

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on February 8, 2005 in Room 519-S of the Capitol.

All members were present.

Representative Lana Gordon - 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:

Secretary Joan Wagon, Department of Revenue

Representative Thomas Owens, Legislator

Whitney B. Damron, P.A., City of Topeka

Larry Baer, League of Kansas Municipalities

Scott Schneider, City of Wichita

James Cox, The City of Overland Park

John M. Wright, Kansas Golf Course Owners Association (written testimony only)

Rick & Linda Farrant, Berkshire, Prairie View, Lake Perry Country Clubs (written testimony only)

Others attending:

See attached list.

The Chairman opened the floor for bill introductions

Whitney Damron appeared on behalf of the City of Topeka to request introduction of legislation that would restrict the authority of Shawnee County to levy ad valorem taxes in property located within the City of Topeka to the extent such taxes provide Shawnee County with revenue for the funding of services and/or functions otherwise provided by the City of Topeka. Representative Owens made the motion to introduce the bill. Representative Brunk seconded the motion. The motion carried.

On behalf of Representative Sloan the Chairman made the motion that a Committee bill be introduced relating to the Clean Drinking Water Fee. Representative Thull seconded the motion. The motion carried.

Representative Thull made a motion to introduce a bill that would provide property tax relief subsequent to a national disaster. Representative Huff seconded the motion. The motion carried.

Representative Siegfried made a motion to introduce a bill that deals with excise tax. Representative Kinzer seconded the motion. The motion carried.

Representative Brunk made a motion to introduce a bill regarding compensation for retailers collecting certain amounts of sales tax. Representative Davis seconded the motion. The motion carried.

HB 2056 - Sales tax exemption for cross-lines cooperative council

Mr. Courtwright stated that **HB 2056** would amend the main sales tax exemption statute to add an additional exemption for purchases of property and sales of property on behalf of the cross-lines cooperative council. He explained 501 (c) (3) sales tax exemption. Since the fiscal note related to a specific organization, the Department of Revenue cannot quote an exact amount, due to confidentiality, it would be relatively minor; less than \$50,000.

The Chairman opened the public hearing on **HB 2056.**

There were no proponents in attendance.

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Secretary Wagon spoke in opposition to the **HB 2056** (Attachment 1). The Department of Revenue in general opposes all three tax exemptions. She stated the goal of the Department was to provide a sound, workable and fair system of taxation and that there were four long established principles developed through case laws, tax policy and scholarly writings that should be considered:

- The broader the base, the lower the rate can be
- Taxation is the rule; exemption should be the exception
- Taxation of services makes the tax less regressive and more elastic
- Taxes should be fairly and equitably applied.

Her testimony included six questions to consider when evaluating tax exemption requests.

1. Does this exemption help maintain the sales tax as a final tax on consumption, i.e., exempting component parts or consumables used in producing goods or services?
2. Does this exemption make the tax more easily administered, or would it lead to confusion over whether one organization is taxed and another similar organization is exempt.
3. Who is the principle beneficiary of the exemption? What will be lost if the exemption is not granted?
4. Does the exemption set up an unfair competitive advantage for this group with another group?
5. Is the exemption targeted to a broad class, or a narrow specific interest? Why should all members of the class not be included? If this exemption is granted, who else might also expect to be exempted?
6. What is the public benefit from granting the exemption? How does it outweigh the loss of revenue for the general activities of the state?

Discussion followed regarding the validity of small organizations operating more cost effective and efficiently than the government and tax rates charged for labor services.

The Chairman closed the hearing on **HB 2056**.

HB 2080 - Sales tax exemption for Lyme Association of Greater Kansas City

The Chairman opened the hearing on **HB 2080**.

Representative Owens rose in support of the bill (no written testimony). He spoke of a friend who suffered from Lyme's disease, and a group of people that had formed an association for the purpose of providing support to persons with Lyme disease and produce and distribute public education material regarding to the prevention, treatment and cure of Lyme disease. A brochure that is used for such purchases was distributed to the Committee (Attachment 2). The Department of Revenue estimates that HB 2080 would decrease state revenues by less than \$1,000 in FY 2006.

There being no opponents the Chairman closed the hearing on **HB 2080**.

HB 2100 - Repealing sales tax exemption for purchases by municipal golf courses.

Mr. Courtwright stated the bill would repeal an existing sales tax exemption and would increase general funds by \$300,000. **HB 2100** would add the following language on page 1 lines 42, 43 and page 2, lines 1, 2 or (3) *such political subdivision is engaged or proposes to engage in the operation of a golf course and such items of tangible personal property or service are used or proposed to be used in such operation of a golf course*;. Discussions followed regarding various scenarios of when taxes would and would not apply and other municipal subdivisions that are taxable.

In response to several questions on consistency of tax exemptions for statewide recreational facilities, either

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subdivisions or privately owned, staff agreed to research and provide information clarifying tax exemptions that would relate to this issue. Staff stated the intent of the bill related to equity concerns.

The Chairman opened the public hearing on **HB 2100**.

There were no proponents for the bill. Representative Gordon, a sponsor of the bill, was serving on the Select Committee on Education and unavailable for testimony.

Larry Baer, League of Kansas Municipalities, appeared in opposition to the **HB 2100**. It erodes an exemption that the original drafters of the Sales Tax Act felt strongly enough about to list as the first exemption in the Kansas Retailer's Sales Tax Act in 1937(Attachment 3). He concluded by stating that imposing sales tax on the development and operation of public facilities, that contribute to the quality of life of the citizens of Kansas, would increase the cost of operating those facilities and be counterproductive. The probable difficulties in administering the program were discussed.

Scott Schneider, Government Relations Director, City of Wichita, rose in opposition to **HB 2100** (Attachment 4). Golf in Wichita is supported entirely by the users and the cost of nearly \$100,000 annually would have to be offset by expenditure reductions and/or rate increases. He added that there are numerous other municipal courses throughout the State that would be adversely impacted. Competition between golf courses that are municipally owned, privately owned for the public and private golf courses were debated.

James Cox, Director of Parks and Recreation, The City of Overland Park submitted written testimony in opposition to **HB 2100** (Attachment 5).

John M. Wright, President, Kansas Golf Course Owners Association, sent written testimony in opposition to **HB 2100** (Attachment 6).

Rick & Linda Farrant, Owners, Berkshire, Prairie View & Lake Perry Country Clubs & The Athletic & Golf Club at Maple Creek, sent written testimony in opposition to **HB 2100** (Attachment 7).

Secretary Wagon stated the Mr. Cram would present a chart that would bring clarity to the tax issues and to make a comparison between the imposition of the tax and exempting those things that go into providing services.

The Chairman closed the hearing on **HB 2100**.

The meeting adjourned at 10:30 a.m. The next meeting is scheduled for February 9, 2005.