Approved: January 28, 2002
Date

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Chairperson David Corbin at 10:45 a.m. on January 23, 2002, in Room 519-S of the Capitol.

All members were present except: Senator Pugh

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Don Hayward, Revisor of Statutes Office
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Richard Cram, Kansas Department of Revenue

Others attending: See attached list.

The minutes of the January 22, 2002, meeting were approved.

Senator Corbin called the Committee's attention to a chart with data regarding a proposed committee bill dealing with an increase in taxation on cigarettes, tobacco products, and liquor. (Attachment 1) He explained that the introduction of the proposed bill would simply be a starting point for debate. He noted that it does not include the Governor's taxation proposal. He said, if the Committee recommended the introduction of the bill, the hearing would be scheduled for January 28.

Senator Donovan moved to introduce the proposed Committee bill, seconded by Senator Taddiken. The motion carried.

Senator Donovan suggested that information regarding what approach other states and regions have taken would be helpful when the Committee considers the bill. Senator Corbin assured the Committee that the information would be made available to the Committee.

Richard Cram, Kansas Department of Revenue, requested the introduction of four bills. The first bill would give the Secretary of Revenue the authority to require taxpayers who have a sales tax or withholding tax liability exceeding $100,000.00 a year to remit payment by electronic transfer. After the Secretary has given written notice that payment by electronic transfer of funds is required, timely payment by any other method would be considered as delinquent and subject to a penalty and interest as if made one day following the due date.

Senator Lee moved to introduce the proposed bill requiring payment of taxes by electronic transfer, seconded by Senator Goodwin. The motion carried.

The second bill requested by Mr. Cram would give the Department statutory authorization to setoff taxpayer refunds against another tax liability. He explained that the Department currently follows this procedure under common law. The proposed bill would codify the common law setoff principle.

Senator Donovan moved to introduce the proposed bill to codify the common law setoff principle, seconded by Senator Goodwin. The motion carried.

The third bill requested by Mr. Cram would amend K.S.A.70a-102, which deals with sand and gravel royalties, to add a penalty provision for those who fail to file returns or pay sand and gravel royalty fees. He explained that the proposed bill pertains to businesses which dredge sand out of river beds for which the state holds sand rights. He noted that the penalty provision would make the statute consistent with other tax laws.

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE at 10:45 a.m. on January 18, 2002, in Room 519-S of the Capitol.

Senator Lee moved to introduce the proposed bill adding a penalty provision for failure to pay sand and gravel royalty fees, seconded by Senator Praeger. The motion carried.

Mr. Cram's fourth proposed bill would give the Secretary of Revenue authority to abate drug tax assessments. He explained that currently uncollectible drug tax assessments account for a large portion of the Department's outstanding accounts receivable, and the Department has no way to write them off. The bill would give the Department the same write off authority it has for other types of taxes.

Senator Clark moved to introduce the proposed bill giving the Secretary of Revenue the authority to write off uncollectible drug tax assessments, seconded by Senator Jenkins. The motion carried.

Mr. Cram followed with an update on the status of the Streamlined Sales Tax Project, **SB 252**, and the Internet Tax Freedom Act. (Attachment 2) In conclusion, he emphasized that the Kansas Legislature needs to pass **SB 252** so that Kansas can become an implementing state in the Streamlined Sales Tax Project and participate in shaping the Streamlined Sales Tax Agreement to Kansas' benefit. Committee discussion followed regarding the problems involved in implementing taxation of Internet sales.

The meeting was adjourned at 11:25 a.m.

The next meeting is scheduled for January 28, 2002.

SENATE ASSESSMENT AND TAXATION COMMITTEE
GUEST LIST

DATE: January 23, 2002

NAME	REPRESENTING
Mike Taylor	City of Wichita
Tom Bruno	GBBA
Judy Moler	KAC
Don Seifert	City of Olathe
Bill Brady	Ks Gov't Consulting
Leslie Kaufman	Ks ~~FB~~ Farm Bureau
Marlee Carpenter	KCCI
Pat Lehman	City of Lenexa
Ron Gaches	GBBA
[illegible]	[illegible]
Martha Neu Smith	KMHA
Deann Williams	KS Motor Carriers Assn
Ann Durkes	DOB
Larry R Baer	LKM

Proposal: Sen A&T

23-Jan-2002
08:08:29 AM

	Cigarette Tax 35 cent incr 24 to 59 cnts June 1, 02	Tob Products from 10 to 20% June 1, 02	Liq Gallonage CMB to 0.23 Beer to 0.23 F Wine to $1 L Wine to 0.40 Alc,Spr to 3.25 June 1, 02	Liq Drink June 1 Incr from 10 to 12%	Liq Enf June 1 Incr from 8 to 10%	Total This Package
FY 02	---		---			
03	$64.722	$3.969	$5.319	$4.622	$8.224	$86.856
04	$67.500	$4.438	$5.526	$4.937	$8.528	$90.929
05	$67.500	$4.770	$5.723	$5.233	$8.775	$92.001
06	$67.500	$5.128	$5.924	$5.547	$9.030	$93.129
07	$67.500	$5.513	$6.135	$5.880	$9.291	$94.319
6-yr total	$334.722	$23.818	$28.627	$26.219	$43.848	$457.234

Senate Assessment & Taxation
1-23-02
Attachment 1

STATE OF KANSAS
Bill Graves, Governor

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

DEPARTMENT OF REVENUE
Stephen S. Richards, Secretary

(785) 296-3081
FAX (785) 296-7928
Hearing Impaired TTY (785) 296-6461
Internet Address: www.ksrevenue.org

Office of Policy & Research

To: Senator David Corbin, Chair
Senate Committee on Assessment and Taxation

From: Richard L. Cram

Re: Current Status of Streamlined Sales Tax Project, Senate Bill 252 and Internet Tax Freedom Act

Date: January 23, 2002

Overview of Streamlined Sales Tax Project

The Streamlined Sales Tax Project (SSTP) responds to the concerns of merchants about the difficulties in dealing with different States' sales tax laws, and to State and local government concerns about loss of revenues from remote retail sales by mail-order, telephone and the Internet. The SSTP's goal is to make administration of State sales and use tax laws more uniform, efficient, and less burdensome on multi-state merchants. The SSTP seeks to provide incentives for multi-state merchants to voluntarily collect and remit use tax on sales to customers in States where they may not have any physical presence or legal obligation to collect and remit. The SSTP enjoys the strong support and active involvement of 34 participating States, as well as the National Governors Association (NGA), National Conference of State Legislatures (NCSL), Federation of Tax Administrators (FTA) and the Multistate Tax Commission (MTC). More information on this Project is available by visiting the following website: www.streamlinedsalestax.org.

Status of the Project

Phase 1

Phase 1 of the Streamlined Sales Tax Project began in March, 2000 and involved the drafting and approval of the Uniform Sales and Use Tax Administration Act ("Act") and Streamline Sales and Use Tax Agreement ("Agreement") (available on the website) by the participating States. The Act and Agreement were submitted to the participating States for consideration by their respective legislatures, beginning in January of this year.

Phase 2

We are now in Phase 2, which involves the drafting of additional definitions not yet included in the Agreement, development of a uniform tax return, and other tasks assigned to

Senate Assessment + Taxation
1-23-02
Attachment 2

various work groups. The SSTP met most recently in Denver, Colorado on December 3-4, 2001 to discuss and consider definitions, forms, and issue papers (available on the website) concerning additions or changes to the Agreement. The Secretary of Revenue, Stephen Richards, along with Gary Centlivre of the Department, participated in that meeting. Richard Cram participated in the SSTP meeting held in Louisville, Kentucky in October, 2001. The SSTP is meeting now, January 23-24, 2002, in New Orleans to continue further development of uniform definitions and the various issue papers for recommendation to the "Implementing States" (those States that have passed some version of the Act).

Phase 2 also encompasses the efforts by the legislatures of the participating States in adopting the Act and making the legislative changes necessary to conform to the uniformity requirements of the Agreement. According to the January 9, 2002 report on the SSTP website, 21 States and the District of Columbia have passed the Act and are now considered Implementing States. New Jersey most recently joined this group (January 2002). Wyoming, Minnesota, Illinois and North Carolina have adopted both the Act and the Agreement. SSTP legislation has been introduced and is pending in 6 more States (including Kansas). Ohio is in the final stages of passage of the Act.

An inaugural meeting of the Implementing States of the Streamlined Sales Tax Project was held November 28-29, 2001, in Salt Lake City, Utah. The National Conference of State Legislatures and National Governors' Association are working closely with this group. Kansas cannot join this group until Senate Bill 252 is passed. The Implementing States' goal is to finalize any changes to the Agreement by mid-2002, so that participating States' legislatures will have time to consider the sales tax statutory changes needed to join the Agreement by the Spring of 2003. The Implementing States will be meeting on January 25, 2002 in New Orleans, tagging on to the conclusion of the SSTP meeting.

Phase 3

Phase 3 will involve implementation of the Agreement, once at least 5 States have adopted the Act, made the necessary legislative changes to meet the uniformity requirements, and joined the Agreement. Those States will make the Streamlined Sales Tax System operational, assuming the technology is in place. The Pilot Project will facilitate the technology aspect.

Pilot Project Status

The Pilot Project is intended to test the Model 1 (a Certified Service Provider [CSP] will contract with a retailer to perform all sales and use tax reporting and remittance functions for the retailer) technology with actual sales transactions involving 4 participating States. Participating States in the Pilot Project are Kansas, Michigan, North Carolina and Wisconsin. The purpose of the Project is to provide for the development, testing and evaluation of the automated State transaction tax registration, calculation, collection, remittance and reporting systems; evaluate methods for ensuring privacy of purchasers; and make recommendations to other interested States, based on the Pilot Project results.

Four Certified Service Providers (esalestax.com, Inc.; Pitney Bowes, Inc./Vertex, Inc. subcontractor; Taxware International, Inc./Hewlett-Packard subcontractor; Taxware International, Inc./Pitney Bowes subcontractor) are participating, with varying levels of activity. After unsuccessful marketing efforts, esalestax.com is no longer seeking to recruit volunteer retailer participants. However, esalestax.com is still seeking certification of its system by the pilot States. The four pilot States have certified the Vertex system. Vertex has three volunteer retailers currently ready to go on line with the system. One of those retailers has Kansas customers. The pilot States have certified Taxware/Hewlett-Packard system. Taxware/Hewlett-Packard is working to implement one retailer into their system.

Although the Pilot Project was expected to be completed by the end of last year, it is still in progress, due to the late start. However, statutory authority for Kansas to participate in the Pilot Project expired on December 31, 2001. K.S.A. 2001 Supp.79-3656(c). The Department will need legislative authorization to continue participation in the Pilot Project.

Kansas Streamlined Sales Tax Legislative Proposal: Senate Bill 252

Senate Bill 252, which passed the Senate last year, is pending in the House Tax Committee. Senate Bill 252 is a modified, 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.

The Department already has authority under prior legislation, K.S.A. 2001 Supp. 79-3655, to participate in the Streamlined Sales Tax Project. However, those States that have not yet adopted the Act have no voting rights in the Project. Because Senate Bill 252 was not enacted this past session, Kansas does not have voting rights in the further development and revision of the Agreement, and cannot participate in any Implementing State meetings. The Department strongly urges the passage and enactment of Senate Bill 252 as early as possible in 2002 session in order for Kansas to become an Implementing State, so that it can actively participate in the development and molding of the Agreement.

Moratorium on Internet Taxation

The Internet Tax Freedom Act (ITFA), passed by Congress in 1998, placed a moratorium on State and local government taxation of Internet access fees and imposition of multiple or discriminatory taxes on electronic commerce. Although the moratorium expired on October 21, 2001, Congress re-imposed the moratorium in H.R. 1552 (signed into law November 28, 2001) for two years until November 1, 2003. Several legislative proposals were introduced in Congress during the months leading up to the October 21, 2001 expiration date, raising two issues: (1) whether States' progress on streamlining sales tax laws should be coupled with Congressional authorization for States to impose use tax collection duties on remote retailers; and (2) whether Congress should legislate higher nexus standards for various state business taxes. Neither of these issues were resolved and both will likely continue to be debated during the current two-year moratorium.

During the debate over whether to extend the ITFA moratorium, the lobbying efforts of the NGA, NCSL, MTC and FTA, as well as retail organizations and various States, communicated to Congress the current tight fiscal situation of the States, the serious loss of uncollected tax revenues occurring with Internet and other remote retail sales, and the importance to the States of linking progress on sales tax simplification with Congressional authorization for

States to impose use tax collection duties on remote retailers. With the two-year re-imposition of the moratorium, the States will have the opportunity to show Congress significant progress on sales tax simplification by the time the moratorium approaches expiration again. The groundwork has been laid for Congress to address the authorization issue then. However, the States' efforts to educate Congress on the importance of the sales tax simplification issue needs to continue.

The report entitled "State and Local Sales Tax Revenue Losses from E-Commerce: Updated Estimates" (and its earlier version) by Donald Bruce and William F. Fox, Center for Business and Economic Research, University of Tennessee, dated September 2001 (copy available), has been cited to Congress by those testifying in support of the SSTP and the need for Congress to authorize States to require remote retailers to collect and remit use tax on retail sales. This report estimates that for 2001, States will collectively lose $7 billion in new sales/use tax revenue from e-commerce retail sales. Of that $7 billion figure, the report estimates that $71.2 million is Kansas' loss (see Table 3, page 8).

Conclusion

Congress has approved a two-year re-imposition of the moratorium on Internet access fees and discriminatory taxes, which expires November 1, 2003. States involved in the SSTP now have the opportunity to demonstrate progress in the sales tax simplification effort during that time period, and continue raising the issue of Congressional authorization for States to impose use tax collection duties upon remote retailers. The Kansas Legislature needs to join in this progress by passing Senate Bill 252, so that Kansas can become an Implementing State in the SSTP and participate in shaping the developing contours of the Agreement to Kansas' benefit.