

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Chairperson David Corbin at 10:40 a.m. on March 8, 2001, in Room 519-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee: Senator Dwayne Umbarger
Leroy Alsup, City Manager, Coffeyville
Jim Tatman, Acme Foundry, Inc
Steve Cornell, Coffeyville SEKTAM, Inc.
Dr. Rod Allen, Superintendent, USD 445
Don Moler, League of Kansas Municipalities
Shirley Sicilian, Kansas Department of Revenue

Others attending: See attached list.

The minutes of the March 7, 2001, meeting were approved.

SB 311—Relating to city retailers' sales tax rates.

Senator Dwayne Umbarger informed the Committee that community business leaders and educators from the City of Coffeyville support **SB 311** as a means to advance economic development and address funding for public education. He introduced Leroy Alsup, City Manager of Coffeyville.

Mr. Alsup began a power point visual presentation in support of the passage of **SB 311**. A print out of the presentation was previously distributed to the Committee. (Attachment 1) Mr. Alsup noted that supporters of the bill include USD 445, the Coffeyville Regional Medical Center, and several local business and industry leaders. He introduced Jim Tatman, Executive Vice President of Acme Foundry, Inc., the largest employer in Coffeyville. Mr. Tatman explained that the Coffeyville school system has made attempts to pass a bond issue to build a new grade school. He feels the bill would help gain taxpayer support because, rather than an increase in property tax, it allows sales tax to be used to help buy down the bond over the period of years of the bond issue.

Mr. Alsup introduced Steve Cornell, President of Coffeyville SEKTAM, Inc., a small manufacturer in the Coffeyville community. Mr. Cornell testified in support of **SB 311**, noting that his small community is struggling with a tax base which makes support of the changes needed for school structures difficult. He urged the Committee to support the bill as it would help Coffeyville keep its education system viable.

Mr. Alsup pointed out that the last pages of his handout include letters of support from Mr. Tatman and Mr. Cornell as well as other Coffeyville businessmen. He went on to discuss the existing retailers' sales tax in Montgomery County and the City of Coffeyville. He explained that the proposed sales tax for hospital and school improvements would not become effective until the current county retailers' sales tax expires on September 30, 2002. He noted that the City of Coffeyville is considering calling a special election in the fall of 2001 to submit two city retailers' sales tax questions to the voters. He explained that the total sales tax levy in Coffeyville would not increase; the new city sales tax would just replace the current 1.0 percent county sales tax.

Mr. Alsup introduced Dr. Rod Allen, School Superintendent for USD 445. Dr. Allen discussed the two questions to be put on the ballot as outlined in the handout. One question concerns a one-half cent retailer's sales tax to pay a portion of the costs of the Coffeyville Regional Medical Center improvements, and the other

CONTINUATION SHEET

question concerns a one-half cent retailers' sales tax to pay a portion of the bond and interest of a USD 445 general obligation bond issue not to exceed \$24.8 million. Dr. Allen believes that taxpayers would be more supportive of a retailers' sales tax than increased property taxes to help improve the community.

At this point, Mr. Alsup informed the Committee that the last two sales tax questions voted upon in Coffeyville were approved by over 65 percent of the voters. He went on to describe the proposed improvements to the Coffeyville Regional Medical Center as outlined in his handout. Dr. Allen followed with a description of the planned improvements outlined with regard to USD 445 schools. In addition, he discussed how the school improvements will assist in the ongoing partnership effort with the city boys and girls club computer labs.

The last portion of Mr. Alsup's presentation included information on other community enhancement projects which the City of Coffeyville has successfully accomplished and the economic development projects which have brought jobs to the community. Mr. Alsup also outlined the proposed amendments to K.S.A. 12-187 and 12-189, giving reasons for the requested amendments. In conclusion, he noted that improvements to the school district are critical to the long-term viability of the community, and the time frame needs to be extended to accommodate the use of a typical bond issue format. He noted that his group is not "tied" to the proposed language of the bill. If there are any amendments necessary to make it more palatable to others, he would not object as long as Coffeyville can accomplish hospital and school improvements with the use of sales tax revenue.

Don Moler, League of Kansas Municipalities, testified in support of the overall goal of the bill, but expressed concern about the fundamental changes made in Section 1 of K.S.A. Supp. 12-187 as he believes the changes have a much wider impact than anticipated and requested by the City of Coffeyville. Mr. Moler called the Committee's attention to a balloon of the bill showing amendments which would remove the concerns of the League and further the purposes of the City of Coffeyville. He explained the League's proposed changes and noted that the changes would merely create a caveat which would provide that, as long as the city maintained a sales tax for the purpose of an outstanding bond issue under K.S.A. Supp. 12-187(a)(2), a county levy would not eliminate the city levy. (Attachment 2)

Shirley Sicilian, General Counsel for Kansas Department of Revenue, agreed with Mr. Molar that the language proposed by the City of Coffeyville involves an issue much larger than it would appear on the surface. She noted that the Department is interested in the provisions because they deal with uniformity of the local retailers sales tax act. She provided background information on the uniformity issue, beginning with a reference to Article 12, Section 5(b) of the Kansas Constitution, which sets out home rule powers for cities. She informed the Committee that, in 1996, the Kansas Court of Appeals reviewed K.S.A. 1995 Supp. 12-187(a)(2) of the local retailers' sales tax act for uniformity and concluded that it "has the effect of treating cities within the four classes non-uniformly depending on whether the county in which a particular city sits has enacted the retailers' sales tax.... Thus, it appears the legislature... is treating cities of the same class within the local retailers' sales tax enactment non-uniformly. By treating cities within the same class non-uniformly, the legislature has opened up the retailers' sales tax enactment to home rule authority." That finding was consistent with a 1992 Attorney General's opinion. In 1998, the Legislature amended K.S.A. 12-188 and 12-187 with the intent of curing the perceived non-uniformity; however, there is a cogent argument that these changes did not fully address the court's concern. In fact, the Wyandotte County District Court recently rendered a decision finding the current statute non-uniform. Ms. Sicilian stated that the Department supports amendments to ensure the local retailers' sales tax act is uniform; however, if non-uniformity is not remedied, the Department is concerned that many other jurisdictions could follow suit. In that case, the Department would not be able to efficiently accommodate administration of non-uniform tax rates and preparation of interlocal agreements on a larger scale. Of greater concern is the potential for non-uniform tax bases and exemptions. In conclusion, Ms. Sicilian recommended changes to the language on page 5, lines 38 to 42, of **SB 311**. (Attachment 3)

There being no others wishing to testify, the hearing on **SB 311** was closed.

The meeting was adjourned at 11:30 a.m.

The next meeting is scheduled for March 12, 2001.

SENATE ASSESSMENT AND TAXATION COMMITTEE GUEST LIST

DATE: March 8, 2001

NAME	REPRESENTING
Red Allen	USD 445 / Coffeyville
Steve Council	Coffeyville SEKTAM
JIM TATMAN	ACME FOUNDRY / MAGIC CIRCLE
Rick Thompson	Thompson Brothers Supplies
Bathy Shald	USD 445 / Coffeyville
Sen. Dupluyer	
Karen Stimpfle	Coffeyville Chamber of Commerce
Dean Stimpfle	City Commissioner / Stimpfle Signs - Coffeyville
Kevin Barone	Hein / weir chkd.
Ashley Sherard	Johnson County
George Petersen	KTN
Bill Brady	KS Gov't Consulting
Julie Hein	Hein + W. J. Orr
Jack Glaves	Oky - Dubs PH + KM
Signe Barnes	Ness Co.

Kansas State Senate Assessment and Taxation Committee

Hearing: **Senate Bill No. 311**
Thursday, March 8, 2001

Leroy D. Alsup, City Manager
City of Coffeyville

Dr. Rod Allen, Superintendent
USD 445

Jim Tatman, Executive Vice President
Acme Foundry, Inc. (Magic Circle)

Steve Cornell, President
Coffeyville SEKTAM



Senate Assessment & Taxation
3-8-01
Attachment 1

Support for Senate Bill No. 311

- **City of Coffeyville**
- **Unified School District (USD) 445**
- **Coffeyville Regional Medical Center (CRMC)**
- **Existing Business & Industry Leaders**
 - **Acme Foundry, Inc. (Magic Circle)**
 - **Coffeyville SEKTAM**
 - **Thompson Brothers**
 - **Four State Maintenance**
 - **Darwin Industries**
 - **Strimple Signs**
 - **Community State Bank**

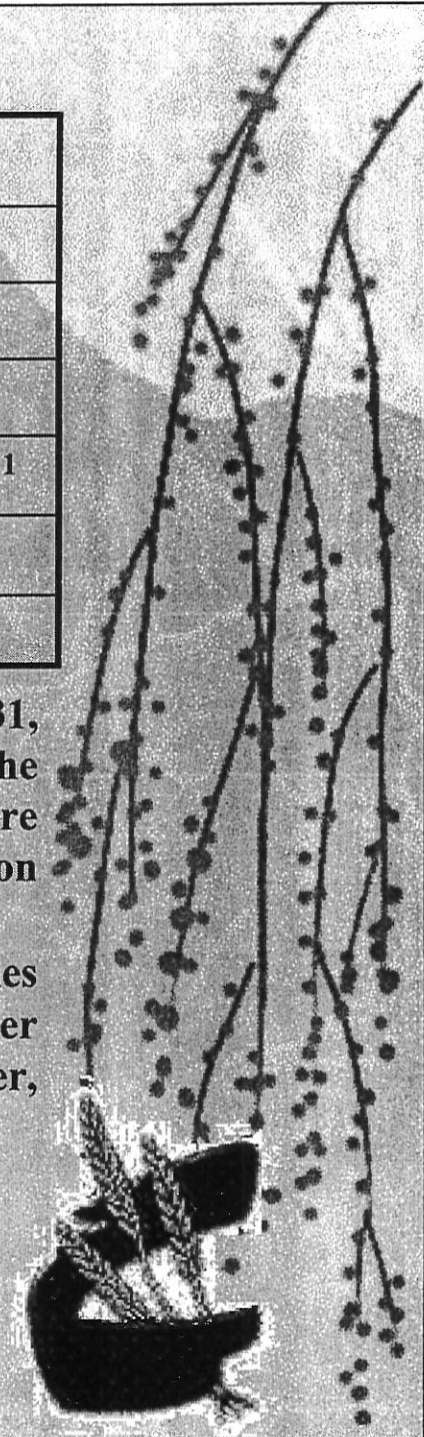
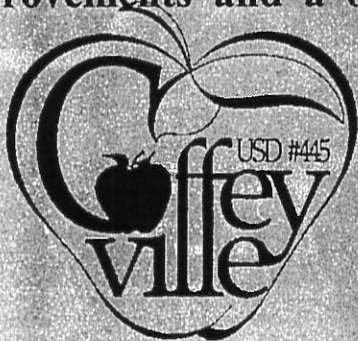


Existing Retailers' Sales Tax

Existing Tax	Taxing Entity	State Statute	Sunset Provision
.50%	City	KSA 12-187(d)	In effect until repealed
.50%	City	KSA 12-187(d)	June 30, 2014
.50%	City	KSA 12-187(e)	December 31, 2003
1.0%	County	KSA 12-187(b)	December 31, 2004 or earlier. ¹
<u>4.9%</u>	State	KSA 79-3603	In effect until repealed
7.4%	Total ²		

¹ The County one percent (1.0%) retailers' sales tax will expire on December 31, 2004 or whenever the sales tax revenue collected is sufficient to pay for the inducements to recruit Cessna Aircraft and American Insulated Wire Corporation. It has been forecasted that this one cent sales tax will expire on September 30, 2002.

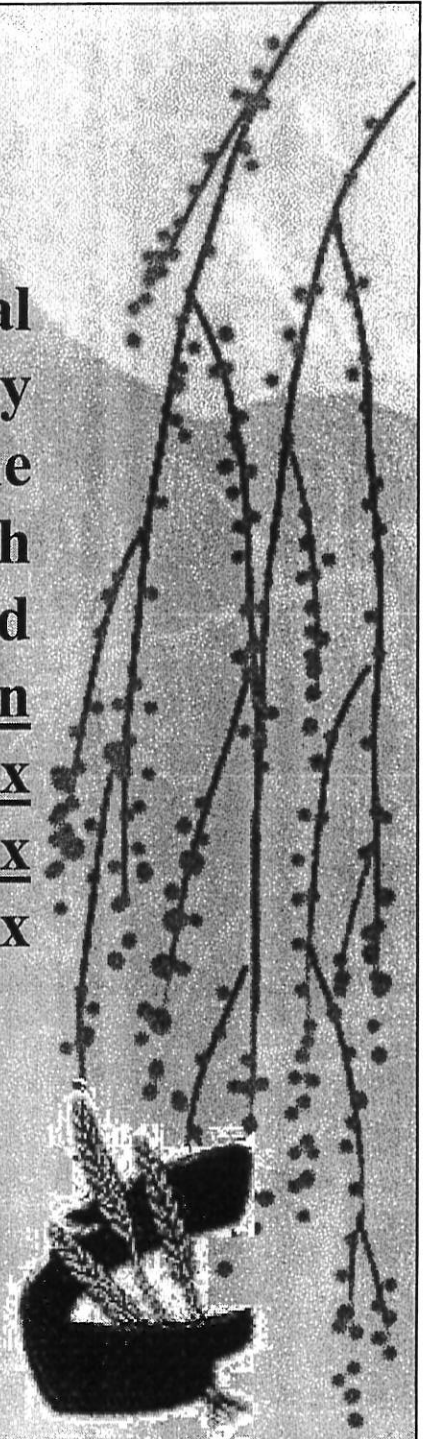
² The total sales tax amount in Independence will be 7.4% when the County sales tax expires. The City of Independence passed a one half cent tax for Sewer Improvements and a one cent tax for Community Projects (Aquatic Center, Library, & Memorial Hall).



1-3

Fall 2001 Sales Tax Election

The City of Coffeyville is considering calling a special election in the fall of 2001 to submit two City Retailers' Sales Tax Questions to the voters. The effective date of the tax would be the next month after the existing County 1.0% sales tax expired (estimated to be 9-30-02). The total sales tax levy in Coffeyville would not increase, the new City sales tax would just replace the current County 1.0% sales tax levy. In FY2000 a .5% City retailers' sales tax generated \$740,000 in revenue for our Community.

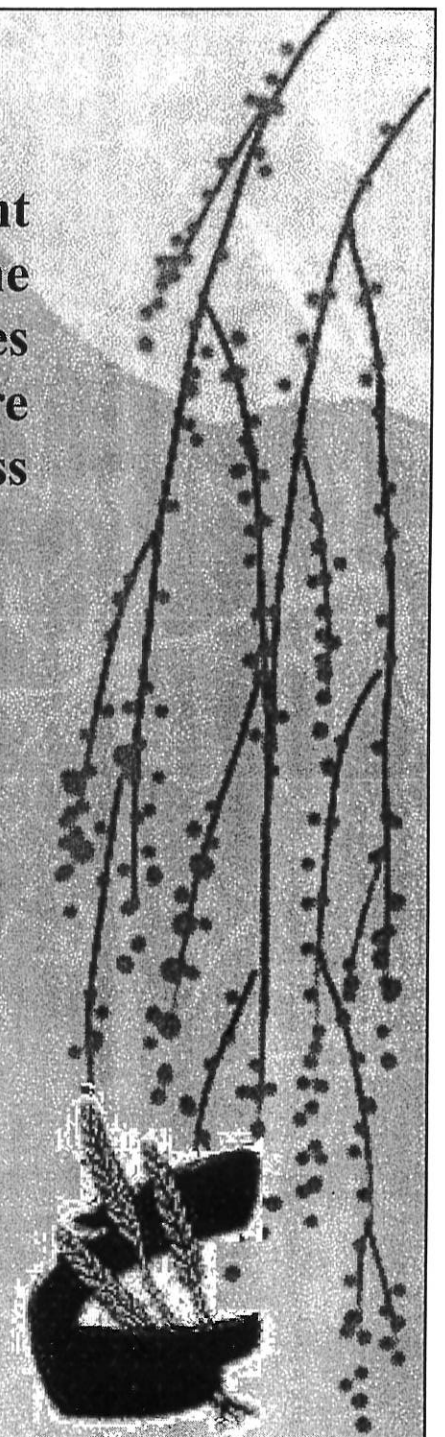


Question #1

Draft

Shall the City of Coffeyville, Kansas levy a one half cent retailers' sales tax to pay a portion of the costs of the Coffeyville Regional Medical Center Improvements. The sales tax will be collected only until the CRMC Improvements are fully paid for or not to exceed 240 months, whichever is less (Sunset Provision).

CRMC Revenue Bond Issue	\$ 5 Million
City Sales Tax Bond Issue 20 Yrs @ 6% (1.25% Revenue to Debt Service Payment)	\$ 7 Million
Total Improvements	\$12 Million



1-5

Question #2

Draft

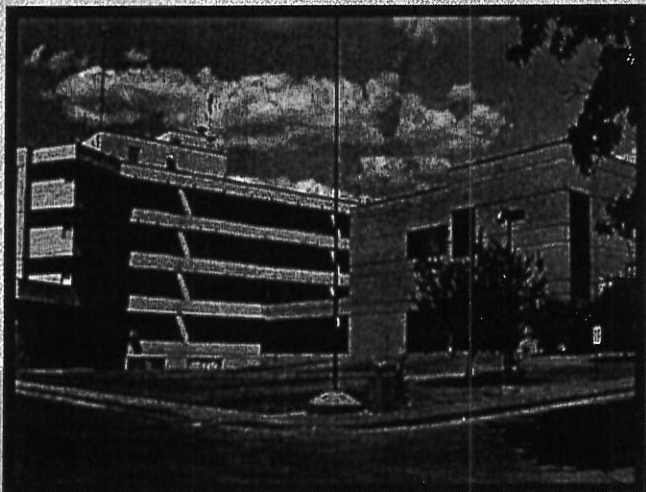
Shall the City of Coffeyville, Kansas levy a one half cent retailers' sales tax to pay a portion of the bond & interest of a USD 445 General Obligation Bond Issue not to exceed \$24.8 Million. The sales tax will be collected only until the USD 445 GO Bond Issue is fully retired or not to exceed 240 months, whichever is less (Sunset Provision).

	Amount	Mill Levy
USD 445 GO Bond Issue	\$24.8 Million	
Annual Bond Payment (P&I)- 20Yrs @ 6%	\$2,132,099	25.08 Mills
Annual Sales Tax Revenue Stream	\$ 740,000	(8.70) Mills
State Aid Entitlement KSA 75-2319 (27%)	\$ 575,667	(6.77) Mills
Adjusted GO Bond Payment	\$ 816,432	9.61 Mills



1-6

Coffeyville Regional Medical Center



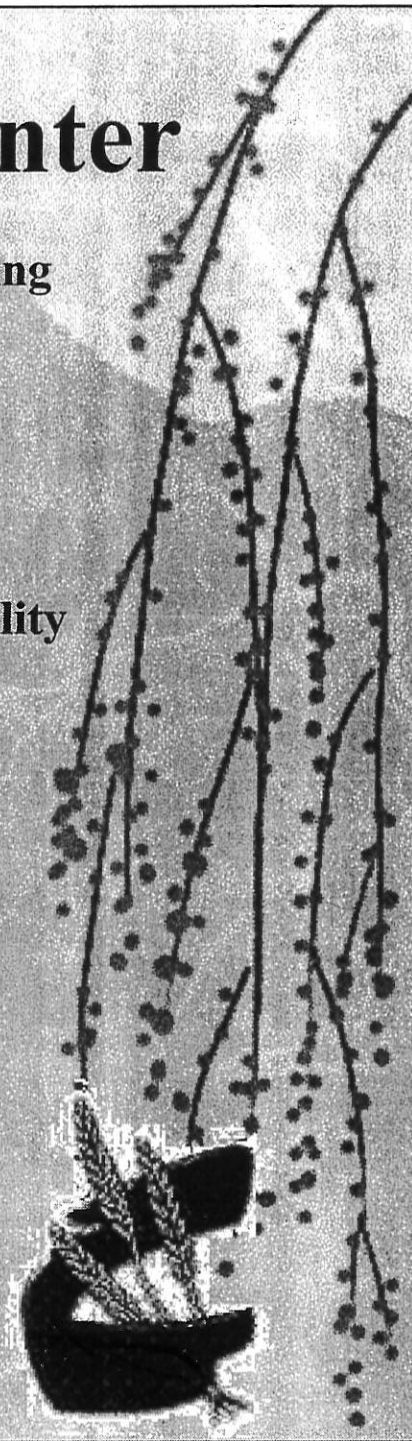
■ Addition to west end of 1983 Building

- New Emergency Room
- New Admissions Area
- New Laboratory
- New Intensive Care Unit
- New Cardiac Care Unit
- New 29 Bed Skilled Nursing Facility
- New Auxiliary area
- Shelled Basement

- Expand Energy Center and consolidate Electrical Services
- Expand and renovate Surgery Unit
- Renovate Medical Imaging
- Add additional elevator in existing hallway

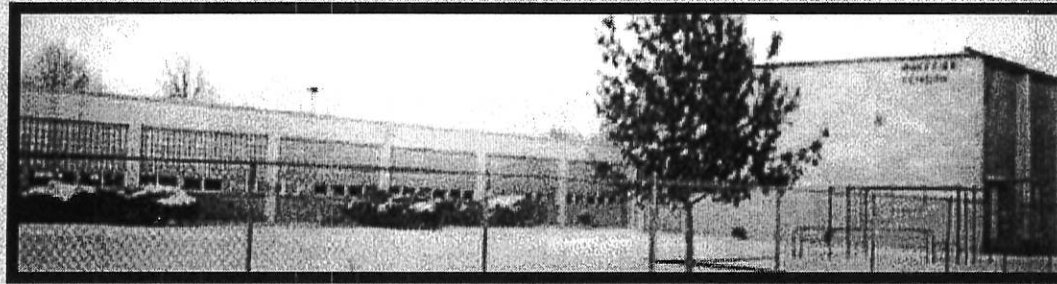


Coffeyville
KANSAS



USD 445

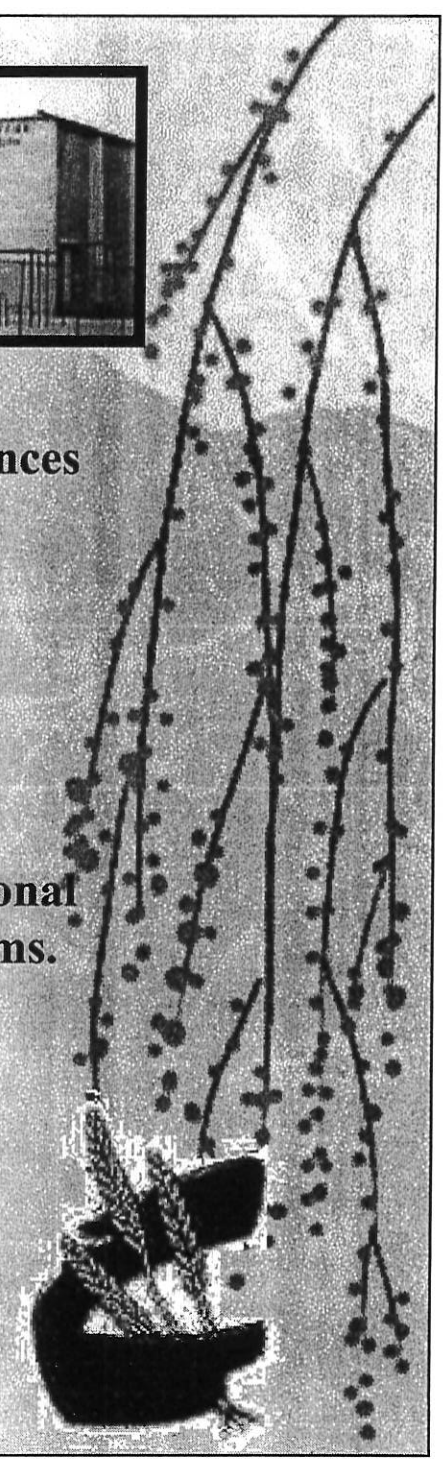
**Whittier Elementary
Constructed in 1953**



- **Construct new Pre-Kindergarten through 6th Grade Elementary**
 - **Large multipurpose/cafeteria with stage for student performances and large community meetings**
 - **Spaces for multiple sections of Music and PE**
 - **Equipped Library/Media Center**
 - **Spaces for regular and special education services**
 - **Enhance supervision/building security**
- **Close: Edgewood, Garfield, Whittier & McKinley schools**
 - **Fire code & American Disability Act violations, dysfunctional intercom systems, poor lighting, & inefficient HVAC systems.**
 - **Inadequate electrical systems for advanced technologies**
 - **Eliminate use of halls, closets & ineffective spaces to deliver regular and special education services**



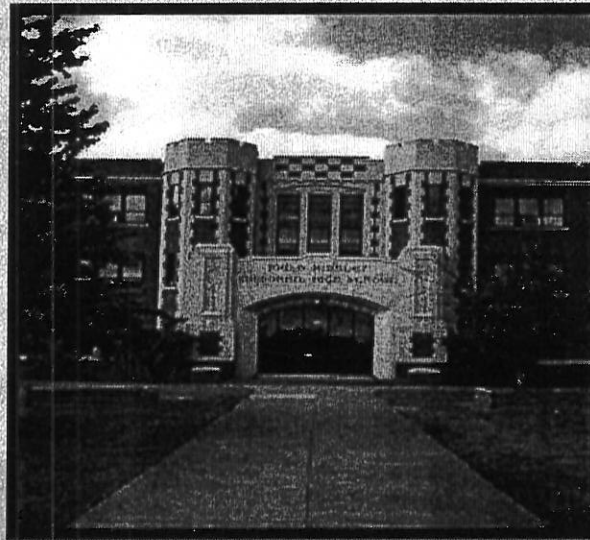
Coffeyville
KANSAS



8-1

USD 445

**Field Kindley High School
Constructed in 1931**



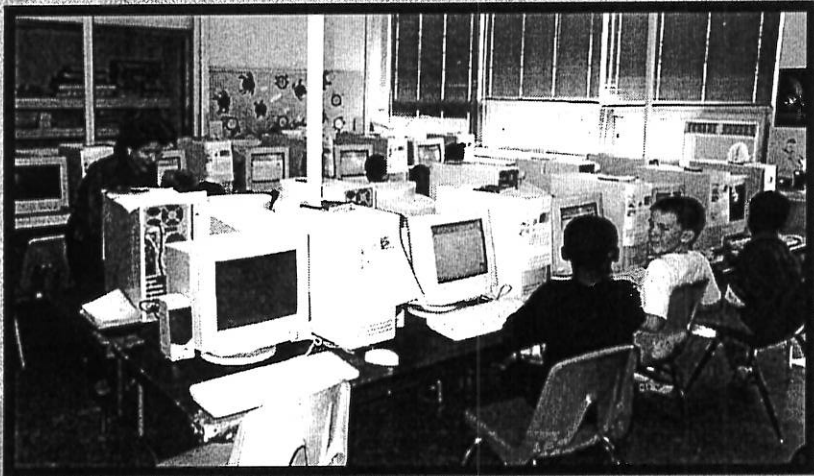
- **Modern, efficient Central Preparation Kitchen in PK-6 Elementary**
 - 70% of the district meals served to PK-6 students, on-site
 - Meals delivered to FKHS & RMS, served in current Food Center
- **Maintenance/renovations at Middle School & High School**
 - New roofs, upgrade electrical panels/wiring, fire/intercom system, tuck-pointing building exteriors
 - New zoned rooftop AC/heating systems, with individual room controls



Coffeyville
KANSAS

6-9

On Going Partnership Efforts



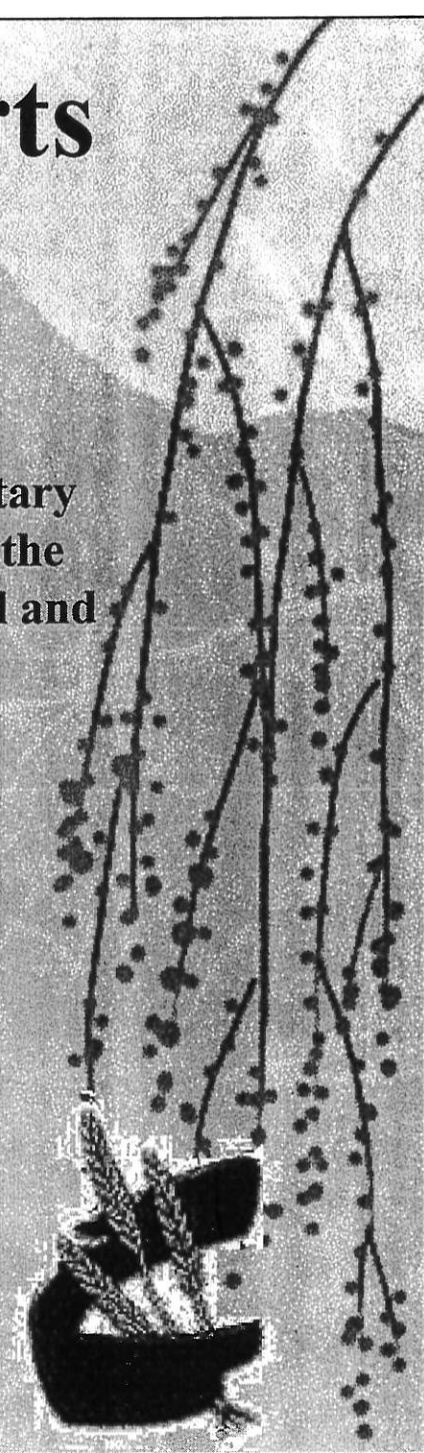
City Boys & Girls Club Computer Lab at Whittier Elementary

The lab is used by the elementary school in the day time and by the Boys & Girls club after school and in the summer.

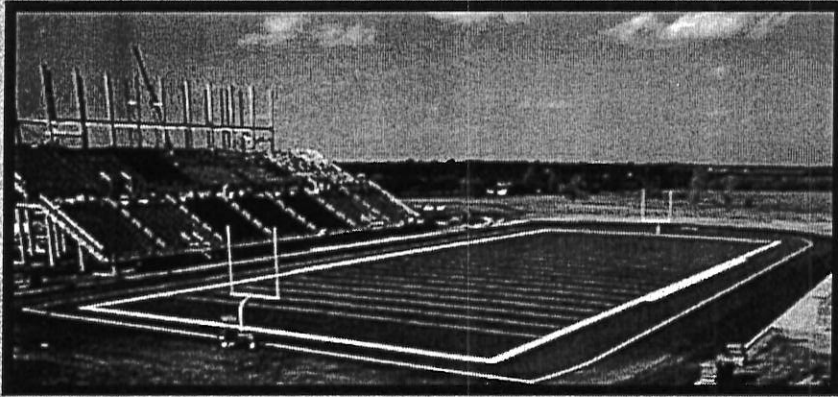
- City donations to USD 445 in lieu of property taxes for Technology
 - 1999 \$200,000
 - 2001 \$100,000
 - 2002 \$100,000
 - 2003 \$100,000
- City acquired an 11 acre site next to Edgewood Elementary that is the proposed site location for the new PK-6 Elementary School.



Coffeyville
KANSAS



Other Community Enhancements



Veterans Memorial Stadium- 2001



Public Golf Course- 1998



New Playground Equipment
Pfister Park- 1998



Outdoor Aquatic
Center 2001



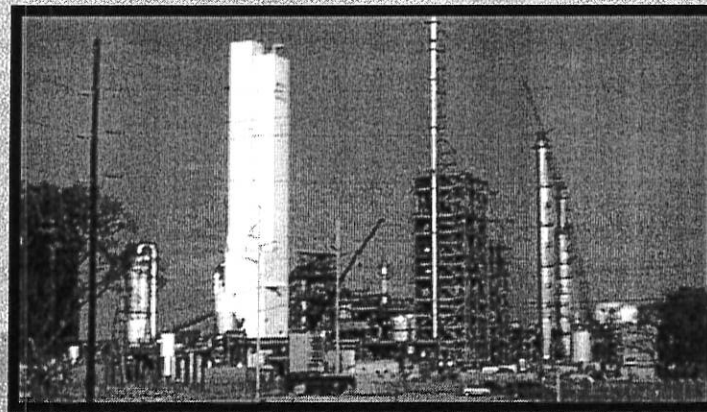
1-11

Economic Development



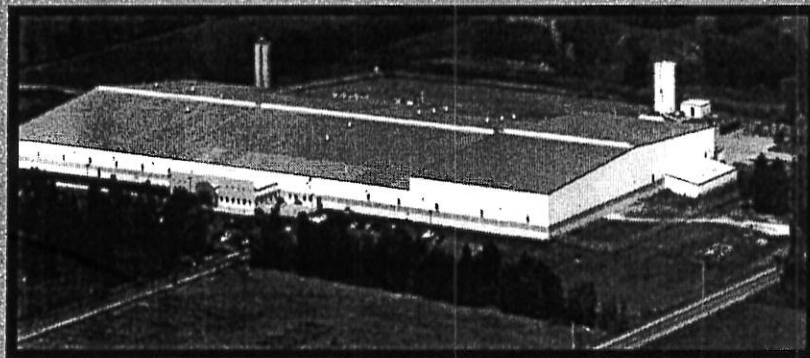
Amazon.com-1999

500 Jobs to Date/ 1,000 Projected



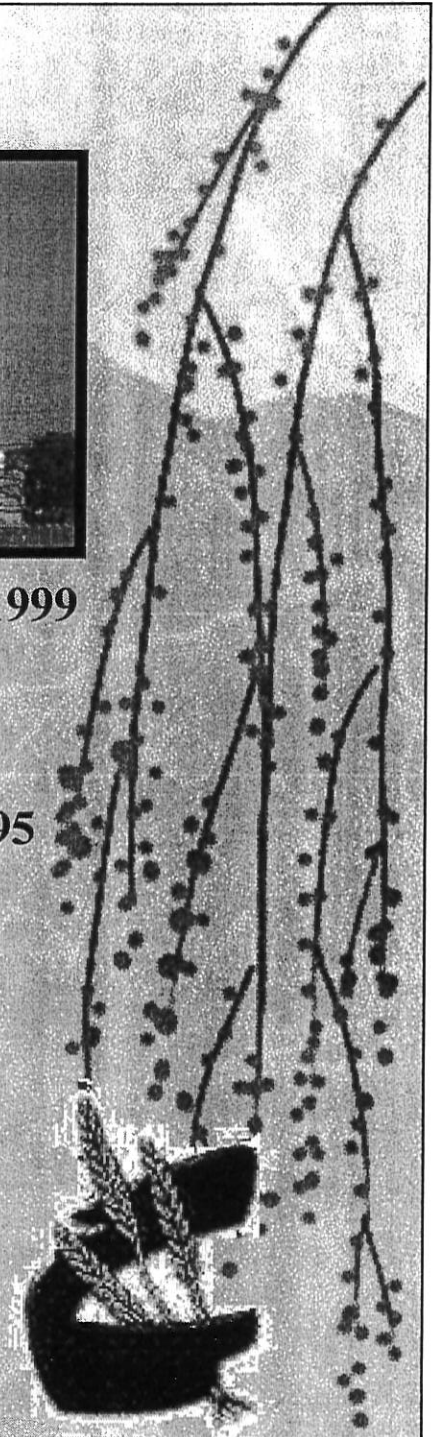
Farmland Fertilizer Facility-1999

100 New Jobs



American Insulated Wire- 1995

315 New Jobs



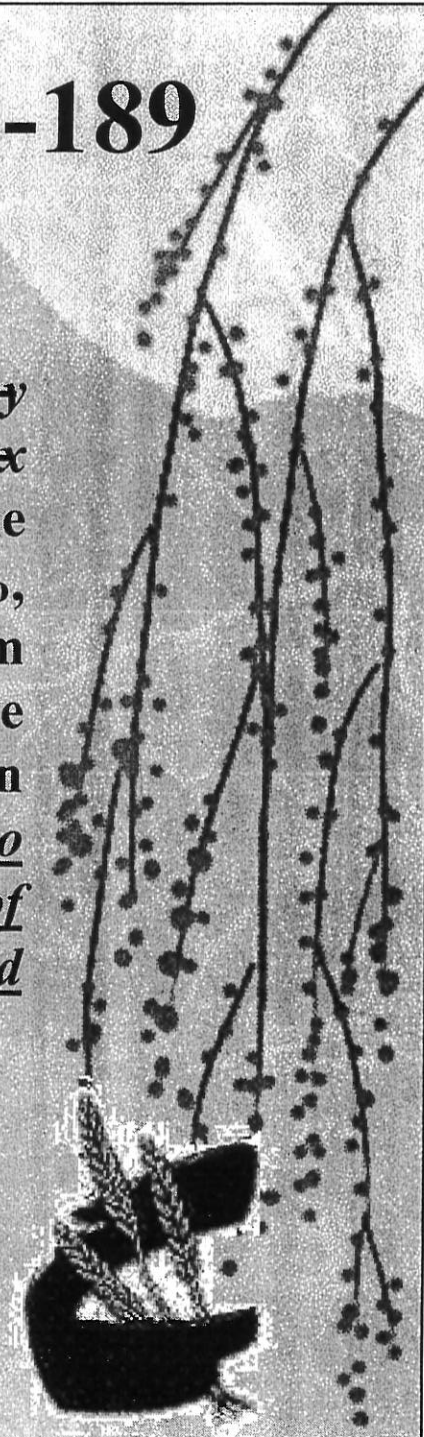
1-12

Why Amend K.S.A.12-187 & 12-189

1-13

K.S.A. 2000 Supp. 12-187:

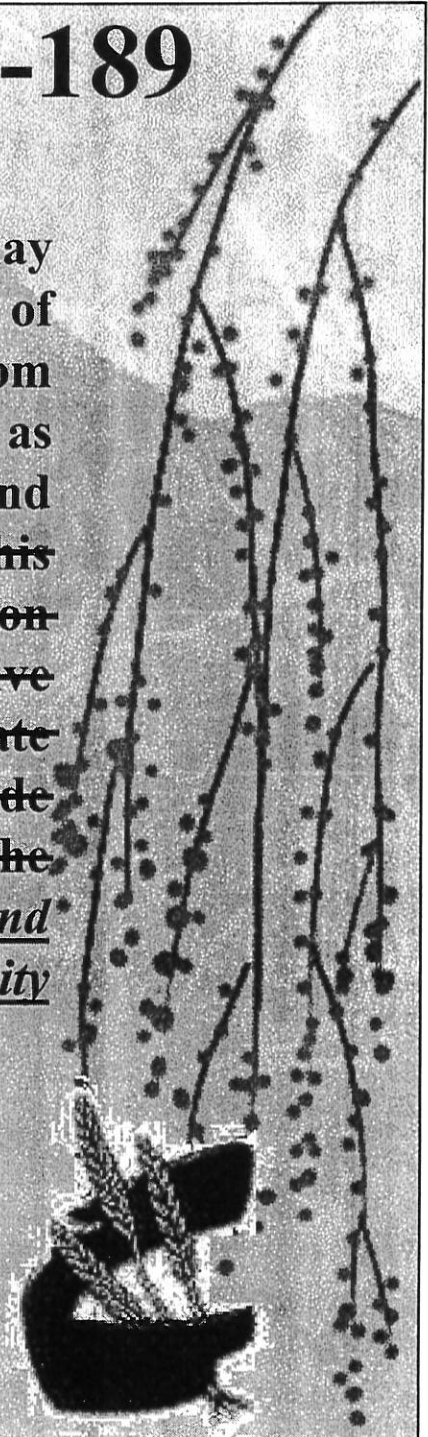
(a) (2) The governing body of any class B city ~~located in any county which does not impose a countywide retailers' sales tax pursuant to paragraph (5) of subsection (b)~~ may submit the question of imposing a retailers' sales tax at the rate of .25%, .5%, .75% or 1% and pledging the revenue received therefrom for the purpose of financing the provision of health care services, as enumerated in the question, to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph and the tax imposed pursuant to paragraph 5 of subsection (b) by any county within which such city is located shall not exceed 1%.



Why Amend K.S.A.12-187 & 12-189

K.S.A. 2000 Supp. 12-187:

(b)(5) The board of county commissioners of any county may submit the question of imposing a retailers' sales tax at the rate of .25%, .5%, .75% or 1% and pledging the revenue received therefrom for the purpose of financing the provision of health care services, as enumerated in the question, to the electors at an election called and held thereon. ~~Whenever any county imposes a tax pursuant to this paragraph, any tax imposed pursuant to paragraph (2) of subsection (a) by any city located in such county shall expire upon the effective date of the imposition of the countywide tax, and thereafter the state treasurer shall remit to each such city that portion of the countywide tax revenue collected by retailers within such city as certified by the director of taxation.~~ The tax imposed pursuant to this paragraph and the tax imposed pursuant to paragraph (2) of subsection (a) by any city located within the county shall not exceed 1%.



1-14

Why Amend K.S.A.12-187 & 12-189

Explanation for Request:

Under the existing language if the County imposes a sales tax for health care services any City sales tax for this same purpose shall expire upon the effective date of the imposition of the countywide tax, and thereafter the state treasurer shall remit to each such city that portion of the countywide tax revenue collected by retailers within such city. What if the City electorate passed a .5% sales tax for twenty (20) years, then later the county passed one for only .25% for ten (10) years? What happens to the amount and length of the City sales tax?



1-15

Why Amend K.S.A.12-187 & 12-189

K.S.A. 2000 Supp. 12-187:

(e) A class D city shall have the same power to levy and collect a city retailers' sales tax that a class A city is authorized to levy and collect and in addition, the governing body of any class D city may submit the question of imposing an additional city retailers' sales tax in the amount of .125%, .25%, .5% ~~or~~ .75%, 1% or 1.25% and pledging the revenue received therefrom for economic development initiatives, strategic planning initiatives *or*, for public infrastructure projects including buildings or for providing financial assistance for the operation of a unified school district to the electors at an election called and held thereon. Any additional sales tax imposed pursuant to this paragraph shall expire no later than five years from the date of imposition thereof, except that any such tax imposed by any class D city after the effective date of this act shall expire no later than ~~10~~ 20 years from the date of imposition thereof.



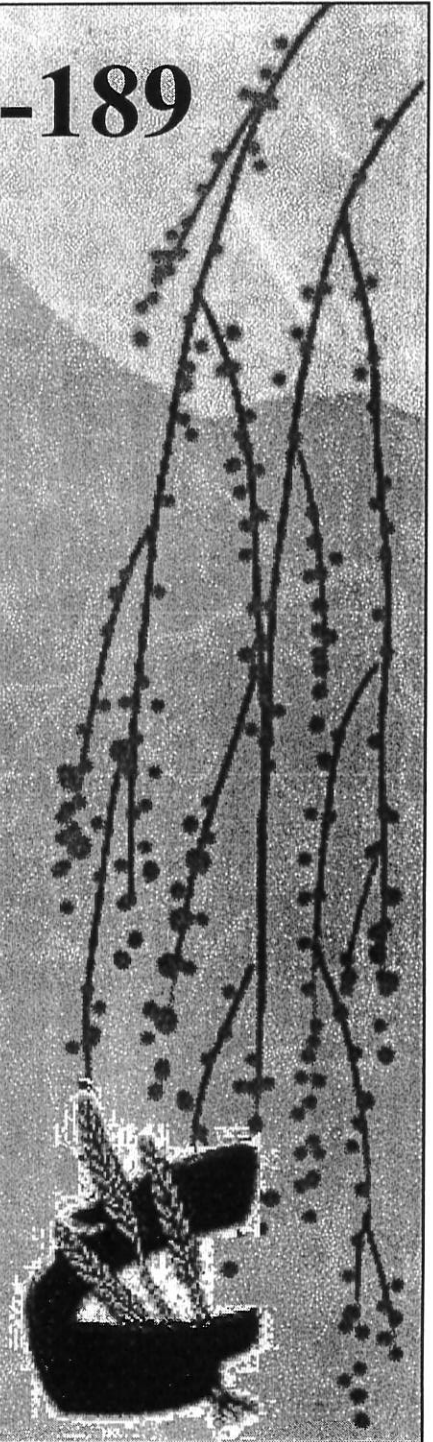
Coffeyville
KANSAS

1-14

Why Amend K.S.A.12-187 & 12-189

K.S.A. 2000 Supp. 12-189:

Except as otherwise provided by paragraph (2) of subsection (a) of K.S.A. 12-187, and amendments thereto, the rate of any class A, class B or class C city retailers' sales tax shall be fixed in the amount of .25%, .5%, .75% or 1% which amount shall be determined by the governing body of the city. Except as otherwise provided by paragraph (2) of subsection (a) of K.S.A. 12-187, and amendments thereto, the rate of any class D city retailers' sales tax shall be fixed in the amount of .25%, .5%, .75%, 1%, 1.125%, 1.25%, 1.5% ~~or~~, 1.75%, 2% or 2.25%.



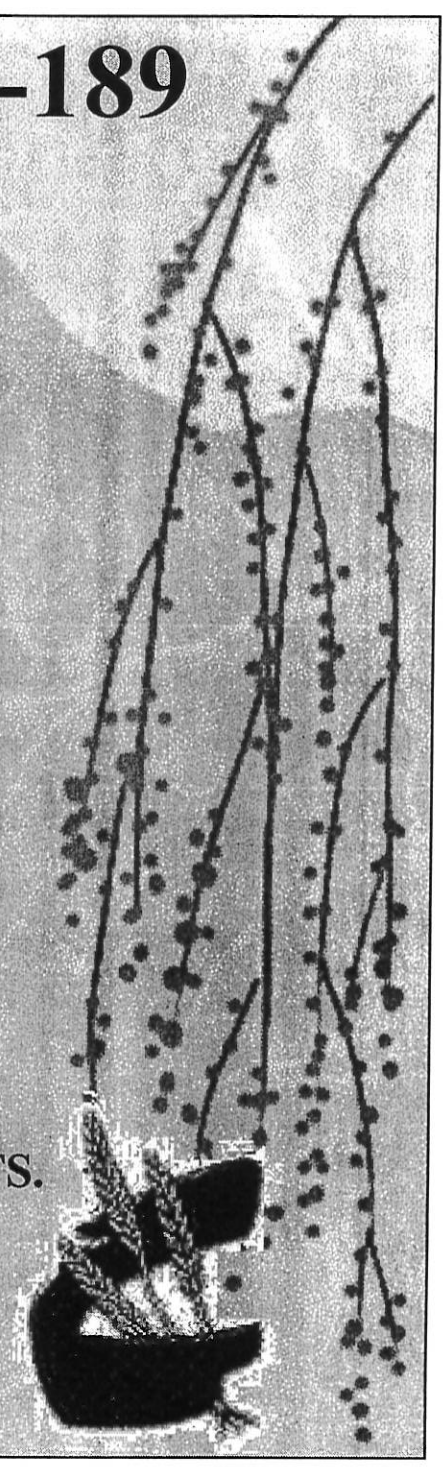
Why Amend K.S.A.12-187 & 12-189

Explanation for Request:

The modified language requested would allow Class D Cities the enabling legislative authority to impose up to an additional .5% of local retailers sales tax, add the authority to pledge the revenue for financial assistance for the operation of a unified school district and increase the mandatory sunset provision from ten (10) to (20) years.

Historically, local residents of our community have expressed greater support for using a sales tax rather than property tax to support improvements in our community. Improvements to our school district are critical to the long term viability of our community. The timeframe needs to be extended to accommodate the use of a typical bond issue format.

**WE RESPECTFULLY REQUEST YOUR
CONSIDERATION OF THESE AMENDMENTS.**



81-1

Local Contacts



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Jerry Marquette
Administrator
CRMC, Inc.
1400 W. 4th
Coffeyville, KS 67337
Phone 620-252-1537
ceo@crmcinc.com

1-1



Machining & Tooling Division

(316) 251-6800 / 1502 SPRUCE STREET / P. O. BOX 908 / COFFEYVILLE, KANSAS 67337-0901 / FAX 316 251 4952

March 2, 2001

Reference: Support for Senate Bill 311 modifications and increased funding for schools.

Honorable Senators:

I am asking for your full support of Senate Bill 311. Increasing sales taxes generally has a negative impact on my business and demands further scrutiny. Coffeyville's newest schools are nearly fifty years old and cannot meet the needs of a modern education for our students. We must use general obligation bonds, through a supportive vote of the public, to provide new facilities and make major renovations. It is hard to gain taxpayer support for increased property taxes for schools when the community college, schools, city and county taxes already make our city have one of the highest property tax rates for cities our size.

Businesses and voters would support the use of sales taxes to help bond payments and reduce the local mill levy for the school bond fund. This opportunity will help Coffeyville and similarly situated communities pass much needed school bonds, without any extra costs to the state. It merely opens the door for local taxpayers to make their own choices. Extending the sales tax authority and duration will allow Coffeyville to align their sales tax proposal with the typical 20-year school bond proposal.

Because the legislature has provided an average of less than 1% per year increase in the school district's base budget per pupil, the local taxpayers have assumed part of the costs of inflation through significant increases in the supplemental general fund (LOB). The first four years after the state took over funding in 1992, the district reduced operating costs by cutting programs and staff and closing schools. Our school district levied its first LOB in 1996, when the legislature made the LOB a permanent funding option and allowed the districts to levy an LOB without voter protest (up to the average expenditure per pupil for districts their size).

Since 1996, the legislature has dropped the state mill levy from 35 mills to 20 mills and provided base budget per pupil increases far less than inflation costs. To survive some of the costs of inflation, our local district was forced to close two more schools and add over 15 mills onto the local taxpayers through the LOB. We have returned to 35 mills in four years by shifting it from the state to the local taxpayers. Our LOB only represents 13% of the 25% maximum you have allowed by law. Without additional funding for schools from the legislature, our district will have no choice but to nearly double the LOB and/or dramatically cut already limited programming

and services to students. Amending Senate Bill 311 would allow taxpayers a choice to help schools with operating funds using sales tax, possibly limiting mill levies.

I want to also voice my support for additional state funding of schools through an increase in state sales tax. State sales tax is more progressive than property taxes and levels the playing field for schools. Building the costs of inflation into future funding will keep schools from falling into the dire straights they currently face and will allow them to plan ahead, like any good business.

I appreciate your support of Senate Bill 311 and sufficient and more equitable funding of schools now and in the future. Please call if you have questions or if I can be of further support on these issues.

Sincerely,



Tom Tatman
President

Additional information:

New fire codes, ADA, special education and desegregation mandates make it more cost effective to replace our current elementary buildings with one new large K-6 building. Major renovations of the middle school and high school are also planned in our April bond election. This will be the third time in a year that the community bond committee has attempted to secure voter approval for funds necessary for the education of our students and the survival of our community.

I and other businesses believe the voters prefer sales taxes to property taxes and they would support the options available in Senate Bill 311 to do what is needed for our students and schools. They believe that those with greater wealth can choose to pay more with their larger purchases, while those who own property have limited choices. It lets out-of-town patrons help support the local bill.

COFFEYVILLE SEKTAM, INC.

Southeast Kansas Tool and Mfg.

509 North Cline Road
Coffeyville, Kansas 67337

Phone: (316) 251-3880
Fax: (316) 251-0404

March 5, 2001

Reference: Support for Senate Bill 311 modifications and increased funding for schools

Honorable Senators:

I am asking for your full support of Senate Bill 311. Coffeyville's newest schools are nearly fifty years old and cannot meet the needs of a modern education for our students. We must use general obligation bonds, through a supportive vote of the public, to provide new facilities and make major renovations. It is hard to gain taxpayer support for increased property taxes for schools when the community college, schools, city and county taxes already make our city have one of the highest property tax rates for cities our size.

Businesses and voters would support the use of sales taxes to help make bond payments and reduce the local mill levy for the school bond fund. This opportunity will help Coffeyville and similarly situated communities pass much needed school bonds, without any extra costs to the state. It merely opens the door for local taxpayers to make their own choices. Extending the sales tax authority and duration will allow Coffeyville to align their sales tax proposal with the typical 20-year school bond proposal.

Because the legislature has provided an average of less than 1% per year increase in the school district's base budget per pupil, the local taxpayers have assumed part of the costs of inflation through significant increases in the supplemental general fund (LOB). The first four years after the state took over funding in 1992, the district reduced operating costs by cutting programs and staff and closing schools. Our school district levied its first LOB in 1996, when the legislature made the LOB a permanent funding option and allowed the districts to levy an LOB without voter protest (up to the average expenditure per pupil for districts their size).

Since 1996, the legislature has dropped the state mill levy from 35 mills to 20 mills and provided base budget per pupil increases far less than inflation costs. To survive some of the costs of inflation, our local district was forced to close two more schools and add over 15 mills onto the local taxpayers through the LOB. We have returned to 35 mills in four years by shifting it from the state to the local taxpayers. Our LOB only represents ~13%

March 5, 2001 - Honorable Senators - Page 2

of the 25% maximum you have allowed by law. Without additional funding for schools from the legislature, our district will have no choice but to nearly double the LOB and/or dramatically cut already limited programming and services to students. Amending Senate Bill 311 would allow taxpayers a choice to help schools with operating funds using sales tax, possibly limiting mill levies.

I want to also voice my support for additional state funding of schools through an increase in state sales tax. State sales tax is more progressive than property taxes and levels the playing field for schools. Building the costs of inflation into future funding will keep schools from falling into the dire straights they currently face and will allow them to plan ahead, like any good business.

I appreciate your support of Senate Bill 311 and sufficient and more equitable funding of schools now and in the future. Please call if you have questions or if I can be of further support on these issues.

Sincerely,

A handwritten signature in cursive script that reads "Steve Cornell". The signature is written in dark ink and is positioned above the printed name and title.

Steve Cornell
President

 **THOMPSON**
BROTHERS

Welding & Industrial Supply, Inc.

2319 W Eighth, Coffeyville, KS 67337
Ph(316)251-1740 Fax(316)251-3115

3700 E Tuxedo, Bartlesville, OK 74006
Ph(918)333-5656 Fax(918)333-5657

March 5, 2001

Reference: Support for Senate Bill No.311 and Increased School Funding

Honorable Senators:

I am asking for your full support of Senate Bill 311. Increasing sales taxes generally has a negative impact on my business and demands further scrutiny. Our newest schools are nearly fifty years old and cannot meet the needs of a modern education for our students. We must use general obligation bonds, through a vote of the public, to provide new facilities and make major renovations. It is hard to gain taxpayer support to increase property taxes for schools, when the community college, schools, city and county taxes already make our city have one of the highest property taxes rates for cities our size. Businesses and voters would support the use of sales taxes to help make bond payments, reducing the local mill levy for the school bond fund. This opportunity will help Coffeyville and similarly situated communities pass much needed school bonds, without any extra costs to the state. It merely opens the door for local taxpayers to make their own choices. Extending the sales tax authority and duration will allow Coffeyville to align their sales tax proposal with the typical 20-year school bond proposals.

With less than 1% per year legislative increase in the schools district's base budget per pupil, the local taxpayers have picked-up part of the costs to cover inflation through increases in the supplemental general fund (LOB). The first four years after state took over funding in 1992, the district reduced operating costs by cutting programs and staff and closing schools. When the legislature made the LOB a permanent funding option in 1996 and allowed district to levy an LOB up to the average expenditure/pupil for districts their size, our district levied their first LOB.

The legislature has dropped their school general fund levy from 35 mills to 20 mills and gave base budget per pupil increases far less than inflationary costs. During this same time the local LOB has added over 15 mills on local taxpayers to shift funding from the state to our local taxpayers, to return to the same 35 mills. This represents ~ 13% of the maximum 25% LOB allowed. Without additional funding for schools from the legislature, our district will have no choice but to nearly double the LOB and/or dramatically cut already limited programming. This bill would allow help with school operating funds, possibly limiting mill levies, at the local taxpayers choice.

I want to also take this opportunity to support additional state funding of schools through an increase in state sales tax. State sales tax is more progressive and levels the playing field for school districts. Building in the costs of inflation into future funding will keep schools from falling into the dire straights they currently face and allow them to plan ahead, like any good business.

I appreciate your support of Senate Bill 311 and sufficient and more equitable school funding now and in the future. Please call if you have questions or if I can be of further support on these issues.

Sincerely,



Rick Thompson
President

Additional Information:

New fire codes, ADA, special education and desegregation mandates make it more cost effective to replace our elementary buildings with one new K-6 elementary. Major renovation upgrades of the middle school and high school are also planned in our April bond election. This will be the third time in a year that we have gone to the public to secure this necessary funding for our students and the economic survival of our community. With a community college, the city, county and school district all levying taxes, it is hard to get voter approval. Other businessmen and I believe the voters would prefer the sales tax over property tax. Voters will support the school bond and/or hospital bond for improvements/expansion if sales tax revenues could be used to make part of the bond and interest payments, thus reducing their property tax levy for the bond fund. The sales tax is viewed as a more progressive tax choice. Those with greater wealth can choose to pay with their larger purchases. It also lets out-of-town patrons help support the local bill.

4 STATE

Maintenance Supply

SERVICING
KANS. • OKLA.
MO. & ARK.

P.O. BOX 591 • COFFEYVILLE, KANSAS 67337 • FAX 316-251-0391 • 316-251-7033

March 6, 2001

Reference: Support for Senate Bill No.311 and Increased School Funding

Honorable Senators:

I am asking for your full support of Senate Bill 311. Increasing sales taxes generally has a negative impact on my business and demands further scrutiny. Our newest schools are nearly fifty years old and cannot meet the needs of a modern education for our students. We must use general obligation bonds, through a vote of the public, to provide new facilities and make major renovations. It is hard to gain taxpayer support to increase property taxes for schools, when the community college, schools, city and county taxes already make our city have one of the highest property taxes rates for cities our size. Businesses and voters would support the use of sales taxes to help make bond payments, reducing the local mill levy for the school bond fund. This opportunity will help Coffeyville and similarly situated communities pass much needed school bonds, without any extra costs to the state. It merely opens the door for local taxpayers to make their own choices. Extending the sales tax authority and duration will allow Coffeyville to align their sales tax proposal with the typical 20-year school bond proposals.

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I appreciate your support of Senate Bill 311 and sufficient and more equitable school funding now and in the future. Please call if you have questions or if I can be of further support on these issues.

Sincerely,

4 STATE MAINTENANCE SUPPLY



Tom Tipton
President

Use -

4 STATE

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MO. & ARK.

P.O. BOX 591 • COFFEYVILLE, KANSAS 67337 • FAX 316-251-0391 • 316-251-7033

Additional Information:

New fire codes, ADA, special education and desegregation mandates make it more cost effective to replace our elementary buildings with one new K-6 elementary. Major renovation upgrades of the middle school and high school are also planned in our April bond election. This will be the third time in a year that we have gone to the public to secure this necessary funding for our students and the economic survival of our community. With a community college, the city, county and school district all levying taxes, it is hard to get voter approval. Other businessmen and I believe the voters would prefer the sales tax over property tax. Voters will support the school bond and/or hospital bond for improvements/expansion if sales tax revenues could be used to make part of the bond and interest payments, thus reducing their property tax levy for the bond fund. The sales tax is viewed as a more progressive tax choice. Those with greater wealth can choose to pay with their larger purchases. It also lets out-of-town patrons help support the local bill.



DARWIN INDUSTRIES, INC.

P.O. BOX 251 • COFFEYVILLE, KANSAS 67337 • WEB SITE: darwinindustries.com
TELEPHONE: (316) 251-8438 • 1-800-447-2456 • FAX: (316) 251-8493

March 5, 2001

Reference: Support for Senate Bill No.311 and Increased School Funding

Honorable Senators:

I am asking for your full support of Senate Bill 311. Increasing sales taxes generally has a negative impact on my business and demands further scrutiny. Our newest schools are nearly fifty years old and cannot meet the needs of a modern education for our students. We must use general obligation bonds, through a vote of the public, to provide new facilities and make major renovations. It is hard to gain taxpayer support to increase property taxes for schools, when the community college, schools, city and county taxes already make our city have one of the highest property taxes rates for cities our size. Businesses and voters would support the use of sales taxes to help make bond payments, reducing the local mill levy for the school bond fund. This opportunity will help Coffeyville and similarly situated communities pass much needed school bonds, without any extra costs to the state. It merely opens the door for local taxpayers to make their own choices. Extending the sales tax authority and duration will allow Coffeyville to align their sales tax proposal with the typical 20-year school bond proposals.

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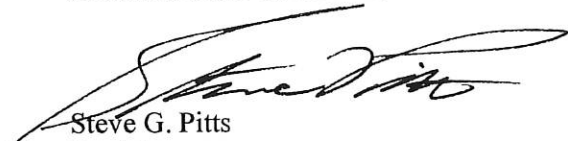
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I appreciate your support of Senate Bill 311 and sufficient and more equitable school funding now and in the future. Please call if you have questions or if I can be of further support on these issues.

Sincerely,

DARWIN INDUSTRIES, INC.



Steve G. Pitts
President

Additional Information:

New fire codes, ADA, special education and desegregation mandates make it more cost effective to replace our elementary buildings with one new K-6 elementary. Major renovation upgrades of the middle school and high school are also planned in our April bond election. This will be the third time in a year that we have gone to the public to secure this necessary funding for our students and the economic survival of our community. With a community college, the city, county and school district all levying taxes, it is hard to get voter approval. Other businessmen and I believe the voters would prefer the sales tax over property tax. Voters will support the school bond and/or hospital bond for improvements/expansion if sales tax revenues could be used to make part of the bond and interest payments, thus reducing their property tax levy for the bond fund. The sales tax is viewed as a more progressive tax choice. Those with greater wealth can choose to pay with their larger purchases. It also lets out-of-town patrons help support the local bill.



Community
STATE BANK

March 7, 2001

Reference: Support for Senate Bill 311 Modifications and increased funding for schools

Honorable Senators:

I am asking for your full support of Senate Bill 311. Increasing sales taxes generally has a negative impact on my business and demands further scrutiny. Coffeyville's newest schools are nearly fifty years old and cannot meet the needs of a modern education for our students. We must use general obligation bonds, through a supportive vote of the public, to provide new facilities and make major renovations. It is hard to gain taxpayer support for increased property taxes for schools when the community college, schools, city and county taxes already make our city have one of the highest property tax rates for cities our size.

Businesses and voters would support the use of sales tax to help make bond payments and reduce the local mill levy for the school bond fund. This opportunity will help Coffeyville and similarly situated communities pass much needed school bonds, without any extra costs to the state. It merely opens the door for local taxpayers to make their own choices. Extending the sales tax authority and duration will allow Coffeyville to align their sales tax proposal with the typical 20-year school bond proposal.

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Since 1996, the legislature has dropped the state mill levy from 35 mills to 20 mills and provided base budget per pupil increases far less than inflation costs. To survive some of the costs of inflation, our local district was forced to close two more schools and add over 15 mills onto the local taxpayers through the LOB. We have returned to 35 mills in four years by shifting it from the state to the local taxpayers. Our LOB only represents ~13% of the 25% maximum you have allowed by law. Without additional funding for schools from the legislature, our district will have no choice but to nearly double the LOB and/or dramatically cut already limited programming and services to students. Amending Senate Bill 311 would allow taxpayers a choice to help schools with operating funds using sales tax, possibly limiting mill levies.

I want to also voice my support for additional state funding of schools through an increase in state sales tax. State sales tax is more progressive than property taxes and levels the playing field for schools. Building the costs of inflation into future funding will keep schools from falling into the dire straights they currently face and will allow them to plan ahead, like any good business.

I appreciate your support of Senate Bill 311 and sufficient and more equitable funding of schools now and in the future. Please call if you have questions or if I can be of further support on these issues.

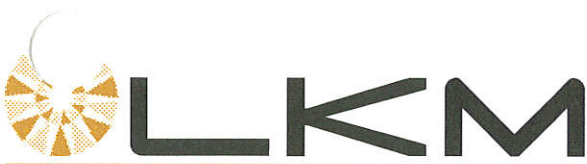
Sincerely,

Michael V. Ewy
President

Additional Information:

New fire codes, ADA, special education and desegregation mandates make it more cost effective to replace our current elementary building with one new large K-6 building. Major renovations of the middle school and high school are also planned in our April bond election. This will be the third time in a year that the community bond committee has attempted to secure voter approval for funds necessary for the education of our students and the survival of our community.

I and other businesses believe the voters prefer sales taxes to property taxes and they would support the options available in Senate Bill 311 to do what is needed for our students and schools. They believe that those with greater wealth can choose to pay more with their larger purchases, while those who own property have limited choices. It lets out-of-town patrons help support the local bill.



League of Kansas Municipalities

TO: Senate Assessment and Taxation Committee
FROM: Don Moler, Executive Director
RE: Comments on SB 311
DATE: March 8, 2001

First I would like to thank the Committee for allowing the League to testify today concerning SB 311. The League appears in a posture today where we are suggesting amendatory language to SB 311 as we believe the overall goal of the bill, as proposed by the City of Coffeyville, is in fact a worthy cause. However, we are greatly concerned about the editorial changes made in Section 1 to K.S.A. Supp. 12-187 which we believe have a much wider impact than anticipated and requested by the City of Coffeyville.

As we understand the concern of the City, they do not wish to have to levy this tax and float bonds supported by that tax, if there is a possibility that the county could then come in and levy the same tax, thus eliminating their levy pursuant to the current language found in K.S.A. Supp. 12-187(a)(2) and (a)(5). We are therefore submitting to the Committee a balloon which we believe addresses the concerns of the city without substantively altering the language contained in K.S.A. 12-187.

The balloon, which I have attached to this testimony, would merely create a caveat which would provide as long as a city maintained a sales tax for the purpose of an outstanding bond issue under K.S.A. Supp. 12-187(a)(2), that a county levy would not eliminate the city levy. We believe this amendment will remove the concerns of the League and further the purposes of the City of Coffeyville in this area. I will be glad to answer any questions the Committee may have concerning the League position on this bill and would like to thank the Committee once again for allowing us to testify today.

*Senate Assessment & Taxation
3-8-01*

Amendments to SB 311 appear in bold

Section 1. K.S.A. 2000 Supp. 12-187 is hereby amended to read as follows:
12-187. (a) (1) No city shall impose a retailers' sales tax under the provisions of this act without the governing body of such city having first submitted such proposition to and having received the approval of a majority of the electors of the city voting thereon at an election called and held therefor. The governing body of any city may submit the question of imposing a retailers' sales tax and the governing body shall be required to submit the question upon submission of a petition signed by electors of such city equal in number to not less than 10% of the electors of such city.

(2) The governing body of any class B city ~~located in any county which does not impose a countywide retailers' sales tax pursuant to paragraph (5) of subsection (b)~~ **located in any county which does not impose a countywide retailers' sales tax pursuant to paragraph (5) of subsection (b)** may submit the question of imposing a retailers' sales tax at the rate of .25%, .5%, .75% or 1% and pledging the revenue received therefrom for the purpose of financing the provision of health care services, as enumerated in the question, to the electors at an election called and held thereon. ~~The tax imposed pursuant to this paragraph and the tax imposed pursuant to paragraph 5 of subsection (b) by any county within which such city is located shall not exceed 1%.~~ The tax imposed pursuant to this paragraph shall be deemed to be in addition to the rate limitations prescribed in K.S.A. 12-189, and amendments thereto. As used in this paragraph, health care services shall include but not be limited to the following: Local health departments, city, county or district hospitals, city or county nursing homes, preventive health care services including immunizations, prenatal care and the postponement of entry into nursing homes by home health care services, mental health services, indigent health care, physician or health care worker recruitment, health education, emergency medical services, rural health clinics, integration of health care services, home health services and rural health networks.

(b) (1) The board of county commissioners of any county may submit the question of imposing a countywide retailers' sales tax to the electors at an election called and held thereon, and any such board shall be required to submit the question upon submission of a petition signed by electors of such county equal in number to not less than 10% of the electors of such county who voted at the last preceding general election for the office of secretary of state, or upon receiving resolutions requesting such an election passed by not less than 2/3 of the membership of the governing body of each of one or more cities within such county which contains a population of not less than 25% of the entire population of the county, or upon receiving resolutions requesting such an election passed by 2/3 of the membership of the governing body of each of one or more taxing subdivisions within such county which levy not less than 25% of the property taxes levied by all taxing subdivisions within the county.

(2) The board of county commissioners of Atchison, Barton, Butler, Cowley, Cherokee, Crawford, Ford, Jefferson, Lyon, Montgomery, Neosho, Osage, Ottawa, Riley, Saline, Seward, Wabaunsee, Wilson and Wyandotte counties may submit the

question of imposing a countywide retailers' sales tax and pledging the revenue received therefrom for the purpose of financing the construction or remodeling of a courthouse, jail, law enforcement center facility or other county administrative facility, to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire when sales tax sufficient to pay all of the costs incurred in the financing of such facility has been collected by retailers as determined by the secretary of revenue. Nothing in this paragraph shall be construed to allow the rate of tax imposed by Butler, Cowley, Lyon, Montgomery, Neosho, Riley or Wilson county pursuant to this paragraph to exceed or be imposed at any rate other than the rates prescribed in K.S.A. 12-189, and amendments thereto.

(3) (A) Except as otherwise provided in this paragraph, the result of the election held on November 8, 1988, on the question submitted by the board of county commissioners of Jackson county for the purpose of increasing its countywide retailers' sales tax by 1% is hereby declared valid, and the revenue received therefrom by the county shall be expended solely for the purpose of financing the Banner Creek reservoir project. The tax imposed pursuant to this paragraph shall take effect on the effective date of this act and shall expire not later than five years after such date.

(B) The result of the election held on November 8, 1994, on the question submitted by the board of county commissioners of Ottawa county for the purpose of increasing its countywide retailers' sales tax by 1% is hereby declared valid, and the revenue received therefrom by the county shall be expended solely for the purpose of financing the erection, construction and furnishing of a law enforcement center and jail facility.

(4) The board of county commissioners of Finney and Ford counties may submit the question of imposing a countywide retailers' sales tax at the rate of .25% and pledging the revenue received therefrom for the purpose of financing all or any portion of the cost to be paid by Finney or Ford county for construction of highway projects identified as system enhancements under the provisions of paragraph (5) of subsection (b) of K.S.A. 68-2314, and amendments thereto, to the electors at an election called and held thereon. Such election shall be called and held in the manner provided by the general bond law. The tax imposed pursuant to this paragraph shall expire upon the payment of all costs authorized pursuant to this paragraph in the financing of such highway projects. Nothing in this paragraph shall be construed to allow the rate of tax imposed by Finney or Ford county pursuant to this paragraph to exceed the maximum rate prescribed in K.S.A. 12-189, and amendments thereto. If any funds remain upon the payment of all costs authorized pursuant to this paragraph in the financing of such highway projects in Finney county, the state treasurer shall remit such funds to the treasurer of Finney county and upon receipt of such moneys shall be deposited to the credit of the county road and bridge fund. If any funds remain upon the payment of all costs authorized pursuant to this paragraph in the financing of such highway projects in Ford county, the state treasurer shall remit such funds to the treasurer of Ford county and upon receipt of such moneys shall be deposited to the credit of the county road and bridge fund.

(5) The board of county commissioners of any county may submit the question of imposing a retailers' sales tax at the rate of .25%, .5%, .75% or 1% and pledging the revenue received therefrom for the purpose of financing the provision of health care services, as enumerated in the question, to the electors at an election called and held thereon. ~~Whenever any county imposes a tax pursuant to this paragraph, any tax imposed pursuant to paragraph (2) of subsection (a) by any city located in~~

2-3

~~such county shall expire upon the effective date of the imposition of the countywide tax, and thereafter the state treasurer shall remit to each such city that portion of the countywide tax revenue collected by retailers within such city as certified by the director of taxation. Whenever any county imposes a tax pursuant to this paragraph, any tax imposed pursuant to paragraph (2) of subsection (a) by any city located in such county shall expire upon the effective date of the imposition of the countywide tax, except as provided below; and thereafter the state treasurer shall remit to each such city that portion of the countywide tax revenue collected by retailers within such city as certified by the director of taxation. The tax imposed pursuant to this paragraph and the tax imposed pursuant to paragraph (2) of subsection (a) by any city located within the county shall not exceed 1%. However, this provision shall not apply where a city has pledged the tax revenue allowed by paragraph (2) of subsection (a) to retire a bond issue. In such case the city tax shall continue until the bond issue is retired.~~ The tax imposed pursuant to this paragraph shall be deemed to be in addition to the rate limitations prescribed in K.S.A. 12-189, and amendments thereto. As used in this paragraph, health care services shall include but not be limited to the following: Local health departments, city or county hospitals, city or county nursing homes, preventive health care services including immunizations, prenatal care and the postponement of entry into nursing homes by home care services, mental health services, indigent health care, physician or health care worker recruitment, health education, emergency medical services, rural health clinics, integration of health care services, home health services and rural health networks.

(6) The board of county commissioners of Allen county may submit the question of imposing a countywide retailers' sales tax at the rate of .5% and pledging the revenue received therefrom for the purpose of financing the costs of operation and construction of a solid waste disposal area or the modification of an existing landfill to comply with federal regulations to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon the payment of all costs incurred in the financing of the project undertaken. Nothing in this paragraph shall be construed to allow the rate of tax imposed by Allen county pursuant to this paragraph to exceed or be imposed at any rate other than the rates prescribed in K.S.A. 12-189 and amendments thereto.

(7) The board of county commissioners of Clay, Dickinson and Miami county may submit the question of imposing a countywide retailers' sales tax at the rate of .50% in the case of Clay and Dickinson county and at a rate of up to 1% in the case of Miami county, and pledging the revenue received therefrom for the purpose of financing the costs of roadway construction and improvement to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire after five years from the date such tax is first collected.

(8) The board of county commissioners of Sherman county may submit the question of imposing a countywide retailers' sales tax at the rate of .25%, .5% or .75% and pledging the revenue therefrom for the purpose of financing the costs of the county roads 64 and 65 construction and improvement project. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized pursuant to this paragraph in the financing of such project.

(9) The board of county commissioners of Cowley, Russell and Woodson county may submit the question of imposing a countywide retailers' sales tax at the rate of .5% in the case of Russell and Woodson county and at a rate of up to .25%, in the

case of Cowley county and pledging the revenue received therefrom for the purpose of financing economic development initiatives or public infrastructure projects. The tax imposed pursuant to this paragraph shall expire after five years from the date such tax is first collected.

(10) The board of county commissioners of Franklin county may submit the question of imposing a countywide retailers' sales tax at the rate of .25% and pledging the revenue received therefrom for the purpose of financing recreational facilities. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized in financing such facilities.

(c) The boards of county commissioners of any two or more contiguous counties, upon adoption of a joint resolution by such boards, may submit the question of imposing a retailers' sales tax within such counties to the electors of such counties at an election called and held thereon and such boards of any two or more contiguous counties shall be required to submit such question upon submission of a petition in each of such counties, signed by a number of electors of each of such counties where submitted equal in number to not less than 10% of the electors of each of such counties who voted at the last preceding general election for the office of secretary of state, or upon receiving resolutions requesting such an election passed by not less than 2/3 of the membership of the governing body of each of one or more cities within each of such counties which contains a population of not less than 25% of the entire population of each of such counties, or upon receiving resolutions requesting such an election passed by 2/3 of the membership of the governing body of each of one or more taxing subdivisions within each of such counties which levy not less than 25% of the property taxes levied by all taxing subdivisions within each of such counties.

(d) Any city retailers' sales tax in the amount of .5% being levied by a city on July 1, 1990, shall continue in effect until repealed in the manner provided herein for the adoption and approval of such tax or until repealed by the adoption of an ordinance so providing. In addition to any city retailers' sales tax being levied by a city on July 1, 1990, any such city may adopt an additional city retailers' sales tax in the amount of .25% or .5%, provided that such additional tax is adopted and approved in the manner provided for the adoption and approval of a city retailers' sales tax. Any countywide retailers' sales tax in the amount of .5% or 1% in effect on July 1, 1990, shall continue in effect until repealed in the manner provided herein for the adoption and approval of such tax.

(e) A class D city shall have the same power to levy and collect a city retailers' sales tax that a class A city is authorized to levy and collect and in addition, the governing body of any class D city may submit the question of imposing an additional city retailers' sales tax in the amount of .125%, .25%, .5% or .75% and pledging the revenue received therefrom for economic development initiatives, strategic planning initiatives or for public infrastructure projects including buildings to the electors at an election called and held thereon. Any additional sales tax imposed pursuant to this paragraph shall expire no later than five years from the date of imposition thereof, except that any such tax imposed by any class D city after the effective date of this act shall expire no later than 10 years from the date of imposition thereof.

(f) Any city or county proposing to adopt a retailers' sales tax shall give notice of its intention to submit such proposition for approval by the electors in the manner required by K.S.A. 10-120, and amendments thereto. The notices shall state the

time of the election and the rate and effective date of the proposed tax. If a majority of the electors voting thereon at such election fail to approve the proposition, such proposition may be resubmitted under the conditions and in the manner provided in this act for submission of the proposition. If a majority of the electors voting thereon at such election shall approve the levying of such tax, the governing body of any such city or county shall provide by ordinance or resolution, as the case may be, for the levy of the tax. Any repeal of such tax or any reduction or increase in the rate thereof, within the limits prescribed by K.S.A. 12-189, and amendments thereto, shall be accomplished in the manner provided herein for the adoption and approval of such tax except that the repeal of any such city retailers' sales tax may be accomplished by the adoption of an ordinance so providing.

(g) The sufficiency of the number of signers of any petition filed under this section shall be determined by the county election officer. Every election held under this act shall be conducted by the county election officer.

(h) The governing body of the city or county proposing to levy any retailers' sales tax shall specify the purpose or purposes for which the revenue would be used, and a statement generally describing such purpose or purposes shall be included as a part of the ballot proposition.

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TESTIMONY

To: Chairman David R. Corbin
Senate Assessment and Taxation Committee

From: Shirley K. Sicilian

Re: Senate Bill 311

Date: March 8, 2001

Chairman Corbin and members of the committee, thank you for the opportunity to testify today regarding SB 311. The department is interested in the provisions of this bill which deal with uniformity. My testimony provides a brief background on the uniformity issue and the department's position.

I. Background on Uniformity and Home Rule in the Local Retailers' Sales Tax Act.

Article 12 §5(b) of the Kansas Constitution sets out home rule powers for cities. That section empowers cities "to determine their local affairs and government including the levying of taxes, excises, fees, charges and other exactions..." The legislature may limit home rule powers to tax and levy fees, but the limitation must be "applicable *uniformly* to all cities of the same class: Provided the legislature may not establish more than four classes of cities for the purpose of imposing all such limitations or prohibitions." (Kansas Constitution Article 12 §5(b), emphasis added). Article 12 §5(c) of the Constitution allows cities to exempt themselves from a legislative limitation through charter ordinance, if the enactment imposing that limitation is non-uniform.¹

In 1996, the Kansas Court of Appeals reviewed K.S.A. 1995 Supp. 12-187(a)(2) of the local retailers' sales tax act for uniformity. The statute provided:

[A]ny city located in any county which does not impose a countywide retailers' sales tax ... may submit the question of imposing a retailers' sales tax ... and pledging the revenue received therefrom for the purpose of financing health care

¹ Some have argued that Article 12, §5(b) only prohibits a city from using an ordinary ordinance to exempt itself from uniform tax-type enactments, and that Article 12, §5(c) implies a city could use a charter ordinance to exempt itself from even a uniform tax-type enactment. The Courts have not decided this argument, but have acknowledged its existence. (See *Homebuilders Association v. City of Overland Park*, 22 Kan. App. 2d 649; and *Renaissance v. Bonner Springs* Case No. 82,996 (July 14, 2000).

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services ... to the electors.... The tax imposed pursuant to this paragraph shall be deemed to be *in addition to the rate limitations prescribed in K.S.A. 12-189...*” (emphasis added).

The Court concluded:

K.S.A. 1995 Supp. 12-187(a)(2) has the effect of treating cities within the four classes ... non-uniformly depending on whether the county in which a particular city sits has enacted the retailers’ sales tax Thus, it appears the legislature, ... is treating cities of the same class within the local retailers’ sales tax enactment non-uniformly. By treating cities within the same class non-uniformly, the legislature has opened up the retailers’ sales tax enactment to home rule authority.” (*Homebuilders Association v. City of Overland Park*, 22 Kan. App. 2d 649).

This finding by the Court was consistent with an earlier, 1992 Attorney General’s Opinion regarding the same statute:

Cities in the same class are treated differently depending on whether the county in which they are located imposes a county-wide retailers’ sales tax. Thus, K.S.A. 12-187 is not uniformly applicable to all cities of the same class. This lack of uniform applicability subjects *all provisions* of the local retailers’ sales tax enactment to cities’ powers of home rule. (Attorney General Opinion No. 92-96, emphasis added).

In its 1998 session, the legislature amended K.S.A. 12-188 and K.S.A. 12-187 with the intent of curing this judicially perceived non-uniformity. However, there is a cogent argument these changes did not fully address the Court’s concern. K.S.A. 2001 Supp. 12-187(a)(2) still allows a Class B city located in a county which does not impose a county-wide retailers’ sales tax to impose an additional tax for health care services. In fact, the Wyandotte County District Court recently rendered a decision finding the current statute non-uniform:

Despite the 1998 amendments, cities within the classification referred to as “Class B cities” are still treated differently in terms of the maximum amount of an excise tax they may levy depending upon whether the county where they are located has enacted a county wide retailers’ sales tax. (*Kansas City Renaissance Festival Corp. v. City of Bonner Springs*, 99C2915 and 99C2916 consolidated, p.5, August 2000).

The Attorney General’s office has been asked for a formal opinion, which it declined to issue due to the pending litigation. However, it is worth noting the AG has approved a bond issuance for the city of Independence that is dependent upon a charter ordinance for payment and thus dependent upon a finding of non-uniformity.

The department of revenue is also currently struggling with the issue. Within the next few days, we must make a final determination as to whether we can administer the Independence tax that resulted from that charter ordinance. Our ability to even consider administration of the Independence tax is dependent upon our determination that the tax is valid; and in order for the tax to be valid, the statute must have been non-uniform when it was enacted.

II. The Department Supports Amendments to Ensure the Local Retailers' Sales Tax Act is Uniform.

Although it won't be costless, the department is reasonably able to accommodate administration of the Independence tax. The Independence tax is currently identical to other local sales taxes in all respects except the rate. Under these conditions, the department is able to spend the time and resources necessary to enter into an Administrative or Interlocal Agreement with Independence.

Our concern, if non-uniformity is not remedied, is that many other jurisdictions could follow suit. The department would not be able to efficiently accommodate administration of non-uniform tax rates and preparation of Interlocal Agreements on a larger scale. Of even greater concern is the potential for non-uniform tax bases and exemptions. For example, in 1992 the city of Olathe attempted to charter out of the local retailers' sales tax in order to exempt tax on labor services for new construction, which was subject to state and local tax at the time. Local deviations like this one simply could not be administered by the state without imposing significant costs. An additional and equally important concern would be the administrative burden on Kansas retailers who would need to have separate tax collection processes and software for each Kansas city with a different tax base or exemption. It is even possible cities could charter out of the timing requirements for when sales taxes must be paid.

We would recommend one additional change be made. Some have suggested that recent changes to the language on page 5, line 38 to 42, have created non-uniformity by delineating between taxes imposed after the effective date of the act and taxes imposed prior to the act. Perhaps the language could be changed to read:

Any additional sale tax imposed pursuant to this paragraph shall expire no later than ~~five years from the date of imposition thereof, except that any such tax imposed by any class D city after the effective date of this act shall expire no later than 10-20~~ years from the date of imposition thereof.

Thank you again for the opportunity to testify today.