KANSAS
ASSOCIATION OF
COUNTIES

**To:** Chairman Carlson and the House Taxation Committee

**From:** Randall Allen, Executive Director, Kansas Association of Counties

**Date:** February 1, 2012

**Re:** Testimony re. HB 2501, taxability of "trade fixtures"

Thank you for the opportunity to present testimony in opposition to HB 2501. We oppose HB 2501 because it would only exacerbate declining property valuations used for the purpose of property taxation, a situation that began in 2006 when the Kansas Legislature exempted commercial and industrial machinery and equipment (CIME) purchased on or after July 1, 2006 from property taxation.

HB 2501 appears to be a legislative strategy of companies like the Coffeyville Resources Nitrogen Fertilizers, LLC, which tried (unsuccessfully) a tax litigation strategy to convince the Court of Tax Appeals (COTA) that trade fixtures are appropriately classified as personal property, rather than real property (as ultimately decided by the Court).

HB 2501 would effectively accelerate the M&E taxation changes that began in 2006 since most, if not all, machinery and equipment valuation would disappear immediately. The subject properties would change from real property to personal property and, as such, property valuations would plummet. The financial impact on taxpayers in the residual tax base would be to absorb the tax burden currently paid by owners of "trade fixtures," dealing a particularly harsh blow in counties where M&E valuation has constituted a relatively higher percentage of the property tax base.

As we all know, the Legislature sought to mitigate the most serious impact of the machinery and equipment exemption in 2006 through what was called the "slider," i.e. a replacement revenue from the State which would assist local governments in adjusting to new, substantially lower valuations. Not long thereafter, budget conditions at the State level drew a halt to "slider" payments to counties, however, and the inevitable shift of the property tax burden to the remaining tax base ensued. I know of no similar "slider" provision in SB 317, and even if it were offered, experience would tell us as local governments to not count on slider payments to be implemented as planned.

In summary, we know that of all types of taxation, property taxation is the form that is most despised by most taxpayers. Yet, when we narrow the base of taxation, it becomes an even greater object of derision, because the winnowing tax base is unable to sustain the financial burdens placed on it to finance essential services. Counties do not have the authority to impose a local income tax or earnings tax. Counties' local-option sales tax authority is relatively limited in comparison to that enjoyed by cities. As such, counties are dependent on a viable property tax that is sufficiently broad to finance essential public services. We strongly urge the committee to hold this bill, and not pass it out for consideration by the full House.

Mr. Chairman, thank you for the opportunity to present testify on this bill.

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

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