Approved March 23, 1983
Date

MINUTES OF THE HOUSE COMMITTEE ON ASSESSMENT AND TAXATION.

The meeting was called to order by Representative Jim Braden at
Chairperson

9:00 a.m./~~p.m.~~ on March 14, 1983 in room 313-S of the Capitol.

All members were present except:

Representative Robert Frey who was excused.

Committee staff present:

Wayne Morris, Research Department
Tom Severn, Research Department
Don Hayward, Revisor of Statutes' Office
Nancy Wolff, Secretary to the Committee

Conferees appearing before the committee:

Ben Neill, Governor's liason on severance tax
Mary Ella Simon, League of Women Voters of Kansas
Bryan Whitehead, B.R.A.C.
Leroy Jones, Brotherhood of Locomotive Engineers
Richard D. Smith, President, Kansas Independent Oil & Gas Assoc.

The Chairman called the meeting to order.

Hearings were held on Substitute for Senate Bill 267 which is the Severance Tax legislation.

Ben Neill, appeared as a proponent and presented a number of changes that the Governor's office would like to see made in the current status of Senate Bill 267. He stated the majority of these changes would be policy decisions on the part of the committee. (Attachment I)

Mary Ella Simon, League of Women Voters of Kansas, read a statement from Marian Warriner, LWVK Lobbyist, in support of Senate Bill 267. (Attachment II)

Bryan Whitehead, Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees, appeared in support of Senate Bill 267. (Attachment III)

Leroy Jones, representing Brotherhood of Locomotive Engineers, appeared as a proponent of Senate Bill 267. (Attachment IV)

The testimony of Ivan Wyatt, President of the Kansas Farmers Union, a proponent of Senate Bill 267, was distributed to the committee members for their information. My Wyatt did not appear to testify. (Attachment V)

Richard D. Smith, President of the Kansas Independent Oil and Gas Association, appeared as an opponent to Senate Bill 267. (Attachment VI)

The meeting was adjourned.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

DATE: March 14, 1983

GUEST REGISTER

HOUSE

ASSESSMENT & TAXATION
COMMITTEE

NAME	ORGANIZATION	ADDRESS
Don Schnacke	KIOGA	Wichita
Jerry Marcus	Beredco Inc	Wichita
[illegible]	Peat, Marwick	✓
John Parks	Dept. of Revenue	Topeka
Bob Clelland	" " "	"
Linda Terrill	Rep Weaver's Office	State Capitol
Pat Hubbell	Kansas Railroad Assoc.	Topeka
Leroy Jones	B.L.E.	Overland Park
Rich Dame	B.L.E.	Hoisington KS.
D G Seeberger	BMWE	Hanover, KS.
Carol Zarley	KGSurvey	Lawrence KS
Elizabeth Wilson	—	Topeka, Ks.
Joan Wagnon	House Representative	Topeka Ks
Walli Dunn	EKOGA	✓
Chris Graves	Assoc. Students of Ks.	Topeka
Mark Tallman	"	"
Daniel B. Hall	Legislative Assistant	Topeka
Beth Wilkins	Girl Scouts	"
John Blythe	KFB	Manhattan
Della Wray Blythe		Manhattan
FRANK Buehler	HOUSE OF REPRESENTATIVES	TOPEKA
Paul E. Fleener	Kansas Farm Bureau	Manhattan
Amos Kramer	KPC	Topeka

DATE: March 14, 1983

GUEST REGISTER

HOUSE

ASSESSMENT & TAXATION
COMMITTEE

NAME	ORGANIZATION	ADDRESS
Ron Calbert	U.T.U.	Newton
Bryan Whitehead	BRAC	KCK
Tom Whitaker	Ks Motor Carriers Assn	Topeka
Cynthia [illegible]	Speaker's office	" "
Ron [illegible]	KACI	Topeka
Barney Sullivan	Energy Reserves Group	Wichita
Merle Hill	Ks. Good Roads Assn.	Topeka
[illegible] Smith	Slawson	Wichita
Robert C. [illegible]	Mid Cont Oil & Gas	Ottawa
Chip Wheelen	Leg. Policy Group	Topeka
Bill Edds	Revenue	"
Jeanellen Knight	Governor's Office	Topeka
Don Willoughby	INI	Topeka
Bud Grant	KACI	"
~~[illegible]~~	~~Mobil~~	~~Hugoton~~
Ron Smith	LPG	Topeka
Don Boyer	EKOGA	Iola
Tim Underwood	KAR	Topeka
Leland E. Nordling	SWKROA	Hugoton
Jon S. Kernodle	Kernodle Bros. Gas + oil	Wellsville Ks.
Sterling Hagenbuch	Town oil	Paola, Kansas
Marjorie [illegible]	KMHI	Topeka
Harold Eubank	Self	Topeka

TESTIMONY BEFORE HOUSE ASSESSMENT & TAXATION COMMITTEE

Ben Neill, Special Counsel to Governor

1. Questions before 1981 and 1982 Legislature

   A. Does the state need additional revenue
   B. If so, is severance tax the best alternative

2. Question for 1983 Legislature

   A. What kind of severance tax will we pass

3. Policy questions concerning severance tax and Sub. SB 267

   A. Credit back vs add on

      1) Declining revenues with credit back
      2) Administrative problems
      3) Natural gas credit on intrastate - constitutional problem Maryland vs Louisiana

   B. Tax Salt and Coal

      1) No comparison to oil & gas industry - would ruin coal and salt industry

   C. Enhanced Recovery Exemption

      1) Fiscal impact underestimated
      2) Difficult to define what qualifies
      3) Over broad

   D. New Well Exemption

      1) Big fiscal impact
      2) Exempts peak production
      3) How can purchaser tell which wells are exempt in lease?

   E. Sunset provision

   F. Effective date 5/1/83

      1) Impossible

   G. Fund for elderly $1 million

   H. Rebate (8%) to counties

      1) 5% more than adequate

   I. Incidence of Tax

      1) Severed and removed prior to effective date or just severed or just removed.

Revised
March 9, 1983

COMPARISON OF SEVERANCE TAX BILLS

	H.B. 2172 by Weaver et al	Sub. S.B. 267	Comments
Rates			
Oil	7%	8%	
Gas	7%	8%	
Salt	--	8%	
Coal	--	8%	
Exemptions (% of Production)			
Oil (a)	1 bbl/day - 2.9% 2 bbl/day/2000'- 5.5%	a) 1 bbl/day - 2.9% 2 bbl/day/2000'- 5.5% 3 bbl/day/3000'- 5.1%	
(b)	--	b) Double the above production for enhanced recovery-4.7%	Elimination would increase annual receipts by $3.8 million at $28/bbl
(c)	--	c) New wells during first two years of production-9.7% in FY 1984, rising to 20.4% in third year	Elimination would increase annual receipts in first year by $8.0 million at $28/bbl
Oil - Total Percent	8.4%	27.9% in FY 1984	
Gas - (a)	0-30 MCF/day-1.8%	a) 0-60 MCF/day-6.7%	
(b)	--	b) Agriculture and domestic use-1%	Elimination would increase annual receipts by approx. $400,000
(c)	--	c) New well during first two years-3.7% of production and 6.0% of taxable value in FY 1984-Rises to 13.1% of production and 21.4% of value in third year	Elimination would increase annual receipts by about $2.5 million in first year
Gas - Total Percent	1.8%	13.7% in FY 1984	
Exemptions			
Salt	--	--	
Coal	--	--	

Annualized Liabilities ($Million)

	H.B. 2172	Sub. S.B. 267	Comments
Oil ($28/bbl)	$ 113.1	$ 59.0	Revenues from Sub. S 267 may be overstate because estimates assume property tax credit will be at 1982 levels, but there will be some increase due to natural growth and exemption of farm machinery and business aircraft
Gas	36.5	35.4	
Coal	--	3.0	
Salt	--	5.0	
Total	$ 149.6	$102.4	

Distribution of Proceeds (Annualized - $Millions)

	H.B. 2172	Sub. S.B. 267	Comments
State Gen. Fund	$ 142.1 (95%)	$ 93.2 (92%)	Rebate under Sub. SE 267 probably more than compensates sor counties for potential loss in valuation
Rebates to Counties and U.S.D.'s	7.5 (5%)	8.2 (8%)	
Elderly Energy Assistance	--	1.0	
Total	$ 149.6	$102.4	

FY 1984 Distribution with 9 Month Collections

	H.B. 2172	Sub. S.B. 267	Comments
State Gen. Fund	$ 106.6 (95%)	$ 69.7 (92%)	Sub. SB 267 has a Ma 1 effective date which could lead to 11 months collection in FY 1984 but the Dept. of Revenue has consistenlty stated that it would be nearly impossible to effectively put even a simple bill into effect by that date
Rebates to Counties and U.S.D.'s	5.6 (5%)	6.1 (8%)	
Elderly Energy Assistance	--	1.0	
Total	$ 112.2	$ 76.8	

Estimated Effective Tax Rates

	H.B. 2172	Sub. S.B. 267	Comments
Oil	5.6%	2.9%	Effective rate computed by dividing tota annual liability by estimated value of production without regard to exemptions
Gas	6.0%	5.8%	
Coal	--	7.8%	
Salt	--	7.7%	
Total	5.7%	3.8%	

H.B. 2172	S.B. 267	Comment
rty Tax Credit None	100% on all minerals except natural gas where 100% credit allowed only if federal regulations or contracts do not allow pass-through of property taxes	Credit has seriou administrative problems (See Attached). Elimi nation of credits would increase annual receipts b $57.4 million for oil and $6.6 million for gas
Royalty Interests Not Taxed	Taxed but receive above property tax credits	Eliminating royal ty taxation from Sub. S.B. 267 would decrease annual liabilitie by $4.3 million for oil and $4.4 million for gas. Taxing royalty interests under H.B. 2172 would increase annual liabilities for oil by $16.2 million and for gas by $5.2 million

NOTE: Fiscal estimates presented below are based on an assumption that none of the intrastate gas (20% of total production) will qualify for a pass through of property taxes and thus all will qualify for a property tax credit. This differs from the assumption contained in the KLRD memo of March 9, 1983 where i was assumed that 50% of intrastate gas would qualify for pass through and 50% would qualify for property tax credit. The different assumptions cause the KLRD estimates to be $3.0 million higher on an annual basis than those presented below. The KLRD estimated total FY 1984 collections of $97.0 million are based on 11 months total collections.

March 8, 1983

Additional Comments on Sub. S.B. 267

1. Revenues -- State General Fund revenues under Sub. S.B. 267 in FY 1984 (if only 9 months of collections are received) are only $69.7 million which is approximately one-half the additional funding the Governor stated was necessary for adequate state services and nearly $37 million less than the Governor's proposal on oil and gas only would raise at $28/bbl. Reduced severance tax revenues are likely to be offset by reduced quality in schools and highways and higher property taxes.

2. Property Tax Credits -- The property tax credits appear designed to accomplish little except to reduce the effective tax rate on oil and gas producers. In addition, the credits create serious policy and administrative problems which will be difficult, if not impossible, to overcome. Problems inherent in the credit include:

   (a) The FY 1984 estimated yield of $69.7 million is the maximum that can be achieved because it assumes that the property tax liability on oil and gas will remain at 1982 levels. This assumption is unreasonable given that there will be natural increases in property tax liability as well as shifts from the farm machinery and business aircraft exemption. A 10% increase in local property taxes on oil and gas because of the shift will reduce estimated receipts by $6.4 million, or nearly 10% of estimated FY 1984 State General Fund proceeds.

   (b) One reason given for the credit is that it will equalize state and local tax burdens on oil and gas among counties at a statewide 8%. In other taxes there is not an attempt to equalize tax burdens among counties through a credit. That is, homeowners in Shawnee County do not receive an income tax credit for their higher than average property tax burden. Other taxes do not include a credit for other taxes paid, instead they include only deductions for other taxes paid. Oil and gas producers will still receive a deduction for property taxes on their income tax, as do other taxpayers.

   (c) All other things remaining equal, the property tax credit will cause state revenues to decline in future years. That is, if the price and production of taxable minerals were to remain constant, state revenues would decline because it can be expected that local property tax liability will increase. This is in addition to the likely decline in revenues attributable to the new well exemption. (See (3) below.)

(d) The credit allows local governments to increase oil and gas property taxes with no increase in the total burden on oil and gas producers. Increased property taxes could result from both increases in valuations as well as mill levies. This in effect amounts to revenue sharing with selected local governments.

(e) The credits are available only for property taxes paid on taxable production. Thus producers will need to know what portion of their property taxes is attributable to taxable production and what portion is attributable to exempt production. At the present time, property tax statements are based on an entire lease and not on a per well basis. Thus apportioning property taxes among only taxable production contains problems and possibilities for evasion. Since the first purchaser is responsible for remitting the tax he will be required to verify information supplied by the producer.

(f) Oil production creates a special problem because there may be multiple purchasers of oil from a given field or lease. Where this occurs the producers must presumably divide their property taxes again among the purchasers in order to avoid the claiming of multiple credits. Again it is the purchaser who must verify this information and perform the necessary record keeping.

(g) Natural gas also creates a special problem because the credit is only allowed where contractual arrangements do not provide for property tax payments to be "passed-through" in the regulated price for the gas. This is presumed to be a problem only with intrastate gas because interstate gas rules allow for such a pass-through. This, however, requires either the producer or the purchaser to know if the gas will be moving in intrastate or interstate channels and if in intrastate channels whether the contract allows for a pass-through. Again the record keeping requirements on the purchaser are substantial.

(h) The bill is written such that credits can be "moved" from one lease to another. That is if the credit for taxable production on one lease is more than sufficient to offset severance tax liability on that lease, the excess can be "moved" and credited against liability on another lease.

(i) The entire credit mechanism is full of difficulties that will impose serious record keeping and verification responsibilities on purchasers and in turn on the Department of Revenue. The potential for under-collection and evasion is strong.

3. Exemptions -- Sub. S.B. 267 contains a number of additional exemptions. These substantially reduce the taxable base and increase administrative difficulties and potential for evasion.

    Enhanced Recovery -- This exemption amounts to an estimated 4.7 percent of production. It will be difficult to define and enforce what qualifies as enhanced recovery, and could lead to marginal enhanced recovery techniques.

    New Wells -- This exemption (all production from new wells for 2 years) amounts to 9.7 percent of oil production in FY 1984 and 6.0 percent of taxable gas values in that year. The exemption increases to 20.4 percent of oil production and 13.1 percent of taxable gas values by the third year when they are fully effective.

    The exemption could lead to the drilling of new wells in old fields which will be difficult to enforce. In addition, it exempts wells during the peak production period. It in fact creates an incentive to increase production in the first two years above the level that might be desirable for achieving maximum production over the life of the well. The new well exemption could stop all well completions from now until the issue is resolved. The increase in revenues lost from the 2nd year of the exemption is sufficient to offset a $2 increase in the price of oil.

4. Sunset Date -- Sub. S.B. 267 contains a provision that it will automatically expire on July 1, 1986. It is unreasonable to expect that other tax sources will increase sufficiently or expenditures can be restrained to allow the tax to be repealed without replacement revenues. The provision automatically creates a fiscal crisis for that year because of the uncertainty it creates.

5. Effective Date -- The bill contains an effective date of May 1, 1983 in an attempt to obtain 11 months of collections in FY 1984 and make it appear closer to the Governor's proposal. The bill contains so many complexities that it is unreasonable to expect that an effective administrative system could be established in such a short time frame. Likewise, it places immense record keeping and verification responsibilities on purchasers and gives them no time to prepare for such work. There is a great deal of system design, forms design and education that must take place prior to implementing a new tax. To expect this tax to be administered effectively in such a short time frame is to ask for problems. Even the Governor's rather simplified proposals allowed for a July 1 effective date.

LEAGUE OF WOMEN VOTERS OF KANSAS

909 Topeka Boulevard-Annex 913/354-7478 Topeka, Kansas 66612

March 14, 1983

STATEMENT TO THE HOUSE ASSESSMENT AND TAXATION COMMITTEE IN SUPPORT OF SB 267 CONCERNING A SEVERANCE TAX.

Mr. Chairman and Members of the Committee:

I am Marian Warriner speaking for the League of Women Voters of Kansas.

We support SB 267 levying a state severance tax in Kansas.

However, we ask that you amend out the provision for credits for ad valorem taxes because:

---it creates a potential for abuse by local governments in either the appraisal process or in tax rates which could inflate the credits to the industry;

---a state levied tax should be distributed to the benefit of all Kansans; the credit provision retains an unfair share for the oil and gas producing counties.

---a tax system will function better if state levied taxes and locally levied taxes are kept separate.

With this amendment we ask that you report SB 267 favorable for passage. Thank you.

Marian Warriner

Marian Warriner,
LWVK Lobbyist

ATTACHMENT III

BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS, FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES

AFL-CIO — CLC

KENNETH O. RICHARDSON
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BRYAN K. WHITEHEAD
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4917 Haskell
Kansas City, KS 66104
Phone: (913) 287-9062

Kansas City, Kansas, March 12, 1983

TESTIMONY OF

BRYAN K. WHITEHEAD

KANSAS LEGISLATIVE DIRECTOR

FOR THE

BROTHERHOOD OF RAILWAY AND AIRLINE CLERKS

IN SUPPORT OF

SENATE BILL NO. 267

AN ACT IMPOSING A MINERALS SEVERANCE TAX

PRESENTED AT PROPONENT HEARING

BEFORE THE

HOUSE ASSESSMENT AND TAXATION COMMITTEE

STATEHOUSE

TOPEKA, KANSAS

MARCH 14, 1983

ATTACHMENT III
(3-14-83)

Mr. Chairman, and Members of the Committee, my name is Bryan Whitehead and I am the Kansas Legislative Director and a regional representative for the Brotherhood of Railway and Airline Clerks union representing over eight thousand active and retired employes of the transportation industry in Kansas.

I am also representing the Kansas Legislative Department of the United Transportation Union which has over seven thousand members residing in Kansas. And, I am also authorized to represent the Kansas Legislative Committee of the National Association of Retired and Veteran Railroad Employes which has over three thousand members residing in the major railroad terminal cities of Kansas.

Today, I will also testify on behalf of the Kansas State Federation of Labor, AFL-CIO, whose affiliate members total over seventy thousand wage-earner taxpayers residing in Kansas.

We rise, Mr. Chairman, in support of enactment of an oil and gas severance tax in Kansas.

There are some alarming warning signs in the Kansas economy and as a "child of the depression" I am running scared! When I testified in support of the severance tax before the Senate Ways and Means Committee last year, the President of the Senate criticized me severely for "using scare tactics". But, I must submit again, Mr. Chairman, that it's time to get scared when a depression level of 80,000 Kansans are unemployed! Our general revenue deficits are a direct result of these unfortunate citizens paying no income taxes and very little retail sales tax. Moreover, payment of their property taxes will ultimately become impossible if this depression continues.

Every member of the Legislature knows that, effective July 1st, the Kansas taxpayer is going to have to pay a five cent increase in the federal gasoline tax. It is also common knowledge that the amended federal tax code has repealed the total annual gasoline tax as a deduction for tax purposes. Given these facts, it's difficult to understand why an increase in the Kansas gasoline tax would even be considered at such an inappropriate time.

In my view, Kansas should have enacted a severance tax twenty years ago. Gov. John Anderson and the 1963 Session of the Legislature knew that Kansas general revenue was declining and all the experts were projecting deficits.

1964 was a Budget Session year and it was also an election year. Congressman Bill Avery made a momentous decision to give up his seat in Congress and to run in an eight-man Republican primary for governor which he won.

The 1964 General Election produced some very unusual results in Kansas. Lyndon Johnson carried our state defeating Barry Goldwater by 77,449 votes (464,028 to 386,579). And, Bill Avery defeated Harry Wiles by 32,403 votes (432,667 to 400,264) in a victory which was viewed by many as an upset but there was a tax omen present. Late in the campaign, Mr. Wiles received statewide publicity for a reported failure to pay his Stafford county property taxes and many believed it cost him the election.

In the Legislature, the Republicans lost eight seats but retained an 81 to 44 majority in the House. In the Senate, the Republicans lost five seats retaining a 27 to 13 majority.

Governor Avery knew the die was cast and that he must increase Kansas general revenue. To do so, he presented a tax "mix" package of increases to the 1965 Session of the Legislature which was enacted and included: a one per cent increase in all state income tax brackets; a one per cent increase in the retail sales tax (to 3%); a one-and-one-half per cent increase in the retail liquor sales tax (to 4%); a two cent increase in the cigarette tax (to 8¢): and, effective Jan. 1, 1966, employers were required to withhold Kansas income tax from wages of Kansas employes computed at 15% of the federal income tax withheld.

Although I had been active in Kansas politics for almost twenty years, in 1965 I had only three Session's experience as a Lobbyist. But, I can remember wondering if Gov. Avery's advisors were committing him to political suicide and the question was often raised: "Why not a severance tax?"

Eighteen years ago, in my annual report to members of my union, I summed up the events of the 1965 Session of the Legislature as follows:

> "We were all impressed with Governor Avery's power to influence the enactment of his tax program. While it is true that the Governor will have to live with his tax increases politically in 1966, the effects of this will remain to be seen."

And, indeed it was seen. In the 1966 General Election, almost 700,000 Kansans voted in an unusually high turnout for a non-presidential year, and Robert Docking defeated Gov. Avery by 75,705 votes (380,030 to 304,325). And, the Republicans lost four more seats in the House of Representatives.

They say "history repeats itself" and it is obvious that much of the legislative scenario today is strikingly similar to that of 1965. Of course, there are some differences; but, add the severance tax and gasoline tax issues and remove the tax witholding issue and the plot is about the same.

Most importantly, in my view, many tax incidence studies have been made and published to establish the impact in Kansas. And, the impact is squarely on the middle-income, wage-earner, taxpayer who bears the highest ratio of taxation to income in our state!

Can you members of this Committee just imagine the number of fiscal crisis that would have been averted if the Legislature had enacted a severance tax twenty years ago?

One philosophical comment, Mr. Chairman, if Oil & Gas logically belongs to Kansas counties for taxation then it also as logically belongs to the state, to the nation, and, as in Canada, to the people.

I recently heard an elderly widow testify at a public utility hearing that her Social Security check would not cover her utility costs, food and medicine. She was afraid she was going to have to risk giving up her medication or to choose between freezing to death or starving to death!

I submit that society will simply not continue to tolerate the increasing number of such indictments against our system. Ultimately, by whatever means necessary, utility services are going to belong to the people of our nation and the profit-takers are going to be removed from the market place!

I will close, Mr. Chairman, by assuring the Committee that the thousands of taxpayers I represent here today are not going to support any tax increase until we have a severance tax in Kansas.

And, I want to particularly emphasize, that until retail grocery sales of food for human consumption is exempted from the retail sales tax we will never support an increase in the tax!

You have been saturated with testimony by proponents and opponents of the severance tax. The evidence is in, the facts are known, and the jury is your constituency. We respectfully urge you to recommend enactment of a severance tax in Kansas.

The opportunity to present our testimony on this most controversial and important subject is appreciated. If I have failed to make our position clear, Mr. Chairman, or raised any questions, I will certainly try to respond.

Thank you.

Bryan K. Whitehead

BRYAN K. WHITEHEAD,
Kansas Legislative Director,
Bro. of Railway & Airline Clerks

Brotherhood of Locomotive Engineers

Kansas State Legislative Board

ATTACHMENT IV

LEROY D. JONES
Kansas State Legislative Representative

12601 W. 105th
Overland Park, Kansas 66215
Res. Phone (913) 492-4096

MARCH 14, 1983

Mr. Chairman and members of the Committee. I am Leroy Jones, the Kansas State Legislative Representative for the Brotherhood of Locomotive Engineers. I am here today to speak in support of the passage of a severance tax.

My group has supported the passage of a severance tax now for the third year. We feel that the oil and gas industry has escaped the passage of this tax for the last two years, thus has not paid the millions of tax dollars that could have been collected, which our State dearly needs now.

We realize that the price of oil is presently dropping, but we believe that the price will once again start raising, thus make even more profits for the oil and gas companies and producers.

We are very happy that for the first time the House has an opportunity to work a severance tax bill that the Senate has passed. But, we aren't quite happy with all the exemptions and rebates that have come along with this Senate bill.

Our group feels that the passage of a severance tax has been well overdue. We strongly urge each of you to vote for the passage of a severance tax, but without all the exemptions and rebates.

Thank you.

LEROY D. JONES
Kansas State Legislative Representative
Brotherhood of Locomotive Engineers

ATTACHMENT IV

MARCH 14, 1983

ATTACHMENT V

STATEMENT

BY

IVAN W. WYATT, PRESIDENT

BEFORE THE

HOUSE ASSESSMENT AND TAXATION COMMITTEE

ON THE

SEVERANCE TAX

(SB-267)

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

I AM IVAN WYATT, PRESIDENT OF THE KANSAS FARMERS UNION.

LAST YEAR THE SEVERANCE TAX DEBATE CENTERED AROUND WHETHER OR NOT THE STATE NEEDED AN ADDED TAX SOURCE OR NOT.

APPARENTLY, THIS YEAR IT HAS BEEN RESOLVED; THERE IS A NEED FOR A SEVERANCE TAX.

LAST YEAR THE MOTTO WAS "NO NEW TAX."

IHIS YEAR WE ARE HEARING OF MANY "NEW TAX" PROPOSALS, NO DOUBT AIMED AT KEEPING THE SEVERANCE TAX ON OIL AND GAS AT A VERY MINIMUM.

HISTORY HAS SPOKEN LOUD AND CLEAR. NEW FEDERALISM HAS CAUSED A MAJOR SHIFT OF GOVERNMENTAL RESPONSIBILITY AND COST FROM THE FEDERAL LEVEL TO THE STATE LEVEL.

DURING THIS SAME PERIOD OF TIME, WE HAVE SEEN MAJOR CUTS IN THE LEVEL OF FEDERAL TAXATION OF THE HIGHER INCOME TAX BRACKETS, CORPORATIONS, BUSINESSESS AND THE OIL INDUSTRY.

IT NOW REMAINS TO BE RESOLVED; WITH THE SHIFT OF THE ADDED TAX BURDEN FROM THE FEDERAL LEVEL TO THE STATE LEVEL, COUPLED WITH HIGH UNEMPLOYMENT, AND DISASTERLY LOW FARM INCOME CAUSING A MAJOR SHORTFALL IN STATE REVENUES. THE QUESTION HAS TO BE, WILL WE NOW TURN TO THE SEVERANCE TAX, A TAX BASED ON THE VALUE OF PRODUCTION, TO AN INDUSTRY THAT HAS BENEFITTED FROM RECENT FAVORABLE FEDERAL TAX LEGISLATION, OR WILL WE CONTINUE TO ADD MORE AND MORE OF THE TAX

ATTACHMENT V (3-14-83)

BURDEN ONTO THOSE SOURCES THAT ARE SUFFERING MOST GRIEVOUSLY FROM THE RECESSION? WILL WE CONTINUE TO ADD MORE AND MORE OF THE TAX BURDEN ONTO THOSE SOURCES, TAXES THAT MUST BE PAID REGARDLESS OF GENERATED INCOME, OR ABILITY TO PAY? SHALL WE INCREASE THE SALES TAX, OR YET ANOTHER 2¢ OR 3¢ INCREASE IN THE ROAD FUELS TAX, OR INCREASE THE PROPERTY TAX ON THE HOMES OF THE UNEMPLOYED, OR THE ELDERLY AND POOR ALIKE?

ARE WE TO DO ALL THIS TO PROTECT THE OIL INDUSTRY FROM SHARING IN THE NEW ADDED RESPONSIBILITIES OF THE STATE, BROUGHT ON BY THE "NEW FEDERALISM AND RECESSION?"

LAST YEAR THE MOTTO WAS "NO NEW TAX." THIS YEAR WE ARE HEARING OF MANY NEW TAX PROPOSALS, MOST AIMED AT KEEPING THE SEVERANCE TAX ON KANSAS MINERALS AT A VERY MINIMUM.

LAST YEAR THE ARGUMENT AGAINST THE SEVERANCE TAX WAS MADE THAT A SEVERANCE TAX WOULD INCREASE THE COST OF FUELS, FERTILIZERS, ETC. TO FARMERS. FIGURES THEN INDICATED THAT A 5% SEVERANCE TAX MIGHT HAVE RAISED FERTILIZER PRICES LESS THAN 8/10 OF A PERCENT, YET THIS YEAR A NEW ADD-ON TAX HAS BEEN SUGGESTED FOR NOT ONLY FERTILIZERS, BUT HERBICIDES, SEED, PESTICIDES, AND OTHER AGRICULTURAL INPUTS THAT COULD ADD SOME $300 MILLION OR MORE TO THE FARMERS COST OF OPERATION.

A ROAD FUELS TAX INCREASE HAS BEEN SUGGESTED TO STAVE OFF A SEVERANCE TAX. A TAX INCREASE TO BE ADDED ONTO THE ALREADY INCREASED FEDERAL ROAD FUEL AND USE TAX. A TAX FARMERS PAY DOUBLE; AS THE OLD SAYING GOES, FARMERS BUY RETAIL AND SELL WHOLESALE AND PAY THE FREIGHT BOTH WAYS.

OTHERS HAVE SUGGESTED CUTS IN EDUCATION TO STAVE OFF A SEVERANCE TAX, OR TO SHIFT AN EVEN GREATER BURDEN OF THE COST ONTO THE HOMEOWNER AND FARMER.

TO SACRIFICE QUALITY EDUCATION FOR OUR YOUNG PEOPLE FOR EVEN A SHORT TIME IS TOO MUCH TO ASK. BECAUSE ONCE A CHILD IS SHORT CHANGED DURING THEIR EDUCATIONAL PROCESS THERE IS NO WAY THAT LOSS CAN BE RECLAIMED. EDUCATION IS NOT LIKE A BRIDGE OR HIGHWAY PROJECT THAT CAN BE DELAYED A YEAR OR TWO.

I RECALL HOW THIS NATION WENT INTO A CRASH PROGRAM OF CATCH-UP IN EDUCATION AFTER THE RUSSIANS LAUNCHED THEIR "SPUTNIK," BUT NOW WE APPEAR TO BE RELAPSING INTO THAT SAME PRE-SPUTNIK SITUATION OF A LACK OF CONCERN OF THE EDUCATION OF OUR YOUTH AS A VALUABLE ASSET TO BE DEVELOPED FOR THIS NATION'S FUTURE AND SECURITY.

I RECALL LAST YEAR HOW IT WAS POINTED OUT BY SOME AGRICULTURAL GROUPS; THEY OPPOSED THE SEVERANCE TAX BECAUSE AS THEY CLAIMED IT WOULD CAUSE A SIGNIFICANT INCREASE IN FERTILIZER COSTS. HOWEVER, AT ABOUT THE SAME TIME THEIR SISTER ORGANIZATION IN OKLAHOMA WAS SUPPORTING THE DEREGULATION OF NATURAL GAS PRICES BECAUSE, AS THEY CLAIMED, IT WOULD BE GOOD FOR FARMERS BECAUSE, AS THEY RATIONALIZED, NATURAL GAS PRICES WOULD GO UP, FERTILIZER PRICES WOULD GO UP, FARMERS WOULD THEN USE LESS FERTILIZER; CONSEQUENTLY, THEY WOULD RAISE LESS GRAIN. THEREBY, CAUSING THE PRICE OF GRAIN TO GO UP AND FARMERS WOULD MAKE MORE MONEY.

I THINK THERE ARE PROBABLY BETTER AND MORE EFFECTIVE WAYS TO CONTROL EXCESS PRODUCTION OF GRAIN.

THE POINT IS, THERE ARE MANY INCONSISTENCIES IN THE ARGUMENTS IN OPPOSITION TO AN ADEQUATE SEVERANCE TAX TO OFFSET THE SHORTFALL OF STATE REVENUES CAUSED BY HIGH UNEMPLOYMENT, LOW FARM PRICES AND THE ADDED RESPONSIBILITIES OF STATE AND LOCAL GOVERNMENT.

WE CONTINUALLY HEAR THE LEADERSHIP IN BOTH HOUSES,WHO HAVE OPPOSED THE SEVERANCE TAX, SAY THEY ARE GOING TO MAKE MAJOR TAX CUTS, BUT MOST OF THESE CUTS WOULD SIMPLY BE A SHIFT OF RESPONSIBILITY FOR THE COLLECTION OF TAXES FROM THE STATE TO LOCAL UNITS OF GOVERNMENT, MUCH LIKE THE SHIFT OF FEDERAL RESPONSIBILITIES TO THE STATE GOVERNMENTS.

THE QUESTION I ASK OF THE OPPONENTS OF THE SEVERANCE TAX: HOW MUCH OF THE STATE'S ADDED REVENUE NEEDS SHOULD BE SHIFTED TO THE FARMER, THE LANDOWNER, THE HOMEOWNER? IN OTHER WORDS, HOW MUCH OF THE SHIFT SHOULD BE MADE ONTO THE STATE'S WORKING MIDDLE CLASS IN ORDER TO ESTABLISH A SEVERANCE TAX ON THE OIL INDUSTRY AT THE LEVEL THEY HAVE PRESENTED?

IN CONCLUSION, I HAVE TO ASK: WHY IS SB-267 SET TO EXPIRE IN 1986?

DO THE PROPONENTS OF THIS SECTION BELIEVE ALL OF THE STATE'S FINANCIAL PROBLEMS WILL BE SOLVED AT THAT TIME?

DO THEY BELIEVE FARMERS AND HOMEOWNERS WILL BE MORE ABLE TO CARRY THE OIL INDUSTRY'S SHARED RESPONSIBILITY OF STATE GOVERNMENT, OR DO THEY THINK THESE PEOPLE, THE FARMER, THE HOMEOWNER SHOULD CARRY THE OIL INDUSTRY'S SHARED RESPONSIBILITY, REGARDLESS, AFTER 1986?

UNLIKE FARMERS, BUSINESSMEN, HOMEOWNERS, WHO MUST PAY THEIR PROPERTY TAX, AS WELL AS MANY OF THE OTHER TAXES REGARDLESS OF THEIR CAPABILITIES TO PAY, THE OIL INDUSTRY HAS A BUILT-IN SAFEGUARD IN THE SEVERANCE TAX. THE SEVERANCE TAX IS BASED ON THE VALUE AND RATE OF PRODUCTION.

THEREFORE, I WOULD URGE SUPPORT FOR THE "STRIKING" OF LINES 0500 AND 0501 OF SB-267.

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ATTACHMENT VI

Richard D. Smith

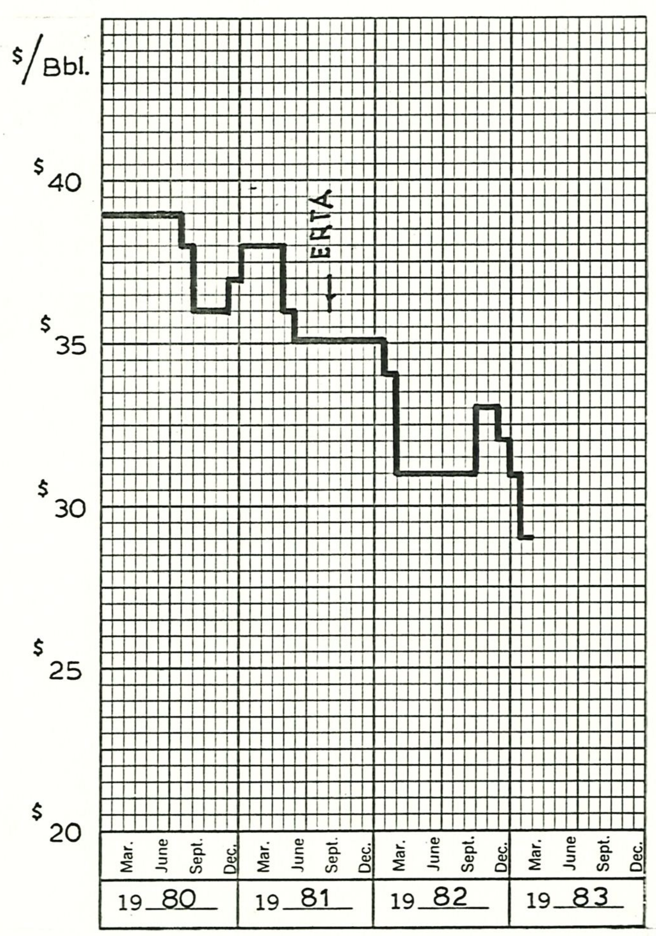
President of the Kansas Independent Oil & Gas Association

Testimony before the House Assessment and Taxation Committee

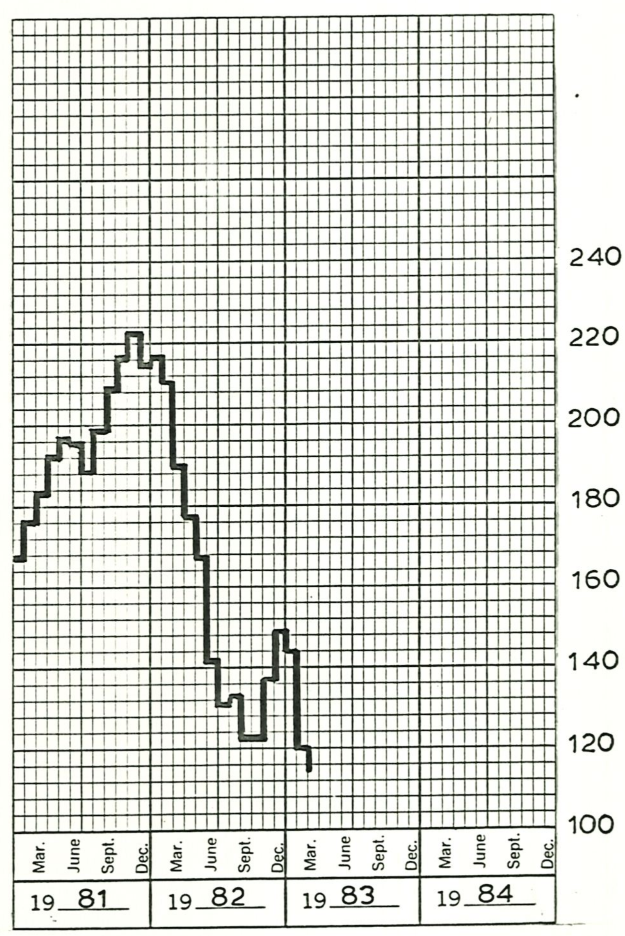
Monday, March 14, 1983

My name is Dick Smith, and I am president of the Kansas Independent Oil and Gas Association. Thank you for this opportunity to testify. I will try to cover several points very quickly.

First, the oil and gas industry is falling deeper into recession. The two graphs on the first page of the handout will illustrate the situation. The one on the left shows the decline in the price of oil since 1980. That was the year that recent legislatures first seriously considered a severance tax. The price was $39.00 then, and it has since fallen to $29.00. Further, at this time, there is more oil available in the world than ever before, and the market for it is weak. Therefore, the continuation of the downward trend in prices seems to be inevitable.



HIGHEST POSTED PRICES FOR KANSAS CRUDE OIL



ACTIVE ROTARY RIGS IN KANSAS

The graph on the right shows the number of active rotary rigs operating in Kansas. A little more than a year ago we had 224 rigs running in Kansas. Today there are 110 of those rigs down and out of work. That is a full 49% of our drilling fleet, and it means that at least 1400 men who were actively working on those rigs are unemployed. That does not count the numerous cat drivers, truck drivers, bookkeepers and others who have also been laid off because they are associated with the drilling business.

Kansas production is declining too. Gas production has dropped by 33% in one year, and oil production, which was our one bright spot because it had increased following the active drilling pace during the past few years, is now also on the decline. Kansas oil production was 199,000 barrels a day in November, and it has now dropped to 195,000 barrels per day. Continued decline is inevitable because we are drilling fewer and fewer wells.

In short, our industry is in a serious recession, certainly one of the hardest hit industries in the state, with high unemployment, numerous bankruptcies and drilling and production revenues down.

This is hardly the time to be adding to the tax burden of an industry that is already more than adequately taxed. Last year, the oil and gas industry paid $118 million in property taxes alone. That is more than 11% of all of the ad valorem taxes paid in the state. Further, we paid another $100 million in sales, income and other taxes. Our ad valorem taxes alone amount to 4% of gross revenues on an average, and that percentage will rise as we assume our share of the shift in taxes from exempted farm machinery.

Testimony has been given to the effect that the exemption from the windfall profits tax for stripper oil would partially offset the severance tax. If you will look back to the oil price graph you will see that the Economic Recovery Tax Act (ERTA) (which included the stripper exemption) was passed in August of 1981. At that time, the exemption would have equalled about a $3.00/bbl. benefit for less than 1/2 of Kansas oil production. Since that time, the price of oil has fallen twice that much, so any benefit has long since disappeared. If in fact there was any windfall, then why are half of our rotary rigs lying idle?

It is difficult for us to understand the punitive tax rates which are proposed by the various bills before the committee. Total tax on oil and gas in the governor's bill would be at least 11% when the ad valorem tax we already pay is considered. 8% is also high when you consider that we are a state that produces marginal oil. More than 90% of our wells are stripper wells, those that produce less than 10 barrels per day. Stripper production is taxed very carefully in many other producing states because they recognize the marginal character of the production and the economic loss that would occur should these wells be overtaxed and cause abandonment. For instance, Louisiana, the third largest producing state in the country, taxes stripper at only 3 1/8%, Nebraska a 2% severance tax and Colorado has no severance tax at all on stripper.

Further, we recognize that the state needs money, but we wonder why we are being called on to fund all, or virtually all, of the deficit. Surely we aren't responsible for the shortfall. What has happened to the plan to spread the burden with sales, income and gasoline taxes? The needs of education and highways are the responsibility of all Kansans, not just the oil and gas industry.

I wonder if the proponents have considered where we might be at this time next year if our industry is damaged with a tax. Oil production could easily drop another 10,000 barrels daily. It did just that on the average for 12 years running in the early 1960's and 70's because we did then, just what we are doing now. We drastically cut our drilling. What about our gas production which dropped 33% last year, and if you think that was just an odd year, you're wrong. The three previous years it dropped an average of 10% per year. What about drilling? Certainly we can't expect a resurgence in drilling if an 8% severance tax puts us at a disadvantage with Oklahoma at 7%, and other neighboring states with even lower rates where there are better opportunities to find good wells, far better than our marginal production.

Finally, we have been hearing a lot about a mandate for a severance tax. But I don't think any governor, senator or state representative was ever sent to Topeka with a mandate to permanently damage an industry, put good people out of work and lay waste to the future of the economy of our state. Kansas needs the oil and gas industry, it's our second largest. We won't be able to repair it or replace it next year if we cripple it with taxes this year. I hope you will oppose all of the severance tax bills before you now.