

Thank you, Madam Chairwoman and fellow committee members for the opportunity to testify as a proponent for Senate Bill 396. My name is Jay Armstrong and I serve on the Atchison county Farm Bureau Board for whom I am representing here today. Our county Farm Bureau represents over 1200 members. Also, with me today are 2 of our 3 county commissioners.

My testimony today is to use our county as an example of how and what can happen to the sovereign county voter under the state's current law governing the distribution of a county general use sales tax. I will not belabor you with all the intricacies and injustices that have occurred during the last 15 or so years, only to suffice it to say that the civics I was taught in our Kansas school system have long been abandoned by current state law in the way it distributes a general use counties sales tax back to the origin in which it was created. As most of you know there are two kinds of sales tax in our state. This bill has no affect on the distribution of dedicated sales taxes. But general use sales taxes that allow a county to adjust their tax mix by the will of the people is an entirely different matter for which I will share our county's experience as to how current state law has disenfranchised the county voter.

In 1993, the sovereign voters of Atchison County passed a general use tax to support our solid waste and joint communications. These were two new services that our county was adding to their budget and in an effort to keep property taxes from going up any higher they decided to put a general use sales tax to the voters. This was a vote by the county voters to adjust the county tax mix. A copy of that resolution explaining their reasoning along with the ballot is enclosed as exhibit one and two in your folder. You will note in the resolution enacting the ballot initiative the use of the phrase, "that property tax increases should be avoided if possible" to affirm this was a tax mix decision to the wishes of the voter. Also, of equal

importance is that nowhere in the ballot itself is there any mention that municipalities were given the right to any excess monies that may occur. While this was not a dedicated sales tax the cities have treated it like one. By withholding cash they have leveraged their will onto these county services while there is no way for them to be held accountable. County commissioners can do little if they are to get any of the county voter's money that was designed to help pay for these new services.

The County and municipalities were getting along back then, and it was understood that the voters were voting for a countywide sales tax to be collected and used by the county. The ballot initiative passed and all the municipalities passed ordinances to show this intent. Copies of the ordinances of those municipalities are also in your folder to affirm their intent.

Years later when a lawyer became mayor of Atchison he convinced the City Commission that they could control the money by removing the ordinance. They did so. And thus started the division between the county voter's wishes and the City of Atchison. Other municipalities followed Atchison, saying "whatever Atchison does we will do", except for one, which has always honored the wishes of the county voters. All of this is possible because of state law.

This has created animosity between city and county officials and has split our county along municipality / non-municipality lines. Municipalities then can whimsically decide how much of the county's money they want to give back to the county, if any. Meanwhile, those sales tax revenues collected outside the municipalities go directly back to the county. This creates a two classed system of county sales tax payers.

SHOW CHART:

Non-municipality areas of counties have no means of keeping any tax for themselves like the municipalities do, they pay their 100% of the sales tax. Thus non-municipality sales taxpayers have become disenfranchised by the state's distribution process creating a condition of "Taxation without Representation".

I am sure you will get a lot of excuses from the opponents of this bill who feel they should be in charge of telling a county how they can spend their money, they will use fear of financial chaos when any general sales tax in force now will be wiped away by the county. Really? Do they really believe that commissioners living inside a municipality's limits would not take care of his city or town? They will tell you Atchison could use a dedicated way of taxing. Really? An ongoing service that needs to be sunset every five years when it's a tax mix question at hand. All of which hopes to take your eye off the question; "Should a municipality have the right to disenfranchise a certain class of voter to make sure county monies go to them first". A resolution dated Dec 14<sup>th</sup>, 2014 and signed by then Mayor Dave Butler, identifies just how this works. REFER TO LETTER: (exhibit 4)

A single document of a decision that was made unilaterally by the City of Atchison without agreement, where they dictate how much the county will receive, dictate the terms for which they will receive it and state that they can change this at any time. And if you read closely you will see how they are dictating what they will pay of a tipping fee that was forced onto the county commissioners earlier because the solid waste service was being starved of enough money to operate. What a novel way to leave more county sales tax money available for them to keep. Then holding county commissioners accountable at the next election for the new tipping fee that the county voter thought they had paid for when they approved a 1% sales tax.

The result of this is now people who use a waste contractor, were immediately passed on the cost of the fee, now get to pay twice; once at the point of purchase and then again when the tipping fee is passed on. This includes the Benedictine college students living in the dorms now pay twice. Two classes of sales tax payers. This is how the states distribution system is creating strife and disenfranchising the sovereign county voter.

The real problem in all of this is for our county commissioners, who are elected to oversee these county services. When municipalities can starve a county commission of money that has been approved by a vote of the county voters; how can they be held accountable to do their job? In fact, a case could be made that if a city commissioner or mayor wants to be a county commissioner, why not starve the county of sales tax money so that property taxes have to be raised and then run against that. This example I just cited is not a hypothetical case.

In school I was taught civics.....one-man-one vote, that elections matter, that accountability was the test to one's oath as an elected official, current state law on the distribution of a general use sales tax that allows a county to alter their tax mix deprives those county commissioners and the county voters of those civic values. I have often wondered what those farmers who dropped their plows, and grabbed their muskets at the sound of the alarm to risk the ultimate sacrifice because "Taxation without representation" was worth the risk, would say for what we have done in Kansas. I hope you agree that this injustice needs to be rectified in supporting this bill.

Thank you, Madam Chairwoman and members of the committee, for allowing me to testify on behalf of this bill. And I would close with one comment for your consideration.

You all are elected to oversee the business of our state. What it taxes and what it spends among other things. How would it be for you to do your jobs if the municipalities of this state were given the discretion to decide how much of the state sales tax was to be sent back to Topeka the way the law now allows them to do to counties?

# Exhibit One

## RESOLUTION NO. 1105

WHEREAS, K.S.A. 12-187 et seq., as amended authorized the Board of County Commissioners of the county to submit to the electors of the county the question of levying a retailers' sales tax, such tax to be collected by the State Department of Revenue with the revenue therefrom returned and distributed as provided by law within this county, and

WHEREAS, the Board of County Commissioners has determined that additional revenue is needed by the County and the City to provide for Joint Law enforcement communications and Solid Waste Disposal; that property tax increases should be avoided if possible, and that the voters should be given a choice as to the method used to finance said projects.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ATCHISON COUNTY, KANSAS:

A special question election shall be held in the manner prescribed by law on the 3rd day of August, 1993, for the purpose of submitting to the qualified electors of Atchison County, Kansas, the question of levying a countywide retailers' sales tax in Atchison County, Kansas, in the amount of one percent (1%), such tax to take effect on the 1st day of October, 1993, if approved by a majority of the electors voting thereon.

This resolution shall take effect on publication in the official county newspaper.

Adopted this 25th day of June, 1993, by the Board of County Commissioners of Atchison County, Kansas.

Aussie Pickman  
Chairman

Russell Chew  
Member

Paul Wilson  
Member

Attest: Pauline M. Lee  
County Clerk  
county/ressaltix



STATE OF KANSAS  
QUESTION SUBMITTED  
COUNTY OF ATCHISON  
SPECIAL ELECTION - AUGUST 3, 1993

NOTICE

If you tear, deface or make a mistake and wrongfully mark any ballot, you must return it to the election board and receive a new ballot or set of ballots.

TO VOTE, DARKEN THE OVAL TO THE LEFT OF YOUR CHOICE, LIKE THIS:

QUESTION SUBMITTED

To vote in favor of the question on this ballot, darken the oval to the left of the word "YES"; to vote against the question, darken the oval to the left of the word "NO".

SHALL THE FOLLOWING BE ADOPTED?

Shall a countywide retailers' sales tax in the amount of one percent (1%) be levied for Joint Law Enforcement Communications and Solid Waste Disposal in Atchison County, to take effect October 1, 1993?

YES

NO

Exhibit two

2019 - 1 Cent County Sales Tax Dispersements

Atchison County	Total Sales & Use Tax	Total Paid to County from Cities	Actual % Dispersed
Atchison	\$1,085,268.84	\$436,786.78	40.25%
Effingham	\$51,045.23	\$12,485.97	24.46%
Huron	\$5,905.08	\$2,426.20	41.09%
Lancaster	\$22,760.98	\$22,530.59	98.99%
Muscotah	\$12,505.58	\$4,278.35	34.21%
Balance of County	\$1,066,970.69	\$1,066,970.69	100.00%
<b>TOTAL</b>	<b>\$2,244,456.40</b>	<b>\$1,545,478.58</b>	

Exhibit Three



# Exhibit Four

## RESOLUTION NO. 2972

### A RESOLUTION AUTHORIZING THE PURCHASE OF A JOINT COMMUNICATIONS RADIO SYSTEM AND AUTHORIZING FUNDS FOR SOLID WASTE OPERATIONS AND JOINT COMMUNICATIONS OPERATIONS

WHEREAS, on August 3, 1993 the electors of Atchison County approved the levy of a one percent (1%) retailers' sales tax under the provisions of K.S.A. 12-187 *et seq.*; and

WHEREAS, said tax is collected by the Kansas Department of Revenue and distributed as provided by law to Atchison County and the cities of Atchison, Mascoutah, Lancaster, and Huron; and

WHEREAS, the Joint Communications Radio System in Atchison County needs to be upgraded; and

WHEREAS, the City of Atchison wishes to pledge funding toward the Joint Communications and Solid Waste System to assist with the funding of the replacement radio system, and the operations and maintenance of the solid waste and joint communications system.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF ATCHISON, KANSAS:**

**SECTION 1.** The City of Atchison shall dedicate \$412,278 for the operations and maintenance of the solid waste and joint communications system in 2015, and shall increase funding each year for 10 years in an amount not to exceed the percentage change in the U.S. Department of Labor Consumer Price Index (CPI-U) for All Urban Consumers, All Items. The contribution adjustment rate will be determined by comparing the percentage difference between the CPI in effect for 2015 and each year thereafter. The percentage difference between the two CPI issues will be the adjustment rate.

**SECTION 2.** The City will make semi-annual payments to the County.

**SECTION 3.** The City of Atchison also agrees to pay a uniform tipping fee of \$35 per ton and shall increase the amount of the tipping fee each year for 10 years not to exceed the percentage change in the U.S. Department of Labor Consumer Price Index (CPI-U) for All Urban Consumers, All Items. The contribution adjustment rate will be determined by comparing the percentage difference between the CPI in effect for 2015 and each year thereafter. The percentage difference between the two CPI issues will be the adjustment rate.

**SECTION 4.** Atchison County shall not charge the City the tipping fee for disposition of construction and demolition waste, provided such waste was generated by the demolition of a dilapidated structure by the City, under its police powers.

SECTION 5. Upon a substantial change in the operation costs of the County's solid waste operations and/or Joint Communications operations, whether by increase in regulatory responsibilities or due to changes in circumstances, the parties agree to discuss changes to this agreement to account for such changes in operation costs.

SECTION 6. The City of Atchison may withdraw from this Agreement by giving notice of its intent to withdraw from participation in this Agreement to the County. The notice shall be given in writing by July 31 of the year prior to the year the City intends to terminate this Agreement.

SECTION 7. This Resolution shall be effective from and after its adoption.

ADOPTED, this 15<sup>th</sup> day of December, 2014.

  
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DAVID W. BUTLER, MAYOR

ATTEST:

  
\_\_\_\_\_  
DEBRA A. CLEM CITY CLERK

(FIRST PUBLISHED IN THE ATCHISON DAILY GLOBE June 24, 1993)

ORDINANCE NO. 5897

AN ORDINANCE AUTHORIZING THE CITY OF ATCHISON'S SHARE OF A ONE CENT (\$.01) COUNTY-WIDE SALES TAX TO BE UTILIZED AS FUNDING FOR THE ATCHISON COUNTY COMMUNICATIONS CENTER AND THE ATCHISON COUNTY SOLID WASTE DISPOSAL FACILITY.

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BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ATCHISON, KANSAS:

Section 1. That it is hereby authorized that the City of Atchison's share of a one cent (\$.01) county-wide sales tax is hereby designated and shall be used to fund the Atchison County Communications Center and the Atchison County Solid Waste Facility as provided by the provisions of the laws of the State of Kansas.

Section 2. That the receipt of the City of Atchison's share of the county-wide sales tax shall be segregated from other funds received by the City and forthwith distributed by the Director of Finance of the City of Atchison, Kansas to the Atchison County Clerk as custodian and disbursing agent for the Atchison County Communications Center and the Atchison County Solid Waste Facility to pay for the operation of the Atchison County Communications Center and the Atchison County Solid Waste Facility.

Section 3. This Ordinance shall take effect from and after its passage and publication once in the official City

newspaper.

Passed and approved this 21<sup>st</sup> day of June, 1993.

John Bishop  
MAYOR JOHN BISHOP

ATTEST:

Phyllis J. Walton  
CITY CLERK PHYLLIS J. WALTON

AN ORDINANCE AUTHORIZING THE CITY OF EFFINGHAM'S SHARE OF A ONE CENT (\$.01) COUNTY-WIDE SALES TAX TO BE UTILIZED AS FUNDING FOR THE ATCHISON COUNTY COMMUNICATIONS CENTER AND THE ATCHISON COUNTY SOLID WASTE DISPOSAL FACILITY.

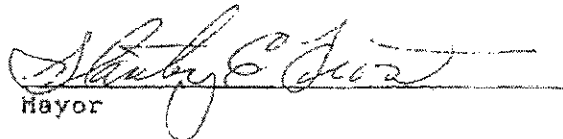
BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EFFINGHAM KANSAS, THAT:

SECTION 1: That it is hereby authorized that the City of Effingham's share of a one cent (\$.01) county-wide sales tax is hereby designated and shall be used to fund the Atchison County Communications Center and the Atchison County Solid Waste Facility as provided by the provisions of the laws of the State of Kansas.

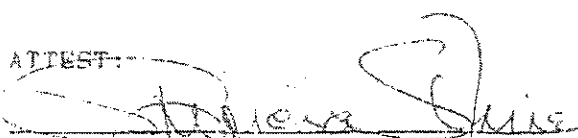
SECTION 2: That the receipt of the City of Effingham's share of the county-wide sales tax shall be segregated from other funds received by the City and forthwith distributed by the Clerk of the City of Effingham, Kansas to the Atchison County Clerk as custodian and disbursing agent for the Atchison County Communications Center and the Atchison County Solid Waste Facility to pay for the operation of the Atchison County Communications Center and the Atchison County Solid Waste Facility.

SECTION 3: This Ordinance shall take effect from and after its passage and publication once in the official City newspaper.

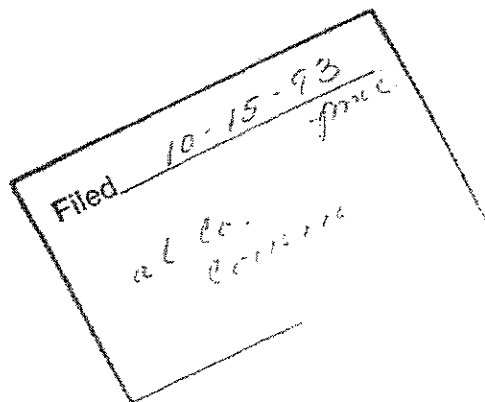
PASSED AND APPROVED THIS 14<sup>th</sup> day of October, 1993.

  
Mayor

ATTEST:

  
City Clerk

effing/ordelstx



ORDINANCE NO. 222

AN ORDINANCE AUTHORIZING THE CITY OF LANCASTER'S SHARE OF A ONE CENT (\$.01) COUNTY-WIDE SALES TAX TO BE UTILIZED AS FUNDING FOR THE ATCHISON COUNTY COMMUNICATIONS CENTER AND THE ATCHISON COUNTY SOLID WASTE DISPOSAL FACILITY.

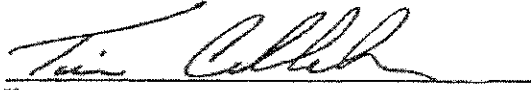
BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LANCASTER, KANSAS, THAT:

SECTION 1: That it is hereby authorized that the City of Lancaster's share of a one cent (\$.01) county-wide sales tax is hereby designated and shall be used to fund the Atchison County Communications Center and the Atchison County Solid Waste Facility as provided by the provisions of the laws of the State of Kansas.


SECTION 2: That the receipt of the City of Lancaster's share of the county-wide sales tax shall be segregated from other funds received by the City and forthwith distributed by the Clerk of the City of Lancaster, Kansas to the Atchison County Clerk as custodian and disbursing agent for the Atchison County Communications Center and the Atchison County Solid Waste Facility to pay for the operation of the Atchison County Communications Center and the Atchison County Solid Waste Facility.

SECTION 3: This Ordinance shall take effect from and after its passage and publication once in the official City newspaper.

PASSED AND APPROVED THIS 9<sup>th</sup> day of ~~October~~ November, 1993.

  
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Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

effing/ordLanc

RESOLUTION # 1293

RESOLUTION AUTHORIZING THE CITY OF MUSCOTAH'S SHARE OF A ONE CENT (\$.01) COUNTY-WIDE SALES TAX TO BE UTILIZED AS FUNDING FOR THE ATCHISON COUNTY COMMUNICATIONS CENTER AND THE ATCHISON COUNTY SOLID WASTE DISPOSAL FACILITY.

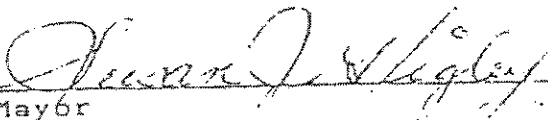
BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF MUSCOTAH, KANSAS, THAT:

SECTION 1: That it is hereby authorized that the City of Muscotah's share of a one cent (\$.01) county-wide sales tax is hereby designated and shall be used to fund the Atchison County Communications Center and the Atchison County Solid Waste Facility as provided by the provisions of the laws of the State of Kansas.

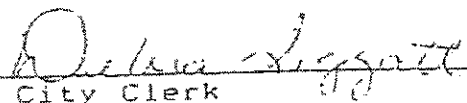
SECTION 2: That the receipt of the City of Muscotah's share of the county-wide sales tax shall be segregated from other funds received by the City and forthwith distributed by the Clerk of the City of Muscotah, Kansas to the Atchison County Clerk as custodian and disbursing agent for the Atchison County Communications Center and the Atchison County Solid Waste Facility to pay for the operation of the Atchison County Communications Center and the Atchison County Solid Waste Facility.

SECTION 3: This resolution shall be in full force and effect from and after its adoption.

ADOPTED by the governing body this 13th day of December, 1993.

  
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Mayor

ATTEST:

  
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City Clerk

ORDINANCE NO. 131

AN ORDINANCE AUTHORIZING THE CITY OF HURON'S SHARE OF A ONE CENT (\$.01) COUNTY-WIDE SALES TAX TO BE UTILIZED AS FUNDING FOR THE ATCHISON COUNTY COMMUNICATIONS CENTER AND THE ATCHISON COUNTY SOLID WASTE DISPOSAL FACILITY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HURON, KANSAS, THAT:

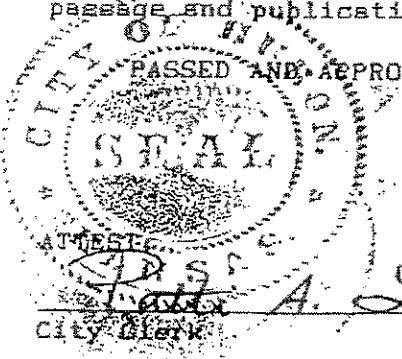
SECTION 1: That it is hereby authorized that the City of Huron's share of a one cent (\$.01) county-wide sales tax is hereby designated and shall be used to fund the Atchison County Communications Center and the Atchison County Solid Waste Facility as provided by the provisions of the laws of the State of Kansas.

SECTION 2: That the receipt of the City of Huron's share of the county-wide sales tax shall be segregated from other funds received by the City and forthwith distributed by the Clerk of the City of Huron, Kansas to the Atchison County Clerk as custodian and disbursing agent for the Atchison County Communications Center and the Atchison County Solid Waste Facility to pay for the operation of the Atchison County Communications Center and the Atchison County Solid Waste Facility.

SECTION 3: This Ordinance shall take effect from and after its passage and publication once in the official City newspaper.

PASSED AND APPROVED THIS 19<sup>th</sup> day of October, 1993.

*James R. Campbell*  
Mayor



*Patricia A. Lohman*  
City Clerk