

Approved: 2-9-98
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION.

The meeting was called to order by Chairperson Audrey Langworthy at 11:00 a.m. on February 4, 1998, in Room 519--S of the Capitol.

Members present: Senator Langworthy, Senator Corbin, Senator Lee, Senator Bond, Senator Donovan, Senator Goodwin, Senator Karr, Senator Praeger, Senator Steffes, and Senator Steineger.

Committee staff present: Tom Severn, Legislative Research Department
Chris Courtwright, Legislative Research Department
Don Hayward, Revisor of Statutes
Shirley Higgins, Secretary to the Committee

Conferees appearing before the committee: Senator Alicia Salisbury
Randy Gregg, Gregg Tire Company
Senator Stan Clark
Mike Irvin, Sherman County Counselor
Senator Ed Pugh
Richard Bruggen, Atchison County New Law Enforcement Task Force
Don McNeely, Kansas Automobile Dealers Association
Bob Corkins, Kansas Chamber of Commerce and Industry

Others attending: See attached list

The minutes of the February 3 meeting were approved.

SB 438--Sales taxation; concerning the treatment of coupons

Senator Alicia Salisbury testified in support of **SB 438** which was introduced at her request on behalf of constituent, Randy Gregg, President of Gregg Tire Company. Senator Salisbury explained that the bill is an effort to bring the Legislature's attention to a problem of disparity in tax treatment in the implementation of Kansas regulation regarding sales to customers with coupons. The impact of the disparity has affected Mr. Gregg's small business. She explained that currently sales tax is applied to the total amount of a purchase before the amount of a customer's coupon is deducted. The bill provides that sales tax apply only to the remaining amount after a coupon deduction. She felt that it was possible that the disparity in treatment was related to an interpretation of Department of Revenue regulations and, therefore, perhaps the problem could be resolved at the administrative level.

Randy Gregg, Gregg Tire Company, followed with further testimony in support of **SB 438**. Mr. Gregg explained that current Kansas sales tax law puts independent tire dealers at a competitive disadvantage against company owned and operated retail outlets, which are treated differently under Kansas sales tax law. He believed the problem stems from K.A.R. 92-19-16. In his opinion, deleting a related portion of K.S.A. 79-3602 would solve the problem. (Attachment 1)

Senator Langworthy announced that the hearing on **SB 438** would be continued in the interest of hearing out of town conferees on other bills scheduled to be heard.

SB 493--Authorizing Sherman County to impose sales tax for highway improvement purposes.

Senator Stan Clark, sponsor of **SB 493**, introduced Mike Irvin, Sherman County Counselor, who testified in support of the bill on behalf of the Sherman County commissioners. Mr. Irvin explained that Sherman County has a sales tax of 6.15%, which is the statutory limit. The bill would allow Sherman County to lift the limit in order to assist in raising funds to improve old Highway 24/Road 64 which carries a large amount of rural traffic and which is in immediate need of restoration. If the Legislature passes the bill, the Sherman County Commissioners will place the issue of raising the sales tax limit at the August primary, giving the voters an opportunity to decide. (Attachment 2)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S Statehouse, at 11:00 a.m. on February 4, 1998.

There being no other conferees wishing to testify, the hearing on **SB 493** was closed.

Senator Bond moved to conceptually amend **SB 493** on page 4, line 21 to change "highway 24" to "county road 64 and 65"; on page 4, line 20, to change ".75%" to ".25%, .5%, .75%"; to technically amend to clarify that the sales tax act is uniform to cities; and to recommend it favorable for passage as amended, seconded by Senator Steineger. The motion carried.

SB 499--Authorizing Atchison County to impose a sales tax for jail construction purposes.

HB 2707--Authorizing Atchison County to impose a sales tax for jail construction.

Senator Ed Pugh, who requested the introduction of **SB 499**, testified in support of **HB 2707** which deals with the same subject matter and which was placed on the Consent Calendar in the House of Representatives. He explained that the Atchison County jail is antiquated and too small to house the inmate population. The bill would allow local voters to tax themselves by referendum as to whether or not to levy a .5 to .75 percent sales tax for the purpose of constructing a law enforcement center in Atchison to replace the current jail. (Attachment 3)

Richard Bruggen, Co-Chairman of the Atchison County New Law Enforcement Center Task Force, followed with further testimony in support of **HB 2707**. The Atchison County jail was built in 1941 to house nine inmates. Today, up to 25 inmates per day are housed in only six cells, and at times prisoners are housed in other jails at county expense. This situation adversely affects the courts' ability to properly sentence offenders and results in offenders being released earlier than the courts would prefer. The National Institute of Corrections has concluded that the Atchison County jail is currently in a severe state of physical deterioration, creating an unhealthy environment for inmates and an unsafe working environment for the staff. It was the hope of Mr. Bruggen that the bill would move quickly through the legislative process in order that the increase in sales tax could be placed on an April ballot. (Attachment 4)

Written testimony in support of **HB 2707** was submitted by Russell Eckert, Board of County Commissioners (Attachment 5), by the Mayor and city commissioners of Atchison (Attachment 6), by J.R.Loeh, Atchison County Law Enforcement Center Task Force (Attachment 7), and Atchison County Sheriff John Calhoon (Attachment 8).

Senator Steineger moved to recommend **SB 499** favorable for passage and that it be placed on the Consent Calendar.

Senator Langworthy noted that **HB 2707** had already passed the house; therefore, committee action on it would simplify and speed up the process.

Senator Steineger withdrew his motion on **SB 499**. Senator Steineger made a substitute motion to recommend **HB 2707** favorable for passage and to place it on the Consent Calendar, seconded by Senator Praeger. The motion carried.

Attention was returned to **SB 438**.

Don McNeely, Kansas Automobile Dealers Association, testified in support of **SB 438**, which would reduce the taxable selling price paid by a consumer for tangible personal property by any coupon or other similar indication of value, whether or not the stated value is reimbursed to the retailer by a third party. Currently, only dealer-sponsored coupons, discounts, and incentives are allowed to reduce the taxable selling price of motor vehicles in Kansas. (Attachment 9)

Bob Corkins, Kansas Chamber of Commerce and Industry, testified in opposition to **SB 438**. Mr. Corkins believed that the benefit of treating all coupons alike was questionable and would not justify the cost of reprogramming cash registers in retail outlets. He also believed that the bill may be contrary to constitutional principles as it would declare that "selling price" is determined without regard to coupons, whether such coupon value is reimbursed to the retailer or not. (Attachment 10)

With this, the hearing on **SB 438** was closed. No action was taken on **SB 438**, awaiting a report from the Kansas Department of Revenue regarding committee questions arising during the hearing.

The meeting was adjourned at 11:58 a.m.

The next meeting is scheduled for February 5, 1998.

SENATE ASSESSMENT AND TAXATION COMMITTEE GUEST LIST

DATE: February 4, 1998

NAME	REPRESENTING
Janet R. Rempel	Sherman County
Curtis W. Way	Sherman County
Michael A. Davis	Sherman County
St. Paul	Legislature
W. Martin	Sedgewick County
Judy Nolen	Franklin County
Bridget M. Blum	TFKC
Andrea Walker	Rep. Troy Findley
Wendy M. Harms	KS Aggregate Producers' Assn.
John D'Aloia Jr.	Sen. Pugh
Ed Pugh	15 th Senatorial District
Roger Holl	Atchison County
John Lathorn	Atchison County Sheriff
Don Ruggs	Atchison County Task Force
Mike Astle	Community Bankers Assn
DON SNOODGRASS	KS FOOD DEALERS ASSOCIATION
Larry Klamman	League of KS Municipalities
Bob Corkins	KCCI
Whitney Daman	KS Auto Dealers Assn.

TO: Kansas Senate Taxation Committee

RE: Senate Bill No. 438
K.A.R. 92-19-16

FROM: Randy Gregg, President
Gregg Tire Co; 300 SW 6th St; Topeka, Kansas 66603

I am here today to present to you a problem with the current Kansas Sales Tax law which puts my company, and other Goodyear independent tire dealers, at a competitive disadvantage.

Gregg Tire has been in the tire business since 1917, a Goodyear independent tire dealer since 1921. The company has been in the Gregg family the entire 81 years. We currently operate two Topeka outlets and one in Lawrence. Our estimated 1998 sales will exceed \$3.5 million. I offer this information only to let you know that we are a long time Kansas business, not someone new on the scene looking for a quick change in the law for their benefit.

Our company sells several brands of tires, however our primary brand is Goodyear, accounting for about 85% of our tire sales.

Since 1995, each Goodyear employee and retiree, including the 3,400 from Goodyear's Topeka plant, receives a coupon book each year containing 12 coupons from the Goodyear Tire and Rubber Co. The employee may use the coupons to obtain a 25% discount on any Goodyear tire, or they may give the coupons to a friend or relative who receives a 20% discount. One coupon is required per tire. On a \$100 tire, the savings is \$25 for a Goodyear employee, or \$20 for a friend. You can see the savings to the customer is substantial.

Goodyear allows us, as an authorized dealer, to accept these coupons, and reimburses us through a credit memo for the coupon discount.

With the use of these coupons, the Kansas tax law puts my independently owned Goodyear dealership at a competitive disadvantage against the Goodyear company-owned and operated retail outlets, which there are two of in Topeka. Currently if Gregg Tire sells a \$100 tire to a Goodyear employee we give the \$25 discount off the invoice, but collect sales tax on the full \$100. The same \$100 tire sold by a Goodyear owned outlet receives the same \$25 discount, but sales tax is collected on the reduced price of \$75.

Under current sales tax law and Revenue Department rulings, Gregg Tire is a retailer being reimbursed by a 3rd party. The Goodyear owned retail outlets are

*Senate Assessment + Taxation
2-4-98
Attachment 1*

considered the manufacturer discounting the merchandise, thus the difference in treatment under the sales tax law.

I have attached a Gregg Tire invoice and an invoice from one of the company owned stores showing the identical items purchased at the same price (Exhibits A & B). As you can see, the total of the two invoices have a difference of \$5.50, with the Goodyear outlet having the lower total. All of the difference is in the sales tax.

We are in a very competitive business, the profit margin on new tire sales is shrinking every year. We work very hard to keep our current customers and to reach new ones. With many customers shopping around to find the best deal, the current tax law is putting my business at a competitive disadvantage, and that is not right!

If we give a quote to a customer using Goodyear employee coupons, doing comparative shopping, even if we are selling at the identical price (which is very common because we both honor all Goodyear advertising), we will always be higher than a Goodyear company-owned outlet and will likely loose the sale.

With the estimated 3,400 Goodyear employees and retirees, each with 12 coupons, there are approximately 40,000 coupons in the area each year. Thus, there are a lot of potential customers that we may loose due to the Kansas sales tax law.

A response I received from John LaFaver, Department of Revenue Secretary (Exhibit C), helps explain the problem. But, his next to last paragraph states, "This treatment of coupons is followed by a number of other states." That does not make it right!

I propose correcting K.S.A. 79-3602 to charge sales tax on the selling price, exclusive of any coupons, regardless of whether the business is reimbursed or not. This change would actually increase the State's sales tax revenue, although admittedly not by a large amount, and put independent Goodyear retailers on a level playing field with Goodyear's company-owned outlets.

Also attached is a copy of K.A.R. 92-19-16 (Exhibit D), which is in my opinion the real culprit. Hopefully changing K.S.A. 79-3602 will eliminate the highlighted areas of K.A.R. 92-19-16, which I believe would solve this problem.

Most states do not have a Goodyear plant, with thousands of tire discount coupons to contend with. Most other manufacturers offering substantial rebates or discounts, do not have "Factory Outlets," such as a car manufacturer. Many manufacturers sell their merchandise at discounted prices directly to their employees at a discounted price at the plant. Our situation is fairly unique, but none the less, a problem.

I hope you can help us correct this inequity.



300 West 6th
Topeka, KS 66603
913-233-4156

814 West 23rd
Lawrence, KS 66046
913-842-5451

GREGG TIRE N/S# 013188
300 W 6TH
TOPEKA, KANSAS 66603
(785)233-4156

INVOICE #: 0021905

PAGE: 001

CUSTOMER: HARLEY BROWNING
2843 SW ANCASTER RD
0190001
TOPEKA, KS
66614

HOME PHONE : 785/478-3684
SALESMAN: 00001
INVOICE DATE: 02/03/98

VEHICLE: 90 FORD PU
LICENSE: EJY409 MILEAGE: 91900

PRODUCT	MECHANIC	QUANTITY	PRICE	F.E.T.	EXTENSION
31-1050R15 WH XG OWL C 752219247	60RN	4	89.50	0.50	360.00
KANSAS EXCISE TAX EXCISE TAX		4	0.50		2.00
GDY ASSOC TIRE REBATE - 25% REBATE25		-4	22.38		-89.52
TIRE PROTECTION PLAN -SILVER EP		4	3.50		14.00
SALES TAX TOPEKA SLTAX01			23.00		23.00

INVOICE TOTAL: 309.48

CASH 309.48

Thank You For Your Business !!!

EXHIBIT A

Customer signature :
All Past Due Accounts are Subject to FINANCE CHARGE of 1.5% (18% APR). Minimum of \$.50.

1-3

GOODYEAR AUTO SERVICE CENTER

A DIVISION OF THE GOODYEAR TIRE & RUBBER COMPANY
 5140 WEST 21ST
 TOPEKA, KS 66604
 (913)272-4280
 FEDERAL TAX ID# 340253240



INVOICE
070481

02/07/97 02/07/97
 11:02 AM 11:02 AM
 TERR: 4339
 NONSIG: 904339

PAGE: 01

BILL TO: HARLEY J BROWNING
 2843 SW ANCASTER RD
 TOPEKA, KS 66614

PHONE 1..... (913)478-3684
 PHONE 2.....
 DATE REQUESTED 02/07/97
 TIME REQUESTED
 RETURN PARTS.. NO
 SALESMAN..... 022 / 022
 PRIOR INVOICE. 069961

VEH YEAR/MAKE. 90 FORD TRUCK
 VEHICLE MODEL. F 100-350 P/U
 VEHICLE COLOR. BLACK
 LICENSE/STATE. EJY409 / KS
 ODOMETR IN/OUT 91900 / 91900
 ENG. SIZE..... V8-351 5.9L
 COUPON #..... 4426697308E

ACCOUNT # CDB TC EMP TYPE/STATE
 133902443 2 01 02443 0 KS

SLSM	TECH	PRODUCT CODE	BC	QTY	DESCRIPTION	PARTS	LBR/EXCISE	LINE TOTAL
022C		752-219-247-0 QTY. 4 NO. MK60RNOV017	R	4	31-1050R15 C MKHSE XGR DWL TL	89.50	.50	360.00
				4-	ASSOCIATE TIRE REFUND	22.38		89.52-
022	022	092-206 INCLUDES PRO-RATED ROAD HAZARD TIRE REPLACEMENT FOR THE LIFE OF THE ORIGINAL TREAD, FREE FLAT REPAIRS AND 24 HOUR ROADSIDE ASSISTANCE.	R	4	ROAD HAZARD	3.50	.00	14.00

EXHIBIT B

IF YOU ARE NOT 100% SATISFIED, CALL
 JAMES BERNARD
 THE STORE MANAGER, AT (913)272-4280

Harley J Browning
 CUSTOMER AUTHORIZATION FOR TOTAL

EXCISE TAX.....	2.00	PARTS TOTAL.....	284.48
CHARGED AMOUNT	303.98	LABDR TOTAL.....	.00
STATE TIRE FEE	2.00	SUB TOTAL.....	284.48
TAXABLE AMOUNT	284.48	SALES TAX.....	17.50
INVOICE TOTAL			\$303.98

TREAD L/F..... 18/32 TREAD R/F..... 18/32 TREAD R/R..... 18/32 TREAD L/R..... 18/32
 BUYING PLAN... @ # OF PAYMENTS. 6 PAY START DATE 03/10/97 DISCOUNT..... *NET*

SEE REVERSE SIDE FOR IMPORTANT SAFETY WARNING AND WARRANTY INFORMATION

HAVE A QUESTION OR PROBLEM?
 Please tell our store manager. We value your opinion as much as your business.

Pf 1-4

STATE OF KANSAS*Bill Graves, Governor***DEPARTMENT OF REVENUE***John D. LaFaver, Secretary*

Office of the Secretary
Kansas Department of Revenue
915 SW Harrison St.
Topeka, KS 66612-1588



(913) 296-3041
FAX (913) 296-7928

APR 30 1997

Office of the Secretary

April 17, 1997

Honorable Tom Bradley
Kansas House of Representatives
Kansas Statehouse, Room # 112-S
Topeka, Kansas 66612-2419

Re: Letter to you from Gregg Tire
dated December 6, 1996

Dear Representative Bradley:

My staff has reviewed the letter sent to you by Gregg Tire last December. Gregg Tire complains of disparate sales tax treatment that results when Goodyear coupons are presented to tire retailers such as Gregg Tire and to Goodyear-owned outlets.

At the outset, it is important to note that this analysis is premised on the understanding of our staff that Goodyear's outlet operation is not a separately incorporated business. The department will attempt to confirm this understanding since a separately incorporated division of retail stores could change our analysis. If Mr. Gregg wishes to discuss this matter, please have him re-contact Tom Browne at (913) 296-7776.

Goodyear gives coupons to employees to discount their purchases of Goodyear tires. When employees present these coupons to Gregg Tire, sales tax is required to be charged on the retail price before the coupon is honored and the price discounted. When employees present these coupons to a Goodyear-owned store, sales tax is required to be charged only on the actual amount collected from the employee.

These different treatments are specified in K.A.R. 92-19-16. This regulation requires a retailer honoring a coupon to compute sales tax on both the actual amount paid by the buyer *and* the amount that the manufacturer later pays to the retailer when the coupon is redeemed. The regulation further provides that tax should be collected only on the actual amount received when a coupon does not provide for reimbursement.

The treatment required by regulation is consistent with K.S.A. 79-3602(h), which defines "gross receipts" to include "the amount received as defined in this act, in money, credits, property or other consideration valued in money from sales at retail within this act." In the case of Goodyear coupons, Gregg Tire receives payment from both the customer and Goodyear and is required to collect tax on the total amount that it receives. Goodyear, on the other hand, simply reduces its receipts when it honors the same type coupon.

EXHIBIT C

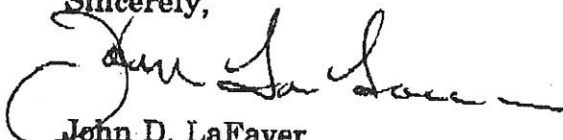
1-5

Rep. Tom Bradley
April 17, 1997
Page 2

This treatment of coupons is followed by a number of other states. Kansas has applied it to factory rebates for motor vehicles since at least 1975. See CCH Kansas Tax Reporter, Transfer Binder ¶200-225. While this treatment has been the subject of criticism, the Kansas Legislature has rejected a number of bills that would have changed it. In addition, Kansas retailers have spent large amounts programming the current treatment for coupons into their cash registers and computers. Because of the programming expenses that change would cause and because of the legislature's rejection of remedial legislation, it would be inappropriate for the department to act to unilaterally change the treatment currently accorded to manufacturer's coupons and rebates.

I hope that this letter has provided the assistance your need. If you or Mr. Gregg wish to discuss this matter further, please call me.

Sincerely,



John D. LaFaver
Secretary

When burial vaults or other items of personal property are sold in Kansas for ship-in cases, tax shall be charged and collected on the actual selling price of the merchandise.

Sales tax shall not be charged when the state of Kansas or another political subdivision pays for a burial. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1985 Supp. 79-3602, 79-3603 as amended by L. 1986, Ch. 386, Sec. 1; effective, E-70-33, July 1, 1970; effective, E-71-8, Jan. 1, 1971; effective Jan. 1, 1972; amended May 1, 1987.)

Note: Effective July 1, 1989, the state retailers' sales tax rate was increased from 4.0% to 4.25%, and on June 1, 1992, the rate was increased from 4.25% to 4.9%.

92-19-16. Gifts, premiums, prizes, trading stamps, coupons. Each person who gives away or donates tangible personal property or who renders or furnishes without charge services taxable under the sales tax act is deemed for tax purposes to be the final user or consumer.

The taxing of tangible personal property used as prizes, premiums or gifts shall depend on the condition under which the property is given away.

(a) When a retailer gives a prize, premium or gift while making a sale of tangible personal property which is taxable or renders or furnishes a service which is taxable, the transaction is regarded as a sale of both items to the purchaser if the attaining of the prize, premium, or gift by the purchaser is certain and does not depend on chance. The retailer shall collect sales tax on the total purchase price paid by the consumer.

(b) Property to be awarded as a prize, premium or gift is taxable if:

(1) The retailer purchases the property for the purpose of resale, but subsequently gives it away as a prize, premium or gift; or

(2) winning the prize, premium, or gift depends on chance or skill. The retailer shall include the cost of the prize, premium, or gift on line 2 of the sales tax return.

A deduction is not allowed for the value of trading stamps or coupons when a purchaser gives the retailer a trading stamp or coupon to use towards the stated price of any item of tangible personal property and the retailer is later reimbursed for the stated value from a third person.

When the retailer is not reimbursed but only accepts the coupons or trading stamps as an inducement to increase sales, the tax shall not apply to the value thereof.

Each person engaged in selling tangible personal property or taxable services shall not collect tax when selling meal tickets, coupon books, merchandise cards, or certificates. Sales tax shall apply when the meal tickets, coupon books, merchandise cards, or certificates are redeemed for taxable services or tangible personal property. Any person engaged in selling meal tickets, coupon books, merchandise cards or certificates who does not sell tangible personal property or taxable services shall collect sales tax on the gross receipts received from the sale of the meal tickets, coupon books, merchandise cards or certificates. (Authorized by K.S.A. 79-3618; implementing K.S.A. 1986 Supp. 79-3602, 79-3603 as amended by L. 1987, Ch. 182, Sec. 108; effective, E-70-33, July 1, 1970; effective, E-71-8, Jan. 1, 1971; effective Jan. 1, 1972; amended May 1, 1987; amended May 1, 1988.)

92-19-17. (Authorized by K.S.A. 79-3618, K.S.A. 1971 Supp. 79-3602, 79-3603; effective, E-70-33, July 1, 1970; effective, E-71-8, Jan. 1, 1971; revoked, E-71-21, July 1, 1971; revoked Jan. 1, 1972.)

92-19-18. Signs. Each person engaged in the business of selling or leasing signs, billboards, posters or bulletins is engaged in a taxable business. Gross receipts from the sale or lease of a sign, billboard, poster or bulletin shall be taxable. Labor service charges for painting or letter signs or for applying advertising to billboards are taxable, regardless of whether the materials are furnished by the painter or by the customer. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3602, 79-3603 as amended by L. 1987, Ch. 182, Sec. 108; effective, E-70-33, July 1, 1970; effective, E-71-8, Jan. 1, 1971; effective Jan. 1, 1972; amended May 1, 1987; amended May 1, 1988.)

92-19-19. Telephone and telegraph services. (a) Telephone and telegraph services shall not be taxable if the services are rendered to those entities listed in K.S.A. 79-3606 and amendments thereto. Each telegraph or telephone company shall secure an exemption certificate from any person or institution claiming an exemption from the tax. Telephone and telegraph services shall be taxable when the purchaser of the service is engaged in a business specifically subject to the sales tax and the telegraph or telephone service is used in the business.

TO: KANSAS LEGISLATURE

FROM: SHERMAN COUNTY

RE: Senate Bill 493

DATE: FEBRUARY 5, 1998

The Sherman County Commissioners appreciate the opportunity to comment regarding Senate Bill 493 which would authorize Sherman County to impose a sales tax for the old Highway 24/Road 64 improvement.

In the early 1970's the State of Kansas abandoned Highway 24, which forced Sherman County to take over the maintenance of this road. The road is now known as Road 64. Road 64 is approximately thirty-four miles which runs east and west across Sherman County. This road consists of asphalt.

In order to preserve and restore this road, the Sherman County Commissioners are currently reviewing their options that may be available to them. The first option is to restore the road. This option, while the most desirable, is the most expensive, since the road in areas has deteriorated so severely that a full-depth reclamation may be the only hope to salvage the road.

The second option is to resurface the road with an overlay. However, our consultants and the Department of Transportation have cautioned the county from this avenue, since the reflections (cracks) are so severe that an overlay would quickly deteriorate. Therefore, it would not be very cost effective.

The third option is to patch the holes and reflections with patching materials. This option, which is the least expensive option concerning materials, would still require many hours of labor. Further, the longevity of this option has to be considered.

*Senate Assessment & Taxation
2-4-98
Attachment 2*

The final option is for Road 64 to be returned to a dirt/sand road. This option will still cost the Sherman County residents approximately twenty thousand dollars a mile to accomplish this task. In addition, most of the residents do not seem to favor this option.

With these options in mind, the Sherman County Commissioners have the dilemma of choosing the course of action which would best serve their community. The option to restore and salvage Road 64, after consulting with the contractors, has been estimated to range from 1.5 million to six million. Obviously, the county is under-budgeted to handle the extreme cost of financing this endeavor. The county would like to salvage the road, if at all possible. However, there are only a few ways for the county to raise funding for this project, which include: levy against the property owners; raise the local sales tax; issue bonds; or receive funding through the government, such as KDOT.

The Sherman County Commissioners have spoken with the KDOT official concerning this issue. Under their current funding with project assistance, they can provide over five years at approximately \$270,000 for a bridge project located on Road 64, and \$107,000 for a road project. This calculates to approximately \$21,400 per year for a road project.

The Sherman County Commissioners feel one of the fairest ways to raise funding is through a sales tax increase. In this method, nonresidents who use the road system would also share in the funding of the project. Then the landowner would not be burdened with the total cost of this project.

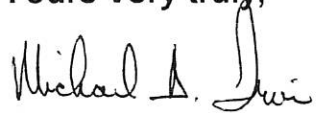
Currently, Sherman County has a sales tax of 6.15%, which is the statutory limit. The Sherman County Commissioners are requesting to have the limit lifted in order to assist in raising funding for this project.

If the Kansas Legislature were to grant the request, the Sherman County Commissioners will place the issue of raising the sales tax limit at the August primary. The voters will then have an opportunity to decide if this method of funding the project is agreeable.

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The Sherman County Commissioners have also consulted with the City of Goodland and the City of Kanorado concerning the distribution of sales tax that might be collected as a result of the added tax. See attached letters from Hazel Estes, Mayor of the City of Kanorado, and Rick Billinger, Mayor of the City of Goodland.

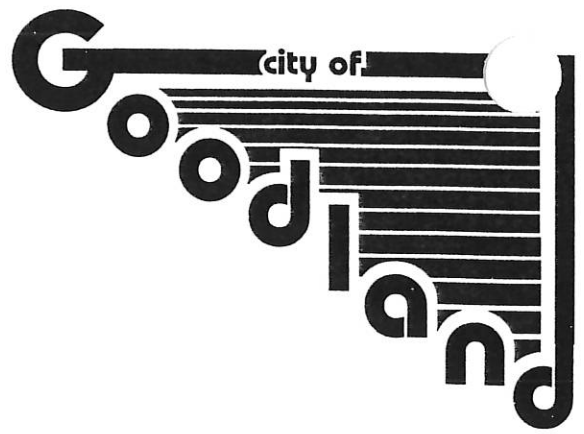
Yours very truly,

A handwritten signature in cursive script that reads "Michael D. Irvin".

Michael D. Irvin
Sherman County Counselor

MDI:ks

Enclosures



January 19, 1998

Mr. Michael Irvin
County Attorney
Sherman County Court House
813 Broadway
Goodland, Kansas 67735

Dear Mr. Irvin:

In the spirit of intergovernmental cooperation, the Governing Body of the City of Goodland, Kansas, hereby agrees to a request from the County Commission of Sherman County, Kansas in regard to the financing of a proposed improvement of County Road 64 located within said County.

More specifically, the City agrees to forego the City's apportionment of a proposed additional County wide sales tax imposed in accordance with K.S.A. 12-187 et seq., the proceeds of which shall be used to finance the improvement specified herein.

The City understands the receipts from this proposed sales tax, if approved by the electors of Sherman County, would be used only for the financing of the improvements of County Road 64. It is further understood the proposed sales tax shall continue in effect only for such time as is necessary to pay for this specific improvement.

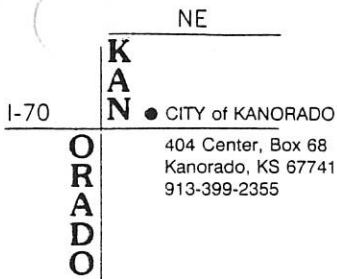
Sincerely,


Rick Billinger
Mayor

204 West 11th
P. O. Box 59

Goodland, Kansas 67735-0059

(785) 899-4500



January 20, 1998

Mr. Michael Irvin
County Attorney
Sherman County Court House
813 Broadway
Goodland, KS 67735

Dear Mr. Irvin:

In the spirit of intergovernmental cooperation, the Governing Body of the City of Kanorado, Kansas, hereby agrees to a request from the County Commission of Sherman County, Kansas in regard to the financing of a proposed improvement of County Rd. 64 (Hwy. 24) within said county.

The City of Kanorado agrees to forego the City's apportionment of the proposed additional County wide sales tax. The proceeds of which shall be used to finance the improvement specified herein.

The City understands the receipts from this proposed sales tax, if approved by the electors of Sherman County, would be used only to finance the improvements of County Rd. 64 (Hwy.24). It is further understood the proposed sales tax shall continue in effect only until the specific improvement is paid in full.

Sincerely,

Hazel R. Estes
Mayor

STATE OF KANSAS

EDWARD W. PUGH

SENATOR, 1ST DISTRICT

625 LINCOLN AVE.

WAMEGO, KANSAS 66547

(913) 456-9377

ROOM 143-N, CAPITOL BLDG.

TOPEKA, KANSAS 66612-1504

(913) 296-7379



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS

MEMBER: ENERGY AND NATURAL RESOURCES

JUDICIARY

UTILITIES

RULES AND REGULATIONS

February 4, 1998

Madam Chairman, Committee Members,

The Atchison County jail is antiquated and small. The Sheriff is hard pressed to maintain security and house the inmate population that society and the courts are sending his way.

County elected officials have decided that construction of a new jail should be financed by increasing the county sales tax. Rather than ask for outright authority to impose such a tax, they want to give voters the opportunity to impose the tax on themselves at the April election.

If local voters want to tax themselves by referendum to take care of a local problem, they should be able to do so.

House Bill 2707 authorizes Atchison County to place the sales tax increase before the voters. I ask that you recommend passage to the Senate without amendment so that the bill can be placed on the Senate's Consent Calendar for prompt action.

Sincerely,

A handwritten signature in blue ink that reads "Ed Pugh".

Edward W. Pugh

Senate Assessment & Taxation
2-4-98
Attachment 3

Atchison County New Law Enforcement Center Task Force

February 2, 1998

Audrey Langworthy
Taxation Committee
143 North Capitol Building
Topeka, KS 66610-1504

Dear Senator Langworthy:

As a citizen member of the Atchison County New Law Enforcement Center Task Force, I have become very much aware of the critical need for a new jail in Atchison County. I am also convinced that we must deal with this need as soon as possible in order to maintain effective law enforcement in our county.

The Atchison County Jail was built in 1941 for a Kansas Jail Standards rating of 9 inmates. Today, the County is housing up to 25 inmates per day in only 6 cells and, at times, is housing prisoners in other jails at County expense. This situation adversely affects the Courts' ability to properly sentence offenders, and results in offenders being released earlier than the Courts would prefer.

Our jail is not only too small, its layout is inefficient, and it is also very difficult to maintain. The National Institute of Corrections, U.S. Dept. of Justice, visited Atchison in July 1997 and concluded: "The Atchison County Jail is currently in a severe state of physical deterioration."

As you know, our problems are not unique to Atchison County. New law enforcement centers have been or are being built by many other counties in the state. Like us, they have all experienced the problem of increasing inmate population, and the need to control that growth with maximum security, adequate space, and cost effectiveness.

2707 The legislation introduced by Senator Ed Pugh and being considered by your Committee, ^{House} ~~Senate~~ Bill ~~499~~, will enable our County Commissioners to give the voters of Atchison County the opportunity to deal with this critical need as soon as possible. It is also supported by our State Senator, Ed Pugh. We will appreciate your efforts to move this bill quickly through the Legislature to permit an early vote.

Sincerely,


Richard J. Bruggen
Task Force Co-Chairman

Senate Assessment + Taxation
2-4-98
Attachment 4

COUNTY COMMISSIONERS

423 No. 5th ATCHISON COUNTY
ATCHISON, KANSAS 66002-1861

913-367-8220
FAX NO. 913-367-0227

February 1, 1998

TAXATION COMMITTEE
143 North Capitol Building
Topeka, Kansas 66610-1504

Attn: Audrey Langworthy

Dear Ms. Langworthy:

We fully support ^{House} ~~Senate~~ Bill ²⁷⁰⁷ ~~433~~ that would authorize Atchison County to impose a sales tax to construct a new jail in our community. Our jail is 50 years old and does not meet today's needs. We hope the bill will be passed without any unnecessary delay.

Thank you for your assistance in this matter, if you would need any other information concerning this issue, please contact Leonard L. Buddenbohm, Atchison County Counselor, at 913-367-5246.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
ATCHISON COUNTY, KANSAS

By Russell Eckert
Chairman

Ann Lykins
White

county/ltkline
cc: Senator Pugh

Senate Assessment + Taxation
2-4-98
Attachment 5



City of Atchison, Kansas

February 2, 1998

Taxation Committee
143 North Capitol Building
Topeka, KS 66610-1504
Attn: Audrey Langworthy

Dear Senator Langworthy:

House 2707

On behalf of the citizens of the City of Atchison, we request your assistance in accomplishing the speedy consideration of ~~Senate Bill 499~~. Passage of this bill would authorize Atchison County to impose a sales tax to construct a new jail in our community.

Atchison County's present jail was built in 1941 and has a current recommended capacity of 9 prisoners; last year's daily average population was 19.8 prisoners. Overcrowding to this extent creates a potentially dangerous situation for county law enforcement personnel, safety and health issues for the prisoners, and a substantial security risk to the general population.

Passage of ~~Senate Bill 499~~ will enable Atchison County to act quickly in solving this problem. *Have* 2707

Sincerely,

Commissioner Dave Butler

Commissioner Katherine Ross

Commissioner Larry Purcell

Vice-Mayor Rita Hartman

Mayor M. Scott Knoch

Preserving our past, working for our future

Senate Assessment & Taxation
2-4-98
Attachment 4

Atchison County New Law Enforcement Center Task Force

February 2, 1998

Audrey Langworthy
Taxation Committee
143 North Capitol Building
Topeka, KS 66610-1504

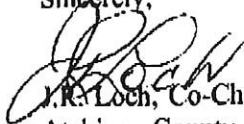
Dear Senator Langworthy:

House 2707
~~Senate~~ Bill 499 was recently introduced by Senator Ed Pugh. This bill would authorize Atchison County to increase sales tax to pay for a new Law Enforcement Center.

The proposed new Law Enforcement Center is badly needed for a number of reasons. The present jail is only rated to have 9 beds, but has had as many as 25 in recent months. Due to overcrowding, it is potentially dangerous for both the inmates and the staff of the jail. Maintenance costs at the present keep escalating due to the age of the plumbing, wiring, and heating systems.

We would appreciate your help in expediting this bill, which will hopefully allow an election to be held on this issue in April 1998.

Sincerely,



J.R. Loch, Co-Chairman
Atchison County Law Enforcement Center Task Force

Senate Assessment & Taxation
2-4-98
Attachment 7

ATCHISON COUNTY SHERIFF'S OFFICE

PHONE: (913) 367-0216

FAX: (913) 367-0227

JOHN CALHOON
SHERIFF



518 PARALLEL
ATCHISON, KANSAS
66002

February 2, 1998

Dear Honorable Legislative Members;

H.B. 2707

Please accept this letter as an official request for your support of ~~S.B. 499~~ regarding taxation.

During the past four years, it is my belief, Atchison County has made vast improvements in the area of Public Safety and Criminal Justice as a whole. However, we have quickly outgrown our facilities with regards to inmate capacity as well as staff needs.

While we are not the only jurisdiction with this problem, I do feel that we owe it to our community to provide them with the utmost protection by having the ability to incarcerate criminals who have violated laws and/or have been convicted of crimes.

To date, we do not have the inmate bed space to adequately hold criminals and we are continuously releasing inmates early on sentences due to overcrowding.

In closing, we are operating out of jail facility that was built in 1941, and it is in such a deteriorating condition, that it is undesirable and unsafe for the entire community of Atchison County.

Respectfully,

A handwritten signature in black ink that reads "John Calhoon". The signature is written in a cursive style and is enclosed within a large, hand-drawn oval.

Sheriff John Calhoon

Senate Assessment & Taxation
2-4-98
Attachment 8



KANSAS AUTOMOBILE DEALERS ASSOCIATION

February 4, 1998

To: The Honorable Senator Audrey Langworthy
and the Members of the Senate Committee on Assessment and Taxation

From: Don L. McNeely, KADA Executive Vice President

Re: SB 438 - Support

Madam Chair and Members of the Senate Committee on Assessment and Taxation:

Good morning, my name is Don McNeely, Executive Vice President of the Kansas Automobile Dealers Association. I appear before for you this morning in support of SB 438, which would reduce the taxable selling price paid by a consumer for tangible personal property by any coupon or other similar indication of value, whether or not the stated value is reimbursed to the retailer by a third party.

It is no secret that manufacturers' coupons, rebates and incentives are an integral part of the pricing of many new vehicles. Presently, only dealer-sponsored coupons, discounts and incentives are allowed to reduce the taxable selling price of motor vehicles in Kansas. Our members are faced with the responsibility of explaining to a consumer why the "\$1000 Good Customer Coupon" they received from automobile manufacturer XYZ is subject to Kansas Sales Tax, when the dealer's own coupon or discount is not.

This discussion with the consumer has increased in frequency over the last two years along the state line with Missouri, since the Missouri Legislature exempted manufacturers' coupon, rebates and incentives from Missouri Sales Tax. Yes, it is true if a Kansas consumer purchases a motor vehicle in Missouri, the Kansas County Treasurer in which the vehicle is to be domiciled should collect the sales tax on any manufacturer coupon, rebate or incentive. But, I would suggest this is not always occurring, as the Missouri dealer's bill of sale will in all likelihood have the manufacturer's coupon, rebate or incentive subtracted from the taxable selling price of the vehicle.

On behalf of the Kansas Automobile Dealers Association, I thank the Members of the Committee for allowing me to appear before you this morning, and I would be happy to answer any questions you may have.

800 S.W. Jackson, Suite 1110 • Topeka, KS 66612

Telephone (913) 233-6456 • Fax (913) 233-1462

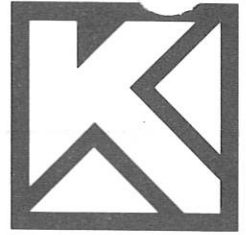
*Senate Assessment &
Taxation*

2-4-98

Attachment 9

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry



835 SW Topeka Blvd. Topeka, KS 66612-1671 (785) 357-6321 FAX (785) 357-4732 e-mail: kcci@kspress.com

SB 438

February 4, 1998

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

Senate Committee on Assessment and Taxation

by

Bob Corkins
Director of Taxation

Madam Chair and members of the Committee:

My name is Bob Corkins, director of taxation for the Kansas Chamber of Commerce and Industry, and I thank you for the opportunity to express our members' views on SB 438. While we often strive to convey the problems associated with retailers' sales tax collections, we believe the administrative simplicity argument which prompted introduction of this bill is somewhat misguided and may even be unenforceable.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 47% of KCCI's members having less than 25 employees, and 77% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

*Senate Assessment & Taxation
2-4-98
Attachment 10*

Please apply in this context much of the testimony I delivered regarding SB 415, the reate sales tax on food. Revamping software to conform your cash registers to changes in the sales tax code is not an inexpensive proposition. This proposed treatment with respect to coupon sales would take between 3 to 4 man-hours worth of reprogramming per retail outlet, an expense that may approach \$180 per hour. When balanced against the questionable benefit of treating all coupons alike (whether reimbursed by the manufacturer or extended by the particular retailer in question), we see little reason to justify the expense.

There is perhaps an even stronger reason against SB 438: It may be contrary to constitutional principles. The bill would declare that "selling price" is determined without regard to coupons, *whether such coupon value is reimbursed to the retailer or not*. Currently, "retailer-sponsored" coupons are subtracted before sales tax is calculated and "manufacturer reimbursed" coupons are subtracted after sales tax is calculated.

Believe it or not, this makes sense. Retailer-sponsored coupons are a price discount, pure and simple. It is logical that sales tax would apply *after* that discounted price is established. Conversely, manufacturer-reimbursed coupons (in and of themselves) do not change the selling price by the retailer, hence it is proper that sales tax is applied *before* the coupon value is deducted. If SB 438 were enacted, retailers (with regard to sales discounted by their own coupons) would be charging sales tax on money which neither the customer, the manufacturer, nor anybody else ever spent. If this practice were not declared unconstitutional, it would very likely foster class action lawsuits on behalf of customers complaining of sales tax overcharges.

KCCI sympathizes with the extreme administrative tax compliance costs which the existing sales tax code, and proposed changes to it, does and could bring to bear. Unfortunately, this is not one of the better ways to rectify the problem and we would instead continue to promote the justice of state reimbursement to retailers for their tax collection service.

Thank you for your time and consideration.