



Testimony of the Kansas Association of Counties
To the House Committee on Taxation
Opposition to HB 2435 (Assessing Sales Tax on Municipalities)

May 20, 2015

Mr. Chairman and Members of the Committee:

Yesterday, this committee discussed a conceptual bill to end the sales-tax exemption on state and local building projects. The result, HB 2435, eliminates the sales-tax exemption for property purchased for constructing “facilities.” This is a broad category that the Department of Revenue has applied not only to buildings but also roads and bridges.¹ This is a dramatic policy change with potential for great harm to our municipalities and our state’s infrastructure. KAC opposes this bill.

Throughout the 2015 legislative session, both legislators and local officials have expressed concern over our local infrastructure. Recent reports by transportation groups share the same concern.² This transportation concern may seem tangentially related to the tax committee, but it highlights the policy reason why this bill should not move. Any hindrance on municipal buying power only contributes to the crumbling infrastructure within our borders. Eliminating the sales-tax exemption adds additional burden to locals as they proceed with projects for their respective communities.

McQuillin Municipal Treatise, the definitive record for municipal laws, offers severe language for the prospect of taxing locals: “allowing such property to be taxed would produce an absurd result of having the state effectively tax itself.”³ This is absurd for all municipalities, but particularly for counties, as subjecting municipalities to sales tax simply takes local sales tax out of one pocket and puts it in the other. Municipalities—our cities, counties, and schools—are all subdivisions and partners with the state to provide essential services. Even restricting this bill to the narrowest definition of “facility” will handcuff municipalities as they serve the public. The proposal

¹ Kansas Department of Revenue Exemption Certificates (2015). Available at: www.ksrevenue.org/pdf/pub1520.pdf.

² Rural Connections: Challenges and Opportunities in America’s Heartland, The Road Information Program (TRIP) (2015). Available at: http://tripnet.org/docs/Rural_Roads_TRIP_Report_May_2015.pdf; 2013 Report Card for Kansas’ Infrastructure, American Society of Civil Engineers (2013). Available at: www.infrastructurereportcard.org/kansas/kansas-overview/.

³ 16 McQuillin Mun. Corp. § 44:73 (3d ed.).

in HB 2435 seeks to address the state’s deficit by shifting the burden to local governments, which undermines transparency and undercuts the services Kansas expects municipalities to provide.

Governments grant tax exemptions to promote certain conduct,⁴ one of which is to maintain safe and effective public buildings—an outcome worth promoting. Taxing counties and other municipalities with sales tax makes this desired result less likely. But if a municipality determines it must still proceed with construction, then HB 2435 merely shifts the tax burden to local property taxes. The Department of Revenue offered revenue estimates ranging from \$92.7–\$175.6 million for the state. But this is just filling the state coffers by raiding those at the local level.

The combination of reduced funds for infrastructure combined with the shift of the tax burden to property taxes ought to be reason enough to halt HB 2435. But the breadth of the bill should also cause this committee to pause. In the past 15 hours, we have scrambled to provide thoughtful testimony so this committee can accurately analyze the merits of the legislation. But a bill that proposes to strip hundreds of millions from Kansas counties warrants more research and evaluation before the legislature acts.

Our county officials have expressed great concern over the issues facing the Kansas Legislature. The prevailing plea, however, is to avoid shifting any of those burdens down to the local level. This is the exact frustration that state and local governments collectively attribute to the federal government, and there is no reason to impose the same action on locals. Such burden shifting is exactly what HB 2435 proposes, and it does so in a most burdensome manner. For all of these reasons, we ask you to oppose this bill.

Respectfully,

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⁴ 26 U.S. Code § 501; Exempt Purposes – Internal Revenue Code (2015). Available at: www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/Exempt-Purposes-Internal-Revenue-Code-Section-501%28c%29%283%29.