

MINUTES OF THE HOUSE COMMITTEE ON TAXATION

The meeting was called to order by the Chairman Edmonds at 9:30 a.m. March 16 in Room 519-S of the Capitol.

All members were present except: Representative Flora, excused
Representative Palmer, excused
Representative Powers, excused
Representative Sharp, excused

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Don Hayward, Revisor
Winnie Crapson, Secretary

Conferee appearing before the committee:
Richard Cram, Department of Revenue
Mark Beshears, Sprint
Bill Dvorak, AT&T
Robert Fasl, Southwestern Bell
Mike Beam, Kansas Livestock Assn
Tom Bruno, Farm Credit Bank of Wichita
Greg Krissek, Kansas Corn Growers Assn
Leslie Kauffman, Kansas Farm Bureau
Don Moler, League of Kansas Municipalities
Judy Moler, Kansas Assn of Counties
Richard Rodewald

Others attending: See attached list.

Hearing was opened on:

SB 1 - Sales tax treatment of bundled services provided by telecommunication companies

Mark Beshears testified in support of **SB 1** on behalf of Sprint (Attachment #1) and responded to questions from members of the Committee.

William A. Dvorak presented testimony in support of the bill on behalf of AT&T (Attachment #2) and responded to questions from members of the Committee.

Robert J. Fasl presented testimony in support of the bill on behalf of Southwestern Bell (Attachment #3) and responded to questions from members of the Committee.

Hearing on SB 1 was closed.

Hearing was opened on:

SB 138 - Property tax exemption on grain drying equipment

Mike Beam presented testimony in support of **SB 138** on behalf of the Kansas Livestock Association (Attachment #4) and answered questions from the Committee members. Introduction of the bill had been requested by the Association because of the ruling in Board of Tax Appeals Docket No. 1999-6233-TX.

CONTINUATION SHEET

Tom Bruno requested support of the bill on behalf of the Farm Credit Association of Kansas (Attachment #5). Mr. Bruno responded to questions from the Committee.

Testimony in support of the bill on behalf of the Kansas Corn Growers was presented by Greg Krissek (Attachment #6). Mr. Krissek answered questions.

Leslie Kaufman presented testimony in support of the bill on behalf of the Kansas Farm Bureau (Attachment #7) and responded to questions.

Hearing on SB 138 was closed.

Hearing was opened on:

SB 252 - Streamlined sales tax project participation authorized

Richard Cram, Director of the Office of Policy & Research of the Department of Revenue, presented testimony in support of **SB 252** (Attachment #8). Mr. Cram provided an Executive Summary of the Streamlined Sales Tax Project dated March 1, 2001 (Attachment #9). In response to questions from members of the Committee, he outlined the phases of participation in this initiative.

Don Moler presented testimony in support of the Streamlined Sales Tax Initiative on behalf of the League of Kansas Municipalities (Attachment #10).

Testimony in support of the bill was presented on behalf of the Kansas Association of Counties by Judy Moler (Attachment #11).

Richard Rodewald, Lawrence, addressed the Committee on the subject of excessive sales taxes.

Hearing on SB 252 was closed.

Hearing was opened on:

SB 253 - Timing of local tax collections.

Richard Cram presented testimony in support of the bill which proposes changes needed to bring Kansas sales and use tax law into compliance with the requirements of the Streamlined Sales Tax Agreement (Attachment #12).

Testimony in support of the bill was presented by Judy Moler on behalf of the Kansas Association of Counties (Attachment #13).

Hearing on SB 253 was closed.

Chairman Edmonds opened consideration of bills heard today and previously.

Representative Huff moved that SB 1 be recommended favorable for passage and placed on the consent calendar. Representative Mays seconded.

Representative Newton moved to amend SB 1 by deleting the language "Prior to" in lines 25 and 26 on page 2 and inserting "Within 90 days of". Representative Larkin seconded and the substitute motion was adopted.

Representative Huff moved to recommend SB 1 favorable for passage as amended. Representative Osborne seconded and the motion was adopted.

CONTINUATION SHEET

Representative Gatewood moved that **SB 138** be recommended favorable for passage and placed on the consent calendar. Representative Hutchins seconded.

Representative Larkin moved a substitute motion to amend **SB 138** by including in it **HB 2065**. Representative Gatewood seconded and substitute motion was adopted.

Representative Gatewood moved to recommend **SB 138** favorable for passage as amended. Representative Hutchins seconded and the motion was adopted.

Representative Hutchins moved to recommend **SB 253** favorable for passage. Representative Huff seconded and motion was adopted.

Representative Findley referred to amendment to **SB 42** proposed by Representative Dillmore in his testimony before the Committee which Representative Findley intended to move in two parts.

Representative Findley moved to amend **SB 42** to give city appointed advisory boards parity with the county appointed boards by requiring a unanimous vote to override recommendations of the board. Representative Larkin seconded. Motion failed.

Representative Findley moved to amend **SB 42** to redirect funds to 40% for parks and recreation and 60% to treatment and prevention programs. Representative Larkin seconded. Motion failed.

Representative Larkin moved to recommend **SB 42** favorable for passage. Representative Huff seconded and motion was adopted.

Meeting adjourned at 12:01 p.m. Next scheduled meeting is March 19.

GUEST LIST

DATE March 16

NAME	REPRESENTING
Gregory A. Cram	
Judy Miller	KAC
HEUER Smith	USD 501
Marlee Carpenter	KCCI
Jennifer Crow	Federico Consulting
Jesha Kaufman	KFB
Lois Brown	GBRA
John Miller	KM
Mike Recht	AT&T
Bill Dronak	AT&T
Nike Murray	Sprint
Mark Brustans	Sprint
Bob Fasl	SWB
Hal Hudson	NFIB/KS
Doug Smith	Pinegar-Smith Company
Ann Dukes	DOB
Dan Hemmes	KADSPA



Inter -- Office Memo

*Mark Beshears, Assistant Vice President
State and Local Tax
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TO: House Taxation Committee
DATE: March 16, 2001
SUBJECT: Senate Bill 1 – Sales/Use Tax: Communication Services

Due to increasing customer demand and accelerated technological changes in the communications industry, Sprint is providing to its subscribers in Kansas and elsewhere multiple types of communications services (including local telecommunication services, interstate and intrastate long distance telecommunications services, Internet services, data services and other related products and services) in a variety of bundled offerings (the “communications services bundles”). Sprint’s offering of these communications services bundles is consistent with the growing trend in the communications industry to depart from traditional usage-based charges in favor of periodic flat charges for the customer’s right to use an unlimited amount or a specified limit of communication services.

Sprint supports a change in state law that will allow telecommunications companies to meet customer demand for communications services bundles offered at a single price.

Currently, the Kansas Department of Revenue requires that sales tax be applied to the entire price of a communications services bundle, even if one or more of the bundled components are not subject to sales tax as stand-alone items. In order to not tax the non-taxable components, the Kansas Department of Revenue requires the telecommunications company to display on customer bills each component of a communications services bundle and the price for each component. This can cause problems and potential customer confusion.

What Senate Bill 1 proposes to do is to permit telecommunications companies to display on a customer’s bill the name of the communications services bundle, a single price and the applicable taxes. The only difference will be that the individual price of each of the

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components of the bundle and the tax thereon will not be itemized. The tax page of the invoice will have all taxes for each of the services listed in the aggregate. If the customer wants to know the price of the components of the bundle and the specific tax applicable to a component, they can call our Customer Service toll-free number and receive the price of each service contained in a bundle. For example, state sales tax does not currently apply to Internet access if it is a stand-alone item. Senate Bill 1 would allow telecommunications companies that sell Internet access in a communication services bundle to record on company records a price for each component, including the Internet access component, and to calculate state sales tax, if applicable, as if the component were a stand-alone item.

Telecommunication providers would have to be able to demonstrate to the Kansas Department of Revenue that they have correctly identified on their records the bundle components subject to state sales tax. The Kansas Department of Revenue maintains the ability to audit company records to ensure proper taxes are collected and remitted to the State. The Department accepts this concept and believes the legislation corrects this problem.

Sprint is not asking for an exemption of any kind and is not seeking any form of tax allocation or tax-free status for otherwise taxable services.

Sprint encourages you to support Senate Bill 1. Your support of this technical amendment will help simplify how consumers purchase and pay for communications services.

MVB/ljm

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William A. Dvorak
Tax Director
External Tax Policy

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512 370-1012

**TESTIMONY ON BEHALF OF AT&T
BEFORE HOUSE TAXATION COMMITTEE
SENATE BILL No. 1
March 16, 2001**

Mister Chairman and members of the committee:

My name is William Dvorak and I am a Tax Director for AT&T's External Tax Policy organization. I am here today to ask for your consideration and approval of Senate Bill No. 1, which addresses the application of sales tax on communication services which are billed on a combined basis (taxable and non-taxable services).

The rapid pace of converging technology is quickly erasing the historical distinctions between cable TV, telephone and the Internet. In the near future, the public will enjoy an exploding array of services through a single communications pipeline into the home. The communications and entertainment industries are rapidly moving toward vertical integration. Today most households receive a local phone bill from one company, a separate long distance bill from another company, a cable bill from a traditional cable company and an Internet bill from a separate Internet service provider – as many as four separate bills from four different companies. However, consumers soon will have the option of one-stop shopping. Local phone service, long distance, wireless, Internet, and cable TV will be offered in a single package, for a single price, on a single non-itemized customer bill.

The metamorphosis of the telecommunication industry has and will continue to cause uncertainty in the application of existing state and local taxing schemes. As different ways of bundling communications services are developed, they may or may not be covered by the existing state and local statutory provisions. Communications are now possible over a growing number of mediums never envisioned when state and local telecommunication taxes were developed. Despite technological advancements, most state and local taxing statutes have not been significantly amended in decades and do not adequately reflect today's converging communications environment.

In its basic form, a "bundle" is simply a combination of two or more communications services marketed together for a flat non-itemized retail price. Increasingly popular with

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subscribers, bundling will at times combine taxable and non-taxable elements. For example, the State of Kansas taxes local telecommunications services but does not tax Internet access services.

Under current Kansas law, if the components and prices of communications services are not displayed separately, the sales tax must be applied to the entire price of the bundle even if one or more of the bundled components would not be subject to sales tax as a stand-alone item. Senate Bill No. 1 would allow telecommunications providers to calculate the sales tax on the price of each bundled element without separately displaying the component on a customer's bill if the company can correctly identify the bundled components subject to sales tax on its record and books and has fairly established the individual prices of such components. The Kansas Department of Revenue maintains their ability to audit company records to ensure proper taxes are collected and remitted to the State.

AT&T respectfully requests your approval of Senate Bill No. 1. Thank you for the opportunity to address this issue and I am available to answer any questions you may have.

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Robert J. Fasl
Director-Property Taxes

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**Testimony on behalf of SBC Communications Inc.
Before the House Taxation Committee
Presented by Robert J. Fasl
March 16, 2001**

Representative Edmonds, members of the Committee, good morning.

My name is Robert Fasl. I am a Regional Director of Property Tax for SBC Communications Inc. (SBC), the parent company of Southwestern Bell.

I appear before you today to voice SBC's support of Senate Bill 1 regarding the sales tax base of "communication services bundles." SBC believes that the sales tax base of "communication services bundles" is the gross receipts generated by only the taxable communication services provided in each bundle.

As SBC is providing interstate long distance service in Kansas, the company is now competing in the Kansas market where service offerings may include "communication services bundles" of both currently taxable and non-taxable services. Accordingly, SBC may now seek to operate in the Kansas market identical to that of its competitors. Therefore, SBC encourages the Committee to adopt Senate Bill 1 regarding the taxable base of "communication services bundles" for sales tax purposes.

On behalf of SBC Communications Inc., I thank you Mister Chairman and each member of the Committee for this opportunity to voice SBC's support of Senate Bill 1.

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Since 1894

To: The House Taxation Committee
Representative John Edmonds, Chairman

From: Mike Beam, Executive Secretary, Cow-Calf/Stocker Division

Subject: Support for **Senate Bill 138** – Property Taxes on Farm Storage and Drying Equipment

Date: March 16, 2001

Thank you Mr. Chairman for scheduling a hearing on SB 138. This legislation relates to the existing property tax exemption for farm storage and drying equipment. The heart of the bill is the striking of the word “exclusively” in line 31.

Apparently the legislature enacted this *eight-year* exemption around 1977 to correspond with federal action to provide low interest loans for the building of grain storage equipment. It was determined it was a necessary and an appropriate policy for the state to help USDA encourage the construction of on farm grain storage facilities by exempting such facilities from property taxes. Since that time, the state has continued this exemption. As a reminder, this exemption is limited to eight years.

We requested the introduction of this bill because of a recent Board of Tax Appeals (BOTA) ruling that ruled the exemption does not apply if the grain storage facility is acquired through a lease agreement. BOTA claimed this method did not meet the “used exclusively for storing or drying of ...” test, and producers acquiring grain facilities with a lease should be denied the exemption. Ironically, in line 28, the law does not stipulate the grain storage facility must be financed in any particular manner.

Today, in 2001, it is not uncommon for farmers and ranchers to use a lease agreement as a way to finance the purchase of equipment. The intention of this bill is to merely clarify that grain storage and drying facilities may not be denied the exemption if it is financed through a lease agreement.

We appreciate the Committee’s favorable consideration of the bill and stand willing to answer any questions or respond to any comments. Thank you.

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Gaches, Braden, Barbee & Associates

Governmental Affairs & Association Management

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To: House Taxation Committee
From: Tom Bruno

RE: SB 138

Date: March 16, 2001

Mr. Chairman and members of the Committee, my name is Tom Bruno. I am here today representing the Farm Credit Associations in Kansas. I am also speaking on behalf of the more than 14,000 farmers and ranchers who borrow over \$1.5 Billion in funds from Farm Credit Associations all across the state.

Farm Credit is asking for your support of Senate Bill 138. This bill amends state statute 79-210d to bring clarity and fairness to our tax code.

The statute provides a property tax exemption for new and qualifying grain storage and drying equipment. As you know, Kansas has and is experiencing a severe shortage of grain storage. Previous sessions of the legislature have recognized this and exempted this equipment from sales and ad valorem tax to promote expansion. However, some producers have been denied these tax benefits based solely on the manner in which they financed the facility, and not on the eligibility of the facility.

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For example, if one of Farm Credit's customers was adding two grain bins today, their loan officer could offer them the choice of a term loan or a lease. Let's assume the customer chose a term loan for one bin and a lease for the other. Based on this scenario, the farmer can get an ad valorem tax exemption on the bin financed by the term loan, but not on the bin financed by the lease.

In a lease, the Board of Tax Appeals found that there is a "simultaneous use" by the lessor and the lessee, thus in their view violating the "exclusive use" requirement in the Statute. Their ruling states that since both the lessor and the lessee are making a profit on the storage facility, the transaction is no longer eligible for the exemption. However, a loan officer can offer a term loan on the same storage facility, at a profit, and not have an affect on the exemption. In both instances all costs of ownership are borne by the producer, including all taxes, insurance and maintenance.

We feel this to be a double standard that penalizes Kansas's farmers who choose leasing as their financing vehicle rather than term loan.

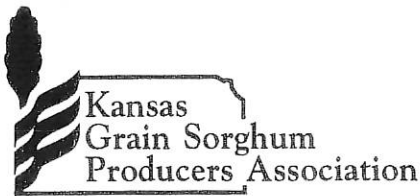
In conclusion, passage of this bill will:

- Give farmers back their freedom to choose financial alternatives based on individual needs,
- Alleviate the frustration of county appraisers in determining how grain storage facilities are financed,
- Eliminate the need for The Board of Tax Appeals to decide which grain storage facilities are exempt and which are not.

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Mr. Chairman, I have kept my remarks very brief. Farm Credit strongly supports the removal of the requirement for exclusive use and urges passage SB 138 as revised to remove this needless requirement. Thank you for letting me share my thoughts on this important program, and I would be happy to answer any questions you or the committee might have.

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**Testimony Regarding Senate Bill No. 138
Before the House Taxation Committee
March 16, 2001**

Good morning Chairman Edmonds and members of the House Taxation Committee, my name is Greg Krissek. I am Director of Operations for the Kansas Corn Growers Association. I appreciate the opportunity to make comments in support of SB 138. My comments also reflect the position of the Kansas Grain Sorghum Producers Association.

The provisions of SB 138 address those situations where the form of financing a farmer uses when acquiring farm storage may negatively impact his ability to qualify for the property tax exemption currently available pursuant to KSA 79-201d.

The need for additional grain storage in the state and tax incentives encouraging such construction is being considered in other proposals this legislative session. Plentiful commodity production and increased use of specific varieties requiring identity preservation are prompting producers to replace or construct on-farm grain storage.

In these challenging financial times, farmers and their lenders may utilize several types of financing to make the acquisition of on-farm storage as affordable and feasible for the producer as possible. Our organizations' members have chosen both traditional financing and lease/purchasing as financing options. But the latter approach has become less favored since this financing option does not seem to qualify for the eight-year property tax exemption currently authorized by the statute.

This type of financing-neutral clarification was approved by the Legislature several years ago concerning farm machinery and equipment. The goal of SB138 is to provide the same type of clarification with on-farm storage and drying equipment.

For these reasons, we request your support of SB 138. Thank you for the opportunity to make these comments and I will try to answer any questions concerning this testimony.



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PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON TAXATION

RE: SB 138 - Allowing farm storage and drying equipment acquired through a lease to qualify for a state property tax exemption.

**March 16, 2001
Topeka, Kansas**

**Presented by:
Leslie Kaufman, Associate Director
Public Policy Division
Kansas Farm Bureau**

Chairman Edmonds and members of the House Taxation Committee, thank you for the opportunity to appear today on behalf of the farmer and rancher members of Farm Bureau and express our support for SB 138 which allows property acquired through a lease to qualify for a state property tax exemption. I am Leslie Kaufman, Associate Director of Public Policy for Kansas Farm Bureau.

In 1997, Farm Bureau was apprised that the Board of Tax Appeals (BOTA) was denying the state property tax exemption on farm machinery and equipment in cases where the property was acquired by a lease-purchase agreement. BOTA determined the property had a dual use when it was financed through lease-purchase. A bill passed during the 1997 Legislative Session that removed the exclusive use provision from K.S.A. 79-201j. As such, the financing arrangement no longer controls the granting or denial of a tax exemption on farm machinery and equipment.

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This summer, it was brought to our attention that BOTA was applying the same dual-use analysis in denying property tax exemptions under K.S.A. 79-201d to farm storage and drying equipment. Farm Bureau supports SB 138 because it would reconcile K.S.A. 79-201j and 79-201d and it would eliminate, what is essentially discrimination based on financing agreements, rather than actual use.

In November, farmers and ranchers from all 105 counties in Kansas gathered in Wichita to adopt resolutions for Kansas Farm Bureau. The policies adopted recognize the financing needs of agriculture producers, as well as the need for equity in tax matters:

- ***Farmers and ranchers need a variety of credit facilities to finance operating and ownership expenses***
- ***The type of financing arrangement should not impact whether property is exempt from taxation.***

We respectfully encourage this committee to address the exemption denial situation describe above by recommending SB 138 favorable for passage. This bill will assure that farm storage and drying equipment acquired through a lease-purchase agreement is clearly included within K.S.A. 79-210d. Thank you.

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STATE OF KANSAS

Bill Graves, Governor

DEPARTMENT OF REVENUE

Stephen S. Richards, Secretary

Office of Policy & Research
Richard L. Cram, Director
915 SW Harrison St.
Topeka, KS 66625



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Hearing Impaired TTY (785) 296-3909
Internet Address: www.ink.org/public/kdor

Office of Policy & Research

**To: Representative John Edmonds, Chair
House Taxation Committee**

From: Richard L. Cram

Re: Testimony on Senate Bill 252

Date: March 16, 2001

Streamlined Sales Tax Project

An Executive Summary describing the Streamlined Sales Tax Project is attached.

The Uniform Sales and Use Tax Administration Act (Act) and Streamlined Sales Tax Agreement (Agreement), were discussed during my testimony to the Committee on this topic on January 25, 2001. The National Governors Association (NGA) enthusiastically supports the Streamlined Sales Tax Project, including the Act and Agreement. The Executive Committee of the National Conference of State Legislatures (NCSL) further amended and approved the Act and Agreement on January 27, 2001. The full text of these documents, as well as additional information on the Streamlined Sales Tax Project, are available at the following website: www.streamlinedsalestax.org.

The Act is the legislative authorization for a State to join the Agreement after the State has adopted the sales/use tax administrative uniformity requirements contained in the Agreement. When at least 5 States have adopted the Act and joined the Agreement, it can be implemented, and collection and reporting of sales or use tax on remote sales from retailers volunteering to participate in the Project commences. Legislatures of the States involved in the Streamlined Sales Tax Project are currently considering legislation concerning the Act and Agreement. At present, legislation has been introduced in 16 States (Alabama, Arkansas, Indiana, Kansas, Kentucky, Maryland, Massachusetts, Missouri, Nebraska, North Dakota, Oklahoma, Pennsylvania, Tennessee, Texas, Utah, and Vermont) for adoption of the Act, or some form of it. Legislation has been introduced in 3 States (Illinois, Minnesota, and North Carolina) for adoption of both the Act and the Agreement. Three States (Iowa, South Carolina, Wisconsin) are in the process of drafting subject legislation. In 2 States (Rhode Island, Ohio), either the governor has recommended that the legislature consider passing such legislation, or the governor is considering such legislation. Wyoming is the first State to adopt both the Act and the

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Agreement. The website mentioned above provides a current status report, updated weekly, on the progress of the legislation in the participating States.

Senate Bill 252

Senate Bill 252 is an abbreviated version of the Act and provides that the Department of Revenue can become a signatory to the Streamlined Sales Tax Agreement at such time as the legislature takes further action to bring Kansas' sales and use tax laws into compliance with the uniformity requirements of the Agreement. Senate Bill 252 further authorizes the Department to continue participation in the Streamlined Sales Tax Project, identify the changes that need to be made to Kansas' sales and use tax laws that would be required to comply with the Agreement, and take such other actions needed to prepare Kansas to enter into the Agreement.

This bill, if enacted, makes no changes to existing sales or use tax laws. It authorizes the Department of Revenue to continue participation with other States in the development of the Streamlined Sales Tax Project and consideration of amendments or revisions to the Agreement, which is currently a work in progress. Only until and unless the Kansas legislature makes the changes needed to bring Kansas' sales and use tax laws into compliance with the Agreement, would the Department have authority to join the Agreement.

The Department already has authority under the legislation passed last year, 2000 Senate Bill 59 (L. 2000, ch. 140), §§ 13-19 (K.S.A. 2000 Supp. 79-3653 *et seq.*), to participate in the Streamlined Sales Tax Project. However, as a condition imposed by the Project itself, those States that do not adopt some form of the Act, *i.e.*, legislation authorizing the State to join the Agreement, may not be allowed to keep their voting rights on future amendments to the Agreement. Thus, if Senate Bill 252 is not enacted, Kansas may lose its ability to vote on future revisions or amendments. Senate Bill 252 is needed to ensure that the Department of Revenue keeps direct input and involvement in this process.

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STREAMLINED SALES TAX PROJECT

EXECUTIVE SUMMARY

March 1, 2001

The Streamlined Sales Tax Project is an effort created by state governments, with input from local governments and the private sector, to simplify and modernize sales and use tax collection and administration. The Project's proposals will incorporate uniform definitions within tax bases, simplified audit and administrative procedures, and emerging technologies to substantially reduce the burdens of tax collection. The Streamlined Sales Tax System is focused on improving sales and use tax administration systems for both Main Street and remote sellers for all types of commerce.

Thirty-eight states are currently involved in the project. Thirty-two states are voting participants in the project because their legislatures have enacted enabling legislation or their governors have issued executive orders or a similar authorization. Six states are non-voting participants in the work of the project because they do not have the formal commitment of the state executive or legislative branches.

The project has addressed its issues through a steering committee and four work groups: Tax Base and Exemption Administration; Tax Rates, Registration, Returns and Remittances; Technology, Audit, Privacy and Paying for the System; and Sourcing and Other Simplifications. Businesses—including national retailers, trade associations, manufacturers, technology companies, and others--have actively participated in Project meetings by reviewing proposals and providing feedback to the states on key elements of the new system.

The key features of the Streamlined Sales Tax System include:

- Uniform definitions within tax bases. Legislatures still choose what is taxable and exempt but will use the common definitions for key items in the tax base.
- Simplified exemption administration for use- and entity-based exemptions. Sellers are relieved of the "good faith" requirements that exist in current law and will not be liable for uncollected tax. Purchasers will be responsible for incorrect exemptions claimed.
- Rate simplification. States will be responsible for the administration of all state and local taxes and the distribution of the local taxes to the local governments. State and local governments will use common tax bases and accept responsibility for notice of rate and boundary changes. States will be encouraged to simplify their own state and local tax rates.
- Uniform sourcing rules. The states will have uniform sourcing rules for all *House Taxation* property and services.

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- Uniform audit procedures. Sellers who participate in one of the certified Streamlined Sales Tax System technology models will either not be audited or will have a limited scope audit, depending on the technology model used.
- Paying for the system. To reduce the financial burdens on sellers, states will assume the responsibility for implementing the Streamlined Sales Tax System.

Participation in the system by both vendors and states is voluntary. Also, registration by vendors in the Streamlined Sales Tax System does not infer nexus for business activity or income tax purposes.

The Streamlined Sales Tax System will provide sellers the opportunity to use one of three technology models. A seller may select Model 1 where a Certified Service Provider performs all of the seller's sales tax functions. A seller may select Model 2, a Certified Automated System, to perform only the tax calculation function. A larger seller with nationwide sales that has developed its own proprietary sales tax software may select Model 3 and have its own system certified by the states. However, some sellers may choose to continue to use their current systems and still enjoy the benefits of simplification.

On December 22, 2000 state representatives to the Streamlined Sales Tax Project voted to approve a Uniform Sales and Use Tax Administration Act and Streamlined Sales and Use Tax Agreement. State legislatures began considering the Act and Agreement in January 2001.

The approval of the Act and Agreement provides the basis for states to enact legislation to provide the benefits of simplification to vendors in their state. However, the Project will continue its work throughout 2001 to incorporate additional elements into the system. These elements may include additional uniform definitions, a uniform tax return, and revisions to the technology models based upon information gained through the testing of tax collection software.

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PARTICIPATING/OBSERVER STATES

At its March 2000 meeting, the rules adopted by the Streamlined Sales Tax Project anticipated two levels of activity in the Project as dictated by the executive and legislative branches in each interested state. "Participating" states represent those states in which the Governor has signed an Executive Order or the legislature has passed legislation authorizing state personnel to participate in the discussions of the Project. Participating states are also voting representatives in the Project. "Observer" states represent those states that have expressed an interest in the Project's mission but have not received the executive or legislative authorization to become a Participating state. Observer states participate in all Project meetings but do not have voting status within the Project.

As of March 1, 2001, the following list represents Participating and Observer states in the Project.

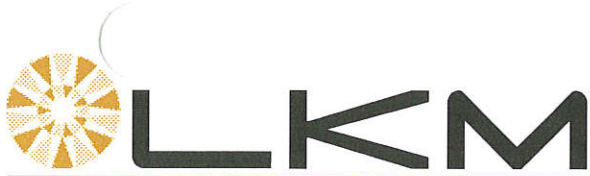
Participating States (32)

Alabama
Arkansas
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Michigan
Minnesota
Mississippi
Missouri
Nebraska
New Jersey
Nevada
North Carolina
North Dakota
Ohio
Oklahoma
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Washington
West Virginia
Wisconsin
Wyoming

Observer States (6)

California
Colorado
Connecticut
Georgia
Idaho
Pennsylvania

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League of Kansas Municipalities

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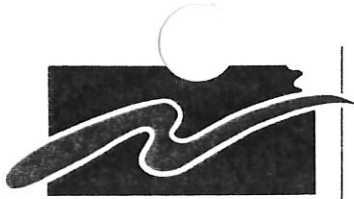
TO: House Taxation Committee
FROM: Don Moler, Executive Director
DATE: March 16, 2001
RE: Support for Streamlined Sales Tax Initiative – SB 252

First I would like to thank you very much for the opportunity to testify today regarding the Streamlined Sales Tax Initiative. The League has been involved since the beginning in this initiative and I remain part of a working group which was formed at the time the initiative was being considered and it remains in place to this day. We have spent many hours reviewing various aspects of this issue and I remain convinced that the Streamlined Sales Tax Initiative is an important first step in looking at taxation of Internet sales.

I think it is important for all of us to remember how quickly the Internet has come upon us and the fact that prior to 1995 there were essentially no commercial sales being made over the Internet. Today I believe we see an exponential growth in trade and sales over the Internet and I would expect, and I believe that most observers would agree, that the size of this trade will continue unabated for the foreseeable future. The League remains steadfast in its belief that we must have a system which is equitable for merchants who operate from brick and mortar locations as well as those who operate via the Internet. The League position on Internet sales, adopted by our Convention of Voting Delegates on this past October, reads as follows: ***“Internet Commerce. We support a sales tax system that is equitable for brick and mortar businesses and maintains an adequate source of tax revenue for cities.”***

What we mean by this statement is the simple fact that it is not equitable nor a level playing field for in-state merchants to collect sales tax while out of state merchants, selling via the Internet, are able to sell similar products without sales tax consequences. We believe very strongly that the streamlined sales tax initiative, courageously undertaken by the State of Kansas last year, remains a valiant first step in moving towards equitable sales taxation for all Kansans. We do not believe it to be a new tax and fully support the continuation of the Streamlined Sales Tax Initiative in Kansas. Thank you very much for allowing the League to testify today on this very important issue.

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KANSAS
ASSOCIATION OF
COUNTIES

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TESTIMONY
concerning Senate Bill No. 252
re: Streamlined Sales Tax Administration

Presented by Judy Moler, Legislative Services Director/General Counsel
Kansas Association of Counties
March 16, 2001

Mr. Chairman and members of the committee, my name is Judy Moler, Legislative Services Director/General Counsel of the Kansas Association of Counties. I am here today to express support for Senate Bill No. 252, authorizing the Department of Revenue to enter into an agreement with other states to provide a multi-state, voluntary, streamlined system for sales and use tax collection and administration.

Local option sales taxes are an important source of revenue for county governments. 75 counties currently impose local-option, voter-approved sales taxes independent of any local-option sales taxes imposed by cities. In FY 00, countywide sales taxes generated \$309 million. As an estimate, counties retained about 50%, or about \$150 million of countywide sales tax revenue, sharing the balances with cities. By contrast, Kansas counties levied \$606.4 million in property taxes to finance their 2000 budgets.

From the onset of the discussions about taxation of sales transacted over the internet, the Kansas Association of Counties has held that taxation of sales should be equal whether a sale takes place over the counter, by mail order, or by the internet. Without a new system to simplify the collection of sales and use taxes, we are almost inevitable headed to a shift of the tax burden to property taxpayers. That is why we have been supportive of the Kansas Department of Revenue's position of leadership in simplifying the sales tax system, and that is why we are supportive of SB 252. This is simply too important to Kansas and its local governments for the Department of Revenue not to be very involved and participating in the process of streamlining and simplification.

We urge the committee to report SB 252 favorably for passage.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to Randy Allen or Judy Moler by calling (785) 272-2585.

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Office of Policy & Research

**To: Representative John Edmonds, Chair
House Taxation Committee**

From: Richard L. Cram

Re: Testimony on Senate Bill 253

Date: March 16, 2001

Senate Bill 253

Senate Bill 253 proposes one of the changes needed to bring Kansas sales and use tax law into compliance with the requirements of the Streamlined Sales Tax Agreement. Section 308 b. of the Agreement provides in part:

Member states that have local jurisdictions that levy a sales or use tax must: . . .

3. Provide that local rate changes will be effective only on the first day of a calendar quarter after a minimum of sixty (60) days' notice to sellers. . . . 5. For sales and use tax purposes only, apply local jurisdiction boundary changes only on the first day of a calendar quarter after a minimum of sixty (60) days notice to sellers.

This is one of the uniformity requirements that must be complied with to join the Agreement.

Retailers generally depend on the Department to notify them of local sales tax rate or boundary changes, although those changes legally take effect, whether the Department provides notice or not. When a city or county authorizes a local sales tax, the city or county must notify the Department, so that the Department can in turn notify affected retailers of the local sales tax rate change. For those retailers that file monthly sales tax returns, the Department mails the monthly return to the retailer prior to the beginning the month that the return applies to. If possible, the Department includes with the return notice of any rate or boundary changes that would affect that retailer and would go into effect during that coming month. However, if the Department does not receive sufficient advance notice of a rate or boundary change from the city or county, then it cannot notify affected retailers in time for those retailers to begin sales tax collections before the new rate or boundary change goes into effect.

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Under current law, K.S.A. 12-191 provides that for counties or class B cities, local sales taxes authorized at a primary or general election shall commence on the first day of the calendar quarter following the 30th day after the election authorizing the levy. Local sales taxes approved by a county or city at any other election shall commence on the first day of the calendar quarter following the 60th day after the date of the authorizing election. A city's sales tax becomes effective within an area annexed by the city on the first day of the month following the 30th day after the date the city provided the Department with a certified copy of the annexation ordinance and map.

Under current law, local sales taxes approved at the November 7, 2000 general election became effective on January 1, 2001, pursuant to K.S.A. 12-191, regardless of how much advance notice the local jurisdiction gave the Department. Following the most recent general election, the Department experienced 2 situations where local jurisdictions approving a local sales tax failed to timely notify the Department. In one situation, the Department did not receive notice until mid-December of a rate change that was to take effect January 1. In another situation, the Department did not receive notice of the rate change until January 7—after the rate had already gone into effect. The Department needs 30 days to prepare the notice for distribution to affected retailers. Needless to say, this becomes problematic for the Department and affected retailers.

Senate Bill 253 establishes a minimum time period that cities and counties must give notice to the Department of local sales tax rate or boundary changes. In order to comply with the uniformity requirements of the Agreement, that minimum time period must give the Department sufficient time to notify affected retailers of the rate or boundary change, so that those retailers will have received notice at least 60 days prior to the first day of the calendar quarter when the rate or boundary change is to take effect.

Senate Bill 253 proposes to amend K.S.A. 2000 Supp. 12-189 to require that local jurisdictions send the Department a certified copy of the ordinance or resolution authorizing the local sales tax within 30 days after adoption of the ordinance or resolution. K.S.A. 12-191 would be amended to provide that a local sales tax approved at any election would not become effective until the first day of the calendar quarter following the 90th day after the city or county provided written notice to the Director of Taxation of the election authorizing the levy. For an annexation, the city sales tax would not become effective until the first day of the calendar quarter following the 90th day after the date that the city provided the Department with a certified copy of the annexation ordinance and the map. This notice period will give the Department adequate time to notify affected retailers of the rate or boundary changes within the minimum notice requirements specified in the Agreement.

Senate Bill 253 also proposes to amend K.S.A. 2000 Supp. 12-189 to provide that local sales tax revenue received by a city or county that exceeds the cost of a special project for which the revenue was pledged shall be credited to the city or county general fund. This provision is intended to cover situations where retailers may not have been notified to stop collecting the tax until after revenues sufficient to satisfy the special project costs have already been collected. This would authorize deposit of any excess collections into the city or county general fund. The Department's goal would be to work with the cities and counties to minimize occurrence of those situations. However, this provision would give the Department statutory authority to distribute any excess collections to the city or county, when that situation does occur.

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KANSAS
ASSOCIATION OF
COUNTIES

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TESTIMONY
concerning Senate Bill No. 253
re. Administration of Local-Option Sales Taxes
House Taxation Committee

Presented by Judy Moler, Legislative Services Director/General Counsel
Kansas Association of Counties
March 16, 2001

Mr. Chairman and members of the committee, my name is Judy Moler, Legislative Services Director and General Counsel of the Kansas Association of Counties. I am here today to express support for Senate Bill No. 253, modifying the advance notice requirements of local-option sales taxes. As we understand the bill, the changes make our system in Kansas more consistent with the advance notifications contemplated by other states.

If the streamlined sales tax system is ever going to advance, we know that counties and cities are going to have to adjust and accommodate where possible to make state laws more consistent and uniform. This is a bill which we can support. We urge the committee to report SB 253 favorably.

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