

2009 HOUSE TRANSPORTATION

HB 1539

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1539

House Transportation Committee

☐ Check here for Conference Committee

Hearing Date: 01/30/09

Recorder Job Number: 8281

Committee Clerk Signature

Jeanette Cook

Minutes:

Chairman Ruby called the hearing to order on HB 1539.

Representative Lisa Wolf, District 3 in Minot, introduced and spoke in support of HB 1539.

See attachment #1.

Chairman Ruby: Have you seen the fiscal note on this bill?

Representative Lisa Wolf: Yes, I just got it yesterday afternoon about four o'clock.

Chairman Ruby: I understand what you are doing, but you can see that it is not just the general fund that it will affect. Cities and counties get a percentage of the sales tax. So basically, we would be asking them to give up \$90,000 in this biennium and \$1, 655,000 in the next biennium. Would you care to comment on that?

Representative Lisa Wolf: It is spread across our entire state. It would be just a little token of what we can do.

Representative Griffin: Have you talked to anyone about this possibly violating the commerce of free trade laws? Making the winner or loser placed upon the tax code?

Representative Lisa Wolf: The only thing that I have been told is that we do it all the time. I spoke to another attorney about what she thought about the constitutionality of this, and she said, "We do it all the time."

Chairman Ruby: Are you aware that there is a bill that diverts a portion of excise taxes to go into the distribution fund for roads? There is some concern that this would take away some of the money that we are trying to get towards roads.

Representative Thorpe: I admire your "guts" to bring up this bill. If it looks like we have to adjust what the bill is doing, instead of taking all the excise tax off of those sales, have you considered offering an amendment to go with a certain percentage of the tax, and still give a break to the people that buy these cars?

Representative Lisa Wolf: I would be willing to look into some of those positions. Maybe we could do something where it would only affect the state portion.

Representative Weisz: Aren't you concerned about the non-big-three auto dealers in the state that are going to potentially suffer when customers buy a Ford, Chevy, or Chrysler?

Representative Lisa Wolf: There are only eight car dealerships in North Dakota that sell strictly foreign vehicles. I think that people that usually buy foreign vehicles won't change that because of a sales tax break. When I look at the amount of money that North Dakota has in its bank account, we can do something to help on a national level as well.

Kevin Herman, Beulah citizen, spoke in support of HB 1539. He feels that it is time for America to support our American companies. He thinks that it is patriotic.

Bridget Ertelt, a citizen of Fargo, North Dakota, spoke in opposition to HB 1539. See attachment #2.

Bob Lamp spoke on behalf of the Automobile Dealers Association of North Dakota in a neutral position on HB 1539. See attachment #3.

Representative R. Kelsch: What is the status of the bill that is over in the Senate regarding not paying the excise tax on the amount that is discounted or rebated?

Bob Lamp: That bill would discontinue the requirement that you would have to pay excise tax on manufacturers incentives or discounts (rebates). That bill has been heard in committee, but there has been no action on it.

Representative R. Kelsch: Right now there are incentives that are currently being offered. Are we going to encourage people to buy a vehicle that they can't afford in the long run, because they think they are getting an extra discount?

Representative Weisz: Will there be a problem with dealers trying to sell used vehicles, because the difference in price is less since there is no sales tax on a new vehicle?

Bob Lamp: Obviously, that could happen. It would be speculation. Used business has been pretty good. New has been a little more marginal. All the doom and gloom on the national level has not necessarily been true in North Dakota.

Representative Gruchalla: Do you think that it would be possible to have a vehicle that has a Ford or GM label on it that has over one half of the parts made in a foreign country and brought in? It says "manufactured and marketed" but some of the plants can be in Canada. I don't see a whole lot of difference between a Ford made in Canada and a Toyota made in Alabama.

Bob Lamp: The lines between what is import and domestic have become very blurred. You are correct about the components that go into these cars today, they come from everywhere.

Representative Thorpe: In light of all the national attention to the Big Three, do you have any ideas that would make this bill workable?

Bob Lamp: There is another bill in the Senate that reduces sales tax or vehicle excise tax by one half of a percent. That would apply to all lines of both new and used vehicles.

Representative Delmore: Do you have the number of dealers that were for or against this bill?

Bob Lamp: I contacted twenty-five dealers and they were unanimous in their belief that this bill will cause us problems in the industry sense. Yesterday, I send an e-mail to all of our dealers and only received one response (which did support the bill).

Jerry Hjelmstad, from the North Dakota League of Cities, spoke to say that he is not taking a position on this bill, but that the fiscal note shows that there will be impact on political subdivisions. He stated that even though the state is looking at a surplus, that is not the case for the political subdivisions.

There was no further testimony on HB 1539.

The hearing was closed.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1539

House Transportation Committee

☐ Check here for Conference Committee

Hearing Date: 01/30/09

Recorder Job Number: 8283

Committee Clerk Signature

Janette Cook

Minutes:

Chairman Ruby

asked the committee's wishes on HB 1539.

Representative Vigesaa: This bill is a conflict for me. I have spoken to several people as to whether I should get involved in the voting. I have been encouraged to continue in the debate and vote. I would like to ask the committee if you want me involved in the vote, I will. If you prefer that I do not, I will step aside.

Representative R. Kelsch: As a matter of historical perspective, we have had people stand up and declare conflicts. Not once has there ever been an individual denied the right to vote. I don't think that this is the time that we will deny a right to vote. What we do is public record. People know what our occupations are when we are at the capitol.

Representative Delmore: I asked the Parliamentarian about this. He said that unless the bill is created for you, he has never seen it denied that people could discuss or vote.

Representative Weiler moved a Do Not Pass on HB 1539.

Representative Heller seconded the motion.

Representative R. Kelsch: We may see people come across the border to buy vehicles to save money.

Chairman Ruby: I think one of the issues is what the language will do to the political subdivisions. There are also some issues about what is truly American made?

Representative Vigesaa: For the committee's information, the US content of every vehicle is on the sticker. I am going to support the Do Not Pass. I am also the chairman elect for the North Dakota Auto Dealers, so I represent the entire roster of new car dealerships, and I don't think it would be right for me to vote for a bill that would benefit me or any other singled-out dealerships. In addition to the fiscal note.

Representative Frantsovog: I came in here opposing the bill and then in addition there was the fiscal note, but why didn't anyone come in and oppose the bill? This also affects DOT and counties but there was no one here to talk about it.

Representative R. Kelsch: We have been experiencing this in the Education Committee. We have had A LOT of spending bills. We have not had one person come in and testify against any of the spending bills. Quite frankly, whether there is opposition or not, it is our responsibility as legislators to determine whether or not this is good public policy, with the fiscal note attached how does this fit into our overall spending, and is this a priority and will it be the best policy for the state of North Dakota.

Representative Weisz: Just for the record, the DOT wouldn't come in on this, because it has no effect on the Highway Distribution Fund.

Representative Weiler: There are groups that come and oppose everything. Just because someone comes in to oppose, doesn't mean it is a bad idea. It is up to us to, our responsibility and personal decision whether or not we believe this is a good public decision or public policy.

Representative Thorpe: We do give tax breaks to all kinds of entities through here all the time. We are not plowing new ground here.

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House Transportation Committee
Bill/Resolution No. HB 1539
Hearing Date: 01/30/09

A roll call vote was taken. **Aye 11 Nay 3 Absent 0**

The motion passed.

Representative Weiler will carry HB 1539.

FISCAL NOTE
Requested by Legislative Council
01/20/2009

Bill/Resolution No.: HB 1539

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
Revenues	(\$4,283,000)	(\$890,000)	(\$19,038,000)	(\$1,655,000)		
Expenditures						
Appropriations						

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).*

HB 1539 creates a motor vehicle excise tax exemption for the purchase or lease of a new US-manufactured vehicle.

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.*

HB 1539 has an emergency clause making it effective upon filing with the secretary of state. This fiscal note is based on DOT statistics regarding new vehicle sales, and the share that is from a US manufacturer. The bill is assumed to become effective on or around April 1, 2009.

If enacted, HB 1539 is expected to decrease total motor vehicle excise tax revenues by an estimated \$5.173 million in the current biennium, and \$20.693 million in the first year of the 2009-11 biennium.

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.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	01/29/2009

Date: 1-30-09

Roll Call Vote #: _____

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1539

House TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☐ Do pass ☒ Don't Pass ☐ Amended

Motion Made By Weiler Seconded By Heller

Representatives	Yes	No	Representatives	Yes	No
Representative Ruby - Chairman	✓		Representative Delmore	✓	
Rep. Weiler - Vice Chairman	✓		Representative Griffin	✓	
Representative Frantsvog		✓	Representative Gruchalla	✓	
Representative Heller	✓		Representative Potter	✓	
Representative R. Kelsch	✓		Representative Schmidt		✓
Representative Sukut	✓		Representative Thorpe		✓
Representative Vigasaa	✓				
Representative Weisz	✓				

Total Yes 11 No 3

Absent 0

Bill Carrier Weiler

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

REPORT OF STANDING COMMITTEE (410)
January 30, 2009 2:15 p.m.

Module No: HR-19-1332
Carrier: Weller
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1539: Transportation Committee (Rep. Ruby, Chairman) recommends DO NOT PASS
(11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1539 was placed on the
Eleventh order on the calendar.

2009 TESTIMONY

HB 1539

House Bill 1539

Good morning. For the record my name is Lisa Wolf representing District 3 in Minot. I am here today to offer my support of house bill 1539.

I was asked to put this bill in by one of my constituents, who also happens to be my dad—

What this bill does is to exempt excise, sales and use tax on the sale or lease of a new Ford, Chrysler, or General Motors vehicle. There is an emergency clause on the bill and the bill also has a sunset of June 30, 2010.

I stand in support of this bill for the following reasons:

Last year, North Dakota car dealerships faired pretty well, some even had a record breaking sales year. You are all North Dakota residents; you know that our state usually runs a year or so behind what is happening on a national level. My concern is what these dealerships will face in the upcoming year. Let me share with you some statistics regarding North Dakota car dealerships:

- a. Dealers average \$1.73 billion in annual sales statewide
- b. Dealerships generate almost 18% of the total retails sales in our state per year
- c. Nearly 3,200 people statewide are employed by the dealerships with an average salary of \$37,700 per year and an average payroll of \$1.2 million
- d. Dealerships pay over \$18 million in payroll taxes and employee benefits per year

- e. Dealerships contribute over \$1 million annually to charitable and civic concerns.

North Dakota is starting to feel the impact from our national economy. Bobcat is continuing their lay-off, 46 people just lost their jobs in the small town of Linton, Microsoft in Fargo is laying off people, it seems that everyday lately when you pick up a newspaper, somewhere in North Dakota people are losing their jobs. I don't want to see that happen to the North Dakota dealerships.

I get asked why I didn't include Honda and Toyota, and other foreign cars, in this bill. Those car manufacturers are not struggling. The Big 3 are. I have been told over and over again that every new Ford, Chrysler or General Motors vehicle sold in our state makes a difference to the Big 3. They need vehicles to sell, each and every one makes a difference. North Dakota can make a difference and we are in a very unique position to do so.

In our past, America has relied on American car manufacturers to build military vehicles. What if that is again needed, and we no longer have an American car manufacturer to build those vehicles for us—who will Japan?? China??

It is interesting to note that out in our very own legislative parking lot, of the 102 house parking spots, there are only 12 foreign vehicles—the remaining 90 parking spots contain a domestic vehicle—and in the Senate parking area, with 51 spots, there are 11 foreign cars and 40 domestic vehicles. Interesting --

Additionally, this bill has received national attention. To date, I have been interviewed by Detroit Public Radio, the Mitch Albom Show, Michigan Radio and the Ed Schultz show. I have received over 100e -mails from many states, including Ohio, Michigan, Texas, Minnesota, and Wisconsin as well as from residents of North Dakota, all in support of this concept. I have them all saved and can print them and bring you all copies if you would like....The emails are all in strong support of this bill, and of our state. I have been told by people that their next family vacation will be to come to the state of North Dakota which still believes in being patriotic. I have been told "God Bless You and the great state of North Dakota."

Some share stories, but all are very, very grateful for this bill, and they are all watching to see what we do with it.

I have only received 2 emails questioning my exclusion of foreign vehicles.

Thank you Mr. Chairman and members of the committee and I would respectfully ask the committee for a Do Pass recommendation on this bill and I will stand for any questions.

Testimony for House Bill #1539
January 30, 2009
House Transportation Committee

Good morning Chairman Ruby and members of the House Transportation Committee.
I'm here today as a concerned citizen and to express my opposition for House Bill #1539.

I'm assuming the sponsors of this bill had good intentions and hoped to revive the struggling auto industry across the state. They figured that a sales and excise tax exemption would drive more people to buy cars. The first problem with this bill is that it presupposes that General Motors, Ford and Chrysler cars are somehow more American than others. Ignoring the fact that Ford, Chrysler and GM are now more than ever manufacturing their car parts overseas and continue to close down factories, laying off thousands of workers and shipping those jobs overseas.

The second problem with this bill is that it will likely do nothing to actually help car dealers and subsequently fail to promote the increased sales of new cars. Chrysler, Ford and GM continue to make cars of inferior quality, with low mileage standards and a low resale value. Rather than giving these companies a mini-bailout in the form of a sales and excise tax exemption we ought to demand that they began to create cars that can compete with their foreign competitors in the free-market. Thus, I urge a do not pass on House Bill #1539.

Bridget Ertelt
1810 49th St. SW
Fargo, ND 58103
bertelt@prairiepublic.org

**TESTIMONY
HOUSE BILL 1539
HOUSE TRANSPORTATION
JANUARY 30, 2009**

Mr. Chairman and members of the committee. My name is Bob Lamp and I am appearing before you on behalf of the Automobile Dealers Association of North Dakota which consists of the franchised new car dealers in our state.

I would like to begin my testimony by thanking Representative Wolf for introducing House Bill 1539. This bill is intended to act as a stimulus for consumers to purchase new motor vehicles manufactured by General Motors, Ford and Chrysler. These manufacturers and their dealers are experiencing a very difficult economy. As all of you know, the automobile retailing industry is driven by incentives. Without incentives such as manufacturer discounts, low or 0% interest rates or dealer initiated programs, not much happens in our business. So we thank Representative Wolf for bringing this incentive concept to the table.

We do, however, have two major concerns with the legislation. The bill calls for sales and motor vehicle excise tax exemptions for new motor vehicles manufactured and marketed by General Motors, Ford and Chrysler. While this would certainly be good for our domestic brand dealers, it would put our import dealers at a huge disadvantage. (For reference, our membership consists of approximately 75% domestic and 25% import dealers.) This tax discrepancy (\$1250 on a \$25,000 vehicle for example) would be impossible for import dealers to overcome. Since we represent dealers of all manufacturer lines, we cannot support this tax differential.

Our second concern relates to an unintended consequence inherent with the legislation. Since this bill was introduced, it has received extensive media coverage. Our dealers are reporting a slowdown in automobile purchases as consumers are expressing their intent to delay their buying decision until the legislature acts on this bill. As you can imagine, this is having a negative impact on an already uncertain industry. We plead with the committee to take swift action on this bill to minimize the impact on North Dakota's new car dealers.

Thank you Mr. Chairman for giving us the opportunity to express our position on House Bill 1539.

Robert L. Lamp, President
Automobile Dealers Association of North Dakota



Chairman
J. MENDEL
Honda

President
M. STANTON

VEHICLE
MANUFACTURERS

Aston Martin
Ferrari/Maserati
Honda
Hyundai
Isuzu
Kia
Mitsubishi
Nissan
Peugeot
Renault
Subaru
Suzuki
Toyota

AFFILIATES

ADVICS
Bosch
Delphi
Denso
JAMA

SENT VIA E-MAIL to: @nd.gov

January 28, 2009

Representative Dan Ruby
Chairman
North Dakota House Transportation Committee
4620 46th Avenue, N.W.
Minot, ND 58703-8711

Re: ND HB 1539: Buy Big Three: Oppose

Dear Chairman Ruby:

The Association of International Automobile Manufacturers (AIAM)^[1] provides the following comments on HB 1539, a bill providing limited tax exemptions for the purchase or lease of automobiles manufactured and marketed by General Motors, Ford or Chrysler. AIAM is unable to attend the January 30 House Transportation Committee hearing on HB 1539, and requests that this statement be made a part of the official Committee record on this measure.

AIAM believes HB 1539 may be a well-intentioned effort to stimulate the U.S. economy by stimulating auto sales. In view of the state of our economy and the auto industry, we believe such measures are necessary and have advocated the adoption of near-term stimulative measures by the Federal government.

However, despite the fact that the current economic crisis impacts all automakers manufacturing and selling vehicles in the United States, the assistance made available by HB 1539 is limited to certain, specific automakers. AIAM believes

^[1] AIAM is a trade association representing 14 international motor vehicle manufacturers who account for 40 percent of all passenger cars and light trucks sold annually in the United States. AIAM member companies include American Honda Motor Co., American Suzuki Motor Corp., Aston Martin Lagonda of North America, Inc., Ferrari North America, Inc., Hyundai Motor America, Isuzu Motors America, Inc., Kia Motors America, Inc., Maserati North America, Inc., Mitsubishi Motors North America, Inc., Nissan North America, Inc. Peugeot Motors of America, Renault, SA, Subaru of America, and Toyota Motor North America, Inc. AIAM also represents original equipment suppliers and other automotive-related trade associations. Our member companies' facilities produced 3.5 million vehicles in 2007 – more than 33% of total U.S. production - and purchased nearly \$46 billion in parts and materials from U.S. suppliers in 2007. More than half of all vehicles sold by AIAM members in the United States are made in the United States. AIAM companies have invested over \$39.3 billion in 69 U.S. vehicle plants, component manufacturing facilities and R&D centers which employ 92,700 Americans with a payroll of \$6.3 billion.

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AIAM Letter to North Dakota House Transportation Committee
January 28, 2009

that if North Dakota wishes to assist the auto industry, measures undertaken should aim to stimulate vehicle sales for all automakers.

AIAM therefore opposes HB 1539 for the following reasons:

All automakers – including those identified in HB 1539 – operate in a global marketplace and a vehicle's "badge" is no longer a reliable indicator of where the vehicle may have been produced. As a result, an effort to provide benefits to certain automakers – based on the assumption that such action will support American jobs – can produce unintended consequences. For example, HB 1539 would not only provide tax incentives for purchasers of vehicles manufactured in the U.S. by the Detroit Three automakers, but also for vehicles marketed by these companies but made in Canada, Mexico and other countries. Presumably, the tax benefits in HB 1539 would also extend to the sale of Saab vehicles manufactured in Sweden but marketed in the U.S. by General Motors, as well as to Volvo vehicles marketed by Ford.

At the same time HB 1539 bestows benefits on these companies, it creates an economic disadvantage for Americans involved in the production and sale of vehicles made by other international automakers – including members of AIAM who collectively produce over half of all the vehicles they sell in America in the United States.

Not only would HB 1539 discriminate against the nearly 93,000 Americans who work for AIAM members, companies that together produce 3.5 million cars and trucks in the United States each year, but it would harm the automobile dealerships and their employees who sell these vehicles throughout the state of North Dakota. Our most recent data shows that AIAM member company vehicles made up more than 25 percent of all new cars and light trucks registered in North Dakota in 2007.

HB 1539 would also violate U.S. obligations under international trade rules. By according some companies benefits not equally provided to other companies, the measure contravenes national treatment rules embodied in Article III of the General Agreement on Tariffs and Trade (GATT).

For these reasons, AIAM urges the House Transportation Committee to not approve HB 1539 at the hearing this week.



Page Three
AIAM Letter to North Dakota House Transportation Committee
January 28, 2009

Thank you for your consideration of our views on this important measure. Should you have any other questions or require further information on this issue, please contact Petra Smeltzer, AIAM's Manager of State Relations, at (703) 247-2112.

Sincerely,



Michael J. Stanton
President and CEO

cc: Members of the House Transportation Committee

Robert L. Lamp, CAE
President/CEO, Automobile Dealers Association of North Dakota

