

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Chairperson David Corbin at 11:10 a.m. on May 2, 2002, in Room 519-S of the Capitol.

All members were present except: Senator Haley

Committee staff present: Chris Courtwright, Legislative Research Department  
April Holman, Legislative Research Department  
Don Hayward, Revisor of Statutes Office  
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Don McNeely, Kansas Automobile Dealers Association  
John Schmid, Perl Chevrolet - Buick, Coffeyville  
Jim Clark, Jim Clark Chevrolet - Pontiac, Junction City  
Harold Johnson, Wichita Auto Dealers Association  
Mike Taylor, City of Wichita  
Erik Sartorius, City of Overland Park

Others attending: See attached list.

**HB 3032—Imposing a local compensating use tax upon the intrastate sale of motor vehicles**

Senator Corbin noted that **HB 3032** was referred to the Committee late in the session on Saturday, April 13, and that he had recently received several requests for a hearing. He reminded that Committee that the bill was passed by the House; therefore, it could be the subject of a conference committee should the Committee chose not to act on it.

Don McNeely, Kansas Automobile Dealers Association (KADA), testified in support of **HB 3032**. He noted that, over the years, KADA has introduced a variety of tax bills to level the playing field with regard to how local sales tax is imposed on the sale of motor vehicles in Kansas. He observed that same voters in a local taxing jurisdiction who approve a local option sales tax or an increase in the current local sales tax rate to fund a local project often chose to purchase a motor vehicle from a dealership in a nearby community which has a lower local sales tax. He pointed out that current tax law relating to the collection of local sales tax at the point of sale as opposed to where the vehicle will be registered has imposed a significant competitive disadvantage upon many retail motor vehicle dealers and the communities where the dealerships are located. He explained that **HB 3032**, as amended by the House Taxation Committee, would simply require that, when a vehicle is purchased in a lower sales tax jurisdiction than the city or county of the purchaser's registration, the purchaser must pay the difference in local sales tax upon registration, thus holding local units of government harmless and eliminating the incentive to leave the city or county to purchase a motor vehicle solely to avoid paying the local sales tax which the purchaser voted to enact. (Attachment 1)

John Schmid, Perl Chevrolet Buick in Coffeyville, testified in support of **HB 3032**, as amended by the House Taxation Committee. He echoed Mr. McNeely's concerns, noting that the bill does not involve a tax increase but simply closes a sales tax loophole which provides significant financial incentive for individuals to leave the city or county in which they vote and live to purchase a motor vehicle. (Attachment 2)

Jim Clark, dealer operator of Jim Clark Chevrolet-Pontiac-Cadillac-Jeep in Junction City, testified in support of **HB 3032** as a matter of fairness. To illustrate the need for the bill, he called attention to a copy of a recent advertisement in his local newspaper regarding an incentive to shop at a dealer outside his area in order to dodge the local tax. He went on to say that voters in one jurisdiction will decide on August 6 whether or not to rebate local sales tax to anyone who purchases a motor vehicle within their city limits, thus creating a government subsidized price advantage of up to 2.5 percent. In his opinion, it is wrong for a taxing jurisdiction to use its authority to manipulate pricing and, therefore, create an advantage for one retailer over another. (Attachment 3) Mr. Clark also informed the Committee that information he received from the state and Geary County in 1996 shows that 52 percent of the vehicles registered in Geary County were purchased outside Junction City.

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Senator Pugh commented that the bill gives a tax relief to automobile dealers in areas where voters decided on a high sales tax, but areas in which the voters decided to tax low will receive no relief. Mr. Clark disagreed with Senator Pugh's view, noting that, in his opinion, the bill is a remedy for a government imposed price advantage.

Harold Johnson, Wichita Auto Dealers Association, testified in support of **HB 3032**. He informed the Committee that he is part owner of auto dealerships located in both Butler and Sedgwick Counties, and the local sales tax is lower in Butler County. He noted that he represents the dealership in Butler County that ran the advertisement to which Mr. Clark referred in his testimony. He emphasized that, even though the Butler County dealership currently has an advantage over other dealerships, he supports **HB 3032** simply because, in his opinion, a price advantage due to a community imposed sales tax is unfair. He called attention to copies of advertisements which reflect the unfair tax advantage some dealerships currently have. (Attachment 4) At the conclusion of his testimony, he informed the Committee that his Ford dealership in Butler County sells 60 to 70 percent of its vehicles to persons living in Sedgwick County.

Mike Taylor, representing the City of Wichita, stated that the City of Wichita is not opposed to **HB 3032** as amended by the House. He explained that the bill was introduced due to a referendum scheduled to be voted upon in Wichita on August 6. If approved, the local sales tax in Wichita will increase to 6.4 percent. Because Wichita auto dealers were concerned that the higher sales tax rate would drive customers away, the supporters of the referendum cut a deal with the auto dealers to rebate the 1.5 percent local sales tax paid on car sales. Auto dealers from across the state objected to the arrangement; therefore, the bill was introduced to eliminate the marketing advantage Wichita dealers would have over those dealerships with higher sales taxes. He explained that **HB 3032**, as amended, proposes a modified tax situs which levels the playing field for car dealers. He contended that the bill is a reasonable compromise to solve a long standing concern in a way which does not financially harm cities. (Attachment 5)

Senator Donovan commented, if the bill is passed, more local sales tax will be coming into the county because the incentive to purchase a car in another county will be eliminated. As a result, there will be no need to raise property taxes.

Senator Allen asked if there was a fiscal note on **HB 3032**. In response, Richard Cram, Kansas Department of Revenue, stated that there would be no fiscal impact to the state. However, the Department estimates there would be an estimated administrative cost of \$100,000, primarily for programming costs. He explained that the change in the payment of the tax would require changes in both the Department's sales tax processing system and the vehicle information system (VIPS) used by county treasurers.

Erik Sartorius, representing the City of Overland Park, testified in opposition to **HB 3032**. He agreed that the bill would keep local governments whole and would also satisfy the car dealers' desire to remove a competitive advantage of some of their fellow dealers. However, he objected to the bill because consumers, who chose to leave their home city to purchase a vehicle for a variety of reasons, face a surprise when they have to pay additional sales tax for exercising their freedom of choice. In addition, he objected to the passage of the bill without having enough time to gain full knowledge of how cities would be affected or to determine if the fiscal note has fully weighed the costs of implementing the change in tax policy. (Attachment 6)

Senator Corbin called attention to written testimony in opposition to **HB 3032** submitted by Quin Bennion for the City of Merriam (Attachment 7) and written testimony expressing concerns regarding **HB 3032** submitted by Ashley Sherard for the Office of the Johnson County Manager (Attachment 8).

Senator Corbin commented that those who testified in support of **HB 3032** discussed benefits for cities and car dealerships but none for the consumer. In response, Senator Donovan reiterated his opinion that there is a dramatic correlation between what is done with local sales tax and property taxation. Senator Praeger expressed her support for the bill's concept because she believes it will keep local sales taxes in the community to be used for the purpose the voters enacted it. She indicated that she would also support the pure situs concept.

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Senator Clark moved to recommend **HB 3032** favorably for passage, seconded by Senator Donovan.

Senator Taddiken commented that his constituents had expressed support for a true situs bill during the recent legislative break, and he agreed to support a true situs bill. However, he had not had time to fully study the bill as amended and to visit further with his constituents. Therefore, he was uncertain if he could support the amended version.

Senator Lee made a substitute motion that **HB 3032** be amended to be a true situs bill. There was no second to the motion.

Senator Praeger commented that the current language will have a positive effect on counties which have a competitive disadvantage. Senator Donovan added that the bill would prevent a flood of tax money from going from one county to another county which did nothing to get it. He went on to say that, currently, dealerships in a low tax county bring in more sales tax money to their county than needed, and counties which have enacted a higher sales tax due to need are “starving” as a result. In his opinion, the bill presents an opportunity to try to hold down the amount of taxes and prevent a flood of tax money from going from one county to another.

Senator Lee explained that she supports the true situs concept because counties which do not have a large enough population to support a car dealership will be treated unfairly if **HB 3032** is passed as amended by the House. In response, Senator Donovan noted that the true situs version received 34 votes in the House; however, **HB 3032**, as amended, received 88 votes. He reiterated that local sales taxes should be paid by local people, and there should not be a loophole to allow local people to escape paying them.

The Chairman chose not to call for a vote on Senator Clark’s motion and adjourned the meeting at 12:20 p.m.

No future meeting date was announced.