, regards the whole fee as taxable. Since the manufacturers utilize this billing mechanism for repairs nationwide, and not just in Kansas, the flat bill system is not readily changeable. If it were, the costs could be broken out. If broken out, only the repairs would be taxable, and not the replacement parts, so the fiscal note for this legislation would be lower.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

Hs Taxation Committee  
January 25, 2005  
Attachment 3



LEGISLATURE OF KANSAS  
**LEGISLATIVE DIVISION OF POST AUDIT**

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**Testimony for the House Taxation Committee on HB 2031**

Barb Hinton, Legislative Post Auditor

January 25, 2005

Mr. Chairman and members of the Committee, thank you for allowing me to appear before you in support of HB 2031. I'm appearing on behalf of my office and the Legislative Post Audit Committee, which introduced the bill.

HB 2031 would remove the requirement for Legislative Post Audit to "take any audit steps" necessary to ensure that the tax abatements the Secretary of Revenue reports to us each year are made in accordance with law, and to issue a report to the Legislature at least once every three years on our findings.

The Committee and the Post Audit staff think this requirement should be repealed for the following reasons:

1. Legislative Post Audit does not have the authority to initiate audits on its own without the approval of the Legislative Post Audit Committee.
2. Although the Post Audit Committee could authorize the audits contemplated in this law, Committee members indicated at their December 13, 2004, meeting that they don't think such audits would be an effective, on-going use of the Legislature's limited audit resources. No legislative interest has been expressed about these audits.
3. The Committee frequently directs Post Audit to conduct performance audits of specific aspects of the Department of Revenue's operations when legislative concerns have arisen in those areas. Some examples of audits the Committee has authorized in recent years:
  - Tax Enforcement: A K-GOAL Audit Determining Whether the Department of Revenue Is Collecting Delinquent Trust Taxes Owed the State
  - Taxation of Contractor Equipment: Determining Whether Kansas' System of Taxes and Fees Is Similar to Surrounding States
  - Motor Fuel Tax Refunds: Determining Whether Adjustments made to Refund Claims Were Handled Correctly (100-hour audit)
  - Taxes on Motor Vehicle Sales: Reviewing the Department of Revenue's Procedures for Ensuring That Correct Amounts of Sales and Compensating Use Taxes Are Paid
  - Corporate Income Taxes: Reviewing Factors Affecting the Recent Steep Drop in Those Tax Receipts
  - Reviewing Various Issues Related to the Department of Revenue's Handling and Processing of Tax Returns

I would urge the Committee to give favorable consideration to this bill, and would be happy to answer any questions.

His Taxation Committee  
January 25, 2005  
Attachment 4