

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on February 3, 2005 in Room 519-S of the Capitol.

All members were present except:

Representative Lana Gordon- excused

Representative Bruce Larkin- excused

Committee staff present:

Chris Courtwright, Legislative Research Department

Martha Dorsey, Legislative Research Department

Gordon Self, Revisor of Statutes

Richard Cram, Department of Revenue

Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Randall Allen, Executive Director, Kansas Association of Counties

Erik Sartorius, The City of Overland Park

Don Moler, Executive Director, League of Kansas Municipalities

Douglas J. Patterson, Property Law Firm, P.C.

Christina M. Wilson, Executive Director, Kansas Building Industry

Dave Holtwick, Home Builders Association of Greater Kansas City

Gabe Brown, Brown Midwest, Kansas City (no written testimony)

Others attending:

See attached list.

The Chairman explained the committee rules for introduction of bills for an exempt committee. If a member of the Taxation Committee wished to introduce a tax bill, that would be allowed. If a committee member wished to introduce a non-tax bill, the Chairman requested that they submit the bill to him first for perusal by leadership. If it appeared to be a bill that would not come back to the Taxation Committee, the representative would be obligated to speak with the Chairman of the appropriate committee and obtain a commitment that they would hear the bill. If they did not plan to hear the bill, he respectfully requested that the bill not be introduced due to time constraints and work load of the legislature.

The Chairman opened the floor for bill introductions.

Chairman Wilk made the motion to introduce a bill concerning the Plainville Rural Hospital District #1. Representative Owens seconded the motion. The motion carried.

HB 2023- Classes of cities for sales tax purposes; uniformity

Mr. Courtwright briefed the committee on the background of an Interim Special Committee on Assessment and Taxation (Attachment 1). The conclusion of two interim committees is that in 1960 a constitutional amendment was adopted that explicitly granted the legislature power to uniformly limit or prohibit taxation by cities and to establish up to four classes of cities for that purpose. The committee also found that the Legislature in the early 1990's had inadvertently exceeded the permissible number of four classes of cities, that resulted in a 1996 court decision that effectively granted cities the power to charter out of many of the provisions and requirements in the local sales tax law. The intent of the bill was to consolidate all the cities into two classes and grant some cities and counties additional taxing authority that they do not have currently. It deals with local sales taxes only.

The Chairman opened the public hearing on **HB 2023**.

Randy Allen, Executive Director, Kansas Association of Counties, appeared on behalf of the Board of Atchison County Commissioners to request an amendment to add an additional purpose in the delineation of eligible uses for countywide sales tax revenues. That additional purpose would be "*the costs of constructing or operating an emergency communications center*" (Attachment 2).

Erik Sartorius, The City of Overland Park, appeared in support of **HB 2023** but with a desire to add language

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on February 3, 2005 in Room 519-S of the Capitol.

that would satisfy the Legislature's and the Department of Revenue's desire to ensure that the local sales tax laws are returned to uniformity. The concern of Overland Park is that any taxing authority lawfully created under home rule authority must be retained by cities, they must "remain whole" (Attachment 3). A balloon is currently being crafted to that end.

Don Moler, Executive Director, League of Kansas Municipalities, appeared in support of **HB 2023**, with amendments for the purpose of achieving uniformity in the local sales tax act, while at the same time retaining the local sales and excise tax authority currently vested in cities across Kansas (Attachment 4). The three amendments are: (1) page 8, line 37, which provides that a local sales tax can also be levied in the amount of .25%, .5%, .75%.1% with additional amounts of 1.125%, 1.25% 1.5% or 1.75%, (2) page 11, line 41, subsection (b) existing language would be struck and the following would be inserted *All alternative apportionment formulas between any county and each city located therein and in place prior to July 1, 2005 shall remain in effect*, (3) a new section 6 would be placed on page 15 that would remove the statutory prohibition against the levying of excise taxes by cities.

In response to a question Mr. Moler stated that the maximum effective sales tax rate that could be assessed would be 3.75% for city/county and 5.3% for the state. Every local sales tax must be voted in by the citizens.

Gabe Brown, Brown Midwest, Kansas City, appeared before the Committee as a real estate land developer in Johnson County (no written testimony). He expressed concern over the amount of excise taxes collected by cities with no accountability for those funds. He requested that some kind of accountability be required by law to enable citizens and businesses to find out how those funds are spent.

Douglas J. Patterson, Property Law Firm, P.C. appeared in support of **HB 2023** and offered an amendment (Attachment 5). The new language would be inserted as a new section and would amend that portion of the Kansas Retail Sales Tax Act relative to excise tax and would be complementary with the other efforts being made by the building and development industry within the State of Kansas to pay its own way in the development process but not be a revenue source for independent expenditures not connected in any way with the development sought to be taxed.

Christina M. Wilson, Executive Director, Kansas Building Industry, stated that the passage of **HB 2023** would restore uniformity and clarify state law (Attachment 6). She suggested that if municipalities choose to impose fees on development as some do now, they could continue to do so more appropriately as an impact fee rather than an excise tax.

Dave Holtwick, Home Builders Association of Greater Kansas City, appeared in support of uniform and consistent rules and regulations and stated that passage of **HB 2023** would help remove inconsistencies they now see (Attachment 7). He suggested forming a working group made up of representatives of the Taxation Committee, League of Municipalities and members of the residential construction industry in order to explore the use of impact fees and excise taxes and accountability for those funds.

When a question was raised concerning the scope of bill, Secretary Wagnon stated that **HB 2023** would solve the uniformity problem (Attachment 8). If amendments are added, and if certain kinds of things such as the Johnson County distribution formula are grand fathered in, it is the Department's opinion that they will not know until they get to the Court of Appeals if they are back to the position of being out of uniformity.

The Chairman requested that members of the League of Municipalities, Homebuilders and all interested parties meet in order to arrive at consensus of the differing issues in **HB 2023**. This group would be responsible to work out details and provide language that can be offered and addressed to a sub-committee that will be appointed tomorrow. Representative Owens requested that staff prepare a fact sheet that delineates exactly with cities and counties would gain or lose if **HB 2023** would pass, to include any amendments presented.

The meeting was adjourned at 10:30 a.m. The next meeting is scheduled for February 4, 2005, upon adjournment of the House.

HOUSE TAXATION COMMITTEE GUEST LIST

DATE: Feb 3 2005

NAME	REPRESENTING
Randall Allen	Ks. Association of Counties
Don Moler	LKM
LARRY R BAZZ	LKM
Brian Nye	INTERN - REP. HOFF
Mike Schroeder	Fisher - Don Hill
SYON SCHNEIDER	CITY OF WICHITA
DAVE JAMM	KAR
Erik Santorus	City of Overland Park
Chris Wilson	KS Building Industry Ass'n
M.S. Mitchell	Kansas Building Industry Assn
D LISTER	HBA
JANET WILLIS	HBA
MIKE BROWN	HBA
Gabe Brown	HBA
Chris Neal	KCHBA
Dave Holtwick	KCHBA
Doug Peterson	KCHBA
Burd Burke	City of Olathe
Richard Cunn	KOOR

Special Committee on Assessment and Taxation

EXCISE TAX AUTHORITY OF MUNICIPALITIES

CONCLUSIONS AND RECOMMENDATIONS

The Committee recommends a two-fold approach to providing additional "breathing room" in order to assure that uniformity is restored to the local sales tax law on a permanent basis. The Committee recommends legislation which would reduce the number of classes in the local sales tax law to two by effectively extending additional sales tax authority to a number of cities. The Committee further recommends introduction of a proposed constitutional amendment that would expand to ten the number of classes the Legislature may utilize for the purpose of limiting or prohibiting taxation by cities. Finally, the Committee encourages cities to provide additional details with respect to the utilization of development excise tax revenues.

Proposed Legislation: The Committee recommends the introduction of one bill and one concurrent resolution on this topic.

BACKGROUND

At the conclusion of an interim study last fall, the 2003 Special Committee on Assessment and Taxation recommended a bill (SB 308) and a proposed constitutional amendment (SCR 1615) in order to assure that uniformity was restored to the local sales tax on a permanent basis as it relates to cities. (Neither of these measures ultimately was acted upon by the 2004 Legislature.)

The 2004 Legislature did consider a bill (HB 2834) which sought to impose certain requirements on the utilization of development excise taxes and impact fees by cities, but a subcommittee and the House Taxation Committee recommended the bill for interim study.

The 2004 Legislature also considered another proposal (HB 2935) which would have given cities, counties and school districts earnings and income tax surtax authority. The bill also would have granted sales tax and intangibles tax authority to school districts and eliminated sales tax rate caps currently applicable to cities and counties. Finally, various demand transfers for local units of government would have been repealed. This legislation also was

recommended by the House Taxation Committee for interim study.

The Legislative Coordinating Council therefore directed the Special Committee to study HB 2834 and the issues related to excise taxes versus impact fees, as well as HB 2935 relating to taxing authority of cities, counties, and school districts. The charge also included the study of the uniformity of current law as it relates to the taxing authority of cities. The Special Committee was asked to make any recommendations deemed appropriate to the 2005 Legislature.

Uniformity Issues—2003 Interim Study

The 2003 Special Committee observed that the people of Kansas, in 1960, had explicitly granted the Legislature the power to uniformly limit or prohibit taxation by cities and to establish up to four classes of cities for that purpose. (Local sales taxes subsequently were not authorized by the Legislature until the early 1970s.) That Committee also found that the Legislature in the early 1990s had inadvertently exceeded the permissible four classes of cities, an oversight which resulted in a 1996 court decision (*Home Builders Ass'n v. City of Overland Park*) that effectively granted cities

the power to charter out of many of the provisions in the local sales tax law. In recent years, a number of cities have in fact relied upon *Home Builders* as well as guidance from the Attorney General to approve charter ordinances and raise their local sales tax rates above the maximum authorized by state law.

The 2003 report expressed concern over the possibility that a city could subsequently decide to charter out of other provisions of the local sales tax statutes requiring state administration; barring multiple rates within a single jurisdiction; requiring an identical tax base with the state; or stipulating when rates and boundaries may change. Any such charter ordinance by a single city could conceivably cause the entire State of Kansas to be out of substantial compliance with the multistate Streamlined Sales and Use Tax Agreement. Moreover, cities also could theoretically opt out of the mandatory-election requirement prior to the imposition of taxes.

The Committee therefore recommended that, because of the complexity of the local sales tax provisions and the likelihood that additional arguments could be made in court with respect to the lack of uniformity, and because of the propensity of cities to request additional local sales tax authority from the Legislature, the Legislature adopt a two-fold approach to providing additional "breathing room" in order to assure that uniformity is restored on a permanent basis. This approach included SB 308, which reduced the number of classes of cities for sales tax purposes to two (while simultaneously expanding local taxing authority); and SCR 1615, a proposed constitutional amendment that would have expanded to ten the number of classes the Legislature may utilize for the purpose of limiting or prohibiting taxation by cities.

A number of cities in Johnson County sought to charter out of local sales tax requirements in 1992 in an effort to not have the tax on original construction labor services as part of their tax bases. But the Department

of Revenue refused to enforce those ordinances on administrative grounds. Officials from the Department have stated that from a legal standpoint, its ability to refuse to enforce similar charter ordinances in the future may be much weaker in the wake of the declaration of nonuniformity by the courts.

The City of Wamego, for example, has reportedly recently (June 2004) been considering a charter ordinance authorizing the imposition of a special 25-cent "entertainment" tax that would be applicable only for certain venues and events.

To the extent that cities have the ability to continue to charter out of KSA 12-194, which generally prohibits them from imposing most excise taxes other than sales and use taxes, it also is conceivable that they could attempt to impose various liquor, cigarette, severance or even corporation franchise taxes.

Development Excise Taxes

One type of tax that has been successfully imposed by cities in the wake of the nonuniformity of the excise tax prohibition has been development excise taxes (the subject of the *Home Builders*' case). HB 2834 is one of several pieces of legislation considered in recent years which would have made the development excise tax authority visible statutorily and would seek to impose certain requirements on cities imposing the taxes (including a document detailing development costs and the rational basis for the tax and its rate be prepared prior to imposition or modification of an existing tax; and an annual report be prepared detailing revenues generated and how they are expended). Proponents complained that the rate of development excise taxes levied by cities does not necessarily bear a rational basis to the added costs of development. Opponents argued that the legislation as written tended to confuse the development tax with an excise fee. A subcommittee comprised of Representatives O'Malley, Brunk, and Flora asked that the issue be

referred for interim study, a recommendation also made by the House Taxation Committee.

Additional Taxing Authority for Cities, Counties, USDs

Another bill (HB 2935) would have given cities, counties and school districts earnings and income tax surtax authority. The bill also would have granted sales tax and intangibles tax authority to school districts and eliminated sales tax rate caps currently applicable to cities and counties. Uniformity also would have been restored with respect to the application of the local sales tax law to cities. Attempts to utilize any of the new taxing authority would have required 2/3 majority votes of governing bodies and subsequent approval by voters at mandatory elections. Moreover, voters would have protest petition authority to seek elections to repeal any such taxes. Finally, various demand transfers for local units of government would have been permanently repealed. The House Taxation Committee also approved a motion recommending this legislation for interim study.

COMMITTEE ACTIVITIES

At the September meeting, the Committee received briefings on all the bills from staff and from staff of the Department of Revenue. During the public hearings, the Department expressed some concerns about additional administrative costs associated with the additional local taxing authority provided in HB 2935. A conferee from the Kansas Chamber of Commerce and Industry also testified in opposition to authorizing new local taxes as provided in HB 2935. A conferee from the Kansas Association of Counties said that while HB 2935 has a number of components that it could support, the organization could not at this time endorse the complete bill. The conferee suggested that restoration of revenue sharing and demand transfer moneys would be a more attractive option for rural counties than would additional local taxing authority. The League testified in opposition to HB 2834

regarding the attempt to regulate development excise taxes. Conferees representing builders testified as proponents to HB 2834. A conferee from the Kansas Association of School Boards asked that school districts be removed from the list of local units receiving additional taxing authority pursuant to HB 2935. The conferee stated that the matter of K-12 school finance and the responsibility of the state versus local units was the subject of litigation.

The Chairperson subsequently appointed a subcommittee to divide the issues into three distinct subtopics: uniformity; development excise tax authority; and additional taxing authority in general for local units. The members of the subcommittee met in October and discussed all three areas with various conferees. Proponents of HB 2834 said that they would sit down with officials from the City of Overland Park to see what sort of detail was visible in budget documents relating to the use of development excise tax revenues. The subcommittee chairperson asked that the proponents report back in November as to whether they felt the need to continue to push for visible statutory requirements relative to the excise tax.

At the November meeting, the proponents of HB 2834 indicated that they were not satisfied with what appeared in the city budget documents with respect to the use of development excise tax revenues; and that the two sides had agreed to disagree about the need to pursue the legislation.

CONCLUSIONS AND RECOMMENDATIONS

With respect to the uniformity issue, the Committee agrees with the approach recommended by the 2003 Special Committee about the importance of reestablishing uniformity on a permanent basis. The lack of state control over city sales and excise taxes authority, control which had been granted to the Legislature by the people of Kansas in 1960 before being removed in the 1990s when the permissible number of classes of cities was inadvertently exceeded

statutorily, represents a serious level of uncertainty for taxpayers, businesses, and the Department of Revenue.

Moreover, this concern over lack of state control over city sales taxes is magnified further by the fact that the lack of uniformity in the local sales tax statutes could imperil Kansas' participation in the multi-state streamlined sales tax effort—participation that is expected to greatly benefit cities in addition to the state.

Because of the complexity of the local sales tax provisions and the likelihood that additional arguments could be made in court with respect to the lack of uniformity; and because of the propensity of cities to request additional local sales tax authority from the Legislature, the Committee once again recommends a two-fold approach to providing additional "breathing room" in order to assure that uniformity is restored on a permanent basis. The Committee recommends legislation which would redefine the existing classes in the local sales tax law to create only two classes by effectively extending additional sales tax

authority to a number of cities. Enactment of this legislation would accomplish this recommendation. The Committee further recommends introduction of a proposed constitutional amendment that would expand to ten the number of classes the Legislature may utilize for the purpose of limiting or prohibiting taxation by cities. Adoption of a concurrent resolution would accomplish this recommendation.

With respect to development excise taxes, the Committee encourages cities to keep meeting with proponents of HB 2834 in order to provide assurances about the appropriate use of development excise taxes. The Committee notes that the use of such taxes in the future may well be restricted or curtailed by the Legislature as it addresses the broader questions of uniformity and city taxing authority in general.

Finally, the Committee makes no recommendation at this time regarding HB 2935 on the expansion of city, county, and school district taxing options.



KANSAS
ASSOCIATION OF
COUNTIES

Testimony on HB 2023
House Taxation Committee
Randall Allen, Executive Director
Kansas Association of Counties
February 3, 2005

Chairman Wilk, I am Randall Allen, Executive Director of the Kansas Association of Counties. I am here today at the request of the Board of Atchison County Commissioners to request a short amendment to HB 2023, to add an additional purpose in the delineation of eligible uses for countywide sales tax revenues. The additional purpose would be "***the costs of constructing or operating an emergency communications center***" and would logically fit in the list of eligible uses under Section 1 (b) (2) on page 2 of the bill. This would require, like all other uses, approval of a majority of county voters.

On behalf of the Atchison County Board, I respectfully ask that this language be added to the bill before you work it. The Association supports the remainder of the bill as it substantially cleans up the countywide sales tax authority, which is currently scrambled in several different sections of the statutes. As such, we urge the committee to recommend it favorably for passage (as amended). I will be happy to respond to questions.

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. For more information, please contact Randall Allen or Judy Moler at (785) 272-2585.

300 SW 8th Avenue
3rd Floor
Topeka, KS 66603-3912
785•272•2585
Fax 785•272•3585

Hs Taxation Committee
February 3, 2005
Attachment 2



8500 Santa Fe Drive
Overland Park, Kansas 66212
• Fax: 913-895-5003
www.opkansas.org

Erik Sartorius
presented testimony

Testimony Before The
House Taxation Committee
Regarding
House Bill 2023

February 3, 2005

The City of Overland Park appreciates the opportunity to appear before the committee and present testimony on House Bill 2023.

As most members of the committee know, the question of non-uniformity in local sales tax laws has received attention in the last year or two. The Department of Revenue has been concerned that non-uniformity grants local units of government the ability to exercise home rule authority and opt out of some laws.

Of particular concern to KDOR is how actions taken by cities could affect the State's participation in the Streamlined Sales and Use Tax Agreement. To date, no city has enacted a charter ordinance that jeopardizes such participation, nor can the City of Overland Park conceive of a reason cities would be interested in undermining an agreement most of them supported.

The City of Overland Park is hopeful that legislation can be crafted which satisfies the Legislature's and the Department of Revenue's desire to ensure that the local sales tax laws are returned to uniformity. Of concern to the City, however, is that any taxing authority lawfully created under home rule authority must be retained by cities. That is, we must be allowed to "remain whole."

To address these issues, the City's Law Department wishes to offer amendments to the bill insuring the City's existing sales and excise tax situation. At the same time, the City wants to make sure that the language we propose does not adversely affect other cities' situations. To that end, we are working closely with other cities and the League of Kansas Municipalities.

We look forward to working with the committee to craft a bill that accomplishes the goal of uniformity while also ensuring that local governments are kept whole.

HS Taxation Committee
February 3, 2005
Attachment 3



League of Kansas Municipalities

To: House Taxation Committee
From: Don Moler, Executive Director
Re: Support with Amendments for HB 2023
Date: February 3, 2005

First I would like to thank the Committee for allowing the League to testify today in support of HB 2023. The League supports the uniformity aspect of this legislation as we believe it is a step in the direction of solidifying the streamlined sales tax act and letting the State of Kansas benefit from its provisions when Congress acts in this matter. Our support for this legislation is predicated, however, on the legislature not taking a step backwards when dealing with the local sales and excise taxes. We believe HB 2023 should not be used as a vehicle to attack the local sales tax and locally imposed excise taxes. Rather, we support it based on the understanding that its sole purpose is to make the local sales tax act uniform and to protect the State's participation in the streamlined sales tax compact.

To this end we have reviewed HB 2023 and we are suggesting three amendments to the legislation which will largely continue the status quo and provide some flexibility for cities who would be giving up their Constitutional home rule authority over the local sales tax with the passage of this legislation. Specifically we believe, for the League to support this legislation, that an amendment needs to be made on page 8, line 37, which provides that a local sales tax can also be levied in the amount of 1.125%, 1.25%, 1.5% or 1.75%. This authority is currently available to all of the cities in Johnson County and to not replicate it here would remove that authority from them. As a result we believe that would be a step back in the local sales tax and believe it is integral to this legislation that it be included as noted on the attachment to my testimony.

The second change we believe is necessary is found on page 11, line 41, subsection (d). Here we do not wish to change the county sales tax apportionment formula which currently exists in 104 counties in Kansas. We cannot support language which would extend this apportionment formula to all counties in the State. Cities currently share county sales tax revenues in a formula which has been a part of the statutes for decades. This change would have a significant impact on that and as a result the League opposes the current language and suggests that it needs to be changed to the language suggested in our balloon.

Finally, the League is suggesting the addition of a new section 6 which would be placed on page 15 of HB 2023. Specifically this would remove the statutory prohibition against the levying of excise taxes by cities. This is necessary because cities currently have the ability, through their Constitutional home rule and charter ordinance authority, to levy local excise taxes. A number of cities are currently utilizing this authority. As the bill creates uniformity in the local sales tax act, it would take this authority away from them. Since the stated reason for this legislation is to create uniformity, but not to change the underlying authority of cities under the local sales tax act, we

believe that it is absolutely necessary to remove the state prohibition on the excise tax so that those cities can continue to levy the taxes which are currently in place, and to also retain the authority for other cities wishing to do the same.

As I said at the top of my testimony, the League is supportive of uniformity in the state statutes concerning the local sales tax act. We are not supportive of efforts to narrow the local sales or excise tax authority of cities in Kansas and as a result will support uniformity so long as local governments are held harmless in this legislation. If a narrowing of the local sales and excise tax authority is part of this legislation, then its scope goes far beyond the simple desire to have uniformity in the local sales tax act and the League would have to vigorously oppose that effort.

In summary we support HB 2023, with our suggested amendments, for the purpose of achieving uniformity in the local sales tax act, while at the same time retaining the local sales and excise tax authority currently vested in cities across the State of Kansas. I will be happy to answer any questions the Committee may have on the League's position in this matter and our suggested amendments.

HOUSE BILL No. 2023

By Special Committee on Assessment and Taxation

12-30

9 AN ACT concerning taxation; relating to city and county retailers' sales
10 tax; classes of cities; amending K.S.A. 12-195b and K.S.A. 2004 Supp.
11 12-187, 12-188, 12-189 and 12-192 and repealing the existing sections.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2004 Supp. 12-187 is hereby amended to read as
15 follows: 12-187. (a) (1) No city shall impose a retailers' sales tax under
16 the provisions of this act without the governing body of such city having
17 first submitted such proposition to and having received the approval of a
18 majority of the electors of the city voting thereon at an election called
19 and held therefor. The governing body of any city may submit the ques-
20 tion of imposing a retailers' sales tax and the governing body shall be
21 required to submit the question upon submission of a petition signed by
22 electors of such city equal in number to not less than 10% of the electors
23 of such city.

24 (2) The governing body of any class B city located in any county which
25 does not impose a countywide retailers' sales tax pursuant to paragraph
26 (5) of subsection (b) may submit the question of imposing a retailers' sales
27 tax at the rate of .125%, .25%, .5%, .75% or 1% and pledging the revenue
28 received therefrom for the purpose of financing the provision of health
29 care services, economic development initiatives, strategic planning initia-
30 tives or for public infrastructure projects including buildings, as enumer-
31 ated in the question, to the electors at an election called and held thereon.
32 The tax imposed pursuant to this paragraph shall be deemed to be in
33 addition to the rate limitations prescribed in subsection (a) of K.S.A. 12-
34 189, and amendments thereto. As used in this paragraph, health care
35 services shall include but not be limited to the following: Local health
36 departments, city, county or district hospitals, city or county nursing
37 homes, preventive health care services including immunizations, prenatal
38 care and the postponement of entry into nursing homes by home health
39 care services, mental health services, indigent health care, physician or
40 health care worker recruitment, health education, emergency medical
41 services, rural health clinics, integration of health care services, home
42 health services and rural health networks. *The tax imposed pursuant to*
43 *this paragraph may provide that it shall expire when sales tax sufficient*

19-17

1 to pay all of the costs incurred in the financing of such facility has been
 2 collected by retailers as determined by the secretary of revenue, if so
 3 approved by the electors. Alternatively, the tax imposed pursuant to this
 4 paragraph may provide that it shall expire after five years from the date
 5 such tax is first collected, and if such tax was imposed after July 1, 2000,
 6 after ten years from the date such tax is first collected, if so approved by
 7 the electors. If any funds remain upon the payment of all costs authorized
 8 pursuant to this paragraph in the financing of such projects in the city,
 9 the state treasurer shall remit such funds to the treasurer of the city who
 10 shall deposit such moneys to the credit of the city general fund.

11 (b) (1) The board of county commissioners of any county may submit
 12 the question of imposing a countywide retailers' sales tax to the electors
 13 at an election called and held thereon, and any such board shall be re-
 14 quired to submit the question upon submission of a petition signed by
 15 electors of such county equal in number to not less than 10% of the
 16 electors of such county who voted at the last preceding general election
 17 for the office of secretary of state, or upon receiving resolutions request-
 18 ing such an election passed by not less than 2/3 of the membership of the
 19 governing body of each of one or more cities within such county which
 20 contains a population of not less than 25% of the entire population of the
 21 county, or upon receiving resolutions requesting such an election passed
 22 by 2/3 of the membership of the governing body of each of one or more
 23 taxing subdivisions within such county which levy not less than 25% of
 24 the property taxes levied by all taxing subdivisions within the county.

25 (2) The board of county commissioners of ~~Anderson, Atchison, Bar-~~
 26 ~~ton, Butler, Chase, Cowley, Cherokee, Crawford, Ford, Jefferson, Lyon,~~
 27 ~~Montgomery, Neosho, Osage, Ottawa, Riley, Saline, Seward, Sumner,~~
 28 ~~Wabaunsee, Wilson and Wyandotte counties~~ any county may submit the
 29 question of imposing a countywide retailers' sales tax at the rate of .125%,
 30 .25%, .5%, .75% or 1% and pledging the revenue received therefrom for
 31 the purpose of financing the construction or remodeling of a courthouse,
 32 jail, law enforcement center facility or other county administrative facility,
 33 reservoir project, construction of highway projects identified as system
 34 enhancements under the provisions of paragraph (5) of subsection (b) of
 35 K.S.A. 68-2314, and amendments thereto, the provision of health care
 36 services, the costs of operation and construction of a solid waste disposal
 37 area or the modification of an existing landfill to comply with federal
 38 regulations, the costs of roadway construction and improvement, indus-
 39 trial and business parks and other economic development initiatives, stra-
 40 tegic planning initiatives or public infrastructure projects, recreational
 41 facilities, preservation, access and management of open space, to the elec-
 42 tors at an election called and held thereon. The tax imposed pursuant to
 43 this paragraph may provide that it shall expire when sales tax sufficient

1 to pay all of the costs incurred in the financing of such facility has been
 2 collected by retailers as determined by the secretary of revenue, if so
 3 approved by the electors. Alternatively, the tax imposed pursuant to this
 4 paragraph may provide that it shall expire after five years from the date
 5 such tax is first collected, if so approved by the electors. If any funds
 6 remain after the payment of all costs authorized pursuant to this para-
 7 graph in the financing of such projects in the county, the state treasurer
 8 shall remit such funds to the treasurer of the county who shall deposit
 9 such moneys to the credit of the county general fund. As used in this
 10 paragraph, health care services shall include, but not be limited to, the
 11 following: Local health departments, city or county hospitals, city or
 12 county nursing homes, preventive health care services including immu-
 13 nizations, prenatal care and the postponement of entry into nursing homes
 14 by home care services, mental health services, indigent health care, phy-
 15 sician or health care worker recruitment, health education, emergency
 16 medical services, rural health clinics, integration of health care services,
 17 home health services and rural health networks. The tax imposed pursuant
 18 to this paragraph shall be deemed to be in addition to the rate limitations
 19 prescribed in subsection (a) of K.S.A. 12-189, and amendments thereto.
 20 Nothing in this paragraph shall be construed to allow the rate of tax
 21 imposed by Butler, Chase, Gowley, Lyon, Montgomery, Neosho, Riley,
 22 Sumner or Wilson county pursuant to this paragraph to exceed or be
 23 imposed at any rate other than the rates prescribed in K.S.A. 12-189, and
 24 amendments thereto.

25 ~~—(3) (A) Except as otherwise provided in this paragraph, the result of~~
 26 ~~the election held on November 8, 1988, on the question submitted by~~
 27 ~~the board of county commissioners of Jackson county for the purpose of~~
 28 ~~increasing its countywide retailers' sales tax by 1% is hereby declared~~
 29 ~~valid, and the revenue received therefrom by the county shall be ex-~~
 30 ~~pended solely for the purpose of financing the Banner Creek reservoir~~
 31 ~~project. The tax imposed pursuant to this paragraph shall take effect on~~
 32 ~~the effective date of this act and shall expire not later than five years after~~
 33 ~~such date.~~

34 ~~—(B) The result of the election held on November 8, 1994, on the~~
 35 ~~question submitted by the board of county commissioners of Ottawa~~
 36 ~~county for the purpose of increasing its countywide retailers' sales tax by~~
 37 ~~1% is hereby declared valid, and the revenue received therefrom by the~~
 38 ~~county shall be expended solely for the purpose of financing the erection,~~
 39 ~~construction and furnishing of a law enforcement center and jail facility.~~

40 ~~—(4) The board of county commissioners of Finney and Ford counties~~
 41 ~~may submit the question of imposing a countywide retailers' sales tax at~~
 42 ~~the rate of .25% and pledging the revenue received therefrom for the~~
 43 ~~purpose of financing all or any portion of the cost to be paid by Finney~~

4-6

1 or Ford county for construction of highway projects identified as system
 2 enhancements under the provisions of paragraph (5) of subsection (b) of
 3 K.S.A. 68-2314, and amendments thereto, to the electors at an election
 4 called and held thereon. Such election shall be called and held in the
 5 manner provided by the general bond law. The tax imposed pursuant to
 6 this paragraph shall expire upon the payment of all costs authorized pur-
 7 suant to this paragraph in the financing of such highway projects. Nothing
 8 in this paragraph shall be construed to allow the rate of tax imposed by
 9 Finney or Ford county pursuant to this paragraph to exceed the maximum
 10 rate prescribed in K.S.A. 12-180, and amendments thereto. If any funds
 11 remain upon the payment of all costs authorized pursuant to this para-
 12 graph in the financing of such highway projects in Finney county, the
 13 state treasurer shall remit such funds to the treasurer of Finney county
 14 and upon receipt of such moneys shall be deposited to the credit of the
 15 county road and bridge fund. If any funds remain upon the payment of
 16 all costs authorized pursuant to this paragraph in the financing of such
 17 highway projects in Ford county, the state treasurer shall remit such funds
 18 to the treasurer of Ford county and upon receipt of such moneys shall
 19 be deposited to the credit of the county road and bridge fund.

20 ~~(5) The board of county commissioners of any county may submit the~~
 21 ~~question of imposing a retailers' sales tax at the rate of .25%, .5%, .75%~~
 22 ~~or 1% and pledging the revenue received therefrom for the purpose of~~
 23 ~~financing the provision of health care services, as enumerated in the ques-~~
 24 ~~tion, to the electors at an election called and held thereon. Whenever any~~
 25 ~~county imposes a tax pursuant to this paragraph, any tax imposed pursuant~~
 26 ~~to paragraph (2) of subsection (a) by any city located in such county shall~~
 27 ~~expire upon the effective date of the imposition of the countywide tax,~~
 28 ~~and thereafter the state treasurer shall remit to each such city that portion~~
 29 ~~of the countywide tax revenue collected by retailers within such city as~~
 30 ~~certified by the director of taxation. The tax imposed pursuant to this~~
 31 ~~paragraph shall be deemed to be in addition to the rate limitations pre-~~
 32 ~~scribed in K.S.A. 12-180, and amendments thereto. As used in this para-~~
 33 ~~graph, health care services shall include but not be limited to the follow-~~
 34 ~~ing: Local health departments, city or county hospitals, city or county~~
 35 ~~nursing homes, preventive health care services including immunizations,~~
 36 ~~prenatal care and the postponement of entry into nursing homes by home~~
 37 ~~care services, mental health services, indigent health care, physician or~~
 38 ~~health care worker recruitment, health education, emergency medical~~
 39 ~~services, rural health clinics, integration of health care services, home~~
 40 ~~health services and rural health networks.~~

41 ~~(6) The board of county commissioners of Allen county may submit~~
 42 ~~the question of imposing a countywide retailers' sales tax at the rate of~~
 43 ~~.5% and pledging the revenue received therefrom for the purpose of~~

L-1
P

1 financing the costs of operation and construction of a solid waste disposal
2 area or the modification of an existing landfill to comply with federal
3 regulations to the electors at an election called and held thereon. The tax
4 imposed pursuant to this paragraph shall expire upon the payment of all
5 costs incurred in the financing of the project undertaken. Nothing in this
6 paragraph shall be construed to allow the rate of tax imposed by Allen
7 county pursuant to this paragraph to exceed or be imposed at any rate
8 other than the rates prescribed in K.S.A. 12-189 and amendments
9 thereto.

10 ~~—(7) The board of county commissioners of Clay, Dickinson and Miami~~
11 ~~county may submit the question of imposing a countywide retailers' sales~~
12 ~~tax at the rate of .50% in the case of Clay and Dickinson county and at a~~
13 ~~rate of up to 1% in the case of Miami county, and pledging the revenue~~
14 ~~received therefrom for the purpose of financing the costs of roadway~~
15 ~~construction and improvement to the electors at an election called and~~
16 ~~held thereon. Except as otherwise provided, the tax imposed pursuant to~~
17 ~~this paragraph shall expire after five years from the date such tax is first~~
18 ~~collected. The countywide retailers' sales tax imposed pursuant to this~~
19 ~~subsection in Clay county may be extended or reenacted for additional~~
20 ~~five-year periods upon the board of county commissioners of Clay county~~
21 ~~submitting such question to the electors at an election called and held~~
22 ~~thereon for each additional five-year period as provided by law.~~

23 ~~—(8) The board of county commissioners of Sherman county may sub-~~
24 ~~mit the question of imposing a countywide retailers' sales tax at the rate~~
25 ~~of .25%, .5% or .75% and pledging the revenue therefrom for the purpose~~
26 ~~of financing the costs of the county roads 64 and 65 construction and~~
27 ~~improvement project. The tax imposed pursuant to this paragraph shall~~
28 ~~expire upon payment of all costs authorized pursuant to this paragraph~~
29 ~~in the financing of such project.~~

30 ~~—(9) The board of county commissioners of Cowley, Russell and~~
31 ~~Woodson county may submit the question of imposing a countywide re-~~
32 ~~tailers' sales tax at the rate of .5% in the case of Russell and Woodson~~
33 ~~county and at a rate of up to .25%, in the case of Cowley county and~~
34 ~~pledging the revenue received therefrom for the purpose of financing~~
35 ~~economic development initiatives or public infrastructure projects. The~~
36 ~~tax imposed pursuant to this paragraph shall expire after five years from~~
37 ~~the date such tax is first collected.~~

38 ~~—(10) The board of county commissioners of Franklin county may sub-~~
39 ~~mit the question of imposing a countywide retailers' sales tax at the rate~~
40 ~~of .25% and pledging the revenue received therefrom for the purpose of~~
41 ~~financing recreational facilities. The tax imposed pursuant to this pa-~~
42 ~~graph shall expire upon payment of all costs authorized in financing such~~
43 ~~facilities.~~

1 ~~—(11) The board of county commissioners of Douglas county may sub-~~
2 ~~mit to the question of imposing a countywide retailers' sales tax at the~~
3 ~~rate of .25% and pledging the revenue received therefrom for the pur-~~
4 ~~poses of preservation, access and management of open space, and for~~
5 ~~industrial and business park related economic development.~~

6 ~~—(12) The board of county commissioners of Shawnee county may sub-~~
7 ~~mit the question of imposing a countywide retailers' sales tax at the rate~~
8 ~~of .25% and pledging the revenue received therefrom to the city of To-~~
9 ~~peka for the purpose of financing the costs of rebuilding the Topeka~~
10 ~~boulevard bridge and other public infrastructure improvements associ-~~
11 ~~ated with such project to the electors at an election called and held~~
12 ~~thereon. The tax imposed pursuant to this paragraph shall expire upon~~
13 ~~payment of all costs authorized in financing such project.~~

14 ~~—(13) The board of county commissioners of Jackson county may sub-~~
15 ~~mit the question of imposing a countywide retailers' sales tax at a rate of~~
16 ~~.4% and pledging the revenue received therefrom as follows: 50% of such~~
17 ~~revenues for the purpose of financing for economic development initia-~~
18 ~~tives; and 50% of such revenues for the purpose of financing public in-~~
19 ~~frastructure projects to the electors at an election called and held thereon.~~
20 ~~The tax imposed pursuant to this paragraph shall expire after seven years~~
21 ~~from the date such tax is first collected.~~

22 (c) The boards of county commissioners of any two or more contig-
23 uous counties, upon adoption of a joint resolution by such boards, may
24 submit the question of imposing a retailers' sales tax within such counties
25 to the electors of such counties at an election called and held thereon
26 and such boards of any two or more contiguous counties shall be required
27 to submit such question upon submission of a petition in each of such
28 counties, signed by a number of electors of each of such counties where
29 submitted equal in number to not less than 10% of the electors of each
30 of such counties who voted at the last preceding general election for the
31 office of secretary of state, or upon receiving resolutions requesting such
32 an election passed by not less than 2/3 of the membership of the governing
33 body of each of one or more cities within each of such counties which
34 contains a population of not less than 25% of the entire population of
35 each of such counties, or upon receiving resolutions requesting such an
36 election passed by 2/3 of the membership of the governing body of each
37 of one or more taxing subdivisions within each of such counties which
38 levy not less than 25% of the property taxes levied by all taxing subdivi-
39 sions within each of such counties.

40 (d) ~~Any city retailers' sales tax in the amount of .5% being levied by~~
41 ~~a city on July 1, 1990, shall continue in effect until repealed in the manner~~
42 ~~provided herein for the adoption and approval of such tax or until re-~~
43 ~~pealed by the adoption of an ordinance so providing. In addition to any~~

6-7
10

1 city retailers' sales tax being levied by a city on July 1, 1990, any such city
2 may adopt an additional city retailers' sales tax in the amount of .25% or
3 .5%, provided that such additional tax is adopted and approved in the
4 manner provided for the adoption and approval of a city retailers' sales
5 tax. Any countywide retailers' sales tax in the amount of .5% or 1% in
6 effect on July 1, 1990, shall continue in effect until repealed in the manner
7 provided herein for the adoption and approval of such tax.

8 ~~(c)~~ A class D city shall have the same power to levy and collect a city
9 retailers' sales tax that a class A city is authorized to levy and collect and
10 in addition, the governing body of any class D city may submit the ques-
11 tion of imposing an additional city retailers' sales tax in the amount of
12 .125%, .25%, .5% or .75% and pledging the revenue received therefrom
13 for economic development initiatives, strategic planning initiatives or for
14 public infrastructure projects including buildings to the electors at an
15 election called and held thereon. Any additional sales tax imposed pur-
16 suant to this paragraph shall expire no later than five years from the date
17 of imposition thereof, except that any such tax imposed by any class D
18 city after the effective date of this act shall expire no later than 10 years
19 from the date of imposition thereof.

20 ~~(f)~~ Any city or county proposing to adopt a retailers' sales tax shall
21 give notice of its intention to submit such proposition for approval by the
22 electors in the manner required by K.S.A. 10-120, and amendments
23 thereto. The notices shall state the time of the election and the rate and
24 effective date of the proposed tax. If a majority of the electors voting
25 thereon at such election fail to approve the proposition, such proposition
26 may be resubmitted under the conditions and in the manner provided in
27 this act for submission of the proposition. If a majority of the electors
28 voting thereon at such election shall approve the levying of such tax, the
29 governing body of any such city or county shall provide by ordinance or
30 resolution, as the case may be, for the levy of the tax. Any repeal of such
31 tax or any reduction or increase in the rate thereof, within the limits
32 prescribed by K.S.A. 12-189, and amendments thereto, shall be accom-
33 plished in the manner provided herein for the adoption and approval of
34 such tax except that the repeal of any such city retailers' sales tax may be
35 accomplished by the adoption of an ordinance so providing.

36 ~~(g)~~ (e) The sufficiency of the number of signers of any petition filed
37 under this section shall be determined by the county election officer.
38 Every election held under this act shall be conducted by the county elec-
39 tion officer.

40 ~~(h)~~ (f) The governing body of the city or county proposing to levy any
41 retailers' sales tax shall specify the purpose or purposes for which the
42 revenue would be used, and a statement generally describing such pur-
43 pose or purposes shall be included as a part of the ballot proposition.

4-10

1 (g) Any city retailers' sales tax levied by a city prior to July 1, 2005,
2 pursuant to home rule authority shall continue in effect until repealed in
3 the manner provided in this section for the adoption and approval of such
4 tax or until repealed by the adoption of an ordinance for such repeal.

5 Sec. 2. K.S.A. 2004 Supp. 12-188 is hereby amended to read as fol-
6 lows: 12-188. The following classes of cities are hereby established for
7 the purpose of imposing limitations and prohibitions upon the levying of
8 sales and excise taxes or taxes in the nature of an excise upon sales or
9 transfers of personal or real property or the use thereof, or the rendering
10 or furnishing of services by cities as authorized and provided by article
11 12, section 5, of the constitution of the state of Kansas:

12 Class A cities. All cities in the state of Kansas which have the authority
13 to levy and collect excise taxes or taxes in the nature of an excise upon
14 the sales or transfers of personal or real property or the use thereof, or
15 the rendering or furnishing of services by cities.

16 Class B cities. All cities in the state of Kansas which have the authority
17 to levy and collect excise taxes or taxes in the nature of an excise upon
18 the sales or transfers of personal or real property or the use thereof, or
19 the rendering or furnishing of services for the purpose of financing the
20 provision of health care services that have levied city retailers' sales taxes
21 pursuant to home rule authority prior to July 1, 2005.

22 Class C cities. All cities in the state of Kansas having a population of
23 more than 200,000 located in a county having a population of more than
24 350,000 which has the authority to levy and collect excise taxes or taxes
25 in the nature of an excise upon the sales or transfers of personal or real
26 property or the use thereof, or the rendering or furnishing of services.

27 Class D cities. All cities in the state of Kansas located in Cowley, Ellis,
28 Ellsworth, Finney, Harper, Johnson, Labette, Lyon, Montgomery, Osage,
29 Reno, Woodson or Wyandotte county or in both Riley and Pottawatomie
30 counties which have the authority to levy and collect excise taxes or taxes
31 in the nature of an excise upon the sales or transfers of personal or real
32 property or the use thereof, or the rendering or furnishing of services.

33 Sec. 3. K.S.A. 2004 Supp. 12-189 is hereby amended to read as fol-
34 lows: 12-189. Except as otherwise provided by paragraph (2) of subsection

35 (a) of K.S.A. 12-187, and amendments thereto, the rate of any class A,
36 class B or class C city retailers' sales tax shall be fixed in the amount of
37 .25%, .5%, .75% or 1%, which amount shall be determined by the gov-
38 erning body of the city. Except as otherwise provided by paragraph (2)
39 of subsection (a) of K.S.A. 12-187, and amendments thereto, the rate of
40 any class D city retailers' sales tax shall be fixed in the amount of .10%,
41 .25%, .5%, .75%, 1%, 1.125%, 1.25%, 1.5% or 1.75%. The rate of any
42 countywide retailers' sales tax shall be fixed in an amount of either .25%,
43 .5%, .75% or 1% which amount shall be determined by the board of

1.125%, 1.25%, 1.5% or 1.75%

11-11

1 county commissioners, except that:

2 (a) The board of county commissioners of Wabaunsee any county,
3 for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and
4 amendments thereto, may fix such rate at 1.25%, the board of county
5 commissioners of Osage county, for the purposes of paragraph (2) of
6 subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such
7 rate at 1.25% or 1.5%, the board of county commissioners of Cherokee,
8 Crawford, Ford, Saline, Seward or Wyandotte county, for the purposes
9 of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments
10 thereto, may fix such rate at 1.5%, the board of county commissioners of
11 Atchison county, for the purposes of paragraph (2) of subsection (b) of
12 K.S.A. 12-187, and amendments thereto, may fix such rate at 1.5% or
13 1.75% and the board of county commissioners of Anderson, Barton, Jef-
14 ferson or Ottawa county, for the purposes of paragraph (2) of subsection
15 (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 2%
16 the rate within the limitations in subsection (a), plus the rate within the
17 limitations in subsection (b)(2) of K.S.A. 12-187, and amendments thereto;
18 or

19 (b) the board of county commissioners of Jackson county, for the
20 purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amend-
21 ments thereto, may fix such rate at 2%;

22 ~~—(c)—the boards of county commissioners of Finney and Ford counties,
23 for the purposes of paragraph (4) of subsection (b) of K.S.A. 12-187, and
24 amendments thereto, may fix such rate at .25%;~~

25 ~~—(d)—the board of county commissioners of any county for the purposes
26 of paragraph (5) of subsection (b) of K.S.A. 12-187, and amendments
27 thereto, may fix such rate at a percentage which is equal to the sum of
28 the rate allowed to be imposed by a board of county commissioners on
29 the effective date of this act plus .25%, .5%, .75% or 1%, as the case
30 requires;~~

31 ~~—(e)—the board of county commissioners of Dickinson county, for the
32 purposes of paragraph (7) of subsection (b) of K.S.A. 12-187, and amend-
33 ments thereto, may fix such rate at 1.5%, and the board of county com-
34 missioners of Miami county, for the purposes of paragraph (7) of subsec-
35 tion (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at
36 1.25%, 1.5%, 1.75% or 2%;~~

37 ~~—(f)—the board of county commissioners of Sherman county, for the
38 purposes of paragraph (8) of subsection (b) of K.S.A. 12-187, and amend-
39 ments thereto, may fix such rate at 1.5%, 1.75% or 2%;~~

40 ~~—(g)—the board of county commissioners of Russell county for the pur-
41 poses of paragraph (9) of subsection (b) of K.S.A. 12-187, and amend-
42 ments thereto, may fix such rate at 1.5%;~~

43 ~~—(h)—the board of county commissioners of Franklin county, for the~~

1 ~~purposes of paragraph (10) of subsection (b) of K.S.A. 12-187, and~~
2 ~~amendments thereto, may fix such rate at 1.75%;~~

3 ~~—(i) the board of county commissioners of Douglas county, for the~~
4 ~~purposes of paragraph (11) of subsection (b) of K.S.A. 12-187, and~~
5 ~~amendments thereto, may fix such rate at 1.25%, or~~

6 ~~—(j) the board of county commissioners of Jackson county, for the pur-~~
7 ~~poses of subsection (b)(10) of K.S.A. 12-187 and amendments thereto,~~
8 ~~may fix such rate at 1.4% any city retailers' sales tax levied by a city prior~~
9 ~~to July 1, 2005, pursuant to home rule authority shall continue in effect~~
10 ~~until repealed in the manner provided in this section for the adoption and~~
11 ~~approval of such tax or until repealed by the adoption of an ordinance~~
12 ~~providing for such repeal.~~

13 Any county or city levying a retailers' sales tax is hereby prohibited
14 from administering or collecting such tax locally, but shall utilize the serv-
15 ices of the state department of revenue to administer, enforce and collect
16 such tax. Except as otherwise specifically provided in K.S.A. 12-189a, and
17 amendments thereto, such tax shall be identical in its application, and
18 exemptions therefrom, to the Kansas retailers' sales tax act and all laws
19 and administrative rules and regulations of the state department of rev-
20 enue relating to the Kansas retailers' sales tax shall apply to such local
21 sales tax insofar as such laws and rules and regulations may be made
22 applicable. The state director of taxation is hereby authorized to admin-
23 ister, enforce and collect such local sales taxes and to adopt such rules
24 and regulations as may be necessary for the efficient and effective ad-
25 ministration and enforcement thereof.

26 Upon receipt of a certified copy of an ordinance or resolution author-
27 izing the levy of a local retailers' sales tax, the director of taxation shall
28 cause such taxes to be collected within or without the boundaries of such
29 taxing subdivision at the same time and in the same manner provided for
30 the collection of the state retailers' sales tax. Such copy shall be submitted
31 to the director of taxation within 30 days after adoption of any such or-
32 dinance or resolution. All moneys collected by the director of taxation
33 under the provisions of this section shall be credited to a county and city
34 retailers' sales tax fund which fund is hereby established in the state treas-
35 ury. Any refund due on any county or city retailers' sales tax collected
36 pursuant to this act shall be paid out of the sales tax refund fund and
37 reimbursed by the director of taxation from collections of local retailers'
38 sales tax revenue. Except for local retailers' sales tax revenue required to
39 be deposited in the redevelopment bond fund established under K.S.A.
40 74-8927, and amendments thereto, all local retailers' sales tax revenue
41 collected within any county or city pursuant to this act shall be appor-
42 tioned and remitted at least quarterly by the state treasurer, on instruction
43 from the director of taxation, to the treasurer of such county or city.

4-12

1 Revenue that is received from the imposition of a local retailers' sales
2 tax which exceeds the amount of revenue required to pay the costs of a
3 special project for which such revenue was pledged shall be credited to
4 the city or county general fund, as the case requires.

5 The director of taxation shall provide, upon request by a city or county
6 clerk or treasurer of any city or county levying a local retailers' sales tax,
7 monthly reports identifying each retailer having a place of business in
8 such city or county setting forth the tax liability and the amount of such
9 tax remitted by each retailer during the preceding month and identifying
10 each business location maintained by the retailer within such city or
11 county. Such report shall be made available to the clerk or treasurer of
12 such city or county within a reasonable time after it has been requested
13 from the director of taxation. The director of taxation shall be allowed to
14 assess a reasonable fee for the issuance of such report. Information re-
15 ceived by any city or county pursuant to this section shall be confidential,
16 and it shall be unlawful for any officer or employee of such city or county
17 to divulge any such information in any manner. Any violation of this par-
18 agraph by a city or county officer or employee is a class B misdemeanor,
19 and such officer or employee shall be dismissed from office.

20 Sec. 4. K.S.A. 2004 Supp. 12-192 is hereby amended to read as fol-
21 lows: 12-192. (a) Except as otherwise provided by subsection (b), (d) or
22 (h), all revenue received by the director of taxation from a countywide
23 retailers' sales tax shall be apportioned among the county and each city
24 located in such county in the following manner: (1) One-half of all reve-
25 nue received by the director of taxation shall be apportioned among the
26 county and each city located in such county in the proportion that the
27 total tangible property tax levies made in such county in the preceding
28 year for all funds of each such governmental unit bear to the total of all
29 such levies made in the preceding year, and (2) 1/2 of all revenue received
30 by the director of taxation from such countywide retailers' sales tax shall
31 be apportioned among the county and each city located in such county,
32 first to the county that portion of the revenue equal to the proportion
33 that the population of the county residing in the unincorporated area of
34 the county bears to the total population of the county, and second to the
35 cities in the proportion that the population of each city bears to the total
36 population of the county, except that no persons residing within the Fort
37 Riley military reservation shall be included in the determination of the
38 population of any city located within Riley county. All revenue appor-
39 tioned to a county shall be paid to its county treasurer and shall be cred-
40 ited to the general fund of the county.

41 ~~(b) (1) As an alternative and in lieu of the apportionment formula~~
42 ~~provided in subsection (a), the board of county commissioners of any~~
43 ~~county may by resolution direct that all revenue received by the director~~

All alternative apportionment formulas between any county and each city located therein and in place prior to July 1, 2005 shall remain in effect.

4-14

1 ~~of taxation from a countywide retailers' sales tax imposed within Johnson~~
2 ~~the county at the rate of .75% or 1% after the effective date of this act~~
3 ~~may be apportioned among the county and each city located in such~~
4 ~~county in the following manner: (A) The revenue received from the first~~
5 ~~.5% rate of tax shall be apportioned in the manner prescribed by subsec-~~
6 ~~tion (a) and (B) the revenue received from the rate of tax exceeding .5%~~
7 ~~shall be apportioned as follows: (i) One fourth shall be apportioned~~
8 ~~among the county and each city located in such county in the proportion~~
9 ~~that the total tangible property tax levies made in such county in the~~
10 ~~preceding year for all funds of each such governmental unit bear to the~~
11 ~~total of all such levies made in the preceding year and (ii) one fourth shall~~
12 ~~be apportioned among the county and each city located in such county,~~
13 ~~first to the county that portion of the revenue equal to the proportion~~
14 ~~that the population of the county residing in the unincorporated area of~~
15 ~~the county bears to the total population of the county, and second to the~~
16 ~~cities in the proportion that the population of each city bears to the total~~
17 ~~population of the county and (iii) one half shall be retained by the county~~
18 ~~for its sole use and benefit.~~

19 (2) In lieu of the apportionment formula provided in subsection (a);
20 all money received by the director of taxation from a countywide sales tax
21 imposed within Montgomery county pursuant to the election held on
22 November 8, 1994, shall be remitted to and shall be retained by the
23 county and expended only for the purpose for which the revenue received
24 from the tax was pledged. All revenue apportioned and paid from the
25 imposition of such tax to the treasurer of any city prior to the effective
26 date of this act shall be remitted to the county treasurer and expended
27 only for the purpose for which the revenue received from the tax was
28 pledged.

29 (c) (1) Except as otherwise provided by paragraph (2) of this subsec-
30 tion, for purposes of subsections (a) and (b), the term "total tangible
31 property tax levies" means the aggregate dollar amount of tax revenue
32 derived from ad valorem tax levies applicable to all tangible property
33 located within each such city or county. The ad valorem property tax levy
34 of any county or city district entity or subdivision shall be included within
35 this term if the levy of any such district entity or subdivision is applicable
36 to all tangible property located within each such city or county.

37 (2) For the purposes of subsections (a) and (b), any ad valorem prop-
38 erty tax levied on property located in a city in Johnson any county for the
39 purpose of providing fire protection service in such city shall be included
40 within the term "total tangible property tax levies" for such city regardless
41 of its applicability to all tangible property located within each such city.
42 If the tax is levied by a district which extends across city boundaries, for
43 purposes of this computation, the amount of such levy shall be appor-

5-1-7

1 tioned among each city in which such district extends in the proportion
2 that such tax levied within each city bears to the total tax levied by the
3 district.

4 (d) ~~(1)~~ All revenue received from a countywide retailers' sales tax
5 imposed pursuant to paragraphs ~~(2), (6), (7), (8), (9) or (12)~~ paragraph
6 (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, shall be
7 remitted to and shall be retained by the county and expended only for
8 the purpose for which the revenue received from the tax was pledged.

9 ~~(2) Except as otherwise provided in paragraph (5) of subsection (b)~~
10 ~~of K.S.A. 12-187, and amendments thereto, all revenues received from a~~
11 ~~countywide retailers' sales tax imposed pursuant to paragraph (5) of sub-~~
12 ~~section (b) of K.S.A. 12-187, and amendments thereto, shall be remitted~~
13 ~~to and shall be retained by the county and expended only for the purpose~~
14 ~~for which the revenue received from the tax was pledged.~~

15 (e) All revenue apportioned to the several cities of the county shall
16 be paid to the respective treasurers thereof and deposited in the general
17 fund of the city. Whenever the territory of any city is located in two or
18 more counties and any one or more of such counties do not levy a coun-
19 tywide retailers' sales tax, or whenever such counties do not levy coun-
20 tywide retailers' sales taxes at a uniform rate, the revenue received by
21 such city from the proceeds of the countywide retailers' sales tax, as an
22 alternative to depositing the same in the general fund, may be used for
23 the purpose of reducing the tax levies of such city upon the taxable tan-
24 gible property located within the county levying such countywide retail-
25 ers' sales tax.

26 (f) Prior to March 1 of each year, the secretary of revenue shall advise
27 each county treasurer of the revenue collected in such county from the
28 state retailers' sales tax for the preceding calendar year.

29 (g) Prior to December 31 of each year, the clerk of every county
30 imposing a countywide retailers' sales tax shall provide such information
31 deemed necessary by the secretary of revenue to apportion and remit
32 revenue to the counties and cities pursuant to this section.

33 (h) The provisions of subsections (a) and (b) for the apportionment
34 of countywide retailers' sales tax shall not apply to any revenues received
35 pursuant to a county or countywide retailers' sales tax levied or collected
36 under K.S.A. 74-8929, and amendments thereto. All such revenue col-
37 lected under K.S.A. 74-8929, and amendments thereto, shall be deposited
38 into the redevelopment bond fund established by K.S.A. 74-8927, and
39 amendments thereto, for the period of time set forth in K.S.A. 74-8927,
40 and amendments thereto.

41 Sec. 5. K.S.A. 12-195b is hereby amended to read as follows: 12-
42 195b. The governing body of any city or county by the appropriate or-
43 dinance or resolution, may authorize the issuance of general obligation

1 bonds to provide for the payment of all or any portion of the cost of any
 2 public facilities or improvements for which such city or county is other-
 3 wise authorized pursuant to the constitution or laws of this state to issue
 4 general obligation bonds. The governing body may pledge revenues re-
 5 ceived from countywide or city retailers' sales taxes imposed pursuant to
 6 K.S.A. 12-187 *et seq.*, and amendments thereto, for the payment of such
 7 bonds. The pledge of revenues received from countywide or city retailers'
 8 sales taxes for payment of such bonds shall constitute an irrevocable
 9 pledge of the revenues and shall be made a lien on the revenues for the
 10 benefit of bondholders. Any bonds issued under this section shall be sub-
 11 ject to the following requirements:

12 (a) Before the governing body of any city or county shall issue any
 13 general obligation bonds as authorized herein, the governing body shall
 14 cause to be prepared a comprehensive feasibility study showing that rev-
 15 enues received from a countywide or city retailers' sales tax would be
 16 sufficient to retire such bonds.

17 (b) Such bonds shall constitute a general obligation of the city or
 18 county payable from the pledged revenue received from countywide or
 19 city retailers' sales taxes and if not so paid such bonds shall be payable
 20 from ad valorem taxes which for the purpose of paying such bonds may
 21 be levied without limit as to rate or amount by the city or county, and
 22 shall be printed as provided in K.S.A. 10-112, and amendments thereto.

23 (c) Any bonds issued under the provisions of this section and the
 24 interest thereon, shall be exempt from all taxes levied by the state of
 25 Kansas or any political or taxing subdivision thereof, except inheritance
 26 taxes.

27 (d) All bonds which are to be financed in accordance with the pro-
 28 visions of this section shall *not* be subject to any statutory limitation of
 29 bonded indebtedness imposed on a city or county ~~unless:~~

30 ~~(1) The law authorizing the issuance of such bonds specifically ex-~~
 31 ~~cludes such bonds from any statutory limitation of bonded indebtedness;~~

32 ~~(2) the bonds are excluded from the computation of bonded indebt-~~
 33 ~~edness pursuant to K.S.A. 10-307 or 10-309, and amendments thereto;~~
 34 ~~or~~

35 ~~(3) the bonds are issued by a class C city or Douglas county.~~

36 (e) In the event the governing body of a city or county proposes to
 37 issue such bonds, and the question of issuing bonds as authorized herein
 38 has not previously been submitted to and approved by the voters of the
 39 city or county such proposition shall be published once each week for two
 40 consecutive weeks in its official newspaper. If within 30 days after the
 41 last publication of the proposition, a petition is filed with the county elec-
 42 tion officer signed by not less than 5% of the electors of the city or county
 43 who voted in the last preceding general election of the city or county,

11-17
11-17

1 then no such bonds shall be issued unless the proposition is submitted to
2 and approved by a majority of the voters of the city or county voting at
3 an election held thereon. Any such elections shall be called and held in
4 accordance with the provisions of K.S.A. 10-120, and amendments
5 thereto, or in accordance with the provisions of the mail ballot election
6 act.

7 ~~Sec. 6.~~ K.S.A. 12-195b and K.S.A. 2004 Supp. 12-187, 12-188, 12-
8 189 and 12-192 are hereby repealed.

8 ~~Sec. 7.~~ This act shall take effect and be in force from and after its
10 publication in the statute book.

Section 6. K.S.A. 2004 Supp. 12-194 is hereby amended to read as follows: 12-194. No city or county shall *be prohibited* ~~levy or impose an excise tax or a tax in the nature of an excise, other than a retailers' sales tax and a compensating use tax, upon the sale or transfer of personal or real property, or the use thereof, or the rendering of a service, but the provisions of this section shall not be construed as prohibiting any city from~~ (a) contracting with a utility for a fixed charge based upon a percentage of gross receipts derived from the service permitted by grant, right, privilege or franchise to such utility; (b) imposing an occupation tax or license fee for the privilege of engaging in any business, trade, occupation or profession, or rendering or furnishing any service, but the determination of any such license fee shall not be based upon any amount the licensee has received from the sale or transfer of personal or real property, or for the rendering or furnishing of a service, or on the income of the licensee; or (c) levying any occupation tax or license fee imposed by such city prior to the effective date of this act. No license fee described in subsection (b) of this section shall be imposed upon any utility contracting with and subject to a charge, described in subsection (a) of this section, by such city.

and K.S.A. 2004 Supp. 12-194

PROPERTY LAW FIRM, P.C.

Douglas J. Patterson*
Michelle W. Burns*
Lisa McLellan, Paralegal

Please Reply To Kansas Office

A member of:

The Property Law Center, L.L.C.

*Attorneys admitted in Kansas and Missouri

Mediation services: Kansas, Missouri

**Suite 650
6201 College Blvd.
Overland Park, Kansas 66211**

**Telephone (913) 663-1300
Facsimile (913) 663-3834
Doug@propertylawfirm.com**

Missouri Office:
1025 Winchester
Kansas City, Missouri 64126

February 2, 2005

The Honorable Kenny Wilk
Chairman and Members
House Taxation Committee
Room 519 South
State Capitol
300 SW Tenth Avenue
Topeka, KS 66210

Re: In Support of HB 2023; Offer Amendments thereto

Dear Chairman Wilk and Members of the House Taxation Committee:

This letter is written on behalf of the Home Builders Association of Greater Kansas City on behalf of residential builders and developers throughout Kansas City. We support HB 2023 and offer an amendment.

The report of the Special Committee on Assessment and Taxation (the sponsors of HB 2023) appropriately identifies a significant and dangerous loophole in Kansas law which has become a temptation for abuse by municipalities. The Special Committee report cites the case of *Home Builders Ass'n v. City of Overland Park*, 22 Kan.App.2d 649 (1996). The *Home Builders Ass'n v. City of Overland Park* construed K.S.A. 12-194, the prohibition on certain excise taxes, in light of the entire regulatory structure of the Kansas Retail Sales Tax Act. *Home Builders Ass'n v. City of Overland Park* construed that the Retail Sales Tax Act was nonuniform and that therefore a part thereof, namely K.S.A. 12-194, was subject to Home Rule jurisdiction.

We do not take lightly the constitutional privilege of Home Rule granted municipalities. Recently however, the unwitting nonuniformity of certain statutory structures has created a loophole for municipalities which were never intended by this legislature. Point in fact, the case of *Kansas City Renaissance Festival Corp. v. City of Bonner Springs*, 8 P.3d 701 (2000) affirms a municipality's ability to charter out of the otherwise restrictions contained within K.S.A. 12-194 (the excise tax prohibitions) in light of the nonuniform nature of the Retail Sales Tax Act.

Hs Taxation Committee
February 3, 2005
Attachment 5

The Honorable Kenny Wilk
Chairman and Members
House Taxation Committee
February 2, 2005
Page 2

The court in *Kansas City Renaissance Festival Corp. v. City of Bonner Springs* quarried whether or not post 1996 but pre 2000 amendments to the Kansas Retail Sales Tax Act would have caused such Retail Sales Tax Act to become uniform thereby eliminating the opt-out loophole. We know that such is not the case and therefore your Special Committee on Assessment and Taxation properly has sponsored HB 2023.

It seems however that HB 2023 needs to complete the statutory repair of the nonuniformity declared in *Home Builders Ass'n v. City of Overland Park*, by also amending K.S.A. 12-194 to eliminate the abuses which was initially intended to be addressed.

In the name of "excise tax", cities are generating revenues never envisioned by this legislature. They are not just penalizing the home building industry, but also imposing "excise taxes" on practically every activity which can be taxed. If something seems to be a source of revenue, municipalities are seeking to impose an "excise tax" on it. Much like the loophole of nonuniformity sought to be repaired by HB 2023, the loophole of K.S.A. 12-194 likewise needs to be repaired.

You will find below a suggested amendment to HB 2023 which would be inserted as a new section. This would amend that portion of the Kansas Retail Sales Tax Act relative to excise tax and would be complementary with the other efforts being made by the building and development industry within the State of Kansas to pay its own way in the development process but not to be a revenue source for independent expenditures not connected in any way with the development sought to be taxed. The suggested amendment to HB 2023 appears as follows:

Sec. __. K.S.A.12-194 is hereby amended to read as follows: **12-194. Same; other city and county excise taxes prohibited; prohibition construed.** No city or county shall levy or impose an excise tax or a tax in the nature of an excise, other than a retailers' sales tax and a compensating use tax, upon the sale or transfer of personal or real property or the use thereof, *the zoning, platting, subdivision, resurveying or development of real estate, the issuance of a building or occupancy permit (s),* or the rendering of a service, but the provisions of this section shall not be construed as prohibiting any city from (a) contracting with a utility for a fixed charge based upon a percentage of gross receipts derived

The Honorable Kenny Wilk
Chairman and Members
House Taxation Committee
February 2, 2005
Page 3

from the service permitted by grant, right, privilege or franchise to such utility; (b) imposing an occupation tax or license fee for the privilege of engaging in any business, trade, occupation or profession, or rendering or furnishing any service, but the determination of any such license fee shall not be based upon any amount the licensee has received from the sale or transfer of personal or real property, or for the rendering or furnishing of a service, or on the income of the licensee, *or on the size of or number of lots within a real estate development*; (c) levying any occupation tax or license fee imposed by such city prior to the effective date of this act; *or (d) continuing to levy an excise tax with respect to excise taxes imposed upon real estate building and development activities on the specific development until such development is completed*. No license fee described in subsection (b) of this section shall be imposed upon any utility contracting with and subject to a charge, described in subsection (a) of this section, by such city.

Thank you very much for your consideration and we stand for questions.

Respectfully submitted,

Douglas J. Patterson

DJP:lsm



OFFICERS

President
RON HAGEMAN
3401 Churchill
Manhattan, Ks 66503
785-537-4424
Fax 785-565-9793
hageman@networksplus.net

Vice-President
MIKE FLORY
813 Fairdale Road
Salina, KS 67401
785-825-5230
Fax: 785-820-8768
mflory@tri.net

Treasurer
GARY PASHMAN
6354 S.W. 10th Avenue
Topeka, KS 66615
785-273-1294
gpconst@earthlink.net

Secretary
FARROL BROWN
16514 S. Old Stage Road
Pretty Prairie, KS 67570
620-459-6629

H.B.A. ASSOCIATIONS
IN KANSAS
Dodge City
Garden City
Hutchinson
Kansas City
Lawrence
McPherson
Manhattan
Salina
Topeka
Wichita

PAST PRESIDENTS
Richard Standrich 2003
Jeff Schrock 2002
David Reynolds 2001
John Young 2000
Michael Stibal 1999
John Samples 1998
Roger Schultz 1997
R. Neil Carlson 1996
Tom Ahlf 1995
James D. Peterson 1994
Gilbert Bristow 1993
Vernon L. Weis 1992
Elton Parsons 1991
Jim Miner 1990
Robert Hogue 1989
M.S. Mitchell 1988
Richard Hill 1987
Jay Schrock 1986
Joe Pashman 1985
Harold Warner, Jr. 1984
Frank A. Stuckey 1983
Donald L. Tasker 1982
John W. McKay 1981
Richard H. Bassett 1980

STATEMENT OF THE KANSAS BUILDING INDUSTRY ASSOCIATION
TO THE HOUSE TAXATION COMMITTEE
REPRESENTATIVE KENNY WILK, CHAIR
REGARDING H.B. 2023

FEBRUARY 3, 2005

Mr. Chairman and Members of the Committee, I am Chris Wilson, Executive Director of the Kansas Building Industry Association (KBIA). KBIA is the state's professional association of the home building industry, representing over 3000 members in 10 local and at-large associations. We appreciate the opportunity to speak today in support of H.B. 2023.

We supported the recommendation of this measure during the interim study by the Special Committee on Assessment and Taxation. We believe it is needed in order to restore uniformity to the sales tax statutes. With the current lack of uniformity, there is confusion about what taxes municipalities may impose. Municipalities have utilized the lack of uniformity to charter out of statutes and pass ordinances imposing taxes that would otherwise be prohibited by state law.

Passage of HB 2023 would restore uniformity and clarify state law. Should municipalities choose to impose fees on development as some do now, they could continue to do so more appropriately as an impact fee rather than an excise tax.

Thank you for your consideration of H.B. 2023, and we ask that you recommend it favorably for passage.

Hs Taxation Committee
February 3, 2005
Attachment 6

CHRISTINA M. WILSON, Executive [

212 S.W. 8th Avenue, Suite 201 • Topeka, Ks 66603 • (785)





**HOME BUILDERS ASSOCIATION
OF GREATER KANSAS CITY**



600 EAST 103RD STREET • KANSAS CITY, MISSOURI 64131-4300 • (816) 942-8800 • FAX (816) 942-8367 • www.kchba.org

Testimony in support of HB 2023
House Taxation Committee
February 3rd, 2005

Chairman Wilk, Vice-Chair Huff and Committee members:

Thank you for the opportunity to appear before you today because uniformity is very important to our members and to the residential construction industry in the state of Kansas. My name is Dave Holtwick and I am with the Home Builders Association of Greater Kansas City where I serve as Staff Vice-President of Governmental Affairs. Our association consists of over 1,100 member companies engaged in the home building industry in the Kansas City area. I am asking you to support House Bill 2023 and to restore uniformity.

We have an interest in this legislation because our association supports uniform and consistent rules and regulations that affect our members. That applies to building codes, development fees and taxes and we believe passage of HB 2023 will help remove the inconsistency we see now. We still have some concern about how this legislation addresses impact fees and excise taxes used by local municipalities for development, but we believe this legislation could provide some positive direction.

Our members understand that infrastructure is critical to successful development and they are willing to pay their fair share. We hear constantly that new development should pay its fair share and we agree. We know that residential construction makes a significant financial impact on the economy in our area and we know that many cities in our area are collecting excise taxes on new development. We just don't know how much is being collected or where specifically it is being expended. Local units of government are not required to account for their collection or use of excise taxes collected in connection with new development so we have no evidence of where the money goes and we believe that some additional accountability is warranted.

We are willing to work with local municipalities as we believe providing housing for residents and future residents should be a goal we share with them. Because of the questions that remain, we believe forming a working group or sub-committee including representatives of this committee, representatives from the League of Municipalities and representatives from the residential construction industry would be in order. We believe their charge should be to further explore the use of impact fees and excise taxes, as well as the accounting for these funds, and report back to this committee for your consideration and action. I assure you I am willing to participate in this effort to help bring some clarification and direction to this issue.

House Taxation Committee
February 3, 2005
Attachment 7

Do Business With A Member

Thank you, again, for your interest and attention. I would be glad to answer any questions you might have of me.

Sincerely,

A handwritten signature in cursive script that reads "Dave Holtwick". The signature is written in dark ink and is positioned above the printed name.

Dave Holtwick

Staff VP-Kansas Governmental Affairs



K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE
OFFICE OF THE SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

Testimony to the House Taxation Committee
Joan Wagnon

February 3, 2005

House Bill 2023--Ensuring Uniformity of the Local Sales Tax Laws

Chairman Wilk and Members of the Committee:

House Bill 2023 follows from the recommendations of the Special Committee on Assessment and Taxation, as a result of the study of the issue of uniformity of the local sales tax statutes. If the local sales tax laws are deemed non-uniform, so that cities could exercise home rule authority to opt out of them, then action taken by any city could potentially throw Kansas out of compliance with the Streamlined Sales and Use Tax Agreement (Agreement), which requires that local sales taxes be administered at the state level, state and local tax bases must be the same, and that multiple rates within a taxing jurisdiction on different items cannot be used. A city might attempt to create its own sales tax exemptions or impositions, establish different rates for different items, or administer its own sales tax. House Bill 2023 should restore uniformity to the local sales tax laws, so that cities can no longer attempt to opt out of these laws and place at risk the State's ability to become or remain a member of the Agreement.

Statutory Amendments Proposed

Section 1

K.S.A. 12-187 authorizes for Class B and D cities certain special purpose city sales taxes (health care for Class B cities in which the county does not have such a tax, and economic development initiatives for Class D cities) and for certain counties, special county sales taxes. It also imposes rate restrictions (1% being the highest authorized rate) on them. For the special purpose county sales taxes for specific counties, K.S.A. 12-187 authorizes the dedication of all such revenue to the financing of those special projects. Section 1 amends K.S.A. 12-187 to gather all of these special types of city and county sales taxes and provides authority to all cities the authority to enact those special project city sales taxes of up to 1%, and further provides to all counties the authority to enact special project county sales taxes of up to 1%, with the revenues from those special county sales taxes to be dedicated to finance those projects. Between all the city and county sales taxes authorized, a total of up to 4% of local sales tax authority would exist, doubling the authority that currently exists.

The non-uniformity issue involved in the Court of Appeals decision in *Home Builders Assoc. v. City of Overland Park*, 22 Kan. App. 2d 649, 921 P.2d 234 (1996) concerned the Class B authority for certain cities to enact a health care sales tax, if the county did not have one. The court identified this as a non-uniformity issue in the local sales tax laws. By extending to all

cities authority to enact a health care sales tax, whether the county has one or not, this non-uniformity argument should be defeated.

Extending to all counties the authority granted to some counties to enact special project sales taxes, with the revenues dedicated entirely to funding the special project, would defeat a non-uniformity argument that cities located in counties having authority to enact special project sales taxes (which will not be shared with those cities), are being treated differently than cities in counties that do not have special project sales tax authority (county sales taxes in such counties must be shared with the cities pursuant to applicable formulas).

Section 2

K.S.A. 12-188 sets up 4 classes of cities, for purposes of levying sales and excise taxes. Section 2 amends K.S.A. 12-188 to reduce the 4 classes to 2 classes, Class A for all cities, and Class B for any city that, prior to July 1, 2005, exercised home rule authority to enact a local sales tax. Current Class B, for cities with health care sales taxes, Class C for the City of Wichita (which has a special exemption from the bonded debt limits on sales tax-financed bonds), and the Class D for cities in certain counties to levy economic development sales taxes, would be eliminated. All cities would be given the latitude provided in current Classes B, C and D.

The Kansas Constitution provides the legislature the leeway to impose limits and restrictions on cities' power to levy taxes, through up to 4 classes. If the number of statutory classes are reduced from 4 to 2, there will at least be 2 unused classes for dealing with future non-uniformity issues that may arise.

Section 3

K.S.A. 12-189 sets the rate limits on cities and counties, imposing rate caps of 1% on Class A, B and C cities, and 1.75% on Class D cities. Counties are generally given a 1% rate cap. Counties must share this sales tax revenue with cities within those counties, pursuant to the formulas established in K.S.A. 12-192. However, numerous specific counties are given authority to levy special sales taxes for up to an additional 1% above that cap, with those special sales tax revenues dedicated entirely to financing those special projects. Section 3 would amend K.S.A. 12-189 to impose a general 1% rate cap on all cities (in increments of .25%, .5%, .75% or 1% only). Section 1 would amend K.S.A. 12-187(a)(2) to grant additional authority to cities of up to another 1% (in increments of .125%, .25%, .5%, .75% or 1% only) to levy special taxes for health care, economic development initiatives, strategic planning initiatives or public infrastructure projects. Section 3 amends K.S.A. 12-189 to provide that counties would keep the 1% rate cap (in increments of .25%, .5%, .75% or 1% only) for sales taxes that must be shared with cities. Section 3 references the section 1 amendment to K.S.A. 12-187(b)(2), which gives an additional 1% authority to counties (in increments of .125%, .25%, .5%, .75% or 1% only) for the purposes of financing special projects, all of that sales tax revenue would be dedicated to financing the special project. The proposal also includes a "grandfather clause" for city sales taxes enacted pursuant to home rule authority prior to July 1, 2005.

Section 4

K.S.A. 12-192 provides the revenue sharing formula that counties must use in dividing up the county sales tax revenue between the county and cities in the county. Johnson County has its own special formula. Section 4 amends K.S.A. 12-192 to give any county the option to use the Johnson County formula. Another potential non-uniformity argument that could be raised is that by statute, cities in Johnson County have a different revenue formula for sharing county sales tax

revenue than cities in the other counties. By extending to all counties the option to use the Johnson County formula, this non-uniformity argument should be blunted.

Section 5

Class C in K.S.A. 12-188 only applies to the City of Wichita. K.S.A. 12-195b provides to the City of Wichita a special exemption from the bonded debt limits for sales tax-financed bonds. Section 5 would amend K.S.A. 12-195b to extend the exemption from the bonded debt limits to all cities, not just Wichita. Because the Class C for the City of Wichita is to be eliminated, the special exception to the bonded debt limits for the City of Wichita needs to be extended to all cities. Otherwise, a non-uniformity argument could develop.