

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Richard Carlson at 9:00 a.m. on March 10, 2009, in Room 535-N of the Capitol.

All members were present except Representative Goico who was excused.

Committee staff present:

Gordon Self, Office of the Revisor of Statutes
Scott Wells, Office of the Revisor of Statutes
Chris Courtwright, Kansas Legislative Research Department
Kathy Beavers, Committee Assistant

Conferees appearing before the Committee:

Virgil Peck, Jr., Representative, District 11
Larry Baer, League of Kansas Municipalities
David Owen, Enterprise Rent-A-Car

Others attending:

See attached list.

Bill introductions:

Representative King made a motion to introduce a bill concerning property taxation of stored natural gas. Representative Frownfelter seconded the motion. The motion carried.

Representative Carlson made a motion to introduce a bill for the purposes of Kansas Department of Revenue valuation of estates. Agricultural land owned by corporate entities, in addition to individuals, shall be valued at the lower agricultural rate. Representative Schwartz seconded the motion. The motion carried.

HB 2325 - Clarification of county sales tax rate authority.

The Chairman opened the hearing on **HB 2325**.

Gordon Self, Office of the Revisor of Statutes, briefed the committee on **HB 2325** and stood for questions. The bill was drafted to help clarify the language for the counties. Discussion ensued.

The Chairman suggested that the bill would be a good study for an interim committee.

Representative Virgil Peck, Jr., Representative, District 11, testified in support of **HB 2325** (Attachment 1). Representative Peck stated that the intent of the bill is to clarify the statute so that the counties will understand that they are required to receive legislative approval before a tax increase vote is taken.

The Chairman closed the hearing on **HB 2325**.

SB 228 - Providing a property tax exemption for certain leased vehicles.

The Chairman opened the hearing on **SB 228**.

Scott Wells, Office of the Revisor of Statutes, briefed the committee on **SB 228** and stood for questions.

Larry Baer, League of Kansas Municipalities, testified in support of **SB 228** (Attachment 2) and stood for questions. He stated that **SB 228** will allow non-profit organizations and government entities to be exempt from property tax on leased vehicles.

David Owen, Enterprise Rent-A-Car, testified in support of **SB 228** (Attachment 3). He stated that this legislation will level the playing field when financing the acquisition of vehicles by not-for-profit organizations and governmental bodies. It would not effect leased vehicles that are leased under a year. He stood for questions.

CONTINUATION SHEET

Minutes of the House Taxation Committee at 9:00 a.m. on March 10, 2009, in Room 535-N of the Capitol.

The Chairman closed the hearing on **SB 228**.

Representative Carlson stated that the following bills will be worked at the March 11, 2009 meeting. They are:

HB 2269 - Property tax exemption for certain housing for the elderly, persons with disabilities or low income housing owned by certain organizations.

HB 2324 - Sales tax exemption requirements for certain retail businesses under Kansas enterprise zone act.

HB 2325 - Clarification of county sales tax rate authority.

HB 2353 - Adding disabled veterans as a class of claimants for purposes of the homestead property tax refund act.

Representative King reminded the subcommittee of the meeting today at 2:30 pm.

Representative Rardin introduced his pages for the day. They are Isaac Brethour, Thomas Peterson, and Anna Torchia.

Representative Lukert introduced his son, Brett, to the committee.

The next meeting is scheduled for March 11, 2009.

The meeting was adjourned at 10:20 a.m.

HOUSE TAX COMMITTEE SIGN IN SHEET

DATE: March 10, 2009

NAME	REPRESENTING
Larry R Baer	LKW
Michelle Butler	Capital Strategies
Dech Hein	Hess Law Firm

STATE OF KANSAS

VIRGIL PECK, JR.

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COMMITTEE ASSIGNMENTS:

VICE-CHAIRMAN: INSURANCE

MEMBER: TAXATION
TRANSPORTATION
FINANCIAL INSTITUTIONS
LEGISLATIVE POST AUDIT

HOUSE OF REPRESENTATIVES

MAJORITY CAUCUS CHAIRMAN

Testimony Regarding HB 2325

Chairman Carlson and members of the House Taxation Committee, thank you for the opportunity to testify in support of **HB 2325**.

All of us who serve on the House Tax Committee know we have had counties hold an election to receive voter approval for a sales tax increase, and then come to the legislature for “permission” to hold such a vote.

Kansas statute intends/reads that a county that wishes to impose a sales tax rate that, along with any sales tax they currently levy, will total more than 1%, needs to receive legislative approval for such vote. However, some County Attorneys have indicated they did not understand the statute to say that legislative approval was needed before a tax increase vote was taken.

When we heard and worked HB 2026, the bill brought to us by Rep. Hill, and HB 2071 (Rawlings County), that was amended into HB 2026, I wanted to provide an amendment to clarify the language in statute, since we had two different attorneys say it was unclear. However, at the request of Rep. Hill, I did not offer an amendment. Instead I asked for the introduction of HB 2325.

This bill simply clarifies the statute so Counties will understand that they are to receive legislative approval before a tax increase vote is taken.



League of Kansas Municipalities

Date: March 10, 2009
To: House Committee on Taxation
From: Larry R. Baer
Assistant General Counsel
Re: SB 228
Testimony in Support

Thank you for allowing me to appear before you today on behalf of the League of Kansas Municipalities and our member cities to present testimony in support of SB 228.

K.S.A. 2008 Supp. 79-201a, does not permit the state, or any municipality or political subdivision of the state to seek a property tax exemption on leased motor vehicles. Current law treats all leased property, unless under a lease-purchase agreement, as if it were not used exclusively by the state, any municipality, or political subdivision of the state. "Exclusive use" is the key factor in determining the exempt status of property.

Presently, if a city purchases a motor vehicle, and it is used exclusively by the city it is exempt from property or ad valorem taxes. Also, if a city acquires the same vehicle on a lease-purchase agreement it is exempt from property or ad valorem taxes. However, if the city leases the same vehicle and uses it for the same purpose, it is subject to property or ad valorem taxes. This result seems incongruent. SB 228 would resolve this incongruity if the vehicle is leased for a period of one year or longer. In other words, SB 228 would have a long term lease of motor vehicles treated in the same manner as a purchased vehicle or a vehicle acquired under a lease-purchase agreement.

The use of leases for the acquisition of motor vehicles is very prevalent. Cities may lease motor vehicles to minimize "up front" cash expenditure and to allow them to plan annual vehicle expenses. There seems to be no sound tax policy that dictates that a vehicle obtained by a city under a long term lease and used identically as one purchased by the city should be taxed while the purchased vehicle is not.

The League supports the changes proposed in SB 228 and respectfully requests that the Committee pass it out favorably. Thank you.

TESTIMONY BY DAVID OWEN
ENTERPRISE FLEET MANAGEMENT
HOUSE COMMITTEE ON TAXATION
MARCH 10, 2009
IN SUPPORT OF HOUSE BILL 228

Mr. Chairman and Members of the Committee....

- I appreciate the opportunity to be here today to speak in favor of House Bill 228. My name is David Owen and I am the Group Sales Manager for the Enterprise Fleet Management, a division of Enterprise Rent-A-Car in Kansas.
- House Bill 228 does not expand the current exemptions for government or non-for profit entities, it merely allows these entities to enjoy the same exemptions whether owning, financing, or in a long term lease.
- The effects of the current economic climate are straining businesses, not-for-profit organizations and governments alike. Each of these entities is having to do more with less. Because of this, financial flexibility and maximizing the use of finite resources for these organizations is essential to maintaining effective operations.
- The state can provide support to these organizations by leveling the playing field when it comes to financing the acquisition of vehicles, specifically for not-for-profit organizations and governmental bodies.
- Currently, if these organizations, which are tax exempt, were to purchase a vehicle, their tax exempt status would apply and it would be exempt from property taxes. But, because money is tight and credit is difficult to come by, purchasing may not be a viable option. Leasing a vehicle may be a more attractive option.
- However, the playing field is not level here. If a tax exempt organization chooses to lease a vehicle rather than purchase one, the tax exempt status does not apply and the lessor has no option but to pass through the cost of those taxes to the entity. The difference could be as much as \$500 per year. This makes the leasing option uncompetitive with purchasing.
- House Bill 228 is designed to level that playing field and ensure that whatever financing mechanism a tax exempt entity chooses when acquiring a vehicle, its tax exempt status applies and there is an “apples to apples” choice between purchasing and leasing.

- Similar legislation has already passed in Missouri. And many states recognize the need not to discriminate between purchasing and leasing for tax exempt organizations.

- There can be certain cost benefits to leasing a vehicle as opposed to purchasing:
 - Protection of credit line. Instead of using the not-for-profit organization's or the government's line of credit at a bank to fund the purchase of a vehicle that depreciates in value, most organizations prefer to keep their credit open for cash flow to expand their services.
 - Rotation of the fleet. Leasing ensures that the vehicle fleet is rotated frequently, which means that cars or trucks are replaced before serious and costly maintenance problems arise.
 - Cost of capital. Less of an organization's financial resources are tied up when a vehicle is leased versus purchased.
 - Potential for profit. Many leasing customers find they can sell their leased vehicle at the end of the lease for more money than the book value, enabling them to profit just as if they owned the vehicle outright.

- Therefore, Enterprise Fleet Management urges support for House Bill 228. This legislation would allow an organization's tax-exempt status – as a not-for-profit or governmental entity - to apply in all motor vehicle transactions, whether that organization is buying, financing or leasing a motor vehicle.

- I appreciate the committee's time this morning and would be happy to answer any questions you might have.

- Thank you.