

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

The meeting was called to order by SENATOR DAN THIESSEN Chairperson at

11:00 a.m./~~p.m.~~ on Thursday, February 22, 1990 in room 519-S of the Capitol.

All members were present except:  
Senator Audrey Langworthy (Excused)

Committee staff present:  
Don Hayward, Revisor's Office  
Chris Courtwright, Research Department  
Tom Severn, Research Department  
Marion Anzek, Committee Secretary

Conferees appearing before the committee:  
Senator Phil Martin  
Harland Priddle, Secretary of Commerce  
Scott Andrews, representing 2500 members-KS Chapter of the Sierra Club.  
Chris Courtwright  
Senator Marge Petty  
Pete Wannamaker, representing the Council of Rossville, KS  
Representative Ginger Barr  
Senator Lana Oleen  
Dick Jepsen, Chairman of the Board of Commissioners, Riley County  
Steve Stotts, Acting Director of Taxation, Department of Revenue

Chairman Thiessen called the meeting to order at 11:08 a.m. and told the members they had minutes in front of them dated February 13, and February 14 and he would ask for a motion at the end of the meeting. He turned attention to SB270, and recognized Senator Martin.

**THE FOLLOWING CONFEREES ARE PROPONENTS OF SB270.**

Senator Martin said SB270 is an Act relating to coal; imposing a tax upon the generation of electricity from coal by electric public utilities. He said last year we didn't hear this bill, but he is going to propose some amendments to the bill.

He said this past summer the Coal Commission, of which he is a member discussed this particular measure and they came to an agreement that they would be asking for an amendment with the bill reducing the tax on line 22 from a nickel to a penny per ton and also there was some discussion about who this would apply to and in discussing that with the Revisor, he assured him that on line 20 "There is hereby imposed upon all electric public utilities a tax upon the generation of electricity from coal".

He said, we would be talking about both public utilities and municipalities, and since we didn't use 66-104 as a definition of public utilities, the reason we need the bill is from the standpoint of the Coal Commission being able to have some meaningful grants that we can offer and things that would be taken advantage of from the Federal level and also from the private sector. With the proposed amendments he said, the tax is expected to raise approximately \$125,000 per year.

Chairman Thiessen introduced the pages helping in committee today, and their names were Bobbie Messelt and Sara Spire from Manhattan.

Harland Priddle, Secretary of Commerce said the Kansas Coal Commission was appointed as a result of legislative action during the 1987 session. Responsibilities assigned to the Commission included the investigation of possible new and expanding markets for Kansas coal, the investigation of new technology which would enhance the consumption of Kansas coal, and other issues related to the retention of an \$8 billion coal reserve in the state of Kansas. The Kansas Coal Commission completed its work and forwarded a copy of their report to the legislature last year, resulting with the introduction of five separate bills designed to assist the retention of the coal industry within the state. One of those bills is SB270.

SB270 basically prescribes the assessment of a prescribed fee for each ton of coal burned in Kansas utility companies as a source for funding a Coal Technology Fund.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION,

room 519-S, Statehouse, at 11:00 a.m./~~p.m.~~ on Thursday, February 22, 1990

He said if the committee favorably considers the bill, the Coal Commission will suggest a reinstatement of the presently constituted commission to administer the fund and continue to explore ways for the retention of the \$8 billion industry of coal in the state of Kansas. (ATTACHMENT 1)

Mr. Priddle said Mr. William Giles a member on the Coal Commission could not be here today and asked him to deliver his testimony to the committee with the message that The United Mine Workers concur with the amendments proposed to SB270. (ATTACHMENT 2)

Mr. Priddle also presented testimony in behalf of Alternate Fuels, Inc. by Mr. David Utermoehlen, a member of the Kansas Coal Commission. (ATTACHMENT 3).

Mr. Priddle presented testimony from George M. Barberich, Vice President of Alternate Fuels, Inc. (ATTACHMENT 4)

**THE FOLLOWING CONFEREES ARE AN OPPONENT OF SB270.**

Scott Andrews said he was representing 2500 members of the KS Chapter of the Sierra Club. He said, they oppose any subsidy of new installation of coal-fired generation no matter what the origin of the coal, because of the environmental effects. He said, we cannot continue to expand our use of coal to provide energy and in fact must work to replace it in the short-run with greater energy efficiency. He suggested an amendment to SB270. (1) Provide no financial aid for installation of new coal-fired generators. (2) Raise the coal tax to \$0.25 or \$0.50/ton. (3) Use all revenues to fund increases in energy efficiency research and development for solar and wind energy.

Mr. Andrews urged the members to look to the future and to consider these suggestions in their deliberations on SB270. (ATTACHMENT 5)

Written testimony was turned in by Marshall C. Clark, Director Governmental Relations, Kansas Electric Cooperative, Inc.

Chairman Thiessen concluded hearings on SB270 and turned attention to SB602 asking Chris Courtwright if he would comment on SB602.

Chris Courtwright explained some of the current local sales tax revisions. He said, they had been adding exceptions over the last few years, to the normal rule that cities and counties can only go a penny each, and in addition to the special rate provision there are special distribution provisions that have been put in for the financing of jails, and that is another bill we will be hearing today regarding Riley County. He said, it would let them have a separate distribution formula, similar to what has already been done in Jefferson, Montgomery and Wyandotte Counties. This is in SB602 page 4, lines 18 to 21 and would only apply to cities having a population of more than 1,000 but less than 2,000, located in a county having a population of more than 100,000 but less than 130,000.

On page 3, line 17 the bill would allow the re-defined class B cities to have an extra 1% sales tax authority with the money earmarked for flood control projects. (ATTACHMENT 6a and 6b)

Senator Petty said in discussing the options of SB602 with the revisor's office, she said she believes the B CLASS CITIES are those which the exemptions were instituted at a later period of time and the revisor's office told her, that The League of Kansas Municipalities has said it might make sense to use this bill as a vehicle to clean-up and put everything in Class A before a particular point in time and then use Class B to address this specific request that Rossville is dealing with. She said, she wouldn't want the clean-up requested on the part of The League to jeopardize the potential of Rossville being able to put to a vote this particular issue.

Pete Wannamaker testifying in support of SB602 said he was representing the council of Rossville. He said Rossville is a Class B city, and SB602 would allow them the same power to levy and collect a city retailers' sales tax that a Class A city is authorized to levy and collect and in addition, the governing body of any Class B city may submit the question of imposing an additional city retailers' sales tax in an amount not to exceed 1% pledging the revenue collected from the additional tax for flood control projects to the electors. Any additional sales tax imposed and pledged for the purpose of a flood control project would expire upon the payment of all costs incurred in financing such flood control projects.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION,

room 519-S, Statehouse, at 11:00 a.m. on Thursday, February 22, 1990

He said, SB602 would allow the city to opt for an additional local sales tax to help pay off debt incurred by a flood control project upon approval of the electorate and not place the entire obligation upon personal property.

He asked the committee to favorably pass SB602. (ATTACHMENT 7)

Representative Ginger Barr was not able to testify but turned in written testimony in support of SB602. (ATTACHMENT 8)

The Chairman concluded hearings on SB602 and turned attention to SB657, recognizing Senator Oleen.

**THE FOLLOWING CONFEREES ARE PROPONENTS OF SB657.**

Senator Lana Oleen said SB657 is concerning the financing of county courthouse, jail or law enforcement facilities in Riley county, authorizing the imposition of a countywide retailers' sales tax for such purposes. She said she thinks in future years there will be other legislators that will have to address this for their counties as well. The bill does provide an option for Riley County to possibly use in financing an expanded jail facility.

Dick Jepsen, Chairman of the Board of Commissioners of Riley County, said SB657 would authorize Riley County to submit the question to the electors of imposing a countywide retailers sales tax and pledging the revenue received to finance the construction or remodeling of a jail or law enforcement facility.

He said, legislation was adopted in 1972 which allowed Riley County to submit the question to Riley County voters to establish a countywide law enforcement agency, this was submitted and adopted. The agency was established in 1974 and has continued with a great degree of success. The state has since adopted certain standards applicable to local jails, with maximum number of adult inmates which is 21 in Riley County. The population within the last year regularly averages in excess of 30 inmates and sometimes 35 to 40 on weekends. The greatest number of those involve individuals convicted of DUI and the first conviction requires mandatory jail sentencing.

Recently the Legislature in an apparent attempt to relieve some of the pressure on the state penal system, directed that sentences for certain felonies be served at the county jail for a minimum period of 90 days.

He said, Under new state and federal regulations, juveniles may not now be housed in the same building as adult offenders. The natural growth of the community coupled with the required jail sentences dictated by the state, have caused the buildings that house the law enforcement agency and the jail to become inadequate to permit the agency and Riley County to carry out the statutory duties imposed. He said, it lacks: **(1)** Sufficient housing space for its current inmate population particularly when modern correctional standards and associated square footage requirements are considered. **(2)** The required program and support spaces required by correctional standards. **(3)** It is old and wearing out. Maintenance and replacement of equipment as well are becoming more and more expensive.

He requested the committees favorable consideration and action on SB657. (ATTACHMENT 9).

After committee discussion on SB657, The Chairman recognized Steve Stotts.

Steve Stotts, Acting Director of Taxation, Dept. of Revenue, said the question has been posed to the Department, "how do you end this local tax when there is money sufficient to pay the bonds?" and he said, the Department believes the statutes are such that they have the authority to end the tax when they believe there will be sufficient money to pay the bonds. They don't think there is a need to amend the statutes to put in any specific language. He said, that they believe that their authority is flexible enough, to end the tax as of a certain date. He said, if the county has invested the receipts at a reasonable rate, say at t-bill rates, sufficient funds will be there when the bonds are called or when they mature.

Senator Montgomery asked Mr. Stotts if it is up to the Department to end it or is it up to the County?

Mr. Stotts said it is up to the Department, and he said, they will send out a notice

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION,

room 519-S, Statehouse, at 11:00 a.m./~~p.m.~~ on Thursday, February 22, 1990

to the retailers in that county that as of a certain date it is no longer necessary to collect the local sales tax, and we will issue new sales tax cards.

Senator Thiessen asked whether the Department could end the tax at the end of any month, it wouldn't have to be at the end of a quarter?

Mr. Stotts said the Department would want to end the tax at the end of a quarter, say June 30 or on September 30 would be the best time.

Senator Montgomery moved to approve the minutes of February 13th and February 14, 1990, 2nd by Senator Karr.

Senator Martin said the minutes of 2-14-90 on page 1, line 4, 1st paragraph the figure of \$200,000. should be changed to \$200.M.

The motion to approve the minutes as corrected carried.

Chairman Thiessen adjourned the meeting at 12:15 p.m.

Senator Petty on March 1, 1990 requested a letter from Jim Kaup, General Counsel, League of Kansas Municipalities be recorded with these minutes, as the letter is responding to concerns The Senator had regarding SB602. (ATTACHMENT 10)

(See Attachment 11)

# Testimony

on

Senate Bill 270

Presented to:

Senate Assessment and Taxation Committee

by

Harland Priddle

Secretary of Commerce

February 22, 1990

Mr. Chairman and Members of the Committee:

I am pleased to speak on behalf of the Kansas Coal Commission and their expressed interest in Senate Bill 270. As a way of review, the Kansas Coal Commission was appointed as a result of legislative action during the 1987 session. Responsibilities assigned to the Commission included the investigation of possible new and expanding markets for Kansas coal, the investigation of new technology which would enhance the consumption of Kansas coal, and other issues related to the retention of an \$8 billion coal reserve in the state of Kansas. The Kansas Coal Commission completed its work and forwarded a copy of their report to the legislature last year, resulting with the introduction of five separate bills designed to assist the retention of the coal industry within the state. One of those bills is Senate Bill 270.

At the concluding meeting of the Kansas Coal Commission on January 4 and as a wrap up to the sunset actions of the commission, the Kansas Coal Commission expressed an interest in reintroduction of the issue as outlined in Senate Bill 270. This bill basically prescribes the assessment of a prescribed fee for each ton of coal burned in Kansas utility companies as a source for funding a Coal Technology Fund. The original level, as suggested by the bill introduced last year, was five cents per ton. The Kansas Coal Commission believes a more realistic and practical fee of one cent should be considered. This would generate approximately \$125,000 to be used for exploring clean coal technology to allow the burning of Kansas coal within the coal-fired systems of Kansas.

Testimony

Senate Bill 270 .

Page 2

In the event this committee favorably considers this bill, the Coal Commission will suggest a reinstatement of the presently constituted commission to administer the fund and continue to explore ways for the retention of the \$8 billion industry of coal in the state of Kansas.

Mr. Chairman there are other individuals here from the Coal Commission who wish to express their opinions. I would stand for any questions the committee may have.

EASYLINK 6973206A001 22FEB90 10:54/10:47 EST  
FROM: 62245560  
WESTERN UNION CORP (CRN: 0532175)  
TO: 9132965055

4-004926S053 02/22/90

ICS IPMBNGZ CSP

3162323232 FRS TDBN PITTSBURGH KS 28 02-22 1032A EST

ICS IPMPRIF

MR HARLAN E PRIDDLE

SECRETARY OF THE DEPARTMENT OF COMMERCE, 9132963481

RPT DLY MGM COPY MESSAGE, PLS FONE ASAP BY 11A CDT

400 W 8TH STREET 5TH FL

TOPEKA KS 66603-3957

I AM SORRY I CANNOT BE PRESENT AT THE HEARING ON SENATE BILL 270 DUE  
TO CONFLICTING SCHEDULE. THE UNITED MINE WORKERS DISTRICT 14 DOES  
SUPPORT THIS LEGISLATION.

WILLIAM GILES, PRESIDENT

DISTRICT 14

PO BOX 435

PITTSBURGH KS 66762

1030 EST

MMMM



February 20, 1990

Sen. Dan Thiessen, Chairperson  
Assessment and Taxation Committee  
Statehouse Room 143N  
Topeka, KS 66612

Subject: Senate Bill 270 "Amended"

Dear Senator Thiessen:

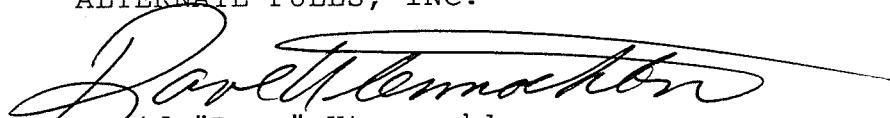
My name is David Utermoehlen, President of Alternate Fuels, Inc., a surface coal mine located near Pittsburg, Kansas and I support Senate Bill 270. Last year the Kansas Coal Commission (KCC) concurred with introduction of several legislative bills reflecting the recommendations and conclusions detailed in the Kansas Coal Utilization Study. This study was developed as mandated by the legislators to explore innovative ideas to maximize Kansas' great resource: coal.

One of those recommendations was the establishment of the "Clean Coal Technology Fund". This fund would provide the needed financial assistance for a future clean coal technology project. Also, this fund could target one smaller existing coal burning facility to implement Federal Department of Energy (D.O.E.) recommendations as outlined at the 1989 Fourth Annual Clean Coal Technology Conference held in Washington, D.C. The proposed one cent per ton tax to all coal fired utilities is estimated to generate about \$100,000 per year towards establishing a long term fund.

With the impending more stringent federal cleaner air legislation being passed this year, it seems the time is right for Kansas to research its own technology. The economic condition of Kansas coal industry could only improve to save much needed jobs in Kansas.

Respectfully submitted,

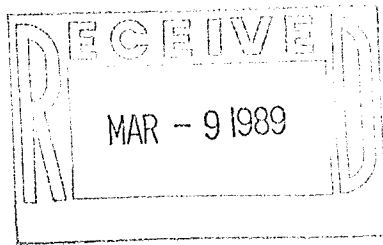
ALTERNATE FUELS, INC.



David "Dave" Utermoehlen  
Kansas Coal Commission (KCC) Member

DU:kl

Senate Assessment & Taxation Committee  
Thursday, February 3, 1990 ATTACHMENT



# CLEAN COAL 1989

8-2

## Fourth Annual Clean Coal Technology Conference



*Detailed  
Agenda  
Inside*

April 24 and 25, 1989  
Crystal City Marriott  
Washington, D.C.

The 1989 Clean Coal Technology Conference will focus on:

- *Preparing project proposals for the up-coming \$575 million Department of Energy Solicitation*
- *Negotiating cooperative agreements with the Department of Energy*



# 1 Technology Conference

**April 24 & 25, 1989**

**6:30 CONGRESSIONAL DINNER BANQUET**

**Honorable Wendell H. Ford** (invited)  
Chairman, Senate Subcommittee on  
Energy Research & Development  
**Subject:** Possible Senate Action on Clean Coal  
Technology, Clean Air Act and Global  
Warming Issues

**Tuesday, April 25**

**8:30 Ben Yamagata**  
Executive Director CCTC  
**Subject:** Opening Remarks / Introduction

**8:45 Honorable Philip R. Sharp**  
Chairman, House Subcommittee on Energy and  
Power  
**Subject:** Possible House Action on Clean Coal  
Technology, Clean Air Act and Global Warming  
Issues

**9:15 Thomas R. Kuhn**  
Executive Vice President,  
The Edison Electric Institute

**General Richard Lawson**  
President, National Coal Association  
**Subject:** Projected U.S. electricity capacity needs  
and coal production (1990-2020)

**10:30 Denise Swink**  
Director, Office of Planning & Environment  
Department of Energy  
**Subject:** Potential Market for Clean Coal  
Technologies in the U.S. and Abroad

**11:00 David R. Williams**  
Chairman, Williams Technologies, Inc.  
**Subject:** The entry of new clean coal  
technologies into international markets:  
opportunities and barriers

**11:30 Cash Bar Reception**

**12:00 LUNCHEON**

**Admiral James Watkins** (invited)  
Secretary of Energy  
**Subject:** Administration plans and policies  
concerning clean coal, acid rain and global  
warming issues

**2:00 Closing Remarks**

## **THE CONFERENCE**

The fourth annual conference marks the beginning of the third phase of the DOE clean coal program, and addresses the state of development of clean coal technologies from demonstration to deployment.

The Department of Energy will issue another Program Opportunity Notice (PON) on May 1, 1989. This DOE solicitation will seek clean coal technology project proposals, with the government authorized to commit up to \$575 million toward cost-shared projects. The conference is timed to give attendees useful information about this program.

The President has committed to seek a fully-funded, five year Innovative Control Technology Program, and Congress remains extremely enthusiastic and supportive of the clean coal technology demonstration program. At the same time, however, there is increasing interest in passing acid rain control legislation that could impede -- and perhaps negate -- the development of these important technologies.

Congress, the Administration and many state governments have clearly expressed a commitment and willingness to share in the financial and other risks associated with the demonstration of these new technologies. It is up to industry now to take advantage of these incentives and to move forward from demonstration into early commercial deployment of these environmentally acceptable, cost-effective technologies.

This conference is a comprehensive, detailed analysis of existing financial assistance available to private industry and possible future incentives to the commercialization of clean coal technologies. Anyone interested in obtaining and/or utilizing such incentives should attend this important conference.

# ALTERNATE FUELS, INC.

Coal Mining & Reclamation

ATT4  
3-90

COPY

February 22, 1990

Sen. Dan Thiessen, Chairperson  
Assessment and Taxation Committee  
Statehouse Room 143N  
Topeka, KS 66612

RE: Senate Bill No. 270

Dear Senator Thiessen:

My name is George M. Barberich, and I am Vice-President and Chief Financial Officer of Alternate Fuels, Inc., a surface coal mining and reclamation company. We are in the business of mining bituminous coal for electric utility and industrial boiler fuels.

Kansas has within our state boundaries a bountiful amount of undeveloped coal reserve potential. With all of the recent attention to environmental concerns, President Bush has recently proposed an additional \$456 million for clean coal technology research projects. This signifies a clear message that coal is an important part of our energy makeup. Kansas has a great deal to contribute within the scope of clean coal technology projects. Clean coal technology is an implantation of coal utilization without the harmful emissions of sulfur and nitric oxides that are allegedly contributing to the so called "Greenhouse Effect". The federal government is making available participation programs where funds are joined together to promote these projects.

Senate Bill No. 270 is clearly a step in the right direction for not only promoting the development and use of Kansas natural resources, but further reduces our dependence on foreign oil and strengthens our state and national energy security.

With this in mind, I strongly urge your support of Senate Bill No. 270. Thank you for this opportunity to comment.

Sincerely,



George M. Barberich  
Vice-President

GMB:ksl

cc: General Richard L. Lawson, President  
National Coal Association

Senate Assessment and Taxation Committee  
Thursday, February 22, 1990 ATTACHMENT 4

CORPORATE OFFICES  
2809 N. Broadway, P.O. Box 1268  
Pittsburg, Kansas 66762  
(316) 231-3290 - Fax (316) 231-0412



# SIERRA CLUB

## Kansas Chapter

Contact: Scott Andrews  
(913) 862-0739

### Testimony to Senate Assessment and Taxation Committee on SB 270

My name is Scott Andrews and I represent the 2500 members of the Kansas Chapter of the Sierra Club. I am here to testify in opposition of SB 270 and to particularly oppose any subsidy of new installation of coal-fired generation no matter what the origin of the coal. Coal is a dirty way to produce power. It is the second biggest source of air pollution in America behind the automobile. Coal-fired generation is the main culprit in acid rain formation and it is a major producer of carbon dioxide, the leading contributor to global warming. Burning coal produces more carbon dioxide per unit of energy than any other fuel.

Because of these environmental effects, we cannot continue to expand our use of coal to provide energy and in fact must work to replace it in the short-run with greater energy efficiency. Increasing energy efficiency is far cheaper than any other energy source and vast "reserves" of conservation exist. In the long-run we must shift to non-polluting renewable energy technologies such as solar and wind power.

I would like to suggest some ideas which, while they change the intent of this bill, move it in the direction our society must go in dealing with our energy future. Amend SB 270 to:

- provide no financial aid for installation of new coal-fired generators
- Raise the coal tax to \$0.25 or \$0.50/ton
- Use all revenues to fund increases in energy efficiency and research and development for solar and wind energy.

I urge the members of this committee to look to the future and to consider these suggestions in your deliberations on this bill.

# MEMORANDUM

## Kansas Legislative Research Department

Room 545-N -- Statehouse  
Topeka, Kansas 66612-1586  
(913) 296-3181

January 4, 1990

To: House Committee on Taxation

Re: Kansas Local Sales Tax Special Provisions

Local sales taxes, which were first authorized by the Legislature in 1970, may be levied by cities and counties at the rate of 0.5 percent or 1.0 percent, subject to several exceptions. Elections are normally required prior to the imposition of or increase in the local sales tax.

Revenue from a countywide sales tax is apportioned among the county and cities, 50 percent in proportion to total, unit-wide property tax levies and 50 percent in proportion to urban and nonurban population. This distribution formula also is subject to several exceptions.

With the enactment of H.B. 2041 by the 1989 Legislature, the state and local sales tax bases are now in substantial conformity, with the exception of the sales taxes on residential utility services. Such services are exempt from the state sales tax but are not exempt from local taxes. Other areas of nonconformity regarding sales of farm machinery and business machinery and equipment have been eliminated.

As of January 1, 1990, 119 cities and 62 counties had imposed local sales taxes. Of the 119 cities, 39 imposed the tax at the 0.5 percent rate, and 80 imposed the tax at the 1.0 percent rate. Of the 62 counties, 8 imposed the 0.5 percent rate, 53 imposed the 1.0 percent rate, and 1 county imposed a 2.0 percent rate.

### Special Rate Provisions

Pursuant to the enactment of 1989 H.B. 2023, Jackson County was authorized to levy a 2 percent sales tax, with the county's share of the additional 1 percent tax earmarked solely for the Banner Creek Reservoir Project. The additional 1 percent tax was implemented on July 1, 1989 and will sunset on July 1, 1994.

Wyandotte County is authorized to levy an additional 0.5 percent tax (for a total rate of 1.5 percent) if the additional amount is earmarked solely for financing a courthouse, jail, or law enforcement facility. The county has not used this additional authority, however, and the rate remains at 1.0 percent.

All counties are authorized to levy a 1/10 of 1 percent sales tax for stormwater improvements if the tax is imposed prior to the end of 1990. The stormwater management sales tax does not require an election, but is instead subject to a protest petition. Proponents of the tax, which was authorized by 1988 H.B. 2271, said that the only counties that would likely attempt to impose the tax would be Johnson, Wyandotte, and Leavenworth, since there have been efforts underway to develop a comprehensive flood control plan in the Kansas City metropolitan area and

several Missouri counties have already pledged revenues. However, no Kansas county has attempted to impose this tax thus far.

S.B. 186, which was in the House Committee on Local Government at the start of the 1990 Session, would authorize any county containing a part of a city with a population of at least 80,000 and any other counties contiguous to such a county to create a culture and recreation district subject to the Kansas and Missouri Metropolitan Culture and Recreation District Compact for the purpose of levying a 1/4 of 1 percent sales tax for the financing of cultural and recreational facilities and organizations within the district. This tax would be in addition to all other local sales taxes, and counties would be required to hold an election within 24 months for approval of the tax.

### **Special Distribution Provisions**

K.S.A. 12-192 provides exceptions to the normal countywide apportionment formula for Riley, Geary, and Johnson counties. For that half of the tax distributed between the cities and county based on the share of population in unincorporated areas of the county and in each city, persons residing at Fort Riley are specifically excluded from the determination of Junction City's population. For Geary County, both the unincorporated county population and the city populations are adjusted to subtract persons residing on military reservations.

An optional apportionment formula is provided for Johnson County in the event the county imposes a 1.0 percent sales tax. However, the rate in Johnson County has remained at 0.5 percent since 1975.

Jefferson, Montgomery, and Wyandotte counties also may impose a countywide tax with the entire amount earmarked solely for courthouse, jail, or law enforcement facility construction. Taxes earmarked for this purpose in these counties would expire upon the payment of all costs incurred in the financing of such facilities. Montgomery County's 1.0 percent tax was imposed for this purpose on January 1, 1988, and the tax should sunset some time during calendar year 1990. Jefferson County, which has had a 1.0 percent tax in effect since 1983, has not attempted to change the distribution of its tax by reimposing it under this provision. Wyandotte County does not earmark any part of their current 1.0 percent sales tax for this purpose, nor have they attempted to use their additional 0.5 percent authority.

### **Local Sales Tax Revenue Bonds**

Legislation enacted in 1987 and 1988 authorized cities and counties imposing local sales taxes to issue revenue bonds backed by the sales tax (or by the sales tax in combination with other revenue sources) to provide for public facilities and improvements which could otherwise be funded through the issuance of general obligation bonds.

The bonds are normally prohibited from being used for any facilities or improvements to be used for commercial or retail purposes, but an exception to the prohibition is provided for bonds issued for the payment of the cost of constructing or improving convention centers, exposition halls, and public auditoriums.

## SENATE BILL NO. \_\_\_\_\_

By Committee on Assessment and Taxation

AN ACT concerning the financing of county courthouse, jail or law enforcement facilities in Riley county; authorizing the imposition of a countywide retailers' sales tax for such purposes; amending K.S.A. 1989 Supp. 12-187 and repealing the existing section.

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

Section 1. K.S.A. 1989 Supp. 12-187 is hereby amended to read as follows: 12-187. (a) No class B city shall impose a retailers' sales tax under the provisions of this act without the governing body of such city having first submitted such proposition to and having received the approval of a majority of the electors of the city voting thereon at an election called and held therefor. The governing body of any class B city may submit the question of imposing a retailers' sales tax and the governing body shall be required to submit the question upon submission of a petition signed by electors of such city equal in number to not less than 10% of the electors of such city.

(b) (1) The board of county commissioners of any county may submit the question of imposing a countywide retailers' sales tax to the electors at an election called and held thereon, and any such board shall be required to submit the question upon submission of a petition signed by electors of such county equal in number to not less than 10% of the electors of such county who voted at the last preceding general election for the office of secretary of state, or upon receiving resolutions requesting such an election passed by not less than 2/3 of the membership of the governing body of each of one or more cities within such county which contains a population of not less than 25% of the entire population of the county, or upon receiving resolutions



requesting such an election passed by 2/3 of the membership of the governing body of each of one or more taxing subdivisions within such county which levy not less than 25% of the property taxes levied by all taxing subdivisions within the county.

(2) The board of county commissioners of Jefferson, Montgomery, Riley and Wyandotte counties may submit the question of imposing a countywide retailers' sales tax and pledging the revenue received therefrom for the purpose of financing the construction or remodeling of a courthouse, jail or law enforcement center facility, to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon the payment of all costs incurred in the financing of such facility. Nothing in this paragraph shall be construed to allow the rate of tax imposed by Jefferson ~~or~~, Montgomery or Riley county pursuant to this paragraph to exceed or be imposed at any rate other than the rates prescribed in K.S.A. 12-189, and amendments thereto.

(3) Except as otherwise provided in this paragraph, the result of the election held on November 8, 1988, on the question submitted by the board of county commissioners of Jackson county for the purpose of increasing its countywide retailers' sales tax by 1% is hereby declared valid, and the revenue received therefrom by the county shall be expended solely for the purpose of financing the Banner Creek reservoir project. The tax imposed pursuant to this paragraph shall take effect on the effective date of this act and shall expire not later than five years after such date.

(c) The boards of county commissioners of any two or more contiguous counties, upon adoption of a joint resolution by such boards, may submit the question of imposing a retailers' sales tax within such counties to the electors of such counties at an election called and held thereon and such boards of any two or more contiguous counties shall be required to submit such question upon submission of a petition in each of such counties, signed by a number of electors of each of such counties where

submitted equal in number to not less than 10% of the electors of each of such counties who voted at the last preceding general election for the office of secretary of state, or upon receiving resolutions requesting such an election passed by not less than 2/3 of the membership of the governing body of each of one or more cities within each of such counties which contains a population of not less than 25% of the entire population of each of such counties, or upon receiving resolutions requesting such an election passed by 2/3 of the membership of the governing body of each of one or more taxing subdivisions within each of such counties which levy not less than 25% of the property taxes levied by all taxing subdivisions within each of such counties.

(d) Any city retailers' sales tax in the amount of .5% being levied by a class A city on June 30, 1978, shall continue in effect until repealed in the manner provided herein for the adoption and approval of such tax or until repealed by the adoption of an ordinance so providing. In addition to any city retailers' sales tax being levied by a class A city on June 30, 1978, any such city may adopt an additional city retailers' sales tax in the amount of .5%, provided that such additional tax is adopted and approved in the manner provided for the adoption and approval of a city retailers' sales tax by a class B city. Any countywide retailers' sales tax in the amount of .5% or 1% in effect on June 30, 1978, shall continue in effect until repealed in the manner provided herein for the adoption and approval of such tax.

(e) Any city retailers' sales tax in the amount of .5% being levied by a class B city on July 1, 1982, shall continue in effect until repealed in the manner provided for the adoption and approval of such tax or until repealed by the adoption of an ordinance so providing. In addition to any city retailers' sales tax being levied by a class B city on July 1, 1982, any such city may adopt an additional city retailers' sales tax in an amount of .5% provided that such additional tax is adopted and approved in the manner provided for the adoption and approval of such tax.

Any class B city or county proposing to adopt a retailers' sales tax shall give notice of its intention to submit such proposition for approval by the electors in the manner required by K.S.A. 10-120, and amendments thereto. The notices shall state the time of the election and the rate and effective date of the proposed tax. If a majority of the electors voting thereon at such election fail to approve the proposition, such proposition may be resubmitted under the conditions and in the manner provided in this act for submission of the proposition. If a majority of the electors voting thereon at such election shall approve the levying of such tax, the governing body of any such city or county shall provide by ordinance or resolution, as the case may be, for the levy of the tax. Any repeal of such tax or any reduction or increase in the rate thereof, within the limits prescribed by K.S.A. 12-189, and amendments thereto, shall be accomplished in the manner provided herein for the adoption and approval of such tax except that the repeal of any such city retailers' sales tax may be accomplished by the adoption of an ordinance so providing.

(f) The sufficiency of the number of signers of any petition filed under this section shall be determined by the county election officer. Every election held under this act shall be conducted by the county election officer.

Sec. 2. K.S.A. 1989 Supp. 12-187 is hereby repealed.

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

SENATE ASSESSMENT AND TAXATION COMMITTEE

February 22, 1990

Mr. Chairman and members of the Senate Assessment and Taxation Committee, I am Pete Wannamaker representing the city council of Rossville, and I am here today to testify in favor of Senate Bill 602, more specifically, the change this legislation would make in Section 1 e of K.S.A. 12-187. Section 1 e, if amended, would allow a Class B city, which includes Rossville, the same power to levy and collect a city retailer's sales tax that a Class A city is authorized to levy and collect and in addition, the governing body of any Class B city may submit the question of imposing an additional city retailer's sales tax in an amount not to exceed 1%, pledging the revenue collected from the additional tax for flood control projects to the electors. Any additional sales tax imposed and pledged for the purpose of a floor control project would expire upon the payment of all costs incurred in financing such flood control projects.

Now I would like to briefly tell you why this amendment to K.S.A. 12-187 is being supported by a majority of the city council of Rossville. Rossville is a third class city in Shawnee County approximately 15 miles west of Topeka. It is situated on Cross Creek. a tributary to the Kansas River. Cross Creek flows along and through the western edge of Rossville and is prone to flooding when heavy rains are received in the watershed drained by Cross Creek above Rossville. In the last decade floods occurred in 1982, and twice in 1987, and in the fall of 1989 Cross Creek again almost left its bank, but luckily it did not.

Rossville is in the process of obtaining a flood control project through the U.S. Army Corp of Engineers Section 205 Small Flood Control Program.

The project has been declared feasible by the Army Corps of Engineers and the draft report on the project plan is in its final stages of preparation. The project will be a cost share plan with the local sponsor, in this case, the City of Rossville being responsible for at least 25% of the project costs. We are looking at a local cost of approximately \$1 million.

The language amending Section 1 e of K.S.A. 12-187 contained in Senate Bill 602 would allow the city to opt for an additional local sales tax to help pay off debt incurred by a flood control project upon approval of the electorate and not place the entire obligation upon personal property.

I appreciate your time and ask for your support of Senate Bill 602. If you have any questions, I will be happy to answer them. Thank you.

STATE OF KANSAS

GINGER BARR  
REPRESENTATIVE, FIFTY-FIRST DISTRICT  
SHAWNEE COUNTY  
P.O. BOX 58  
AUBURN, KANSAS 66402-0058



TOPEKA

HOUSE OF  
REPRESENTATIVES

February 22, 1990

COMMITTEE ASSIGNMENTS  
CHAIRMAN: FEDERAL AND STATE AFFAIRS  
MEMBER: ENERGY AND NATURAL RESOURCES

Chairman Thiessen and Members of the Committee:

I stand in support of SB 602. I have worked with the Rossville City Council for many years in trying to solve its flood control problem. The city fathers have been negotiating with the Federal Corps of Engineers on obtaining a federal flood control project. Some matching funds would be needed by the city.

With the current tax situation in our state, there is a possibility that lids could be placed on municipalities. Therefore, I feel it is important to give Rossville's citizens the opportunity to vote on a sales tax increase, if they so desire. I appreciate that the bill was introduced and narrowly written so that this particular increase in tax could only be dedicated to financing a flood control project.

If SB 602 is passed, the final decision would be made by the citizens of Rossville. I feel that they should have this opportunity.

Senate Assessment and Taxation Committee  
Thursday, February 22, 1990 ATTACHMENT 8

AT 19  
2-22-90

TESTIMONY OF THE HONORABLE RICHARD L. JEPSEN,  
CHAIRMAN, BOARD OF COMMISSIONERS OF RILEY  
COUNTY, KANSAS, BEFORE THE SENATE COMMITTEE  
ON ASSESSMENT AND TAXATION CONCERNING  
SENATE BILL 657

Mr. Chairman, members of the Committee:

My name is Dick Jepsen. I am chairman of the Board of Commissioners of Riley County appearing here in support of Senate Bill No. 657. This Bill would authorize Riley County to submit the question to the electors of imposing a countywide retailers sales tax and pledging the revenue received to finance the construction or remodeling of a jail or law enforcement facility.

To provide you with some background concerning the problem, I would offer the following:

In 1972 enabling legislation was adopted which allowed Riley County to submit the question to Riley County voters of whether to establish a countywide law enforcement agency. The proposition was submitted to Riley County voters in 1972 and adopted. The agency was established in 1974 and has continued with a great degree of success since that time. It is the only county law enforcement agency operating in Kansas. At the time of the establishment of the countywide law enforcement agency the office of the sheriff was housed in our current jail which was built in 1935. In 1974 a building to house the consolidated agency was erected near the existing Riley County Jail. That building was designated to be utilized as a garage for the law enforcement agency when the building became too small for

an operational headquarters. At the time the agency was established, there was some remodeling of the county jail since it was no longer to be used as a headquarters or offices for the sheriff.

After the remodeling of the county jail in 1974, at which time an inmate population between 40 and 50 inmates was normal and acceptable, the state adopted certain standards applicable to local jails. After the adoption of the standards, the maximum number of adult inmates for the Riley County Jail was reduced to 21. The population history within the past year regularly averages in excess of 30 inmates with not uncommon increases to between 35 and 40 inmates on weekends.

Penalty measures adopted by the Kansas Legislature have impacted greatly upon the agency and Riley County because of substantially increased numbers of criminal and traffic offenders that are being required by state law to actually serve time in jail. By far the greatest number of those involve individuals convicted of DUI where even the first conviction requires mandatory jail sentencing. Second or third offense convictions for driving on a suspended license also require mandatory jail sentences. Recently the Legislature, in an apparent attempt to relieve some of the pressure on the state penal system, directed that sentences for certain felonies be served at the county jail for minimum period of 90 days. Under new state and federal regulations, juveniles may not now be housed in the same building as adult offenders. The natural growth of the community



coupled with the required jail sentences dictated by the state, have caused the buildings that house the law enforcement agency and the jail to become inadequate to permit the agency and Riley County to carry out the statutory duties imposed. The agency has changed substantially in the first 15 years of its existence, both in terms of number of personnel and also in the methods used in accomplishing their duties. Programs that were not anticipated at the inception of the agency such as extensive law enforcement computerization and the responsibility of the countywide "911" Emergency Communication Service have required substantial space within the facility. Presently there is insufficient space to provide privacy for investigators, suspects and victims during the investigative process. New legal concepts concerning the right of those accused and prisoners place both the agency and County at risk because of the size and design of the existing jail. Substantial cost to the taxpayers of Riley County is being incurred because of the necessity of housing female inmates and juvenile detainees outside of Riley County.

In the assessment report concerning the jail and law enforcement center prepared by Abend Singleton & Associates of Kansas City and Voorhis Associates of Lafayette, Colorado, both specialists in penal needs and design, the following conclusion concerning the jail is stated:

"The existing Riley County Jail can be characterized  
in the following ways:

(a) It lacks sufficient housing space for its current inmate population - particularly when modern correctional standards and associated square footage requirements are considered.

(b) It lacks the required program and support spaces required by correctional standards.

(c) It is old and wearing out. Maintenance and replacement of equipment as well are becoming more and more expensive."

Riley County has the statutory responsibility to provide quarters and facilities for the agency pursuant to K.S.A. 19-4437. Riley County also has the statutory responsibility to provide a county jail pursuant to K.S.A. 19-1901.

K.S.A. 1989 Supp. 10-306 limits the bonded indebtedness of all Kansas counties, with the exception of Wyandotte County which has a 30% limitation, to 3% of the assessed value of all tangible taxable property within the county unless specifically exempted from the limitation by other statutes. No statute appears to exempt bonds issued by Riley County for the purpose of building a jail and facility for the Riley County law enforcement agency from the limitations imposed.

The current assessed valuation of all taxable, tangible property located in Riley County is \$196,007,698.00, which would place a limitation of bonded indebtedness of Riley County of

\$5,880,230.00. Riley County has been extremely conservative in the issuance of non-exempt bonds, having bonds issued at the present time in the amount of only \$900,000.00. This leaves the county with the ability to issue future non-exempt bonds in an amount not to exceed \$4,980,230.00.

It appears that Riley County will be required to make a substantial expenditure in addition to the law enforcement facility in the immediate future. The state has licensed and designated the location of the county operated solid waste disposal landfill for many years. The Kansas Department of Health and Environment has ordered Riley County to close the landfill by July of 1991. Closure costs plus a new site and the expenses in connection with the new site are anticipated to be several million dollars.

Extensive preliminary plans and specifications prepared by Abend Singleton and Voorhis Associates project that costs for the law enforcement facility will be between \$6 and \$8 million dollars. This amount is substantially in excess of the limitation.

Other than financing the project by the means provided in Senate Bill 657 or House Bill 2968, which would authorize Riley County issue general obligation bonds in excess of the statutory limitation, it is the belief of the Board of Commissioners that no feasible method of financing the project exists. Existing law provides that bonds issued for the purpose of financing the construction or remodeling of a jail or law enforcement center

facility, which are payable from the proceeds of a county wide retailers sales tax are exempt from the 3% limitation. Riley County has a countywide retailers sales tax which was adopted in February, 1983, in the amount of 1/2 of 1%. The revenue from the countywide sales tax has traditionally been utilized to reduce ad valorem tax requirements for the county general fund. For example in 1989, the countywide sales tax generated \$706,000.00 and was for the most part utilized in the county general fund. In 1989 the sales tax was approximately 30% of the receipts of the county general fund. Any reduction in sales tax receipts for the county general fund would simply have to be made up by the only other source available, property taxes.

We sincerely appreciate the opportunity to present these facts to you and request your favorable consideration and action on Senate Bill 657.



**League  
of Kansas  
Municipalities**

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

March 1, 1990

Senator Marge Petty  
State Capitol--Room 523-S  
Topeka, Kansas 66612

Dear Senator:

You had raised the question as to whether SB 602, which authorizes an increased local sales tax for the City of Rossville, makes the local retailers' sales tax act, K.S.A. 12-187 et seq., nonuniform and therefore subject to city home rule modification or exemption.

As you know, SB 602, as introduced, would eliminate the existing but outdated class A and class B categories of cities authorized to levy local sales taxes. As we had discussed previously, the existing categorization of cities as class A or class B relates to four cities which had levied a local sales tax under their home rule authority prior to the adoption of the retailers' sales tax act in 1978. The class A/B categorization was intended to preserve those four cities' home rule sales taxes while enabling all other cities to impose a local sales tax via K.S.A. 12-187 et seq. Because of subsequent changes to the sales tax act, the class A/B distinction has become meaningless and the existing categories of class A and class B can be removed from the statute without affecting any city's ability to levy a local sales tax under the provisions of K.S.A. 12-187 et seq.

In response to your question as to whether the adoption of SB 602 would make the local sales tax nonuniformly applicable, and thereby subject to charter ordinance exemption or modification, please note K.S.A. 1989 Supp. 12-194 which now prohibits cities from enacting a sales tax other than by means of K.S.A. 12-187 et seq.: "no city or county shall levy...a tax in the nature of an excise other than a retailers' sales tax and a compensating use tax, upon the sale or transfer of personal or real property, or the use thereof, or the rendering of a service..."

The League has always read Supp. 12-194 as prohibiting cities from using home rule with respect to local sales taxes. You will find further support for that view of K.S.A. 12-187 et seq. in Attorney General Opinion 85-86, a copy of which has been enclosed.

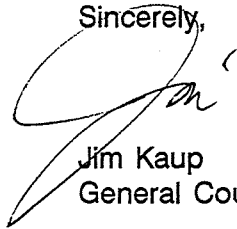
The League's opinion regarding the language of K.S.A. 12-194 is further supported by the wording of the Kansas Constitution Home Rule Amendment, Article 12, Section 5. Section 5(b) in part provides "cities are hereby empowered to determine their local affairs and government including the levying of taxes...except when and as the levying of any tax...is

limited or prohibited by enactment of the legislature applicable uniformly to all cities of the same class: Provided, that the legislature may establish not to exceed four classes of cities for the purpose of imposing all such limitations or prohibitions."

In short, it is my opinion that passage of SB 602, which would eliminate the old class A, class B classification of cities empowered to enact local sales taxes, and which would further authorize an increased sales tax authority for the City of Rossville, would not enable cities to use their home rule power to "charter out" from the retailers' sales tax act. SB 602 would not affect the limitation upon city home rule found at K.S.A. 12-194 and Art. 12, Sec. 5(b) of the Kansas Constitution.

If any questions regarding this issue persist, please let me know.

Sincerely,



Jim Kaup  
General Counsel

Enclosure

JK:aa



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751

July 22, 1985

ATTORNEY GENERAL OPINION NO. 85- 86

Hubert Johnson, Mayor  
City of Harper  
10th & Oak  
Harper, Kansas 67058

*Cereal Malt Beverage  
excise tax*

Re: Cities and Municipalities--General Provisions--  
County and City Retailers' Sales Taxes; Other  
City and County Excise Taxes Prohibited

Synopsis: Pursuant to the provisions of K.S.A. 12-194, the only excise tax (or tax in the nature of an excise) which a city may levy upon the sale of cereal malt beverages is the retailers' sales tax authorized by K.S.A. 12-187 et seq. Cited herein: K.S.A. 12-137, 12-142, 12-187, 12-188, 12-194, 79-3603; L. 1973, ch. 393; L. 1982, ch. 66; Kan. Const., Art. 12, Sec. 5.

\*

\*

\*

Dear Mr. Johnson:

On behalf of the governing body of the City of Harper, you request our opinion as to whether the city may impose a 5% tax upon sales of cereal malt beverages, in addition to the 3% state sales tax imposed under K.S.A. 79-3603.

Article 12, Section 5, of the Kansas Constitution grants taxing power to Kansas cities, subject to legislative control, as follows:

"Cities are hereby empowered to determine their local affairs and government including the levying of taxes, excises, fees, charges and other exactions except when and as the levying of any tax, excise, fee, charge or other exaction is limited or prohibited by enactment of the legislature applicable uniformly to all cities of the same class: Provided, That the legislature may establish not to exceed four classes of cities for the purpose of imposing all such limitations or prohibitions." (Emphasis added.)

The procedure for exercising the home rule power of taxation is prescribed by K.S.A. 12-137, and the legislature has enacted two statutes circumscribing the power of cities to levy sales or excise taxes. The first, K.S.A. 12-142, provides in part that no city shall impose a sales or excise tax (other than a retailers' sales tax authorized by law) upon the sale of cereal malt beverages. However this statute is part of a 1973 enactment (L. 1973, ch. 393) which is nonuniform in its application to cities, contains no classification provision, and is therefore subject to exemption by charter ordinance enacted under Article 12, Section 5 of the Kansas Constitution.

The second statute limiting the power of cities to levy excise taxes is K.S.A. 12-194. That statute was enacted in 1978 as part of an act (L. 1978, ch. 56) which classified cities for the purpose of imposing limitations and prohibitions upon the levy of sales and excise taxes (see K.S.A. 12-188), and which prescribed procedures for imposing city and countywide retailers' sales taxes. The statute was amended in 1982, and now provides as follows:

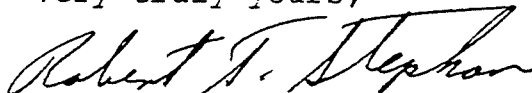
"No city or county shall levy or impose an excise tax or a tax in the nature of an excise, other than a retailers' sales tax and a compensating use tax, upon the sale or transfer or personal or real property, or the use thereof, or the rendering of a service, but the provisions of this section shall not be construed as prohibiting any city from (a) contracting with a utility for a fixed charge based upon a percentage of gross receipts derived from the service permitted by grant, right, privilege or franchise to such utility; (b) imposing an occupation tax or license fee for the privilege of engaging in any business, trade, occupation or profession, or rendering



or furnishing any service, but the determination of any such license fee shall not be based upon any amount the licensee has received from the sale or transfer of personal or real property, or for the rendering or furnishing of a service, or on the income of the licensee; or (c) levying any occupation tax or license fee imposed by such city prior to the effective date of this act. No license fee described in subsection (b) of this section shall be imposed upon any utility contracting with and subject to a charge, described in subsection (a) of this section, by such city." (Emphasis added.)

The above-quoted statute is part of an enactment (L. 1982, ch. 66) which applies uniformly to all cities, and is therefore not subject to charter ordinance under Article 12, Section 5 of the Kansas Constitution. Accordingly, it is our opinion that the only excise tax (or tax in the nature of an excise) which a city may levy upon the sale of cereal malt beverages is the retailers' sales tax authorized by K.S.A. 12-187 et seq., and that a city may not impose a 5% tax upon sales of cereal malt beverages.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Terrence R. Hearshman  
Assistant Attorney General

RTS:JSS:TRH:jm

Written Statement of Kansas Electric Cooperatives, Inc.  
Senate Bill 270  
February 22, 1990

Mr. Chairman and Committee members. Kansas Electric Cooperatives, Inc. (KEC), respectfully submits the following statement opposing Senate Bill 270.

KEC is the statewide trade association which represents thirty-two rural electric distribution cooperatives and the two generation and transmission cooperatives which, in turn, serve approximately 180,000 rural Kansans with reliable, affordable electricity.

Virtually all of these Kansans are affected by additional taxes on coal used in the generation of their electric power.

Included with our statement is a specifically quantified example of the potential effect of S.B. 270 on consumers of Sunflower Electric Power Corporation. Kansas Electric Power Cooperative, Inc. (KEPCo), the wholesale power supplier for twenty-four distribution cooperatives in the eastern two-thirds of the state, would also be similarly impacted. Roughly half of its power requirements are met by coal-fired generated power bought from several investor-owned utilities in the state.

KEC opposes S.B. 270 on the simple grounds that every additional charge, large or small, levied in any way against rural electric cooperatives must be paid directly and in full by the already hard-pressed rural Kansas consumer.

Thank you very much.

Marshall C. Clark  
Director, Governmental Relations  
Kansas Electric Cooperatives, Inc.

*Attachment 11*

**WRITTEN STATEMENT  
OF  
SUNFLOWER ELECTRIC POWER CORPORATION**

**SENATE BILL No. 270**

**Submitted to the**

**SENATE COMMITTEE ON ASSESSMENT AND TAXATION**

**SENATOR DAN THIESSEN, CHAIRMAN**

**BY**

**JERRY C. KEMPF**

**VICE PRESIDENT OF EXTERNAL AFFAIRS**

**Dated: February 22, 1990**

Mr. Chairman and members of the committee, Sunflower Electric Power Corporation (Sunflower) would like to submit the following testimony for your consideration concerning Senate Bill 270 (SB 270). Sunflower is a generation and transmission corporation located in Hays, Kansas. We serve the western one-third of the state.

Sunflower opposes Senate Bill 270. As we understand it, it has been amended to "impose upon all electric public utilities" in the state of Kansas a new tax on coal in the amount of \$.01 per ton down from \$.05 per ton of coal. The tax proceeds would be used to fund clean coal technology projects, installation of facilities by universities and other non-profit institutions which burn Kansas coal and fund administration.

Sunflower burned 900,000 tons of coal in 1988 and 1,200,000 tons in 1989. The new tax would have cost Sunflower an additional \$12,000 based on 1989 coal usage. The impact to our customers is approximately \$.12 per meter per year. This by itself is not a large sum of money. Last year, the passage of the funding program for the state water plan imposed additional costs on Sunflower and its electric consumers.

Increasing utility costs will do nothing to improve the dilemma facing rural Kansas. In fact, increasing utility costs tend to hurt the rural areas the most because there is a lack of customer base over which to spread the increased costs. We serve areas that have customer density of just over one meter per mile of line. Consequently, existing high cost of service conditions will be further impacted.

Sunflower is not opposed to paying its fair share of the costs of governance. In 1988 we paid \$838,330 state fees and taxes and \$5,794,672 in local fees and taxes.

The federal government has authorized a clean coal technology (CCT) program with multi-billion dollar funding. Utilization of CCT funds would do substantially more in making the coal in southeast Kansas more competitive and desirable to burn. Almost any project, whether KCCT, CCT or jointly funded will need an electric utility to participate. Adding cost will do little to further this goal.

In 1986, the Kansas coal industry produced 1,486,000 tons of coal and in 1989, 944,000 tons of coal. The 1989 figure was 0.1% of the national total of 958,912,000 tons of coal. The peak year of production for Kansas occurred in 1918 when 7,562,000 tons of Kansas coal was produced. Coal production nationally has been sluggish over the last decade. However, the National Coal Association states that increases in production and decreases in mining cost will result in record high production over the next few years. It is estimated that proven recoverable coal reserves in the United States exceed 225 billion tons. A study done for the Kansas Coal Commission indicates that Kansas may have between 400 and 600 million strippable reserves. However, these reserves contain mostly high sulfur coal.

Considering the size of the Kansas coal reserves, the nature of the reserves and the federal assault on combustion technology, by proposed acid rain legislation and possible global warming, any action will require a long term program to be carefully thought out in conjunction with the federal government. We do not think that SB 270 shows this balance but is an attempt at a quick fix to a serious problem. We have been working with Secretary of Commerce, Harland Priddle, and expect to continue to do so in trying to devise a meaningful clean coal technology program that would include federal funding for a project that promotes the use of Kansas coal and the coal industry in southeast Kansas.

Mr. Chairman and members of the committee, we ask that you vote against SB 270. It taxes an already weak industry, does little to promote the use of Kansas coal and unfairly penalizes the rural Kansas electric consumer.