

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

The meeting was called to order by Chairman Paul "Bud" Burke at
Chairperson

11:00 a.m. ~~pm~~ on FEBRUARY 21, 1983 in room 313-S of the Capitol.

All members were present ~~except~~

Committee staff present: Wayne Morris, Research Dept.
Tom Severn, Research Dept.
Don Hayward, Revisor's Office

Conferees appearing before the committee: Senator Hein, sponsor of SB 171
Steve Holsteen, representing the Governor's Office
Marian Warriner, League of Women Voters

The chairman told the committee that we will be addressing ourselves to the issues of the severance tax and will be considering all the bills at this time.

The chairman recognized Senator Hein, sponsor of SB 171, which imposes a 5% tax on the extraction or withdrawal of oil or gas from below the surface of soil or water. The tax is paid ratably by all persons owning any interest in oil or gas severed. (Attachment #1). Senator Hein said his bill as introduced contained a drafting error--has a 1, 2, or 3 barrel exemption, and he has asked the Revisor's Office to amend his bill to conform to the same exemptions as contained in the Governor's bill this year. He said his bill would raise approximately \$47 million a year.

The following persons appeared in support of the severance tax bills:

Steve Holsteen, representing the Governor's Office, spoke in support of SB 67 which he stated provides for a payment to local units to compensate for any potential reductions in local property tax collections attributable to the severance tax. He said it provides a specific tax exemption for the production from marginally profitable wells and excludes the production attributable to royalty interests from the provisions of the tax. (Attachment #2). In response to questions, he said he feels SB 267 is an unacceptable bill. He said the counties ad valorem tax is not a severance tax; it is a property tax paid like farmers, homeowners and other business. Mr. Holsteen told the committee he believed the election was a mandate for the severance tax. When asked if the Governor might consider a severance tax bill that included a tax on royalty interests, he replied that although the Governor has consistently opposed including royalty owners in the severance tax, if you would make a reduction in rate, he might consider it. In response to a question about the possible financial impact of \$191 million a year in taxes on the oil and gas industry, he said the governor felt that industry is in better shape to withstand that jolt than are other industries in the state. In response to an inquiry as to whether the Governor would accept an amendment to put some consideration for the higher cost of secondary recovery (large costs are involved with that), he said the Governor would be willing to consider any type change which would be beneficial. When asked what percentage of the tax will be exported, Mr. Holsteen responded that approximately 70% will be passed out of state. When asked if the Governor would be amenable to the inclusion of coal which is a mineral being severed from the ground, he responded "no".

Marian Warriner, League of Women Voters, spoke in support of a severance tax. (Attachment #3)

The meeting was adjourned at 12:05 p.m. The next meeting of the committee will be held at 11:00 a.m. Feb. 22 in the Supreme Court Room.

ASSESSMENT AND TAXATION

OBSERVERS
(PLEASE PRINT)

DATE	NAME	ADDRESS	REPRESENTING
Feb. 21	RON CALBERT	NESTOR	U.J.U.
"	DAN RAMLOW	TOPEKA	Ks. Contractors Assn.
"	Jack McGlothlin	Pittsburg	UTU
"	Shirley Odgers	Topeka	CWA
"	Michael Kopter	TOPEKA	WREN-AM
"	Maura Karcus	Lawrence	# LWVK
"	Mary Ellen Simon	Topeka	LWVK
"	Richard B. Schmidt	Topeka	Self.
"	VON BOWMAN	Codell	"
"	Cindy Entzler	Topeka	Sen. Ness
"	Loren Bush	Lawrence	Rep. Lupati
2-21-83	Horac. Wren Eubank	Topeka	Nuclear Freeze
"	Red McWeeny	Lawrence	Sen. Hein
2/21/83	Marilyn Chaney	Hutchinson	
2/21/83	Elizabeth Wilson	Topeka, Ks.	Self
2-21-83	Flawel Hoag	Topeka, Ks.	KEC
	Brenda Johnson	"	KTWU
	Ben Bauman	"	KTWU
	Bob Allen	Topeka	Dept of Rev.
	John Parks	Topeka	" " "
	Carol Early	Lawrence	KG Survey
	Shirley Paul	"	"
	David K. Collins	"	"
	James Turner	Topeka	KPC
	Kenneth Wedel	Topeka	Ks. Natural Resource Council
	Merle Price	"	Ks Good Roads
	Ronald Wiley	Highway	
	William "Chief" Price	1020 W 11th	FREE THINKERS
	Robert C. Anderson	9th	NYSD Const

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ASSESSMENT AND TAXATION

OBSERVERS
(PLEASE PRINT)

DATE	NAME	ADDRESS	REPRESENTING
2/21	Geo. Spickard	Topoka	KIOGA
	Jan. Laches	--	KACT
	George Bunnaw	Huyton	Co. Comm.
	Ken Ehlum	Topoka	KLPGA
	Ku Kusler	✓	✓
	GARY S RENICK	Garden City	✓
	John D McNeal	Topoka	Self
	John Blythes	Manhattan	K.F.B.
	Paul E. Fleener	Manhattan	Ks Farm Bureau
	David Kel	Topoka	Topoka Tallow Co.
	Jani Reicher	Lawrence	National cheerleading association
	Cindy Amundson	Lawrence	Sen. Angell
	Bucky Roberts	"	" Johnston
	Bill Eads	TOPOKA	DOT OF REVENUE
	Charmaie Hade	"	Gov's Office
	Ivan W. Wyatt	McPherson	Ks Farmers Union
	Ross Martin	TOPOKA	Ks Petroleum Council
	Tom Whitaker	Topoka	Ks Motor Carriers Assn
	Richard B. Schmidt	Topoka	Self
	Paul Chazy	" "	Senate

STATEMENT BY SENATOR RON HEIN

Re: SB 171 presented to Senate Assessment and Taxation Committee
February 21, 1983

Mr. Chairman, members of the Committee, thank you very much for permitting me to testify today.

In the last two years, much has been said and written about the severance tax, and we would certainly hope the people of Kansas have been given enough information to make an informed decision on this entire matter. Unfortunately, the halls of the Legislature have been replete with misinformation, hyperbole, obfuscation, and oversimplification on this highly important matter.

The Governor contends that the State of Kansas should tax big oil. The facts are that of his \$138.5 million proposal, only \$10 million will be paid by big oil companies.

The Governor says that the severance tax will be passed out of state. The facts are that not a single dollar of the \$97 million of severance tax on oil in the Governor's proposal will be paid by out-of-state consumers. Every dime will be paid by businesses and individuals here in the State of Kansas.

With regards to the severance tax on natural gas, the facts are that the Governor's people estimate that 60% of the severance tax on natural gas will be paid by out-of-state consumers, and the industry estimates that 40% of the severance tax on natural gas will be paid by out-of-state consumers, so let us assume that the real figure is somewhere in between, and that 50% of the severance tax on natural gas will be paid by out-of-state consumers. Therefore, of the \$28 million from the tax on Natural Gas, only \$14 million will be passed to out-of-state consumers and \$14 million will be paid by in-state consumers.

So the bottom line is that, of the \$124.4 million oil and gas tax proposed by the Governor, only \$14 million (11%) will be passed out-of-state, and \$110 million (89%) will be paid by Kansans.

One might inquire why it has been assumed by many people, including the news media, for the last two years, that 70% of the severance tax will be paid by people out-of-state. This anomaly occurred because the Governor's people defined any business whose corporate headquarters was outside the State of Kansas as being an out-of-state business. By virtue of such a definition, any tax paid by Goodyear, Boeing, Jostens American Yearbook, DuPont, General Motors, Sears, J.C. Penneys, Macy's, or numerous other businesses, both industrial and retail which have done business in Kansas for years, and which employ Kansans, pay Kansas property taxes and other taxes, and are very truly Kansas companies, would by the Governor's definition, be deemed to be out-of-state companies.

It is quite interesting therefore that several of the State Senators who are the strongest proponents of the Governor's Severance tax, presumably because the tax will be passed out of state were instrumental a few years back in attempting to persuade the Legislature to give a multi-million dollar tax break to a wealthy, out-of-state, multi-national company, at the expense of the other taxpayers in Kansas. I refer, of course, to the attempt to obtain relief for the General Motors plant in Kansas City.

These legislators, then argued that we should not discourage industry from locating in this state, that somehow this multi-national, highly profitable, wealthy industrial giant should be given millions of dollars of tax breaks, while now an industry in Kansas which is comprised primarily of small independently owned businesses which employ Kansans, pay Kansas property taxes, and pay other Kansas taxes

should suddenly be forced to pick up a multi-million dollar tax increase.

Last year, the Governor attempted to convince the people that the severance tax would reduce their property taxes, and that somehow the severance tax would not be paid by them. Neither proposition could be further from the truth. In fact, it should be pointed out that all other things being equal, had the Governor been successful in passing the severance tax which passed the House of Representatives last year, and had school finance been funded at the level proposed by Wendell Lady's 3-year plan, although property taxes would have decreased a slight amount the first year, by the second year, property taxes would have sky-rocketed to the highest increase in Kansas's history, and the third year would have gone up at a rate twice the largest increase in history.

Lastly, the Governor has led the voters to believe that they will not pay the Severance Tax. Kansans will pay in the form of higher utility bills, higher costs of fertilizer, higher costs of irrigation, and higher costs of many products made in Kansas.

During these last two years, Governor Carlin has stated that we should a severance tax like the State of Wyoming has, or the State of Montana, or the State of Oklahoma. or the State of Kentucky. or like the other midwestern states have. But the Governor has never introduced a bill like the severance tax laws in effect in Wyoming, Montana, Oklahoma, Kentucky, Colorado, Nebraska, Indiana, Illinois, or any other midwestern state.

Over these same last two years, I have taken the position that I would support a reasonable and responsible severance tax bill, especially, if it is modeled after the severance tax laws in effect in any of the following states: Wyoming, Montana, Oklahoma, Colorado,

Nebraska, Indiana, Illinois, or Kentucky.

I kept waiting for it to be introduced, but it never came.

Instead, the Governor has consistently introduced severance tax bills which are totally unlike any other state's in the nation. Every one of the proposals introduced at the request of the Governor would, among other things, make Kansas the highest taxing state in the nation on the so-called stripper wells, that being wells of less than 10 barrels a day production. These are the wells that other states in the nation, and even the Congress of the United States, have recognized as the producing wells which are the most likely to be impacted by even slight increases or decreases in the tax rate, due to the high per barrel cost of production on these marginally producing wells.

SB 171 is modeled after the Colorado legislation, which provides for a phased in 5% severance tax, based upon the amount of production on oil and natural gas; which allows an 87% deduct for local property tax or production tax; and which exempts wells producing less than 10 barrels per day. My bill eliminates the 10 barrel exemption, and instead imposes the exemptions proposed by the Governor; eliminates the phase-in based upon the amount of production, and simply sets the rate at 5%; and reduces the 87% deduct to an 80% deduct.

With regards to the fiscal note, my bill will raise an annualized figure of \$47 million, which is deemed by the fiscal note to be understated, but staff is unable to estimate the exact value. Also, it is my understanding that almost the entire amount is raised from the oil industry, because natural gas is currently taxed at a sufficiently high rate at the local level that the 80% deduct is almost equal to or in some cases exceeds the 5% severance tax. Contrary to the

misinformed statement made by the Governor at a recent press conference, the bill does not provide for any rebate to be paid to any oil or natural gas company, and there should be no misunderstanding that that statement was at best a smoke screen scare tactic designed to confuse the issue. Furthermore, it should be pointed out that there is no tax on liquid fuels in this bill.

I will point out right now that if the Committee is desirous of modifying this bill to provide another means of raising the severance tax on natural gas, that that would not be objectionable to me. However, I would caveat that the severance tax on natural gas will, of course, be passed directly onto consumers.

With regards to royalty owners, the Governor for the sake of political expediency has exempted royalty interests. I am not satisfied that that can be done constitutionally, or without at least constitutional challenge. We would be the only state in the nation to do so, other than the State of North Dakota, which specifically authorized that procedure by a statewide referendum. If this committee is convinced that such an exemption is constitutional and that the policy of this state should be to tax those who incur the investment risk of oil production but not those who profit thereby without the incurrment of risk, then amendments would need to be made accordingly to my bill.

If tax policy should be formed by deciding how much money needs to be raised and then setting the rate of a tax to accomplish that goal, then I would invite you to make whatever amendments you desire to this legislation. But if the tax policy of this state should be formed by a rational and intelligent decision, after looking at all the factors, including the amount of money to be

raised, the effect upon business, labor, consumers, and other segments of our society, then I would suggest that legislation modeled after other states would be a wise course for Kansas.

I would note that my bill raises as much money from the oil industry as does last years House bill. If that bill was inadequate, it raises speculation that the Governor intended all along to propose another severance tax increase this year even if the bill had passed last year. Meaning we never had a compromise last year at all. In addition, if the committee wants to raise another \$45 million you can tax Natural Gas and Liquid Fuels like the other bills do, thus raising the kind of money that everyone seems to feel is necessary. I would caveat that that \$45 million will be directly passed on to Kansas consumers and farmers, albeit that the tax will be hidden in the cost of utilities, fertilizer, and other products.

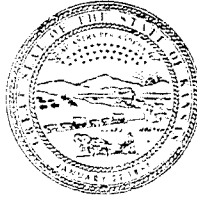
In conclusion, the Governor's bill is not a tax that will be passed out of state. It is a tax that will be paid predominantly by businesses and individuals in Kansas. But the nice thing about taxing Kansans with a bill like the Governor's is that the voters will not know they are paying the tax. I am reminded of the words of a close college friend who always said, "Ignorance is bliss! Be Happy!"

Perhaps the voters can be happy paying the severance tax as long as they do not know they are. But I think that the greatest fraud that can be perpetrated upon the people is to deceive them into paying a tax that they do not realize they are paying. That is bad government, that is bad public policy, but certainly history has shown that it can be good politics.

Thank you very much for permitting me to testify this morning, and I will be happy to yield for any questions.

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STATE OF KANSAS



OFFICE OF THE GOVERNOR
State Capitol
Topeka 66612

John Carlin Governor

Testimony To
Senate Assessment and Taxation
By
Stephen E. Holsteen
February 21, 1983

Mr. Chairman, Members of the Committee:

Thank you for the opportunity of appearing this morning to convey Governor Carlin's support for Senate Bill No. 67.

As you are well aware, the gubernatorial message urging favorable legislative action on a reasonable severance tax bill is not a new message.

Though it is not new, the circumstances within which it is delivered have changed markedly in the last year.

There are new elements for your consideration today that previously may not have been so clearly perceived.

It may not have been so clear that most Kansans believe a severance tax ought to be an important part of the State's tax structure.

Within the last year, however, we experienced a period of intense public discussion and decision-making during which the severance tax was the central issue. A probing and fervent debate was conducted in forums ranging from the living rooms of private homes, to town meetings, to the editorial pages of the State's newspapers.

After the debate, Kansans spoke clearly. They want a severance tax. Moreover, they do not want a severance tax that is so inadequate as to necessitate other major general tax increases. Certainly, they rejected the notion of an inadequate severance tax coupled with an increased gasoline tax.

SB 67 or a similar measure along with SB 68 meets the test of responsibly addressing the State's fiscal needs and providing resources for educational and highway funding.

This committee should have no doubt, however, that any bill conceived by the oil and gas industry and drafted in such a way as to avoid the effective imposition of a reasonable severance tax is unacceptable and will be vetoed.

Atch. 2

Kansans did not endorse a severance tax charade. The people of our State voted for a severance tax to provide high quality education for our children and to rebuild our roads and highways without the necessity of increases in general taxes such as sales tax, income tax, or gas tax. They did not vote for and will not accept a second rate education for Kansas children. They did not vote for and will not accept an inadequate highway program coupled with an increase in the gas tax. They asked for and they now expect the Legislature to pass a severance tax bill that contributes significantly and reasonably to these needs.

A second factor that has come sharply into focus in recent months is the dramatically negative effect that the national economic recession has had on state revenues. As a result, we now confront an urgent need for additional resources with which to meet essential state responsibilities.

The question of need which may have lingered in the minds of some during last year's severance tax deliberations has been removed from the arena of debate.

The need is clear and undisputed. The fiscal realities we confront are grim. The question is: How can we most fairly and equitably address it?

For decades, other resource-rich states have relied upon severance taxes to assist in sharing the cost of state government. Those states have recognized that mineral wealth is non-renewable and that good public policy would dictate they be compensated for its depletion. Those states have found that much of the severance tax is exported to the federal government and to consumers and producers in other states.

Passage of a reasonable severance tax will permit Kansas to meet its obligations to maintain a high quality system, of public education without overburdening the State's property taxpayers. It will also provide the budgetary flexibility necessary to adequately fund the repair and maintenance costs of our roads and highways without an increase in motor fuel taxes.

SB 67 protects the fundamental integrity of the local property tax system and provides for a payment to local units to compensate for any potential reductions in local property tax collections attributable to the severance tax. It provides a specific tax exemption for the production from marginally profitable wells. It also excludes the production attributable to royalty interests from the provisions of the tax.

From the beginning, the severance tax has been presented as an alternative to other major general tax increases, such as property, sales and gasoline taxes. The severance tax remains an alternative that must be judged upon its basic fairness alongside other tax proposals. Today, there should be no debate about the need.

Certainly when one evaluates the issue of fairness, the federal tax benefits accorded independent oil producers must be contrasted with the situation confronting other Kansas property owners whose overall tax burden

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has not lessened. Commencing January 1, 1983, producers of stripper oil were exempted from the federal windfall profits tax. As we are all aware, independently-owned stripper oil constitutes a large share of Kansas production. It is estimated that the windfall profits tax exemption will result in a tax benefit to Kansas independent producers of more than \$100 million per year.

It is fair to ask why Kansas property owners and Kansas schools should be denied the benefits of a severance tax; why Kansas property owners and schools should be sacrificed to protect the privileged position of a small, but rich and powerful special interest group; why Kansas, unlike other major mineral producing states, should fail to be compensated for depletion of non-renewable resources that one day will be gone? There are no fair or satisfactory answers to these questions. The Governor, therefore, renews his call for swift action to pass a severance tax and urge a favorable consideration of Senate Bill No. 67 by the members of this committee.

Attachment
#3

LEAGUE OF WOMEN VOTERS OF KANSAS

909 Topeka Boulevard-Annex

913/354-7478

Topeka, Kansas 66612

February 21, 1983

Statement to the Senate Assessment and Taxation Committee in support of a State Severance Tax in Kansas.

Mr. Chairman and Members of the Committee:

I am Marian Warriner speaking for the League of Women Voters of Kansas, in support of a state severance tax in Kansas. We first endorsed an add-on severance tax in 1945. Later studies continued our support and we lobbied whenever this issue was on the legislative agenda. In 1980 a state severance tax was incorporated into our position on school finance specifically as an appropriate source of revenue for increasing state aid to public schools.

Kansas needs additional revenue now --- far beyond the needs of public schools. Since the League of Women Voters supports many programs requiring state funds we accept the responsibility of supporting appropriate measures to raise the money.

Of the various tax sources available at the moment, the severance tax has our highest priority. It is least costly to Kansas citizens and corrects for them an imbalance due to severance taxes paid over the years to other energy producing states. A state severance tax should become part of our broad-based tax system.

Once again, and I hope for the last time, we ask for your support of an add-on state severance tax.

Thank you for your attention.

Marian Warriner, LWVK Lobbyist
State Finance

Atch. 3