

Approved: 2/17/2009

Date

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Vice-Chairman Derek Schmidt at 10:30 a.m. on February 12, 2009, in Room 535-N of the Capitol.

All members were present except:

Senator Jeff Colyer- excused
Senator Les Donovan- excused

Committee staff present:

Gordon Self, Office of the Revisor of Statutes
Scott Wells, Office of the Revisor of Statutes
Corey Carnahan, Kansas Legislative Research Department
Chris Courtwright, Kansas Legislative Research Department
Mary Jane Brueck, Committee Assistant

Conferees appearing before the committee:

Larry Baer, League of Kansas Municipalities
David Owens, Group Sales Manager for Enterprise Fleet Management
Brad Hall, Private Citizen
Richard Cram, Department of Revenue

Others attending:

See attached list.

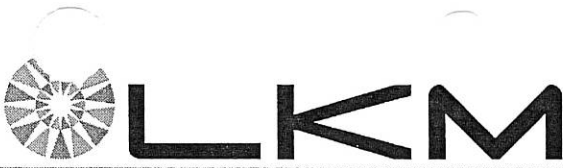
Vice Chairman D. Schmidt opened the hearing on **SB 228 - Providing a property tax exemption for certain leased vehicles**. Larry Baer, League of Kansas Municipalities spoke in support of the bill. (Attachment 1) David Owens, Group Sales Manager for Enterprise Fleet Management also approved the bill. (Attachment 2) Tony Fulsom, Property Valuations, Department of Revenue pointed out that on page 5, lines 16 to 18 and on page 10, lines 23 to 25. Those two places in the bill have different dates for the bill to be effective. Gordon Self was asked to explain this. He said the dates should be the same. He will prepare an amendment to make a correction. The amendment is necessary in order to proceed with the bill. Discussion was closed.

The hearing on **SB 243 - Benefits for disabled veterans**, was opened. Scott Wells, Office of the Revisor of Statutes, came to the podium to explain the bill. The first proponent was introduced by Vice Chairman D. Schmidt as a constituent of his district, Brad Hall. Mr. Hall is a Viet Nam Veteran, and his son, Michael C. Hall is a veteran of the Iraq War. Michael Hall was injured and is now on 100% disability. (Attachment 3)

Richard Cram, Department of Revenue, shared information regarding the fiscal impact of this bill. (Attachment 4) Discussion on the bill was closed

The next meeting is scheduled for February 17, 2009.

The meeting was adjourned by Vice Chairman D. Schmidt at 11:20 a.m.



League of Kansas Municipalities

Date: February 12, 2009
To: Senate Committee on Assessment and 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. 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.

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
SENATE COMMITTEE ON ASSESSMENT & TAXATION
FEBRUARY 12, 2009
IN SUPPORT OF SENATE BILL 228

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

- I appreciate the opportunity to be here today to speak in favor of Senate Bill 228. My name is David Owen and I am the Group Sales Manager for Enterprise Fleet Management, a division of Enterprise Rent-A-Car in Kansas.
- Senate 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.
- Senate 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.

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Attachment 2

- Similar legislation has already passed in Missouri. 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 Senate 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.

Testimony in Support of Senate Bill 243
Presented to the Senate Assessment and Taxation Committee
By Brad Hall

February 12, 2009

Mr. Chairman, members of the committee, thank you for the opportunity to testify today in support of Senate Bill 243.

As our sons and daughters go into battle, they don't see themselves as heroes. They have a job to do for the American people. We have a commitment to these soldiers to provide whatever they need to complete their mission.

Now that some of these soldiers have completed their mission it is time for us to hold up our end. Some of these young men and women are 100 percent disabled. What this bill is asking for is minimal compared to what this has cost them personally.

Our son was wounded April 20, 2006. He spent 8 months at the Brook Army Medical Center in San Antonio, Texas. I do understand what is required to be a parent of a wounded soldier. The military can only do so much, it is up to the family and the community to restore these wounded warriors back to citizens.

Florida, Texas, and Oklahoma are the best places for these warriors to retire. That means that some of our Kansas heroes are moving to states where veterans' benefits exceed their home states. Kansas should be a leader in military benefits. We have two of the oldest Army posts in the country, Fort Riley and Fort Leavenworth.

I know that I will always be able to support my son's needs. I worry about when I am no longer here for the wounded warriors who have no one to speak for them. Every war has its heroes, this one is no different. What we are asking for is nothing compared to their sacrifices.

Thank you for the opportunity to testify today.

SS: Bradley C. Hall
Father of Michael C. Hall

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Attachment 3

Senate Committee on Assessment and Taxation

Richard Cram

February 12, 2009

Department Concerns with Senate Bill 243

Senator Donovan, Chair, and Members of the Committee:

Senate Bill 243 proposes several benefits for disabled veterans. Veterans with a service-connected disability of at least 50% would be eligible to obtain a disabled veteran plate for their motor vehicle free of the registration charge. Currently, only veterans with 100% service-connected disability are eligible for the free DAV plates. Effective starting in tax year 2009, such veterans would also receive a "subtraction modification" from Kansas adjusted gross income under K.S.A. 2008 Supp. 79-32,117 for amounts used to modify a motor vehicle, home or workplace to accommodate the disability. Veterans with a service-connected disability compensation rating of 100% would qualify for a sales tax exemption on up to \$25,000 of purchases per year. The Homestead Refund Act, K.S.A. 2008 Supp. 79-4502 would be amended to add 2 more groups who can qualify for the homestead refund, subject to the income limitations: veterans with a service-connected disability of at least 50%, the surviving spouse of active duty military personnel who died in the line of duty.

We certainly want to honor our disabled veterans, who have made great sacrifices to protect our freedom. However, as our attached fiscal note indicates, this proposal will have a significant negative fiscal impact: -\$3,340,000 million to SGF and -\$529,145 to State Highway Fund in FY 2010 and per fiscal year thereafter, broken out as follows:

	SGF	State Highway Fund
Free DAV motor vehicle plates		\$229,145
Subtraction modification for remodeling costs	\$625,000	
Sales tax exemption	\$2,500,000	\$300,000
<u>Homestead refund expansion</u>	<u>\$215,000</u>	
Total	\$3,340,000	\$529,145

There are also administrative costs of \$27,490, due to reprogramming and testing costs.

Given the current economic environment, when the Legislature is considering a substantial rescission to the FY 2009 budget, before starting to consider the FY 2010 budget, this is not the time to reduce revenues.

2009 Senate Bill 243a Fiscal Note

Introduced as a Senate Bill

Brief of Bill

Senate Bill 243, as introduced, related to disabled veterans.

Section 1 amends K.S.A. 8-160 to change the definition of a "disabled veteran" to mean a person that is entitled to compensation for a service connected disability of at least 50%.

Section 2 amends K.S.A. 79-32,117 to allow a subtraction from federal adjusted gross income beginning in tax year 2009, for amounts used to modify a motor vehicle, home or workplace as are necessary to compensate for the handicap of a resident individual who has been honorably discharged from active service in any branch of the armed forces of the United States or Kansas national guard and who has been certified by the United States department of veteran affairs or its successor to have a 50% permanent disability sustained through military action or accident or resulting from disease contracted while in such active service.

Section 3 amends K.S.A. 79-3606 to allow a sales tax exemption persons who are residents of this state, and have been honorably discharged from active service in any branch of the armed forces of the United States and who are certified by the United States department of veteran affairs or its successor to be in receipt of disability compensation at the 100% rate and the disability is permanent and was sustained through military action or accident or resulting from disease contracted while in such active service.

Sales qualifying for the exemption authorized by this section shall not exceed \$25,000 per year per individual taxpayer. An eligible person claiming an exemption pursuant to this section, prior to claiming any such exemption, shall apply to and obtain from the secretary of revenue a veteran exemption identification number. The secretary shall prescribe the application form for such number, and such eligible person shall provide with the application, information sufficient to establish that such eligible person qualifies for the sales tax exemption. Such eligible person shall enter the issued identification number on any exemption certificate presented to any retailer when claiming the sales tax exemption on any qualifying purchases. Upon request of the secretary, an eligible person asserting or claiming the exemption authorized by this section shall provide a statement, executed under oath, that the total sales amounts for which the exemption is applicable have not exceeded the per year per individual taxpayer limit prescribed by this section. If the amount of such exempt sales exceeds such prescribed limit, the sales tax in excess of the authorized amount shall be treated as a direct sales tax liability and may be recovered by the department of revenue in the same manner as provided by the Kansas retailers' sales tax act.

Section 4 amends K.S.A. 79-4502 to include in the definition of a qualified homestead claimant, a disabled veteran and the surviving spouse of active duty military personnel who died in the line of duty.

“Disabled veteran” means a person who is a resident of Kansas and has been honorably discharged from active service in any branch of the armed forces of the United States or Kansas national guard and who has been certified by the United States department of veterans affairs or its successor to have a 50% permanent disability sustained through military action or accident or resulting from disease contracted while in such active service.

Fiscal Impact

Passage of this bill would reduce state general fund revenues in fiscal year 2010 by \$3.3 million. The state highway fund would be reduced by about \$.5 million in fiscal year 2010.

Section 1:

Data from the U.S.department of veterans affairs indicates there are approximately 7,147 disabled veterans in Kansas rated at 50% or more service connected disability. According to recent Division of Vehicles statistical reports, approximately 600 DAV plates are currently in use by 100% disabled vets. The difference of 6,547 (7,147 - 600) is the department's estimate of the number of additional DAV plates that would be issued. Since these plates are issued without the need to pay registration fees, it is estimated that approximately \$229,145 will be the decrease to the State Highway Fund. This assumes a \$35 registration fee that will not be collected.

Section 2:

Data from the U.S.department of veterans affairs indicates there are approximately 7,147 disabled veterans in Kansas rated at 50% or more service connected disability. Assuming an average subtraction modification of \$25,000, for modifications to a vehicle, home or business, that 10% of those eligible would use the modification, the fiscal impact using a 3.5% average tax rate would be about \$.625 million (7,147 x .1 x \$25,000 x 3.5%) in fiscal year 2010 general fund revenues.

Section 3:

There are approximately 2,104 veterans who would qualify for the sales tax exemption based on data from the Department of Veterans Affairs. The bill allows up to \$25,000 of taxable expenditures made by or on behalf of a qualified disabled veteran for tangible personal property and services to be sales tax exempt. If the qualified disabled veterans spend the maximum amount, the table below shows the fiscal impact:

<u>Fiscal Year</u>	<u>Total</u>	<u>SGF</u>	<u>HWY</u>	<u>Local</u>
2010	\$ 2.8	\$ 2.5	\$ 0.3	\$ 0.7
2011	\$ 2.8	\$ 2.5	\$ 0.3	\$ 0.7
2012	\$ 2.8	\$ 2.5	\$ 0.3	\$ 0.7
2013	\$ 2.8	\$ 2.5	\$ 0.3	\$ 0.7
2014	\$ 2.8	\$ 2.5	\$ 0.3	\$ 0.7
Total	\$ 14.0	\$ 12.3	\$ 1.7	\$ 3.5

Section 4:

The bill would allow a disabled veteran with a disability rating of 50% or greater to qualify for a homestead refund. There are currently about 7,147 disabled veterans that would meet those qualifications. Since most would already qualify under the age limits, it is assumed this change would allow an additional 10%, or 715, disabled veterans to qualify for an average homestead refund of \$300. The fiscal impact the state general fund would be about \$215,000 (715 x \$300).

Administrative Impact

The estimated costs necessary to implement this bill are \$27,490 in fiscal year 2010. Those costs include about \$19,440, or 216 hours, of contract APA programming time. The estimated user testing resources necessary to implement the bill are \$8,050, or 280 hours, for testing the new programs.

Administrative Problems and Comments

Taxpayer/Customer Impact

Legal Impact