

MINUTES OF THE Senate COMMITTEE ON Assessment and TaxationThe meeting was called to order by Senator Fred A. Kerr at
Chairperson11:00 a.m. ~~XXX~~ on Thursday, January 23, 1986 in room 519-S of the Capitol.All members were present except:
Senator William Mulich (Excused)Committee staff present:
Tom Severn, Research Department
Melinda Hanson, Research Department
Don Hayward, Revisor's Office
LaVonne Mumert, Secretary to the CommitteeConferees appearing before the committee:
Alan Alderson, Western Retail Implement and Hardware Association
Bill Edds, Department of Revenue
Chip Wheelen, Kansas Legislative Policy Group
Vic Miller, Property Valuation Division, Department of Revenue
Don Schnacke, Kansas Independent Oil and Gas Association

Senator Paul (Bud) Burke provided the Committee with copies of a bill draft he requested the Committee introduce (Attachment 1). The bill would clarify the "exclusive use" definition so that a tax-exempt entity renting space to another tax-exempt entity would not lose its tax-exempt status. Senator Burke moved that the bill be introduced. Senator Salisbury seconded the motion, and the motion carried.

Alan Alderson explained a request for bill introduction (Attachment 2). The proposal would allow appraisers to "net out" rebates and discounts given by manufacturers to dealers. Senator Burke moved that the bill be introduced. Senator Allen seconded the motion, and the motion carried. Mr. Alderson described his second request (Attachment 3). This proposal would exempt self-propelled machinery and equipment from inventory taxes after the first year (Attachment 4). Senator Frey moved that the bill be introduced. Senator Karr seconded the motion, and the motion carried.

Bill Edds described the five bill requests from the Department of Revenue (Attachment 4). Senator Montgomery moved that a bill be introduced regarding income and estimated tax. Senator Karr seconded the motion, and the motion carried. Senator Allen moved that a bill be introduced providing that corporate officers can be held liable for sales taxes owed by a corporation. Senator Hayden seconded the motion, and the motion carried. Senator Salisbury moved that a bill be introduced which would add an exemption for items purchased with food stamps. Senator Parrish seconded the motion, and the motion carried. Senator Frey moved that a bill be introduced to repeal the express company tax. Senator Thiessen seconded the motion, and the motion carried. Senator Frey moved that a bill be introduced regarding the letting of state contracts to entites owing state taxes or entities improperly registered to collect and remit taxes. Senator Karr seconded the motion, and the motion carried.

S.B. 404 - Mineral interests not to be use-valued for property tax purposes; Re Proposal No. 5

Chip Wheelen testified that his organization had called attention to a lack of clarity in the law in this area (Attachment 5). He said that it was not an urgent problem.

Vic Miller said it is his opinion that mineral reserves are not a part of ag use value. Committee members commented that, in some instances, income is derived from non-producing leases.

Don Schnacke distributed a brochure concerning the oil and gas industry (Attachment 6) and his written statement (Attachment 7). He neither supports nor opposes S.B. 404.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Assessment and Taxation,
room 519-S, Statehouse, at 11:00 a.m. ~~p.m.~~ on January 23, 1986.

The Committee was provided with copies of a written testimony received from the Kansas County Appraisers Association (Attachment 8).

S.B. 412 - Tax exemption for transient merchants' wares; Re Proposal No. 64

Copies of Representative Vancrum's testimony on S.B. 411, a companion bill to S.B. 412, were distributed (Attachment 9).

Senator Burke moved that S.B. 412 be amended to provide that the exemption is self-executing, i.e., entities seeking the exemption would not have to go before the Board of Tax Appeals to file for the exemption yearly. Senator Allen seconded the motion, and the motion carried (see Attachment 10).

After considerable discussion, the Committee agreed to further hearings and discussion at the next meeting.

Meeting adjourned.

ASSESSMENT AND TAXATION

OBSERVERS
(PLEASE PRINT)

DATE	NAME	ADDRESS	REPRESENTING
1/23/86	Chip Wheeler	Topeka	KLPCG
	Dana Ferrell	Topeka	Budget
	Suzanne Muffin	Topeka	Budget
	Don Schuckla	Topeka	KIOGA
	Gary Smith	Topeka	Shawnee Co.
	LEROY LELAND	ANTHONY KANSAS	HARPER Co Appraiser
	Brad Wilcox	LAKIN, Kansas	Kearney Co.
	BILL EADS	TOPEKA	KS. DEPT. OF REVENUE
	ALAN ALDERSON	TOPEKA	WESTERN RETAIL IMPLEMENT & HARDWARE
	DALE AMICK	JEFFERSON City, Mo.	WESTERN RETAIL IMPLEMENT & HARDWARE
	Donna Smith	Topeka	K. Bar A.
	RON CALBERT	NEWTON	U. J. U.
	Sherry Ray	Olathe	Johnson Co.
	Mary E. Tinkler	Topeka	Kansas Motor Carriers Assn.
	Jane Stubbs	"	NBAK
	Walter Dunn	"	EKOGA
	BRUCE GRAHAM	Topeka	Kansas Motor Carriers Assn.
	Jan Vacek	Topeka	KSEPA
	MIKE BEAM	TOPEKA	KS LUSTK Ass
	TREX POTTER	"	NORTHERN NAT. GDS
	Dan L...	"	KCCI
	Janice Lee	Kennington	
	M. Hawes	Topeka	CYV - JVA1

SENATE BILL NO. _____

By Senator Burke

AN ACT relating to property taxation; concerning property exempt therefrom; amending K.S.A. 1985 Supp. 79-201 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1985 Supp. 79-201 is hereby amended to read as follows: 79-201. The following described property, to the extent herein specified, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

First. All buildings used exclusively as places of public worship and all buildings used exclusively by school districts organized under the laws of this state, with the furniture and books therein contained and used exclusively for the accommodation of religious meetings or school district purposes, whichever is applicable, together with the grounds owned thereby if not leased or otherwise used for the realization of profit, except that, any school building, or portion thereof, together with the grounds upon which the building is located, shall be considered to be used exclusively by the school district for the purposes of this section when leased by the school district to any other political or taxing subdivision of the state or to any association, organization or nonprofit corporation entitled to tax exemption with respect to such property.

Second. All real property, and all tangible personal property, actually and regularly used exclusively for literary, educational, scientific, religious, benevolent or charitable purposes, including property used exclusively for such purposes by more than one agency or organization for one or more of such exempt purposes. This exemption shall not apply to such property, not actually used or occupied for the purposes set forth herein,

1/23/86 Sen. A+T
Attachment 1

nor to such property held or used as an investment even though the income or rentals received therefrom is used wholly for such literary, educational, scientific, religious, benevolent or charitable purposes. This exemption shall not be deemed inapplicable solely because an agency or organization is partially reimbursed by individuals receiving services for the actual expense of using property exclusively for literary, educational, scientific, religious, benevolent or charitable purposes.

Third. All moneys and credits belonging exclusively to universities, colleges, academies or other public schools of any kind, or to religious, literary, scientific or benevolent and charitable institutions or associations, appropriated solely to sustain such institutions or associations, not exceeding in amount or in income arising therefrom the limit prescribed by the charter of such institution or association.

Fourth. The reserve or emergency funds of fraternal benefit societies authorized to do business under the laws of the state of Kansas.

Fifth. All buildings of private nonprofit universities or colleges which are owned and operated by such universities and colleges as student union buildings and student dormitories.

Sixth. All real and tangible personal property actually and regularly used exclusively by the alumni association associated by its articles of incorporation with any public or nonprofit Kansas college or university approved by the Kansas board of regents to confer academic degrees or with any community college approved by its board of trustees to grant certificates of completion of courses or curriculum, to provide accommodations and services to such college or university or to the alumni, staff or faculty thereof.

The provisions of this section shall apply to all taxable years commencing after December 31, 1983 1985.

Sec. 2. K.S.A. 1985 Supp. 79-201 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

_____ BILL NO. _____

BY _____

An Act ...

Be it Enacted ...

Section 1. K.S.A. 79-1001a is hereby amended to read as follows:

79-1001a. (a) Every merchant shall for the purpose of taxation make and deliver to the assessor a statement giving the fair market value in money of personal property held as inventory within the state of Kansas for sale in his business as a merchant. For the purpose of such statement the fair market value in money of personal property held by a merchant as inventory shall be an amount equal to the average of the fair market value in money of the personal property held as inventory within the state of Kansas for sale by such merchant during his tax year (as established for reporting for federal income tax purposes) next preceding the time of filing the statement of personal property.

(b) Notwithstanding the provisions of subsection (a), the fair market value in money of personal property which is subject to rebate or discount incentives from the manufacturer thereof shall be determined by reducing the invoice cost figure otherwise reportable by the average discount or rebate available and in effect from the manufacturer during the calendar year in which said property was held in inventory. The "average discount or rebate available or in effect" shall be computed by adding the percentage of discount or rebate available for each item of personal property for each month or portion thereof such item of personal property was held in inventory; then by dividing the total of the percentage by the number of months, or portions thereof, that the item of personal property was held in inventory. The resulting percentage shall be subtracted from 100% and the invoice cost of the item of personal property shall be multiplied by the difference therein in order to arrive at the fair market value of the property.

1/23/86 Sen. A+T
Attachment 2

Sec. 2. K.S.A. 79-1001a is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

_____ BILL NO. _____

BY _____

An Act ...

Be it Enacted ...

New Section 1. It is the purpose of section 2 of this act to promote, stimulate and develop the general welfare, economic development and prosperity of the state of Kansas by fostering the growth and development of agricultural endeavors within the state. Agriculture, as conducted in farming and ranching operations throughout the state, is the primary basis of the Kansas economy. Communities, regions, and the state as a whole are materially dependent upon agricultural endeavors and derive substantial financial benefit from the success of Kansas agriculture. Farming and ranching operations require the investment of large sums of capital for the farm machinery and equipment necessary to satisfactorily carry out such endeavors. It is a benefit to agriculture and the economy of the state generally to preserve readily-available and affordable farm machinery and equipment within the farming communities of this state. Because of the requirements of substantial capital investment in inventory which, because of the farm economy generally, remains in inventory for more than one tax year, the property tax burden has become a deterrent to the operation of an implement business and, in many instances, an encouragement to abandonment of that business. Kansas, and all its citizens, will benefit from any improvement in the economic environment of Kansas agriculture. The exemption from the ad valorem property tax of farm machinery and equipment held in inventory during more than one tax year will constitute an incentive to agriculture and will improve the general economy of the state. Considering this state's heavy reliance on agriculture, the enhancement of agricultural endeavors is deemed to be a public purpose which will promote the general welfare of the state and be for the benefit of the people of the state.

1/23/86 Sen. A & T
Attachment 3

New Section 2. The following described property, to the extent specified in this section, shall be exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

All farm machinery and equipment held in a merchant's inventory which has been listed for tax purposes and taxes in said merchant's inventory in any preceding tax year. The term "farm machinery and equipment" means that personal property which would be exempt pursuant to K.S.A. 79-201j, if it was actually and regularly used exclusively in farming and ranching operations. The terms "merchant" and "inventory" shall have the meanings ascribed to them in K.S.A. 79-1001.

For the purposes of this section, any farm machinery and equipment, the fair market value of which has been included in the computations pursuant to K.S.A. 79-1001b for any prior tax year by the merchant claiming the exemption hereunder, shall be listed by said merchant as exempt property in all succeeding tax years during which said machinery or equipment remains in that merchant's inventory.

The provisions of this section shall apply to all taxable years commencing after December 31, 1985.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas Register.



KANSAS DEPARTMENT OF REVENUE
Office of the Secretary
State Office Building · Topeka, Kansas 66612-1588

To: Senate Assessment and Taxation
Committee

Date: January 23, 1986

The Kansas Department of Revenue respectfully requests that the Committee consider introduction of bills pertaining to the following subjects.

(1) INCOME & ESTIMATED TAX - 1 BILL

(a) Update the state income tax act's itemized deductions to conform with the federal internal revenue code as of December 31, 1985. This recommendation does not contemplate the elimination of the more liberal state medical or social security, self-employment or railroad retirement deductions.

(b) Amend the Kansas income tax act to eliminate the option to use itemized or the standard deduction in cases in which the federal internal revenue code requires a taxpayer to compute federal tax liability by itemizing deductions.

(c) Conform Kansas estimated tax exceptions to penalties provisions to federal law. This recommendation would entail eliminating the exceptions where: (1) the estimated tax paid was based on actual income and deductions of the prior year, but with the taxpayer's current year's personal exemptions and using the current year's tax rate; and (2) the tax paid equals 90% of the amount that would be due if the actual taxable income for the preceding part of the year (not annualized) were the entire year's income.

(2) SALES TAX 2 BILLS

(a) Add a new provision that corporate officers could be held individually liable for sales taxes owed by the corporation.

(b) Add an exemption for items purchased with food stamps. Such a provision is required by federal law to be in effect by October 1 for the state to continue participation in the food stamp program.

(3) EXPRESS COMPANY TAX - 1 BILL

Repeal this article of the Kansas Statutes Annotated.

(4) MISCELLANEOUS - 1 BILL

Add a provision allowing the Department to cooperate with Director of Purchases to restrict letting state contracts to persons or firms owing state taxes or not properly registered to collect and remit taxes. This recommendation may take the form of allowing the cooperation to come after the fact by facilitating a set-off procedure after a contract is performed and money is owed the contractor by the state.



Kansas Legislative Policy Group

301 Capitol Tower, 400 West Eighth, Topeka, Kansas 66603, 913-233-2227

TIMOTHY N. HAGEMANN, Executive Director

January 23, 1986

TESTIMONY TO
SENATE ASSESSMENT AND TAXATION COMMITTEE
Senate Bill 404

Mr. Chairman and members of the Committee, I am Chip Wheelen of Pete McGill and Associates. We represent the Kansas Legislative Policy Group which is an organization of County Commissioners from primarily rural areas of the State.

Last year we appeared before this Committee and pointed out that there are some unanswered questions related to use value appraisal of farmland. Last July we appeared before the 1985 Special Committee on Assessment and Taxation and pointed out some of those questions specifically. We stated that "Because mineral rights have absolutely nothing to do with the ability of the land to produce crops or livestock, we question how such property is to be handled under the use value appraisal method."

In response to our concern, the interim committee recommended introduction of Senate Bill 404. This bill would clarify that "minerals shall be valued and taxed separately from such land as otherwise provided by law."

Unfortunately, we did not adequately elaborate and for that we apologize. An important distinction should have been focused upon. K.S.A. 79-329 states that "all oil and gas leases and all oil and gas wells, producing or capable of producing oil or gas in paying quantities, together with all casing, tubing or other material therein, and all other equipment and material used in operating the oil or gas wells are hereby declared to be personal property and shall be assessed and taxed as such." Obviously the new reappraisal law will not affect the appraisal of producing oil and gas wells because it applies to real estate only.

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Attachment 5

By contrast, Article 4 of Chapter 79 governs listing and valuation of real estate and K.S.A. 79-420 states that "whenever the fee to the surface of any tract, parcel or lot of land is in any person or persons, natural or artificial, and the right or title to any minerals therein is in another or in others, such mineral interest shall be listed and the market value, if any, determined separately from the fee of such land, in separate entries and descriptions. Such land and such mineral interest shall be separately taxed to the owners thereof respectively." This statutory provision governs what is often referred to as "severed mineral interests" meaning that the ownership of mineral rights are separated from ownership of the surface of the land. This has absolutely nothing to do with severance of oil or gas but seems to cause some people to think there is a relationship.

Reappraisal of severed (separated) mineral interests should not be a major problem during the process of reappraising all real estate. The problem arises because some land owners choose not to sell subsurface mineral rights separately from the surface of the land. If the land is located in a region of the State where there are known or probable reserves of oil or gas, a buyer who purchases the land (including mineral rights) generally pays more in price per acre than would be paid for identical land in a region where oil or gas reserves are unlikely to exist. This difference is reflected in the appraised value if the sales comparison approach is employed for purposes of estimating the market value of the property. This difference is not reflected in the appraised value if the income approach is employed in accordance with the procedures outlined in K.S.A. 1985 Supp. 79-1476.

A perhaps important consideration is the precedent which exists in Section 2036A of the IRS Code. That federal provision stipulates that for estate tax purposes, the income approach (use value) may be employed to appraise agricultural real estate but mineral interests must be separately valued. In other words, if mineral interests have not been legally separated from the surface, those interests can be appraised and valued separately in addition to the surface value.

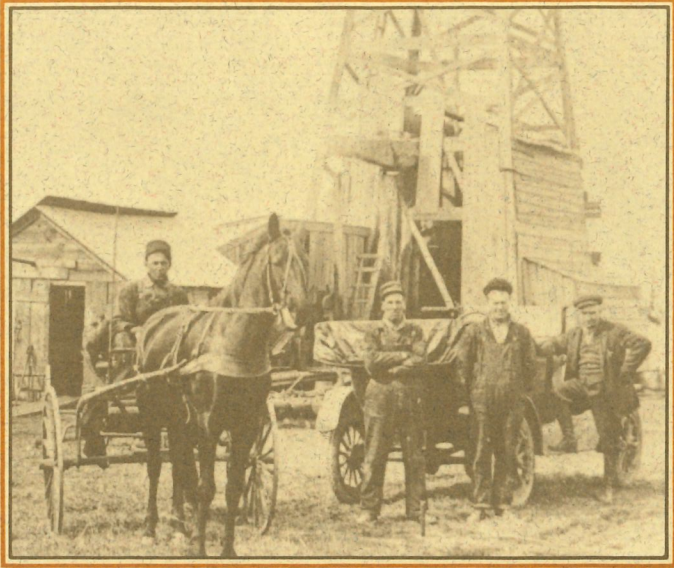
Page 3
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With all due respect to the interim committee, we do not believe that Senate Bill 404 would resolve the question of non-severed mineral interests. Furthermore, we do not know whether the income approach will be the method employed for valuing agricultural land. This question is far more important and will determine whether the mineral interest topic is relevant.

Therefore, we respectfully suggest that Senate Bill 404 not be acted upon at this time. We would, however, beg your indulgence and request the privilege of again addressing this topic some time in the future.

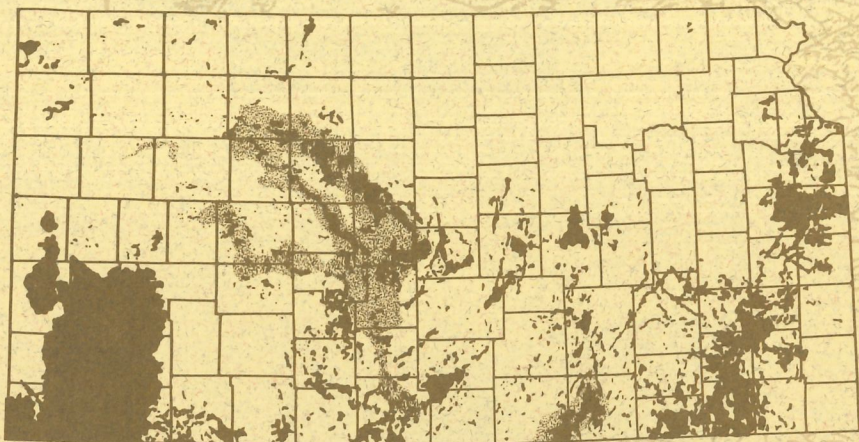
Thank you for your time and consideration.

THE OIL & GAS INDUSTRY



**...Producing for Kansas
Since 1882.**

Introduction



Oil & Gas producing counties in Kansas

Starting in 1882 with the first natural gas produced in the state, the oil and gas industry now touches 90 of the 105 counties in Kansas.

The wellhead value of crude oil and natural gas produced annually totals approximately \$2.7 billion. Of this total, an estimated \$481 million goes to Kansas in the form of tax revenues and reduces the personal tax burden on Kansas citizens.

This is just one of the ways in which the oil and gas industry contributes to the economic well-being of Kansas. Some of the other ways are detailed in the following statistics.

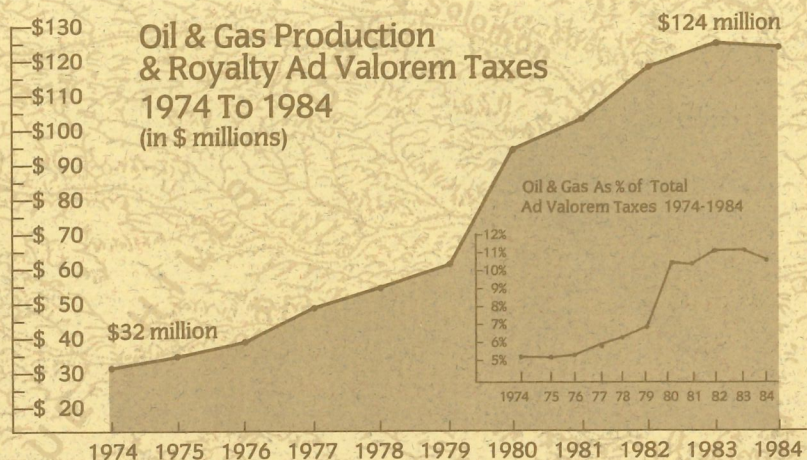
Economic Impact

EMPLOYMENT — After a 25 year lull, the Kansas oil and gas industry came to life with rising prices and increased activity.

In the early 1980s, the industry in Kansas was employing almost 38,000 persons in oil and gas production, refining, transportation, and marketing. Indirect employment was estimated at 40,000 additional jobs, with a total direct and indirect payroll of up to \$1.3 billion annually. Today, in the mid 80s, those numbers have declined, reflecting the industry's sensitivity to prices and taxes.

Direct employment now totals 35,600, with 16,200 persons in exploration and production, 2,800 in refining, 6,200 in transportation, and 10,400 in marketing.

Those contributing to the Kansas economy include 4,700 licensed oil and gas operators, and 390,000 royalty owners and investors.



In addition to 1984's \$124 million oil and gas ad valorem taxes, is another \$48 million for ad valorem taxes from plants, pipelines, refineries, service stations, and butane facilities.

A severance tax imposed in 1982 currently collects \$109 million, while sales and income taxes are estimated at an additional \$200 million — a total tax contribution of \$481 million in 1984.

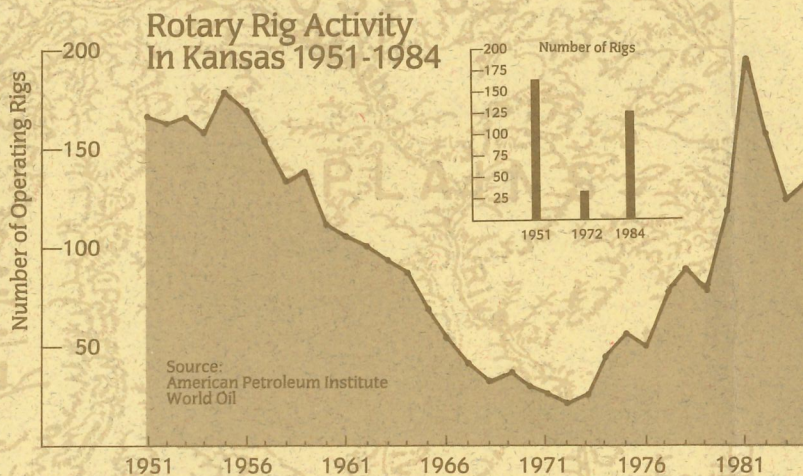
Exploration

Kansas ranked only behind Oklahoma and Texas in 1984 in the number of wells drilled, primarily because of the shallow depth of Kansas reservoirs and resulting lower entry costs. The cost of drilling wells in Kansas varies from as low as \$15 per foot to \$45 per foot depending on location, development, and completion. This represents an \$800 to \$900 million annual drilling program in the state.

1984 Drilling Activity

	# of feet	Oil wells	Gas wells	Dry holes	Total
Wildcats:					
New field	5,283,257	222	43	1,096	1,361
Extensions, shallow and deep pool	4,364,919	398	83	693	1,174
Development Wells	12,120,388	3,091	291	1,288	4,670
TOTAL	21,768,564	3,711	417	3,077	7,205

RIG ACTIVITY — 1981 was the all-time record year for rotary rig activity in Kansas with an average of 196 units working on a monthly basis. In 1982, rig activity dropped by almost 20% to an average of 157 per month. During 1984, rotary rig activity showed a total drop of 35% from 1981 levels to a monthly average of 128. Additionally, a large number of truck-mounted drilling rigs operate primarily in southeast Kansas.



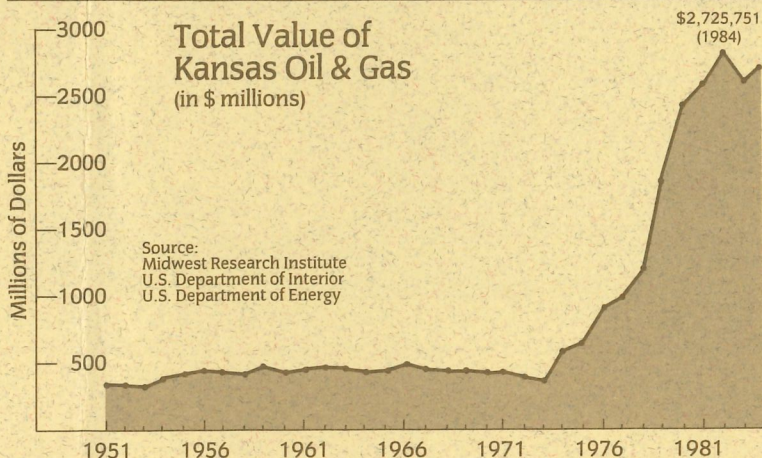
RESERVES — At the beginning of 1984, Kansas ranked 8th in the nation with proved reserves of crude oil of 344 million barrels. Kansas ranked 7th nationally with natural gas reserves of 10.2 billion cubic feet. At 20.23 bcf, natural gas reserves were at their highest level in 1958. 1955 was the peak year for crude oil with reserves of 998 million barrels.

Oil and Gas Production

CRUDE OIL — In 1984, Kansas ranked 8th in the nation with crude oil production of 75.7 million barrels.

64% of Kansas oil is produced from stripper wells. Of the 49,198 producing wells in Kansas, 93% are stripper wells and Kansas production averages 4 bbls per well per day. Although production from a single stripper well is small, the large number of such wells produce substantial quantities of crude oil.

NATURAL GAS — Ranking 6th nationally, 1984 Kansas production of natural gas was 470 mmcf from 11,503 producing wells. Natural gas production peaked in 1970 at 900 mmcf, and Kansas production ranked 5th nationally. Kansas' gas prices are among the lowest in the nation — some as low as \$0.26/mcf — arising from old contracts in the 40 year-old Hugoton field found in southwest Kansas.



Marketing

REFINING — There are 6 refineries operating in Kansas at the present time with a capacity to refine 319,927 barrels of crude oil each day. Kansas refineries obtain approximately 54% of their crude oil from within the state.

TRANSPORTATION — There are 110 companies operating 42,983 miles of pipelines throughout Kansas. They carry crude oil, natural gas, and other petroleum products. The value of these pipelines is \$510 million, and ad valorem taxes derived from them amount to \$43 million each year. Additionally, there are crude oil purchasers and truck transporters moving petroleum in the inter-state and intra-state markets.

This folder sponsored by :

The Petroleum Industry of Kansas, Inc.

in cooperation with:

Kansas Independent Oil & Gas Association

Eastern Kansas Oil & Gas Association

Kansas Petroleum Council

**Oklahoma-Kansas Division —
Mid-Continent Oil & Gas Association**



KANSAS INDEPENDENT OIL & GAS ASSOCIATION

500 BROADWAY PLAZA • WICHITA, KANSAS 67202 • (316) 263-7297

January 23, 1986

TO: Senate Committee on Assessment and Taxation

RE: SB 404

This issue was raised by the Kansas Legislative Policy Group at the July meeting of the Interim Session.

We have detected no opposition or support for SB 404.

The questions raised by my Legislative Committee would indicate the bill is not necessary and that which is being provided in lines 122-124 is current practice and understanding.

Our industry has never considered minerals under the land as that to be covered by the definition of agricultural use value. If you think that needs to be clarified, SB 404 does it.

Minerals are currently being valued and taxed separately, if identified as such, and that is the current practice by the counties. If you think that need to be clarified, SB 404 does it.

Donald P. Schnacke
For the Kansas Independent
Oil and Gas Association

1/23/86 Sen. A+T
Attachment 7

KANSAS COUNTY APPRAISERS ASSOCIATION

EXECUTIVE COMMITTEE OFFICERS

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President
Kearny County Courthouse
Lakin, Kansas 67860
316-355-6427

CHARLES H. CLARK, C.K.A.
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ROBERT GARDNER, C.K.A., A.S.A.
(Immediate Past President)
Wyandotte County Courthouse
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ANN ESLICK, C.K.A.
Secretary/Treasurer
Grant County Courthouse
Ulysses, Kansas 67880
316-356-3362

EXECUTIVE COMMITTEE BOARD MEMBERS

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913-238-4407

RICHARD E. BATCHELLOR
(Northwest Region)
Sherman County Courthouse
Goodland, Kansas 67735
913-899-7581 Ext 29

January 17, 1986

Honorable Senator Fred Kerr, Chairman
Senate Assessment and Taxation
State Capitol Building
Topeka, Kansas 66612

Dear Mr. Chairman & Members of the Committee;

Thank you for the opportunity to appear before you concerning Senate Bill # 404, however, at this time the Kansas County Appraiser's Association does not wish to appear concerning this matter. Our organization can find no verbage either in Senate Bill # 164 or the classification ammendment specifically addressing mineral rights, and we feel that it was not the intent of the legislation to exempt or include in use value the appraisal on mineral rights.

We express concern at raising this question at this time; which may cloud an already complicated issue, and suggest if it is a problem it may be answered more thoroughly in the 1987 or 1988 session.

Respectively submitted

Brad Welch
President, KCAA

cc: Committee Members

Professional Designation



Certified Kansas Appraiser

Affiliation



International Association of Assessing Officers

Affiliation



Kansas Official Council

Affiliation



North Central Regional Association of Assessing Officers

1/23/86 Sen. A+T
Attachment 8

BOB VANCNUM
 REPRESENTATIVE, TWENTY-NINTH DISTRICT
 OVERLAND PARK
 9004 W. 104TH STREET
 OVERLAND PARK, KANSAS 66212
 (913) 341-2609
 STATE CAPITOL, ROOM 115-S
 TOPEKA, KANSAS 66612
 (913) 296-7655



TOPEKA

HOUSE OF
 REPRESENTATIVES

January 22, 1986

COMMITTEE ASSIGNMENTS
 VICE-CHAIRMAN: FEDERAL AND STATE AFFAIRS
 MEMBER: ASSESSMENT AND TAXATION
 JUDICIARY

TESTIMONY ON SB 411

Senator Reilly and honorable members of the Committee. I appear this morning in support of SB 411, an amendment to the Transient Merchants Licensing Act recommended by the Interim Committee of Federal and State Affairs of which I was the Chairman. I'm sure you will recall the Transient Merchant Licensing Act, HB 2443, was enacted by the 1985 Legislature with an eye to bringing state regulation into an area which has long troubled local authorities, the sales of dairy products and seafood as well as many other items from semi-trailer trucks and other temporary locations. The 1985 Legislature required all transient merchants to obtain a license at the County Clerk's Office, post a bond and provide evidence that all taxes on the merchandise had been paid. The principle problem with such requirement is that it triggered the use of a 1918 law which requires persons bringing any merchandise into the state for sale to immediately pay a full year property tax on any inventory offered for sale whether or not it actually sells.

The effect of this legislation has been to make it virtually impossible to reasonably hold antique shows, gift shows, auto

1/23/86 Sen. A+T
 Attachment 9

shows, athletic contests and music concerts at which any merchandise is sold. It also requires all exhibitors at county fairs or trade shows to obtain a \$250 license, a \$5,000 bond and pay prohibitive taxes prior to participating in the event. Kansas has obtained severe negative press in national trade show publications from coast to coast and a number of these shows were actually cancelled, perhaps never to return to the state of Kansas.

Admittedly the greatest obstacle is the property tax provision which has been on the books for nearly 70 years and was only sporadically enforced. Nevertheless, the requirement of perhaps obtaining separate licenses for each exhibitor at a trade show or hobby show is a severe burden and one which I believe was never intended by the 1985 Legislature. We have therefore recommended extensive amendments in clarifying exemptions to the licensing act which are contained in SB 411 before you. Only through extraordinary efforts by Senator Vidricksen, Martin and many others have we been able to persuade a number of these shows to stay in the state of Kansas, and part of the argument has been the 1986 Legislature would promptly enact corrective legislation. We must not break faith with our travel, trade show and convention industry in the state of Kansas.

There will be those who will argue that either the licensing act or the property tax act should be simply repealed rather than going to this effort. Our committee decided not to do that for two reasons. In the first place, we believe the original

intent of the bill still has some merit and certainly has strong support both within the Legislature and elsewhere. Secondly, since we have inadvertently called attention to the Transient Inventory Tax Law and other laws on our books requiring full property tax to these vendors, we cannot assume that some appraisers in some communities will not again attempt to enforce such laws on a bare expression of legislative intent. Furthermore, simple repeal of the 1918 law will not solve the problem since there are a half a dozen other statutes that give the appraiser the power to assess this property. Those who argue for repeal either aren't telling you that property taxation will still be possible or simply haven't studied the issue in enough depth. I will of course be available at any time for questions from members of this committee.

Proposed amendment to SB 412

On page 2, after line 65, by inserting a new section to read as follows:

"Sec. 2. K.S.A. 79-213 is hereby amended to read as follows: 79-213. (a) Any property owner requesting an exemption from the payment of ad valorem property taxes assessed, or to be assessed, against their property shall be required to file an initial request for exemption, on forms approved by the board of tax appeals and provided by the county appraiser.

(b) The initial exemption request shall identify the property for which the exemption is requested and state, in detail, the legal and factual basis for the exemption claimed.

(c) The request for exemption shall be filed with the county appraiser of the county where such property is principally located.

(d) After a review of the exemption request, and after a preliminary examination of the facts as alleged, the county appraiser shall recommend that the exemption request either be granted or denied, and, if necessary, that a hearing be held. If a denial is recommended, a statement of the controlling facts and law relied upon shall be included on the form.

(e) The county appraiser, after making such written recommendation, shall file the request for exemption and the recommendations of the county appraiser with the board of tax appeals.

(f) Upon receipt of the request for exemption, the board shall docket the same and notify the applicant and the county appraiser of such fact.

(g) After examination of the request for exemption, and the county appraiser's recommendation related thereto, the board may fix a time and place for hearing, and shall notify the applicant and the county appraiser of the time and place so fixed. In any case where a party to such request for exemption requests a

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hearing thereon, the same shall be granted. In all instances where the board sets a request for exemption for hearing, the county shall be represented by its county attorney or county counselor.

(h) In the event of a hearing, the same shall be originally set not later than 90 days after the filing of the request for exemption with the board.

(i) When a determination is made as to the merits of the request for exemption, the board shall enter its order thereon and give notice of the same to the applicant, the county attorney and the county appraiser by sending to each a certified copy of its order.

(j) The date of the order, for purposes of filing an appeal to the district court, shall be the date that a certified copy of the order is mailed to the party seeking to appeal.

(k) During the pendency of a request for exemption, and in the event that taxes have been assessed against the subject property, no interest shall accrue on any unpaid tax for the year or years in question from the date the request is filed with the county appraiser until the expiration of 30 days after the board issued its order thereon.

(l) In the event the board grants the initial request for exemption, the same shall be effective beginning with the date of first exempt use.

(m) In conjunction with its authority to grant exemptions, the board shall have the authority to abate all unpaid taxes that have accrued from and since the date of first exempt use. In the event that taxes have been paid during the period where the subject property has been determined to be exempt, the board shall have the authority to order a refund of taxes for a period not to exceed three years.

(n) The provisions of this section shall not apply to farm machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto, or to personal property exempted from ad valorem taxation by section 1."

By renumbering existing sections 2 to 4, inclusive, as sections 3 to 5, respectively;

On page 3, in line 118, by striking "79-1434 is" and inserting "79-213 and 79-1434 are"

In the title, in line 18, after "K.S.A." by inserting "79-213 and"; in line 19, by striking "section" and inserting "sections"