Approved April 22, 1983
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION.

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

5:30 ~~a.m.~~/p.m. on MARCH 2, 1983 in room 527-S of the Capitol.

All members were present except: Senator Ehrlich (excused)

Committee staff present: Wayne Morris, Research Department
Tom Severn, Research Department

Conferees appearing before the committee: Dennis Ahlers, Kansas Corporation Commission
Tim Hagemann, Haskell County Appraiser

The chairman reported to the committee that he had contacted the Kansas Corporation Commission to gather answers to questions on natural gas and the ability of producers to pass along the property tax on natural gas to consumers, whether or not the Corporation Commission allows that to be done, and in what instances it does. He introduced Dennis Ahlers, Assistant General Counselor to the Kansas Corporation Commission, and stated he is here to review that situation for the committee.

Dennis Ahlers reported that under general regulatory principles both federal and state courts have ruled that any expense which is reasonable and necessary for the operation is mandated to be added on and treated as an expense item to be recovered through rates. In the case of taxes, that is generally not controversial; that is non-discretionary--they have to pay it. In the course of regulation, the Commission is regulating, and then routinely allows those tax expenses to be added on. As to whether the severance tax can be passed along, the Corporation Commission routinely treats as an expense, to be included in the cost of service, all property tax, income taxes, etc. because that is a necessary and proper business expense over which the regulated industry has no control and is not within discretion. As to the policy of FERC, we would assume their policy on this would be the same as other taxes, to be treated as an add-on, but there is no specific rule on this. His understanding is that under general principles of law, this would most likely be treated as an add-on and would be treated as a cost of service and flowed in with the rates. He said that at least property tax is generally treated as an allowable expense, but he is saying he doesn't know what the position of the Kansas Corporation Commission would be.

The chairman asked about intrastate tax. Mr. Ahlers said there may be contractual agreements that only pipelines can pass it through. He also said he would have no idea what percentage of the total gas flowing through intrastate would be subject to pass through.

Senator Hayden commented that what we would have on certain classes of gas would be an "in lieu of" tax. The chairman said to the extent that property tax can be passed on in natural gas, the bill that we have now would give a credit for property taxes paid. However, if they don't pay any, they should not receive any credit. If we can get this information it would be helpful. A floor amendment will be offered to allow a credit for gas property taxes only to the extent that the property tax cannot be passed through.

Tom Severn reported to the committee with information requested by various committee members. (Attachment #1) He said the bottom line would be that the estimated receipts would be $64.7 million in FY 1984--$59.5 million for the State General Fund and $5.2 million for counties and unified school districts.

In response to a question as to whether he was assuming that disallowing the credit for the property tax on exempt wells amendment will pass, Tom said that is what he thought the committee had done. He said his assumption would be safer with some amendments.

The chairman inquired as to what figure to start from if the bill said something to the effect that the credit for gas will only apply in those cases where the tax was not allowed to be passed through, starting with the assumption that all can be passed through (pass through is on interstate, not intrastate). The response was that taxing all royalty interests would run $6.1 million additional.

The credit to gas producers of $25.5 million (figuring at 450 billion cubic feet) is based on what would be the amount of property tax they would be paying. If not paying any net tax at all (all passed through) you could get an additional $25.8 million from only working interests. This would be the upper limit without royalty interests; $30.5 million including royalty.

The producer pays the entire tax but charges it back to royalty owners and deducts it. Tim Hagemann said most of the larger companies pay the royalty owners tax; most of the smaller ones don't. Royalty owners could recover royalty interests if they applied for it.

If cut back to 7 percent would still raise $6 million more than earlier thought.

The chairman adjourned the meeting at 6:05 p.m.

p.m. mtg.

ASSESSMENT AND TAXATION

OBSERVERS
(PLEASE PRINT)

DATE	NAME	ADDRESS	REPRESENTING
MARCH 2	Dennis D. Ahlers	TOPEKA	KCC
	DON BOYER	IOLA	EKOGA
	WALTER DUNN	TOPEKA	✓
	ROSS MARTIN	"	KPC
	Don Schnacke	Topeka	KIOGA
	J. Sloan	Lawrence	GRMC

5:30

Dan Severn

Attachment
#1

MEMORANDUM

Kansas Legislative Research Department

March 3, 1983

This memorandum was prepared to answer questions of various legislators concerning the fiscal effect of Sub. for S.B. 267.

Sub. for S.B. 267 would impose a severance tax upon the privilege of severing coal, oil, or gas in Kansas. The rate of the tax would be 8 percent. Exemptions include royalty interests, the first 24 months' production from new wells, low-producing wells, and certain other low-producing wells employing enhanced recovery methods. A credit against the severance tax would be allowed for property taxes paid on coal, oil, or gas property. Eight percent of the tax collected would be returned to producing counties and school districts and the remainder would be credited to the State General Fund.

Sub. for S.B. 267 is estimated to raise $64.7 million in FY 1984 — $59.5 million for the State General Fund and $5.2 million for counties and unified school districts. This estimate is based on the following asusmptions and estimates:

Production.* Crude oil production is estimated to total 72.0 million barrels annually; natural gas production, 450 million mcf; and coal production, 1.47 million tons.

Price. A posted price of $29/bbl, which is approximately the current price, was assumed for crude oil, with an average discount of $1/bbl for the lower A.P.I. gravity oil produced in Kansas, for a net price of $28/bbl. The average price of gas was estimated to be $1.35/mcf and $26.15/ton for coal.

Property Tax Credit. For FY 1984, property taxes paid were assumed to equal half of the 1981 levy and half of the 1982 levy for working interests on oil and gas. No reliable data exist for property taxes on coal producing properties but such taxes were assumed to be negligible.

It was assumed that property taxes levied and paid in 1983 would be equal to those levied in 1982, for lack of any better data. Implicit in this assumption is the further assumption that producers will not pay their entire 1983 levy on December 20, 1983. If producers elect to pay all of their 1983 property tax bills in December, 1983, the resulting credits would significantly reduce net severance tax receipts in 1984.

For FY 1984, an estimated 72.2 percent of the producers' share of oil production would be taxable; therefore, only 72.2 percent of the estimated property taxes on oil working interests were included as credits. If property taxes paid on properties exempt from the severance tax could be claimed as a credit, the net revenues would be significantly reduced. Credits on gas properties similarly were estimated to equal 86.5 percent.

Atch. 1

Low Production Exemption.* Primary production of wells producing up to 3 bbl at the various depths specified in the bill is estimated to make up 13.5 percent of total oil production. Gas wells producing 60 mcf or less are estimated to produce 6.7 percent of total gas production.

Enhanced Oil Recovery Exemption.* The production exempted by the more liberal low production exemption for enhanced recovery methods is estimated to be 4.7 percent of total oil production.

Agricultural and Domestic Use Exemption.* Gas used on the production unit for agricultural or domestic purposes is estimated to be 1.0 percent of total production.

New Well Exemption.* It was estimated that 2,500 new oil wells would be brought into production annually, producing an average of 13 bbl daily for their first year and 7 bbl daily for their second year. It was estimated that 200 wells might be held out of production until May 1, 1983, in order to qualify for the new well exemption. Thus, production from new wells would be approximately 9.7 percent of total oil production in FY 1984, and 21.6 percent in FY 1985.

It was estimated that 400 new gas wells will be brought into production annually, producing an average of 200 mcf daily for their first year and 180 mcf daily for their second year. It was assumed that connections of new gas wells would not be deferred. New gas was assumed to sell at a price of $2.20/mcf. The value of gas production from new wells was thus estimated to be 5.9 percent of the value of total gas produced in FY 1984 and 17.2 percent in FY 1985.

Effect of Implementation Date.* It is estimated that approximately 11 months' revenues will be received in FY 1984.

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* Staff of the Legislative Research Department, the Division of the Budget, the Department of Revenue, and the State Geological Survey have cooperated in the estimation of receipts from a severance tax. The staffs have agreed on the estimates and asusmptions indicated.