

## HB 2701 – Testimony of David M. Dayvault

My name is David M. Dayvault. I am Chief Financial Officer for the Abercrombie Companies which are involved in the oil and gas exploration and production and well servicing business. I oppose HB 2701 for reasons stated below:

Oil and gas properties are valued annually by a process which relies heavily on a formula which takes the current year's production times a price for the product times a present worth factor. The present worth factor is arrived the decline rate exhibited by production from the lease. Decline rates vary greatly and can difficult to determine in the earlier years of an oil or gas lease.

Over 99% of the oil and gas properties in Kansas do not have valuation disputes that cannot be settled between the producer and the county appraiser through the informal hearing process. For those disputes which go before the Board of Tax Appeals (BOTA) the issues will often relate to differences in the decline rate used by the appraiser and those advocated by the producer. The valuation differences need to be significant for the producer to go to the effort and expense to file the appeal. In those instances additional information which would be available due to the passage of time would tend to allow BOTA to issue a more informed opinion. Over the years the courts have allowed information after the valuation date which would tend to validate the claims of one party or another. Neither the producer nor the county intrinsically gains an advantage by the use of this additional evidence. The evidence would be available to either party.

HB 2701 would limit the evidence which could be considered in valuing an oil or gas property to information regarding production for the first three months following the appraisal date. Information beyond the April 1<sup>st</sup> date would no longer be allowed to be considered by either the appraiser or BOTA. This bill would legislatively overrule a Kansas Supreme Court case (Board of Ness County Commissioners vs. Bankoff Oil Co., 265 KAN. 525,960 P.2D 1279 (1998)). HB 2701 would not allow the appraiser or the courts to consider much of the evidence which is currently now considered in the most contentious of valuation disputes. Exclusion of evidence is generally contrary to the principles of equity and should only be used in limited circumstances.

I understand that certain counties have proposed this legislation as a result of having to repay taxes several years after they had been initially assessed. HB 2701 would not address this situation. In circumstances where the taxes are repaid after several years consider the producer's situation. The producer has paid taxes and likely incurred litigation costs based on an assessment that was ultimately judged to be unfair. I would suggest that the producer is the aggrieved party in those instances.