

2009 SENATE FINANCE AND TAXATION

SB 2184

# 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2184

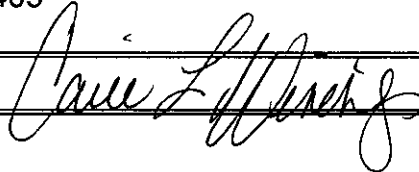
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: 01/21/2009

Recorder Job Number: 7405

Committee Clerk Signature



Minutes:

**Chairman Cook:** Opens hearing on SB 2184.

**Senator Curtis Olafson, District 10:** See Attachment #1 introducing bill.

**Senator Oehlke:** On the purchase of the vehicle, the \$5500 in rebates does that have to be taxed as income then?

**Senator Olafson:** I believe that if I wrote a check and then received a check back as a rebate it should be considered as income.

**Representative Don Vigesaa, District 23:** See Attachment #2 for testimony in support of bill.

**Representative Lee Kaldor, District 20:** Testified in support of bill. As a fairness issue, I did vote for this legislation last session, and it passes the House. It is all about what is the stated price. In this case it should be the price what you pay. It is like staying in a hotel and you get a discount on your room and you only pay tax on the amount you paid, not the regular rate.

**Steve Schwan, President of Schwan GM Auto Center in Bismarck/Mandan:** Testified in support of the bill. I am on the lines every day, and an index called customer satisfaction. We advertise the price after the incentives, and when a customer comes in and they get the final price after taxes we have a mistrust issue because they think we are not being honest when

we charge them tax on the rebate. We then have to prove to the customer that it is a state issue. The value when they drive away is not with the rebate, the value is what you pay for it.

**Chairman Cook:** Why can't we get auto dealers to change their requirements?

**Steve Schwan:** That is a catch 22 situation. They push the product by these incentives, and hopefully in the future they will not have need for the incentives by finding another way to make the vehicle marketable.

**Chairman Cook:** They require you show the incentive on the paperwork?

**Steve Schwan:** Yes, we have sales representatives that come in every couple of weeks to check for appropriate paperwork.

**Chairman Cook:** Is this a problem in other states?

**Steve Schwan:** No, Minnesota does not tack on incentives.

**Vice Chairman Miller:** When you sell a car that has a rebate, have you already paid for that car to the factories?

**Steve Schwan:** I own it.

**Vice Chairman Miller:** Then where does the rebate money come from then?

**Steve Schwan:** That money comes through an open account with GM after the sale.

**Matthew Larsgaard, Auto Dealers Association of North Dakota:** See Attachment #3 and #4 for testimony in support of bill.

**Senator Triplett:** In regards to the fact that you said the incentives are designed to stimulate sales, and that they were sales that would not have been made at all; do you really think the tiny amount of tax matters on whether they would buy a particular vehicle or just a different one?

**Matthew Larsgaard:** Yes, a \$10,000 rebate gives a larger pool of people that could purchase that vehicle.

**Senator Triplett:** I understand that, but I am referring to the tax on that \$10,000. It is not that much; does that really make a difference?

**Matthew Larsgaard:** I think it depends on the situation, the individual, and the vehicle being purchases.

**Myles Vosberg, Tax Department:** Testified neutral to bill.

**Chairman Cook:** Do you know how other states do this?

**Myles Vosberg:** I do not. But I do know that Minnesota does not tax the rebate, South Dakota does. Montana does not have a sales tax.

**Chairman Cook:** This definition we are changing for purchase price, is this in the excise tax definition for vehicles, or is this in our sales tax?

**Myles Vosberg:** It is from the motor vehicle excise tax, and the purchase price is the basis of what is taxable.

**Chairman Cook:** It is not going to purchase any sales tax purchases?

**Myles Vosberg:** That is correct, it will not.

**Chairman Cook:** How would we administer this? Would it be difficult?

**Myles Vosberg:** No, this would not be a difficult thing. The rebate is separately identified; we would just look for the net purchase price that is being paid that is subject to tax.

**Discussion:** A discussion occurred between Chairman Cook and Myles Vosberg regarding whether the total loss statement section of the law (that has not tax assessed to it) would be a better place to do this at, and Myles Vosberg referred to Page 1, line 17 of the bill.

**Senator Hogue:** Is it a Tax Commissioner interpretation that the rebates aren't considered taxable under subsection 5? Because, when I look at the statute it says that the purchase price means the amount that the person paid. I am wondering how we tax those rebates under the language of that section.

**Myles Vosberg:** It is an interpretation by the Tax Department. Gives an example. We are looking at the gross receipts paid to the dealer for that vehicle.

**Senator Anderson:** In the fiscal note it shows other funds will be affected by \$512,000. What are those other funds?

**Myles Vosberg:** The tax collected under the mother vehicle excise tax is pooled with the sales tax and a portion of that goes to the state aid distribution fund under the same formula as the sales tax.

**Chairman Cook:** What is that again?

**Myles Vosberg:** it is 40% of 1/5.

**Discussion:** A discussion occurred between Vice Chairman Miller and Myles Vosberg regarding what funds would be affected, and Myles Vosberg said he would check on that.

**Senator Dotzenrod:** Am I clear that if we pass the bill the way it is written there will be no trouble enforcing this and making distinctions on the language of what would be included?

**Myles Vosberg:** We do not believe so. This language is plain.

**Chairman Cook:** Any other testimony? (No) Closed hearing on SB 2184.

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2184

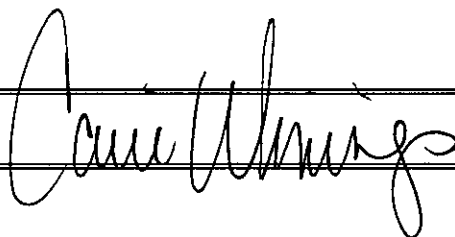
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: 02/02/2009

Recorder Job Number: 8306

Committee Clerk Signature



Minutes:

**Chairman Cook:** Reopened discussion on SB 2184. Handed out Attachment #1 to consider as an amendment. Explained what the amendment does. It clarifies the existing rebate system, and ones that are given at the dealer during the sale would not be subject to sales tax. If the rebate is sent to the buyer after the fact, then that would be taxed.

**Senator Triplett:** Is that a recommendation from the tax department?

**Chairman Cook:** I don't know if they would recommend it, it certainly solves a question I have.

**Chairman Cook:** Suspends the hearing.

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2184

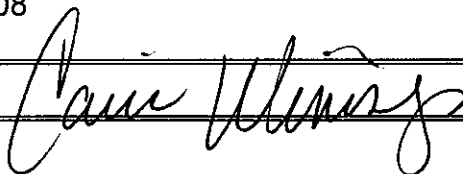
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: February 2, 2009

Recorder Job Number: 8308

Committee Clerk Signature



Minutes:

### Committee work on SB 2184

**Senator Oehlke** moved the amendment 90537.0101.

**Senator Miller** seconded. 7-0-0

There was discussion on how individuals had voted on it last session and how SB 2184 was different than last session's bill.

**Senator Triplett:** I agree with the concern about the effect on state aid distribution.

**Senator Dotzenrod:** The trouble I am having is that there are good arguments on both sides. I am wondering if you have a willing buyer and a seller and they arrive at a price, is it any of our business to step in at that point and impose a sales tax.

**Senator Cook:** If you go in to buy a computer and it cost \$1000 and you have \$800 cash and \$200 in a rebate, the purchase price is \$1000 and the \$800 and \$200 are part of the purchase price and it is taxable. Maybe the right thing to do is put 5% tax on the \$800 that came out of my pocket and tax the person that offered the rebate the 5% that came out of their pocket.

**Senator Oehlke:** The fact is this is the real world of business. There are so many variables in the auto business sales. It is a good and bad thing. Someone has to pay the tax.

**Senator Cook:** When this goes to the floor there will be a whole lot of people pushing buttons that are going to say I want to vote green but I want the bill to fail.

**Senator Miller:** I look at this bill and the difference I see is the manufacture gives a rebate after the purchase on computers and other things like this. The final price is what I write the check for.

Discussion continued on the purchase price excluding the amount of a manufacturer's incentive or discount that reduces the total cost of a motor vehicle to a purchaser.

**Senator Oehlke** moved a Do Not Pass as amended on SB 2184.

**Senator Triplett** seconded.

Roll call vote: 5-2-0

Senator Oehlke will be the carrier.



**FISCAL NOTE**  
**Requested by Legislative Council**  
01/12/2009

Bill/Resolution No.: SB 2184

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>			(\$5,888,000)	(\$512,000)		
<b>Expenditures</b>						
<b>Appropriations</b>						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2184 excludes motor vehicle manufacturers' incentives and discounts from the motor vehicle excise tax.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

If enacted, SB 2184 is expected to reduce motor vehicle excise tax collections by \$6.4 million in the 2009-11 biennium. This estimate is based on new car sales statistics from NDDOT and industry assumptions about average rebates.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Office of Tax Commissioner
<b>Phone Number:</b>	328-3402	<b>Date Prepared:</b>	01/20/2009

February 2, 2009

PROPOSED AMENDMENTS TO SENATE BILL NO. 2184

Page 1, line 10, replace "total cost of a motor vehicle to a purchaser" with "amount paid by the purchaser to the seller at the time of purchase"

Re-number accordingly

Date: 02/02/09

Job #10

Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. :

2184

Senate Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number Moved the Amendment

Action Taken  Do Pass  Do Not Pass  Amended

Motion Made By Oehlke Seconded By Miller

Senators	Yes	No	Senators	Yes	No
Sen. Dwight Cook - Chairman			Sen. Arden Anderson		
Sen. Joe Miller - Vice Chairman			Sen. Jim Dotzenrod		
Sen. David Hogue			Sen. Constance Triplett		
Sen. Dave Oehlke					

All in favor

Total: Yes 7 No 0

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 02/02/09

Roll Call Vote #: 02

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. : 2184

Senate Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number 90537.0101

Action Taken  Do Pass  Do Not Pass  Amended

Motion Made By Senator Oehlke Seconded By Senator Triplett

Senators	Yes	No	Senators	Yes	No
Sen. Dwight Cook - Chairman		✓	Sen. Arden Anderson	✓	
Sen. Joe Miller - Vice Chairman		✓	Sen. Jim Dotzenrod	✓	
Sen. David Hogue	✓		Sen. Constance Triplett	✓	
Sen. Dave Oehlke	✓				

Total: Yes 5 No 2

Absent 0

Floor Assignment Senator Oehlke

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2184: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2184 was placed on the Sixth order on the calendar.

Page 1, line 10, replace "total cost of a motor vehicle to a purchaser" with "amount paid by the purchaser to the seller at the time of purchase"

Renumber accordingly

2009 SENATE APPROPRIATIONS

SB 2184

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2184

Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: February 11, 2009

Recorder Job Number: 9206

Committee Clerk Signature

*Rose Laning*

Minutes:

Chairman Holmberg called the committee hearing to order at 9:30 am in regards to SB 2184 relating to exclusion of motor vehicle manufacturers' incentives or discounts from motor vehicle excise taxes.

**Senator Olafson**, District 10

This bill eliminates taxation on new vehicle sales. I introduced the bill as a matter of principal.

This doesn't constitute the net point of sale price. They are being called incentives and rebates, but they are not.

These transactions are to checks back from manufacturer. A rebate is return of part of payment. This is appropriate way to get money back into hands of people.

**Chairman Holmberg**: So if we focus on the fiscal note – had you thought of reducing the fiscal impact this biennium even though they are unsettled by having implementation date be in the 2<sup>nd</sup> half of biennium.

**Senator Olafson**: Matter of principal so on that basis I have to resist that option.

**Chairman Holmberg**: So you are playing principal card. Reduce revenue by \$5.8 M

**Representative Bigesaw**, District 23 State Representative.

Testified in favor of SB 2184. (Written attached testimony # 1)

**Vice Chair Bowman:** There is no value to that coupon because it's what you actually pay. If you have \$100,000 car, it's no good if no one buys it. We tax on highest value, the real value is what should be taxed.

**Representative Bigesaw:** State taxes proceeds because it goes to the dealer. Consumer pays excise tax.

**Matthew Larsgaard,** Automobile Dealers Association of North Dakota

Testified in favor of SB 2184. (Written attached testimony # 2)

**Senator Warner:** Does dealer pay tax which is not reflected on fiscal note.

**Representative Bigesaw:** We receive total income and we pay tax on total profit.

**Senator Warner:** Tax that's not reflected.

**Vice Chair Bowman** The customer saves \$5,000 rebate and spends on something else. How do we lose money on this fiscal note, if this money is reinvested?

**Matthew Larsgaard:** Agree

**Chairman Holmberg** Isn't it a leap of faith to say that they have the money? What if they don't actually have the money?

**Vice Chair Bowman** I agree with part of what you say.

**Wayne Wall** sells trailers and used cars.

Testified in favor of SB 2184. (No written testimony)

Taking taxes off of rebates and never got actual money. Give me actual price and I had to pay sales tax on \$4,000 dollars he never saw. How can we justify losing this money? North Dakota has more money than most. This is part of our country's stimulus plan. \$80,000,000 in surplus, let's not plan on how to give it back to the public, let's not take it to start with. Let's not tax something they didn't get.



If you go and buy a pop, you pay sales tax on what you buy, not what it's supposed to cost.

One way to not taking people's money. I was not at the committee hearing on the tax holiday on buying new vehicles. The state can afford to give up tax on these incentives. If you don't enact as soon as possible, the average buyer will delay. Why buy in 1<sup>st</sup> quarter if people can buy new in 4<sup>th</sup> quarter. Ask them to give back for once.

**Chairman Holmberg** closed the hearing on SB 2184

**Vice Chair Grindberg** moved Do Not Pass.

No seconded.

Dies for lack of 2<sup>nd</sup>.

**Senator Krebsbach** moved Do Pass. 2184.

Discussion

**Senator Christmann:** I feel it needs to be changed. No fault of dealers. Voted against some things because I don't know if we can pay for it. Here's another \$5,000,000-6,000,000 that we're shorting ourselves based on what government budgeted. Delay to middle or end of biennium.

**Senator Lindaas:** Events occurring June 30.

**Senator Mathern:** Government budget. Does anyone know if proposal considered in developing OMB budget.

**Joe Mor:** It was not projected. And no one asked.

**Vice Chair Grindberg:** We have to make decision. I'm uncertain where are we going in tax policy and tax credits. And meeting demands federally. We sit here and don't see big picture.

My constituents want property tax relief. What are we getting out of end of this? Citizens want honest tax relief. Where is it going to connect? Stimulus has incentives. So I'm not

Aye 10 Nay 4 Absent 0

Date: 2-11-09

Roll Call Vote # 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. \_\_\_\_\_

Senate \_\_\_\_\_ **Senate Appropriations** \_\_\_\_\_ Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  Do Pass  Do Not Pass  Amended

Motion Made By Sen. Grindberg Seconded By None

Senators	Yes	No	Senators	Yes	No
Sen. Ray Holmberg, Chairman			Sen. Aaron Krauter		
Sen. Bill Bowman, VCh			Sen. Elroy N. Lindaas		
Sen. Tony S. Grindberg, VCh			Sen. Tim Mathern		
Sen. Randel Christmann			Sen. Larry J. Robinson		
Sen. Tom Fischer			Sen. Tom Seymour		
Sen. Ralph Kilzer			Sen. John Warner		
Sen. Karen K. Krebsbach					
Sen. Rich Wardner					

Total Yes \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

*dies*

Date: 2-11-09  
Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2184

Senate \_\_\_\_\_ Committee \_\_\_\_\_

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By \_\_\_\_\_ Seconded By \_\_\_\_\_

Representatives	Yes	No	Representatives	Yes	No
Senator Wardner	✓		Senator Robinson	✓	
Senator Fischer	✓		Senator Lindaas	✓	
V. Chair Bowman	✓		Senator Warner	✓	
Senator Krebsbach	✓		Senator Krauter	✓	
Senator Christmann	✓		Senator Seymour	✓	
Chairman Holmberg		✓	Senator Mathern		✓
Senator Kilzer		✓			
V. Chair Grindberg		✓			

Total Yes 8 10 No 4

Absent 2

Floor Assignment Finance + Tax

If the vote is on an amendment, briefly indicate intent:

*Like*

**REPORT OF STANDING COMMITTEE**

SB 2184, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2184 was placed on the Eleventh order on the calendar.

2009 HOUSE FINANCE AND TAXATION

SB 2184

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2184**

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: March 3, 2009

Recorder Job Number: 10022

Committee Clerk Signature

Minutes:

**Chairman Belter:** We will open the hearing on SB 2184. Senator, you are on.

**Senator Olafson: (Testimony 1) (4:24-8:22)** There are others who will provide more expert testimony and who probably understand the issue in greater depth than I do. I know you are going to hear testimony about how two North Dakota citizens can buy the very same vehicle and be charged different rates of taxation. That is kind of a silly and convoluted process and there is another good reason to pass the bill. With that, I will stand for any question.

**Vice Chairman Drovdal:** Any questions? I like your bill. In fact, the House liked the bill. The House passed it two years ago. What took the Senate so long?

**Senator Olafson:** That is an excellent question and I wish I had the answer to that. There were people who voted against it last time who are strongly supportive this time. We did pass it by a very strong margin—40 to 6, I think it was in the end. It just took awhile for us to come around to your way of thinking.

**Senator Krauter:** I am here to support SB 2184 as a co-sponsor. I am one of those converted individuals who last session looked at the budget and said when prioritizing things; this was one of the items that was below that line. At this time seeing that we have the money, we have got the revenues and this is one of those issues that I think whose time has come.

What I am going to do as far as my testimony is just pass around this advertisement you see in the newspaper a lot. It just tells me when I look at it that there are those incentives out there and when you add up the tax on it, it puts it on a large amount. Early on I had contacted Representative Vigesaa and Senator Olafson and said, "I have a bill draft; you have one too. Let's get together and try to get this figured out." It is a concept that I think we have all along said we didn't believe we should be paying the tax; but since it is in the tax structure, we are going to leave it. Now is the time when we have the revenues to take care of it and move it on. I think Senator Olafson gave you the scenarios of paying tax on something you tangibly did not have at one time, that difference in there, and that is the reason I think this is a very good issue we need to pass this session. Yes, the Senate has seen the light. With that, I am going to go back to appropriations to make sure the money is there to pay for this.

**Vice Chairman Drovdal:** Any other questions?

**Representative Headland:** There are a bunch of other ideas that we have sent over there that we would like you to.....

**Senator Krauter:** Point well taken.

**Representative Don Vigesaa: (Testimony 2) (11:35-17:00)**

**Representative Weiler:** Is it simply the current language on page 1, line 7 that says "purchase price means the total amount paid for a motor vehicle whether received in money or otherwise", is that what the Tax Department construes as we have to charge them excise tax?

**Representative Vigesaa:** It is my understanding that the Tax Department has taken the position that they feel that should charge the excise tax on the total purchase, which does include the....the dealer gets that incentive money so they are charging on the total proceeds.

But I would also then tell you that with the employee price scenario, the dealer also gets more



than \$44,150 because the dealer receives a percentage of the invoice. My actual total proceeds are higher than \$44,150, but yet we are only charging it on the \$44,150.

**Representative Weiler:** Is the fact that consumers are paying this tax; is this widely known among consumers? Have you ever had anybody come in and complain about it?

**Representative Vigesaa:** Often.

**Representative Weiler:** Earlier in the first half of the session, we had a bill that was going to give some kind of a break for the big three and it caused a problem. In fact, the representatives from the automobile dealers came here and said, "We are neutral; but whatever you do, do it fast because people are hearing about this and they are waiting." If you think that this is something that some people might say, "If I'm not going to have to pay that in August, I will wait." What I am getting at is do we want to put an emergency clause in here?

**Representative Vigesaa:** I have that in my notes to mention that before I conclude. That is certainly up to the committee; but on a large \$50,000 vehicle, there may be some people who would wait to make the purchase. That would be harmful particularly when I can speak from experience on this one. Auto dealers right now are struggling and anything that would delay a purchase in their eyes would be a negative.

**Representative Froseth:** Just for information, the effective date is June 30, 2009 so even with the emergency clause, it would probably only make a one month difference.

**Representative Vigesaa:** That is true. However, when you have a date certain when something takes effect, people are going to wait. If we have an emergency clause on there, people aren't going to know when it is necessarily signed into law and it is probably not going to be a fact in their decision.

**Representative Weiler:** I guess I just have to question. You said it would only save a month. If we put an emergency clause on it and it passes the House on Thursday and the Governor signs it, it is law. Correct?

**Vice Chairman Drovdal:** It has to go back to the Senate and they have to approve it and then send it to the Governor's office and he will sign it.

**Representative Weiler:** We could put this on the fast track. We have been known to do that a time or two this session.

**Representative Vigesaa:** I might add and maybe the Tax Department will testify, but in the Senate hearing, the Tax Department was asked if this would cause them any problems as far as administration of this type of enactment and they indicated that it would not.

**Vice Chairman Drovdal:** We have total faith in our Tax Department. Any other questions for the Representative? Any other testimony in favor of 2184?

**Matthew Larsgaard, Automobile Dealers Association of ND: (Testimony 3) (21:24-23:29)**

**Representative Pinkerton:** If somebody currently went over to Moorhead and purchased a vehicle and over there the price wouldn't (?) include the rebate and they came back into ND, they wouldn't be taxed on the rebate, would they?

**Representative Vigesaa:** If a ND resident purchases a vehicle in Minnesota and realizes a rebate from that dealership in Minnesota and they bring that vehicle in and title and register it in ND, in current law they would have to pay tax on that refund.

**Sandy Clark, ND Farm Bureau:** We stand today in support of SB 2184 and we want to thank Senator Olafson for his little plug of advertising for Farm Bureau's vehicle incentive program.

We do have policy on this. Our members don't believe that we should pay excise tax on dollars we didn't pay in the first place. I know you have been faced this session with a lot of

exemption bills, tax credits and that sort of thing; but that is not what this kind of a bill is. We think that this is something that should have happened in the first place. I just want to conclude by reading our policy verbatim. It says we oppose charging the motor vehicle excise tax on the gross value of the vehicle purchased and recommend the excise tax be applied after any rebates are deducted. I would stand for any questions you might have.

**Representative Froseth:** How do you determine who is going to get a rebate from Farm Bureau for the purchase of a vehicle, by the amount of years they have been a member?

**Sandy Clark:** We have a very good processing system. A member of Farm Bureau has to call our office and verify their membership, and then they are issued a certificate for the rebate.

**Representative Froseth:** Just be a member in good standing.

**Sandy Clark:** Representative Froseth started the ad campaign so...

**Vice Chairman Drovdal:** It will still be on your tab. Any further testimony of SB 2184? Opposition to 2184? Any neutral testimony on 2184? Seeing none, I will close the hearing on SB 2184.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2184**

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: March 3, 2009

Recorder Job Number: 10026

Committee Clerk Signature



Minutes:

**Representative Weiler:** I checked with Representative Vigesaa about putting the emergency clause on this and he doesn't wish to do that because apparently Senator Holmberg has a real big issue with that because it will cost him an additional \$500,000. I asked Representative Vigesaa if he wanted to take a chance and send it back over or not and he said no. If you want to pass it now, you can.

**Chairman Belter:** I have a motion for a "do pass" on **SB 2184** from **Representative Headland** and a **second from Representative Drovdal**. Any discussion?

**Representative Wrangham:** This is a fairness issue in taxation on motor vehicles so I think my comments are a little bit relevant even though they don't deal directly with the bill. There is another unfair thing in taxation with automobiles that has long been a problem for me. That is if I buy a vehicle for \$30,000 and I trade in my three-year old vehicle and get a \$15,000 trade-in value, I pay sales tax on \$15,000. However, if I buy that same \$30,000 vehicle and I sell my old vehicle for \$15,000 to my neighbor, I pay tax on the full \$30,000. I just want to remind the committee that some day we should take a look at another fairness issue as long as we are dealing with this one. Thank you for allowing me to bring it up. I feel better.

**Chairman Belter:** Any other discussion? If not, will the clerk read the roll for a “**do pass and rerefer to Appropriations**” on **SB 2184**. A roll call vote resulted in **13 ayes, 0 nays, and 0 absent/not voting**. **Representative Headland will carry the bill.**

Date: March 3, 2009

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2184

House FINANCE AND TAXATION Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  Do Pass  Do Not Pass  Amended

Motion Made By Headland Seconded By Drovdal

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	/		Representative Froelich	/	
Vice Chairman David Drovdal	/		Representative Kelsh	/	
Representative Brandenburg	/		Representative Pinkerton	/	
Representative Froseth	/		Representative Schmidt	/	
Representative Grande	/		Representative Winrich	/	
Representative Headland	/				
Representative Weiler	/				
Representative Wrangham	/				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Representative Headland

If the vote is on an amendment, briefly indicate intent: Refer to Approv

**REPORT OF STANDING COMMITTEE**

**SB 2184, as engrossed: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2184 was placed on the Fourteenth order on the calendar.**

2009 HOUSE APPROPRIATIONS

SB 2184



## 2009 HOUSE STANDING COMMITTEE MINUTES

SB 2184

House Appropriations Committee

Check here for Conference Committee

Hearing Date: March 9, 2009

Recorder Job Number: 10507

Committee Clerk Signature	<i>Holly N. Sand</i>
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Minutes:

**Chm. Svedjan** turned the discussion to SB 2184. This bill has to do with the exclusion of motor vehicle manufacturer's incentives and discounts from the motor vehicle excise tax.

**Rep. Headland:** The Finance FTX feels it is unfair to charge a tax on something that is not paid. For those reasons we passed this legislation. The Fiscal Note shows General Fund dollars and Special Fund dollars that I believe are Highway Distribution Fund dollars. (:27)

**Chm. Svedjan:** With regard to the Fiscal Note, \$5.888 million is the impact. It's the reduction of revenue to the General Fund. If you would look at the budget status report that came out last Friday, it shows exactly one half of that amount because this bill has a relationship to HB 1407. (1:05)

**Rep. Headland:** You are probably right. Chm. Belter did talk to me about that but I did not have time to check on that.

**Chm. Svedjan:** If HB 1407 were to fail, then the Fiscal Note on this would be shown on the budget status report as \$5.888 million. If HB 1407 passes, the impact of this is half the amount. This is a bill that passed the House floor last session and takes away the taxation on any dealer incentives that are provided as part of the purchase of a new vehicle.

**Rep. Delzer:** Then the other half of this would be a hit on the Highway Distribution Fund. (2:41)

**Chm. Svedjan:** That's right.

**Rep. Don Vigesaa, District 23** approached the podium and distributed testimony (Attachment A). This was introduced two years ago and it did pass the House. It does seek to exempt excise tax on the incentives that are provided to a customer. If you negotiate a price with the dealer for \$30,000, for example, and there's a \$5,000 manufacturer's incentive, the customer writes the check for \$25,000, I have to charge tax on the \$30,000. It doesn't sit very well with the consumer. A new incentive called "Employee Pricing" has come forward in the last two years. On an employee price we charge the excise tax on that price. Whatever the employee price it, that's what the consumer pays the tax on. There's an example in my testimony of how customers are being treated differently under the current set up. Manufacturers consider that the purchase price is following the incentive. I have from Chrysler's Consumer and Dealer Incentive Program rule book, "The total consumer incentive payment must be clearly shown as a line item reduction in the calculation of the purchase price." So in the manufacturer's eyes, the purchase price is the amount after the incentives have been deducted. To further complicate things, we have a current program where you can get the employee pricing and the factory incentives. It's very inequitable to the consumer. (3:15)

**Chm. Svedjan:** SB 2184 would make it equitable under all of those scenarios. (6:17)

**Rep. Vigesaa:** Absolutely. What the consumer writes the check for is what the excise tax would be charged on.

**Rep. Wald:** If I buy a car from you and it costs \$30,000 new and you give me \$15,000 for my trade in. I take my own paperwork to Motor Vehicle and say, "I owe you tax on \$15,000." Can I do that? (6:36)

**Rep. Vigesaa:** The \$15,000, is that before or after the incentive?

**Rep. Wald:** I don't know. I'm asking you.

**Chm. Svedjan:** You would need to know that though under today's situation.

**Rep. Vigesaa:** Let's say that Rep. Wald did not have a trade in. He purchased that vehicle for \$25,000 – wrote me a check for \$25,000 – takes the paperwork into the Motor Vehicle branch office and they would ask for tax on \$30,000, because there was a \$5,000 manufacturer's incentive.

**Rep. Wald:** You mean if I show them my check of what I paid . . .

**Rep. Vigesaa:** You would pay tax on the amount you paid plus any manufacturer's incentive.

**Chm. Svedjan:** So you would pay tax on what you didn't pay.

**Rep. Vigesaa:** That's correct. This used to not be an issue because when incentives were first introduced, you had a choice. The consumer could either subtract the incentive from the purchases price or pay the full amount and get a check back. In recent years, they have eliminated that option. The dealer must subtract the incentive to determine the final purchase price. North Dakota charges the excise tax on the total before the incentives deduct. Twenty plus states do not count the incentives as part of the purchase price. The incentives have gotten to be such a large amount the consumer notices the difference in the tax.

**Rep. Wald:** Maybe we should put an Emergency Clause on this and spur a little activity here in North Dakota?

**Rep. Vigesaa:** We considered that very strongly. However, the consumers want this legislation to pass. It has already passed the Senate. We didn't feel that we wanted to send it back over there. This could set up a situation where if the consumer finds out this will take effect on a date certain we might have some people waiting. I'll take them in the following month.

**Rep. Wald moved a Do Pass. Rep. Thoreson seconded the motion. The motion carried by a roll call vote of 23 yeas, 0 nays and 2 absent and not voting. Rep. Headland will carry the bill.**

Day 42

Date: 3/1/09  
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2184

Full House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Weed Seconded By Howen

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	—				
Rep. Skarphol	✓		Rep. Kroeber	✓	
Rep. Wald	✓		Rep. Onstad	✓	
Rep. Hawken	✓		Rep. Williams	✓	
Rep. Klein	✓				
Rep. Martinson	✓				
Rep. Delzer	✓		Rep. Glassheim	✓	
Rep. Thoreson	✓		Rep. Kaldor	✓	
Rep. Berg	✓		Rep. Meyer	✓	
Rep. Dosch	✓				
Rep. Pollert	✓		Rep. Ekstrom	✓	
Rep. Bellew	✓		Rep. Kerzman	✓	
Rep. Kreidt	—		Rep. Metcalf	✓	
Rep. Nelson	✓				
Rep. Wieland	✓				

Total (Yes) 23 No 0

Absent 2

Floor Assignment Headland

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)  
March 10, 2009 9:21 a.m.

Module No: HR-42-4416  
Carrier: Headland  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

SB 2184, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **DO PASS** (23 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2184 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

SB 2184

02/02/09 Job# 8  
830e

#1  
**PROPOSED AMENDMENT TO SENATE BILL 2184**

*Prepared and proposed by the North Dakota Office of State Tax Commissioner  
February 2, 2009*

Page 1, line 10, replace "total cost of a motor vehicle to a purchaser" with "amount paid  
by the purchaser to the seller at the time of purchase"

Renumber accordingly



#1

Senate Bill 2184

Testimony of Senator Curtis Olafson

I am introducing Senate Bill 2184 for two reasons:

1. Sales tax on vehicles ought to be calculated based on the net point-of-sale price. I believe that it is a matter of principle that you should not be taxed for any part of a purchase that is not factored into the net price.
2. Eliminating the taxation of manufacturer and dealer incentives and discounts would be a good and simple way to lower the tax burden on our citizens and stimulate the economy.

I looked up the definition of "rebate" in Webster's online dictionary. When used as a noun, "rebate" means "a return of a part of a payment." In past years, vehicle sales often included "rebates" and the process was often handled by the purchaser writing a check and then they would receive a check back from the manufacturer. If a transaction is handled in that manner or by use of coupons for example, then I would accept that an argument could be made that the rebate portion of the transaction should be taxed. It is my understanding that the manufacturer and dealer incentives offered today are never handled in that manner. They are deducted from the negotiated price before the consumer pays the net purchase price. Therefore, I would suggest that it is a misnomer to call these discounts a "rebate."

I ask for your do-pass recommendation on Senate Bill 2184.

*Same  
given to  
House*

This is not an invoice. The prices shown are for information purposes only and are subject to change or correction without prior notice.

Printed: March 11, 2008 16:00

VIN:

VON: 21577508

Estimated Ship Date:

Order Status: BA

Quantity: 01

Ordered: March 11, 2008 15:59

Ordered By: S79297B

Sold 43934 D & B MOTORS INCORPORATED  
to: 702 9TH AVENUE E  
LANGDON, ND 582492934

Ship 43934 D & B MOTORS INCORPORATED  
to: 702 9TH AVENUE E  
LANGDON, ND 582492934

D18H42                    2008 Dodge Ram 3500 SLT    (160.5 in WB 8 ft Box)

	Equipment	Description	MSRP
Model:	D18H42	Dodge Ram 3500 SLT (160.5 in WB 8 ft Box)	37,075
Package:	2FG	Customer Preferred Package 2FG	0
	ETJ	6.7L Cummins Turbo Diesel Engine	6,100
	DG7	6-Spd Automatic 68RFE Transmission	1,575
Color:	PW7	Bright White Clear Coat	0
	APA	Monotone Paint	0
	*M9	Cloth 40/20/40 Prem Bench Seat	0
	-D5	Med Slate Gray	0
Options:	NHK	Engine Block Heater	90
	GPG	Power Trailer Tow Mirrors, Fold-Away	100
	DSA	Anti-Spin Differential Rear Axle	325
	ALW	Popular Equipment Group	1,225
	AHC	Trailer Tow Group	275
	ADB	Protection Group	45
	XJL	Front Hood Protection Shield	100
	TP9	LT235/80R17E Owl On/Off Rd Tires	200
	4EA	Sold Vehicle	0
Discounts:	3A1	BLUETEC Diesel System	995
	YG4	5.5 Additional Gallons of Diesel	0
	NAS	50 State Emissions	0
Funds:	T24	MINNEAPOLIS OUTSTATE - DAA	0
	A24	MINNEAPOLIS OUTSTATE - PPA	0
	YDH	Customer One Owner Loyalty Mailing	0
Destination:			900

Total Price(USD):

49,005

2192

Customer Name: OLAFSON BROS  
Address: 13043 84TH ST NE  
EDINBURG  
ND 58227, USA  
Order Type: Retail  
Instructions:

*Customer Copy*

This is not an invoice. The prices shown are for information purposes only and are subject to change or correction without prior notice.

RETAIL BUYER'S ORDER

**D & B Motors, Inc.**  
 702 Ninth Avenue East • Langdon, ND 58249-2934  
 701-256-5331 • 1-800-950-0276

ORDER  QUOTATION

DEALER: **OLAFSON BROTHERS**  
 BUYER: \_\_\_\_\_  
 STREET ADDRESS: **13043 64TH ST NE**  
 CITY, STATE, COUNTY, ZIP: **EDINBURG, ND 58227**  
 CUSTOMER E-MAIL ADDRESS: \_\_\_\_\_

ORDER DATE: \_\_\_\_\_  
 SALESMAN: **OLSON, PAUL**  
 DELIVERY DATE: **03/11/2008**  
 RESIDENCE PHONE: **(701) 993-8240**  
 BUSINESS PHONE: **(701) 265-2356**  
 DOB: \_\_\_\_\_

PLEASE ENTER MY ORDER FOR ONE  NEW  USED AS FOLLOWS:

YEAR	MAKE	MODEL	TYPE	COLOR	LICENSE NO. APP. FOR
2008	DODGE	W3500 4X4 PICKUP	QUAD CAB DUALL	WHITE	
SERIAL NO.	INTERIOR	STOCK NO.	DELIVER ON OR ABOUT	STATE	ND
ORDER # 21577508 Copy of order attached			CASH PRICE	44500.00	
			OPTIONS	N/A	
			TOTAL	44500.00	
LIENHOLDER:			TRADE ALLOWANCE	N/A	
			CASH DIFFERENCE	44500.00	
			MOTOR VEHICLE EXCISE TAX	2225.00	
			LICENSE AND TITLE FEES	214.50	
BALANCE OWED ON TRADE			DOCUMENTATION FEE	25.00	
TO:			TOTAL DELIVERED PRICE	46964.50	
WARRANTY: (*) New Car - Mfg. Warranty ( ) As Is.			AMOUNT OWED ON TRADE	N/A	
			SERVICE CONTRACT	N/A	
			CASH DOWN PAYMENT	1000.00	
			REBATE	5000.00	
			REBATE	N/A	
			TOTAL DOWN PAYMENT	5100.00	
			AMOUNT DUE ON DELIVERY	41864.50	
DISCLAIMER OF WARRANTIES			Information On Trade-In	Used Vehicle No.	
FACTORY WARRANTY: Any warranty on any new vehicle or used vehicle still subject to manufacturer's warranty is that made by the manufacturer only. The seller hereby disclaims all warranties, either expressed or implied, including any implied warranty of merchantability or fitness for a particular purpose.			Make	Year	Model
USED VEHICLE WHETHER OR NOT SUBJECT TO MANUFACTURER'S WARRANTY:			Serial No.		
Unless a separate written instrument showing the terms of any dealer warranty or service contract is furnished by dealer to buyer, this vehicle is sold "as is-not expressly warranted or guaranteed", and the seller hereby disclaims all warranties, either expressed or implied, including any implied warranty of merchantability or fitness for a particular purpose.			Remarks	Color	
Purchaser shall not be entitled to recover from dealer any consequential damages, damages to property, damages for loss of use, loss of time, loss of profits, or income, or any other incidental damages.					
Date	Buyer's Signature				

The front and back of this order comprise the entire agreement affecting this purchase and no other agreement or understanding of any nature concerning same has been made or entered into, or will be recognized. I hereby certify that no credit has been extended to me for the purchase of this motor vehicle except as appears in writing on the face of this agreement. I have read the matter printed on the back hereof and agree to it as part of this order the same as if it were printed above my signature. I certify that I am 18 years of age, or older, and hereby acknowledge receipt of a copy of this order.

**THE TERMS OF THIS CONTRACT OF SALE WERE AGREED UPON AND THE CONTRACT SIGNED IN THIS DEALERSHIP ON THE DATE NOTED AT TOP OF THIS FORM. IF CREDIT IS INVOLVED, THIS ORDER IS NOT VALID IN CONJUNCTION WITH A CREDIT SALE UNTIL A CREDIT DISCLOSURE IS MADE AS DESCRIBED IN REGULATION "Z".**

APPROVED \_\_\_\_\_  
 THIS ORDER IS NOT VALID UNLESS SIGNED AND ACCEPTED BY DEALER OR AUTHORIZED REPRESENTATIVE.

SIGNED \_\_\_\_\_ BUYER

**ODOMETER DISCLOSURE STATEMENT**  
 Trade in Vehicle (Non-Lease)

Federal law (and State law, if applicable) requires that you state the mileage upon transfer of ownership. Failure to complete or providing a false statement may result in fines and/or imprisonment.

I, \_\_\_\_\_ state that the odometer now reads \_\_\_\_\_ (no tenths) miles and to the best of my knowledge that it reflects the actual mileage of the vehicle described below, unless one of the following statements is checked.

- (1) I hereby certify that to the best of my knowledge the odometer reading reflects the amount of mileage in excess of its mechanical limits.
- (2) I hereby certify that the odometer reading is NOT the actual mileage.
- WARNING - ODOMETER DISCREPANCY**

MAKE \_\_\_\_\_  
 MODEL \_\_\_\_\_ Body Type \_\_\_\_\_

**ODOMETER DISCLOSURE STATEMENT**  
 Vehicle Sold (Non-Lease)

Federal law (and State law, if applicable) requires that you state the mileage upon transfer of ownership. Failure to complete or providing a false statement may result in fines and/or imprisonment.

I, **D&B MOTORS** state that the odometer now reads \_\_\_\_\_ (no tenths) miles and to the best of my knowledge that it reflects the actual mileage of the vehicle described below, unless one of the following statements is checked.

- (1) I hereby certify that to the best of my knowledge the odometer reading reflects the amount of mileage in excess of its mechanical limits.
- (2) I hereby certify that the odometer reading is NOT the actual mileage.
- WARNING - ODOMETER DISCREPANCY**

MAKE **DODGE**  
 MODEL **W3500 4X4 PI** Body Type **QUAD CAB DUA**

*Same testimony + handouts given to Senate Group.*

# 2  
SB 2184

GOOD MORNING CHAIRMAN COOK AND MEMBERS OF THE SENATE FINANCE AND TAX COMMITTEE. I AM REPRESENTATIVE DON VIGESAA AND I REPRESENT DISTRICT 23 IN EAST CENTRAL NORTH DAKOTA. I AM PLEASD TO PROVIDE TESTIMONY FOR SB 2184.

I AM AN AUTOMOBILE DEALER IN COOPERSTOWN, NORTH DAKOTA. MY DEALERSHIP, V-W MOTORS, INC. , IS A FRANCHISED CHRYSLER, DODGE, AND JEEP DEALER AND HAS BEEN IN OPERATION FOR NEARLY 49 YEARS.

SB 2184 SEEKS TO EXEMPT FACTORY INCENTIVES FROM MOTOR VEHICLE EXCISE TAX ON NEW VEHICLE SALES. WHEN FACTORY INCENTIVES WERE FIRST INTRODUCED BY MANUFACTURERS, THE PURCHASER COULD CHOOSE BETWEEN HAVING THE PRICE REDUCED BY THE INCENTIVE OR RECEIVE A CHECK PAYMENT AS A REBATE. FOR THE PAST SEVERAL YEARS, THIS HAS NO LONGER BEEN AN OPTION. THE INCENTIVE MUST NOW BE SUBTRACTED FROM THE SELLING PRICE YIELDING A PURCHASE PRICE THE CUSTOMER PAYS FOR THE VEHICLE. IN SOME CASES, THESE INCENTIVES HAVE TOTALED AS HIGH AS \$10,000.00 ON A SINGLE VEHICLE. IN THIS EXAMPLE, A CONSUMER PAYS AN ADDITIONAL \$500.00 IN EXCISE TAX OVER WHAT THE TAX WOULD BE ON THE NET PURCHASE PRICE. I BELIEVE THE CONSUMER SHOULD PAY EXCISE TAX ON WHAT HE OR SHE WRITES THE CHECK FOR WHEN PURCHASING A VEHICLE.

IN ADDITION, THERE ARE NOW FACTORY INCENTIVES THAT THE CONSUMER DOES NOT PAY EXCISE TAX ON. THESE INCLUDE INCENTIVES SUCH AS EMPLOYEE PRICING AND DEALER CASH. MY ILLUSTRATIONS WILL PROVE THE INCONSISTENCIES IN HOW EXCISE TAX IS LEVIED ON PURCHASERS OF NEW VEHICLES.

I REALIZE THERE IS A SIGNIFICANT FISCAL IMPACT IF THIS LEGISLATION IS ENACTED. HOWEVER, I BELIEVE IT IS NOT FAIR TO CHARGE THE CONSUMER MORE TAX THAN WHAT IS DUE ON THE AMOUNT THEY PAY FOR A VEHICLE.

AGAIN, I URGE THIS COMMITTEE TO GIVE SB 2184 A "DO PASS" RECOMMENDATION.

2339

CHRYSLER MOTORS LLC INVOICE

547-A

PLANT ZONE DEALER VEHICLE ID NUMBER INVOICE NO. INVOICE DT.  
 SALTILLO 74 61526 3D7KS28L69G527696 9-DH7-22532906 12/31/08

SHIP V-W MOTORS INC

TO: PO BOX 10  
 COOPERSTOWN

ND 58425-

IGN KEY M1082

TRK KEY

ACC KEY 3368

8475-01-C931

SOLD V-W MOTORS INC

TO: PO BOX 10  
 COOPERSTOWN

ND 58425-

SHIPPING WT. 7013

PAID FOR BY: CHRYSLER FINANCIAL CORPORATION

SAE HP 46.0

CREDIT SALE XX CASH SALE

000-222222-00

BODY & EQUIP.	DESCRIPTION	FACTORY WHOLESALE PRICE
DH7P42	DODGE RAM 2500 LARAMIE QUAD CAB 4X4	36,605.00
PW7	Bright White Clear Coat Paint	
VLD5	Leather Trim 40/20/40 Bench Seat	NO CHARGE
ADB	Protection Group	40.00
AHC	Trailer Tow Group	242.00
DG7	6-Speed Automatic Transmission	356.00
DSA	Anti-Spin Differential Rear Axle	286.00
ETJ	6.7L Cummins(R) Turbo Diesel Engine	5,368.00
GPG	Fold-Away Power Trailer Tow Mirrors	88.00
NAS	50 State Emissions	
NHK	Engine Block Heater	9.00
RAQ	AM/FM CD 6-Disc MP3 Radio	264.00
TT5	LT265/70R17E OWL On/Off Road Tires	176.00
YDH	Chrysler Owner Loyalty Mail	25.00
YG4	5.5 Additional Gallons of Diesel	21.00
2FH	Customer Preferred Package 2FH	163.00
2TH	H Package	
3A1	BLUETEC Ultra-Clean Diesel System	1,024.00
39L	Includes Full Tank of Fuel	NO CHARGE
A24	MINNEAPOLIS OUTSTATE - PPA	160.00
T24	MINNEAPOLIS OUTSTATE DAA	365.00
290	DESTINATION CHARGE	950.00
	HB151700	

MDH # 120513  
 EP 44150  
 PP 45680

*Same Given to Hawk*

MSRP RETAIL TOTAL 51,530.00 TOTAL 46,142.00  
 ORIGINAL INVOICE

THIS VEHICLE IS MANUFACTURED TO MEET SPECIFIC UNITED STATES REQUIREMENTS. THIS VEHICLE IS NOT MANUFACTURED FOR SALE OR REGISTRATION OUTSIDE THE UNITED STATES.

CUSTOMER A: QUALIFIES FOR EMPLOYEE PRICING

EMPLOYEE PRICE IS THE PURCHASE PRICE

EMPLOYEE PRICE: \$44150.00

EXCISE TAX DUE: \$2207.50

CUSTOMER B: DOES NOT QUALIFY FOR EMPLOYEE PRICING BUT IS  
ELIGIBLE FOR CONSUMER CASH FACTORY INCENTIVE

NEGOTIATED PRICE: \$47150.00

INCENTIVE AMOUNT: \$3000.00

PURCHASE PRICE: \$44150.00

EXCISE TAX DUE: \$2357.50

*Same to  
House*

# CONSUMER AND DEALER INCENTIVE PROGRAMS

Leases through Fleet Leasing Companies that have a Fleet Account Number (FAN) may be eligible for retail lease incentives (see Fleet Official Program Rules); however, they must be reported as a Fleet Type Sale 5 or 6.

## **B) Special APR Financing**

Special APR retail financing is available exclusively through designated lenders and participating dealers to qualified purchasers of eligible vehicles. The special APR financing available for a retail sale is not available for lease or CF Plus.

## **INCENTIVE PAYMENT**

Consumer Incentive Programs are designed to have the incentive benefit passed directly to the final consumer. Dealers must file claims through the Incentive Claim Entry Screen where applicable. Claims will be paid to the dealer and processed on a continuing basis, unless payment is required to be made to a third party pursuant to an assignment.

The total consumer incentive payment must be clearly shown as a line item reduction in the calculation of the purchase price on the signed FINAL buyer's order/purchase contract or, if a lease, on the signed FINAL lease contract on the "Rebates and Non-Cash Credits" line. This computation must be done at the time of sale or lease and must be identified on the buyer's order or purchase contract as a sales incentive/rebate.

Dealers are solely responsible for the complete and accurate reporting of their retail sales and claims for payment. Any payment by DaimlerChrysler resulting from inaccurate reporting of vehicle sales and/or incentive payment claims will be charged back to the dealership.

## **SALES REPORTING AND INCENTIVE CLAIMS**

The NVDR is input via "DealerCONNECT > Sales > Sales Reporting > Time of Sale Reporting" screens. This system is used to report sales. Incentives are claimed via "DealerCONNECT > Sales > Sales Reporting > Incentives Claims Processing" screens.

Sales must be transmitted to DaimlerChrysler within two (2) working days following the vehicle delivery.

Sale and customer information must be reported accurately. NVDR submissions with incorrect customer information are subject to a \$500 surcharge per incident.

### **90-DAY INCENTIVE CLAIM POLICY**

#### **Incentive Program Claim Submission**

All claims for incentives must be submitted electronically to DaimlerChrysler within ninety (90) days following the NVDR delivery date. Electronic claims submitted ninety-one (91) days or more after the NVDR delivery date will receive an ineligible code **and will not be paid.**

#3

TESTIMONY  
SENATE BILL 2184  
SENATE FINANCE AND TAXATION  
JANUARY 21, 2009

Mr. Chairman and members of the committee. My name is Matthew Larsgaard and I am appearing before you today in support of Senate Bill 2184 on behalf of the Automobile Dealers Association of North Dakota which consists of approximately 100 franchised new car dealers in our state.

This purpose of this bill is simple. It defines the "purchase price" of a motor vehicle as the actual amount a customer pays for a vehicle after the manufacturer has reduced the purchase price through an incentive or discount.

A manufacturer's discount is essentially a price cut made by the manufacturer that reduces the real purchase price of a motor vehicle. The purpose is to create an incentive for a consumer to purchase the manufacturer's vehicle from a dealer.

Many states tax vehicle sales using the same principles that they often employ with other durable goods. If the store cuts the price, either directly or as a result of a lower price from the manufacturer, the sales tax is computed on the actual price the customer pays. The discount is subtracted at the cash register before the tax is computed.

Again, there are a number of states that tax vehicles the same way. If the price of a vehicle is lowered by the manufacturer through an incentive or discount, or if the customer negotiates a lower price with the dealer, the tax is computed on the actual amount of the transaction: which is the true sales price.

For example, in Minnesota if a motor vehicle dealer sells a vehicle to a customer and applies a manufacturer's rebate to reduce the sales price at the time of the sale, such a rebate is treated as a cash discount and excluded from the sales price subject to tax.

Our dealers are in the unenviable position of trying to explain to customers why they must pay tax on money they never spent. For example, a rancher agrees to purchase a new GMC Sierra pickup truck for \$20,000. Even though that truck lists for \$30,000, you may see on my handout that current manufacturer discounts reduce the price of that truck by \$10,000, making it a \$20,000 purchase. In this instance that rancher will be taxed on 150% of the actual purchase price of that vehicle.

Over the past many years there has been a change in how some motor vehicle manufacturers deliver vehicle sales incentives. Years ago they would collect the purchase price of the vehicle and then send the customer a check for the amount of the refund. This is a rebate in that the allowance afforded the customer takes place after the sale. Manufacturers have moved away from rebate programs and now use discounts which are part of the negotiated price at the time of the sale.



**TESTIMONY  
SENATE BILL 2184  
SENATE FINANCE AND TAXATION  
JANUARY 21, 2009**

Other industries continue to use these types of taxable rebates while our industry has discontinued the use of them. However, our new vehicle discounts are still being taxed as a rebate.

Our current economic hardships have created an explosion of discounts and incentives on the sale of cars and trucks. These incentives are designed to stimulate sales; sales that may have otherwise been delayed, or not made at all. Additional sales will occur as a result of these incentives, which will create more taxable revenue for the state.

Mr. Chairman, this concludes my testimony in support of Senate Bill 2184. Thank you for the opportunity to testify.

**Matthew C. Larsgaard  
Automobile Dealers Association of North Dakota**



# BPG Incentive Summary - National\*



Revised: January 6, 2009	2008 Models (through 2/2/09)			2009 Models (through 2/2/09)		
Models	Customer Cash	APR 36/48/60/72	Loyalty Bonus Cash Must Own/Lease GM Vehicle 1999 MY or Newer to Qualify	Customer Cash	APR 36/48/60/72	Loyalty Bonus Cash Must Own/Lease GM Vehicle 1999 MY or Newer to Qualify
Enclave	\$2,500	4.9/4.9/4.9/std	\$2,000	\$750	6.9/6.9/6.9/std	\$2,000
LaCrosse	\$2,000	2.9/2.9/2.9/std	\$1,000	\$1,000	6.9/6.9/6.9/std	\$1,000
Lucerne	\$3,500	0.9/0.9/0.9/std	\$1,000	\$1,000	5.9/5.9/5.9/std	\$1,000
G5	\$750	6.9/6.9/6.9/std	\$1,000	\$1,500	2.9/2.9/2.9/4.9	\$1,000
G6 (-1SB/1SV on '09) & all '08	\$750	std/std/std/std	\$1,000	\$1,250	4.9/4.9/4.9/std	\$1,000
G6 (& 1SB)				\$750	6.9/6.9/6.9/std	\$1,000
G6 (& 1SV)				\$0	std/std/std/std	\$1,000
G8 (V6)	\$1,750	3.9/3.9/3.9/std	\$1,000	\$1,500	4.9/4.9/4.9/std	\$1,000
G8 (V8)	\$1,750	4.9/4.9/4.9/std	\$1,000	\$1,500	5.9/5.9/5.9/std	\$1,000
Grand Prix	\$2,250	std/std/std/std	\$1,000			
Solstice	\$1,250	4.9/4.9/4.9/std	\$1,000	\$500	std/std/std/std	\$1,000
Torrent	\$4,250	2.9/2.9/2.9/std	\$1,000	\$1,000	5.9/5.9/5.9/std	\$1,000
Vibe	\$750	std/std/std/std	\$1,000	\$500	6.9/6.9/6.9/std	\$1,000
Acadia	\$2,500	4.9/4.9/4.9/std	\$2,000	\$750	6.9/6.9/6.9/std	\$2,000
Canyon Reg	\$2,750	2.9/2.9/2.9/std	\$1,000	\$0	std/std/std/std	\$1,000
Canyon Ext/Crew	\$4,250	2.9/2.9/2.9/std	\$1,000	\$1,000	5.9/5.9/5.9/std	\$1,000
C4500 Topkick	\$6,000	4.9/4.9/4.9/std	\$3,000	\$1,500	std/std/std/std	\$3,000
Envoy	\$7,250	0.0/0.0/0.0/std	\$1,000	\$3,000	3.9/3.9/3.9/std	\$1,000
Savana - 2500 Cargo	\$2,000	std/std/std/std	\$1,000	\$1,000	std/std/std/std	\$1,000
Savana Cutaway - all & 3500	\$1,000	std/std/std/std	\$1,000	\$1,000	std/std/std/std	\$1,000
Savana (all other)	\$1,500	std/std/std/std	\$1,000	\$1,000	std/std/std/std	\$1,000
Sierra 1500 Reg Cab	\$3,000	3.9/3.9/3.9/std	\$2,000	\$1,500	4.9/4.9/4.9/std	\$2,000
Sierra 1500 Ext Cab	\$5,000	2.9/2.9/2.9/std	\$2,000	\$2,500	3.9/3.9/3.9/std	\$2,000
Sierra 1500 Crew (-HP2)	\$5,000	3.9/3.9/3.9/std	\$2,000	\$2,000	4.9/4.9/4.9/std	\$2,000
Sierra 1500 Crew (+HP2)				\$0	std/std/std/std	\$2,000
Sierra 2500/3500 (Gas)	\$6,000	4.9/4.9/4.9/std	\$3,000	\$1,500	5.9/5.9/5.9/std	\$3,000
Sierra 2500/3500 (Diesel)	\$7,000	4.9/4.9/4.9/std	\$3,000	\$1,500	5.9/5.9/5.9/std	\$3,000
Yukon (all)	\$6,000	1.9/1.9/1.9/std	\$3,000	\$1,000	6.9/6.9/6.9/std	\$3,000
Yukon XL (all)	\$7,000	1.9/1.9/1.9/std	\$3,000	\$1,000	6.9/6.9/6.9/std	\$3,000

**Targeted Lessee Bonus Program to ALL Current Lessees (1/6/09 - 2/2/09)**

Must have a-GMAC SL/SB on Non-GMAC lease with a contract end date through 9/30/09  
 \$1,000 Purch BC on '09 G5 / G8 / Vibe / Solstice / Canyon / C4500 & ALL '08 models (excl. '08 Lucerne)  
 \$2,000 Purchase Bonus Cash on '09 Enclave / '09 G6 (all) / '09 Torrent / '09 Acadia / '08 Lucerne  
 \$3,000 Purchase Bonus Cash on '09 Savana / Sierra  
 \$3,500 Purchase Bonus Cash on '09 LaCrosse / Lucerne  
 \$4,000 Purchase Bonus Cash on '09 Envoy / Yukon (all) / Yukon XL (all)

\*Guide Only - Refer to GM Administrative Messages for Official Program Parameters

Lease Pull-Ahead (includes all BPG Vehicles) 1/6/09 - 3/31/09  
 Waives Up to 2 Payments on GMAC S/L & S/B  
 Contracts w/ End Date no later than 9/30/09

G8 DBC Tagging Program: Stack up to 8 \$250 DBC's (\$2,000) on ANY '08/'09 Pontiac Model (11/14/08 - 3/31/09)

GM Card Top Off Program and Extended Family Card Tiered Offer (1/6/09 - 2/2/09)

*Same given to House.*

**TESTIMONY  
SENATE BILL 2184  
SENATE APPROPRIATIONS  
FEBRUARY 11, 2009**

Mr. Chairman and members of the committee. My name is Matthew Larsgaard and I am appearing before you today in support of Senate Bill 2184 on behalf of the Automobile Dealers Association of North Dakota which consists of approximately 100 franchised new car dealers in our state.

- Over the past many years there has been a change in how some manufacturers deliver vehicle sales incentives. Years ago they would collect the purchase price of the vehicle and then send the customer a check for the amount of the refund. This is a rebate in that the allowance afforded the customer takes place after the sale. Manufacturers have moved away from rebate programs and now use discounts which are part of the negotiated price at the time of the sale.
- Other industries continue to use these types of taxable rebates while our industry has discontinued the use of them. However, our new vehicle discounts are still being taxed as a rebate. This puts our dealers in the unenviable position of trying to explain to customers why they must pay tax on money they never spent.
- Currently there are a number of states that do not tax motor vehicle manufacturer incentives. If the price of a vehicle is lowered by the manufacturer through an incentive or discount the tax is computed on the actual amount of the transaction, which is the true sales price. For example, in Minnesota incentives are treated as a cash discount and excluded from the sales price subject to tax.
- This tax relief, for the most part, benefits only the citizens and dealers of North Dakota. Our state will not lose any tax revenue to out-of-state residents who purchase vehicles in ND. Motor vehicle excise tax is different than sales tax; it is a title transfer tax. Individuals remit excise tax to the state of their residency, regardless of where they purchase the motor vehicle.

Mr. Chairman, this concludes my testimony in support of Senate Bill 2184. Thank you for the opportunity to testify.

Matthew C. Larsgaard  
Automobile Dealers Association of North Dakota

*Same testimony & handouts given to House Appropri.*

TESTIMONY 2

SB 2184

Good morning Chairman Belter and members of the House Finance and Taxation committee. I am Representative Don Vigesaa and I represent District 23 in east central North Dakota. I am pleased to provide testimony for SB 2184.

I am an automobile dealer in Cooperstown, North Dakota. V-W Motors, Inc. is a franchised Chrysler, Dodge, and Jeep dealership and has been in operation for nearly 49 years.

SB 2184 seeks to exempt factory incentives from motor vehicle excise tax on new vehicle sales. When factory incentives were first introduced by manufacturers, the purchaser could choose between having the price reduced by the incentive or receive a check payment as a rebate. For the past several years, this has no longer been an option. The incentive must now be subtracted from the selling price yielding a purchase price the customer pays for the vehicle. In some cases, these incentives have totaled as high as \$10,000.00 on a single vehicle. In this example, a consumer pays an additional \$500.00 in excise tax over what the tax should be on the net purchase price. I believe the consumer should pay excise tax on what he or she writes the check for when purchasing a vehicle.

In addition, there are now factory incentives that the consumer does not pay excise tax on. These include incentives such as employee pricing and dealer cash. My illustrations will prove the inconsistencies in how excise tax is levied on purchasers of new vehicles.

I realize there is a fiscal impact if this legislation is enacted. However, I believe it is not fair to charge the consumer more tax than what is due on the amount they pay for a vehicle.

Again, I urge this committee to give SB 2184 a "do pass" recommendation.