

Approved Monday, 2-20-89
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

The meeting was called to order by Senator Dan Thiessen, Chairman at
Chairperson

11:00 a.m./~~p.m.~~ on Tuesday, February 14, 1989 in room 519-S of the Capitol.

All members were present except:

Committee staff present:

Don Hayward, Revisor's Department
Chris Courtwright, Research Department
Tom Severn, Research Department
Marion Anzek, Committee Secretary

Conferees appearing before the committee:

Skip Scott-former automobile salesman (proponent)
Betty McBride, Cherokee County Treasurer (proponent)
Pat Barnes, Kansas Motor Car Dealers Association (proponent)
John Luttjohann, Department of Revenue (opponent)

Chairman Thiessen called the meeting to order and turned attention to SB127 and recognized sponsor of the bill, Senator Martin.

SB127:AN ACT relating to sales taxation; allowing certain deductions against the gross receipts received in the sale of motor vehicles.

Senator Martin said he would try to explain what he is proposing. It would allow buyers of new cars to pay sales tax on only the difference in price between a new car purchased outright and the price received for his old car in a private sale. (ATTACHMENT 1)

Senator Martin presented a proposed amendment to SB127 (ATTACHMENT 2) saying it would be necessary in order to attempt to get the language, so the bill drafted would do what he is attempting. He would like the bill so there would be no difference in a time frame on the outright sale of an automobile, verses the trade-in for a dealership, now.

The Chairman recognized Skip Scott.

Skip Scott said he is a former car salesman and a constituent of Senator Martin's. Mr. Scott explained the differences between a trade-in transaction, and one in which a customer buys a new car from a dealership and sells his old car privately. He called it a "double tax" and said, it means that in most cases it forces you to trade in your car.

Chairman Thiessen recognized Betty McBride.

Betty McBride, Cherokee County Treasurer said the problem arises on sales tax collection, when an individual has sold his or her vehicle directly to another individual.

SB127 would allow a refund or reduction on the amount of sales tax paid by an individual in such a situation. Your consideration in the passage of SB127 would be greatly appreciated. (ATTACHMENT 3)

Chairman Thiessen recognized Pat Barnes an opponent of SB127.

Pat Barnes said our complaint is with the language of the bill, but the Kansas Motor Car Dealers Association is for the concept of the bill, but we feel it needs some adjustment. (ATTACHMENT 4)

Senator Martin said maybe his amendment should be amended, and he would like to study it more, before the committee considers any action.

Chairman Thiessen recognized John Luttjohann.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION,
room 519-S, Statehouse, at 11:00 a.m./~~p.m.~~ on Tuesday, February 14, 1989

John Luttjohann said the bill would have a substantial cost to the state, and believes the loss would be substantial, and was not sure if the bill's mechanism for affidavits of sale prices and sales taxes paid would be auditable. (ATTACHMENT 5)

Senator Montgomery moved to approve the minutes of 2-7-89 and 2-8-89, seconded by Senator Oleen. The motion carried.

The meeting adjourned at 11:45 a.m.

STATE OF KANSAS



PHIL MARTIN
SENATOR, THIRTEENTH DISTRICT
CRAWFORD AND CHEROKEE COUNTIES
TOPEKA OFFICE
ROOM 504-N
STATE CAPITOL BUILDING
TOPEKA, KANSAS 66612-1565
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COMMITTEE ASSIGNMENTS
MEMBER: JOINT COMMITTEE ON ADMINISTRATIVE
RULES AND REGULATIONS
ASSESSMENT AND TAXATION
ELECTIONS
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LABOR, INDUSTRY AND SMALL BUSINESS
TRANSPORTATION AND UTILITIES

OFFICE OF SENATE MINORITY WHIP

SENATE CHAMBER

February 14, 1989

Trade-In	Outright Sale
I - \$ 15,000	\$ 15,000
<u>10,000</u> - Trade-In	<u>10,000</u> - Outright Sale
\$ 5,000 - Difference	\$ 5,000 - Difference
<u> x 5%</u> - Rate	
\$ 250 - Sales Tax	
	But Sales Tax is on Full
	Amount of Purchase
	\$ 15,000
	<u> x 5%</u>
	\$ 750

Attachment 1
Senate Assessment & Tax
Wednesday, 2-14-89

Proposed amendment to SB 127

In line 32, by striking ", shall refund"; by striking all in lines 33 to 35, inclusive, and inserting "and the sales tax paid upon the replacement vehicle, shall refund to such purchaser that portion of the sales tax paid upon the gross receipts received for the replacement vehicle equal to 4% of the selling price of the replaced vehicle."

Betty McBride, Treasurer

CHEROKEE COUNTY, KANSAS



COLUMBUS, KANSAS 66725

TO: Members of the Assessment and Taxation Committee
FROM: Betty McBride, Cherokee County Treasurer
RE: Senate Bill No. 127
DATE: February 14, 1989

Mr. Chairman, members of the Assessment and Taxation Committee, my name is Betty McBride. I am Cherokee County Treasurer. I want to extend my appreciation to this committee for allowing me the opportunity to appear today on behalf of of Senate bill 127.

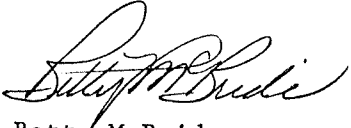
During the years I have served as County Treasurer a great number of complaints have been received by my motor vehicle staff and myself when an individual has sold his or her vehicle directly to another individual and has purchased a replacement vehicle with no trade in. The problem arises on sales tax collection. Currently in a situation as described above sales tax is collected on the full amount paid for the replacement vehicle. No consideration is given for the vehicle sold directly to another individual, however when a vehicle is traded in on another vehicle sales tax is only collected on the difference.

Senate bill 127 would allow a refund or reduction on the amount of sales tax paid by an individual in such a situation, thus making it fair and equitable for all consumers of motor vehicles.

Attachment 3
Senate Assessment & Tax
Wednesday, 2-14-89

Your consideration of Senate bill 127 will be greatly appreciated. I would be happy to answer any questions you might have concerning this matter.

Respectfully,

A handwritten signature in cursive script, appearing to read "Betty McBride".

Betty McBride
Cherokee County Treasurer

Statement Before The
SENATE COMMITTEE ON ASSESSMENT AND TAXATION

By The
KANSAS MOTOR CAR DEALERS ASSOCIATION

Tuesday, February 14, 1989

Re: Allowing Sales Tax to be Deducted from the Gross
Receipts Received in the Sale of Certain Vehicles
Senate Bill No. 127

Mr. Chairman and Members of the Committee, I am Pat Barnes, legislative counsel for the Kansas Motor Car Dealers Association. As you know, our state trade association represents franchised new car and new truck dealers in Kansas. We appreciate the opportunity to come before you today and speak with you regarding Senate Bill No. 127.

This is one of these bills where you read it over and over and over again before you think you know what it provides, but you are still not sure. Some of the things we think this bill would do seem to be in need of adjustment and that is why we are here today. We would like to support this particular bill and, in fact, we do support the concept, but there are a number of things about the bill which could be much clearer.

Our understanding of this bill is that it probably was intended to allow individuals who sell their vehicle, and then replace it, a credit such that they will not be paying sales tax

when they purchase a replacement vehicle on that portion of the new purchase which is represented by funds generated from the sale of their old vehicle. Unfortunately, we do not believe the language of this particular bill would do this.

The actual language appears to require car dealers selling consumer's vehicles to replace cars they have previously sold a subtraction from the total amount of the sale price representing the value of the vehicle they sold prior to coming into the dealership. It would be like allowing the value of a trade-in without actually giving the car traded in to the dealer. The actual language states that the retailer shall reduce the amount of the gross proceeds received on the sale of the replacement vehicle by the amount shown by affidavit to be the selling price of the replaced vehicle. The language doesn't clarify that the full purchase price is still owed or that sales tax is calculated on the difference. Of course, the actual intent is that the sales tax be calculated on the difference, the same as it would be on a trade in transaction.

Even if the bill is worded more clearly, it still has an impact upon our business. One of the problems we would have would be explaining the credit against gross receipts on our own books. It would require more paperwork to make this explanation and place the burden of proof on documentation with the dealer. Making the allowance in the manner contemplated would involve

the books and records of a dealer which was not involved in the original transaction to sell the vehicle upon which the tax credit is based. It simply creates a tax accounting problem, particularly when the differences in local tax are injected into the scheme. The handling of local sales taxes is not clearly addressed in this bill.

We think there is a better way to accomplish the same result. Our suggestion would be for consumers to apply for a sales tax refund based upon the sales tax generated in the new purchase from funds obtained on the disposal of their old vehicle. The same result sought to be achieved by this bill would be accomplished and administrative and interpretative nightmares would be avoided.



KANSAS DEPARTMENT OF REVENUE

Division of Taxation

Robert B. Docking State Office Building

Topeka, Kansas 66625-0001

MEMORANDUM

TO: HONORABLE DAN THIESSEN, CHAIRMAN
SENATE ASSESSMENT AND TAXATION COMMITTEE

FROM: JOHN R. LUTTJOHANN *JR*
DIRECTOR OF TAXATION

DATE: FEBRUARY 14, 1989

SUBJECT: SENATE BILL NO. 127

Thank you for the opportunity to appear before you today on Senate Bill No. 127.

As introduced, this legislation would permit the price of a replaced vehicle to be subtracted from the price of a newly purchased replacement vehicle when computing sales tax. Thus, the individual is able to claim a trade-in credit for the replaced vehicle even though the individual did not trade the replaced vehicle to the dealer. The sale of the replaced vehicle must occur thirty days before or after the purchase of the replacement vehicle.

The Department is unable to determine how much sales tax revenue would be lost due to this legislation since sale figures are not reported to the Department which would permit the "pairing" of the sale price of one vehicle with the purchase price of another vehicle as part of the same transaction or as occurring within thirty days of each other. However, the Department believes the loss of sales tax revenue would be substantial.

This legislation would cause substantial administrative problems for the Department and the tracing of different purchases and sales to verify the thirty-day requirement would be very difficult.

Finally, this bill would depart from a long legal history of treating the sales tax on a transaction by transaction basis. There are areas other than the taxation of sales of automobiles where the same or similar issues arise.

I would be happy to respond to any questions which you may have.

Attachment 5
Senate Assessment & Tax
Wednesday, 2-14-89