Approved: 3/11/09
Date

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman Les Donovan at 10:40 a.m. on March 5, 2009, in Room 535-N of the Capitol.

All members were present.

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:
Representative Pat George,
Don L. McNeely, President, Kansas Automobile Dealers Association
Jeff Longbine, Legislative Administrator for Kansas Automobile Dealers Association and owner of Longbine Auto Plaza, Emporia, Kansas
John Federico, representing General Motors
Richard Cram, Department of Revenue

Others attending:
See attached list.

Chairman Donovan opened the hearing on **HB 2172– Permanent exclusion from sales taxation of certain cash rebates on sales or leases of new motor vehicles**. The first proponent to speak was Rep. Pat George. He explained this bill will make permanent what was made law three years ago. Rep. George said at this time the automobile business is in dire straits, and he asked for support of this bill. (Attachment 1)

Don L. McNeely, President, Kansas Automobile Dealers Association, pointed out that this bill was put into effect in 2006 as HB 2640 which eventually became SB 404 which had a sunset provision for a June 30, 2009 was added. He agreed with Rep. George that this is the wrong time to increase taxes on the purchase of a new vehicle. (Attachment 2)

Jeff Longbine, Legislative Administrator for Kansas Automobile Dealers Association and owner of Longbine Auto Plaza in Emporia, Kansas also spoke in support of this bill. He asked this committee to strongly consider passage of **HB 2172** as a matter of simplicity, fairness, and a tool to spur the Kansas economy to move forward. (Attachment 3)

John Federico, representing General Motors, presented written testimony urging the committee to support **HB 2172**. (Attachment 4)

Richard Cram, Department of Revenue, explained that the Department of Revenue is concerned with this bill's negative fiscal impact and permanent decrease to the tax base, which will affect the State's ability to meet basic needs of its citizens. (Attachment 5)

The next meeting is scheduled for March 11, 2009. There will be probable final action on bills we have previously discussed.

The meeting was adjourned at 11:15 a.m.

SENATE
Assessment & Taxation Committee
GUEST LIST

DATE: 3/5/09

NAME	REPRESENTING
Jeff Longbine	Kansas Auto Dealers
Don McNeely	KADA
Whitney Damron	KADA
Michelle Butler	Capitol Strategies
Matt Casey	GBA

. AT GEORGE
REPRESENTATIVE 119TH DISTRICT
HOME ADDRESS: 3007 WESTVIEW
DODGE CITY, KANSAS 67801
620-227-2012
OFFICE ADDRESS: STATE CAPITOL
TOPEKA, KANSAS 66612
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STATE OF KANSAS

TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

VICE CHAIR: VISION 2020
MEMBER: ECONOMIC DEVELOPMENT AND TOURISM
TAXATION
VETERAN, MILITARY AND HOMELAND SECURITY

March 5, 2009

To: Chairman Les Donovan
Members of the Senate Assessment and Taxation Committee

From: Pat George, 119th District State Representative

Re: HB 2172

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today in support of HB 2172.

HB 2172 makes permanent what we made law three years ago. As a former car dealer, I can tell you that nothing frustrated my customers, your constituents, more than paying sales tax on the manufacturer's rebate.

It was during my thirty years as a new car dealer that the Revenue Department ruled sales tax should be included on rebates. Up until then, we did not tax the rebates. Three years ago the legislature and Governor decided to remove this onerous tax. HB 2172 makes this action permanent. Even though a fiscal note is attached, I would assume this tax, which was not noted in the consensus revenue memo, was not anticipated being collected.

At a time when the automotive industry is in such dire straits, second only to the housing industry, we certainly do not want to create any more burden on the auto industry. I ask you to support you local car dealerships, their employees, and customers and vote favorably for HB 2172.

Senate Assessment & Taxation
3-5-09
Attachment 1

Serving The Kansas Automobile & Truck Dealers Since 1932

KANSAS AUTOMOBILE DEALERS ASSOCIATION

March 5, 2009

To: The Honorable Les Donovan, Chairman
and Members of the Senate Committee on Assessment & Taxation

From: Don L. McNeely, KADA President

Re: HB 2172 – Relating to Sales of New Motor Vehicles; Taxation of Rebates

Good morning, Chairman Donovan and Members of the Senate Committee on Assessment & Taxation. My name is Don McNeely and I am the President of the Kansas Automobile Dealers Association, which represents the retail new franchised motor vehicle industry in Kansas. I am also joined this morning by KADA's Legislative Chairman Jeff Longbine of Emporia and our Legislative Counsel Whitney Damron.

On behalf of KADA, I am pleased to appear today in support of HB 2172, which would remove the sunset of June 30, 2009 for the sales tax exemption associated with motor vehicle manufacturer rebates from the taxable selling price or lease amount of a new motor vehicle.

As some members of the committee will remember, the sales tax exemption for motor vehicle manufacturer rebates was enacted during the 2006 Legislative Session. The original bill that session, HB 2640 passed the House of Representatives and the legislation eventually became part of SB 404, where the sunset provision of June 30, 2009 was added in Conference Committee.

While this issue is not new to some members of the Committee, as SB 550 was advanced by this Committee and passed by the Senate last year, it is extremely important to the retail motor vehicle industry and the Kansas consumers. Since the enactment of the sales tax exemption, the sometimes-heated debate with consumers about the taxability of a manufacturer rebate has ceased. This had become commonplace prior to the enactment of the sales tax exemption, especially along the state-line, due to the fact that Missouri, Oklahoma and Nebraska had previously exempted manufacturer rebates from the taxable selling price or lease amount of a new motor vehicle.

Since 2006, the manufacturers had made a concerted effort to move away from rebate incentives and concentrate on incentive financing. However, due to the historic down-turn in our industry some manufacturers have again turned to rebate incentives to move inventory despite plant closings across the country.

Senate Assessment & Taxation
3-5-09
Attachment 2

Currently, Congress and some states are looking at ways to stimulate sales of motor vehicles, as the retail automobile industry is such an essential and important element of our nation's economy. Last month, our industry was successful in amending the federal stimulus bill in the U.S. Senate by adding language that would allow a federal income tax deduction for sales and excise tax paid on a purchase of a new vehicle. An above the line income tax deduction for the interest expense associated with the purchase of a new vehicle was also added by the Senate, however, this amendment was removed in conference committee. The federal income tax deduction for payment of state sales tax did survive the conference committee and has generated considerable interest and showroom traffic in Kansas dealerships, which has resulted in increased sales of new vehicles and thus increased sales tax revenue for our state since February 17th.

While we are currently awaiting Kansas specific sales figures, after nine straight years of at least 16 million U.S. sales, light vehicle sales in 2008 fell 18 percent to 13.2 million units, a decline of almost 3 million light-duty cars and trucks. Second half 2008 sales fell 26.2 percent, fourth quarter plummeted 34.7 percent; and January and estimated February 2009 sales were off 37 and 41 percent respectively, from a year ago. Currently, 2009 sales are forecasted at seasonally annualized adjusted rate of 10.4 million units, if sales remain at the current monthly pace, with adjustments for typical seasonal fluctuations. While our state may be currently weathering the recession better than others, it is doubtful our numbers will vary more than a couple of percentage points from the national sales figures.

Currently, the franchised new car dealers of Kansas generate $5.7 billion in annual sales and are responsible for approximately 17.3 cents of every dollar of sales tax collected in our state. We are a critical and essential part of our state's economy and it is extremely important that the State of Kansas have a healthy and viable retail motor vehicle industry. Sales of new and used cars, as well as parts and service, are one of the single largest source of sales tax revenue for our state and the majority of our city and county governments.

While the KADA membership understands the dire fiscal challenges the State of Kansas is facing, we are also facing devastating consequences in our industry as well, and many Kansas dealerships survival is at stake. This is the wrong time to increase taxes on a purchase of a new vehicle, which is exactly what this would be, if the sales exemption on manufacturer rebates is allowed to sun-set.

On behalf of the Kansas Automobile Dealers Association, I thank the Members of the Committee for allowing me to appear before you this morning in support of HB 2172.

INCENTIVE EFFECTIVE FEBRUARY 17TH

CONSUMER AUTO INCENTIVE - BILL (H.R. 1) "AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009"

Effective Date

- New vehicle purchases shall apply to purchases on or after the date of enactment of February 17, 2009 until December 31, 2009.

What Taxes are Deductible?

- State Motor Vehicle Sales
- Local Motor Vehicle Sales
- Motor Vehicle Excise Taxes

What Customers Qualify for the Deduction?

- Individual customers with modified adjusted gross income of less than $125,000 or joint-filers making less than $250,000 a year in 2009 would qualify for the deduction.
- Deductible as an "above the line" (for itemizers and non-itemizers) deduction on federal tax return.

What New Vehicles Qualify for the Deduction?

- Any new vehicle under 8,500 pounds gross vehicle weight.
- New vehicles of any model year – when the original use commences with the taxpayer.
- Any vehicle sold for under $49,500 qualifies for the full deduction. Consumers may deduct sales taxes on the first $49,500 of any vehicle sold above this price.

Tax savings will depend on one's individual tax rate. For more specific information on eligible customers, taxes and applicability, dealers are encouraged to consult with an accountant or tax professional.

Longbine
AUTO PLAZA
CHEVROLET PONTIAC BUICK

March 5, 2009

To: The Honorable Les Donovan, Chairman
and Members of the Senate Committee on Assessment & Taxation

From: Jeff Longbine, Longbine Auto Plaza, Emporia

Re: HB 2172 – Relating to Sales of New Motor Vehicles; Taxation of Rebates

Good morning Mr. Chairman and members of the Committee. My Name is Jeff Longbine and I'm a 4th generation General Motors Dealer located in Emporia. I'm pleased and honored to be able to testify before you this morning on this very important piece of legislation. I respect the committee's time and will attempt to be brief.

The taxation of retail rebates in the automobile industry is a complicated issue. The manufacturers have fallen into the trap of offering constant incentives to purchase new vehicles. As this process has evolved the manufacturers have simply built this into the cost structure of the vehicle. The industry now uses the term of transaction price for all their measurements. This term describes the selling price less incentives. I bring this to the committee's attention because the transaction price is truly the cost to the consumer and therefore should also be the taxable price.

Prior to the current law taking affect there was a lot of confusion and unhappiness with consumers. The typical auto transaction is presented to the consumer based on the transaction price and then the consumers were taxed at a higher price. I am sure that you understand the problems this can cause, as rebates can and do equal amounts in excess of a couple thousand dollars.

The Kansas franchised new car and truck dealers are responsible for and collect sales tax on almost 1/5 of all total retail sales in our state. I am sure that all of the committee members understand the difficulties that our industry is currently experiencing because of the current recession. Removing this sunset will raise the cost and payments of Kansas consumers there by eliminating more consumers. I feel that this is the time to encourage spending and not allowing legislation that would act as a disincentive to spending.

I urge the committee to strongly consider passage of HB 2172 as a matter of simplicity, fairness, and a tool to spur the Kansas economy to move forward.

3012 WEST U.S. HIGHWAY 50 • EMPORIA, KS 66801-5147 •

Senate Assessment & Taxation
3-5-09
Attachment 3

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Testimony In Support of HB 2172

John J. Federico, JD

Offered on Behalf of General Motors

March 5, 2009

Senate Assessment & Taxation Committee

Chairman Donovan, and members of the Senate Taxation Committee, I offer this testimony on behalf of General Motors in strong support of HB 2172.

There are many reasons to support this legislation, none more important than that it provides the opportunity to help Kansas consumers, but also help two different industries, one a struggling manufacturer and the other, an association representing hundreds of small businesses across the state. The two entities do however share a common trait, in that they both contribute in very significant ways to the Kansas economy.

Due in large part to the improving tax climate in Kansas, General Motors has made considerable investments in the Fairfax, KS facility and currently produce some of GM's most desirable vehicles. In spite of the Fairfax plant's good fortune, the crumbling national economy and the tight credit market has taken its toll. Kansas' only automobile manufacturing facility, and one of Kansas' flagship employers, was idle for close to two months in December and January.

Support of HB 2172 not only provides critical support to important contributors to the Kansas economy but also takes an important step to permanently correcting what appears to be an unfair tax treatment of manufacturer rebates.

I urge your support of HB 2172 and appreciate the opportunity to provide brief testimony in support of the bill.

Senate Assessment & Taxation
3-5-09
Attachment 4

Testimony to the Senate Committee on Assessment and Taxation

Richard Cram

March 5, 2009

Department Concerns with House Bill 2172

Senator Donovan, Chair, and Members of the Committee:

House Bill 2172 would amend the definition of "sales or selling price" in K.S.A 79-3602 to make permanent the exclusion of cash rebates granted by a manufacturer to a purchaser or lessee of a new motor vehicle if paid directly to a retailer from the sales or selling price. In the 2006 legislative session, the exclusion of cash rebates from sales or selling price was added but limited to the period July 1, 2006 through June 30, 2009. This proposal strikes those dates so the exclusion becomes permanent, effective July 1, 2009. The proposal has a negative fiscal impact of $3.2 million in FY 2010, $5.3 million in FY 2011, and $10 million in FY 2012, as new vehicle sales and leases are expected to recover with the improving economy, beginning in the later half of 2009. Our fiscal note is attached.

The 2006 Legislature had the wisdom to include a sunset provision, so that at the time this exclusion expires, if the State cannot afford to continue it, no further legislative action is necessary in order to preserve the tax base. The Department submits that the State can no longer afford this exclusion in the current economic environment.

The Department is concerned with this bill's negative fiscal impact and permanent decrease to the tax base, which will affect the State's ability to meet the basic needs of its citizens. Tax cuts in the range of $143 million through FY 2009 have been enacted in the past four sessions, and if those tax cuts are cumulated through FY 2013, the number is over $1 billion. The question that needs to be asked is not whether a particular tax cut proposal is a good idea, but whether the State can afford to do any tax cutting in the right now.

Senate Assessment & Taxation
3-5-09
Attachment 5

MEMORANDUM

To: Mr. Duane Goossen, Director
Division of Budget

From: Kansas Department of Revenue

Date: 02/06/2009

Subject: House Bill 2172
Introduced as a House Bill

Brief of Bill

House Bill 2172, as Introduced, would amend the definition of sales or selling price in K.S.A 79-3602 of the retailers' sales tax act. The proposal would make permanent the exclusion of cash rebates granted by a manufacturer to a purchaser or lessee of a new motor vehicle if paid directly to a retailer from the sales or selling price. In the 2006 legislative session, the exclusion of cash rebates from sales or selling price was added but limited to the period July 1, 2006 through June 30, 2009. This proposal removes the dates making the exclusion permanent.

The Act would be effective July 1, 2009.

Fiscal Impact

The proposal is estimated to result in the loss of $3.2 million in fiscal year 2010. The estimate for vehicle rebates is based on information from auto industry sources and department statistics and takes into account the reduction in sales of vehicles due to the economic downturn. Comparing July through December 2008 with July through December 2007, the number of title applications (all types including new applications, reissue, duplicate, etc) received show a 30% decrease in applications received. During the same periods, the notice of security interest (vehicle liens) requests has remained constant, indicating a steady sale of newer vehicles. The use of manufacturer's rebates will continue to play an important tool in offering price incentives to new vehicle customers with the changes in how credit will be approved. Many consumers may not have availability to them long term 0% loans so the use of rebates as an incentive may increase.

It is estimated there are 115,000 new car purchases in Kansas annually. For fiscal year 2010, the estimate is based on rebates averaging $1,500 with 50% of all new car purchases receiving a rebate and a drop in new vehicle sales to 80,000. For fiscal year 2011 the estimate anticipates vehicle sales make some recovery and by fiscal year 2012 that vehicle sales are back to the pre-downturn levels.

Fiscal

Year	Total	State	Hwy	Local
2010	$3.2	$2.8	$0.4	$0.8
2011	$5.3	$4.6	$0.6	$1.3
2012	$10.00	$8.77	$1.23	$2.50
2013	$10.20	$8.95	$1.25	$2.55
2014	$10.40	$9.12	$1.28	$2.60

Administrative Impact

Sales tax notices and publications would be revised at a cost of $18,800.

Administrative Problems and Comments

None.

Taxpayer/Customer Impact

Would exclude from sales or selling price cash rebates on new motor vehicles.

Legal Impact

Approved By:

Joan Wagnon

Joan Wagnon
Secretary of Revenue