

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on February 1, 2005 in Room 519-S of the Capitol.

All members were present except:

Representative Paul Davis- 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:

Laurel Murdie, Post Audit

Representative Peck, Legislator

Representative Lane, Legislator

Eileen King, Riley County Treasurer & Representative of Kansas County Treasurer Association

Dave Corbin, Department of Revenue

Others attending:

See attached list.

The Chairman opened the floor for bill introductions

Representative Peck made a motion that a Committee bill be introduced regarding a time table on tax abatements. Representative Carlson seconded the motion. The motion carried.

Representative Peck made a motion that a Committee bill be introduced regarding an amendment on a tax exemption certification. Representative Carlson seconded the motion. The motion carried.

SB 23 - Sales tax calculation for isolated sale of motor vehicles - sales tax refunds

The Chairman called the Committee's attention to **SB 23**, stating that **HB 2003** and **HB 2101** would be included in the general discussion, as all the bills pertain to the same subject matter.

Mr. Courtwright stated that all the bills would repeal the 2004 law regarding the isolated or occasional sale of motor vehicles. He distributed copies of the 2004 Interim Committee report and the supplemental note on **SB 23** (Attachment 1). He reviewed: (a) background of the Legislative Post Audit, released in April 2003 that identified a concern over the dollar amount of transactions reported on sales between private individuals, (b) historic time line of Senate and House bills and (c) Committee activities and their recommendations. He stated that **SB 23** basically repealed the law and would make refunds available to taxpayers who paid sales taxes in FY 2004 based on the property tax valuation schedule. The fiscal note of \$5 million was reviewed.

Discussions followed regarding: the rationale behind deleting the Pennsylvania plan from **SB 23**, previous process of flagging specific tax collections when a county treasurer questioned the purchase price, rules and regulations, various scenarios in which extraordinary purchase price could be justified, and percent of fraudulent transactions.

Laurel Murdie, Legislative Post Audit, distributed a *portion* of the Performance Audit Report, April 2003 (Attachment 2) that related to privately sold motor vehicles. She provided the background on their findings and reviewed Table I-3 (page 18) of testimony stating that in their sampling of 80 private vehicle sales from calendar year 2002, nearly half were 59% below the lowest NADA value. If county treasurers were adhering to the Department's regulation, the State could receive several million dollars each year in additional sales taxes from private vehicle sales. She stated their conclusion (page 23, #4) would be to ensure that privately sold vehicles are taxed at fair market value, the Department should actively direct county treasurers to enforce the Department's regulation, and should provide them with clear, consistent guidance on how to determine fair market value of a vehicle. Alternatively, if Department officials think the regulation can't be effectively enforced, they should amend or revoke it. **SB 23** does not address the original problem stated in the audit

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on February 1, 2005 in Room 519-S of the Capitol.

report.

Discussion followed regarding the differences in the regulations in place prior to the 2004 law.

*The regulation before July 2004: The tax collected for privately sold vehicles would be based on the **actual selling price** that was shown on the back of the title, having been written in by the buyer or seller. If the amount was not known (blank), the county treasurers would base it on the fair market value of the vehicle. If the dollar amount written was questionable the county treasurer had the authority to assess the fair market value (average NADA value). That regulation was not being enforced.

*The new regulation after July 2004. The law amended the sales tax law to provide that in the case of isolated sales of motor vehicles, the tax was to have been charged on the **greater of the stated selling price or to valuation of the motor vehicles** (average NADA fair market value) pursuant to the motor vehicle tax law. An exception was provided for “damaged or wrecked” vehicles, for which the sales tax would be charged on the actual selling price.

Mr. Self explained the differences between the three bills before the Committee:

SB 23: Contains repeal language and a mechanism for refund with a filing limitation of six months and no refund would be made for less than \$10.

HB 2003: Contains only the repeal of the controversial language and returned the law to the way it was prior to the last session.

HB 2101: Repeals the controversial language and provides a refund mechanism.

In response to a question about the fiscal note, Mr. Courtwright responded that under current law the state will bring in approximately \$5 million FY 2005. If **SB 23** was enacted there will be a loss of some combination of \$5 million by foregone revenue and refunds.

The Chairman opened the Public Hearing on **SB 23 & HB 2003 & HB 2101**.

Representative Lane appeared in support of **HB 2003**, a bill that was pre-filed by Representatives Dillmore, Ward and Lane in response to the “Clunker Bill” (Attachment 3). He suggested that the Committee amend **HB 2003** into **SB 23** in order to expedite the passage of the bill. Refunds would be handled by another bill.

Eileen King appeared as a proponent of **SB 23** stating that the Kansas County Treasurer’s Association (KCTA) strongly supports the bill in the repeal of the 2004 legislation (Attachment 4). She delineated the process used to title cars at the county level and suggested flagging questionable transactions for follow-up at the state level.

Mr. Corbin, Department of Revenue recalled the circumstances under which the Senate recommended the new regulation in 2003, while he served as the Chairman of Senate Taxation committee.

The Chairman requested that staff provide copies of the regulation before passage of the new regulation. Copies were distributed (Attachment 5).

The public hearing on **SB 23, HB 2003 & HB 2101** was closed. The meeting was adjourned at 10:25 a.m. The next meeting is February 2, 2005.