

Approved April 1, 1986
Date

MINUTES OF THE Senate COMMITTEE ON Assessment and Taxation

The meeting was called to order by Senator Fred A. Kerr at
Chairperson

11:00 a.m./~~xxx~~ on Monday, March 31, 1986 in room 519-S of the Capitol.

All members were present ~~except~~ XXXX.

Committee staff present:

Tom Severn, Research Department
Melinda Hanson, Research Department
Don Hayward, Revisor's Office
LaVonne Mumert, Secretary to the Committee

Conferees appearing before the committee:

H.B. 2745 - Income tax credit for hydrogen research

After discussion, the Committee agreed to postpone further consideration of the bill until after the hearing on S.B. 745 since there is some possibility H.B. 2745 could be included in S.B. 754.

H.B. 2767 - Sales tax exemption for food purchased with food stamps

Senator Karr moved that H.B. 2767 be recommended favorably for passage. Senator Parrish seconded the motion, and the motion carried.

H.B. 2779 - Exclusion of gain realized on certain real estate

The Revisor explained an amendment that would preclude tax shelters from having their gains excluded under H.B. 2779. William Trahan (Society of Certified Public Accountants) said the proposed language came from the U.S. Internal Revenue Code but noted that this definition can be too broad so he suggests that a provision referring to family members be included.

Senator Frey moved that H.B. 2779 be amended on page 4, line 150, after the period by inserting: "The provisions of this paragraph shall not apply to any gain realized by an investor from any such transactions concerning tax shelters which are required or would have been required to be registered with the federal internal revenue service pursuant to section 6111 of the internal revenue code, except that, the number of investors under such section shall be determined by treating all members of a family as one investor to the extent they would qualify as class A or class B distributees under K.S.A. 79-1537, and amendments thereto". Senator Salisbury seconded the motion, and the motion carried. Senator Frey moved that H.B. 2779, as amended, be recommended favorably for passage. Senator Salisbury seconded the motion, and the motion carried.

S.B. 743 - Exemption from severance tax on certain oil production

Chairman Kerr explained a proposed substitute for S.B. 743 which would provide for a two-barrel increase in the exemption for deeper wells for a two-year duration. Chairman Kerr said the estimates he has heard on the bill range from approximately \$5 to \$6 million. There was discussion concerning some type of severance tax credits. It was mentioned that the House is working on a concept to tie the relief to the actual cost of the well. Staff advised that the 2,000 foot mark pretty much separates eastern from western Kansas and that very few wells are close to the 2,000 foot level -- most are deeper or shallower. There was discussion about the varying costs of production, the variance in quality of oil, etc. Senator Allen asked Don Schnacke (Kansas Independent Oil and Gas Association) if the substitute bill is satisfactory with the eastern Kansas producers. Mr. Schnacke answered

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Assessment and Taxation,
room 519-S, Statehouse, at 11:00 a.m. ~~XXX~~ on March 31, 19 86

that the substitute bill removes most eastern Kansas wells from any changes proposed in the bill and that is as eastern Kansas producers desire.

Senator Allen made a motion to amend the bill by adopting the substitute bill (Attachment 1). Senator Thiessen seconded the motion. Senator Hayden made a substitute motion to amend the bill by adopting the substitute bill and to further amend the bill by providing that no severance tax shall be due and payable if the price of oil drops below \$10 a barrel. Senator Frey seconded the substitute motion. Senator Hayden noted that it would be his suggestion that the \$10 price refer to the posted price for Kansas light crude and that the price must be below \$10 for 30 days before the severance tax exemption takes effect and must be above \$10 for 30 days before the severance tax becomes effective.

Upon a vote, the substitute motion failed. Upon a vote, the primary motion carried. Senator Allen moved that Substitute for S.B. 743 be recommended favorably for passage. Senator Salisbury seconded the motion, and the motion carried.

Meeting adjourned.

SUBSTITUTE FOR SENATE BILL NO. 743

By Committee on Assessment and Taxation

AN ACT relating to severance tax on minerals; concerning exemptions therefrom for the severance and production of oil; amending K.S.A. 79-4217 and repealing the existing section.

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

Section 1. K.S.A. 79-4217 is hereby amended to read as follows: 79-4217. (a) From and after May 1, 1983, there is hereby imposed an excise tax upon the severance and production of coal, salt, oil or gas from the earth or water in this state for sale, transport, storage, profit or commercial use, subject to the following provisions of this section. Such tax shall be borne ratably by all persons within the term "producer" as such term is defined in K.S.A. 79-4216, and amendments thereto, in proportion to their respective beneficial interest in the coal, salt, oil or gas severed. Such tax shall be applied equally to all portions of the gross value of each barrel of oil severed and subject to such tax and to the gross value of the gas severed and subject to such tax. The rate of such tax shall be 8% of the gross value of all oil or gas severed from the earth or water in this state and subject to the tax imposed under this act. The rate of such tax with respect to coal shall be \$1 per ton and with respect to salt shall be \$.04 per ton in solid state. For the purposes of the tax imposed hereunder the amount of oil or gas produced shall be measured or determined: (1) In the case of oil, by tank tables compiled to show 100% of the full capacity of tanks without deduction for overage or losses in handling; allowance for any reasonable and bona fide deduction for basic sediment and water, and for correction of temperature to 60 degrees Fahrenheit will be allowed; and if the amount of oil severed has been measured or

determined by tank tables compiled to show less than 100% of the full capacity of tanks, such amount shall be raised to a basis of 100% for the purpose of the tax imposed by this act; and (2) in the case of gas, by meter readings showing 100% of the full volume expressed in cubic feet at a standard base and flowing temperature of 60 degrees Fahrenheit, and at the absolute pressure at which the gas is sold and purchased; correction to be made for pressure according to Boyle's law, and used for specific gravity according to the gravity at which the gas is sold and purchased, or if not so specified, according to the test made by the balance method.

(b) The following shall be exempt from the tax imposed under this section:

(1) The severance and production of gas which is: (A) Injected into the earth for the purpose of lifting oil, recycling or repressuring; (B) used for fuel in connection with the operation and development for, or production of, oil or gas in the lease or production unit where severed; (C) lawfully vented or flared; (D) severed from a well having an average daily production during a calendar month having a gross value of not more than \$81 per day, which well has not been significantly curtailed by reason of mechanical failure or other disruption of production; in the event that the production of gas from more than one well is gauged by a common meter, eligibility for exemption hereunder shall be determined by computing the gross value of the average daily combined production from all such wells and dividing the same by the number of wells gauged by such meter; (E) inadvertently lost by reason of leaks, blowouts or other accidental losses; (F) used or consumed for domestic or agricultural purposes on the lease or production unit from which it is severed; or (G) placed in underground storage for recovery at a later date and which was either originally severed outside of the state of Kansas, or as to which the tax levied pursuant to this act has been paid;

(2) the severance and production of oil which is: (A) From

a lease or production unit whose average daily production is two barrels or less per producing well, which well or wells have not been significantly curtailed by reason of mechanical failure or other disruption of production; (B) from a lease or production unit, the producing well or wells upon which have a completion depth of 2,000 feet or more, and whose average daily production is three barrels or less per producing well or five barrels or less per producing well for exemptions claimed hereunder in 1986 or 1987, which well or wells have not been significantly curtailed by reason of mechanical failure or other disruption of production; (C) from a lease or production unit, whose production results from a tertiary recovery process. "Tertiary recovery process" means the process or processes described in subparagraphs (1) through (9) of 10 C.F.R. 212.78(c) as in effect on June 1, 1979; (D) from a lease or production unit, the producing well or wells upon which have a completion depth of less than 2,000 feet and whose average daily production resulting from a water flood process, is three barrels or less per producing well or six barrels or less per producing well for exemptions claimed hereunder in 1986 or 1987, which well or wells have not been significantly curtailed by reason of mechanical failure or other disruption of production; (E) from a lease or production unit, the producing well or wells upon which have a completion depth of 2,000 feet or more, and whose average daily production resulting from a water flood process, is four barrels or less per producing well, which well or wells have not been significantly curtailed by reason of mechanical failure or other disruption of production; (F) test, frac or swab oil which is sold or exchanged for value; or (G) inadvertently lost by reason of leaks or other accidental means;

(3) (A) any taxpayer applying for an exemption pursuant to subsection (b)(2)(A) and (B) shall make application annually to the director of taxation therefor. Exemptions granted pursuant to subsection (b)(2)(A) and (B) shall be valid for a period of one year following the date of certification thereof by the director

of taxation; (B) any taxpayer applying for an exemption pursuant to subsection (b)(2)(D) or (E) shall make application annually to the director of taxation therefor. Such application shall be accompanied by proof of the approval of an application for the utilization of a water flood process therefor by the corporation commission pursuant to rules and regulations adopted under the authority of K.S.A. 55-152, and amendments thereto, and proof that the oil produced therefrom is kept in a separate tank battery and that separate books and records are maintained therefor. Such exemption shall be valid for a period of one year following the date of certification thereof by the director of taxation;

(4) the severance and production of gas or oil from any pool from which oil or gas was first produced on or after April 1, 1983, as determined by the state corporation commission and certified to the director of taxation, and continuing for a period of 24 months from the month in which oil or gas was first produced from such pool as evidenced by an affidavit of completion of a well, filed with the state corporation commission and certified to the director of taxation. Exemptions granted for production from any well pursuant to this paragraph shall be valid for a period of 24 months following the month in which oil or gas was first produced from such pool. The term "pool" means an underground accumulation of oil or gas in a single and separate natural reservoir characterized by a single pressure system so that production from one part of the pool affects the reservoir pressure throughout its extent; and

(5) the severance or production of coal from any mine the total annual production from which is 350,000 tons or less in the preceding calendar year as certified by the state geological survey.

Sec. 2. K.S.A. 79-4217 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after May 1, 1986, and its publication in the Kansas register.