

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman John Edmonds at 9:00 a.m. on February 17, 2004 in Room 313-S of the Capitol.

All members were present:

Committee staff present:

Chris Courtwright, Legislative Research Department
Martha Dorsey, Legislative Research Department
Gordon Self, Revisors of Statutes
Carol Doel, Committee Secretary

Conferees appearing before the committee:

Honorable Representative Doug Mays, Speaker of the House
Honorable Representative Scott Schwab
Honorable Representative Arlen Siegfried
Honorable Representative Becky Hutchins
Dave Gregory, Star Lumber - Wichita
Mike Howerter, Howerter Appliances - Parsons
Barbara Kidell, Home Lumber - Coffeyville
Jeff Morris, Coffeyville City Manager
Chris Cleaver, Cleaver Farms - Chanute
Charlie Gregor, Leavenworth-Lansing Chamber of Commerce
Tim Liebert, Kansas Sampler, Overland Parks, KS

Others attending:

See Attached List

Chairman Edmonds opened the meeting requesting a bill introduction dealing with exempt buyers, contractors and certain repairs sales tax collectors.

There were no objections and that will be accepted for introduction.

The second bill which The Chairman requested dealt with local authorization for certain sales and income taxes.

This bill was also accepted for introduction.

The Chairman's third bill request dealt with certain gas collective issues and the taxation thereof.

There being no objections, that bill was accepted for introduction.

Representative Larkin requested the introduction of a bill for Representative Gatewood. This bill would be for a sales tax exemption certificate for a non-profit family life center.

This bill was accepted for introduction.

With no further bill introductions, Chairman Edmonds opened the meeting for public hearing on **HB 2700** and **HB 2599** explained that each member of the committee would be allowed one question per conferee and any further questions would need to be addressed through the Vice-Chairman or the Ranking Member as is appropriate.

The Chairman recognized Representative Scott Schwab to give a brief explanation of **HB 2700**. Representative Schwab explained that this would undo the destination based sourcing that was put in conference committee and passed on the floor of the Senate last year.

Representative Siegfried was recognized next to give an explanation of **HB 2599**. This bill puts a moratorium

CONTINUATION SHEET

MINUTES OF THE HOUSE TAXATION COMMITTEE at 9:00 a.m. on February 17, 2004 in Room 313-S of the Capitol.

for delay on the destination sourcing until such time as the United States Congress passes legislation that would enable the State of Kansas to collect taxes on remote sales. (Attachment 1)

The Honorable Doug Mays, Speaker of the House, was recognized as a proponent of **HB 2700** and **HB 2599**. He called the committee's attention to the last night of the 2003 Session, late at night, when they had voted the Streamlined Sales Tax in. Representative Mays stated that they should not have passed this legislation as the impact was greatly underestimated. After fully understanding the implication of the bill that was passed, Speaker Mays stated that he felt that he needed to get out and talk with business people himself. He attended seven meetings all across the state representing a good cross section of small businesses. The overwhelming response that he got was that the bill passed during the 2003 Session was onerous, it was impossible in some cases, it was costly for business and would likely put some small businesses out of business. He urged the members to support **HB 2700** and **HB 2599**. (No Written Testimony)

Representative Becky Hutchins testified before the committee in support of both **HB 2700** and **HB 2599** to bring to the committee's attention the written testimony from two of her constituents Mrs. Neva Heiselman and Bruce Shaw. (Attachment 2)

Mrs. Heiselman is the owner of the only furniture store in Jackson County. In her written testimony she stated that she did not care what software the Department of Revenue would supply her, she doesn't have a computer and she doesn't plan on buying one. She further stated that she would close her business before trying to comply with the SSTP (Streamlined Sales Tax Project). (Attachment 3)

Mr. Bruce Shaw, the owner of Jayhawk TV & Appliance, also in Jackson County, submitted written testimony stating that it is a full time job to keep the Federal and State Government books without having to figure all the different sales tax percentages. (Attachment 4)

Director of Information Technology at Star Lumber & Supply Company of Wichita, Dave Gregory, proposed in his testimony supporting **HB 2700** that for many retailers Streamlined Sales Tax is a logistics nightmare. Compliance at the cash register is impractical and SSTP may cost Kansas based retailers more in hard implementation expenditures and lost productivity than this state can collect in lost use tax. He also submitted a list of problems which the SSTP (Streamlined Sales Tax Project) would likely cause. (Attachment 5)

Mike Howerter of Howerter Appliances, Parson, Kansas was acknowledged in support of **HB 2700** and **HB 2599**. Mr. Howerter feels that the SSTP does not give a level playing field. The only way the independent retailers can compete is to offer more services such as delivery, installation and repair. In his estimation the activation of SSTP would cost him an average of an additional eleven to twelve hours a month. (Attachment 6)

Home Lumber & Supply Company of Coffeyville was represented by Barbara Kidwell. In her testimony she said some orders are delivered and some are picked up at their place of business. Most of the cash business is not delivered so that tax rate is set at the Coffeyville City Rate. About 40% of their business is done with professional credit customers and many times when material is delivered with directions to an on-the-job site, a number of times that job site has not been given a physical address, therefore the software supplied by the Department of Revenue will not work. They feel the SSTP issue is a serious issue for Kansas. (Attachment 7)

Jeff Morris, City Manager for the City of Coffeyville stated in his testimony that while they understand the reasons for changing sales tax collection to destination sourcing system, it has created much concern that they will experience a decline in sales tax collections. Coffeyville's economy is largely dependent upon wholesale/distribution businesses. Many of the businesses have expanded to cover territories in Southeast Kansas, Northeast Oklahoma and Southwest Missouri. Under the previous system taxable sales made by those companies in Kansas generated revenue for the City of Coffeyville. Under the destination sourcing system, that would no longer be the case. They also cited that the majority of Coffeyville's industries are located in an industrial park which is outside the corporate limits of the City of Coffeyville. While under new destination sourcing collection these industries will continue to pay state sales tax, they will no longer pay city sales tax again resulting in a net loss to the City of Coffeyville. (Attachment 8)

CONTINUATION SHEET

MINUTES OF THE HOUSE TAXATION COMMITTEE at 9:00 a.m. on February 17, 2004 in Room 313-S of the Capitol.

Appearing before the committee in support of **HB 2700** was Chris Cleaver of Cleaver Farm & Home, Chanute, Kansas. While they understand the state should realize additional sales tax revenue, they don't believe it should be collected in such an onerous, complicated and cost prohibitive manner as this law mandates. The cost prohibitive manner of collecting tax dollars would cause them to lose well over 50% of these tax dollars if the new law is established. (Attachment 9)

Leavenworth-Lansing Area Chamber of Commerce was represented by Charles Gregor, Jr., Executive Vice President. Mr. Gregor congratulated Secretary Wagon and the Kansas Department of Revenue (KDOR) for what has been accomplished in preparing Kansas to implement destination sourcing. Over a half million dollars has been invested in creation of a KDOR website that will simplify sales tax calculations and collections. Maintenance of this website will continue with an expense of approximately one hundred thousand dollars a year. There is still much more to be done. Therefore they support **HB 2599** which would allow the Kansas Department of Revenue to make all due preparations for implementing destination sourcing when and if enabling federal legislation becomes law. (Attachment 10)

Testifying in support of **HB 2700** was Brian Meitler, President of World Pest Control and Sunflower Services of Sylvan Grove and Otis, and a partner of Tox-Eol Pest Management, Inc., in Salina. **HB 2700** would repeal virtually all of the language of **HB 2005**. They are not opposed to the collection of taxes on out of state sales, but to the burden that his law has placed on the management businesses in Kansas. (Attachment 11)

Owner of Kansas Sampler, Tim C. Liebert of Overland Park, attested to the fact that SSTP does not address how small businesses that do not use computers to collect sales tax are going to implement destination sourcing. It is his feeling that the current law should be repealed and legislation that considers the impact on all businesses, not just national retailers should be developed. (Attachment 12)

With limited time being an important factor, Chairman Edmonds announced continuation of the hearings on **HB 2700** and **2599** would be on February 18, 2004. Meeting adjourned.

GUEST LIST

DATE 2/17/04

NAME	REPRESENTING
Hal Hudson	NFIB/KS
Brian Meitler	Kansas Pest Control Ass
Mark Bughart	South Western Assn.
Heather Grace	Damron Associate
Bob Mc Candless	Self
Mike Howerton	Howerton Appliance
Kathy Olsen	KS Bankers Assn.
Christy Caldwell	TCC
Marlee Carpenter	KCC
Rep Becky Hutchins	50 th Dist
George Petersen	Ks Taxpayers Network
Mike Repoon	Sedgwick Co.
Natalie Bright	WIBA
Bob Collins	Freestate Center
Sharon	Thorne Media Group
Larry R. Baser	CKM
Danielle Wae	Johnson County
John Burkes	DOB
Ken Rahgo	KRTA
Chris Wilson	KPA
Richard Harmon	KPA
Joanne Cline	glnok
Wendy Melburn	KIAT-KRMCA

ARLEN SIEGFREID

REPRESENTATIVE, 15TH DISTRICT

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 OLATHE, KANSAS 66061
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TOPEKA

HOUSE OF
 REPRESENTATIVES

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MEMBER: FEDERAL AND STATE AFFAIRS
 ETHICS AND ELECTIONS
 LOCAL GOVERNMENT
 TAXATION

To: John Edmonds, Chairman Taxation Committee of the Kansas House

From: Rep. Arlen Siegfroid

Ref: HB2599

Thank you, Chairman Edmonds and fellow members of the Committee for the opportunity to discuss the issues of destination sourcing and allowing tax collection fees to businesses in the context of HB2005, which passed out of the legislature in 2003 and became law July 1, 2003.

This law changed the sourcing, or point at which the total of state and local sales tax is calculated and the location the local portion of the tax is distributed. The determining factor is whether the purchased items delivered outside the local taxing jurisdiction in which they are purchased.

Through HB2599 I am advocating a delay, or moratorium for implementation of destination sourcing until the Congress of the United States enacts legislation authorizing the State of Kansas to collect taxes on remote sales.

Present Federal law does not authorize the State of Kansas to collect these taxes, but the law we passed in 2003 places a substantial burden on Kansas businesses that deliver goods outside their local taxing jurisdiction. Those businesses must now be knowledgeable of the potential tax in every jurisdiction which they might deliver (unless they deliver out of state when they collect no tax). It was my immediate impression that this would be a burden on businesses. That impression has been confirmed by conversations and previous testimony from many business owners.

There are two components to this problem:

1. Businesses must pay to upgrade systems to process taxes.
2. Businesses must reorganize or hire extra help to process taxes.

HOUSE TAXATION

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There has been much discussion about these costs, but it is apparent from my contact with businesses that the cost of both components will average much more than was assumed by the original proponents of the Streamlined Sales Tax. A portion of these costs will affect the business on a continuing basis. The fact is the proponents did not know the costs because the business cost study by the Streamlined Sales Tax Project did not start until December 2004. It will not be completed until later this year.

The balance, to these burdens, is that the businesses with a "brick and mortar" will benefit from improved competitive basis when the out of state businesses must pay taxes on what they sell in Kansas. However, the out of state businesses do not have to pay, except voluntarily, until the United States Congress passes out legislation authorizing Kansas to pay those taxes. Clearly there is no firm benefit to Kansas, and its businesses, until remote sales can be collected by law.

Destination sourcing also transfers the distribution of the local portion of sales tax on delivered goods to the point of delivery taxing jurisdiction. Communities have invested considerable resources to become retail and industrial centers, only to see this law take their portion of some sales taxes. This is not good tax policy. We are regularly discussing economic development because Kansas is struggling to recover from an economic downturn. We should be reducing the burden on our businesses and rewarding communities that excel at economic development. The legislation passed last year does neither of these.

The second aspect of this bill requires that we reimburse our Kansas businesses for collecting sales taxes, at the same rate specified for reimbursement of out of state businesses, in Congressional legislation authorizing Kansas to tax out of state sales delivered into our state.

Please join me in putting a moratorium on destination sourcing and providing equal treatment for our local businesses in the event that Congress does act requiring the State of Kansas to pay out of state businesses to collect taxes.

Arden H. Siegfried
District #15

STATE OF KANSAS

BECKY HUTCHINS
REPRESENTATIVE, FIFTIETH DISTRICT
JACKSON AND SHAWNEE COUNTIES
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HOUSE OF
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MEMBER: EDUCATION
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JOINT COMMITTEE ON STATE
TRIBAL RELATIONS

HOUSE TAXATION COMMITTEE
February 17, 2004
Testimony in support of HB 2700 and HB 2599

Thank you for the opportunity to speak in support of HB 2700 and HB 2599. Two of my constituents (Bruce Shaw and Neva Heiselman) were unable to attend the hearing today. But have provided written testimony.

I have received more comments on the streamlined sales tax/destination sourcing issue than any other issue in my 10 years in the Kansas Legislature.

I would like to bring to your attention the written testimony provided by Neva Heiselman, owner of Therll's Furniture Store in Holton. Mrs. Heiselman is in her 70's and owns the only furniture store in Jackson County. Mrs. Heiselman's comments to me were, "Becky, I don't care what software the Department of Revenue will provide me, I don't have a computer, I'm not planning on buying a computer, and I'll close my door first."

If the state is truly trying to support small businesses and promote rural Kansas, I feel the best way is to either repeal last years streamline sales tax provisions or delay its implementation until the Federal Government acts.

Thank you,
Rep. Becky Hutchins

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Attachment 2

Date 2-17-04

February 16, 2004

Chairman Edmonds
and members of the House Taxation
Committee

I would like to use this means to relate to you my feelings on the destination method of taxation.

Before this method was instituted it was a 15 minute job to report and pay my sales tax. Now I work up to a day and a half, depending on my monthly sales. It is a time consuming and frustrating job. It was especially disturbing to me last month as I mis-read the proper rate and I was charged \$28.02 that I had not collected.

I am a 73 year old woman striving to keep this business in operation. I have owned and operated this business the past 37 years. If it becomes necessary for me to cease operation I am concerned that Helton will no longer have a furniture store to serve this community. It has become more difficult to maintain this business in the present economic climate and disgusting laws like the destination taxation may be the deciding factor. Thank you for your consideration. Neva J. Haselman
President Sherell's Furniture, Inc Helton, Nc

HOUSE TAXATION
Attachment 3
Date 2-17-04

This letter is regard to the sale tax law that was slid through without much though on how it will affect Businesses. Stream Line Sales Tax , I see this tax law as a hard ship on my business and every other business. I understand what it was designed to do, catch the sales tax that is not paid on the Internet. But that will never happen.

I am a small business owner we sell and deliver appliances to several counties, Jackson, Brown, Nemaha, Pottawatomie, Atchison and Shawnee Counties. Every time I deliver something out of the city limits, which is over 80% of my business the city loses tax revenue of .25%. That .25% would help pay for streets, lighting etc everything else the city provides for the community. Without that revenue the city of Holton or any city will start missing that revenue and somebody will have to pick up the tab in a tax increase somewhere. It will probably be the citizens in town and the business owners. It is a full time job trying to keep books for the Federal and State Government, let alone trying to figure out, since this person lives in town, out of town or out of the county what tax percent should I charge them. I hear that the state of Kansas has software but not everybody is totally automated so that is another cost to the business owner that needs to be figured into their budget along with the .25% that is going to be lost to the city because of lost revenue . You are Discriminating against the people that live in town. They have to pay the higher Sales Tax plus they are going to have to make up the % of tax that John Doe in the county did not have to pay even though he uses what the city has to offer at no cost to him. This is an issue that is going on the reservation also. They use the road but pay no taxes on their personal and vehicles. So I have to help make up the difference in lost tax revenue so that people that don't pay a tax can utilize something that they did not pay for but that is another subject.

Some states that have the Stream Line Sales Tax are paying the business a certain % for the extra bookkeeping I would rather see it you pay the tax where you purchased it from not where it is going to be delivered. I am not much of a letter writer and it was not possible for me to reschedule my day so I could come down and voice my opinion on this bill maybe there was a reason that there was not much advance warning.

Bruce Shaw.

JAYHAWK TV & APPLIANCE
435 NEW YORK
HOLTON, KS 66436

HOUSE TAXATION

Attachment 4

Date 2-17-04



STAR LUMBER & SUPPLY CO., INC.

MAIL: P.O. BOX 7712, WICHITA, KANSAS 67277 / CORPORATE OFFICES: 325 S. WEST ST., WICHITA, KANSAS 67213
TELEPHONE: 316-942-2221 / FAX: 316-942-0690 / WEBSITE: www.starlumber.com

House Committee on Taxation
February 17, 2004
House Bill 2700

Mr. Chairman, and members of the House Tax Committee, my name is Dave Gregory and I am the Director of Information Technology at STAR LUMBER & SUPPLY CO of Wichita, Kansas, where I work very closely with Retail Sales Tax Collections. I appreciate the opportunity to come before you this morning in full support of House Bill 2700.

Although I also have chaired the Streamlined Sales Tax working group of the Kansas Retail Council, I do not speak for the Kansas Retail Council nor the Kansas Chamber of Commerce and Industry.

Having been a member of this House Committee on Taxation years ago and a past President of the Kansas Retail Council, I worked to point the state in the direction of something called Streamlined Sales Tax that was supposed to level the playing field between main street and internet retailers. However, the think tank group was overrun by nationwide corporations who had little concern for Main Street Retailers who primarily operate in one or a few states.

I humbly apologize to you and my fellow retailers for helping to incubate this Tax Frankenstein call Streamlined Sales Tax.

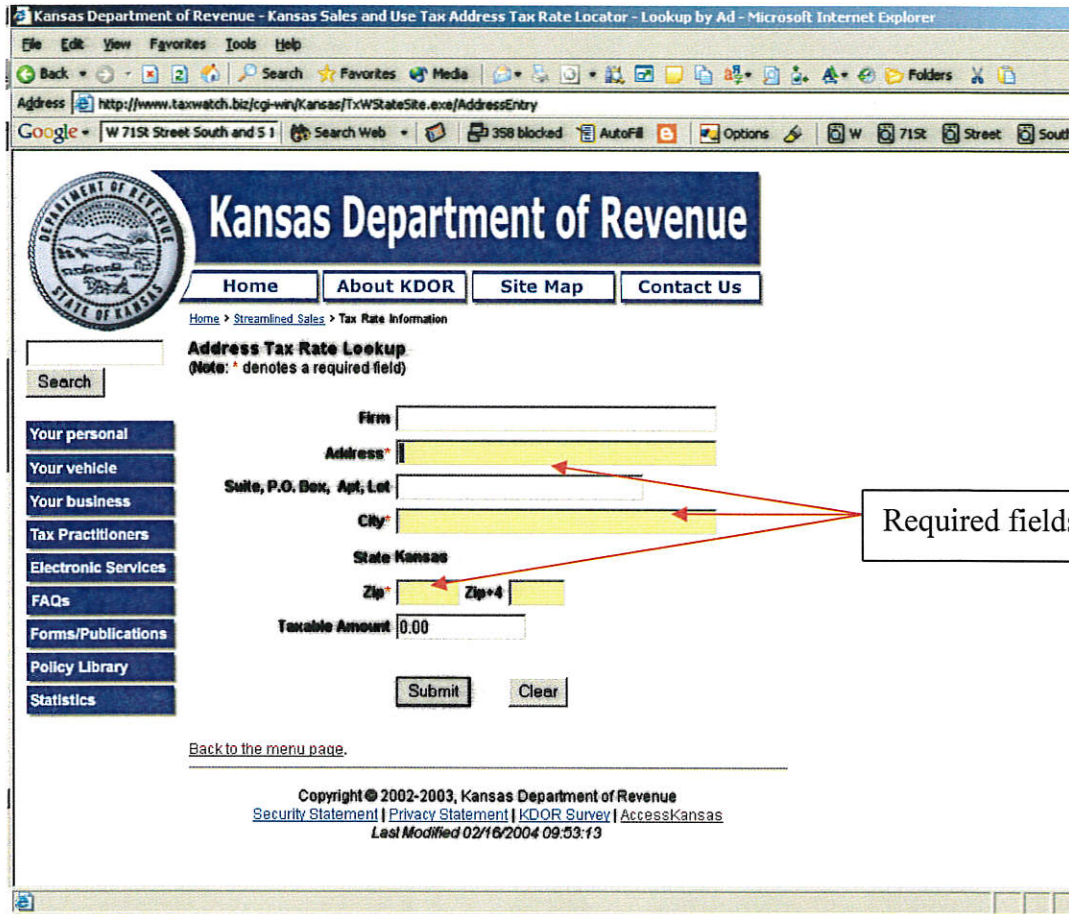
The company I work for, STAR LUMBER & SUPPLY COMPANY, employees about 500 throughout Kansas, with operations in Wichita, Hutchinson, Salina, and here in Topeka. We are definitely not a nationwide, huge corporation, but we may be one of the largest Kansas based retailers remaining. Over 80% of STAR's sales are derived from deliveries. Last year STAR made over 70,000 deliveries to customers throughout Kansas.

For retailers, like STAR LUMBER, Streamlined Sales Tax is a logistics nightmare. Compliance at the cash register is impractical. SSTP may cost Kansas based retailers more in hard implementation expenditures and lost productivity than this state can collect in lost use tax.

We appreciate that the powers in this state have not fully enforced this legislation, which they recognized as impractical.

The State's new "Sales and Use Tax Address Tax Rate Locator" internet based lookup routine is impractical.

In the testimony I have provided please note the fields which are **required** for the state's Internet based address search: Address, City and Five Digit Zip Code. The user is required to enter all three! What if the delivery site it is not within a city limits, or the foundation sub-contractor does not know the five digit zip code, or the address has not yet been assigned by the county. Users will end up being very frustrated.



KDOR Address Tax Rate Lookup

I tried using the state's address locator on one of STAR LUMBER's former properties which was donated to the Great Plains Girl Scouts and turned into a beautiful Girl Scout Camp called Camp Starwoods. It is at the Intersection of South 103rd Street West and West 71st Street South several miles Southwest of Wichita. Not knowing the zip code, it took me nearly about an hour to find the correct information to plug into the state's locator to find a match.

According to the Watch System's Mapping Service that piece of property is located in a small town called Clearwater, and I had to invent an address to make the service work correctly. Furthermore, I could not have looked up the address without going to a

zip code map and physically pinpointing the address to plug the zip code into the Watch Systems software.

There are many problems with Streamlined Sales Tax Project:

1. While Streamlined Sales Tax does simplify the national retailer's reporting duties, it gives them a significant competitive advantage over small retailers by allowing them to leverage their Information Technology and Corporate Resources over hundreds of locations. Kansas based small retailers do not have that same ability.
2. Kansas retailers who have little or no interstate commerce will pay a disproportionate price to develop software and even comply with the Kansas Department of Revenue rules.
3. Many Kansas retailers such as STAR utilize "Green Screen" terminals that will never be able to surf the internet. The state's internet based Watch System's software will never work on green screen terminals. To change STAR terminals and Cash Registers to a PC based solution which can connect to the state's internet website would cost STAR \$250,000 to \$300,000 and this doesn't include beefing up our network backbone to accommodate increased network traffic from PC traffic.
4. Instead, at STAR we are modifying our software code in an attempt to develop our own address look-up routine which will cost \$50,000.00.
5. Many retailers in Kansas cannot receive reliable high speed internet. It took us a month and half to obtain high speed internet at one of our sites here in Topeka. For many rural retailers high speed internet is not available. Only dial-up is available.
6. The address lookup function will not work very well for lumberyards in new construction high growth areas. Once a quarter, the Department of Revenue will ask local taxing jurisdictions for their newest street additions. Unfortunately we often make deliveries to Lot 45 of the Deerpath Addition. And when they finally get an address it may not be in the database for months.
7. Also in an urban area like Wichita, we have a lot of specialty sub-contractors traveling from job to job who have no idea what the correct five digit zip code is. Yet the five digit zip code is a required field in the Kansas Department of Revenue's search engine. If we use PCs we will have to use someone else's search engine to find the five digit zip code before we turn around and reenter it back into the State's search engine to find the right rate and jurisdiction.
8. Other significant lookup limitations are rural deliveries where the address is a cryptic description rather than an address: "Delivery 3 and ¼ miles west and ½ miles south of the Winder home on old highway 54."
9. Combined delivery and pick-up sales will cause a great many orders to be entered into separate tickets. A customer comes into STAR and orders products for a deck and to paint a room. After the order is built, the customer

pays for it, then asks if they can take the paint with them. Yes, but we have to write a return for the items they want to pick up and write a new ticket and charge or credit them for the difference.

10. Smaller retailers will spend a great deal of time filling out tax forms.

11. Database issues:

- a. Some software only supports a limited and fixed number of taxing jurisdictions and lack adequate lookup functions.
- b. At some point in time we will be required to alter our order database and record the nine-digit zip code with the ticket for retail tax audits.

Some people in power believe if they shove this down the throats of Kansas Retailers hard and long enough they will finally quiet down. It is sad to say, for some Kansas based retailers that will be true.

Everyone is looking for ways to incubate Kansas based businesses: Here is the number one way to help Kansas entrepreneurs, repeal as much of Streamlined Sales Tax as you can.

I hope I never hear another claim that Streamlined Sales Tax will help Main Street Retailers – or level the playing field. The only thing Streamlined Sales Tax does in a streamlined manner is to completely level Kansas based Main Street retailers.

Mr. Chairman and members of this committee, we urge you to support House Bill 2700 and repeal the most revolting parts of Streamlined Sales Tax and to let the Kansas based businesses of our state know how Kansas business friendly you are.

Dave P. Gregory
Director of Information Technology
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February 17, 2004

Zero. That's the number of retailers the Kansas Legislature interviewed before they passed the Non-Streamlined Sales Tax project.

I believe the lawmakers think we oppose the delivery based sales tax law just because we have a fear and reluctance to change. This is wrong. If Kansas had always used a delivery based system and was changing to our old system, this meeting would not be necessary. You would be hearing cheers of praise from the business community. The old system took fifteen to twenty minutes per month to do. The new system will take us many hours to complete.

Here is what the lawmakers didn't know about my small business.

This law is very unjust. It does not give us a level playing field. This law is a huge windfall for stores like Wal-Mart. They are simply not affected by it. When is the last time you saw a small Wal-Mart delivery truck unloading items at peoples' homes? People carry their purchases home from Wal-Mart. The big retailers spend huge amounts of money advertising low prices.

Independent retailers such as myself cannot compete with the big box retailers on price alone. We compete by offering more services; such as, we deliver and install our items. We send out a technician to the customer's home to fix the items if they break. We also let our customers make payments. On a normal month we will do about 1,350 individual monetary transactions. We take a lot of payments. Under the new law each payment now has to be tracked to find out if and where the item was delivered.

My estimate is, if we only average thirty seconds per transaction to figure and report the sales tax, this will cost us about eleven or twelve extra hours per month. This is a major disadvantage. Many of our transactions will not be changed but we still have to figure the correct tax rate, record each transaction, then break them down and add them up and list them on the monthly sales tax report.

How would the lawmakers feel if the merchants passed a law that required every lawmaker to write an extra eleven-hour term paper each month?

We understand the lawmakers desire to tax the Internet and mail order firms, but why were small businesses singled out to be loaded down with all of this bureaucratic paperwork?

HOUSE TAXATION

Attachment 6

Date 2-17-04

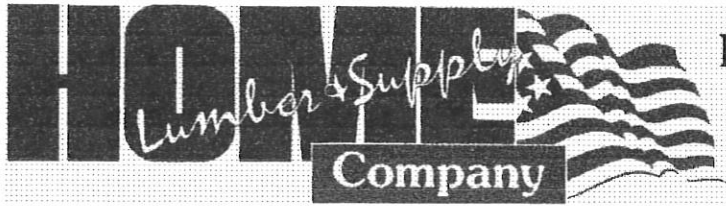
I have read this tax is necessary because we deliver things and the Internet delivers things. Here's the difference in how it works. The Internet takes orders electronically from distant areas. They pack these items in boxes and ship them to the customer via a third party.

My customers are almost all located within thirty miles of Parsons. They come into our place of business and place their orders. We unpack the items out of boxes and we personally take those items out to the customer's home and install them. If they break, we take parts out to their homes and we fix them.

Our first months tax report took three 13-column pages to list the figures. We have to deal with twenty different tax districts. It also took the backs of two forms ST-36's to list all the different tax districts. We have twice got letters from Topeka saying we have made mistakes in filling out the forms.

The Non-Streamlined Sales Tax project is the most anti-small business law that I have seen in my twenty-nine years of being a Kansas retailer. It's a good deal for Wal-Mart.

Yours truly,
Mike Howerter
Mike Howerter
Howerter Appliance
2515 Main
Parsons, Ks. 67357
620-421-0260



Home Lumber & Supply Co.
601 Lewark, Coffeyville, Ks. 67337
620-251-6750

Good Morning, Mr. Chairman, and members of the House Taxation Committee, my name is Barbara Kidwell. My husband and I own and operate Home Lumber in Coffeyville, Ks. I appear before you today as a proponent of HB 2700 which would repeal the streamlined sales tax implementation provisions of destination sales tax sourcing. Our company sells lumber and building materials. I have an accounting degree from the University of Kansas. I programmed our integrated accounting, general ledger, inventory and point of sale computer system. Our system is based on the design of one of the leading building materials software programs in the U.S., one that we formerly used and would still be using, had the cost of their Y2K conversion not been in excess of \$20,000. For our business, I feel I understand what it will take to make this destination sales tax change in our system. Ours is a very small business but, so far, we have survived in spite of having a Lowe's in Bartlesville, Oklahoma, a mere 40 miles away.

It is my understanding that this initiative was taken in order to capture tax not being collected primarily on internet and catalog sales. I am in complete support of that premise. Let me explain the difference between that situation and ours. Each of the internet or catalog sales is a discreet transaction, paid for normally by credit card, and shipped to the buyer at a reliable address. They don't offer an account in which the buyer orders material throughout the month then pays subsequently. The current sales tax issue affects us because we are paid on transactions both immediately and on credit terms, at the end of the month.

Depending on the size and content of the order, some orders are delivered and some are picked up at our place of business. Currently we have one "cash" (immediate pay) customer account set up. Most of this cash business is not delivered so that tax rate is set at the Coffeyville City rate. But, in most cases we don't know until the order is placed whether a delivery is necessary. Frankly, I don't want the first question to a customer to be, will this be delivered or not? The most common answer unfortunately will be, "well, yes, that would be real sweet of you," even if it's only one stud.

About 40% of our business is done with professional credit customers. For those contractor customers we set up what we call a Master account and sub accounts so that their

HOUSE TAXATION
Attachment 7
Date 2-17-04

**Testimony of Barbara Kidwell, Coffeyville, Ks. on HB 2700,
Public Hearing on Repeal of Destination Sales Tax - February 17, 2004**

expenditures on each of their jobs are segregated by the job. This not only assists them in their record keeping, it allows us to monitor our lien rights. Each sub-account is assigned a discreet account number. An integral part of the sub-account set up is the tax rate and classification as defined by Kansas regulation: ie. Taxable, or, Sales Tax exempt because the material is for Resale or a Government, Hospital, or an Educational entity, and so on.

If a contractor were building a structure that required long lengths of lumber or trusses, or a large amount of material, those items would have to be delivered to the job site. Most contractors don't have vehicles that could accommodate that material. It is quite probable that much of the remainder of the material could be transported by the contractor himself. It is not unusual for the professional to come in and order materials, choose to take some with him and have some delivered, all on the same ticket. Try as we might we cannot force them to become so organized as to think in terms of "that needs to be delivered and this I will take with me". Sometimes the decision to have the material delivered is a function of how soon we can make the delivery. We don't have a brigade of delivery employees whose only function is to load and deliver to the job site. That simple example could easily necessitate two taxes rates if the structure is being built outside of the city limits, so consequently it would require two sub-accounts for the same job. In addition, contractors would begin asking for more out of town deliveries, when they figure out their overall cost would decrease, which would in turn increase our operating cost.

Most contractors have a "small jobs" or "shop" account. Those are for the small remodeling jobs, replacing a shower, installing guttering, etc. Under this law we would have to set up a small jobs account for each taxation district where they might have a job if a delivery might be needed.

Many times contractors call and ask for material to be delivered with directions to the job site, such as, "at Wal-Mart, go west through Tyro, turn south on the gravel road 1 mile past Tyro, go across the old highway, 1 mile past the old highway turn west and stop at the house with the white metal roof on the right." Believe it or not, most of this state is still very rural. Not only can the contractor not triangulate the location, as offered on the Dept of Revenue Website, he can't give you more than a route and box number, which will not work on the website. He cannot give you the 911 county road address with or without the 9-digit zip code. Many of the homeowners in Montgomery County don't even know their 911 county road address.

Testimony of Barbara Kidwell, Coffeyville, Ks. on HB 2700,
Public Hearing on Repeal of Destination Sales Tax - February 17, 2004

When I programmed our computer system, I had to keep in mind, at all times, how each step would be handled at the sales counter, how it would effect our customers, and how best to design the forms and the sequence of information input. The primary aspect of the sales transaction must be the sale of the material and not how the well the tool we use to record the sale functions.

It took about six months, nearly 24-7, for me to write the program we currently use. The point-of-sale module requires that before an order can be processed, we must know what account the sale is to be charged to for a credit sale, or a Cash or COD sale be charged to. Nowhere in the module is there an option for changing the sales tax code at the front counter. I conservatively estimate that it would take me about 6-8 weeks to redesign the program and reintegrate it into the ongoing system. For me to be virtually removed from the daily activities of the business, I'd be required to rehire a bookkeeper whom we recently laid off for financial reasons. Realistically, there are many functions she can't perform, so I would still have to in my spare time.

There are some things that shouldn't have to be determined at the sales counter and the sales tax rate is one of them. Heretofore, the sales tax rate has not been a negotiable issue, but now it may be. We know how we should we direct our sales people to respond to the customer who says, "let's pretend you delivered the stuff and I'll just take it with me". This scenario will happen and some retailers will probably say O.K. This won't be the case in our store, but we may well lose business by trying to obey the law. Our sales people have quite enough to think about when trying to provide the customer the information and products he or she wants.

This is a serious issue for Kansas small business.

I want to thank you Mr. Chairman and the Committee for giving me the opportunity to express my concerns on this matter and stand ready to visit with you regarding any questions or comments you may have about my testimony.



7th & WALNUT • P.O. BOX 1629 • (620) 252-6100
COFFEYVILLE, KANSAS 67337-0949

House Taxation Committee

Tuesday, February 17, 2004

RE: Impact of Streamlined Sales Tax Legislation on Coffeyville, KS

Chairman Edmonds and members of the House Taxation Committee, I am Jeff Morris, City Manager for the City of Coffeyville. Coffeyville is located in the Southeast corner of the state with a population of 11,060.

While we understand the reasons for changing the sales tax collection to a destination sourcing system, the sales tax collection method has created great concern about the impact it will have on the City of Coffeyville. Our opinion does differ from that expressed by the League of Kansas Municipalities in a conversation we had with them last year. In our opinion, Coffeyville will not be sales tax revenue neutral, but rather will experience a decline in sales tax collections based on the following reasons.

First, a large portion of Coffeyville's economy is dependent upon wholesale/distribution businesses. Many of these businesses sell not only to local industries, but have expanded their territories to cover much of Southeast Kansas, Northeast Oklahoma, and Southwest Missouri. Under the previous system, taxable sales made by those companies in Kansas generated revenue for the City of Coffeyville. Obviously, under the destination sourcing system, that is no longer the case, resulting in a net loss for Coffeyville. While we understand that we will realize some new revenue from other Kansas companies selling products within our community, we are convinced that it will not make up the deficit.

Second, with few exceptions, the majority of Coffeyville's industries are located in our industrial park which is outside the corporate limits of the City of Coffeyville. Many of our wholesale/distribution companies sell taxable products to these industries. While under the new

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destination sourcing collection method these industries will continue to pay state sales tax, they will no longer pay city sales tax again resulting in a net loss to the City of Coffeyville.

Estimated Tax Loss From 7 Local Businesses:	
Clough Oil	\$16,800
Aeriform Corporation (Welding Supply)	16,000
Thompson Brothers (Welding Supply)	15,000
4-State Maintenance (Janitorial Supply)	13,000
Tri-State Electric Supply	9,000
Kansas Lumber Company	4,500
Home Lumber	<u>2,500</u>
Total	\$76,800

The above list is a small sampling of distribution/wholesale businesses in Coffeyville that deliver outside the corporate limits; other types of businesses located in Coffeyville that make deliveries include office supply companies, tool supply companies, florists, and furniture stores to name a few. The sales tax revenue to be lost from these 7 businesses alone represents 2.4% of Coffeyville's total sales tax revenue. This lost revenue could be substantially higher if sales tax figures were readily available from our other local businesses.

The citizens of Coffeyville have made it clear they prefer sales tax to ad valorem property tax. An example of this is the fact that our voters rejected 3 attempts to fund a new elementary school through the issuance of general obligation bonds but voted overwhelmingly (60.3%) to fund the construction with a new sales tax. In addition, the city has also issued bonds for other community improvements with sales tax as a primary source of revenue to repay the bonds.

Sales tax revenue funds 20% of Coffeyville's 2004 operating budget, excluding our electric utility budget. If the change in the sales tax collection method has the negative affect we believe it will the city will again be faced with the decision of cutting public services or raising the local mill levy. It also may affect the city's ability to repay the bonds issued for community improvements as scheduled and therefore negatively impacting the financial rating for Coffeyville.

It is my impression that the bulk of the new sales tax revenue will go to the State of Kansas, not local entities. Therefore, in order to offset at least a portion of the negative impact at the local level, I respectfully request that the legislature restore demand transfers to cities in the state budget.

Also, the full impact of the change will not be known until full compliance is required. Currently, we know of several large local companies that have already made the switch to destination sourcing rules. However, we also know many companies are still operating under the old rules. Until all companies are required to comply with the new rules, cities cannot begin to adjust. Therefore, I would also respectfully encourage the legislature to resolve this matter quickly.



FARM & HOME
CHANUTE, KANSAS

2103 S Santa Fe
Phone: 620-431-6070

Chanute, Ks 66720
Fax: 620-431-7341

Good Morning.

My name is Chris Cleaver and I appear before you today as a proponent of HB 2700 which would eliminate the Destination Sales Tax as a means for collecting sales tax in Kansas. I represent Cleaver Farm & Home of Chanute, KS., a third generation family owned business with over 40 full time employees. Our primary product line is lumber and building materials servicing an 80 mile radius of Chanute.

I am here today to voice our company's concern regarding the Destination Sales tax component of the Streamlined Sales Tax issue. While we understand the state should realize additional sales tax revenue, we don't believe it should be collected in such an onerous, complicated and cost prohibitive manner as this law mandates.

The City of Chanute collected over forty-seven thousand dollars generated by taxable sales from our store alone in 2003. They will lose well over fifty percent of these dollars after the new law is established.

Multiply this by all the other businesses that operate outside the local

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sales tax rate and there will be a major shortfall. Increasing our taxes or usage fees from City owned utilities could only make this up.

Our overhead will increase substantially when we are forced to implement the new reporting regulation. Of the hundreds of tickets we invoice daily, more than half are for customers in the fifty plus tax jurisdictions we routinely service. Every invoice is going to add cost to our administrative processes. Due to the nature of our business, in some cases double invoicing will be required to properly comply with this law. This just adds more administrative cost to our operations. Apparently with no financial assistance forthcoming to assist in this burdensome process we can only assume that we as a business simply have to eat these additional costs.

The amount of product we are required to haul by truck will increase dramatically as customers soon realize they will save a percentage of sales tax if they ask for delivery and frankly, the prospective cost of this alone is frightening. Somehow, we don't see the benefit of borrowing money to pay for more equipment and employees that we currently do not need. When the customer saves on sales tax, who pays for the extra fuel to make the delivery?

While we have a modern computer system and file monthly sales tax reports over the Internet to save time, our controller estimates that reporting which now takes minutes will be a three to five hour project.

The month end report that is one page now will be sixteen pages. Because there is not enough history with this program, we cannot accurately forecast the amount of costs incurred. However, given administrative changes, computer configuration, training, fuel costs and other associated costs we may not even know about at this time, we feel the cost will be large enough that we will not be able to pass them through which will result in a large negative impact on our bottom line as a cost of doing business

I want to emphasize to the Committee that we are not whiners. We as a business have a long tradition of adherence to laws and regulations and are good supporters of our community and our region. I have to think you have heard a great number of businesses like ours voice their concerns on this matter. Surely you have to see that something is drastically wrong with this concept to have so many outraged constituents. This bill certainly provides the remedy for this problem.

I would close by stating that we are told that small businesses such as ours are the engine of the Kansas economy. If this is truly the case, please allow us the opportunity to develop ways to grow our businesses and be productive and not in time consuming and exotic programs such as this one that bog us down in complex and convoluted tax policy. This law is difficult to administer, it creates

friction between our customers and us in ascertaining exact delivery locations when addresses are not yet established, it adds costs to our accounting process while we are not being provided with any type of allowance to offset these administrative costs, it has a learning curve that makes it difficult for training to impacted inside and outside sales staff, it is adding fuel costs due to deliveries in taxing jurisdictions lower than the City of Chanute, and in the long run, has a good chance of causing property tax increases in our City, yet another costs of doing business. Bluntly, in reviewing this law, there is not one single positive that can be taken from it as it relates to our business.

Given these facts, I ask that you join me in doing what has to be in your mind the right thing to do and support HB 2700 and eradicate what we feel is a terrible mistake and nightmarish administration of tax policy.

I thank the Committee for allowing me to address them today on this issue.



Leavenworth-Lansing Area Chamber of Commerce

TESTIMONY
CHARLES H. GREGOR, JR.
EXECUTIVE VICE PRESIDENT
LEAVENWORTH-LANSING AREA CHAMBER OF COMMERCE
House Taxation Committee
Tuesday, February 17, 2004
House Bill 2599

Mr. Chairman, members of the Committee, I thank you for the opportunity to testify before you today in favor of House Bill 2599, on behalf of the approximately 500 members of the Leavenworth-Lansing Area Chamber of Commerce. This bill takes a common sense approach to the issue of sales tax destination sourcing within Kansas and provides the opportunity to insure that Kansas businesses will be prepared to make the transition to nationwide destination sourcing if and when that opportunity presents itself.

The Leavenworth-Lansing Area Chamber of Commerce supports the concept of destination sourcing of sales taxes given the objective of taxing internet sales. We feel this is important to Kansas businesses, both directly and indirectly. Directly in that it will help level the retail sales playing field, and indirectly in that taxation of internet sales will provide revenue to the State of Kansas that will help ease the tax burden and cost of doing business within the state. We are aware of the agreement with Amazon.com that will bring an estimated million dollars to the state.

We congratulate Secretary Wagon and the Kansas Department of Revenue (KDOR) for what has been accomplished in preparing Kansas to implement destination sourcing. It is worth noting that this has not been done without cost. We have invested over a half million dollars in the creation of a KDOR website that will simplify sales tax calculations and collections. We will continue to invest in the maintenance of that website to the tune of approximately a hundred thousand dollars a year. I have attended several of KDOR's briefings on the progress to date and it is clear there is still more to be done and many valid questions and concerns are still out there on the part of retailers and service providers that must be answered.

For these reasons we favor House Bill 2599. It is clear that there remains much to be done. This bill will allow the Kansas Department of Revenue to make all due preparations for implementing destination sourcing when and if enabling federal legislation becomes law. At that point we will be aware of the precise federal requirements needed to pass constitutional muster, as well as federal requirements and restrictions that may be included in enabling federal legislation. We can then adjust and fine tune our intra- and interstate tax law accordingly, and implement a well thought out and prepared destination sourcing Kansas law. This makes sense and will go a long to easing our businesses into the transition to destination sourcing. Meanwhile, the status of Kansas as an "SSTP qualified state" will not be lost and we can remain on the list of states favoring the Streamlined Sales Tax Project.

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At this point we are inflicting costs and consternation on many of our businesses that may be unnecessary. Congress may not pass enabling legislation for years, if at all. That federal legislation, if passed, will inevitably be challenged in court.

There is another advantage to this bill that is not as obvious. Despite the fact that such organizations as the Kansas League of Municipalities have supported sales tax destination sourcing within the State of Kansas, nobody has done their homework on the actual revenue impact of destination sourcing on our cities and counties. KDOR is working on developing answers to such questions but has virtually none at this point. There has simply not been enough time. There is the distinct possibility that some of our taxing jurisdictions will experience a minor to severe loss of sales tax revenue with the full implementation of destination sourcing. This bill will allow the time for research to determine what those impacts will be and possible remediation that may be required.

I urge you to favorably consider House Bill 2599. It a logical and prudent step toward preparing Kansas and Kansas businesses for an eventual smooth and relatively painless transition to a nationwide destination sourcing system.

----- end of statement -----

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INC

**Statement by Brian Meitler, Government Affairs Committee member
Kansas Pest Control Association
On House Bill 2700
Before the House Taxation Committee**

Tuesday, February 17, 2004

Good Morning, Mr. Chairman and Members of the Committee:

My name is Brian Meitler. I am President of World Pest Control and Sunflower Services of Sylvan Grove and Otis, and a partner of Tox-Eol Pest Management, Inc., in Salina. I am here today as a member of the Government Affairs committee of the Kansas Pest Control Association to offer comments in support of HB 2700.

The Kansas Pest Control Association is a 54-year-old organization comprised of about 100 member Pest Management companies in Kansas.

HB 2700 would repeal virtually all of the language of HB 2005 regarding Simplified Sales Tax Project, including the "destination sourcing rule" language. We are in strong support of this.

HB 2005 had the intent of collecting sales taxes from interstate commerce and especially Internet sales. Its intent was to also 'level the playing field' by mandating that Internet and catalog sales also be taxed. Companies received notice last June 20 to have this new rule in effect on July 1. And yet today, you can order from numerous Internet suppliers and not be charged sales tax. Even though the State of Kansas may be collecting some sales tax, the law is not enforceable nor is it working.

But let me explain what this new rule has done. There are a few of the pest control companies that have purchased programs to allow it to be a little easier to work with. However, it is a nightmare for most of our member companies. It is fairly common for any one company to have 40-60 sales tax jurisdictions to report for. There are some that have in excess of 200. This places an undue burden on these small businesses in Kansas. Please understand that we are not opposed to the legislature collecting taxes on out of state sales. We are opposed to the burden that this law has placed on the pest management businesses in Kansas.

We would ask for your support of HB 2700.

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Testimony of Tim C. Liebert
Owner, Kansas Sampler

Implications of implementation of destination based sales tax to Kansas small business.

A System designed by and for National Retailers

The Streamlined Sales Tax Project (SSTP) represents a simplification and streamlining of state sales tax collection practices to enable large brick and mortar retailers, catalog companies and Internet based retailers to merge a national sales tax file into the software maintained on their mainframe computers. Simplification of sales tax laws enables a computer file structure to be created, installed and maintained on corporate computers enabling collection and payment of inter state sales tax when permissible.

The SSTP did not address how businesses that do not use computers to collect sales tax are going to implement destination sourcing. Since the majority of businesses entities are small business, this oversight by the SSTP is astounding. However the Sales Tax Implementing States (SSTIS) the National Governors Council (NGC) and the National Council of State Legislators (NCSL) were fully warned in November 2002: "The SSTP has not disclosed how much each state must pay vendors as compensation for becoming the tax collectors for 45 states (though this compensation was promised), nor whether this "technology solution" can be built into the (non-existent) mainframe of each vendor in America. Pressed by a 2003 lobbying schedule in state legislatures, and worried that these issues might present too much controversy and are best left hidden from view until momentum can be built, the SSTP, NGA, and NCSL and their supporters in the national retail sector are proceeding to market their new uniform national sales tax law without providing these critical details." ¹

In 2002, the American Legislative Exchange Council was further warned: "The fact is that the SSTP perpetuates significant complexity and burden in its so-called "streamlined" model, and does not even touch the issue of what it actually costs for a multi-state or even a single state retailer to collect taxes for {800 to 5000 tax jurisdictions)...And while the SSTP has promised a "burdenless" technology solution ...that solution has never been demonstrated. Major retail chains already employ the resources to compete easily in a complex interstate tax system. Any simplification of state tax laws benefits large retailers but the enormous complexity of destination sourcing is a competitive hurdle for small business. Major retail advocacy for SSTP cannot serve as the litmus test for whether SSTP represents true and beneficial tax simplification that will enhance the American economy." ¹ This legislation proceeded because small business was excluded entirely from any committee representation. Once the legislation was passed, revenue directors and governors could conveniently say "The pain to small business is required for the greater good" or small business just has to quit whining and "obey the law" (hence being labeled a tax protestor and thus marginalized) or "they needed to upgrade, anyway", phrases that have been expressed by our state executives. The resultant disaster of the SSTP for small business is not an accident. Once there is a *fait accompli*, it is very difficult to change, a political truism well known to those who lobbied for this legislation.

Hardware Costs

What are those costs? Small retail businesses use cash registers in three forms: (1) a simple cash register that is really a large adding machine and costs about \$500. This is used by most businesses when they start up. (2) A more sophisticated system that has multiple programming features and can handle a large inventory file to facilitate bar code scanning. Such a system is what my company has and is shown in the attached diagram. This hardware is costs \$2,000 per register plus the cost of modems and the main computer. It does not and cannot be made to communicate with the new tax files created by the Kansas Department of Revenue (3) Point of sale system hardware which is that of (2) plus a monitor and a Windows or based operating system such that customer names and addresses are entered and can be used calculate appropriate sales tax rates. These systems start at about \$7,000 for each register. Data processing expertise is required to install and maintain these systems. Help desks are maintained 24 hours per day by the large retail chains to ensure data is transferred in a timely and accurate manner.

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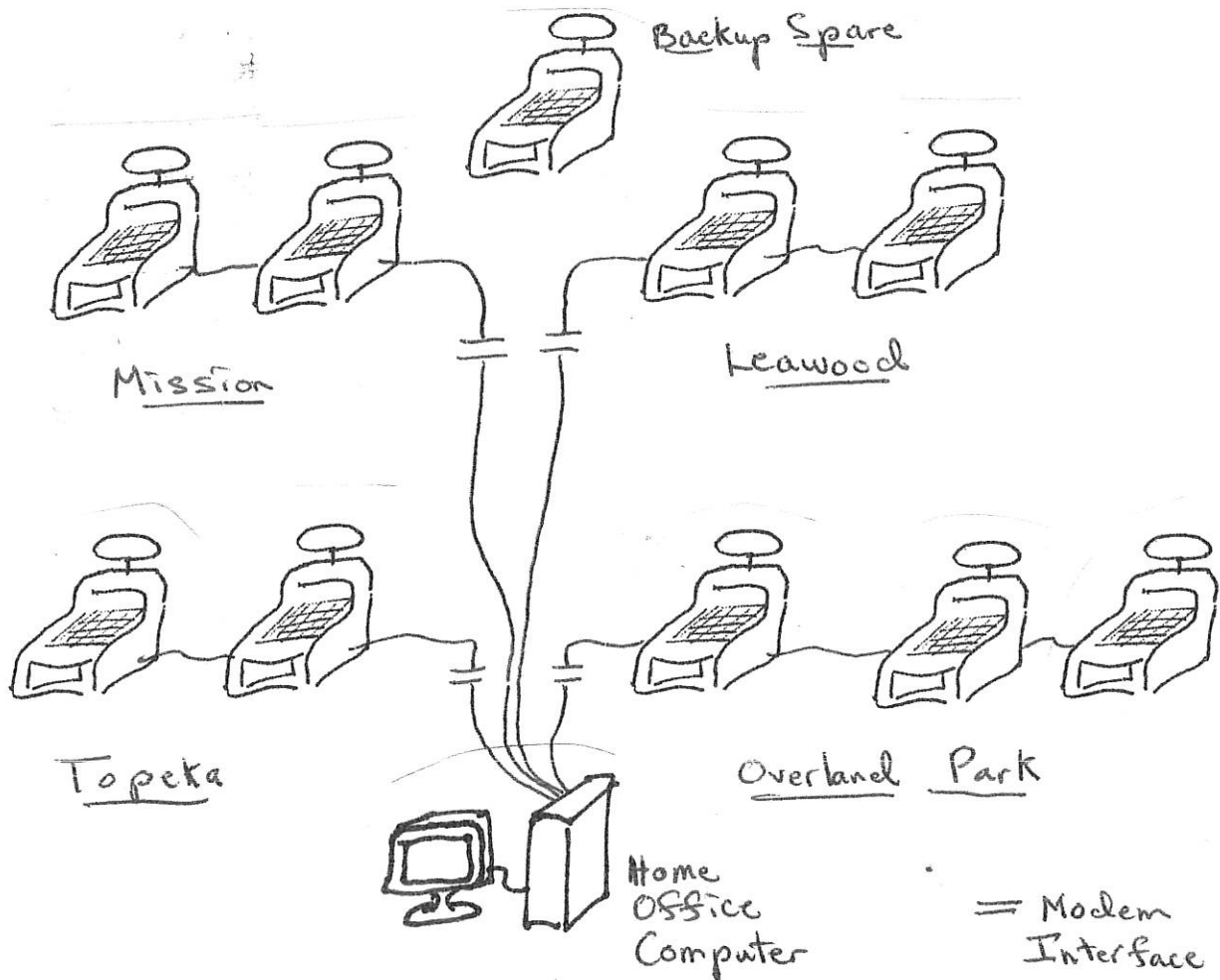
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The cost to me to pay destination sales tax is ten registers times \$7,000 or \$70,000 plus servers, interface computer, installation, training and on-going maintenance. Other retailers and small businesses will have their own figures. Regardless of the specifics, all small business will now have to have a computer to operate, along with the sophistication to operate and maintain the appropriate systems, something that heretofore has not been required. This is a new hurdle to entrepreneurship that goes counter to other legislation being considered by Kansas to foster new business and job creation. The capital and operating costs cannot be recovered by any rate of return calculations and represents an unrecoverable, wasteful and continuing cost to small business for the "privilege" of being in business in Kansas, for perpetuity.

National retail and small business are not the same. Strategies and tools are completely different. A small businessperson performs most functions himself without the use of consultants, tax administrators, and data processing departments. He starts a business out of a love for the product or service and is successful by focusing on the core requirements of providing a product or service to his customer. The SST as currently written creates costs in time and money that detracts not adds to the efficiency of small business. It is a net drain in productivity and subtracts from the GDP of the state.

The current law should be repealed and legislation that considers the impact on all businesses, not just national retailers should be developed. Small business must be given representation in drafting this legislation.



¹ Lee E. Goodman, Coming to a State Near You? Practical Considerations for State Legislators Considering The "Streamlined Sales Tax Project" and National Sales Tax Uniformity, A Presentation to the American Legislative Exchange Council, December 14, 2002.