COMMITTEE OF REFERENCE

HOUSE WAYS AND MEANS AND SENATE FINANCE COMMITTEE

REPORT ON THE

MUNCIPAL TAX CODE COMMISSION

DATE: December 17, 1998

TO: THE JOINT LEGISLATIVE AUDIT COMMITTEE
Representative Barry Wong, Chair
Senator Randall Gnant, Co-Chair

Pursuant to Title 41, Chapter 20, Arizona Revised Statutes, the Committee of Reference, after performing a sunset review and conducting a public hearing, remmends the following:

The Municipal Tax Code Commission sunset on July 1, 1999.

COMMITTEE OF REFERENCE

KEN CHEUVRONT

JACK BROWN

LORI DANIELS

GEORGE CUNNINGHAM

JOE HART

JOHN KAITES

RAMON VALEDEZ

TOM PATTERSON

BILL McGIBBON, Chair

SCOTT BUNDGAARD, Co-Chair

House Ways and Means &
Senate Finance

COMMITTEE OF REFERENCE REPORT:

MUNICIPAL TAX CODE COMMISSION -- FINAL REPORT

Introduction:
Pursuant to 41-2953, Arizona Revised Statutes, the Joint Legislative Audit Committee (JLAC) assigned the sunset review of the Municipal Tax Code Commisssion to the House Ways and Means Senate Finance Committees of Reference.

Committee Procedure:
The Committee of Reference held one public hearing on December 17, 1998 to review the staff report on the Municipal Tax Code Commission and to receive public testimony. A copy of the minutes from the meeting and the staff report have been attached.

Committee Recommendations:
At the hearing, the Committee voted to sunset the Municipal Tax Code Commission. As part of the debate, the Committee members also discussed the following alternatives to the Commission:

1. Placing the duties of the Municipal Tax Code Commission within a Legislative Committee in order to bring more public input into the process.

2. Pursuing Legislation to provide for tax uniformity for all municipalities.

However, the formal motion of the Committee was to sunset the Commission.

Attachment A:	Minutes of the December 17, 1998 Meeting
Attachment B:	Testimony from the Phoenix Chamber and Arizona Tax Research Association (not included in the original Staff Report)
Attachment C:	Staff Report

December 11, 1998

The Honorable Senator George Cunningham
Arizona State Senate
1700 West Washington
Phoenix, AZ 85007

Re: Municipal Tax Code Commission - Sunset Legislation

Dear Senator Cunningham:

The Arizona State Chamber of Commerce Tax Policy Committee is completely in favor of continuing the existence of the Municipal Tax Code Commission. It has been a good oversight commission for reviewing and recommending various amendments and changes to the Model City Tax agency, such as the Commission, to review all such proposed changes, rather than leaving it to the individual cities.

Also, in continuing the life of the Commission, we would suggest that a provision be made for putting a business/taxpayer representative on the Commission. It is composed now of the Governor, a representative from the Department of Revenue, and representatives from various cities which impose a transaction privilege tax. Adding a business/taxpayer representative to the Commission would provide the Commission with the view points of the business community, which we feel would be quite helpful to the Commission in the performance of its various functions, including and perhaps and most importantly, reviewing and making recommendations as to whether the Model City Tax Code should be changed, or not.

We trust that you would favorably act on our recommendation to add such a business/taxpayer representative to the Commission.

Sincerely,

Patrick Derdenger, Chair,
Tax Policy Committee

cc: Melodie Jones

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THE ARIZONA
TAX RESEARCH
ASSOCIATION

1814 WEST WASHINGTON STREET, PHOENIX, ARIZONA 85007 • Telephone: (602) 253-9121
FAX: (602) 253-6719

December 15, 1998

Representative Bill McGibbon
Arizona House of Representatives
1700 W. Washington
Phoenix, Arizona 85007

Dear Mr. McGibbon,

The Committee of Reference for the statutory sunset of the Municipal Tax Code Commission will meet on December 17, 1998. The Arizona Tax Research Association would like to provide the following comments regarding the continuation of the Commission.

First, it is impossible to comment on the effectiveness of the Commission without first recognizing that the Commission exists as a result of the Legislature's unwillingness to establish a municipal sales tax code in state law. For years, Arizona businesses have argued against allowing the cities to have an independent municipal sales tax system. A failed attempt to preempt the cities resulted in the creation of the Commission in 1988 Another failed attempt in 1994 resulted in a new Commission, made up of only city elected officials.

Notwithstanding this historical context, this communication will not include arguments for preemption. However, ATRA's comments regarding the performance of the Commission should not be taken in isolation of the fact that this is not a process ATRA finds desirable from a taxpayer perspective.

ATRA has had the opportunity to work with the Commission and its staff on numerous occasions since 1994. For the most part, the Commission has been open and responsive to the issues we have brought before it. The League of Cities and Towns and the Unified Audit Committee have also made themselves available to discuss and debate our issues.

One issue that should concern the Legislature relates to the public's awareness and participation in the activities of the Commission. ATRA closely monitors the activity of the Commission and attempts to ensure that affected taxpayers are made aware of issues before the Commission. However, we are one of only a few private sector organizations actively involved with the Commission. Unlike the tax laws that are established and maintained at the state level, and amended only during the legislative session, this

Commission operates in relative obscurity for the average business owner. The Commission is required to meet at least twice a year but also holds meetings on the call of the chair. Although efforts are made by the Commission to notify affected parties, they are naturally limited to organizations that represent particular groups of businesses. If you are not a member of the right group your opportunity to impact a proposed change could be missed entirely.

Another concern that has been expressed relates to the membership of the Commission, which includes only elected members of city councils. Debating city sales tax issues before a state level Commission that includes only city elected official's strikes most private sector participants as unfair.

In fairness, it is important to point out that it was the private sector that requested a change in the make up of the Commission in 1994. The initial Municipal Tax Code Commission created in 1988 consisted of two members of the general public, two mayors, and the director of the Department of Revenue. The mayors permanently designated a city attorney and town manager as their representatives. At the time, many in the private sector felt that arguing their issues before a Commission where three public employees were a majority was a waste of time. The request was made to change the make up of the committee to elected officials with the hope they would be more sensitive to private sector concerns.

The dilemma the Legislature faces regarding the membership of the Commission is that in theory individual cities are supposed to abide by the actions of the Commission, although they are not legally bound by the Commission's decisions. Having said that, there could be a problem with putting nonelected public members in voting positions on the Commission.

ATRA will be present to testify before the committee on December 17, 1998 and we look forward to answering any questions you might have at or before that time.

Sincerely,

Kevin J. McCarthy
President

CC: Melodie Jones

ARIZONA STATE LEGISLATURE
Forty-third Legislature - Second Regular Session

Joint Senate Finance and House Ways & Means
Committees of Reference
Sunset Review of the
Municipal Tax Code Commission

Minutes of the Meeting
Thursday, December 17, 1998
House Hearing Room 3, 3:00 p.m.

Tape 1, Side A

Members Present
Senator Bundgaard, Cochair
Senator Brown
Senator Cunningham
Senator Kaites
Senator Patterson
Representative McGibbon, Cochair
Representative Daniels
Representative Hart
Representative Valdez

Members Absent
Representative Cheuvront

Staff
Jeff Kross, Senate Research Analyst
Melodie Jones, House Research Analyst

Speakers
Melodie Jones, House Research Analyst
Kathy Connelly, Executive Director, League of Arizona Cities and Towns
Kevin McCarthy, President, The Arizona Tax Research Association (ATRA)
Vince Perez, Department of Revenue

Cochair McGibbon called the meeting to order at 3:10 p.m. and attendance was noted.

STAFF REPORT

Melodie Jones, House Research Analyst, distributed *Arizona State Legislature Municipal Tax Code Commission Sunset Review Packet* (Attachment A) and read the staff report listed within the document.

In response to Representative Daniels, Ms. Jones stated she did not know how many other states have similar Municipal Tax Code Commissions as Arizona has nor did she know the

exact number of states that have sales tax uniformity, however, she noted that the re some states that require sales tax uniformity between municipalities.

Ms. Daniels opined that there are approximately 47 states that have sales tax uniformity and Arizona is approximately one of three that do not.

Kathy Connelly, Executive Director, League of Arizona Cities and Towns, testified the League has been actively involved in the legislative process since 1988. She stated the League has worked closely with the Commission in all its various forms over the years and commented it has been a cooperative process. Ms. Connelly stated the League is also working closely with the business community on The Model City Tax Code changes which is an on going process as well

In response to Representative Daniels, Ms. Connelly opined that the Commission has forged a new alliance between the cities and the business communities. She stated the cities are not going to the Commission with changes without checking with the business community. In addition the business community is working with the League with any proposed changes they wish to make. She remarked from that standpoint, the Commission is acting in an oversight role. In addition, she said the Commission hearings have been instructive to some of the city finance officials to get the elected officials perspective on changes to the tax code. Ms. Connelly stated it is always difficult to predict what would happen if something did not exist. She opined that the Commission has performed its function in providing both the oversight of changes as well as forging the alliance between the various parties involved.

Ms. Connelly explained that prior to the Commission, when business entities had a problem with a city or town, they would sometimes go to the Legislature for assistance, and at other times the problem was worked out with between the city or town and the business community. She opined that the cities have been instructed of the necessity to get input from the business community and the business community has a new appreciation for some of the challenges that the cities face as well.

In response to Representative McGibbon, Ms. Connelly stated that there was a meeting of the various interest groups and the business community approached the League and said that they would like the Commission to made up of all elected city officials.

Senator Patterson noted that the request was made for the Commission to consist of elected city officials versus non-elected city officials.

Ms. Connelly stated that prior to the Commission made with all elected city officials, it consisted of two city representatives, two business representatives and the Director of the Department of Revenue (DOR), who was the chair. She noted the city representatives were the mayors of their designees. She stated at the time, the League thought it would be helpful to have people who were working with the tax codes on the Commission, so the city representatives, the two mayors, appointed one city manager and one city attorney as their designees. She stated there were people from the business community, who were working on the tax code on a daily basis and on the Commission as well. Ms. Connelly said the Commission was more of a technical Commission to look at the changes from a different standpoint then what it does now.

Representative Daniels asked how many times in the last five years has the business entities won regarding issues brought to the Commission. Ms. Connelly opined that a single business interest did come to the Commission with a proposed change which did not pass.

Kevin McCarthy, President, The Arizona Tax Research Association (ATRA), distributed a letter addressed to Representative McGibbon (Attachment B). He stated his agreement with Ms. Connelly's comments regarding how both the business community and the League have attempted to work within the structure the Legislature has established with the independent municipal sales tax system and the Model City Tax Code Commission acting in an oversight capacity.

Mr. McCarthy remarked that his letter does not make any strong arguments about the current setup. He stated that since the Legislature has not created a municipal sales tax system in law, it is necessary that THE Commission, or something similar to it, exist to provide opportunity for public debate on proposed changes to municipal tax codes. He noted however, there is concern in the business community regarding the lack of notification of Commission meetings. Mr. McCarthy stated the ATRA has been relatively successful in advocating changes that the ATRA has advanced through the Commission, but commented that there remains to be concern about the bias of the Commission. He opined that only elected officials should be on the Commission versus public appointed members.

In response to Senator Kaites, Mr. McCarthy stated the meetings can be scheduled at any time by the chair. He noted the ATRA has precipitated some meetings by issues that have been worked through the Unified Audit Committee and then through the League of Cities and Towns. He stated that once this has been completed, a package is then brought to the Commission to act on it. Mr. McCarthy noted that during any of those meeting, the Commission could be changing peoples tax liabilities. He stated, for example, a city could initiate an amendment, get the Commission to meet and vote on the amendment before

the interested parties might be aware of the situation. He opined that there is the poten. l that this is done and not everyone knows when and how is happens.

Mr. McCarthy remarked that the DOR does try to contact the trade group that is affected with proposed changes.

Representative McGibbon asked how difficult it would be to transform the model city tax code into a uniform state wide tax code. Mr. McCarthy stated that on two different occasions there have been bills to accomplish this. He stated the state will never have a uniform state sales tax code where the state and the cities identically tax everything. He noted the state does not tax food. He noted the attempts to put the municipal sale tax code in state law left in place the cities ability to tax food. Mr. McCarthy stated that there are changes made peripherally to blend the codes. He said there are some revenue impacts that are associated with blending the codes depending upon the amount of consistency that would be used. He remarked that the business community would prefer a uniform state wide tax code.

Senator Bundgaard stated that the Commission does not seem to have the "teeth" to affect the recommendations that are made. He stated he would advocate for a joint Senate and House Committee to administer over the model city tax code until legislation is passed for a uniform tax code. Senator Bundgaard said that the Commission would not necessarily be sunsetted, but that it would add accountability to the system.

Representative Daniels suggested a motion to continue the Commission until Legislature passes sales tax uniformity in which case the Commission would no longer be necessary. She noted she would not like to wait that long because there would not be enough oversight in existence. She remarked that there is not going to be an ideal situation until the Legislature "bites the bullet" and passes a sales tax uniformity code.

Senator Patterson stated that he would argue against the necessity of the Committee acting at all. He stated the Commission stands as a proxy for sales tax reform and gives the illusion that something is going on in the state that is not in the best interest of the sales tax payers.

Tape 1, Side B

Senator Cunningham stated that currently the Commission has reached a satisfactory threshold in terms of its collaborative arrangements with the business community and the mayors. He opined there may not be enough votes in both the House and the Senate for a uniformity bill to be passed and suggested that the Commission should be continued for

5 years, along with the debate regarding having a uniformity tax code until it can be agreed upon in the Legislature.

Senator Brown moved that the Municipal Tax Code Commission be continued for a period of 5 years. The Motion FAILED.

Representative Daniels moved that the Municipal Tax Code Commission be continued for 1 year and that it attempt to publish its events more for public awareness.

Senator Bundgaard remarked that in testimony heard today, it was stated that the Commission already attempts to contact the affected business entities of upcoming meetings. He commented that the Daniels motion is re-authorizing the Commission with a stipulation that the Commission states it currently operate under.

Representative Daniels commented that she is not disagreeing with Senator Bundgaard's comment, and noted that she is going to run a sales tax uniformity bill again which hopefully will pass. She stated that if the bill does not pass, she opined that there needs to be some kind of entity overseeing the tax code.

Senator Bundgaard made a substitute motion that the Commission be replaced by a Joint Legislative Committee made up of legislative officials to perform the same function as the Commission.

Senator Bundgaard stated that the Joint Legislative Tax Committee might be the entity that could replace the Commission.

Senator Brown commented that the Committee would have to make recommendations for a bill, but the Committee does not have the authority to create a committee. He opined that the Commission should be continued for at least for one year, until a bill is passed as an alternative to the Commission.

Senator Kaites opined that the Commission should be continued and that a sales tax uniformity bill can be worked through the Legislature.

Ms. Connelly stated that the League would prefer that the current membership or a blend of a different kind of membership of the Commission be established. She stated that having business and city representatives on the Commission and DOR as the chair worked well too. She stated that she would be concerned about the interest of the Legislature in what is purely a local matter.

In response to Senator Bundgaard's motion, Mr. McCarthy stated the Association would prefer a Joint Legislative Committee rather than the Commission. He stated there is a sense that if issues were brought to a Committee there would be a unbiased overview as apposed to arguing it to all city officials on a Commission.

The Motion on Senator Bundgaard's substitute motion CARRIED by voice vote.

Without objection, the meeting was adjourned at 3:55 p.m.

Respectfully submitted,

Tracey Moulton

Tracey Moulton, Committee Secretary

(Attachments and tape on file in the Secretary of the Senate's Office.)

ARIZONA STATE LEGISLATURE

MUNICIPAL TAX CODE COMMISSION
SUNSET REVIEW PACKET

December 17, 1998

Prepared by:
Arizona House of Representatives
Research Staff

ARIZONA
HOUSE OF REPRESENTATIVES

M E M O

TO: **MEMBERS OF THE COMMITTEE OF REFERENCE FOR THE HOUSE WAYS AND MEANS AND SENATE FINANCE COMMITTEES**

FROM: **Melodie Jones, House Ways and Means Research Staff**

DATE: **November 24, 1998**

SUBJECT: **Sunset Hearing for the Municipal Tax Code Commission**

As you are aware, a sunset hearing for the Municipal Tax Code Commission has been scheduled for December 17, at 3:00 p.m. or upon adjournment of JCCR, in House Hearing Room #2. Enclosed you will find materials to assist you in the review process. There is a brief description by staff of the program history as well as annual reports and minutes from the Commission meetings for the past couple of years. Also attached is the sunset questionnaire, the Commission's response, and responses received from other interested parties. Staff is currently in the process of contacting other interested parties about the sunset review. Please contact either House or Senate staff if we can be of further assistance you.

MJ
Enclosure

cc: House and Senate policy staff
Debbie Johnston, Senate Research Analyst

Arizona Legislature

Municipal Tax Code Commission
Sunset Review

Table of Contents

ARIZONA STATE LEGISLATURE
RESEARCH STAFF

Staff Report

Melodie Jones
House Research Staff

Debbie Johnston
Senate Research Staff

TO: **MEMBERS OF THE COMMITTEE OF REFERENCE FOR THE HOUSE WAYS AND MEANS AND SENATE FINANCE COMMITTEES**

DATE: **November 17, 1998**

SUBJECT: **Sunset Review of the Municipal Tax Code Commission**

Following is a brief description of the history and duties of the Municipal Tax Code Commission. Also attached is the information provided by the Commission and interested parties in response to the Sunset questionnaire.

Please contact Melodie Jones at 542-5526 if you have any questions.

Background:
The Municipal Tax Code Commission was established by Laws 1988, Chapter 107 (SB 1005) and subsequently extended by Laws 1991, Chapter 160. The law also provided that all cities and towns that impose a transaction privilege tax adopt the Model City Tax Code. The Model City Tax Code and the Municipal Tax Code Commission were established to create greater uniformity in city transaction privilege tax ordinances.

Commission Duties:
The Municipal Tax Code Commission is required to meet at least twice a year to review and comment on any changes to a city ordinance submitted by a city, town or taxpayer that modify the application of the Model City Tax Code for that city or town. The Commission may hold public hearings on any proposed amendments within thirty days of receiving the proposed change and may recommend changes to the language submitted by the city, town, or taxpayer. Changes in tax rates are not subject to the Commission's review but municipalities must notify the Commission within ten days after passing an ordinance imposing a tax rate change.

A city or town must submit a proposed amendment (other than tax rate changes) to the Commission at least sixty days prior to adoption. The Commission must notify all cities and towns of any changes to the Code adopted by a municipality. The Commission may recommend that the change be adopted by all cities and towns. In addition, the Commission maintains a master list of all amendments to the Code which have been adopted by the various municipalities.

Failure to approve a change to the Code by the Commission does not prohibit the municipality from adopting the change. However, the municipality must notify the Commission of all final actions.

The Commission must also prepare an annual report before January 1 of each year.

Commission Membership:
The Commission is comprised of seven members who are mayors or members of the governing boards of cities or towns that have adopted the Model City Tax Code and who are appointed by the Governor. At least one member must be from a city or town with a population of less than twenty-five thousand. The members serve for three year terms. In addition, the Director of the Department of Revenue or the Director's representative serves as an ex officio member without the power to vote.

The Department of Revenue provides staff support for the Commission. The Commission receives no direct funding from the State or the cities and towns.

Legislative History:
Since 1991 the Commission's statutes have been modified two times:

1. Laws 1994, Chapter 331, changed the membership of the Commission as presently in statute (described above) with the exception of excluding the Director of the Department of Revenue from the Commission. Before this law change, the Commission membership consisted of two members who were mayors or representatives of a mayor appointed by the Governor, two members of the public jointly appointed by the Senate and House, and the Director of the Department of Revenue.

2. Laws 1995, Chapter 200, reinstated the Director of the Department of Revenue, or the Director's designee, as a non-voting member of the Commission. The law also required the Department to provide staff support for the Commission, and eliminated the ability of Commission members to receive reimbursement for traveling expenses.

The Commission last underwent a sunset review in 1993, at which time the Commission was continued for five years.

Additional Information:
In addition to contacting the Commission members as part of this review, the staff contacted the Department of Revenue, the Arizona Department of Commerce, the Arizona League of Cities and Towns, the Arizona Tax Research Association, and the Arizona Retailers' Association. The Commission, the Department of Revenue and the Arizona League of Cities and Towns responded and their written comments are attached.

Sunset Factors
& Questionnaire

SUNSET FACTORS

Pursuant to ARS §41-2953, the Joint Legislative Audit Committee (JLAC) assigns all agencies or commissions subject to a sunset review to the respective committees of reference (COR) in the House and Senate. JLAC also determines whether the review will be conducted by the Auditor General's Performance Audit Section or whether it will be done by the COR. The Municipal Tax Code Commission sunset has been assigned to Ways and Means and Finance COR.

The basic sunset review process is outlined in ARS § 41-2954. The COR must hold at least one public hearing and perform an evaluation based on the factors listed in the law. The COR could recommend continuation of the agency with or without statutory changes for any period of time, not to exceed ten years, or, termination. The COR is also responsible for the development of legislation to continue or revise the agency and to make any recommended changes. Following are the Sunset Factors listed in §41-2954, subsection D:

D. The committee of reference shall consider but not be limited to the following factors in determining the need for continuation or termination of each agency:

1. The objective and purpose in establishing the agency.
2. The effectiveness with which the agency has met its objective and purpose and the efficiency with which it has operated.
3. The extent to which the agency has operated within the public interest.
4. The extent to which rules adopted by the agency are consistent with the legislative mandate.
5. The extent to which the agency has encouraged input from the public before adopting its rules and the extent to which it has informed the public as to its actions and their expected impact on the public.
6. The extent to which the agency has been able to investigate and resolve complaints that are within its jurisdiction.
7. The extent to which the attorney general or any other applicable agency of state government has the authority to prosecute actions under the enabling legislation.
8. The extent to which agencies have addressed deficiencies in their enabling statutes which prevent them from fulfilling their statutory mandate.
9. The extent to which changes are necessary in the laws of the agency to adequately comply with the factors listed in this subsection.
10. The extent to which the termination of the agency would significantly harm the public health, safety or welfare.
11. The extent to which the level of regulation exercised by the agency is appropriate and whether less or more stringent levels of regulation would be appropriate.
12. The extent to which the agency has used private contractors in the performance of its duties and how effective use of private contractors could be accomplished.

Commission Response:

Chairman: Mayor Richard Archer
Member: Councilman Ken Forgia

MUNICIPAL TAX CODE COMMISSION

October 1, 1998

Melodie Jones,
House Ways and Means Analyst
Arizona House of Representatives
Capitol Building, House Wing
1700 West Washington
Phoenix, AZ 85007

RE: Municipal Tax Code Commission - Sunset review

Dear Ms. Jones:

Here is the response to Senator Bundgaard and Representative McGibbon's letter of August 24, 1998, with its accompanying questionnaire regarding the sunset review of the Municipal Tax Code Commission. The answer to your questions are as follows:

1. The objective and purpose of establishing the Municipal Tax Code Commission was to provide, through the public hearing process, review and comment on proposed changes to the Model City Tax Code adopted by the cities and towns in the State of Arizona.

   The role of the Municipal Tax Code Commission is to review and comment on any changes in language to the Model Cities Tax Code ("Code") proposed by the Public, the Unified Audit Committee or any city that has adopted the Code. The types of changes reviewed by the Commission is any language for the purpose of describing, defining, deleting, adding or otherwise modifying taxable activities, exemptions, administrative procedures or regulations as defined in A.R.S. §42-1454 E.

   The Commission may hold public hearings for the purpose of reviewing and receiving comments on the proposed changes from the Cities and any interested parties. Once all the facts have been presented to the Commission, the changes are evaluated and if any changes are deemed appropriate the Commission recommends those changes.

During the Calendar year of 1993, the Commission met to consider the proposed changes submitted by Scottsdale, Chandler, Casa Grande and Prescott. No hearings were deemed necessary for the Scottsdale, Chandler or Casa Grande changes. A hearing was scheduled for the Prescott matter; however, Prescott made recommended changes and withdrew their proposed change.

The Commission also met to consider the "1993 Amendments" to the Model Tax Code proposed by the Unified Audit Committee. The proposal affected various Sections and Regulations which were substantive as well as housekeeping changes to the Code. The Commission recommended that all but two of the changes be adopted. The changes consisting of local options pertaining to Manufactured Buildings were held pending a future hearing where proposals put forth by the Manufactured Housing Industry Association and the Unified Audit Committee would be considered.

During the calendar year of 1994 the Commission met to consider substantive changes ("1995 Amendments") which affected various Sections and Regulations to bring the Code in line with numerous changes made to State Title 42, during the previous legislative session. The changes included the Manufactured Buildings changes proposed in 1993 and held in abeyance. The Commission also met to consider proposed changes to the Code by the Cities of Phoenix and Casa Grande.

During the calendar year of 1995, the Commission met to consider proposed changes for the Cities of Peoria and Winslow. The Commission recommended that both proposed changes be adopted.

During the calendar year of 1996, the Commission met to consider proposed changes for the City of Tucson and substantive changes to the Code presented by the Arizona Tax Research Association ("Taxpayer Bill of Rights") and the Unified Audit Committee ("1996 Amendments") which included substantive changes to bring the Code in line with the changes made to Title 42 during the previous legislative session. The Commission recommended that the City of Tucson adopt their change. The Commission recommended that the Taxpayer Bill of Rights be adopted with recommended changes. The Commission recommended that the 1996 Amendments be adopted.

During the calendar year of 1997, the Commission met to consider proposed changes to the Code by the City of Phoenix and the Arizona League of Cities and Towns dealing with Remediation Contracting. The Commission recommended that this change be adopted.

The Commission also met to consider changes proposed by the Multihousing Association, the City of Tempe, the Unified Audit Committee/Arizona League of Cities and Towns and the Arizona Tax Research Association. The proposal by the Multihousing Association was continued to allow for negotiations with the City of Phoenix. The Commission recommended that Tempe adopt the change to the definition of "Primary Health Care Facility". The Commission recommended that the changes proposed by the Unified Audit Committee and the Arizona League of Cities and Towns ("1998 Amendments") be adopted. There being a dispute over the purpose statement and retroactivity clause in the changes proposed by the Arizona Tax Research Association, the Commission remanded the submission back to the negotiation table for resolution.

During the current calendar year, 1998, the Commission met to consider the changes previously proposed by the Arizona Tax Research Association and remanded back for negotiation with the cities. The Commission recommended that the submission with the negotiated and agreed upon changes be adopted and become part of the "1998 Amendments". The Commission also received submissions from Eloy and Sierra Vista, and upon review determined that no hearing would be necessary.

2. The Commission has continued to review for appropriateness all changes pertaining to the Model City Tax Code. Recommendations of the Commission have been followed by those cities submitting changes. Although the Commission has the power to recommend modifications or cancellation of proposed changes to the Model City Code, the cities may disregard the Commission's recommendations. The Commission lacks enforcement authority for its recommendations.

To date there has only been one instance where the recommendations of the Commission have not been followed. This occurred when the Town of Chino Valley adopted the Model City Tax Code in 1988. At that time the Town of Chino Valley had special considerations that they felt needed to be addressed; therefore, they added provisions to their code that were not in the Model Code. In 1997 Chino Valley amended their Code to conform to the Model Code.

3. The Commission has met its obligation to the public interest in following its purpose and meeting its objectives.

4. The Commission has adopted no rules.

5. The Commission has encouraged input form the public by holding public hearings on changes proposed to the Model City Tax Code. The Commission, through its staff continually updates the public on changes made to the Model City Tax Code, including changes in rates of taxation which are not subject to any recommendations of the Commission.

6. No complaints, within the purview of the Commission have been brought before it.

7. There are no provisions under the enabling legislation for prosecution by the attorney general.

8. There have been no problems fulfilling the Commission's statutory mandate.

9. At this time there are no perceived changes necessary to allow the Commission to adequately comply with the factors listed in this subsection

10. Termination of the Commission would leave a gap in the checks and balances necessary to avoid conflicting changes to the cities taxing statutes and maintain consistency in the Model City Tax Code.

11. The Commission acts as a deterrent to the enactment of arbitrary changes in the city/town taxing statutes by individual city/town councils. This is accomplished by bringing other than routine housekeeping changes to the public awareness and providing an evaluation of the changes from a source independent of the city/town politics.

12. The Commission has not used private contractors in the performance of its duties.

The members of the Municipal Tax Code Commission are regulated by A.R.S. §42-1455. The Director of the Department of Revenue (or his designee) is ex-officio member, without a vote. The members are all appointed by the Governor and consist of seven members who are mayors or council members of cities or towns that have adopted the model city tax code, at least one of whom shall be from a city or town having a population less than twenty-five thousand persons. The current Commission is made up as follows: Mayor Richard Archer of Sierra Vista (Chairman), Mayor Elaine Scruggs of Glendale, Mayor George Miller of Tucson, Mayor Kate Nelson of Chino Valley, Councilmember Sal DiCiccio of Phoenix, Councilmember Ken Forgia of Peoria. Terry Trost, Assistant Director, Department of Revenue sits as Ex-officio member. Donita Plaumann, Cities Program Manager of the Department of Revenue acts as staff for the Commission.

As requested in your letter, I have enclosed copies of Annual Reports for Calendar Years 1996 and 1997 along with appropriate meeting minutes. I have also enclosed a copy of the State Statutes that pertain to changes to the Model City Tax Code and the Municipal Tax Code Commission.

If I may be of further assistance or provide additional information, please do not hesitate to contact me.

Very truly yours,

Richard F. Archer

Mayor Richard Archer
Commission Chair,

Enclosures:
cc: Mark Killian, Director ADOR
Commission members
Terry Trost, Assistant Director ADOR

MUNICIPAL TAX CODE COMMISSION

October 1, 1998

Melodie Jones,
House Ways and Means Analyst
Arizona House of Representatives
Capitol Building, House Wing
1700 West Washington
Phoenix, AZ 85007

RE: Municipal Tax Code Commission - Sunset review

Dear Ms. Jones:

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3. The Commission has met its obligation to the public interest in following its purpose and meeting its objectives.

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Very truly yours,

Councilman Ken Forgia
Commission Member,

Enclosures.

cc: Mark Killian, Director ADOR
Commission members
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Commission Staff

Department of Revenue
Response:

Director Mark Killian
Commission Staff: Donita Plaumann

ARIZONA DEPARTMENT OF REVENUE

1600 WEST MONROE - PHOENIX, ARIZONA 85007-2650

JANE DEE HULL
GOVERNOR

MARK W. KILLIAN
DIRECTOR

September 28, 1998

Melodie Jones,
House Ways and Means Analyst
Arizona House of Representatives
Capitol Building, House Wing
1700 West Washington
Phoenix, AZ 85007

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Enclosures:

cc: Mayor Richard Archer, Chairman
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ARIZONA DEPARTMENT OF REVENUE

1600 WEST MONROE - PHOENIX, ARIZONA 85007-2650

Terry Trost
Assistant Director

James G. Busby, Jr.
Chief Auditor

September 24, 1998

Melodie Jones,
House Ways and Means Analyst
Arizona House of Representatives
Capitol Building, House Wing
1700 West Washington
Phoenix, AZ 85007

RE: Sunset review of the Municipal Tax Code Commission

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Very truly yours,

Donita F. Plaumann,
Commission Staff,
Cities Program Manager
TRANSACTION PRIVILEGE AND USE TAX DIVISION

Enclosures:

cc: Mark Killian, Director ADOR
Mayor Richard Archer, Chairman
Commission members
Terry Trost, Assistant Director ADOR

League of Cities and Towns Response

THE LEAGUE OF ARIZONA CITIES & TOWNS

1820 W Washington St • Phoenix AZ 85007-3294 • (602) 258-5786 • FAX (602) 253-3874 • E-mail league@mg.state.az.us

October 6, 1998

Ms. Melodie Jones
Ways and Means Committee Analyst
1700 West Washington
Phoenix, Arizona 85007

Dear Melodie:

Thank you for the opportunity to submit comments for the sunset review of the Municipal Tax Code Commission. We hope our comments will be useful to the Committee of Reference which has been established to evaluate the Municipal Tax Code Commission. We have been an active participant in the workings of the Commission since its inception.

Some historical perspective on the Commission may be helpful to you and the members of the Committee. In the mid-1980's, the business community presented concerns about the diversity of city sales tax ordinances to the Legislature. A Committee was formed of legislators, business and city representatives and the Department of Revenue. This Committee adopted a series of recommendations in December 1984 including one which led to the development of the Model City Tax Code.

Working together and reviewing successive drafts of the model tax code with business representatives, city officials produced a final draft of the tax code in late 1986. Adoption of the code was coordinated among the major cities with an effective date of April 1987. All of the cities and towns with a local sales tax subsequently adopted the model code within a relatively short period of time.

Prior to the beginning of the 1988 legislative session, business representatives approached the League with a proposal to set up an oversight commission to monitor changes to the tax code and provide a forum for discussion of concerns with the code. We agreed with this proposal and worked with the business representatives in drafting the bill to create the Municipal Tax Code Commission. We also joined in supporting passage of the bill during the 1988 session. In 1991, we joined the business community in supporting the extension of the life of the Commission; we did so again in July 1994. During its last renewal, the makeup of the Commission was changed at the request of the business community to include only elected officials.

The Commission reviews all changes to the municipal tax code and holds hearings when appropriate on those changes. The Commission has carefully considered amendments proposed by both city and business interests and generally found in favor of the side which offers more consistency. The cities have proposed changes which have been adopted and other changes which were not adopted. The Commission held several hearings on changes during 1997 and 1998 emerging earlier this year with a blended set of 1998 amendments which took parts from city recommended changes and business community recommended changes.

As a close observer of the process, I believe the members of the Commission have been fair in their approach to the issues presented as they have been responsive to concerns of both the business community and the cities and towns. The Commission has also kept current on the adoption of amendments which they have recommended. Thus far, they have a 100% success ratio in that every city and town has adopted all of the comprehensive amendments recommended by the Commission.

We hoped that the number of non-standard changes to the code would be kept to a minimum, and although there is no statistical evidence to support this theory, I believe the existence of the Commission has discouraged inconsistent amendments.

We hope these comments will be useful to the Committee as it begins its review of the Municipal Tax Code Commission. If you or the Committee members have any questions about our comments, please give me a call and we will be happy to respond.

Sincerely,

Catherine F. Connolly

Catherine F. Connolly
Executive Director

SUNSET FACTORS

Pursuant to ARS §41-2953, the Joint Legislative Audit Committee (JLAC) assigns all agencies or commissions subject to a sunset review to the respective committees of reference (COR) in the House and Senate. JLAC also determines whether the review will be conducted by the Auditor General's Performance Audit Section or whether it will be done by the COR. The Municipal Tax Code Commission sunset has been assigned to Ways and Means and Finance COR.

The basic sunset review process is outlined in ARS § 41-2954. The COR must hold at least one public hearing and perform an evaluation based on the factors listed in the law. The COR could recommend continuation of the agency with or without statutory changes for any period of time, not to exceed ten years, or, termination. The COR is also responsible for the development of legislation to continue or revise the agency and to make any recommended changes. Following are the Sunset Factors listed in §41-2954, subsection D:

D. The committee of reference shall consider but not be limited to the following factors in determining the need for continuation or termination of each agency:

1. The objective and purpose in establishing the agency.
2. The effectiveness with which the agency has met its objective and purpose and the efficiency with which it has operated.
3. The extent to which the agency has operated within the public interest.
4. The extent to which rules adopted by the agency are consistent with the legislative mandate.
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Commission Response:

Chairman: Mayor Richard Archer
Member: Councilman Ken Forgia

MUNICIPAL TAX CODE COMMISSION

October 1, 1998

Melodie Jones,
House Ways and Means Analyst
Arizona House of Representatives
Capitol Building, House Wing
1700 West Washington
Phoenix, AZ 85007

RE. Municipal Tax Code Commission - Sunset review

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3. The Commission has met its obligation to the public interest in following its purpose and meeting its objectives.

4. The Commission has adopted no rules.

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If I may be of further assistance or provide additional information, please do not hesitate to contact me

Very truly yours,

Richard F. Archer

Mayor Richard Archer
Commission Chair,

Enclosures:
cc: Mark Killian, Director ADOR
Commission members
Terry Trost, Assistant Director ADOR

MUNICIPAL TAX CODE COMMISSION

October 1, 1998

Melodie Jones,
House Ways and Means Analyst
Arizona House of Representatives
Capitol Building, House Wing
1700 West Washington
Phoenix, AZ 85007

RE: Municipal Tax Code Commission - Sunset review

Dear Ms. Jones:

Here is the response to Senator Bundgaard and Representative McGibbon's letter of August 24, 1998, with its accompanying questionnaire regarding the sunset review of the Municipal Tax Code Commission. The answer to your questions are as follows:

1. The objective and purpose of establishing the Municipal Tax Code Commission was to provide, through the public hearing process, review and comment on proposed changes to the Model City Tax Code adopted by the cities and towns in the State of Arizona

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   The Commission may hold public hearings for the purpose of reviewing and receiving comments on the proposed changes from the Cities and any interested parties. Once all the facts have been presented to the Commission, the changes are evaluated and if any changes are deemed appropriate the Commission recommends those changes.

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Very truly yours,

Ken Forgia

Councilman Ken Forgia
Commission Member,

Enclosures:

cc: Mark Killian, Director ADOR
Commission members
Terry Trost, Assistant Director ADOR
Commission Staff

Department of Revenue
Response:

Director Mark Killian
Commission Staff: Donita Plaumann

ARIZONA DEPARTMENT OF REVENUE

1600 WEST MONROE - PHOENIX, ARIZONA 85007-2650

JANE DEE HULL
GOVERNOR

MARK W. KILLIAN
DIRECTOR

September 28, 1998

Melodie Jones,
House Ways and Means Analyst
Arizona House of Representatives
Capitol Building, House Wing
1700 West Washington
Phoenix, AZ 85007

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Enclosures:

cc: Mayor Richard Archer, Chairman
Commission members
Terry Trost, Assistant Director, ADOR
Donita Plaumann, Staff

ARIZONA DEPARTMENT OF REVENUE

1600 WEST MONROE - PHOENIX, ARIZONA 85007-2650

Terry Trost
Assistant Director

James G. Busby, Jr.
Chief Auditor

September 24, 1998

Melodie Jones,
House Ways and Means Analyst
Arizona House of Representatives
Capitol Building, House Wing
1700 West Washington
Phoenix, AZ 85007

RE: Sunset review of the Municipal Tax Code Commission

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Very truly yours,

Donita F. Plaumann,
Commission Staff,
Cities Program Manager
TRANSACTION PRIVILEGE AND USE TAX DIVISION

Enclosures:

cc: Mark Killian, Director ADOR
Mayor Richard Archer, Chairman
Commission members
Terry Trost, Assistant Director ADOR

League of Cities and Towns Response

THE LEAGUE OF ARIZONA CITIES & TOWNS

1820 W Washington St • Phoenix AZ 85007-3294 • (602) 258-5786 • FAX (602) 253-3874 • E-mail league@mg.state.az.us

October 6, 1998

Ms. Melodie Jones
Ways and Means Committee Analyst
1700 West Washington
Phoenix, Arizona 85007

Dear Melodie:

Thank you for the opportunity to submit comments for the sunset review of the Municipal Tax Code Commission. We hope our comments will be useful to the Committee of Reference which has been established to evaluate the Municipal Tax Code Commission. We have been an active participant in the workings of the Commission since its inception.

Some historical perspective on the Commission may be helpful to you and the members of the Committee. In the mid-1980's, the business community presented concerns about the diversity of city sales tax ordinances to the Legislature. A Committee was formed of legislators, business and city representatives and the Department of Revenue. This Committee adopted a series of recommendations in December 1984 including one which led to the development of the Model City Tax Code.

Working together and reviewing successive drafts of the model tax code with business representatives, city officials produced a final draft of the tax code in late 1986. Adoption of the code was coordinated among the major cities with an effective date of April 1987. All of the cities and towns with a local sales tax subsequently adopted the model code within a relatively short period of time.

Prior to the beginning of the 1988 legislative session, business representatives approached the League with a proposal to set up an oversight commission to monitor changes to the tax code and provide a forum for discussion of concerns with the code. We agreed with this proposal and worked with the business representatives in drafting the bill to create the Municipal Tax Code Commission. We also joined in supporting passage of the bill during the 1988 session. In 1991, we joined the business community in supporting the extension of the life of the Commission; we did so again in July 1994. During its last renewal, the makeup of the Commission was changed at the request of the business community to include only elected officials.

The Commission reviews all changes to the municipal tax code and holds hearings when appropriate on those changes. The Commission has carefully considered amendments proposed by both city and business interests and generally found in favor of the side which offers more consistency. The cities have proposed changes which have been adopted and other changes which were not adopted. The Commission held several hearings on changes during 1997 and 1998 emerging earlier this year with a blended set of 1998 amendments which took parts from city recommended changes and business community recommended changes.

As a close observer of the process, I believe the members of the Commission have been fair in their approach to the issues presented as they have been responsive to concerns of both the business community and the cities and towns. The Commission has also kept current on the adoption of amendments which they have recommended. Thus far, they have a 100% success ratio in that every city and town has adopted all of the comprehensive amendments recommended by the Commission.

We hoped that the number of non-standard changes to the code would be kept to a minimum, and although there is no statistical evidence to support this theory, I believe the existence of the Commission has discouraged inconsistent amendments.

We hope these comments will be useful to the Committee as it begins its review of the Municipal Tax Code Commission. If you or the Committee members have any questions about our comments, please give me a call and we will be happy to respond.

Sincerely,

Catherine F. Connolly

Catherine F. Connolly
Executive Director