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Assembly Ways and Means
Testimony of Diane L. Hardt
Wisconsin Department of Revenue
March 28, 2001

Chairman Lehman and Committee Members:

Thank you for inviting me to testify about the Streamlined Sales Tax Project (SSTP). I am co-chair of the national SSTP. The SSTP is a nationwide effort to bring the sales tax into the 21st century by making it easier for sellers to administer and consumers to understand. This is especially important in this age of multi-state businesses where goods cross state lines via internet commerce. I will share with you some of the background behind the SSTP, what we have accomplished, and what will happen in the future.

Sales and Use Tax Law

The Wisconsin sales and use tax law was enacted in 1969. The current state sales tax rate is 5% and it applies to all sales, leases and rentals of tangible personal property, unless specifically exempt, and specified services. Where sales tax is not paid, a 5% use tax is imposed. The seller normally collects the sales tax from the consumer. If a sales tax is not collected, then the consumer owes a use tax. The Department provides a line on the income tax form for consumers to report their use tax obligations.

As of April 1, 2001, 54 counties will collect a 0.5% sales and use tax. The state and counties have the same tax base and the state collects the county sales tax, remitting the taxes to the counties on a monthly basis.

The Department of Revenue (and Wisconsin sellers) collects about \$3.5 billion per year in state sales and use taxes. This represents about one-third of state tax revenues. The Department (and Wisconsin sellers) also collects about \$200 million per year in county sales taxes that are remitted to the 54 counties with a sales and use tax.

1992 Supreme Court Decision

A 1992 U.S. Supreme Court decision on taxing mail order sales, known as *Quill Corporation vs. North Dakota*, (and an earlier ruling in Illinois), said that states could not require catalog companies to collect sales taxes unless the seller had a physical presence, or "nexus" in the state. In other words, L.L. Bean, a Maine catalog company, is not required to collect sales taxes on sales to Wisconsin consumers while Lands End, a Wisconsin company, is required to collect sales taxes from Wisconsin consumers. The U.S. Supreme Court said there would be too much burden on companies not having a connection with a state to keep track of that state's tax laws, rates, exemptions, and administrative procedures.

The Court in no way prohibited the collection of the taxes from the consumers when the seller does not collect the taxes. So the burden is on the consumers to keep track of their purchases from mail order. The same legal principles apply to commerce over the internet; consumers are expected to keep track of their internet purchases and then report and remit the tax on their income tax returns.

Fiscal Effects in Wisconsin

Between mail order sales and e-commerce sales, the Department estimates a state tax revenue loss of \$116-\$127 million in calendar 2000 and a local government revenue loss of \$7.3-\$8 million in calendar 2000. These numbers will most certainly grow in the future as consumers expand their use of mail order and e-commerce. In addition, due to digitized products and technological convergence, an unknown amount of additional state and local government revenues will be lost.

Streamlined Sales Tax Project

The Streamlined Sales Tax Project was begun in March of 2000. At that time 12 revenue departments, supported by the National Governors' Association and the National Conference of State Legislatures, organized around a mission of simplifying state and local sales tax laws and administration. The objectives were to dramatically simplify for all sellers, regardless of the type of commerce.

By the time the project completed its first Phase in December, 39 states were participating in the project. In addition, numerous local governments and their associations participated. The project was very open to involving businesses and addressing their concerns about the complexities in conducting business across state lines. The project conducted numerous public hearings.

The Project has focused on several major areas of simplification including: reducing the burdens on sellers for exemption processing; providing for uniform sourcing rules in all states; using uniform definitions; simplifying audit and administrative procedures; and using emerging technologies to substantially reduce the administrative burden on sellers.

Some issues remain and will continue to be worked on in 2001. The project intends to develop additional uniform definitions; a uniform tax return to the extent possible; simplified audit procedures for businesses that use the project's technology models; a central registration system; and common rate and jurisdiction databases.

Model Legislation

The project has developed model legislation and an interstate agreement to accomplish the simplification goals. I am happy to report that states are already moving forward to adopt the model legislation. The states of Wyoming, Utah, and Kentucky have already

enacted the model legislation. Another 18 states have introduced the model legislation including our neighbors of Minnesota, Iowa, Indiana, and Illinois.

Leveling the Playing Field for All Types of Commerce

The SSTP has and will continue to work on simplifications to reduce the burdens on all sellers, but especially the sellers engaged in interstate commerce. The states cannot require sellers to collect sales taxes related to mail order and e-commerce. Only Congress can mandate that collection. And Congress could only do it after states eliminate the burdens of collection on multi-state sellers.

Therefore, the simplifications make the system voluntary to those businesses that do not have a connection, or "nexus," with a state at this time. Keep in mind though that the simplifications apply to all sellers, including the brick-and-mortar stores here in Wisconsin.

Federal Legislation

Congress passed the Internet Tax Freedom Act in 1998. This Act prohibited the taxation of internet access charges unless a state was already taxing these charges (like Wisconsin) at the time of enactment. This Act in no way prohibited the taxation of commerce over the internet. The Act expires in October 2001 and there is much discussion at the federal level about extending the moratorium this year.

There is also discussion about Congress taking action in regard to state sales taxes. For example, Senator Wyden has introduced S.288 to extend the moratorium and force the states to simplify their sales and use taxes. Senator Wyden specifies what the simplifications should be including many of those proposed in the SSTP, as well as allowing only one sales tax rate per state.

Senator Dorgan and another 10 senators have introduced S.512 to extend the Internet Tax Freedom Act and mandate the development of a streamlined sales tax system. The simplifications are based on the Streamlined Sales Tax Project.

Additional Information

I have provided additional information in your packets about the SSTP. The Department is in the process of drafting the legislation at this time. We should have the bill ready to go in the near future.




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NCSL Services Policy Issues State Legislatures Information Exchange State-Federal Relations Legislative Staff

Letter from NCSL officers to all members of the U.S. Senate and House of Representatives asking for no further action on Internet tax issues this session

August 30, 2000

Honorable Trent Lott
Majority Leader
United States Senate
Washington, D.C. 20510

Dear Senator Lott:

As the officers of the National Conference of State Legislatures, we write to respectfully request that, as you return to Washington for the final days of the 106th Congress, you refrain from any action which would extend the current moratorium on Internet access taxes or attempt to address the issue of state and local sales tax collection on electronic commerce transactions. We also ask your diligence to ensure that a moratorium extension is not attached to either a possible "omnibus spending bill" or a "reconciliation bill."

As you are aware, the current moratorium does not expire until October 21, 2001. There will be sufficient time in the next Congress to decide if the moratorium should be extended. As we witness the convergence of technologies and the merger of industry giants, what we commonly refer to as "Internet access" may soon cover a number of other technologies and services. By letting the current moratorium run its course, you will have the benefit of seeing just what "Internet access" means in fourteen months. You can determine then, with more information, whether the Internet industry will still be in need of federal protection.

You also may be asked to consider legislation that would clarify the role of state and local governments in collecting sales and use taxes on electronic commerce transactions. This could arise as part of an agreement to extend the moratorium on Internet access taxes. We strongly urge you not to consider such legislation in the waning days of the 106th Congress. Instead, we ask you to monitor the on-going efforts of the Streamlined Sales Tax Project. **These efforts, which hold great promise for simplifying sales and use tax systems, are at a critical stage and could be permanently harmed by premature congressional action.**

The National Conference of State Legislatures acknowledges that the present state and local sales and use tax collections systems are burdensome and complex. State legislators have worked with our governors, county executives and mayors, as well as retail merchants across the country to develop the Streamlined Sales and Use Tax Collection System for the 21st Century. This new system will allow states to reduce or eliminate the costs and burdens of sales tax compliance for all sellers. The key features of the proposal are simplification of sales and use tax laws and administration, the use of technology for calculating, collecting, reporting and/or paying the tax through "certified" tax calculation service providers, and the state assumption of the costs of the system. Participation by remote sellers will be voluntary.

As of today, 26 states have formally joined the Streamlined Sales Tax Project either through legislation or by executive order of the governor. The participating states are: **Arkansas, Florida, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New**

Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, West Virginia, Wisconsin and Wyoming. Both houses of the **California** legislature have passed the bill and it will soon be sent to the Governor.

This is unprecedented action by the states. The 26 states have acted since January of this year to authorize their participation in the Streamlined Sales Tax Project. The Project now constitutes more than fifty percent of the 45 states that impose a sales and use tax. Officials from these states are engaged in multi-state discussions to develop a more simple, uniform and fair system of state sales and use taxation. We expect to receive recommendations for sales and use tax simplification from the Project as early as next month. We intend to take these recommendations to our colleagues for action by their respective legislative bodies beginning in January of 2001. Elected state officials have recognized the problem and are working together to develop the solution. States should have the opportunity to simplify their sales and use tax systems without federal interference or congressional mandates specifying state sales tax rules and regulations.

In summary, we believe that action during the remaining days of the 106th Congress on any aspect of the Internet taxation issue is unnecessary and premature. We urge you in the strongest possible terms to defer any decisions on this critical and fundamental issue until next year.

Sincerely,

Senator Jim Costa
California
President, NCSL

Senator Stephen Saland
New York
President-elect, NCSL

Senator Angela Monson
Oklahoma
Vice President, NCSL

Representative Paul Mannweiler
Indiana
Immediate Past President, NCSL



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Letter to Senator Byron Dorgan with regards to S. 2775

September 18, 2000

The Honorable Byron Dorgan
United States Senate
Washington, D.C. 20510

Dear Senator Dorgan:

Over the past weekend, I was able to meet in person with the other officers of the National Conference of State Legislatures to honor your request to re-evaluate our position on S. 2775. This letter summarizes our discussion and our unanimous position regarding your legislation.

We once again want to express our appreciation to you and Senators Voinovich, Enzi and Graham for your efforts to draft legislation that you believe would assist state and local governments in the collection of sales and use taxes on remote sales. Unfortunately, we also must express our deepening concern that the changes to your legislation, S. 2775, the Internet Simplification and Equity Act, that are being proposed as a "compromise" with Senator McCain will only serve to complicate our efforts to streamline our states sales and use tax systems.

As you are aware from our previous communications, it is our strong belief that states should have the opportunity to simplify state and local sales tax systems before bringing a request to Congress for authorization to require remote sellers to collect the states' sales and use taxes. As of today, 27 states have become official participants in the Streamlined Sales Tax Project (SSTP), either through legislative enactment or executive order. As you are aware the SSTP is preparing to make recommendations for the first phase of simplifications, which will be before our legislative chambers in 2001. We believe that state legislatures should be given the opportunity to craft a proposal without a congressional mandate as to what the simplified system must include.

Although we respect your efforts to solve the remote sales tax problem, our objections to S. 2775 are unchanged. We are still opposed to an extension of the current moratorium, which does not expire until October 21, 2001; to a mandated one-rate per state for all remote commerce; to requiring the National Conference of Commissioners of Uniform State Laws to oversee state simplification efforts; and, to a congressionally established national *de minimis* threshold for retail sales.

With regard to a possible "compromise," we are concerned that you appear willing to agree to Senator McCain's demand that there be a future affirmative vote of Congress rather than a negative vote. This, we believe would remove any incentive a state would have to undertake the political battle a mandate of one rate per state for remote commerce would entail.

We are also concerned about additional amendments that apparently are being discussed. These include one which would halt current state enforcement action against vendors in which there is a question of nexus and the vendors' failure to collect sales and use taxes. This and other rumored amendments would only make the legislation worse.

Although we share with you the critical objective of developing a mechanism that will allow states to collect sales and use taxes on remote sales, we find that we still disagree with the approach taken by S. 2775. We regret to inform you that we must publicly oppose this legislation in the remaining weeks of the 106th Congress.

Sincerely,

Jim Costa
President, NCSL
California State Senator



Commerce and Communications Page

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David Ignatius

Columnist



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E-Execs in Loophole Heaven

By David Ignatius

Wednesday, March 29, 2000; Page A25

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For a depressing demonstration that the old politics of greed and self-dealing apply to the New Economy, consider the recent deliberations of the Internet tax commission, chaired by Virginia Gov. James Gilmore.

The commission was established by Congress 17 months ago to make recommendations about how the Internet and e-commerce transactions should be taxed. The Clinton administration and many independent experts hoped the commission would propose a clear plan to "level the playing field," so that the same tax rules would apply to all retailers. Right now, you have to pay sales tax if you buy a toaster from your local hardware store, but not if you buy it from an online merchant.

But the Gilmore commission is instead on the verge of endorsing a package of tax loopholes that would provide only a vague commitment in principle to future tax equity--and in the short run, would enrich the six companies whose executives serve on the 19-member commission. Even by the standards of Washington politics, this is a shabby story.

Last week, the commission, by an 11 to 8 vote, tentatively approved a proposal by the business members that would include, among other items, the following:

* A new sales tax exemption for online retailers that have brick-and-mortar "affiliates," giving them the same tax break as companies that operate entirely in cyberspace. This provision was supported by commission member Ted Waitt, who's chairman of computer seller Gateway Inc. Waitt recently turned Gateway's network of 240 stores into affiliates, making it easier for him to compete with rival Dell, which doesn't have a similar network around the country and thus doesn't have to collect sales tax. (Under existing law, a retailer must collect taxes in any state where it has a physical presence.)

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The "Gateway Giveaway," as Stanford economist Charles McLure caustically dubbed this provision, would be good for Waitt's company, but it would be bad for America. It would accelerate the rush to create phony "dot.com" sales channels, further undermine traditional brick-and-mortar retailers and gut the local tax base. But wait, there's more mischief . . .

* A new loophole to exempt from taxes all "digitized content" (things that can be sent electronically, such as music, e-books, online games and software) and their old-fashioned non-digitized counterparts. In other words, the commission would create a special tax exemption for books, music, electronic games, magazines and software. Gosh, even newspapers!

And guess who happens to sit on the commission? Why, none other than Robert Pittman of America Online and Richard Parsons of Time-Warner, presidents of two of the most powerful content companies in America--which after their planned merger would probably benefit most from this loophole.

Why should AOL-Time Warner's CDs get a special tax break, but not the Steinway piano or the Fender guitar that made the music? It defies logic--but that has been the pattern with the Gilmore commission. And wait, there's still more . . .

* A new tax break for telecommunications companies and their customers, repealing the 3 percent federal excise tax that's now charged on telephone calls. And who were among the disinterested, public-spirited business leaders who endorsed this tax repeal? None other than Michael Armstrong, chief executive of AT&T, and John Sidgmore, vice chairman of MCI WorldCom. This proposal actually makes some sense--House Democratic leader Richard Gephardt backed it yesterday, for example--but it's undermined by the Gilmore commission's aura of log-rolling. And hold on, there's still more . . .

* A new loophole to exempt the local affiliates of online concerns from paying state income tax, as well as sales tax. Among the biggest beneficiaries here would be banks, brokers and other financial companies that make big money through a combination of online operations and local branches. Inevitably, the Gilmore commission included a representative from one such concern--David Pottruck, president of Charles Schwab.

"Six pigs at the trough" is how one frustrated state representative characterized the business members of the Gilmore commission. But as it happens, they're not the most egregious offenders. Even worse have been the politicians, led by Gilmore himself, who have actually tried to dissuade some of the business members from even their vague endorsement last week of eventual tax equity between e-commerce and



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main street. Gilmore's anti-tax absolutism might have made sense when the Internet was in its infancy, but it's so big now it's practically swallowing the Old Economy. It hardly needs special protection.

Gilmore and his allies have been so shameless, in fact, that they're rewriting the commission's rules. Backed by a letter from Republican Senate and House leaders Trent Lott and Dennis Hastert, Gilmore has ruled that the commission can issue its report with a simple majority, rather than the 13-vote "super majority" Congress had originally required when it created the commission in 1998.

The Gilmore commission has a last chance to avoid special-interest ignominy tomorrow, when the members are scheduled to hold a final teleconference. It would be nice to think that sanity might yet win out over greed and anti-tax zealotry, but don't bet on it. When high tech meets low politics, the pols rule.

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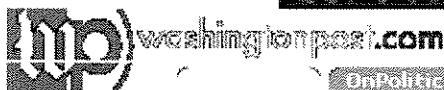
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NEWS RELEASE

Date: January 29, 2001

Media Contact: Bill Wyatt, 202-624-8667 / Gene Rose, 303-830-2200

State Legislators Endorse Sales Tax Simplification Efforts

Model legislation to be sent to states for approval

WASHINGTON, D.C. -- State lawmakers took an important step this weekend in simplifying the burdensome and complex system of sales and use tax collection laws, the National Conference of State Legislatures (NCSL) said today. On Saturday, January 27, 2001, the NCSL Executive Committee unanimously endorsed the Uniform Sales and Use Tax Administration Act and the Streamlined Sales Tax Agreement as amended and approved by the Executive Committee's Task Force on State and Local Taxation of Telecommunications and Electronic Commerce. The Act and Agreement as adopted by NCSL will guide the future of state sales tax simplification.

"The model legislation and the Agreement are a major milestone in the simplification of the nation's state sales and use taxes," said California Senator and NCSL President Jim Costa. "This act and agreement is the next step in the long process of making sales and use taxes easier and more equitable to collect and administer for all retailers."

States that adopt the Uniform Sales and Use Tax Administration Act and the Streamlined Sales and Use Tax Agreement as approved by NCSL's Executive Committee will provide retailers with a greatly simplified system of sales tax collection. Under the proposed system retailers will be able to take advantage of simplified procedures for returns, audits and exemptions, all administered by the state.

The model legislation and agreement are a product of NCSL's Task Force, the Streamlined Sales Tax Project (SSTP) and other national state and local organizations. The model legislation and agreement would simplify several aspects of state sales tax laws including base and rates, and provide uniform sourcing rules and central registration procedures.

Last week the Streamlined Sales Tax Project, a group of state tax administrators from 29 states created last year through NCSL's Task Force's efforts, submitted the Uniform Sales and Use Tax Administration Act and the Streamlined Sales Tax Agreement to NCSL for their consideration.

The NCSL Executive Committee in adopting the findings of its Task Force approved the majority of provisions contained in the proposed SSTP Agreement with changes to sections on governance, base and rates, definitions, bad debt and vendor compensation. The NCSL Executive Committee praised the SSTP members for their efficient, diligent and thorough work on the Act and Agreement.

"The Streamlined Sales Tax Project did an incredible job in a relatively short amount of time," said Senator Costa. "Their expertise of the sales tax system coupled with NCSL's Task Force's recommendations should

provide a solid foundation on which to continue building a simpler sales tax system."

Other Resources:

Executive Committee Resolution endorsing Uniform Sales & Use Tax Administration Act and Streamlined Sales Tax Agreement

Amendments to the Uniform Sales & Use Tax Administration Act and Streamlined Sales Tax Agreement by the NCSL Task Force

Simplified Sales and Use Tax Administration Act as amended by NCSL's Executive Committee Task Force on Telecommunications and Electronic Commerce

Streamlined Sales Tax Agreement as amended and approved by NCSL's Executive Committee's Task Force on State and Local Taxation of Telecommunications and Electronic Commerce

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(3:00 pm -2/1/01)

STREAMLINED SALES AND USE TAX AGREEMENT

AS AMENDED AND ADOPTED ON JANUARY 27, 2001

By the National Conference of State Legislatures'

Special Task Force on State and Local Taxation of

Telecommunications and Electronic Commerce

and unanimously adopted by the NCSL Executive Committee

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Appendix A

Letter of Intent



**ARTICLE I
PURPOSE AND PRINCIPLE**

100 TITLE

This multistate Agreement shall be referred to, cited and known as the Streamlined Sales and Use Tax Agreement.

102 FUNDAMENTAL PURPOSE

It is the purpose of this Agreement to simplify and modernize sales and use tax administration in the member states in order to substantially reduce the burden of tax compliance. The Agreement focuses on improving sales and use tax administration systems for all sellers and for all types of commerce through all of the following:

- a. State level administration of sales and use tax collections.
- b. Uniformity in the state and local tax bases.
- c. Central, electronic registration system for all member states.
- d. Simplification of state and local tax rates.
- e. Uniform sourcing rules for all taxable transactions.
- f. Simplified administration of exemptions.
- g. Simplified tax returns.
- h. Simplification of tax remittances.
- i. Protection of consumer privacy.

1 104 APPLICATION

This Agreement applies only to the levy of sales and use taxes identified in the Simplified Sales and Use Tax Administration Act enacted by each member state.



ARTICLE II

DEFINITIONS

The following definitions apply in this Agreement:

200 AGENT

A person appointed by a seller to represent the seller before the member states.

202 AGREEMENT

The Streamlined Sales and Use Tax Agreement as amended as of January 27, 2001 and as subsequently amended.

204 CERTIFIED AUTOMATED SYSTEM (CAS)

Software certified under the Agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.

206 CERTIFIED SERVICE PROVIDER (CSP)

An agent certified under the Agreement to perform all the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases.

208 MODEL 1 SELLER

A seller that has selected a CSP as its agent to perform all the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases.

210 MODEL 2 SELLER

A seller that has selected a CAS to perform part of its sales and use tax functions, but retains responsibility for remitting the tax.

212 MODEL 3 SELLER

A seller that has sales in at least five member states, has total annual sales revenue of at least five hundred million dollars (or a lower amount which may be agreed to by the states acting jointly), has a proprietary system that calculates the amount of tax due each jurisdiction, and has entered into a performance agreement with the member states that establishes a tax performance standard for the seller. As used in this section, a seller includes an affiliated group of sellers using the same proprietary system.

214 PERSON

An individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or any other legal entity.

216 PURCHASER

A person to whom a sale of personal property is made or to whom a service is furnished.

218 REGISTERED UNDER THIS AGREEMENT

Registration by a seller with the member states under the central registration system provided in Article IV of this Agreement.

220 SELLER

A person making sales, leases, or rentals of personal property or services.

222 STATE

Any state of the United States and the District of Columbia.



**ARTICLE III
REQUIREMENTS EACH STATE MUST
ACCEPT TO PARTICIPATE**

300 COMPLIANCE

As a requisite to entering into and remaining a member of the Agreement, each State must comply with the provisions of this Agreement in accordance with the provisions of Article VIII of this Agreement.

302 STATE ADMINISTRATION

Each State must provide state level administration of sales and use taxes. Sellers are only required to register with, file returns with, and remit funds to the state taxing authority. The State must collect any local taxes and distribute them to the appropriate taxing jurisdictions. Member states must conduct, or authorize others to conduct on their behalf, all audits of the sellers registered under this Agreement, and local jurisdictions shall not conduct independent sales or use tax audits of sellers registered under this Agreement.

304 STATE AND LOCAL TAX BASES

- a. Through December 31, 2005, if a member state has local jurisdictions that levy a sales or use tax, all local jurisdictions in the State must have a common tax base. After December 31, 2005, the tax base for local jurisdictions must be identical to the state tax base, unless federal law prohibits the local jurisdictions from taxing a transaction taxed by the State.
- b. This section does not apply to sales or use taxes levied on the transfer of motor vehicles, aircraft, watercraft, modular home, manufactured home or mobile home.

306 SELLER REGISTRATION

Each State must participate in an online sales and use tax registration system in cooperation with the other member states. Under this system:

- a. A seller registering under the Agreement is registered in each of the member states.
- b. The member states agree not to require the payment of any registration fees or other charges for a seller to register in a State in which the seller has no legal requirement to register.
- c. A written signature from the seller is not required.
- d. An agent may register a seller under uniform procedures adopted by the member states.
- e. A seller may cancel its registration under the system at any time under uniform procedures

adopted by the member states. Cancellation does not relieve the seller of its liability for remitting to the proper states any taxes collected.

308 STATE AND LOCAL TAX LEVIES

a. To reduce the complexity and administrative burden of collecting sales and use taxes, all member states must:

1. Lessen the difficulties faced by sellers when there is a change in a state sales or use tax rate or base by making a reasonable effort to do all of the following:
 - a. Provide sellers with as much advance notice as practicable of a rate change.
 - b. Limit the effective date of a rate change to the first day of a calendar quarter.
 - c. Notify sellers of legislative changes in the tax base and amendments to sales and use tax rules and regulations.

Failure of a seller to receive notice or failure of a State to provide notice or limit the effective date of a rate change shall not relieve the seller of its obligation to collect sales or use taxes for that member state.

2. Provide that the effective date of rate changes for services covering a period starting before and ending after the statutory effective date shall be as follows:
 - a. For a rate increase, the new rate shall apply to the first billing period starting on or after the effective date.
 - b. For a rate decrease, the new rate shall apply to bills rendered on or after the effective date.
3. After December 31, 2005, states must have only one state tax rate for items of personal property or services, except that for food, clothing, electricity, gas and other items specifically added to this Agreement, states may impose one additional lower rate, and that rate may be zero. A state may continue to have a generally applicable state tax rate and additional state rates until that date.
4. The provisions of paragraph (3) of this subsection does not apply to sales or use taxes levied on the transfer of motor vehicles, aircraft, watercraft, modular home, manufactured home or mobile home.
 - b. Member states that have local jurisdictions that levy a sales or use tax must:
 1. Provide that local rate changes will be effective only on the first day of a calendar quarter after a minimum of sixty (60) days' notice to sellers.
 2. Apply local sales tax rate changes to purchases from printed catalogs wherein the purchaser computed the tax based upon local tax rates published in the catalog only on the first day of a calendar quarter after a minimum of 120 days notice to sellers.
 3. For sales and use tax purposes only, apply local jurisdiction boundary changes only on the first day of a calendar quarter after a minimum of sixty (60) days notice to sellers.
 4. Provide and maintain a database that describes boundary changes for all taxing jurisdictions. This database must include a description of the change and the effective date of the change for sales and use tax purposes.
 5. Provide and maintain a database of all sales and use tax rates for all of the jurisdictions levying taxes within the State. For the identification of states, counties, cities, and parishes, codes corresponding to the rates must be provided according to Federal Information Processing Standards (FIPS) as developed by the National Institute of Standards and Technology. For the identification of all other jurisdictions, codes corresponding to the rates must be in the format determined jointly by the member

states.

6 Provide and maintain a database that assigns each five (5) digit and nine (9) digit zip code within the State to the proper tax rates and jurisdictions. The State must apply the lowest combined tax rate imposed in the zip code area if the area includes more than one tax rate in any level of taxing jurisdictions. If a nine (9) digit zip code designation is not available for a street address or if a seller is unable to determine the nine (9) digit zip code designation of a purchaser after exercising due diligence to determine the designation, the seller may apply the rate for the five (5) digit zip code area. For the purposes of this section, there is a rebuttable presumption that a seller has exercised due diligence if the seller has attempted to determine the nine (9) digit zip code designation by utilizing software approved by the member states that makes this designation from the street address and the five (5) digit zip code of the purchaser.

7 Participate with other member states in the development of an address-based system for assigning taxing jurisdictions. The system must meet the requirements developed pursuant to the federal Mobile Telecommunications Sourcing Act, at 4 U.S.C.A. § 119. At a future date, member states acting jointly may allow a member state to require sellers register under this agreement to use an address-based system provided by that member state. If any State develops an address-based assignment system pursuant to the Mobile Telecommunications Sourcing Act, a seller may use that system in place of the system provided for in paragraph 6 of this section.

- c. The member states must relieve sellers and Certified Service Providers from liability to the State or local jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting from the seller or Certified Service Provider relying on erroneous data provided by a State on tax rates, boundaries, or taxing jurisdiction assignments. A State that provides an address-based system for assigning taxing jurisdictions pursuant to paragraph (b) (7) of this section or pursuant to the federal Mobile Telecommunications Sourcing Act will not be required to provide liability relief for errors resulting from the reliance on the information provided by the State under the provisions of paragraph (b)(6) of this section.
- d. The electronic databases, provided for in paragraphs (b)(4), (b)(5), (b)(6), and (b)(7) of this section, must be in a downloadable format approved by the member states acting jointly.
- e. The provisions of paragraphs (b)(6) and (b)(7) do not apply when the purchased product is received by the purchaser at the business location of the seller.
- f. The databases provided by (b)(4), (b)(5), and (b)(6) are not a requirement of a State prior to entering into the Agreement. The effective dates for availability and use of the databases will be determined by the member states acting jointly.

310 UNIFORM SOURCING RULES

The member states agree to require sellers to source the sale (including the lease or rental) of a product in accordance with the following provisions. These provisions apply regardless of the characterization of a product as tangible personal property, a digital good, or a service (excluding, for the present, telecommunications). These provisions only apply to determine a seller's obligation to pay or collect and remit a sales or use tax with respect to the seller's sale of a product. These provisions do not affect the obligation of a seller as purchaser to remit tax on the use of the product to the taxing jurisdictions of that use.

- a. When the product is received by the purchaser at a business location of the seller, the sale is sourced to that business location.
- b. When the product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser (or the purchaser's donee, designated as such by the purchaser) occurs, including the location indicated by instructions for delivery to the purchaser

(or donee), known to the seller.

- c. When (a) and (b) do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.
- d. When (a), (b), and (c) do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith.
- e. When none of the previous rules of (a), (b), (c), or (d) apply, including the circumstance where the seller is without sufficient information to apply the previous rules, then the location will be determined by the address from which tangible personal property was shipped, from which the digital good was first available for transmission by the seller, or from which the service was provided (disregarding for these purposes any location that merely provided the digital transfer of the product sold).
- f. Notwithstanding the previously stated rules, a business purchaser that is not a holder of a direct pay permit that knows at the time of its purchase of a digital good or a service that the digital good or service will be concurrently available for use in more than one jurisdiction shall deliver to the seller in conjunction with its purchase a form disclosing this fact ("Multiple Points of Use or MPU" Exemption Form).
 1. Upon receipt of the MPU Exemption Form, the seller is relieved of all obligation to collect, pay, or remit the applicable tax and the purchaser shall be obligated to collect, pay, or remit the applicable tax on a direct pay basis.
 2. A purchaser delivering the MPU Exemption Form may use any reasonable, but consistent and uniform, method of apportionment that is supported by the purchaser's business records as they exist at the time of the consummation of the sale.
 3. The MPU Exemption Form will remain in effect for all future sales by the seller to the purchaser (except as to the subsequent sale's specific apportionment that is governed by the principle of subparagraph (f)(2) and the facts existing at the time of the sale) until it is revoked in writing.
 4. A holder of a direct pay permit shall not be required to deliver a MPU Exemption Form to the seller. A direct pay permit holder shall follow the provisions of subparagraph (f)(2) in apportioning the tax due on a digital good or a service that will be concurrently available for use in more than one jurisdiction.
- g. The terms "receive" and "receipt" mean:
 1. taking possession of tangible personal property,
 2. making first use of services, or
 3. taking possession or making first use of digital goods, whichever comes first.

The terms "receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser.
- h. This section is reserved for a specific sourcing rule applicable to telecommunications and possibly additional specific sourcing rules for other services as necessary to effect the intent of providing for uniform sourcing of transactions. Until the specific sourcing rule for telecommunications is adopted, the sourcing rules presently applicable to telecommunications will remain in effect in each State.
- i. This section does not apply to sales or use taxes levied on the transfer of motor vehicles, aircraft,

watercraft, modular home, manufactured home or mobile home. These items must be sourced according to the requirements of each member state.

312 ADMINISTRATION OF EXEMPTIONS

a. To reduce the complexity and administrative burden of transactions exempt from sales or use tax, the following provisions must be followed when a purchaser claims an exemption:

1. The seller must obtain identifying information of the purchaser and the reason for claiming a tax exemption at the time of the purchase as determined by the member states acting jointly.
2. A purchaser is not required to provide a signature to claim an exemption from tax unless a paper certificate is used.
3. The seller must use the standard form for claiming an exemption electronically as adopted jointly by the member states.
4. The seller must obtain the same information for proof of a claimed exemption regardless of the medium in which the transaction occurred.
5. A member state may utilize a system wherein the purchaser exempt from the payment of the tax is issued an identification number which must be presented to the seller at the time of the sale.
6. The seller must maintain proper records of exempt transactions and provide them to a member state when requested.

b. The member states must relieve sellers that follow the requirements of this section from any tax otherwise applicable if it is determined that the purchaser improperly claimed an exemption and to hold the purchaser liable for the nonpayment of tax.

314 UNIFORM TAX RETURNS

To reduce the complexity and administrative burden of preparing and filing sales and use tax returns, all member states must:

- a. Require that only one return per taxing period per seller be filed for the State and all the taxing jurisdictions within the State.
- b. Require that returns be due no sooner than the 20th day of the month following the month in which the transaction occurred.
- c. Allow any Model 1, Model 2, or Model 3 seller to submit its sales and use tax returns in a simplified format which does not include more data fields than permitted by the member states acting jointly. States may require additional informational returns to be submitted not more frequently than every six months under a staggered system developed jointly by the member states.
- d. Allow any seller that is registered under this Agreement, which does not have a legal requirement to register in the member state, and is not a Model 1, 2, or 3 seller, to submit its sales and use tax returns as follows:
 1. Upon registration, the State must provide to the seller the returns required by that State.
 2. A member state may require a seller to file a return anytime within one (1) year of the month of initial registration, and future returns may be required on an annual basis in succeeding years.
 3. In addition to the returns required in paragraph (d)(2) of this section, a State may require sellers to submit returns in the month following any month in which they have accumulated state and local tax funds for a State of \$1,000 or more.
- e. Participate with other member states in developing a more uniform sales and use tax return that, when completed, would be available to all sellers.
- f. Require, at each member state's discretion, all Model 1, 2, and 3 sellers to file returns electronically. It is the intent of the member states that all member states have the capability of receiving electronically filed returns by January 1, 2003.

316 UNIFORM RULES FOR REMITTANCES OF FUNDS

To reduce the complexity and administrative burden of remitting funds to the states, the member states agree

to:

- a. Require only one remittance per return except as provided in this paragraph. If any additional remittance is required, it may only be required from sellers that collect more than \$30,000 in sales and use taxes in the State during the preceding calendar year as provided herein. The amount of the additional remittance must be determined through a calculation method rather than actual collections and must not require the filing of an additional return.
- b. Require, at each member state's discretion, all remittances from sellers under Models 1, 2, and 3 to be remitted electronically.
- c. Allow for electronic payments by both ACH Credit and ACH Debit.
- d. Provide an alternative method for making "same day" payments if an electronic funds transfer fails.
- e. Provide that if a due date falls on a legal banking holiday in a member state, the taxes are due to that state on the succeeding business day.
- f. Require that any data that accompanies a remittance be formatted using uniform tax type and payment type codes approved by the member states acting jointly.

318 CONFIDENTIALITY AND PRIVACY PROTECTIONS

- a. The purpose of this section is to set forth the member states' policy for the protection of the confidentiality rights of all participants in the system and of the privacy interests of consumers who deal with Model 1 sellers.
- b. As used in this section, the term "confidential taxpayer information" means all information that is protected under a member state's laws, regulations, and privileges; the term "personally identifiable information" means information that identifies a person; and the term "anonymous data" means information that does not identify a person.
- c. The member states agree that a fundamental precept in Model 1 is to preserve the privacy of consumers by protecting their anonymity. With very limited exceptions, a Certified Service Provider must perform its tax calculation, remittance, and reporting functions without retaining the personally identifiable information of consumers. To preserve the privacy of consumers, member states agree that, with respect to Model 1:
 1. A Certified Service Provider's system must be designed and tested to ensure that the fundamental precept of anonymity is respected, and that personally identifiable information is only used when necessary for the administration of Model 1 and only when the Certified Service Provider has clear and conspicuous notice of its use.
 2. Certified Service Providers must provide consumers clear and conspicuous notice of their information practice, including what information they collect, how they collect the information, how they use the information, and whether they disclose the information to member states.
 3. Certified Service Providers' retention of personally identifiable information will be limited to exemption claims by reason of a consumer's status or intended use of the goods or services purchased, to investigations of fraud, and to the extent necessary, to ensure the reliability of the Certified Service Providers' technology in Model 1.
 4. Certified Service Providers must provide such technical, physical, and administrative safeguards so as to protect personally identifiable information from unauthorized access and disclosure.
 5. This privacy policy is subject to enforcement by member states' attorneys general or other

- appropriate authorities.
6. When personally identifiable information is retained for limited purposes by or on behalf of the member states, in the absence of exigent circumstances, individuals should be provided with reasonable notification of such retention and should be afforded reasonable access to their own data and a right to correct inaccurately recorded data.
 7. If anyone other than a member state seeks to discover personally identifiable information, then, in the absence of exigent circumstances, a reasonable and timely effort should be made to notify the individual of such request.
- d. The member states' laws and regulations regarding the collection, use, and maintenance of confidential taxpayer information remain fully applicable and binding. Without limitation, this Agreement does not enlarge or limit the member states' authority to:
1. Conduct audits or other review as provided under this agreement and state law.
 2. Provide records pursuant to a member state's Freedom of Information Act, disclosure laws with governmental agencies, or other regulations.
 3. Prevent, consistent with state law, disclosures of confidential taxpayer information.
 4. Prevent, consistent with federal law, disclosures or misuse of federal return information obtained under a disclosure agreement with the Internal Revenue Service.
 5. Collect, disclose, disseminate, or otherwise use anonymous data for governmental purposes.
- e. Without limitation, this privacy policy does not enlarge or limit any existing or future privacy policies of sellers in Model 1.



ARTICLE IV

SELLER REGISTRATION

400 SELLER PARTICIPATION

- a. In order to simplify the seller registration process, the member states will provide an online registration system that will allow sellers to register in all the member states.
- b. By registering, the seller agrees to collect and remit sales and use taxes for all taxable sales into the member states, including member states joining after the seller's registration. Withdrawal or revocation of a member state shall not relieve a seller of its responsibility to remit taxes previously collected on behalf of the State.
- c. In member states where the seller has a requirement to register prior to registering under this Agreement, the seller may be required to provide additional information to complete the registration process or the seller may choose to register directly with those states.
- d. Registration with the central registration system and the collection of sales and use taxes in the member states will not be used as a factor in determining whether the seller has nexus with a State for any tax.

402 AMNESTY FOR REGISTRATIONS

- a. Subject to the limitations stated below in this section and the following sections:

1. A State participating in the Streamlined Sales and Use Tax Agreement will provide amnesty for uncollected or unpaid sales and/or use tax to a seller who registers to pay and/or to collect and remit applicable sales and/or use tax on sales made to purchasers in the State in accordance with the terms of the Agreement, provided that the seller was not so registered in that State in the twelve-month period preceding the commencement of the State's participation in the Agreement.
 2. The amnesty will preclude assessment for uncollected or unpaid sales and/or use tax together with penalty or interest for sales made during the period the seller was not registered in the State, provided registration occurs within twelve months of the effective date of the State's participation in the Agreement.
 3. Amnesty similarly will be provided by any additional State that joins the Agreement after the seller has registered.
- b. The amnesty is not available to a seller with respect to any matter or matters for which the seller received notice of the commencement of an audit and which audit is not yet finally resolved including any related administrative and judicial processes.
 - c. The amnesty is not available for sales and/or use taxes already paid or remitted to the State or to taxes collected by the seller.
 - d. The amnesty is fully effective absent the seller's fraud or intentional misrepresentation of a material fact as long as the seller continues registration and continues payment and/or collection and remittance of applicable sales and/or use taxes for a period of at least thirty-six months. The statute of limitations applicable to asserting a tax liability is tolled during this thirty-six month period.
 - e. The amnesty is applicable only to sales and/or use taxes due from a seller in its capacity as a seller and not to sales and/or use taxes due from a seller in its capacity as a buyer.
 - f. A State participating in the Agreement may allow amnesty on terms and conditions more favorable to a seller.

404 METHOD OF REMITTANCE

When registering, the seller may select one of the following methods of remittances or other method allowed by state law to remit the taxes collected:

- a. MODEL 1 Seller selects a Certified Service Provider (CSP) as an agent to perform all the seller's sales or use tax functions, other than the seller's obligation to remit tax on its own purchases.
- b. MODEL 2 Seller selects a Certified Automated System (CAS) to use which calculates the amount of tax due on a transaction.
- c. MODEL 3 Seller utilizes its own proprietary automated sales tax system that has been certified as a CAS.

406 REGISTRATION BY AN AGENT

A seller may be registered by an agent. Such appointment must be in writing and submitted to a member state if requested by the member state.



ARTICLE V

PROVIDER AND SYSTEM CERTIFICATION

500 CERTIFICATION OF SERVICE PROVIDERS AND AUTOMATED SYSTEMS

- a. In order to facilitate the provisions of this Agreement, the member states acting jointly will certify automated systems and service providers to aid in the administration of sale and use tax collections.
- b. The member states acting jointly may certify a person as a Certified Service Provider if the person meets all of the following requirements:
 1. The person uses a Certified Automated System
 2. The person integrates its Certified Automated System with the system of a seller for whom the person collects tax so that the tax due on a sale is determined at the time of the sale.
 3. The person agrees to remit the taxes it collects at the time and in the manner specified by the member states.
 4. The person agrees to file returns on behalf of the sellers for whom it collects tax.
 5. The person agrees to protect the privacy of tax information it obtains.
 6. The person enters into a contract with the member states and agrees to comply with the terms of the contract.
- c. The member states acting jointly may certify a software program as a Certified Automated System if the member states determine that the program meets all of the following requirements:
 1. It determines the applicable state and local sales and use tax rate for a transaction, based on the uniform sourcing provision established under the Agreement.
 2. It determines whether or not an item is exempt from tax.
 3. It determines the amount of tax to be remitted for each taxpayer for a reporting period.
 4. It can generate reports and returns as required by the member states.
 5. It can meet any other requirement set by the member states.
- d. The member states acting jointly may establish one or more sales tax performance standards for multistate sellers that meet the eligibility criteria set by the member states and that developed a proprietary system to determine the amount of sales and use tax due on transactions.



ARTICLE VI

MONETARY ALLOWANCES FOR NEW TECHNOLOGICAL MODELS FOR SALES TAX COLLECTION

600 MONETARY ALLOWANCES FOR CSPs AND SELLERS

This Article addresses the monetary allowances to be provided by a member state to a CSP and all sellers for implementing new technological models. These allowances shall be subject to review by the member states upon the completion of a joint public and private sector study of the compliance cost on sellers to collect sales and use taxes for state and local governments under various levels of complexity. Such study shall be completed no later than July 1, 2002. Allowances may also be reviewed as the efficiency of technology improves and economies of scale arise from increasing transaction volumes processed through these systems. The non-monetary benefits that accrue to all sellers that participate in the Agreement are addressed in other sections. These non-monetary benefits include limitations on the assessment of back taxes, reduced audit scope, uniform returns, and other methods of tax compliance simplification.

602 MONETARY ALLOWANCE UNDER MODEL 1

a. The member states agree to provide a monetary allowance to a CSP in Model 1 in accordance with the terms of the contract the member states sign with the CSP. The details of the monetary allowance are provided through the contract process. The allowance will be funded entirely from money collected in Model 1.

b. The member states anticipate a monetary allowance to a CSP to be one or more of the following incentives:

1. A base rate that applies to taxable transactions processed by the CSP.
2. For a period not to exceed twenty-four (24) months following a voluntary seller's registration through the Agreement's central registration process, a percentage of tax revenue generated for a member state by the voluntary seller. "Voluntary seller" means a seller that does not have a requirement to register to collect the tax for a member state.

604 MONETARY ALLOWANCE FOR MODEL 2 SELLERS

The member states initially anticipate that they will provide a monetary allowance to sellers under Model 2 based on the following:

a. All sellers shall receive a base rate for a period not to exceed twenty-four (24) months following the commencement of participation by a seller. The base rate will be set after the base rate has been established for Model 1. This allowance will be in addition to any discount afforded by each member state at the time.

b. The member states anticipate a monetary allowance to a Model 2 Seller based on the following:

1. For a period not to exceed twenty-four (24) months following a voluntary seller's registration through the Agreement's central registration process, a percentage of tax revenue generated for a member state by the voluntary seller. "Voluntary seller" means a seller that does not have a requirement to register to collect the tax for a member state.
2. Following the conclusion of the twenty-four (24) month period, a seller will only be entitled to a vendor discount afforded under each member state's law at the time the base rate expires.

606 MONETARY ALLOWANCE FOR MODEL 3 SELLERS AND ALL OTHER SELLERS THAT ARE NOT UNDER MODELS 1 OR 2

The member states anticipate that they will provide a monetary allowance to sellers under Model 3 and to all other sellers that are not under Models 1 or 2 based on the following:

1. For a period not to exceed twenty-four (24) months following a voluntary seller's registration through the Agreement's central registration process, a percentage of tax revenue generated for a member state by the voluntary seller. "Voluntary seller" means a seller that does not have a requirement to register to collect the tax for a member state.
2. Vendor discounts afforded under each member state's law.

**Article VII**

Interim Governance

700. Participating States

Until July 1, 2003 all states which enact the Simplified Sales and Use Tax Administration Act, Sections 1-10, shall be entitled to participate in multistate discussions to review and amend the Streamlined Sales and Use Tax Agreement. For purposes of these discussions each state that enacts the above mentioned act shall have no more than four representatives with each state having only one vote. After July 1, 2003 only those states having enacted the Simplified Sales and Use Tax Administration Act and have complied with the Agreement will have the authority to amend the Agreement. Only states complying with the terms of this Agreement pursuant to Article VIII shall have the authority to decide matters with regard to joint contracts between complying states and vendors.

702. Amending the Agreement

Until July 1, 2003 the Agreement as adopted on January 27, 2001, may be amended by a simple majority of the participating states referenced in Section 700. After July 1, 2003 the states complying with the Agreement shall decide the procedures for amending the Agreement .

704. Contracts

Until July 1, 2003, contracts between complying states and vendors may not exceed one year in duration.



ARTICLE VIII

STATE ENTRY AND WITHDRAWAL

800 ENTRY INTO AGREEMENT

Any State may apply to become a party to this Agreement by executing an adopting resolution and specifying the proposed date of entry. The applying State shall agree to abide by all terms, conditions, and requirements of the Agreement, adopt the Simplified Sales and Use Tax Administration Act, and provide certification of compliance with the terms of the Agreement along with its adopting resolution. A copy of the adopting resolution and the certification of compliance shall be provided to each member state for the purpose of obtaining the required endorsement.

802 CERTIFICATION OF COMPLIANCE

The certification of compliance shall document compliance with the provisions of this Agreement and cite applicable statutes, regulations, or other authorities supporting such compliance. Each member state shall maintain and make the instrument available for public inspection.

804 INITIAL ADOPTING STATES

This Agreement shall become effective when five (5) states have completed the prescribed adopting resolution. An initial state shall be approved by being found in compliance with the requirements of this Agreement by a vote of three-fourths majority of the other initial states.

806 CONDITIONS FOR MEMBERSHIP

The member states shall vote whether the petitioning state is in compliance to accept its petition for membership. A three-fourths vote of all the member states is required. A State is in compliance if its laws, rules or regulations, and policies are consistent with this Agreement and do not substantially deviate from the requirements set forth in this Agreement. Public notice and opportunity for comment will be given before a State is allowed to participate in the Agreement.

808 AGREEMENT ADMINISTRATION

The member states must organize to govern compliance of each State participating in the Agreement and take other actions as may be necessary to administer and implement the provisions contained herein. The member states acting jointly must appoint an advisory council to consult with in the administration of the Agreement and on issues of individual state compliance. Members of the advisory council shall include representatives from business and any other interested persons.

810 WITHDRAWAL OF MEMBERSHIP

This Agreement shall continue in full force and effect, after its original adoption, as to each State until withdrawn by the proper officials of a State. Such withdrawal shall not be effective until the first day of a calendar quarter after a minimum of sixty (60) days' notice. Such notification shall immediately be sent to the officials of the other member states of the Agreement. However, withdrawal by one State shall not effect the Agreement among other states. Notwithstanding the withdrawal, the obligations incurred by the withdrawing State shall survive the withdrawal during its membership.

812 EXPULSION OF MEMBER STATES

Any member state may request a resolution before the member states acting jointly to expel another member state which is not in compliance with the terms of this Agreement. A resolution expelling a member state from the Agreement shall require the affirmative vote of three-fourths of the total member states, excluding the State that is the subject of the resolution. The member state that is the subject of the resolution will not be allowed to vote. Failure of a member state to vote shall be deemed a vote against the resolution of expulsion.

814 CONTINUED ROLE OF STREAMLINED SALES TAX PROJECT AND STATE ADVISORY COMMITTEE

All states that are participating members of the Streamlined Sales Tax Project pursuant to the Operating Rules of the Project shall become the State Advisory Committee to the states enacting the Simplified Sales and Use Tax Administration Act. This Committee shall continue the work of the Streamlined Sales Tax Project and shall provide input to such states.

816 EFFECTIVE DATE

This Agreement shall become binding and take effect upon the signing by five (5) states and their respective filing of a Certificate of Compliance reflecting compliance with the provisions hereof, including citations to applicable statutes, regulations or other authorities supporting such compliance.



ARTICLE IX

AMENDMENTS AND INTERPRETATIONS

900 AMENDMENTS TO AGREEMENT

This Agreement may be amended, pursuant to Article VII Section 702. Prior to amending the Agreement, the states acting jointly shall give public notice of the proposed amendment and opportunity for public comment.

902 INTERPRETATIONS OF AGREEMENT

Matters involving interpretation of the Agreement may be brought before the member states acting jointly by any member state or any other person. The member states acting jointly are empowered to issue an interpretation of the Agreement, subject to approval by a majority of the voting states. All interpretations issued under this section shall be published in an appendix to the Agreement with footnotes under the appropriate sections of the Agreement.



ARTICLE X

RELATIONSHIP OF AGREEMENT TO MEMBER STATES AND PERSONS

1000 COOPERATING SOVEREIGNS

This Agreement is among individual cooperating sovereigns in furtherance of their governmental functions. The Agreement provides a mechanism among the member states to establish and maintain a cooperative, simplified system for the application and administration of sales and use taxes under the duly adopted law of each member state.

1002 RELATIONSHIP TO STATE LAW

No provision of this Agreement in whole or part invalidates or amends any provision of the law of a member state. Adoption of the Agreement by a member state does not amend or modify any law of the State. Implementation of any condition of this Agreement in a member state, whether adopted before, at, or after membership of a State, must be by the action of the member state. All member states remain subject to Article VI, State Entry and Withdrawal.

1004 LIMITED BINDING AND BENEFICIAL EFFECT

a. This Agreement binds and inures only to the benefit of the member states. No person, other than a member state, is an intended beneficiary of this Agreement. Any benefit to a person other than a State is established by the laws of the member states and not by the terms of this Agreement.

b. Consistent with subsection (a), no person shall have any cause of action or defense under the Agreement or by virtue of a member state's approval of the Agreement. No person may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of any

member state, or any political subdivision of a member state on the ground that the action or inaction is inconsistent with this Agreement.

c. No law of a member state, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with this Agreement.

1006 FINAL DETERMINATIONS

The determinations pertaining to this Agreement that are made by the member states are final when rendered and are not subject to any protest, appeal, or review.



ARTICLE XI

REVIEW OF COSTS AND BENEFITS ASSOCIATED WITH THE AGREEMENT

1100 REVIEW OF COSTS AND BENEFITS

Representatives of the member states will review costs and benefits of administration and collection of sales and use taxes incurred by states and sellers under the existing sales and use tax laws at the time of adoption of this Agreement and the proposed Streamlined Sales Tax System.



APPENDIX A

STREAMLINED SALES AND USE TAX AGREEMENT

LETTER OF INTENT

WHEREAS, it is in the interest of the private sector and of state and local governments to simplify and modernize sales and use tax administration;

WHEREAS, such simplification and modernization will result in a substantial reduction in the costs and complexity for sellers of personal property and services in conducting their commercial enterprises;

WHEREAS, such simplification and modernization will also result in additional voluntary compliance with the sales and use tax laws; and

WHEREAS, such simplification and modernization of sales and use tax administration is best conducted in cooperation and coordination with other states.

NOW, the undersigned representative hereby executes this intent to sign the attached draft of the Streamlined Sales and Use Tax Agreement upon enactment of the Simplified Sales and Use Tax Administration Act.

NAME

TITLE

STATE OF _____




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NCSL Executive Committee Task Force on State and Local Taxation of Telecommunications and Electronic Commerce

Task Force Mission Statement

Updated 6 January 2000

March, 1999

The new NCSL task force on state and local taxation of telecommunications and electronic commerce is charged with four primary tasks:



1. to review state and local taxation of telecommunications and electronic commerce in light of rapid technological changes in these industries;
2. to provide advice and counsel to the NCSL steering committee members on the National Tax Association's *Telecommunications and Electronic Commerce Tax Project* and to the federal *Advisory Commission on Electronic Commerce*;
3. to formulate an NCSL policy on the state-federal relations issues involved in the taxation of electronic commerce and telecommunications; and
4. to develop and review draft legislation for state legislative consideration.

State and local taxation of the telecommunications industry is complex and quite possibly archaic. Under the existing state-local tax structure in some states, the possibility exists for multiple and discriminatory taxes. Such tax structures invite court intervention or federal pre-emption.

Negotiations currently underway between government and business representatives could lay the groundwork for the most extensive redesign of state-local tax systems since the 1930s. For example, government and business representatives on the NTA project steering committee have already supported publicly the elimination of locally determined sales taxes ("one rate per state for all commerce") and the simplification of sales tax administration and collection.

At the federal level, the 105th Congress spent much time debating the possible "burdensome" impact of state and local taxation on the development of the Internet. It took only one session of Congress to draft, consider and enact a federal law placing a moratorium on state and local taxation of the Internet. It is likely that other industries will make similar requests to Congress, particularly the telecommunications industry.

NCSL also is concerned that the federal Advisory Commission on Electronic Commerce lacks adequate state legislative participation. Congressional leadership appointed three governors, one state tax administrator, one mayor and only one state legislator to the Advisory Commission. Congress failed to understand a major tenet of the state legislative process--that legislatures write tax laws, not governors, not mayors and especially not tax administrators. This NCSL Task Force will provide the Advisory Commission with the state legislative expertise it vitally needs to successfully complete its mission.



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Testimony of

Senator Stephen Saland

New York Senate
Vice President

National Conference of State Legislatures

on behalf of the

National Conference of State Legislatures

Regarding

H.R. 4267, H.R. 4460, H.R. 4462

Legislation with regard to
taxation of electronic commerce

before the

**Subcommittee on Commercial and
Administrative Law**

of the

House Judiciary Committee

June 29, 2000

Chairman Gekas, Ranking Member Nadler and members of the Subcommittee on Commercial and Administrative Law, I appreciate the invitation to testify before you today on behalf of the National Conference of State Legislatures. The National Conference of State Legislatures is a bi-partisan organization representing every state legislator from all fifty states and our nation's commonwealths, territories, possessions and the District of Columbia.

I am pleased to have the opportunity to speak to you about state and local taxation of electronic commerce, particularly, the ability of state and local governments to collect the sales and use tax presently owed on transactions which occur on the Internet through remote sellers. Let me make clear, state legislators are not advocating any new taxes on electronic commerce. We desire, however, to create a streamlined sales and tax collection system to more efficiently collect the transactional taxes legally imposed by our states.

Electronic Commerce and the States

Let me first acknowledge that there is much misinformation being disseminated that state governments view the Internet and Electronic Commerce as a "cash cow" and we, as state officials, are salivating for our prime cut. This is simply not true.

Speaking for my colleagues, we recognize the vital economic force that the Internet and advanced telecommunications services will be for our states and our nation. We also are as concerned as you are about the unintended consequences of obsolete, discriminatory or multiple taxes on this vital new technology.

It is important to note for the record that no state has enacted any Internet specific taxes. In some states where a tax on Internet access was grandfathered by the Internet Tax

Freedom Act of 1998, state legislatures have worked to repeal those taxes. For example, the state legislatures in Connecticut, Iowa and the Wisconsin state Assembly have voted to do so.

With that said, we need to make clear that state legislatures are equally concerned about the impact that sales tax free electronic commerce transactions will have on state revenues and the unfair competitive burden it will have on small main street businesses, the life blood of many of our small towns and communities. I am sure many of you each year are asked to help sponsor a little league team or take an ad in a high school yearbook somewhere in your district. Your hometown brick and mortar store does that every year. Will America Online, Time Warner, Amazon.com, Microsoft, or Cisco sponsor the little league team next year or support your local boy and girl scout troop? I think you know the answer.

For the record, let me state that,

- o State legislators recognize the role that a strong telecommunications infrastructure will play in future economic growth.
- o In the last five years state legislatures and governors have reduced taxes by over \$25 billion. And as long as the economy remains strong, tax reductions will continue.
- o Most states do not tax Internet access charges and the trend is to exempt them. And even in states that do tax Internet access, a 5% to 8% tax imposed on the customer is not going to measurably affect demand for Internet access. America Online increased prices by 10% in 1998 and its revenue base, stock price, and market position remain strong.
- o If business is concerned about taxes on the "Internet," they should be talking to Congress. Most of the current taxes on the "Internet" are federal excise taxes, access charges, and other taxes and "fees" on the telecommunications providers that are the backbone of the Internet - not state and local sales and

use taxes.

Our concern at the state level is the future of our primary consumption tax - the general sales and use tax. This tax provides about one-third of state revenue - over \$150 billion in 1998 - with most of the funds used to finance K-12 education.

Sales Tax Popularity

As we all know, taxes are not very popular. However, if state and local governments are to provide necessary services, like education and public safety, then we need to maintain our ability to levy taxes. In surveys of taxpayers as to which tax of all the major federal, state and local taxes they dislike the least, the surprising answer has been the sales tax.

Voters all over the country have approved local sales taxes to pay for sports stadiums, added police protection, land acquisition for open space, and transportation improvements. The taxpayers of the state of Michigan overwhelming voted to use the sales tax as opposed to property tax as the major source of revenue for education and then the next year, they voted to increase the sales tax.

As you know, the sales tax is imposed on the customer, not the seller. Sellers collect the tax on behalf of state and local governments and pass this money along to them. Many states pay merchants for this service, typically allowing them to keep between 1 and 3 percent of what they collect to offset the administrative cost.

Sales Tax and Electronic Commerce

The problem states have with the sales tax is that the base keeps shrinking. In the 1930s, when the sales tax was first imposed, consumers bought goods from the local merchant and it was not that difficult for the merchant to collect a few cents on the dollar. Also, most Americans spent very little on services - they spent most of their money on taxable goods. And there were very few "remote sellers."

In the 1970s and 1980s, the share of personal consumption expenditures began to shift from taxable goods to services - things like medical care, health clubs, legal and accounting services. So the sales tax was applied on a smaller and smaller share of tangible products. This was compounded on the goods side by mail order outlets selling goods without collecting sales taxes from their customers - a practice sanctioned by the U.S. Supreme Court in the *National Bellas Hess* case in 1967 and reaffirmed in the *Quill* decision in 1992.

Today, states face a new threat to sales tax revenue, electronic commerce, with the potential to dramatically expand the volume of goods sold to customers without collection of a sales or use tax. The combined weight of the shift to services and the tax erosion due to electronic commerce threatens the future viability of the sales tax and essential governmental services such as education and public safety.

According to the Center for Business and Economic Research at the University of Tennessee, by 2003 states will lose \$ 11 billion in sales tax revenue due to the emergence and growth of electronic commerce. This amount will continue to grow each year. The following is a list of the revenue losses for those states which have a member serving on this Subcommittee:

State 2003

Pennsylvania \$ 358 Million
 New York \$ 849 Million
 Alabama \$ 145 Million
 California \$ 1.493 Billion
 Florida \$ 754 Million
 Illinois \$ 454 Million
 Louisiana \$ 244 Million
 Massachusetts \$ 163 Million
 Michigan \$ 407 Million

administration; the use of TECHNOLOGY for calculating, collecting, reporting and/or paying the tax through "certified" tax calculation service providers; and the STATE ASSUMPTION of the COSTS of the system for remote sellers. Participation in the Streamlined Sales Tax Collection System is VOLUNTARY both for the vendors and for the states.

Simplifications being drafted by the Streamlined Sales Tax Project:

- Uniform product codes;
- Uniform sourcing rule;
- Uniform procedures for exempt transactions;
- Uniform definitions for use;
- Uniform deduction for bad debts;
- Central, one-stop registration system;
- Limits on the frequency when rate changes may be made;
- Required advanced notice of changes;
- Remittance of tax to state level only, states to remit to the local governments.

State Involvement in the Streamlined Sales Tax Project

In January of this year, the NCSL Task Force on State and Local Taxation of Telecommunications and Electronic Commerce drafted and along with NCSL's full Executive Committee unanimously approved model legislation to authorize a state's participation in multi-state discussions. These discussions will lead to the development of a more simple, uniform, and fair system of state and use taxation that removes the burden imposed on retailers, preserves state sovereignty, and enhances the ability of U. S. firms to compete in the global and information economy.

It was the only second time in NCSL history that NCSL produced and advocated the passage of model legislation in the states. In January we anticipated that if six to eight states authorized the multi-state discussions by the end of this year's legislative session, we would be able to declare solid movement by the states to streamline their sales tax systems. Instead 18 states have formally joined the multi-state discussions either through enactment of legislation or an executive order by the Governor and action is still pending in another five states.

As of June 29, 2000: **Florida, Iowa, Kansas, Kentucky, Maryland, Minnesota, Oklahoma, South Dakota, Tennessee, and Wyoming** enacted legislation to enter into multi-state discussions. In **Louisiana, Michigan, Missouri, Nebraska, North Carolina, South Carolina, Utah and Wisconsin**, the governors issued Executive orders including their states in these discussions, though legislators in Missouri, Nebraska and North Carolina are moving resolutions endorsing their governor's action. The authorization legislation is currently pending in **California** (passed Senate), **Illinois**, (Passed both Houses), **Ohio** (Passed both Houses), **Pennsylvania** and **Rhode Island** (Passed Senate). Legislatures in **Alabama, New Mexico and West Virginia** also introduced the legislation, but were unable to enact the bills before their adjournment. We expect to have **23 states** as active participants in the project by the end of this year.

A number of states wishing to observe the discussions and are awaiting possible action within their respective state legislatures or executive action are: Arkansas, Colorado, Connecticut, Idaho, New Jersey, New Mexico, North Dakota, Texas and Washington.

The quick response to NCSL's model legislation by the state legislatures is unprecedented. The current activity by 23 states is a sign that state legislatures are serious about taking action to streamline and simplify their sales tax collection systems.

The tax and revenue commissioners from the states listed above have been meeting since February and are moving quickly to have draft legislative proposals ready to submit to NCSL's Task Force on State and Local Taxation of Telecommunications and Electronic Commerce by November of this year. It is our hope that the Task Force and our Executive Committee will be able to recommend these model bills to our colleagues for consideration as early as January 2001. The members of the Streamlined Sales Tax Project are meeting as we speak in Chicago, and will continue to meet on a monthly basis.

The Streamlined Sales Tax Project also will have a pilot project in the field by October of this year and will run through the Christmas season. The pilot project will include four or five states, and four and five retailers. The retailers will include at least one brick and mortar vendor, one click and mortar vendor and one vendor who conducts business solely online. The pilot project will test the technology that has been developed to determine the proper sales tax rate based upon the destination of the product and even collect the sales tax if the vendor so chooses.

The Streamlined Sales Tax Collection System is moving successfully. We would urge the Congress to let the states fix their sales and use tax systems without any interference or mandates.

Both President Clinton and Congressman Christopher Cox of California have said that the sales and use tax system should be simplified at the state and local level, not in Washington, and especially not by Congress.

We would recommend to Congress that it not rush to consider or approve legislation incorporating either the majority report, H.R. 4267 or the minority report, H.R. 4460, of the Advisory Commission.

INTERNET TAX MORATORIUM

First, let me make clear, NCSL opposes the extension of the current moratorium on state and local taxes applied to Internet access.

The current moratorium on Internet access taxes as established in the Internet Tax Freedom Act of 1998, does not expire until October 21, 2001, some 16 months from now. Not one of the sponsors or advocates of this legislation has put forward a sound public policy explanation as to why a moratorium which does not expire until late next year, needs to be extended this year. We are disappointed that this Committee and the House Commerce Committee have failed to hold a single public hearing this year on the need to extend the moratorium, almost a year and a half before it expires.

Today, we know Internet access generally refers to the \$19.95 (+/-) consumers pay for their monthly access to the "net" through America Online, Mindspring, Microsoft and so on. However, as we witness the convergence of technologies and industry giants, what will Internet access mean in three years, or five years and so on. For example, telephony technology is quickly improving to allow consumers to actually make telephone calls and speak over the Internet. Thus, consumers may soon be able to make long distance or local calls while online at no additional cost, other than the fee paid for Internet access. You can already download free service from such sites as "freephone.com," "Net2phone.com," or "MediaRing.com." Current state revenues will decline, as states will be unable to tax these long distance or even local telephone calls. This also would put telephone companies at a competitive disadvantage to Internet service providers.

As the industry mergers continue, consumers will soon be receiving their telephone, cable television and Internet service from the same vendor. The vendor will be able to bundle all these services for one price under the banner of Internet access. If states and local governments are prohibited from ever taxing Internet access, then states and localities would have to find new revenue sources to make up for the loss from not being able to tax telephone and/or cable services.

H.R. 4267 also would repeal the grandfather clause enacted in the original Internet Tax Freedom Act, as does H.R. 3709 approved by the House last month. The grandfather clause allowed those states presently collecting a tax on Internet access the ability to continue to do so. If either of these bills became law, the states of Connecticut, Hawaii, New Hampshire, New Mexico, North Dakota, Ohio, South Dakota, Tennessee, Texas, Washington and Wisconsin would face a reduction in current revenues. Total loss in 2000 to the listed states over \$ 75 million. This loss combined with future revenue decreases from the prohibition on Internet access has been determined by the Congressional Budget Office to be an unfunded federal mandate on state and local governments under the provisions of the Unfunded Mandates Relief Act of 1995.

Advisory Commission Report - H.R. 4267

Finally, let me briefly discuss our concerns and opposition to H.R. 4267, which contains the majority report of the federal Advisory Commission on Electronic Commerce.

If adopted by the Congress, this proposal by the business members on the Advisory Commission would result in an **immediate loss of over \$30 billion in "current" state and local tax collections.** Furthermore, according to Charles McClure, former tax policy expert in the Reagan administration, the loopholes created under this proposal would permanently eviscerate the sales and use tax as a future state and local revenue source. Here are some of the most egregious provisions of the proposal:

H.R. 4267 would impose a five year moratorium on sales and use taxes on digitized products and their "non-digitized counterparts." In effect, any sales and use tax on products that could be sold in digital form - books, compact disks, newspapers, magazines, and so on - would be prohibited by federal law. This provision strikes at the very heart of states' ability to determine their own tax base and will reduce existing state revenues by at least \$6 billion per year. This provision should really be called the "Pornography Growth Initiative" as the one of leading digitized products being downloaded everyday, tax free, are pornographic pictures, and movies. Why Congress or the Advisory Commission would want to give the pornography industry a competitive economic advantage is something few if any of your colleagues in the state legislatures can understand.

Additional loopholes for sales tax avoidance. The proposal would allow companies to set up tax-free kiosks in their brick and mortar stores. Companies that shipped goods to customers ordering from these kiosks would not be required to collect sales and use taxes. Over time, sales tax collections from "Main Street" stores would be severely eroded as companies encouraged customers to order "tax free" from their web sites. This proposal would result in a \$15 billion per year reduction for state and local governments.

New loopholes for corporate income tax avoidance. Under this proposal companies could perform numerous activities in a state without creating nexus for corporation income taxes. Estimated loss of revenue to states, at least \$10 billion.

Creates federal government oversight and possible pre-emption of state and local telecommunications taxes. Requires states to reduce taxes on telecommunications companies and shift to a single statewide tax, or face federal sanctions, including pre-emption of telecommunications taxes. NCSL and our Task Force have been working closely with the telecommunications industry to develop model legislation to reform our state and local telecommunications taxes.

Mandates one sales and use tax rate per state for all remote commerce. A single rate - even if it only applies to remote sales - is a deal killer in a dozen or more states and raises a host of problems.

- First, it preserves a dual system for nexus and non-nexus merchants that will prevent states from simplifying the sales and use tax system for "clicks and mortar" retailers. Sellers with physical stores and remote operations will face two sets of tax rates, frustrating efforts at simplification for all types of retailers. The Streamlined System being developed by the states would create a single system for all retailers. Businesses and technology companies tell us that the rate issue is the easiest one to overcome with technology. It is not necessary to mandate a single rate in a simplified system.
- Second, the dual system will lead to continued litigation over nexus because different rates will be charged based upon the seller's nexus status. The Streamlined Sales Tax System being developed by the states would make nexus irrelevant and treat all sellers the same.
- Finally, we anticipate that some state legislatures could not support a blended rate that would increase tax rates for some taxpayers. The alternative - choosing the lowest rate in the state - could cause powerful cities to oppose such a system. Businesses located in areas with high tax rates that now "self-report" use taxes would have incentives to buy from remote vendors.

This industry tax grab, if adopted, would permanently erode states' sovereign power to control their own tax policies and place Congress in the position of dictating state sales and use, corporation income, and telecommunications tax policies.

The National Conference of State Legislatures encourages you and your colleagues in the 106th Congress to do no further harm this year to your state and local governments. We would urge you to let the states proceed

with the Streamlined Sales Tax Project. If by this time next year, we have failed to make real progress in simplifying our sales and use tax system, then we would be willing to work you on a reasonable Congressional solution. We respectfully request that you take no further action on extending the moratorium or on the legislation before this Subcommittee this morning.

Finally, with only good thoughts for the work you do here in our nation's capitol, let me remind you that the state legislatures in the next two years will be spending some time in a once in a decade event, redistricting congressional districts based on the this year's Census count. We would remind the honorable members of the House of Representatives that though you may spend most of your time here in Washington, I am sure you still want your state legislature to make sure that you have some nexus back home.

Thank you for this opportunity to discuss the state legislative viewpoint on state and local taxation of electronic commerce and telecommunications.



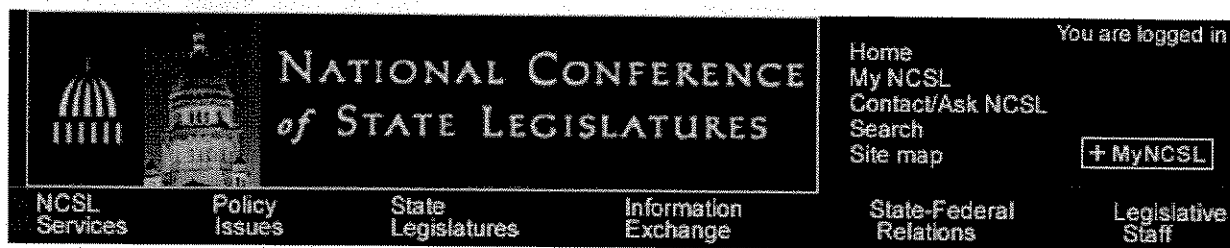
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Written Statement to the Advisory Commission on Electronic Commerce

by

**Representative Matthew Kisber, Tennessee
Chairman, House Finance, Ways and Means Committee**

**Senator Steven Rauschenberger, Illinois
Chairman, Senate Appropriations Committee**

**Co-Chairs, NCSL Task Force on State and Local Taxation of
Telecommunications and Electronic Commerce**

**on behalf of the
National Conference of State Legislatures**

September 15, 1999

Thank you Governor Gilmore and members of the Commission for the opportunity to address the Commission. We speak on behalf of the National Conference of State Legislatures, the bipartisan national organization representing every state legislator from all 50 states, our nation's commonwealths, territories and possessions.

We would like to begin by acknowledging the role that the industries represented on this Commission have played in this incredibly robust economic expansion. Your firms have helped to create the tools that have allowed our businesses - and governments - to be more efficient, more productive, and more responsive to our customers. As a result, our nation has enjoyed phenomenal economic growth - without much inflation. This economic environment has dramatically increased household wealth and left state governments in their best fiscal position ever.

States and Electronic Commerce

Unfortunately, we also need to acknowledge that there is much misinformation being disseminated that state governments view the Internet and Electronic Commerce as a "cash cow" and we, as state officials, are salivating for our prime cut. This is simply not true.

Speaking for our colleagues, we know that they recognize the vital economic force that the Internet and advanced telecommunications services will be for our states and our nation. We also are as concerned as you are about the unintended consequences of obsolete, discriminatory or multiple taxes on this vital new technology.

It also is important to note for the record that no state has enacted any Internet specific taxes. In some states where a tax on Internet access was grandfathered by the Internet Tax Freedom Act, states legislatures have worked to repeal those taxes.

With that said, we need to make clear that state legislatures are equally concerned about the impact that sales tax free electronic commerce transactions will have on state revenues and the unfair competitive burden it will have on small main street businesses in our communities.

We have some additional points to make on this issue:

- o State leaders recognize the role that a strong telecommunications infrastructure will play in future economic growth.
- o In the last five years state legislatures and governors have reduced taxes by over \$25 billion. And as long as the economy remains strong, tax reductions will continue.
- o Most states do not tax Internet access charges and the trend is to exempt them. And even in states that do tax Internet access, a 5% to 8% tax imposed on the customer is not going to measurably affect demand for Internet access. AOL increased prices by 10% in 1998 and its revenue base, stock price, and market position remain strong.
- o If business is concerned about taxes on the "Internet," they should be talking to Congress. Most of the current taxes on the "Internet" are federal excise taxes, access charges, and other taxes and "fees" on the telecommunications providers that are the backbone of the Internet - not state and local sales and use taxes.

Our concern at the state level is the future of our primary consumption tax - the general sales and use tax. This tax provides about one-third of state revenue - over \$150 billion in 1998 - with most of the funds used to finance K-12 education.

Sales Tax Popularity

As we all know, taxes are not very popular. However, if state and local governments are to provide necessary services, like education and public safety, then we need to maintain our ability to levy taxes. In surveys of taxpayers as to which tax of all the major federal, state and local taxes they dislike the least, the surprising answer has been the sales tax.

Voters all over the country have approved local sales taxes to pay for sports stadiums, added police protection, land acquisition for open space, and transportation improvements. The taxpayers of the state of Michigan overwhelming voted to use the sales tax as opposed to property tax as the major source of revenue for education and then the next year, they voted to increase the sales tax. How many federal taxes have been enacted by a direct vote of the people?

As you know, the sales tax is imposed on the customer, not the seller. Sellers collect the tax on behalf of state and local governments and pass this money along to them. Many states pay merchants for this service, typically allowing them to keep between 1 and 3 percent of what they collect to offset the administrative cost.

Sales Tax and Electronic Commerce

The problem states have with the sales tax is that the base keeps shrinking. In the 1930s, when the sales tax was first imposed, consumers bought goods from the local merchant and it was not that difficult for the merchant to collect a few cents on the dollar. Also, most Americans spent very little on services - they spent most of their money on taxable goods. And there were very few "remote sellers."

In the 1970s and 1980s, the share of personal consumption expenditures began to shift from taxable goods to services - things like medical care, health clubs, legal and accounting services. So the sales tax was applied on a smaller and smaller share of tangible products. This was compounded on the goods side by mail order outlets selling goods without collecting sales taxes from their customers - a practice sanctioned by the US Supreme Court in the *National Bellas Hess* case in 1967 and reaffirmed in the *Quill* decision in 1992.

Today, states face a new threat to sales tax revenue, electronic commerce, with the potential to dramatically expand the volume of goods sold to customers without collection of a sales or use tax. The combined weight of the shift to services and the tax erosion due to electronic commerce threatens the future viability of the sales tax.

Let us pose a hypothetical question. What would happen if the federal government allowed customers to avoid paying federal airline ticket excise taxes if travelers purchased their tickets over the Internet, but kept the tax in place on purchases from travel agents? That would give us - and other air travelers - a 10% price discount and provide a tremendous incentive to buy over the Internet. Obviously, travel agents would disappear and federal revenues would dry up in a hurry. To some extent, this is the same situation that state and local governments face with the sales and use tax on Internet purchases.

As state legislators, we recognize that we have been part of this problem. We have created a confusing, administratively burdensome tax system with very little regard for the compliance burden placed on multi-state businesses. The NCSL passed a resolution this summer - written by the Task Force that we chair - acknowledging for the first time that states need to simplify their sales and use taxes and telecommunications taxes for the 21st Century. We recognize that we are a key part of the problem - and the solution.

So the remainder of our comments focus on options for state legislatures and for this Commission. As we see it, there are really only three options.

Option 1 - the Status Quo

Under this scenario, we keep the current system as it is. Remote sellers without a physical presence would continue to be protected from the "undue burden" of use tax collection under the current Supreme Court decisions in *National Bellas Hess* and *Quill*. Sellers that are physically present would continue to have a sales tax collection obligation.

There are two primary reasons to be concerned about the status quo. First, states and local governments would continue to see erosion of the tax base as electronic commerce vendors gain market share. Second, it is just not fair to treat sellers of the same product differently by making one vendor collect a tax while a competitor does not.

We do not support continuation of this unfair system.

Option 2 - the Internet as a Tax Free Zone

Some have suggested that the Internet should be preserved as a tax free zone, with a permanent moratorium on taxes on Internet access as well as a moratorium on sales and use taxes on goods and services sold over the Internet.

We do not support this option.

Creating a tax free zone on the Internet would be the beginning of the end of the state and local sales tax. Entire retail sectors would argue for sales tax exemptions, lest electronic commerce vendors drive them out of business. In essence, Congress would be choosing the "winners" in our economy, choosing e-businesses in competition with other taxpaying interests. This would not be an appropriate role for the federal government to play. States would be forced to either grant these exemptions or watch main street and mail retailers lose market share. Not all retail sectors would ultimately fail, but many would.

With a declining consumption tax base, states would be forced to rely on income taxes, property taxes, and other excise taxes that target specific "captive" goods like gasoline.

Constitutional limitations on the property tax in many states would preclude this as a revenue option, forcing the income tax to shoulder a larger burden. This would have significant implications for savings and investment, potentially reducing our already meager national savings rate. Federal marginal tax rates are

already at 40%, not including payroll taxes. Replacing the sales and use tax, just at the state level, would require a doubling of the state income tax burden. This is neither desirable nor economically viable.

Sound state tax policy dictates the broadest possible base, the lowest possible rates, and a diversification of reliance on income, property, and consumption taxes. Taking consumption taxes off the table is just not good policy.

States' Fiscal Requirements

Some people argue that states should just cut spending. But our states' Supreme Courts, and the voters, are saying we need to spend more on education to provide the educated workers that CEOs - some sitting at this table - tell us that our e-commerce firms need to be competitive. Voters are telling us to spend more on our transportation systems so they can get to work - and home to their families - in a reasonable amount of time.

States also must have the fiscal resources to administer the programs, which have been devolved from the federal government to the states by Congress. While the Congress has provided fixed or capped funding formulas to the states to operate some of these former federal programs, states realize that permanent federal funding is not a life time guarantee nor is it always sufficient to meet all the costs associated in the administration of these programs. Should our national economy begin to falter, states may find themselves left holding the bag on all these former federal programs now operated by State Government.

States are very concerned that the decline or demise of the state sales tax as a viable revenue option would lead to a federal sales or consumption tax, like the one proposed by Senator Hollings last month. We think a federal consumption tax would be a disaster for the states - and for our business community. Current state and local sales taxes are only about 2.4 percent of personal consumption expenditures in the US, a relatively modest burden compared to the European Community's value-added taxes.

From a purely administrative perspective, a national VAT or sales tax would be very easy for businesses to comply with. But the tradeoff, in our opinion, would be a higher tax burden. It is much simpler for Congress to raise the tax rate than 50 states and another 6,000 local units of government. And the money would be controlled at the federal level, not the state and local level. Congress would be tempted - as in the Hollings approach - to redistribute sales tax revenues not based on actual consumption but on federal formulas, subject to political manipulation.

So for these and many other reasons, we cannot support making the Internet a tax free zone.

Option 3 - Modernize the State Sales and Use Tax

Another option is for states to preserve the sales tax - by modernizing and simplifying it. The NCSL Task Force that we chair have been working toward the following goals:

- o Minimize or even eliminate the administrative burden on remote sellers - or compensate them for it;
- o Minimize or eliminate the audit exposure for firms that use certified software;
- o Create uniform definitions of goods and services that sellers can rely upon.

Our Task Force will meet in two weeks in Nashville to hear about a proposal that states fund a national, real time database that can be made available to vendors free of charge that will automatically calculate the sales tax due. There are other proposals as well. Before we foreclose our options, we should examine whether technology can be brought to bear on this problem.

These changes will take a few years, but we think states will move to implement them. Therefore, we urge the Commission to avoid recommending actions to Congress that will pre-empt the states and prematurely limit our options to address these very important issues. During the period when states move to modernize their tax systems, Internet vendors will continue to operate under the current *Supreme Court* protections and the provisions of the Internet Tax Freedom Act.

States are beginning to realize that businesses - especially remote sellers - have legitimate concerns about state and local sales tax complexity. Not only must they know the rates of the local jurisdiction, they must

make sure that they collect and remit the proper jurisdiction's tax. They can be subjected to audits from multiple local jurisdictions. And if they make a mistake, they are liable for back taxes and possible class action lawsuits from taxpayers. Clearly, if states want remote sellers to take on additional collection responsibilities, we must simplify the system.

This would create a level playing field for all retailers. Sales taxes would continue to be borne by customers, not sellers. And if it turns out that under this level playing field, Internet sellers have a business model that delivers goods to customers at lower cost than the traditional retailers, they will prosper. If not, they will fail.

Ultimately, this is what our free enterprise system is all about. It is not about government-protected advantages in the marketplace.

Telecommunications Taxes

States also need to address the administrative burden on our telecommunications firms, and the fundamental unfairness caused by outdated telecommunications tax systems in some states. It is not fair that two firms selling the same service face different tax burdens based upon the historical classification of one firm or another. Also, the multitude of state taxes and local taxes and fees imposed on our telecommunications providers are administratively costly and burdensome.

Our Task Force will be presenting policy options for states that will build upon two fundamental principles: 1) Competitive neutrality; 2) Reduced administrative burden.

Mr. Chairman, we have attached a copy of the Resolution formulated by our Task Force and approved by NCSL's membership at our Annual Meeting just two months ago. We would urge the Commission to consider these principles and incorporate them into your recommendations to Congress.

On behalf of the National Conference of State Legislatures, we stand ready to assist you and the members of the Commission in your deliberations. We are available to answer any questions you may have as well as discuss with you the role of state legislatures in the process to reform state sales tax procedures and regulations.

We also would like to recognize the participation in our Task Force of two Commission members, our colleague from the Commonwealth of Virginia, Delegate Paul Harris, and a former colleague from the State of South Dakota, Mr. Gene LeBrun. We look forward to their continued involvement with our Task Force.

Mr. Chairman and members of the Commission, thank you again for the opportunity to share our thoughts with the Commission today.



Commerce and Communications Page

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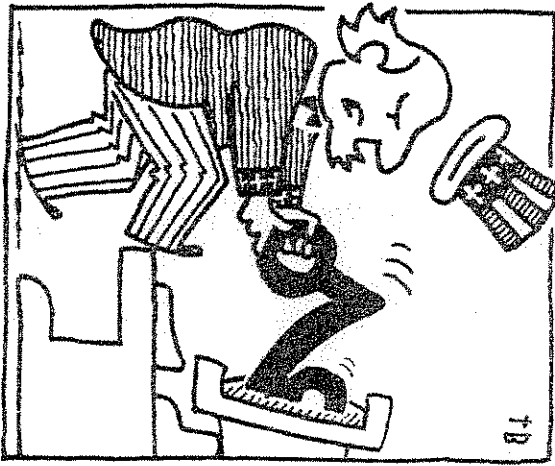
BOOM TOWN ♦ By Kara Seisher

E-Tailers Faced Death; Now Can They Handle Taxes?

After Years Avoiding the Issue, All Sides Seek Fair Way To Collect Tax on Sales

THEY SAY THE ONLY THINGS certain are death and taxes. Web retailers have definitely learned the former. You're about to face the latter. It's not time.

A bevy of tax collectors and powerful line retailers are gearing up for another round of wrangling over sales taxes owed on the commerce. An equally vocal rabble of the interests and antitax advocates say stretches of the Internet should never be taxed, lest it stall this engine of innovation. Their current battleground: The 1998 federal Internet Tax Freedom Act, which created a moratorium on any special or discriminatory taxes on the Internet and which is set to expire in October. Internet e-commerce—what you pay to get your connection—will probably remain untaxed for a while and possibly forever; the big fight this time is over sales taxes. While it's the last thing the battered



Torn Bloom

Internet retailers want to hear now, it's time they abandoned their fight against collecting those taxes. Taxation should be a part of a New New Economy eat-your-vegetables regimen: Cut costs, forget willy-nilly growth, make profits and pay The Man.

Let's make one thing clear: The Internet is not the ethereal duty-free shop that consumers seem to think it is. Most online sales are, by law, subject to sales taxes. But unlike a walk-in store, an online merchant isn't always required to collect these taxes because they don't have a physical presence—store, office, call center, etc.—or "nexus" in most states. If they did, they would be required to collect taxes if the buyer were in the same state.

If they don't, you're supposed to pay them yourself in most states, regardless of where you live. Few consumers do, of course. So, you're a tax cheat if you bought "Who Moved My Cheese?" from Amazon and didn't mail in the sales tax. But no need to worry. State and local tax collectors, while vexed, don't chase down scofflaw Web consumers because the prospect is daunting and politically untenable.

Taxing authorities across the nation haven't been much help. They have spent too much time bemoaning tax revenues "lost" to the Web and too little time creating a simplified and uniform system for taxing e-commerce. Like the music industry's wrestling with Napster, state tax authorities have neglected to adapt to rapidly changing technologies and consumer habits. The

multistate Streamlined Sales Tax Project is under way to get participating states to agree on a single plan, which will also affect mail-order businesses. As it is, the plethora of sales tax systems nationwide remains a thicket of confusion. Others suggest one flat federal sales tax instead of taxing the purchasers based on their state of residence.

It's time for all retailers to play on a level tax field. The break e-tailers get amounts to a subsidy of the Internet at the expense of Old Economy retailers. When my copy of "Cheese" lands on my doorstep from Amazon, I effectively get an 8.25% discount (state and local taxes) over walking down the block and buying the book at my local bookstore.

It is complicated, but online companies can certainly figure out how to collect sales taxes from their buyers effectively with the same kind of gee-whiz technology they brag about using to track millions of products.

The Internet has avoided the unpleasant task in part because it's a huge game for consumers. That's nice, but it's not fair. "For the life of me, I am not sure why we still have to help the Internet economy, which seems to have gotten more than its fair share of support," says Richard Ho. Please Turn to Page B6, Column 5.

Wall St Journal

Can Web Retailers Handle Taxes?

Continued From Page B1

worth, who runs a small bookstore in Oxford, Miss. He has a Web site, too, and understands the need for online commerce to grow. But he says the free ride for the Web must end. "If I can collect sales taxes, so can they," he says.

The distinction between online retail and storefront retail will get sillier as the two continue to merge over the next years. Look at the contortions Wal-Mart has had to go through to straddle online and off-line commerce. It has stores across the country, so it initially had to collect taxes on its Web sales to purchasers in those states where the company had real stores. But its online customers constantly complained that the Internet was supposed to be tax-free, says David Bullington, Wal-Mart's vice president of taxes. That changed when Wal-Mart moved its Internet interests into a separate company and took a venture partner in the site; now it only collects sales taxes in the four states where its Web company has major nexuses.

It has become a shell game. Many online companies structure their call centers and other far-flung locations as separate units to escape sales taxes. In turn, some states are trying to make the case that the silicon chips and telephone wires that online firms use in their states constitute a physical presence. Mr. Bullington calls this kind of tax-induced behavior "gymnastics" and bad tax policy and he is right. Nonetheless, "as long as there are two playing fields, we will compete on both."

Decisive action is needed now, especially as new forms of commerce appear on the Web. Already, there's the question of how to tax digital downloads of music, software and videos (after they stop being free). "It's likely to get even more confusing as all sorts of lines of retail are crossed in the future," says Wal-Mart's Mr. Bullington.

Democratic Sen. Byron Dorgan of North Dakota is set to play a large role in the outcome of the tax issue as the main backer of one bill in Congress. His legislation seems to have the most momentum so far, with a large number of powerful co-sponsors and

support from big off-line retailers.

Sen. Dorgan says he hopes to make significant progress with the bill by keeping to some main tenets. Those include: extending the moratorium on discriminatory or special taxes on Web access and e-commerce; directing a large group of states to agree on a simple, uniform process before giving them authorization to force sales-tax collection from online retailers; targeting Web retailers with sales of more than \$5 million in order to give smaller e-tailers a break; working out some sort of compensation for online collection efforts.

"It's not that people are slothful and indolent, but that governments don't make it particularly easy to figure out how to pay sales taxes," says the senator, a former tax commissioner. "That said, it's important to retain the base of sales taxes and help states and local governments maintain their ability to collect them."

Another bill would more stringently govern and monitor the states' simplification efforts by Congress and call for a permanent ban on Internet taxes for access. The bill is also in the Senate, proposed by Democratic Sen. Ron Wyden of Oregon, author of the current Internet law.

"Basically, we don't want to let the horses out of barn without a vote in Congress as to the rules of the road," says Sen. Wyden, whose bill is supported by major online interests.

Amazon's vice president for tax and tax policy, Robert Comfort, explained in March hearings before a Senate committee how little he trusted the states' ability to rid their "crazy-quilt sales and use-tax regimes" without some Congressional muscle.

"The states have repeatedly demonstrated inability or unwillingness to grapple with the issues that must be resolved in order to achieve genuine simplification," he complained.

Senators Dorgan and Wyden—with the help of Republican Sen. John McCain of Arizona, who heads the commerce committee—say they hope to bridge the gap between the opposing views over the next month or so. That heartens companies like Wal-Mart, which supports Sen. Dorgan's bill but is sympathetic to the issues raised by Sen. Wyden.

But there's an even simpler solution, says Mr. Howorth, the Mississippi bookstore owner. "Who really wants to argue in favor of sales taxes?," he says. "I say either make them collect or let me off too."

That would leave e-tailers with just death to worry about.

Internet Communications Inc.

+

In Search of a Simple Sales Tax

The complexity of 46 very different sales tax systems and the loss of tax revenue to Internet and catalog sales around the country have led the cry for simplification and uniformity.

By Carl Tubbesing

Representative John Hines is a rancher from northeastern Wyoming. He's been a member of the Wyoming House for 16 years and chaired the revenue committee there for eight years. Hines is soft-spoken and unassuming. He may even appear to be a bit taciturn, but he sports an occasional wry smile.

In February, Representative Hines established himself as a pioneer in a new tax movement that is taking hold in legislatures throughout the country. He moved his bill, HB 259, through passage during Wyoming's 40-day session, then watched on March 1 as Governor Jim Gehringer, a former legislative colleague, signed it into law.

With Representative Hines' leadership, Wyoming became the first state to approve a model act intended to simplify state sales tax systems. The action bucked a decades-old trend that had seemed irreversible. "Most state sales tax systems are complicated, convoluted and unfathomable," says Tennessee Representative Matt Kisber, another leader in the movement toward simplification. "It's not just that there are over 7,000 separate sales tax jurisdictions," he continued. "It's the variations in definitions, in rates, in forms and audit procedures. Consumers don't understand it. Retailers barely do. And state revenue departments almost despair at administering it."

Utah, led by Senator Lyle Hillyard, passed a different version of the legislation a few days after Wyoming's groundbreaking action. And, with 20 or more other legislatures considering the model during 2001, it is safe to say that the movement toward streamlining sales tax systems is serious and gaining momentum.

These model laws set up a structure and a timetable for states to come together to finalize a



Representative
John Hines
Wyoming

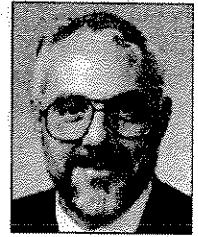


Representative
Matt Kisber
Tennessee



Senator
Lyle Hillyard
Utah

simplified sales tax system. The models address every aspect of sales and use taxes. "It is impossible to overestimate how sweeping and fundamental these reforms could be," says Illinois Senator Steve Rauschenberger, who, along with Representative Kisber, chairs NCSL's task force on taxation of electronic commerce. "Forty-five states plus the District of Columbia have sales taxes. That means that, right now, there are 46 very different sales tax systems in the country. Legislatures that pass the model will exchange complexity for simplification," he says.



Senator
Steve Rauschenberger
Illinois

SALES TAX COMPLEXITIES

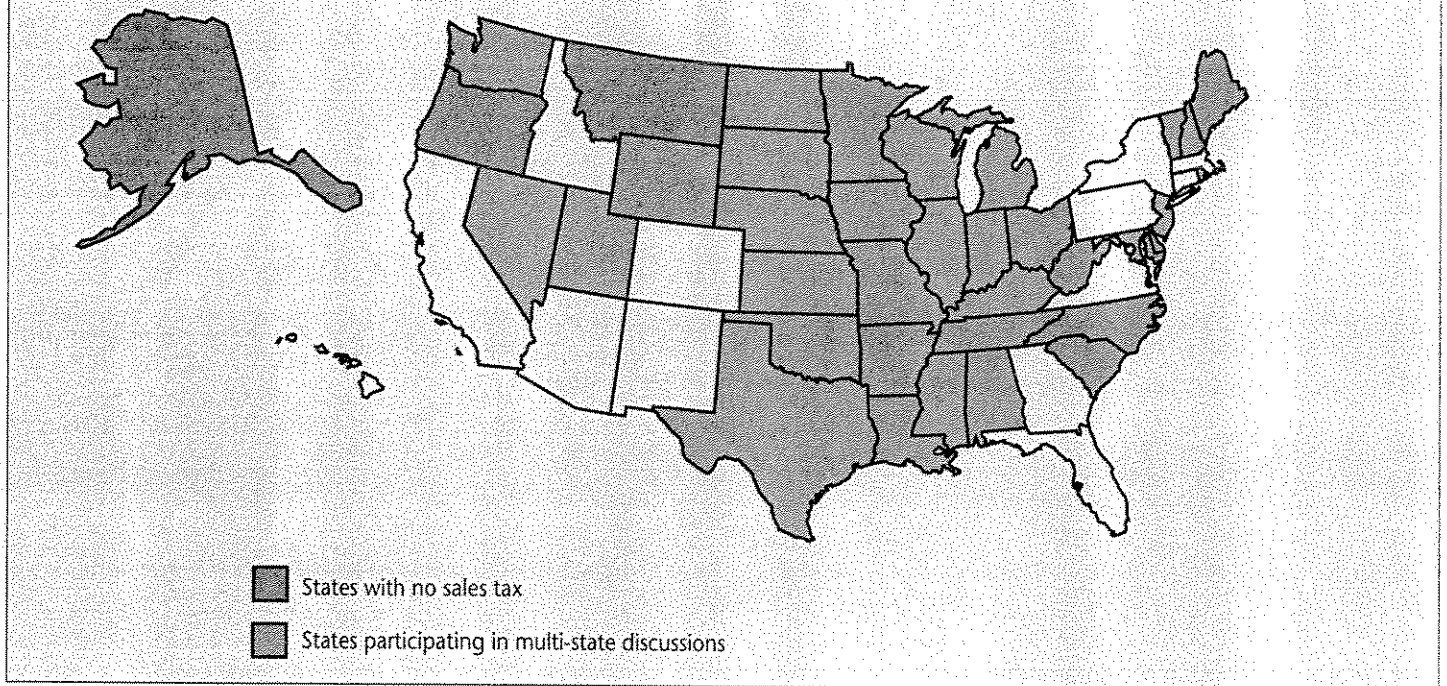
Most consumers are only vaguely aware of the complexities and variations in sales taxes. A shopper at Shaw's Supermarket in Fal-mouth, Maine, probably knows that he pays sales tax on a bottle of Tide, but he doesn't pay it on a box of Cheerios. A resident of Philadelphia knows she can visit the mall across the state line in Delaware and probably avoid paying sales tax on a new diamond ring. And a farmer in Michigan calculates the sales tax when he's buying a pickup truck, but doesn't have to when he springs for that new tractor.

Some states tax food, and some don't. Some tax clothing, and some don't. Some tax farm machinery, and some don't. Consumers know that. But they may not know that the definitions of food, clothing and other items vary from state to state. Are potato chips food or are they a snack? Is a scarf decorative or worn for protection?

The variations that consumers face are relatively simple compared to the complexities confronted by retailers, especially those doing business in more than one state. Most prominent are rates. The sales tax rate in Utah is 4.75 percent. The rate in West Virginia is 6 percent. In Connecticut, and a handful of other states, there is only one rate. In Colorado, though, there are 49 home rule cities with the authority to impose sales taxes on top of the state rate of 2.9 percent. In addition, retailers have to keep track of changes to the rates. They have to be aware of sales tax holidays and different audit procedures. They must comply with different consumer privacy laws and variations in laws governing returns and remittances.

Carl Tubbesing, NCSL's deputy executive director, heads the Washington, D.C., office. For more information on the sales tax issue call Graham Williams, Neal Osten or Gerri Madrid in NCSL's Washington, D.C., office (202) 624-5400 or Jeff Dale in the Denver office (303) 830-2200.

STATES PARTICIPATING IN STREAMLINED SALES TAX SYSTEM PROJECT



"Companies like Sears are committed to being responsible corporate citizens. We believe in supporting local and state governments," says Russ Davis, national director of government affairs. "We are very encouraged that state legislatures are moving toward simplicity and transparency in their sales tax systems. The sooner the states achieve simplification, the sooner we can move toward a level playing field for all retailers."

Representative Kisber observes that legislatures created these complexities in response to legitimate public policy concerns that vary from state to state. "Twenty-eight states exempt food from the sales tax. They've done that primarily to mitigate the regressive nature of the tax. But they don't all define food in the same way. That's just the way the legislative process worked in those states." In his estimation, "States like Wyoming and Utah that pass the model act are saying, 'We are willing to forgo complexity and sacrifice some of our responsiveness to achieve two or three broader policy objectives.'"

TWO MODELS UNDER CONSIDERATION

State legislatures are actually considering two different, yet complementary versions of a package designed to simplify state and local sales tax systems. Each contains both a model act and an accompanying agreement. In each version, the model act establishes the framework for completing a multistate streamlined sales tax system. The second document—that is, the agreement—offers the criteria that states would have to meet to enter into an interstate streamlined sales tax compact. One version was developed by the Streamlined Sales Tax Project (SSTP), a group of 32 state revenue officials. The other version, endorsed by NCSL's executive committee, is based on the streamlined project's work, but differs from it in several important respects.

The SSTP model spells out the requirements for definitions, round-

ing rules, sales tax holidays and bad debt procedures; while the NCSL model defers decisions on these sections until state officials begin meeting after their states have passed the model act. Another major difference deals with who those state officials will be. The SSTP model says revenue departments. NCSL wants a larger board that could contain legislators.

Rauschenberger notes that legislatures contemplating sales tax simplification have three primary options. "They can just pass the NCSL-endorsed model act. Or they can pass the NCSL act and the NCSL-endorsed agreement. The third alternative is to approve the SSTP model act and agreement.

"Passing either version of the model act is the key," he asserts. "That sets the stage for the hard work of getting a simplified sales tax system up and running."

SIMILARITIES IN SUBSTANCE

The SSTP and NCSL versions are identical in many ways. They attempt to achieve as much simplification and uniformity as possible in sales tax structure and administration. For example, current state laws range widely in the amount of notice they give to retailers about changes in rates and other sales tax requirements. Retailers complain that in some states they have little time to adjust computer software to accommodate a new rate or a change in definition. The models would require states to provide retailers "with as much advance notice as possible" and would limit the effective date of a rate change to the first day of a quarter.

The popularity of catalog and Internet sales has exacerbated the problem of determining what sales tax rate to apply. Does a consumer in New Jersey pay the New Jersey rate of 6 percent when she buys a parka from Land's End? Or does she pay 5 percent, which is the rate

in Wisconsin where Land's End is based? The models establish a set of uniform decision rules for making this determination.

Thirty-six of the states allow local jurisdictions to have their own sales taxes. In some of these, the state administers the local tax; in others, the local jurisdiction does it. In some, the state collects the local tax and remits it to the local government. In others, it is up to the local jurisdiction to collect the tax owed. Retailers, who add the tax to the amount of a purchase, find this confusing and cumbersome. The NCSL and SSTP models would require that the state administer the sales tax for local jurisdictions.

Both models anticipate that computer software will be an indispensable element of the new streamlined system, especially for retailers who sell in numerous states. Several companies have developed software that automatically calculates the sales tax owed—whether the consumer is standing at the modern equivalent of a cash register at The Gap store in Manhattan, Kan., or whether he is ordering the same item over the Internet. Several retailers, for example Sears and Wal-Mart, have developed their own software that does the same thing. Both models establish standard ground rules for certifying these different software systems.

Other common features of the two models include uniform audit procedures, uniform tax returns, a central registration for sellers and uniform privacy protections for consumers.

DEFINING THE DIFFERENCES

A primary difference between the two models centers on governance and who will represent a state in the next round of discussions. The streamlined project's model says that the state revenue director will be the representative. NCSL amended that provision to allow a legislature to designate up to four representatives that could include legislators, revenue officials, local officials and members of the private sector.

"Our task force simply felt that the next phase of the discussions among the states needed both the technical expertise of our revenue departments and the policy and political perspective of elected officials," says Tennessee Representative Kisber.

NCSL's electronic commerce task force, which developed the organization's model act and agreement, had lengthy debates over def-

COMPARISON OF NCSL'S AND THE STREAMLINED PROJECT'S APPROACHES

The NCSL task force based its simplification recommendations on the work of the Streamlined Sales Tax Project represented by 32 states and co-chaired by Diane Hardt and Charles Collins, state revenue department officials from Wisconsin and North Carolina.

COMMON FEATURES

NCSL's version and the SSTP version move states toward the same goal of an interstate agreement that would streamline administration of state sales and use taxes. Much in the two formulas is the same:

- ◆ Single, one-stop registration for sellers.
- ◆ State administration of both state and local option sales taxes.
- ◆ Consistent electronic filing procedures.
- ◆ Uniform sourcing rules to determine which jurisdiction is entitled to tax a sale.
- ◆ Uniform audit procedures.
- ◆ Uniform administration procedures for exempt purchases and purchasers.
- ◆ Simplified tax returns.
- ◆ Uniform state and local tax bases.
- ◆ Protection of consumer privacy.

UNRESOLVED ISSUES

There are a few items included in the SSTP model that the NCSL model defers for final resolution by a new governing body made up of states that pass the model act. The task force feared that including these unresolved issues in the model at this stage could slow the progress of the legislation in state legislatures. The items awaiting final resolution are:

- ◆ Uniform definitions.
- ◆ Uniform rounding rule.
- ◆ Uniform bad debt provision.
- ◆ Uniform treatment of caps, thresholds and sales tax holidays.

DIFFERENT APPROACHES

There are two issues on which the models differ.

GOVERNANCE

NCSL

◆ Each state may send up to four officials (picked by the legislature) to represent it in the next phase of discussions with the other participating states.

◆ States passing the model act alone or the model act and legislation to comply with the terms of the agreement will be allowed full voting rights in the interstate discussions to follow. States passing the model act alone have until July 1, 2003, to approve the accompanying agreement.

SSTP

◆ Each state is represented by its revenue director.

◆ States must pass both the model act and the accompanying agreement to be able to vote on changes to the agreement.

UNIFORM BASE

NCSL

◆ The model requires local governments to have the same tax base as their state by Dec. 31, 2005; but it allows the state to establish a rate of zero on items such as food, clothing, electricity and gas that the state does not want to tax, but is willing to let local governments tax. Each state would have its own uniform base—that is, the things it taxes—but local governments would not lose revenue on items they currently tax and the state doesn't.

SSTP

◆ The model requires local governments to have the same tax base as the state by Dec. 31, 2005. For example, if the state does not tax food, then local governments cannot tax food either.

—Graham Williams, NCSL

initions, vendor compensation, rounding rules and bad debt. The question of uniform definitions of goods to be taxed was particularly nettlesome. Should soft drinks or candy be treated as food? "The controversy that these issues stirred up threatened to derail the whole project," recalls Rauschenberger. "The task force feels strongly that these questions have to be resolved. But including them at this point easily could have stalled the legislation in several states that otherwise are ready to participate. Deferring this until later buys time to work toward consensus."

Also troublesome for the NCSL task force was the question of how much a state should compensate a retailer for collecting the sales tax. The current range is from a low of no compensation to a high of 5 percent of the amount of the transaction. The SSTP model specifies a process for setting this rate for participating states. The NCSL task force finessed the issue by adopting the SSTP recommendation while calling for a study of the actual costs that vendors incur. The results of the study will be used to review the level of vendor compensation in the future.

FORCES DRIVING THE SIMPLIFICATION MOVEMENT

Four primary forces have driven the sales tax simplification movement:

- ◆ A pair of Supreme Court decisions.
- ◆ The revenues that state and local governments are losing because of catalog, Internet and other remote sales.
- ◆ The cries from some retailers to "even the playing field" between local merchants and out-of-state sellers.
- ◆ The possibility of federal legislation.

In many ways, the drive toward sales tax simplification began in 1967 with a U.S. Supreme Court decision. In *National Bellas Hess vs. Illinois*, the Court ruled that a state cannot require an out-of-state seller to collect sales tax on an item sold to one of its residents. A consumer in Missouri owes the tax, say, on a pair of boots bought through the L.L. Bean catalog, but the Missouri revenue department cannot force L.L. Bean to collect the sales tax and send it back to Missouri.

State legislators, governors and local officials made a big push in the late 1980s to persuade Congress to pass legislation that would correct the *Bellas Hess* decision. North Dakota Senator David Nething was in NCSL's leadership at the time. "We came really close a couple of times," he remembers, "but we just couldn't get it done."

The growth of catalog—and, later, Internet—sales eroded state revenues. A late 1980s study placed revenues lost to catalog sales as high as \$3 billion. A recent University of Tennessee study estimates that states will lose \$10.8 billion by FY 2003 if they are unable to collect taxes on remote sales.

As catalog and Internet sales increased, state officials worried about meeting their responsibilities in a rebalanced federal system and satisfying rising demands for services from their constituents. But they also discovered natural allies among certain members of the private sector. "We've talked about 'leveling the playing field' for so long, it's become a cliché," says Nething. "But it still describes the problem. Local merchants—the shops you see on any town's Main Street—were at a disadvantage to the catalog companies, who weren't collecting the sales tax."



Senator
David Nething
North Dakota

Rauschenberger puts it this way. "I chair the Appropriations Committee, so I have a responsibility to make sure Illinois has a fair, equitable and dependable revenue system. But I also represent hundreds of independent merchants. They operate on such close margins, it doesn't take much to put them out of business. Losing customers to the catalog and Internet companies could just do it—and it has."

In 1992, state officials in North Dakota, hoping for a reversal of the *Bellas Hess* ruling, brought another out-of-state sales tax case to the Supreme Court. The Court, though, in *Quill vs. North Dakota*, affirmed its earlier decision and offered additional justification for its position. The complexity of state and local sales tax systems, the Court said, constitutes an undue burden on remote sellers—Land's End in Wisconsin selling to a customer in New Jersey or Amazon.com shipping a book to an on-line consumer in Nebraska. The complexity of the systems and the costs they impose on out-of-state retailers, in turn, are a burden on interstate commerce. Forcing the remote seller to collect and remit sales tax, therefore, would be a violation of the Commerce Clause of the U.S. Constitution. The exceptions to this, the Court said, are companies that have nexus—that is, a physical presence—in a state. Thus, a customer in Kansas buying from the JC Penney catalog must pay the sales tax because there are Penney's stores in Kansas.

After several fruitless years of continuing the fight for relief through congressional legislation, several state legislators and governors embraced a new interpretation of the *Quill* decision. They came to view the ruling not as an insurmountable obstacle, but rather as a road map to show state and local governments what they would have to do in order to collect taxes on catalog, Internet and other out-of-states sales. They reason that the high court's concern in *Quill* is with complexity and the costs that retailers have to bear to comply with 46 different sales tax systems. If state governments reduce the complexity and eliminate the costs, then it follows that the Court could say the burden is gone and allow states to require retailers to collect sales taxes—whether they are in-state or out-of-state.

"It was the sales tax equivalent of 'I could have had a V-8,'" remarks Senator Rauschenberger. "We were all defending an anachronistic, 70-year-old system. The answer, it became clear, was to fix the system."

The simplification movement has also been driven by the possibility of federal legislation—of two opposing types. Some members of Congress prefer to make the Internet a "tax-free zone" and have introduced legislation that would prohibit taxation of any Internet activities. The threat of that kind of legislation imposes urgency on the state simplification movement.

"States have progressed so far in such a short period of time. But, we have to keep moving to head off something really draconian emerging from Congress," Representative Kisber argues.

There are other members of Congress—in the Senate especially—who are crafting legislation that would build on the states' simplification efforts. North Dakota Senator Byron Dorgan, Ohio Senator George Voinovich, Wyoming Senator Michael Enzi and several others have introduced a bill that would authorize states to collect taxes on out-of-state sales once 20 or more of them have simplified their sales tax laws. Kisber points out that "state legislators leading the simplification efforts want to give impetus to the Dorgan bill by showing that states are serious about streamlining."

Opposition to efforts to collect sales taxes on Internet sales and to the simplification movement comes from several sources. They range from the philosophical to the nitty gritty. Arrayed at the philosophi-

SIGNIFICANT DATES IN THE HISTORY OF THE SALES TAX

1930

Mississippi enacts the nation's first state sales tax to shift reliance from property taxes in the face of widespread property devaluations brought on by the Great Depression. By 2001, 45 states and the District of Columbia have a sales tax, accounting for roughly one-third of all state revenues.

1967

The United States Supreme Court rules in *National Bellas Hess, Inc. vs. Illinois Department of Revenue* that states cannot compel remote sellers to collect and remit sales taxes on sales shipped into their state.

1992

In *Quill vs. North Dakota*, the United States Supreme Court upholds the *Bellas Hess* ruling, citing the complexity of sales tax structures from state to state as an undue burden on remote sellers and on interstate commerce.

Oct. 1998

President Clinton signs into law the Internet Tax Freedom Act (ITFA). The law establishes a three-year moratorium on state taxes on Internet access and on multiple or discriminatory taxes on transactions made over the Internet. The act creates the Advisory Commission on Electronic Commerce to present recommendations to Congress on tax issues related to electronic commerce.

Nov. 1998

NCSL establishes the Executive Committee Task Force on State and Local Taxation of Telecommunications and Electronic Commerce.

June 1999

The Advisory Commission on Electronic Commerce, chaired by Virginia Governor James Gilmore, holds the first of six meetings, but, in the end, fails to achieve a two-thirds majority on any proposal related to sales tax on goods sold over the Internet.

Jan. 2000

The NCSL task force endorses model legislation that directs state revenue departments to enter into multistate discussions to develop a simpler, more uniform, and fair system of sales and use tax collection. By March 2001, 32 states join as participating members in the Streamlined Sales Tax Project (SSTP), either through the NCSL model act or executive order.

Feb. 2000

University of Tennessee Professor Bill Fox releases a study that estimates that states would collectively lose \$10.8 billion by FY 2003 if existing taxes on sales over the Internet were not collected.

Jan. 2001

The NCSL task force and the Streamlined Sales Tax Project endorse different, but complementary versions of a model sales tax simplification act and an accompanying agreement.

March 1, 2001

Wyoming becomes the first state to enact sales tax simplification legislation.

—Graham Williams, NCSL

cal end are elected officials such as Virginia Governor James Gilmore and anti-tax advocates such as Grover Norquist, who heads Americans for Tax Reform. They view efforts to tax remote sales in the context of their overall opposition to taxes.

Gilmore chaired the now defunct federal Advisory Commission on Electronic Commerce. He included a personal statement as an addendum to the commission's final report: "I was guided by the philosophy that no taxation should be presumed necessary. To the contrary, the presumption should favor the right of individual citizens to keep their own hard-earned money."

Another group of opponents includes elected officials and representatives of the private sector who believe taxation of sales and other activities over the Internet is a threat to the viability of the various industries associated with it. Stanley Sokol, a lobbyist for companies that conduct business over the Internet, was also a member of the federal Advisory Commission on Electronic Commerce. "The wonderful thing about the Internet—its instant market access—also makes state tax designs potentially devastating to Web businesses," he noted in the statement he attached to the commission's final report.

The specifics of the simplification proposals have generated controversy, much of it from various private sector interests who believe they are benefited or damaged by components of the model acts and agreements. For example the soft drink industry, which otherwise has

not opposed simplification, has raised concerns about language in the definition section of the SSTP model agreement that could affect the tax status of soft drinks.

Finally, there are those who feel the simplification proposals have not gone far enough. Frank Julian, representing Federated Department Stores, testified before the U.S. Senate Commerce Committee calling the SSTP model "simplification lite" and the NCSL model "simplification ultra-lite. "The burdens of collecting the sales tax are very real," he said. "The sales tax must be simplified if it is to survive."

WHAT'S AHEAD

"There may be only one thing better than playing inside baseball," says Senator Rauschenberger, "and that's playing inside the sales tax code. There are so many details to master, so many opportunities for missteps. What impresses me is how much progress we have made in such a short period of time. Proposals for such fundamental change are bound to generate controversy. The controversy is worth it, though. The consequence of letting a major revenue source become obsolete is that the states will revert to being dependents of the federal government."

Representative Kisber agrees. "This could be our last opportunity to keep the sales tax from imploding and to prevent the states from being irreparably weakened in the process." ■

Sen. Jauch

From: Scott Mackey [mackey@kse50.com]
Sent: Wednesday, May 02, 2001 7:56 AM
To: 'bjauch@discover-net.net'; 'sen.jauch@leg.state.wi.us'
Subject: SSTP and NCSL

Here are my thoughts on the differences between the NCSL and SSTP versions of the ACT only.

Governance:

- 1) 4 delegates instead of 1 and leg. participation
- 2) Under the NCSL version, states that pass either the Act or Act & Agreement take over the power to change the agreement. Under SSTP, the project keeps the authority to amend the agreement until such time that 5 states pass the Act and Agreement and certify that each of the other states are in compliance.

Currently NCSL, NGA, FTA and the MTC are near agreement on a statement that says states that pass either the NCSL, SSTP, or some hybrid act will join together to start these discussions. So no matter what act you pass, the state will be at the table.

Major NCSL Deletions in the ACT:

deleted requirement for uniform definitions

deleted requirement for uniform bad debt provision

deleted requirement for uniform rounding rule

rate requirements (NCSL says you can have a single, lower statewide rate on food and other items identified by the agreement. SSTP says all items in the base must be taxed at the same rate)

The NCSL enabling act does not prohibit the agreement from having these things, but it does not require them for the state to enter into the agreement. The SSTP requires them to be in the agreement.

Status of state adoption:

SSTP Act and Agreement signed into law: WY

SSTP Act Only signed into law: AR, KY

NCSL Act Only signed into law: ND

Hybrid Act only signed into law: UT

NCSL Act only cleared, pending Gov: IN, MD

NCSL Act only in Conference: FL, OK

NCSL Act only passed one House: IL, NV

Hybrid act only passed one House: KS, LA

NCSL Act only passed committee: MO, TN, TX

Hybrid Act only passed committee: NE

Other states likely to pass NCSL version: MA, OH, MI

Other states likely to pass SSTP version: NC, MN, WI??

When this session is over, here is what I think will have happened:

Passed SSTP Act and Agreement: NC, WY

Passed SSTP act only: AR, KY, MN

Passed NCSL act only: ND, IN, MD, OK, FL, IL, NV, TN, TX, MA, OH, MI

Passed modified or SSTP/NCSL hybrid: UT, LA, AR, KY, NE

These are just my speculation. I hope this is helpful



INTERNATIONAL MASS RETAIL ASSOCIATION

The world's leading alliance of retailers and suppliers.

Robert J. Verdisco, *President*

May 8, 2001

Ms. Diane Hardt
Tax Administrator
Division of Income, Sales and Excise Tax
Wisconsin Department of Revenue
2135 Rimrock Road
Madison, WI 53708-8933

Dear Ms. Hardt:

On behalf of the International Mass Retail Association (IMRA), I am writing to express our strong support for simplification of state sales and use taxes. I understand the State of Wisconsin currently is working on sales tax simplification. On behalf of IMRA's members, I applaud and encourage the pursuit of simplification and harmonization.

As you know from your work on the Streamlined Sales Tax Project (SSTP), significant and meaningful simplification and standardization of sales and use tax regimes across state lines will greatly reduce administrative costs and complexity for all retail businesses. Perhaps most significantly, dramatic simplification will be necessary if Congress is to grant states the authority to require out-of-state remote sellers to collect and remit state sales/use taxes—what we call a "level playing field" for all retailers.

I appreciate the continued involvement you have afforded retailers in the SSTP. If IMRA can be of any assistance, please contact me or Kathryn Lavriha, Senior Vice President for State Government Affairs, at 703/841-2300.

Sincerely,

A handwritten signature in black ink that reads "Robert J. Verdisco". The signature is written in a cursive, flowing style.

Robert J. Verdisco
President

Cc: Chris Tackett, President & CEO
Wisconsin Merchants Federation

Joint Committee on Information Policy

2001-02 session
~~1995-96 Session~~

Committee Rules

[s. 13.45 (5), Stats.]

1. The Cochairpersons may use a paper ballot to submit questions before the Joint Committee to the members of the Committee for a vote.

Date Approved:

5/9/01

Joint Committee on Information Policy
Testimony of Diane L. Hardt of the Wisconsin Department of Revenue
May 9, 2001
330-SW, State Capitol

Senator Jauch, Representative Pettis, and Committee Members:

Thank you again for inviting me here today to testify about the Streamlined Sales Tax Project (SSTP). This is the third time I have been before this committee. I'm not going to repeat everything I have said before; I will summarize the goals of the project and update you as to where we are.

Background

The SSTP is a nationwide effort to bring the sales tax into the 21st century by making it easier for sellers to administer and consumers to understand. This is especially important in this age of multi-state businesses and internet commerce.

The project is focused on simplification and uniformity. Also, the project proposes new technology models to help sellers, both multi-state and e-commerce sellers, to collect and remit sales taxes currently owed to states.

The project has involved 40 states who have a sales tax, local governments, and many businesses, especially large multi-state and e-commerce businesses, in designing the new system.

Model Legislation

The project is proposing model legislation in two steps. The first step is for states to authorize their revenue departments to continue discussions and enter into agreements to simplify and modernize sales and use tax administration. This authorization in no way amends any current sales tax law of the state. Assembly Bill 317 and Senate Bill 152 provide this authorization. Enactment of the bills allows the Department of Revenue to continue our national leadership role in designing a new sales tax system. Note that 27 states have now introduced the legislation and 7 states have enacted the the legislation (Arkansas, Kentucky, Louisiana, Nevada, North Dakota, Utah, and Wyoming).

The second step is to enact the actual simplifications into law. These simplifications will be included in a future bill here in Wisconsin and will include such things as reducing the burdens on sellers for exemption processing; providing for uniform sourcing rules in all states; using uniform definitions, particularly for food and clothing; simplifying audit procedures; and requiring states to administer state and local sales tax laws.

Project Progress

The SSTP met in Milwaukee in the last two days. Forty states and representatives of the business sector from around the country continued to work on various project components, hear reports, and resolve differences. We were happy to have Senator Jauch address the group. I wish I could describe for you the cooperation and momentum within the project. As one private sector attorney wrote about the project, "individuals and groups have been talking about doing something like this for years, but real movement has not occurred until now." AT&T and General Electric are active in the project and I know they are here to testify today too.

Federal Legislation

I want to make you aware of pending federal legislation in regard to mandating states to simplify their sales tax laws.

Congress passed the Internet Tax Freedom Act in 1998. This Act prohibited the taxation of internet access charges unless a state was already taxing these charges (like Wisconsin) at the time of enactment. This Act in no way prohibited the taxation of commerce over the internet. The Act expires in October 2001 and there is much discussion in Congress about extending this moratorium.

A number of U.S. Senators are working on an extension bill that will mandate states to simplify their sales tax laws. The bill is expected to refer to the simplifications proposed by SSTP. The bill may allow states to mandate collection of sales taxes on all forms of commerce including mail order and internet commerce. The bill could also force states to go to one sales tax rate per state or prohibit sales tax collection on internet access charges permanently. We are expecting the Senators to take up some bill before the Senate Finance and Commerce Committees within two weeks.

Questions

Adm

Friday, August 17, 2001

Diane Hardt, Administrator
Income, Sales and Excise Tax Division
Department of Revenue
2135 Rimrock Road
Madison, WI 53708-8933

Dear Diane,

First let me say how nice it was to see you at the NCSL Annual Meeting in San Antonio. Despite the warm weather, it was once again a productive, educational and enjoyable gathering.

I appreciate receiving from you the information regarding the August 23-24 Streamlined Sales Tax Project meeting in Minneapolis. Unfortunately, scheduling conflicts on those days will prevent me from participating in the meeting. I wish you well and hope you will continue to keep me so well informed of the progress and activities of the project.

Thank you and I look forward to talking with you in the near future.

Sincerely,

Bob Jauch
State Senator
25th Senate District

**Streamlined Sales Tax Project
Agenda**

**August 23-24, 2001
Hilton Minneapolis/St. Paul Airport Hotel
Minneapolis, MN**

3800 East 80th St.
Bloomington, MN

55425

952-854-2100

Wednesday, August 22

1:00pm-5:00pm Combined Work Group Meeting (State Personnel Only)

Thursday, August 23

8:00am Continental Breakfast (For All Attendees)

8:30am-10:00am Combined Work Group Meeting (State Personnel Only)

10:30am-12 noon General Session (Open to government and private sector)

12:00-1:00pm Lunch for all

1:00pm-5:00pm General Session (Open to government and private sector)
Work Group/Subgroup Sessions (To be scheduled based on results of
General Sessions)
*(As a general rule, work group sessions will be open to the private
sector. Some work groups may have a closed session for a limited
period of time.)*

Friday, August 24

8:00am Continental Breakfast (For All Attendees)

8:30am-11:00am General Session
(Open to government and private sector)

11:00am-12 noon Project Meeting*
(Open to government and private sector)

- Welcome
- Introductions
- Approval of Minutes
- Public Comment Period
- Announcements

*Members of the public wishing to address the Project should contact Charles Collins (919) 733-2151 or Diane Hardt (608) 266-6798 to be included on the agenda. Time for each person may be limited, depending on the number of persons wishing to address the Project.

STATUS OF STATE EFFORTS ON STREAMLINED SALES TAX PROJECT
(as of 08/09/01)

(18 States have enacted simplification legislation; 1 State legislature has approved legislation awaiting gubernatorial signature; 10 States have introduced legislation pending consideration)

STATE	LEG. ADJ.? (Y/N)	LEGISLATION, DATE OF INTRODUCTION, AND SPONSOR	LEGISLATIVE STATUS	REVENUE DEPARTMENT CONTACT	OTHER INFORMATION
Alabama	N (5/14)	HB 472 and SB 321 (SSTP Act only) introduced on 02/19/01 by Rep. Lindsey and Sen. Sanders.	Both bills have been referred to the tax-writing committees. No hearings have been scheduled as legislature is currently in Special Session.		
Alaska	Y				
Arizona	Y				
Arkansas	Y	HB 2170 (SSTP Act only) introduced on 02/27/01 by Rep. Hunt and Sen. Hill	HB 2170 signed into law by Gov. Huckabee on 04/04/01.	Mary Cameron 501-682-7030	
California	N (9/14)				
Colorado	Y				
Connecticut	Y				
Delaware		NO SALES TAX			
Florida	Y	SB 1638 and HB 1329 introduced week of 03/13/01.	HB 21 (incorporating provisions from SB 1638 and HB 1329) signed into law by Gov. Bush on 06/13/01.		
Georgia	Y				
Hawaii	Y				
Idaho	Y				
Illinois	N (5/26)	SB 164—(NCSL Act and Agreement) introduced by Sen. Rauschenberger	SB 164 signed into law by Gov. Ryan on 08/02/01.		
Indiana	Y	SB 269 (NCSL Act only) introduced on 01/10/01 by Sen. Borst	SB 269 signed into law by Gov. O'Bannon on 05/02/01.	Jim Turner 317-232-1882	
Iowa	Y	SF 409 (NCSL Act only) introduced 03/08/01 by Sen. McLaren	Legislature adjourned absent consideration of SF 409.	Carl Castelda 515-281-5990	Rev. Dept. officials have held a number of meetings with stakeholder groups, i.e., state retail federation, taxpayers association, local government groups; task force formed by Iowa Taxpayers Assn. to study proposal.
Kansas	Y	SB 252 (Modified Act only) introduced upon recommendation of the Revenue Department and SSTP Oversight Committee.	SB 252 approved on February 14, 2001 by the full Senate; sent to the House Tax Committee for consideration; session adjourned 05/08 with no action.	Richard Cram	

Indicates SSTP Version of Legislation; Indicates NCSL Version of Legislation; Indicates Modified Act; Indicates Legislative Enactment; Indicates No Sales Tax State

STATE	LEG. ADJ.? (Y/N)	LEGISLATION, DATE OF INTRODUCTION, AND SPONSOR	LEGISLATIVE STATUS	REVENUE DEPARTMENT CONTACT	OTHER INFORMATION
Kentucky	Y	HR 367 (SSTP Act) introduced on 02/20/01 by Rep. Moberly.	HB 367 signed into law by Gov. Patton on 03/13/01.	Charlotte Quarles 502-564-6843	
Louisiana	Y	HB 994 (SSTP Act) introduced on 03/26/01 by Rep. Hammett	HB 994 signed by Gov. Foster on 05/29/01.	Raymond Tangney 225-925-6047	
Maine	Y				
Maryland	Y	HB 1390 (NCSL Act only) introduced on 02/23/01.	HB 1390 approved by House on 03/18; approved by Senate on 04/04; signed by Gov. Glendening on 05/18/01.		
Massachusetts	N (Full Year)	H1523 (SSTP Act only) introduced on 01/03/01 by Rep. Travis	Referred to the Committee on Taxation, no hearings scheduled		
Michigan	N (Full Year)	SB433 (Modified Act only) introduced on 04/26/01 by Sen. Emmons.	SB433 approved by Senate on 05/17/01.	Nancy Taylor 517-241-2734	Rev. Dept. officials feel legislators still need more education on issue; stakeholder meetings have been held with state retailers.
Minnesota	Y	S1325 by Sen. Rest H1416 by Rep. Abrahams introduced on 03/08/01 (SSTP Act and Agreement)	Legislation approved as a part of H.F. 1 on 06/28/01; signed by Gov. Ventura on 06/30/01.	Jenny Erigh 651-226-9640	Gov. Ventura held press conference on date of introduction stressing the importance of simplification; Rev. Dept. will be using media and industry focus groups to publicize efforts; have prepared talking points that will be made available to other states.
Mississippi	Y				
Missouri	Y	HB 803 (NCSL Act) introduced on 02/15/01 by Reps. Bray and Kennedy	Substitute bill (SB 460) approved by House on 05/14.		
Montana		NO SALES TAX			
Nebraska		LB 172 (SSTP Act only) introduced on 01/19/01 by the Revenue Committee.	Signed by Gov. Johanns on 05/31/01.	Mary Jane Egr 402-471-5604	LB172 made two changes to the Act— gives the Governor authority to enter into Agreement and requires ratification of Agreement by the Legislature before state can participate.
Nevada		AB455 (modified Act only) introduced on 03/19/01 by Asbmn. Goldwater, Cegavske & Arberry and Sens. McGinniss, Coffin and Schneider.	Gov. Guinn signed AB 455 into law on 06/05/01.	Woody Thorne 775-687-5774	The agreement will fall under the jurisdiction of the State's referendum law. Any changes to definitions, exemptions, etc. will require approval of the voters before taking effect. Thus, a major voter education effort will be required.
New Hampshire		NO SALES TAX			
New Jersey	N (Full Year)				
New Mexico	Y				
New York	N (Full Year)				

STATE	LEG. ADJ.? (Y/N)	LEGISLATION, DATE OF INTRODUCTION, AND SPONSOR	LEGISLATIVE STATUS	REVENUE DEPARTMENT CONTACT	OTHER INFORMATION
North Carolina	N (7/1)	SB 144 (SSTP Act and Agreement) introduced on 02/14/01 by Sen. Kerr.	SB 144 signed by Gov. Easley on 08/03/01.	Sabra Fairles 919-715-0237	Rev. Dept. holding meetings with stakeholder groups to provide education and gain support.
North Dakota	Y	SB 2455 (NCSL Act) introduced on 02/08/01 by Sen. Cook and Sen. Nothing	SB 2455 signed by Gov. Hoeven on 04/23/01.	Gary Anderson 701-328-3471 Myles Vosberg 701-328-3011 Bill Marshall 614-466-4810	
Ohio	N (Full Year)	SB 143 (NCSL Act) introduced by Sen. Blessing on 06/28/01			
Oklahoma	Y	SB 703 (NCSL Act) introduced by Sen. Monson	SB 589 signed by Gov. Keating on 05/24/01.		
Oregon		NO SALES TAX			
Pennsylvania	N (Full Year)	HB 900 (NCSL Act) introduced on 03/14/01 by Rep. Steil.	HB 900 referred to Intergovernmental Affairs Committee.	Tom Armstrong 717-697-1959 or Tom Kimmitt 717-787-1382 Bob Geruso 401-222-3050 Meredith Cleland	
Rhode Island	Y	HB 6494 introduced on 06/06/01.	HB 6494 signed by Gov. Almond on 07/10/01.		
South Carolina	Y		Legislation is being drafted and discussed, but introduction date not determined		
South Dakota	Y	SB 166 (SSTP Study Proposal) passed 03/01/01	Governor signed SB 166 on 03/05/01; Legislature forms Task Force to study impact on municipalities; report due in Dec. 2001.	Scott Peterson 605-773-3311	
Tennessee	N (5/31)	HB 1459 (NCSL Act) introduced on 02/14/01 by Rep. Kisher; SB 1722 (NCSL Act) introduced on 02/14/01 by Sen. Cooper.	HB 1459 signed by Gov. Sundquist on 05/30/01.	Jack Kopald 615-741-5884	
Texas	Y	HB 1845 (NCSL Act) introduced on 02/21/01 by Rep. Oliveira; SB 1184 introduced by Sen. Van de Puette on 04/15.	HB 1845 signed by Gov. Perry on 06/15/01.		Rev. Dept. officials holding ongoing meetings with stakeholder groups to gain support.
Utah	Y	SB 74 (modified Act) introduced by Sen. Hillyard.	SB 74 signed into law by Gov. Leavitt on 03/15/01.	Bruce Johnson 801-297-3901 George Phillips 802-828-2532	
Vermont	Y	H457 (SSTP Act only) introduced by Rep. Keenan on 03/01/01.	Legislation referred to Ways and Means Committee.		
Virginia	Y				
Washington	Y				
West Virginia	Y	SCR 17 introduced to create an interim study committee to examine feasibility of Act.	05/07/01 Joint Committee on Gov. and Finance approved assigning SCR 17 to interim study committee.		

STATE	LEG. ADJ.? (Y/N) (Full Year)	LEGISLATION, DATE OF INTRODUCTION, AND SPONSOR	LEGISLATIVE STATUS	REVENUE DEPARTMENT CONTACT	OTHER INFORMATION
Wisconsin	N (Full Year)	AB317 and SB 152 introduced by Joint Committee on Information Policy. AB 317 introduced on 04/12/01; SB 152 introduced on 04/18/01.	SB-55 (WI budget bill) passed on 07/26/01, containing SSTOP Act; legislation sent to Governor for signature.	Diane Hardt 608-266-6796	Rev. Dept. continuing meetings with stakeholders; Rev. Dept. has put together talking points and information for insertion in business community newsletters—effort well received.
Wyoming	Y	HB259 (SSTOP Act and Agreement) introduced on 01/23/01 by Rep. Hines and Sen. Peck.	HR 259 signed into law by Gov. Geeringer on 03/01/01; effective date of July 1, 2002.	Johnnie Burton/Dan Noble 307-777-5287	