

## MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Chairperson David Corbin at 10:40 a.m. on February 5, 2001, in Room 519-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee: Frances Kastner, Kansas Food Dealers Association  
Marlee Carpenter, Kansas Chamber of Commerce & Industry  
David Unruh, Wichita Independent Business Association  
Hal Hudson, National Federation of Independent Businesses  
Charles Gregor, Leavenworth-Lainsing Area Chamber of  
Commerce  
Ross Markle, Harris Bros. Cleaners, Inc.  
Don McNeely, Kansas Automobile Dealers Association  
E. Dean Carlson, Secretary of Transportation  
Curtis Sneden, Payless ShoeSource  
Jeff Levin, Varney's Book Store & Kansas Retail Council

Others attending: See attached list.

**SB 38—Sales taxation; allowing remittance credits for collection services provided.**

Francis Kastner, Kansas Food Dealers Association, testified in support of **SB 38**. She noted that 41.7 percent of all taxes collected by the Department of Revenue consists of sales tax sent to the Department by Kansas merchants at no cost to the state. She feels it is important that legislators recognize this added expense for merchants and allow a two percent credit on the transmission of the taxes they collect. She pointed out that Kansas is one of four states involved in a pilot program to collect sales tax from E-commerce, and a third party service provider will be permitted to keep a percentage of the sales tax collected. She believes that Kansas merchants, who have been collecting sales tax for nearly 65 years at no cost to the state, should also be compensated. (Attachment 1)

Marlee Carpenter, Kansas Chamber of Commerce and Industry, testified in support of **SB 38**, noting that it provides a two percent credit for the collection of sales tax with a \$1,000.00 cap per month. She said the bill addresses a substantial problem in the sales tax collection system, and the credit would be helpful to retailers. She called attention to a 1993 Price Waterhouse study attached to her written testimony which reveals that the collection and remittance costs in Kansas average 2.86 percent. She also called attention to a list of the forty-five states which have a sales tax and noted that the list shows what states have a vendor allowance and what the allowance is. She went on to note that Kansas has accelerated the sales tax remittance period several times over the past ten years, and in many instances, Kansas retailers now must remit the full sales tax before it is collected. In addition, she said that bank and charge cards pose a collection problem for retailers in remitting sales tax. In effect, retailers are paying fees to banks and other processors for collecting Kansas' sales tax, but are not reimbursed for these expenses. (Attachment 2)

David Unruh, owner of Unruh Automotive Service, testified in support of **SB 38** as Chairman of the Board for both the Wichita Independent Business Association and the Kansas Organization for Private Enterprise. He supports the bill for the following reasons: (1) He spends twelve hours a month tracking and tabulating sales tax, (2) He spends \$133,000 annually on managing the timely remittance of state tax revenues, (3) Due to the filing frequency requirement, he pays sales taxes before he has collected them on a normal billing cycle, (4) The bill would help offset the cost of collection services, bring equity with surrounding states which have already enacted such legislation, and

bring a feeling of fairness. ([Attachment 3](#))

#### CONTINUATION SHEET

Hal Hudson, National Federation of Independent Business (NFIB) testified in support of **SB 38**, noting that the collection of sales tax is a time consuming burden for small retailers, and retailers are exposed to risks of penalties and costly fines if they make a mistake. He noted that all four of the states bordering Kansas allow vendor discounts and, in fact, twenty-six states and the District of Columbia allow vendor discounts. He contended that expecting vendors to take responsibility for sales tax collection without compensation is unjust and unfair. ([Attachment 4](#))

Charles Gregor, Leavenworth-Lansing Area Chamber of Commerce, testified in support of **SB 38**. He noted that Chamber's business members currently expend considerable resources collecting, processing, and remitting sales tax revenue to the Department of Revenue. He believes the bill will right the wrong inherent to a system that does not provide compensation to business for the collection of sales tax revenue. ([Attachment 5](#))

Senator Lee asked Mr. Gregor if he would support the bill if it also provided that two percent of the local taxes collected go back to the retailers. Mr. Gregor said he would, based on the fact that it would be fair to businesses.

Ross, Markle, Harris Bros. Cleaners, Inc., testified in support of **SB 38**. He explained that his business, which is located in Leavenworth, is just across the river from Missouri. The State of Missouri has no tax on dry cleaning and laundry; therefore, his competitors there are not faced with the expense of collecting sales taxes. This situation puts his company at a double disadvantage. He said that his company has reached a threshold that now requires him to pay sales tax in advance. Although payment of sales tax in advance improves the state's cash flow, it subtracts from his business' cash flow and, in addition, adds to his overall expenses. ([Attachment 6](#))

Don McNeely, Kansas Automobile Dealers Association, gave final testimony in support of **SB 38**. He noted that the bill recognizes the fact that compliance with state regulations in the area of sales tax collections is not a simple and cost free exercise by retailers. He commented that new car dealers are particularly impacted by this issue since they are one of the largest collectors of sales taxes in the state. He pointed out that new regulations requiring that retailers with large sales tax collections pre-pay sales taxes will cost retailers the loss of use of their own money. ([Attachment 7](#))

Senator Donovan, who requested the introduction of **SB 38**, commented that the current trend of remitting sales taxes to the Department of Revenue by electronic transfer is a plus for the Department because the funds are received much faster than in the past. In his opinion, this is a plus which is not addressed in the fiscal note prepared by the Division of the Budget, which indicates that passage of the bill would result in substantial decrease in the State General Fund and the State Highway Fund (\$23.7 million). He observed, "When you send millions of dollars a month to an entity which they can immediately have, that has value." He reiterated that the Division of Budget's fiscal note is extremely high and maintained that acceleration in collections will benefit the state to the point that the fiscal note will be next to nothing.

Chris Courtwright, Legislative Research Department, agreed with Senator Donovan that there is an opportunity to gain relative to the acceleration of revenues which may not have been contemplated in the Consensus Revenue Estimate. He commented that, if additional funds do come in, there will be a potential adjustment to the Consensus Revenue Estimate in April. He also commented that, because it represents an acceleration, it is a one-time event which would occur in fiscal 2000 and 2001 only.

Richard Cram, Kansas Department of Revenue, stood in response to committee questions regarding the fiscal impact of the bill. He felt that there was a misconception regarding the Department's recent acceleration of payment schedules. He explained that the acceleration law was implemented in the 1980s. Last October, the Department updated its list of persons who should be filing more frequently. The Department has not determined what the one-time increase in revenue resulting from that update will be. He also noted that the fiscal note on the bill was prepared as if the two percent credit for remitting sales tax returns was applied across the board to both state and local sales tax revenue. However, **SB 38** applies only to state sales tax; therefore, the fiscal note needs to be corrected. Mr. Cram agreed to recalculate the fiscal note and present it to the Committee at a future meeting.

E. Dean Carlson, Secretary of Transportation, testified in opposition to **SB 38**. He said that he felt obligated to point out bills which have the potential to impact the revenues available for the Comprehensive Transportation Program. He commented that this the fourth time he has testified this year on bills that will take money from KDOT's ten year stream of income. He noted that the Legislature passed a program in 1999 to provide a certain level of highway

improvements in the state and listed major modifications which the Department of Transportation agreed to perform. He stated that his purpose in testifying was to place on record that KDOT is getting close to not being able to provide the Comprehensive Transportation Program and is opposed to any further erosion of projected revenues which will make the very thin margin between success and failure of the Program even thinner. (Attachment 8)

There being no others wishing to testify, the hearing on **SB 38** was closed. Senator Corbin noted that Mr. Cram would return to answer committee questions which arose during the hearing and that the fiscal note would be revised. The Committee will continue consideration of the bill when all the information is available.

**SB 106–Sales Taxation; exempting certain sales of clothing and computers.**

Marlee Carpenter, Kansas Chamber of Commerce and Industry, testified in support of **SB 106** on behalf of the Kansas Retail Council (KRC). She explained that the sales tax holiday proposed by KRC would exempt state sales tax only the first Saturday and Sunday of August to provide relief to families for back-to-school shopping. She reported that the National Retail Federation indicates that the average family spends approximately \$250 on back-to-school shopping. She acknowledged that the fiscal note on the bill is large, but emphasized that other states which enacted a sales tax holiday overestimated the effect it would have on revenues. She discussed the factors which account for the overestimates and reported that states which have enacted a sales tax holiday have experienced an enormous increase in sales during the sales tax holiday period. She pointed out that a sales tax holiday is especially important in boarder communities. (Attachment 9)

Curtis Sneden, Payless ShoeSource, Inc., testified in support of **SB 106**. He noted that footwear is a costly part of the household budgets of families with growing children and that a sales tax holiday for footwear will help families add to their personal savings or will provide extra funds for other critical expenditures. Payless ShoeSource operates in six states with sales tax holidays, and customers in those states have been pleased with the opportunity to forego the state sales tax during a back-to-school time period. Mr. Sneden informed the Committee that the budgetary impact of the legislation in all six states was not as large as originally projected, nor was it the operational nightmare for retailers originally contemplated. (Attachment 10)

Senator Donovan commented that the fiscal note on **SB 106** indicates that a one-weekend time limit on the sales tax exemption would result in a loss to state revenues equal to one month's retail sales tax receipts. In his opinion, that formula does not reflect the correct fiscal impact. He believes the fiscal impact would be less. Mr. Sneden agreed, noting that Payless stores in states with sales tax holidays have not experienced that much of a "bump" in sales during the holiday period.

Jeff Levin, co-owner of Varney's Book Store in Manhattan, testified in support of **SB 106** as a member of the Kansas Retail Council. He noted that 67 percent of Kansas counties have a close proximity to another state, and what the surrounding states adopt as tax policy has an impact on Kansas. He believes that the bill is a small step to help offset competitive pressures, and it will create a stimulus for the Kansas economy. (Attachment 11)

There being no others wishing to testify, the hearing on **SB 106** was closed.

The meeting was adjourned at 11:40 a.m.

The next meeting is scheduled for February 6, 2001.