



KANSAS AUTOMOBILE DEALERS ASSOCIATION

February 9, 2022

To: The Honorable Adam Smith, Chairman
and Members of the House Committee on Taxation

From: Don L. McNeely, KADA President

Re: HB2571 — Providing a deduction from sales or compensating use tax when
selling and buying different motor vehicles within 180 days.

Good afternoon, Chairman Smith and Members of the House Committee on Taxation. My name is Don McNeely, and I serve as the President of the Kansas Automobile Dealers Association, which represents the franchised new motor vehicle industry in Kansas.

On behalf of KADA, I am pleased to appear today as a neutral conferee on HB2571, in order to provide some historical context about the issue before you. Over the past 20 years, we have seen this proposal several times introduced and debated in this Committee. As I told Representative Turner when he reached out to me, besides the fiscal note, it has also come down to the transaction being auditable, as are the transactions that occur within the dealerships. Meaning tying the selling price and the purchase price together so the appropriate amount of sales tax can be imposed upon the actual selling price, so that corresponding amount may also be applied to compute the trade-in credit or refund.

One of the primary reasons for this was a 2003 Legislative Post Audit performance audit review of taxes on motor vehicles entitled, “Taxes on Motor Vehicle Sales: Reviewing the Department of Revenue’s Procedures for Ensuring that Correct Amounts of Sales and Compensating Use Taxes are Paid”. The report stated that “nearly half the vehicles we reviewed that were sold privately were reported as being sold for what appear to be significantly less than fair market value. For our random sample of 80 private vehicle sales transactions from calendar year 2002, 39 vehicles were sold for less than half the lowest NADA (National Automobile Dealers Association) value. If county treasurers were adhering to the Department’s regulation, Kansas could receive several million dollars each year in additional sales taxes from private vehicle sales...”

At that time, as it is today, the buyer was required to obtain a notarized bill of sale stating the sales price from the seller. But, it was believed that in some cases the selling price field was left blank or a price lower than the actually selling price was inserted by the purchaser in order to reduce their sales tax liability.

The 2004 Legislature attempted to address this by passing legislation that assigned a valuation and thus a sales tax amount on vehicles the subject of isolated or casual sales. Under the law, the purchaser would pay sales taxes on a casual or isolated sale based upon the assessed valuation of a vehicle or its actual sales price, whichever was higher. The law was projected to increase state revenues by at least \$5 million a year, but due to the public outcry from those who actually paid less for a vehicle than what they were

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taxed, the law was immediately repealed in 2005 and enforcement of proper disclosure would fall to the Kansas Department of Revenue, which intended to increase audits of such transactions and scrutinize questionable transactions that were flag by the County Treasurers.

Because of this, we believe the tying of the actual selling price for the casual or isolated sale of motor vehicle must be entered into the State's motor vehicle database in order to assure the appropriate sales tax liability is incurred for the purchaser and the correct sales tax credit or refund is calculated for the seller of the vehicle.

On behalf of the Kansas Automobile Dealers Association, I thank the Members of the Committee for allowing me to appear before you this afternoon in order to provide some comments in regard to HB2571.