



Date: February 15, 2012  
To: Senate Assessment and Taxation Committee  
From: Don Moler, Executive Director  
Re: Opposition to SB 317 and/or Sub. SB 317

First I would like to thank the Committee for allowing the League to testify today in opposition to SB 317 and/or Sub. SB 317. This legislation raises a number of concerns for cities in Kansas. Most significantly, this legislation is yet another reduction in the property tax base which would have a significant impact on the ability of cities across Kansas to adequately fund their operations. In addition, a reduction in the property tax base of one segment, the business community, inevitably means a property tax shift which would increase the burden on residential properties.

Further, we do not even have a reliable fiscal note for either the state or local governments which would put this matter in perspective for this committee. We should not be making tax policy based on guess work as to the fiscal impact of policies being changed or modified during the legislative process.

As written, the bill also presents an unworkable definition. It is unclear what constitutes a "trade fixture" in the case of SB 317 or "commercial and industrial machinery and equipment" as that term is defined in Sub. SB 317. These definitions are circular. Sub. SB 317 defines "commercial and industrial machinery and equipment" as "machinery and equipment used in any trade or business enterprise or manufacturing or production process for the purpose of producing income or profit." In essence this bill is defining "machinery and equipment" as "machinery and equipment." We suspect it is intended to be so broad as to pick up "trade fixtures" as defined in the original SB 317, and it could perhaps be so broad as to include any item which theoretically could be moved to another location. This could include the building itself, the wiring in the building, the doors and windows, and everything else that goes into a typical building. The entire structure, especially if made of modular materials, can be taken down and reassembled, much like an erector set. So, the possibilities are endless.

The potential impact of this legislation for local governments and for the State of Kansas itself, cannot be overestimated. The very idea that we would make a decision based on guess work, especially in a time when government is being asked to do much more with less, seems to us to be an unreasonable demand on cities throughout this great State.

Next, we would suggest that this topic is not ripe for discussion at this time. As we know from earlier testimony, this legislation stems from a matter arising in Montgomery County. It is the

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understanding of the League that this matter is currently in the courts and is being appealed up in the system. It is common practice for the Legislature to wait until such time as the Kansas court system has handled the matter before embarking on all encompassing legislation which would have an impact on all 105 counties, 627 cities, and the State itself. We would recommend that waiting for the courts to opine would be prudent in this case as well.

Finally, it is important to note that several years ago the Kansas Legislature was asked to remove all of the property taxes on new machinery and equipment in Kansas with the promise that this would stimulate business, increase manufacturing, draw new manufacturing concerns to Kansas, and cause those entities that were already existing in Kansas to expand. We are still waiting for those promises to be fulfilled. Despite the fact that we have seen little in the way of such growth, we are now in the sixth year of this tax giveaway which has cost cities and counties in Kansas roughly \$900,000,000. It seems unreasonable to us to further expand this definition at this time. We would urge the Kansas legislature to reject expanding the definition of "commercial and industrial machinery and equipment" as the original promise remains unfulfilled, and this will create even more problems at the local level.

I would to thank the Committee for allowing the League to testify today, and will be happy to answer any questions the committee may have.