

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman Les Donovan at 10:43 a.m. on March 15, 2010, in Room 152-S 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
Chris Courtwright, Kansas Legislative Research Department
Brandon Riffel, Kansas Legislative Research Department
Mary Jane Brueck, Committee Assistant

Conferees appearing before the Committee:

Kent Eckels, Kansas Chamber of Commerce
Dan Murray, State Director National Federation of Independent Business – Kansas
Tom Palace, Petroleum Marketers Convenience Store Association
Don McNeely, Kansas Automobile Dealers Association

Others attending:

See attached list.

The Chairman opened the hearing for those who are in opposition to the proposed one cent sales tax increase, **SB 516 - Increasing rate of tax on cigarettes and tobacco products and increasing rate of sales tax.** He recognized Kent Eckels, Vice President of Government Affairs, Kansas Chamber of Commerce who pointed out this tax increase will make Kansas the highest sales tax among its peers (Colorado, Iowa, Missouri, Nebraska, and Oklahoma). (Attachment 1). Dan Murray, State Director National Federation of Independent Business – Kansas, told the committee Kansas ranks 31st in state rankings of state and local sales, gross receipts, and excise taxes, and does not need to increase sales taxes further. (Attachment 2) Tom Palace, Executive Director of the Petroleum Marketers and Convenience Store Association for Kansas (PMCA), also spoke against this bill, and the sales tax increase. (Attachment 3) Written testimony from Don McNeely, Kansas Automobile Dealers Association also urged the committee not to pass this bill out of committee. (Attachment 4) Chairman Donovan closed the hearing on the sales tax increase.

Chairman Donovan outlined his own approach to this and other tax bills would be. He suggests sales tax be raised to 6%. That would be an increase of 0.7%, and would raise \$260 million in the first year. It would not end after three years. 0.2% of that tax would be dedicated to KDOT. Sales tax would be removed from grocery food sales. The tax rebate on food purchases that presently goes to low income residents would end, saving approximately \$45 million. He also recommends the cigarette tax increase \$0.25 (not \$0.55). Lower the liquor tax. And change the sugared beverage tax from \$0.01 per teaspoon sugar to 0.4%.

The next meeting is scheduled for March 16, 2010.

The meeting was adjourned at 11:45 a.m.

SENATE
Assessment & Taxation Committee
GUEST LIST

DATE: 3/15/10

NAME	REPRESENTING
Anne Spiess	American Cancer Society
Sandra Braden	Garber, Braden & Assoc.
Lew Henry	Sandstone Group LLC
Patrick Vogelshung	Kearney & Assoc.
Don McNEELY	KADA
Dave Ranney	KHI News Serv.
TERRY FORSYTH	KNEA
TOM PALACE	AMCA of KS
Jim May	Spirit Aerosystems
Kent Cornish	K.A.B.
Cliff Judy	KWCH
Dennis Decker	"
Michelle Muller	Cap. Strategies
Brend Koops	Hein Law Firm
Sean Tomb	Budget
Tom Burgess	Burgess Assoc.
Tom KREBS	KRFB
Barbara Hollingsworth	CAP-Journal
Mark Oberding	Rep Don Hill

SENATE
Assessment & Taxation Committee
GUEST LIST

DATE: _____

NAME	REPRESENTING
Natalie Brugh	KSCPA
Mary Jane Stanbury	KHFP

Testimony before the Senate Assessment & Taxation Committee
 SB 516 – Sales Tax Increase
 Presented by J. Kent Eckles, Vice President of Government Affairs



Monday, March 15th, 2010

The Kansas Chamber of Commerce appreciates the opportunity to present testimony in opposition to SB 516, which would increase the statewide sales tax by one percent from 5.3% to 6.3%.

In our Annual CEO Poll conducted in November 2009, we asked 300 businesses of varying size (85% had less than 10 employees) and geographic location throughout Kansas the following question: "What is most important to the profitability to your business?" Results are the following:

<u>MENTIONED:</u>	2009	2008
Workers' Compensation	19%	4%
Unemployment Compensation	3%	1%
Managing health care costs	32%	23%
Lower taxes on business	43%	35%
Decrease regulation/mandates	18%	13%
Stop frivolous lawsuits/Tort reform	13%	13%
Limit growth of state government	17%	16%
Economic incentives for business	18%	13%
Reduce fuel and energy costs	20%	42%

(Each survey participant was allowed up to 2 responses)

As you can see, 43% indicated that lowering taxes on business is a top issue facing their profitability. (17% said limiting the growth of state government was a top concern compared to 7% in 2006.) In the open ended question of which issues are the most important issues facing government today, 25% said taxes. Couple taxes with the state of the economy and the number is 35%. (The next highest is 12 %.)

Of the businesses that would consider leaving, 32% said taxes are the consideration while the issue of business climate jumped from 9% a year ago to 25% this year.

Reducing the cost of doing business is still the number one growth strategy for the state for 58% of respondents - the next answer is 34% lower.

57% say they pay too much in taxes, 1% said they don't pay enough and only 8% said to raise taxes to fund the budget shortfall. 80% said the state needs to reduce spending.

Specifically regarding the sales tax increase proposal before us, below is a comparison of statewide sales tax rates amongst Kansas' peer states:

- Colorado- 2.9% with exemptions for food and prescription medications
- Iowa- 5% with exemptions for food and prescription medications
- Kansas- 5.3% (currently) with an exemption for prescription medications (6.3% proposed)
- Missouri- 4.225% with an exemption for prescription medications and food taxed at 1.225%
- Nebraska- 5.5% with exemptions for food and prescription medications
- Oklahoma- 4.5% with an exemption for prescription medications

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Attachment # 1

As you can see, Kansas is currently second highest among our peer states (Nebraska is highest) but would vault to the highest spot should this bill be enacted into law. This increase would amount to nearly an incredible 19% increase in the statewide sales tax rate.

The Kansas Chamber objects to this anti-competitive and regressive tax increase because it will stifle long-term sales tax revenue growth as residents and businesses historically flock to border-states or online for shopping as a result of such rate differences.

Additionally, history has shown that a tax increase of this nature is never "temporary." In the history of statewide sales tax increases in Kansas, the sunset has never been honored as intended and the increase becomes a "forever tax."

From a competitiveness standpoint, our peer states are already salivating at the prospects of both this sales tax increase and that of a tobacco tax increase. Below is a direct quote from the Missouri Petroleum and Convenience Store Marketing Association (MPCA):

"Currently, Missouri has a state sales tax advantage over Kansas - 4.225% versus 5.3% - as well as a substantial state cigarette tax advantage - 17 cents per pack (\$1.70 per carton) versus 79 cents per pack (\$7.90 per carton).

If Kansas balances their budget by increasing their state sales tax and state tobacco tax, it's all but certain that Missouri retailers near the Kansas border will benefit and see an increase in cross-border customer traffic.

It's the very definition of short-sighted when State Legislators over-tax the very industries that will drive their economic recovery and development and implement tax policies that force their citizens to purchase goods and services in lower taxed border-states."

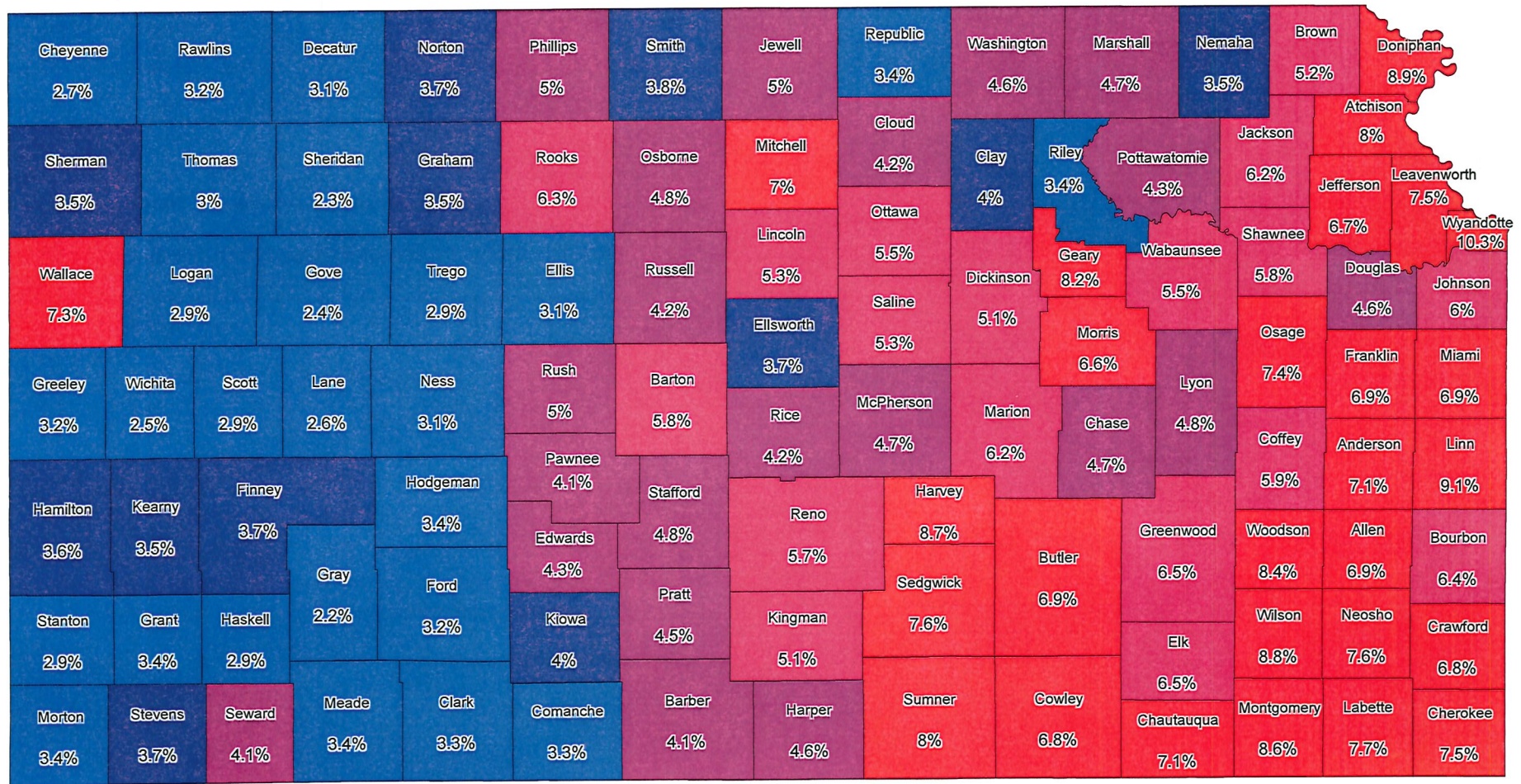
We also envy our rival state Missouri's Governor Jay Nixon for his comments in his State of the State address in which he said: *"Our mission is clear: We must keep the jobs we have, and create thousands more..."* Nixon said. *"And we must balance the budget without raising taxes."* He went on to say: *"Given Missouri's need to create jobs quickly, helping loyal businesses accelerate their growth just may be the smartest investment we can make - with the fastest return."*

We urge the Committee to not pass SB 516.

The Kansas Chamber, with headquarters in Topeka, Kansas, is the leading statewide pro-business advocacy group moving Kansas towards becoming the best state in America to live and work. The Chamber represents small, medium, and large employers all across Kansas. Please contact me directly if you have any questions regarding this testimony.



Kansas Unemployment Rates by County



Kansas Unemployment Rates

- 6.6% to 10.3% (28)
- 5.1% to 6.6% (18)
- 4.1% to 5.1% (21)
- 3.5% to 4.1% (12)
- 2.2% to 3.5% (26)



The Voice of Small Business®

**House Taxation Committee
Daniel S. Murray: State Director, NFIB-Kansas
Testimony in Opposition to SB516
March 15, 2010**

Taxes that are too high, and a tax system that is ridiculously complex, stand in the way of small business growth.

Mr. Chair, Members of the Committee: My name is Dan Murray and I am the State Director of the National Federation of Independent Business-Kansas. NFIB-KS is the leading small business association representing small and independent businesses. A nonprofit, nonpartisan organization founded in 1943, NFIB-KS represents the consensus views of its 4,000 members in Kansas. Thank you for the opportunity to comment on SB516.

NFIB-KS opposes SB516. For two consecutive polls (2008 & 2009 member ballots), an overwhelming majority of members that voted oppose raising the sales tax in order to help make up for growing budget shortfalls. We believe that the legislature must do all it can to ensure Kansas' business tax climate stimulates job creation and capital investment, particularly in a recession.

In the Small Business & Entrepreneurship Council's "Business Tax Index 2009,"¹ Kansas continues to rank poorly, particularly as compared to our neighbors. The Small Business & Entrepreneurship Council's "Business Tax Index 2009" ranks the states from best to worst in terms of the costs of their tax systems on entrepreneurship and small business. The Index pulls together 16 different tax measures, and combines those into one tax score that allows the 50 states and District of Columbia to be compared and ranked.

Overall, Kansas lags at 33rd in the Index. Specific to sales tax, the Small Business & Entrepreneurship Council ranks Kansas at 31st. Importantly, this sales tax measurement is a compilation of state and local sales, gross receipts and excise (including tobacco, alcohol and insurance) taxes. Viewing sales taxes in this way is appropriate because it allows policy-makers the opportunity to view changes to sales tax policy within the context of our overall sales tax structure.

Further, when considering changes to our tax policy, it's imperative that you take into account how we compare with peer states.

Consider the following comparison:

State Rankings of State and Local Sales, Gross Receipts and Excise Taxes

(Sales, Gross Receipts and Excise Taxes as a Share of Personal Income)

CO:	15 tied
IA:	15 tied
NE:	19
OK:	22
MO:	25
KS:	31

The overall tax index, particularly in comparison to our neighbors, is troubling. However, Kansas' state and local rankings relative to neighbors is even more troubling. We know that consumer confidence is very low and that consumers are being more selective than in recent memory. If the state sales tax were increased, Kansas small businesses, particularly retailers along our border, would face an even larger challenge attracting pennywise shoppers.

Increasing costs of healthcare, poor sales, increasing unemployment taxes, etc. are already taking their toll on small businesses. The last thing that small businesses, Kansas' job creators, need now is an uncertain and confusing tax climate.

Thank you for the opportunity to comment on SB516.

¹ "Business Tax Index 2009: Best to Worst State Tax Systems for Entrepreneurship and Small Business," by Raymond J. Keating, Chief Economist Small Business & Entrepreneurship Council, www.sbecouncil.org



March 15, 2010

Memorandum:

To: Senate Taxation Committee
From: Thomas M. Palace
Re: Opposition to SB516

Mr. Chairman and members of Senate Taxation Committee:

My name is Tom Palace. I am the Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas (PMCA of Kansas), a statewide trade association representing over 300 independent Kansas petroleum distribution companies and convenience store owners throughout Kansas.

We appreciate the opportunity to appear before you today in opposition to SB516, a bill that as proposed would increase the state sales tax from 5.3% to 6.3%.

The tax increases the Kansas Legislature is considering, if passed, would have a negative impact every convenience store retailer in the state. Consumers won't change what they buy, they will simply find a cheaper way to purchase their goods. More specifically, the retailers that compete on the border are hit the hardest when tax increases are passed.

Consider the tax proposals that are being discussed today: Tobacco tax \$.55 increase, motor fuel excise tax \$.15-\$.17 increase and sales tax 1% increase. Tobacco sales and motor fuel sales equate to 85% of the gross sales at a convenience store. We have all heard the term "low hanging fruit" and apparently, the products that convenience stores sell fall into that category.

I have been told that 38% of the Kansas population lives in the county adjacent to the border. If you are a convenience store retailer that competes

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Attachment # 3

on the Missouri border they are already at a competitive disadvantage because Missouri's taxes are lower. They have lower motor fuel excise taxes (\$.17 gas and diesel vs. \$.24 on gas and \$.26 on diesel), lower tobacco tax (\$.17 per pack vs. \$.79 per pack) and lower sales tax (4.225% vs. 5.3%). Lower taxes mean lower prices forcing retailers to price accordingly so that they don't lose their customers. But in many instances a Kansas retailer cannot price their product low enough to keep their customers from going across the border to buy the same products cheaper...due in part to lower taxes.

A great example of this is the recent actions taken by QuikTrip (see attachment). QuikTrip moved a store in Kansas City 100 feet so that they would have a Missouri address at a cost of \$3.4 million. The loss to Kansas is estimated to be \$1.4 million in state and local taxes. The \$1.4 million is a financial loss that Kansas cannot afford. I would venture a guess that if more convenience store retailers could afford to do the same thing, they would do it in a heartbeat.

Mr. Chairman, I know that SB516 is a sales tax only bill, but the ramifications of all the tax proposals being considered could/will have dire consequences for small businesses that compete on the border. I have yet to see a study that illustrates the LOSS of state revenue when taxes are raised. The trickle down affect on "other products sold" is probably a lot bigger than anyone knows.

In reality, it appears that Kansas tax increases, in general, are more of an "economic development" proposal for other states, and in the long run Kansas is the ultimate loser. As an example of that statement I have attached to my testimony a portion of a newsletter drafted by the Missouri Petroleum Marketers alerting their members of the benefit that they could realize if Kansas continues to tax retailers that compete on the border.

Mr. Chairman, PMCA opposes SB516 and we urge committee members to reject this proposal.

Thank you.



KansasCity.com

THE KANSAS CITY STAR

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Sunday, Jan 24, 2010

Posted on Tue, Aug. 25, 2009

QuikTrip razes store on Kansas side, will open one 100 feet away in Missouri

The QuikTrip store on Southwest Boulevard is half in Missouri, half in Kansas.

Most customers might not have noticed or cared — until now.

The company on Monday started bulldozing the store at 27 Southwest Blvd. and will open a new store about 100 feet away. When it opens in late October, that store technically will be a Missouri business and customers won't have to pay the higher Kansas taxes on cigarettes and gas. They also will be able to buy liquor with stronger alcohol content than 3.2 beer.

"It's pure economics. We want that store to survive," said Michael Thornbrugh, spokesman for QuikTrip. "Quite frankly it was a mediocre store. This gives our customers more options. Gasoline is six cents higher in Kansas, and tobacco is about 50 cents more per pack or \$5 a carton."

The 15 or so employees will temporarily transfer to other area QuikTrip stores during the construction.

Thornbrugh said the company has done such a move before, including relocating a QuikTrip on Rainbow Boulevard to the Missouri side of the state line. But that store relocated blocks away, not feet away.

As for Kansas City, Kan., it will surely miss the tax dollars from the Southwest Boulevard location, which has been operating since at least the mid-1980s.

"It's unfortunate that this particular business has decided to move across the state line at a time when our city continues to make great progress," said Edwin Birch, spokesman for the Unified Government.

"Wyandotte County has attracted new and one-of-a kind business developments to our region as many business owners continue to see opportunities for growth in Wyandotte County and Kansas City, Kan."

But QuikTrip's Thornbrugh said changes may need to be made to keep some border businesses in Kansas City, Kan.

"They are great to work with but their hands are tied. It's unfortunate that the city and county has no say," he said.

To reach Joyce Smith, call 816-234-4692 or send e-mail to jsmith@kcstar.com.

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Missouri Petroleum Marketers and Convenience Store Association (MPCA)

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573.635.7117 phone • 573.635.3575 fax • www.mPCA.org • © MPCA 2010

Petroleum Marketing and Convenience Store News from MPCA

JANUARY 18, 2010

1. PACE 2010: General Information & Thank You PACE Sponsors & Exhibitors!
2. 2010 Membership Dues: Please Pay ASAP.
3. Kansas Budget Fix May Benefit Missouri Retailers.

3. KANSAS BUDGET FIX MAY BENEFIT MISSOURI RETAILERS.

A. KANSAS GOVERNOR PARKINSON'S 1/11/10 STATE-OF-THE-STATE SPEECH. The following are direct quotes from Kansas Governor Mark Parkinson's 1/11/10 State-of-the-State Address.

"That is because we face another budget hole of almost \$400 million. We are not \$400 million short of what we need to get these programs back to where they need to be. We are \$400 million short of what we need to keep most of these budgets at their already drastically cut levels.

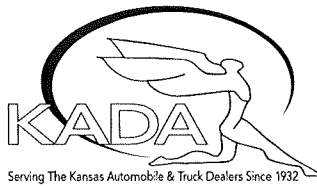
"Here is my plan to come up with the \$400 million - we need to raise two taxes. We must take the cigarette and tobacco tax from 79 cents a pack and raise it to the national average of \$1.34. Not only will this allow us to raise revenue, it has the added benefit of reducing teen smoking. Study after study demonstrates that if you raise this tax, teen smoking will decline.

"We must also raise our sales tax by one cent for a temporary period of 36 months. A temporary increase of just one cent allows us to fund our programs at the minimum acceptable levels while we work our way out of this recession. I am then proposing that after the third year the tax retreat, leaving just two tenths of a cent in place that would be available to craft a moderate but necessary highway program."

B. MPCA'S THOUGHTS. Currently, Missouri has a state sales tax advantage over Kansas - 4.225% versus 5.3% - as well as a substantial state cigarette tax advantage - 17 cents per pack (\$1.70 per carton) versus 79 cents per pack (\$7.90 per carton).

If Kansas balances their budget by increasing their state sales tax and state tobacco tax, it's all but certain that Missouri retailers near the Kansas border will benefit and see an increase in cross-border customer traffic.

It's the very definition of short-sighted when state Legislators over-tax the very industries that will drive their economic recovery and development and implement tax policies that force their citizens to purchase goods and services in lower taxed border-states.



KANSAS AUTOMOBILE DEALERS ASSOCIATION

March 10, 2010

To: The Honorable Les Donovan Carlson, Chairman
and Members of the Senate Taxation Committee

From: Don L. McNeely, KADA President

Re: SB 516 – An Act Concerning Sales Tax

Good morning, Chairman Donovan and Members of the Senate Taxation Committee. 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 Counsel Whitney Damron.

On behalf of KADA, I appear today in opposition to the portion of SB 516, which would increase the Kansas state sales tax base rate 1 percent to 6.3 percent for a period of three years.

It is no secret the last two years have been extremely difficult on the retail automotive industry, which is one of the reasons the State of Kansas is experiencing the fiscal challenges we face today. While we are currently awaiting Kansas specific sales figures, after nine straight years of at least 16 million units, U.S. sales of new light duty vehicles fell 18 percent to 13.2 million units in 2008 and fell another 21.2% to 10.4 million units in 2009.

To suggest that a sales tax increase in the current economic climate would be regressive is an understatement as to the impact it would have upon an already struggling retail automobile industry, which is such an essential component of our State's economy. It was not that long ago that the Kansas retail new motor vehicle dealers accounted for almost 25 percent of our State's total retail sales. In 2008, that percentage has decreased to 14 percent and will be significantly less for fiscal year 2009.

Realizing that the retail automobile industry is such an essential and important element of our nation's economy, this past year Congress attempted to stimulate the sales of motor vehicles by allowing a federal income tax deduction for sales and excise tax paid on a purchase of a new vehicle. In addition, Congress passed the much debated "Cash for Clunkers" legislation, which generated 7,410 new motor vehicle purchases in Kansas and an estimated \$9.4 million dollars in state and local sales tax.

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Attachment # 4

While annual sales of the Kansas franchised new car and truck dealers have fallen to \$5.1 billion, we are still 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 continued survival is at stake. This is the wrong time to increase taxes on a purchase of a new or used vehicle.

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 opposition of SB 516.