Good Morning Chairwoman Sanchez, Ranking Member Cannon, and Members of the Subcommittee:

Thank you for giving me the opportunity to speak with you today. I am Joan Wagnon, President of the Streamlined Sales Tax Governing Board and Secretary of Revenue for the State of Kansas. I have also served as a state legislator for 12 years, Mayor of Topeka for 4 years and president of Central National Bank in Topeka – all helpful experiences in my current capacity with the Streamlined Sales Tax Governing Board since SST brings together state legislators and state tax administrators with business interests and local governments. It's quite a balancing act for the Board, but we recognize the importance of respecting the partnerships that have been created in this process and continuing to work together.

I am here today representing the Governing Board and wish to urge Congress to recognize that the simplifications we have achieved in our Member State's sales taxes are sufficient to remove the burden on interstate commerce as noted by the Supreme Court in *Quill v. North Dakota*, and sufficiently simplified for Congress to allow states to require remote retailers to collect our sales taxes. That's our goal: simplification and mandatory collection.

My remarks today will attempt to give you some background on Streamlined Sales Tax (SST), why it is important to states as well as the business community, and why the federal legislation is so important to all of us involved in the project.

First, retailing is changing rapidly. So rapidly, that in fact, without the federal legislation allowing states to require remote retailers to collect the sales tax on interstate sales, whether catalog or internet, states will experience an ever-accelerating loss in their sales tax bases. I have attached an article to my testimony, "E-Tailers Launch Holiday Shopping Season" that talks about the "Cyber Monday" and the push for on-line sales. In the article internet retailers are reporting huge surges in sales. One retailer reported "… *that traffic soared more than 70 percent and sales were up 82 percent as of Monday afternoon. Another reported, "…an almost 49 percent increase in sales compared with a year ago, beating expectations for 20 percent growth."*

This continued explosion in growth of online sales is at the expense of the brick and mortar stores in our hometowns. The competitive advantage of shopping without sales tax collection is huge. Most consumers don't remit the compensating use tax which their laws have imposed, so the loss to the states is quite real. And that loss is growing faster than our sales taxes grow. In Kansas, for example, our sales tax collections are flat, and the money coming in from the use tax collected under the voluntary SST program because we are a Streamlined state, is quite necessary to prevent having to raise our taxes which no one wants to do.

Second, I'd like to talk a little about SST, how we got started, how many states are involved, the Agreement which all of us have adopted, and where we are going.

The rise of the Streamlined Sales Tax Project is an amazing phenomenon – 45 states voluntarily coming together time after time over a period of several years to create a voluntary system to demonstrate to Congress and business that we can simplify sales taxes. The leadership exerted by the National Conferences of State Legislatures, the National Governor's Association, the Federation of Tax Administrators, and the Multistate Tax Commission was enormously helpful. The commitment and guidance from the business community was remarkable. They have now formed a Business Advisory Council that meets regularly to advise the Governing Board and have two ex officio members on the Governing Board. In my 20 plus years in government, I've never seen a coalition like this come together and work to solve problems. The result was the Streamlined Sales and Use Tax Agreement (SSUTA) which was adopted by the participating states in November, 2002. States then set about changing and simplifying their tax laws.

Who belongs to the Streamlined Sales Tax Governing Board?

The Governing Board was formed pursuant to the Streamlined Sales and Use Tax Agreement (SSUTA) on October 1, 2005 by thirteen states which were in full compliance with the SSUTA, representing 20.3 percent of the population of all the sales tax states. This accomplishment is unparalled in government history. Certainly we've had compacts before, and model legislation, but nothing like SST. Five associate states joined with those thirteen full member states making a total of 18 states involved since the beginning. An additional four states have joined the Streamlined Sales Tax Governing Board since its founding bringing the number today to 22.

I would encourage you to examine the attached map and listing that shows the status of states. On January 1, 2008 Associate Members Arkansas and Wyoming will become full members. Washington will become a full member on July 1, 2008. Nevada's petition for full membership will be considered at our Governing Board meeting next week in Dallas. These states either had future effective dates in their legislation, or had to rework some part of their law to pass the stringent review by the Compliance and Interpretations Committee and the full Governing Board. The review is indeed, stringent, and some states didn't make it the first time! It requires a ¾ vote to be admitted and certified that your state's laws are simplified in accordance with the Streamlined Sales and Use Tax Agreement. Once certified, each state has to recertify annually that it didn't change its laws and come out of compliance. We take compliance seriously!

Over 28 percent of the country's population now lives in a Streamlined state. We are in constant communication with the other states that support Streamlined, but haven't yet simplified all their laws. We call them Adviser states, and they participate substantively in the State and Local Advisory Council, and on the governing board in a limited way as they continue to try to amend their laws in order to join with us. I believe there are another 10 states that are likely to join in the next two years if we can continue the progress we have made so far. Some states are waiting to see if there is movement in Congress, so this hearing is particularly encouraging for them. Others need a modification in our sourcing rule which will be discussed at the meeting in Dallas next week.

How much money has been collected?
Our Annual Report which is attached notes several successes in this past fiscal year. One of the greatest is the amount of tax collected by the sellers who have registered on the Streamlined registration system. The sellers registered on the Governing Board's registration system collect sales taxes for the member states. Member states report that those **sellers who registered voluntarily to conduct business in their states collected $88,958,093 in sales tax for the 2007 fiscal year**. This represents tax that was owed but would otherwise not have been collected or paid to those states.

Has the system been simplified? Absolutely!
These collections were made possible, in part, because the Governing Board contracted with three **Certified Service Providers** to provide services, free of charge, to remote sellers to collect and distribute these sales taxes. What could be simpler? The payments to these CSP's come from the new money that is collected. A fourth company is in the process of being certified. All reporting is electronic on a simplified reporting form used by all states. The development of this single form and the ability to transmit electronically is a huge accomplishment and simplification.

A **Rates and Boundaries data base**, provided by each member state, ensures that the monies collected go to the appropriate jurisdiction, and CSP's and retailer are held harmless if they use these state tools and they inaccurately distribute the funds. In the past, concerns have been raised to this Subcommittee about the existence of software to handle this tax collection function. While software has been available for a number of years, what was missing was the accurate information about tax rates and district boundaries. These Rates and Boundaries data bases make it possible to collect taxes at the destination of the goods and services.

The Governing Board maintains a web site with a **central registration system,** making it easy for these remote retailers to register, and also provided amnesty during the first 12 months in order to encourage retailers to register. Every effort is made to balance the burden, relieve sellers of responsibility when the state doesn't function or makes an error, and to work electronically.

As of November 28, 2007 there were 1,072 companies registered on the Governing Board's centralized registration system. The system asks sellers to choose a "model" which indicates whether the seller will utilize the services of a certified service provider or a certified automated system (CAS) or will file and pay their sales tax using their own system. One hundred nine of the registered sellers stated they were using a CSP, 53 said they would use a CAS, and 910 said they would use their own system to collect and report sales tax to the member states. These sellers range in size from the very large to the very small pure internet sellers.

The Agreement, itself, has been modified regularly since it was first signed, largely to embrace issues, such as the handling of digital products, which were not included in the original agreement. The basic simplification requirements remain unchanged; however some issues just simply needed more discussion and those have been the subject of the amendments. It is envisioned that changes in the future will be fewer and much further between since the large number of unresolved issues has now been addressed. Although a few contentions issues are still on the Dallas meeting agenda, it is expected that the Governing Board will turn its attention to trying to recruit more states, and become more active with the federal legislation.

Other simplification has been achieved in the form of a **single, simplified report form, electronic registration and reporting, uniform product definitions, availability of a certified service provider for collecting and reporting to the states, uniform sourcing and rounding rules, elimination of caps and thresholds, state administration, consistency between local and state tax bases,** and a host of other things, most of which are included in your legislation, H.R. 3396, section 6. Although the Governing Board has not formally compared the Agreement to this particular piece of legislation, Mr. Scott Peterson, our Executive Director and I agree that all the requirement of that section are in place now, with the exception of the rules and regulations for dispute resolution, which fortunately, we have not needed to date. Those are on our list to accomplish in the near future.

What's next?
There are still a few issues to resolve and they are being worked on in the State and Local Advisory Committee and will reach the Governing Board this year, some as early as December 11, 2007 in Dallas.

- A review of the direct mail and delivery definitions and rules.
- A review of the replacement taxes definition.
- A review of the rule on software maintenance contracts.
- A review of the florist sourcing issue paper.
- A review of the Energy Star products definition for sales tax holidays.
- A review of the sales price/sale for resale definitions.

The biggest issue is to expand the sourcing rule, while retaining uniformity, to allow for origin sourcing in-state for those states that have been unable to convert totally to destination sourcing. (The current rule says that the source of a sale, i.e., where the tax is applied, is where the goods are delivered, not where the sale originated. About half of the states use origin sourcing--where the sale was made-- as the place where the tax is applied. This is quite a change for certain businesses, such as furniture stores, pizza delivery places, etc.) Texas, Ohio, Tennessee, Utah, Virginia, Illinois, New Mexico, Missouri have all been participating in the refinement of the current rule as well as members of the Business Advisory Council. Several alternatives are on the table for discussion in Dallas next week.

The SST Executive Committee, officers and I will be approaching other states that are interested in becoming member states to see if we can assist them. Scott Peterson and I have visited with the tax reform commissions in Massachusetts, and Connecticut. There is interest in both states. Several southern states are also interested and we plan to visit them in the coming months to assess their interest and potential participation.

Finally, with regard to H.R. 3396, the Governing Board stands ready to work with this Subcommittee as you mark up the bill and try to resolve the remaining outstanding issues. The important thing to remember, however, is that the basic framework of the bill mirrors the current Streamlined Sales and Use Tax Agreement. The provisions in Section 6 are included in the Agreement as it exists today. We have met and exceeded the threshold provisions for numbers of states, and percent of population. The Governing Board is operating smoothly, has excellent staff, and can continue to expand as required. We are in the process now of analyzing what changes we might have to make to conform to the legislation as written, or any suggested changes when you mark up the bill.

On behalf of the Governing Board, I urge you give states the ability to require remote sellers to collect our sales tax and use the authority to overturn *Quill* that the Supreme Court acknowledged Congress has. Please pass H.R. 3396.

Joan Wagnon
President, Streamlined Sales Tax Governing Board
Secretary of Revenue, Kansas

List of Attachments

1. E-tailer article
2. List of Governing Board States
3. Map of States after 1/1/08
4. Annual Report

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Attachment #1

E-Tailers Launch Holiday Shopping Season

By ANNE D'INNOCENZIO Tuesday, November 27, 2007

NEW YORK - After a long weekend of battling maddening crowds at the malls, the last thing most people want to do is go back to the stores after work to do more shopping.

- To make it easier for the bruised, battered and otherwise shopped-out, retailers kicked off the official start to the online season, dubbed "Cyber Monday," with lots of come-ons to keep the cash registers ringing even as consumers return to work.

With an overall holiday season that is expected to be the weakest since 2002, and the number of new online customers leveling off, Web retailers are dangling even more incentives to keep them buying online, from fat discounts to free shipping without minimums.

On Monday, Wal-Mart Stores Inc. launched five days of specials only available at Walmart.com. The 150 online specials this week is triple the number that was offered a year ago and include $60 quartz cocktail rings and $1,198 Samsung 40-inch LCD HDTVs. Toys "R" Us Inc. held a one-day online sale, and rival eToys.com launched a two-day sale.

"More and more retailers are using Cyber Monday as a promotional event," said Andrew Lipsman, senior analyst at comScore Networks Inc., an Internet research firm.

Target Corp., Circuit City Stores Inc., Sears Holdings Corp., Crate & Barrel, the Discovery Store and Overstock.com Inc. were among dozens of retailers offering free shipping Monday.

The incentives seemed to work, with many sites reporting surges in traffic that at least met expectations. Ice.com, an online jewelry site that offered 20-percent-off coupons, reported that traffic soared more than 70 percent and sales were up 82 percent as of Monday afternoon. Ice's CEO, Shmuel Gniwisch, had projected a 65 percent gain in business. Ebags.com, which offered a 20 percent discount on merchandise Monday, reported an almost 49 percent increase in sales compared with a year ago, beating expectations for 20 percent growth.

Raul Vazquez, chief executive of Walmart.com, expected 7 million visits to the site Monday, up from more than 5.5 million a year ago. As of mid-afternoon, plenty of items had already sold out, including $448 1-carat diamond earrings, $38 toy workbenches from Step2, and $10 Thomas the Tank Engine toys.

There were some snags. The heavy traffic overwhelmed an e-commerce service offered by Yahoo Inc., preventing consumers from completing purchases at thousands of Web sites Monday. The outages began late in the morning on the East Coast and continued for at least four more hours, Yahoo spokeswoman Kristen Wareham said.

The problems affected more than half of the roughly 40,000 sites that subscribe to Yahoo's "merchant solutions" service, which costs $39.95 per month plus a 1.5 percent sales commission.

While the first Monday after Thanksgiving kicks off the online holiday shopping season, it's not the busiest day for retailers, according to comScore. Last year, the busiest online shopping day was Wednesday, Dec. 13, generating $667 million in sales. The Monday after Thanksgiving was actually the 12th busiest day in terms of sales for the 2006 holiday season.

Still, Ellen Davis, a spokeswoman for The National Retail Federation, which coined the term "Cyber Monday," noted that even though more than half of U.S. homes now have high-speed Internet access, a growing number of office workers feel more comfortable shopping online at work. This year, according to a survey conducted for Shop.org, the online arm of the NRF, 54.5 percent of office workers with Internet access, or 68.5 million people, are expected to shop for holiday gifts from work, up substantially from 50.7 percent in 2006 and 44.7 percent in 2005.

Davis noted one reason is that consumers feel they have more privacy shopping from the office rather than from home.

Last year, NRF launched CyberMonday.com, which pulls together online discounts not just for Cyber Monday but for the entire holiday season. As of Monday afternoon, the site had 1 million visits, three times the number a year ago, according to Mall Networks, which powers the site.

ComScore estimated online sales would exceed $700 million Monday. That online surge follows a strong start to the holiday shopping season for brick-and-mortar stores over the weekend, but analysts still fear that the holiday season will be the weakest in five years as shoppers struggle with higher gas and food prices and a slumping housing market.

The research firm Forrester Research predicts online sales of $33 billion this holiday season, up 21 percent from a year ago. That's a slightly slower growth rate than the 23 percent seen last year. ComScore projects a 20 percent online sales growth for the holiday season.

Helen Malani, shopping expert for Shopzilla.com, a search site, said she believes more people will shift their purchases online because of hidden costs associated with shopping at brick-and-mortar stores, like parking fees and eating out. Shoppers are more sensitive to these hidden costs at a time when they are shelling out more money for food and gas, she said.

Still, online executives noted some encouraging signs about consumer spending behavior Monday, even in a challenging economy.

Walmart.com's Vazquez said sales were strong across all price points and categories.

Peter Cobb, co-founder of eBags.com, reported that the average purchase is now $87, up from $75 last year.

Gniwisch of ice.com, which operates ice.com and diamond.com, said averge orders have increased 15 percent for both Web sites. Ice.com's average order has increased to $233 from about $200 a year ago.

Josh Silverman, general manager of shopping portal Shopping.com, said less than 25 percent of shoppers are searching for the cheapest item.

"People are not shopping only by price," he said. "They are looking for the best value."

AP Business Writer Michael Liedtke in San Francisco contributed to this report.

A service of the Associated Press(AP)

Attachment #2

Streamlined Sales Tax Governing Board, Inc.

A MULTI-STATE PROJECT

- Amnesty
- SSTP Home
- About the Project
- Governing Board States
- Meetings & Materials
- Press Releases
- Issue Papers
- Library
- St. Legislative Status
- Collection Cost Study
- Certificates of Compliance
- Certified Service Provider
- SST Technology
- Bylaws and Rules

Governing Board States

SST State Status Map

States	Membership
Full Members Indiana Iowa Kansas Kentucky Michigan Minnesota Nebraska New Jersey North Carolina North Dakota Oklahoma Rhode Island South Dakota Vermont West Virginia	A **full member state** is a state that is in compliance with the Streamlined Sales and Use Tax Agreement through its laws, rules, regulations, and policies.
Associate Members Arkansas Nevada Ohio Tennessee Utah Washington Wyoming	An **associate member state** is either (a) a state that is in compliance with the Streamlined Sales and Use Tax Agreement except that its laws, rules regulations and policies to bring the state into compliance are not in effect but are scheduled to take effect on or before January 1, 2008, or (b) a State that has achieved substantial compliance with the terms of the Streamlined Sales and Use Tax Agreement taken as a whole, but not necessarily each provision, and there is an expectation that the state will achieve compliance by January 1, 2008.

Streamlined Sales Tax Governing Board Inc.

Attachment #3 Streamlined States, as of 1/1/08