

Approved: March 6, 1996
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION.

The meeting was called to order by Chairperson Audrey Langworthy at 11:00 a.m. on February 21, 1996 in Room 519--S of the Capitol.

Members present: Senator Langworthy, Senator Corbin, Senator Martin, Senator Bond, Senator Clark, Senator Feleciano, Jr., Senator Hardenburger, Senator Lee, Senator Ranson, Senator Sallee and Senator Wisdom.

Committee staff present: Tom Severn, Legislative Research Department
Chris Courtwright, Legislative Research Department
Don Hayward, Revisor of Statutes
Elizabeth Carlson, Secretary to the Committee

Conferees appearing before the committee: John LaFaver, Secretary, Department of Revenue
Jonathan Small, Koch Industries

Others attending: See attached list

APPROVAL OF MINUTES

Senator Sallee made a motion to approve the minutes of February 13 and 14, 1996. The motion was seconded by Senator Martin. The motion passed.

HANDOUT FROM THE DIVISION OF PROPERTY VALUATION

Senator Langworthy called the attention of the committee to the handout from Mark Beck, Director, Property Valuation Division titled **1995 State Assessed Property Report**. (Attachment 1)

SB 394--BUSINESS INCOME DEFINED FOR UDITPA PURPOSES

Senator Langworthy passed out an amendment to **SB 394**. (Attachment 2) She said this bill came out of the interim committee and because this was not the final solution, a hearing was not held this session. However, this topic was discussed last year and several members of the Senate Assessment and Taxation Committee were on the interim committee so they are familiar with the subject. She said this bill is the culmination of the work between many parties and lots of hours and it is the bill she would like to see amended by the committee.

John LaFaver, Secretary, Department of Revenue, said he was pleased to present the amendments to the Committee. It is not everything that he hoped for or that everyone else thought it might be, but all the corporations and the Department of Revenue have reached a reasonable solution. Basically, the amendment allows for any corporation to elect a full apportionment. That election has to be made prior to the beginning of the tax year, with one exception for the current year. If the tax year has already started, the firm would have to make an election for the present year prior to 60 days after **SB 394** becomes effective. The election is an irrevocable one, it is a 10 year election. This language avoids mischief which was possible in other versions whereby losses could be apportioned back to Kansas while income was being allocated away. One problem is not resolved here and Secretary LaFaver said he did not think it was possible to legislatively resolve it with the *Chief* case putting in place a so-called transactional test. He said many authorities believe this is unconstitutional but he was willing to let the courts make that judgement. He recommended the amendments which were presented.

Senator Feleciano said he would like to make a statement that he truly appreciated the work of the staff of the Department of Revenue and Secretary LaFaver for working so industriously with the corporations toward a solution.

Secretary LaFaver said many of the leaders of the corporations were willing to listen to the concerns of the Department.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S
Statehouse, at 11:00 a.m. on February 21, 1996.

Jonathan Small, representing Koch Industries and others in the coalition, said he felt the remarks about the Secretary and the Department were right on target and they appreciated their patience in working through all the very complex issues. He asked the committee to favorably consider the amendments and **SB 394**. He said it is a solution for which the time has come.

Senator Langworthy said she would like to add that this has been tedious, laborious and frustrating and she felt this bill is the best that could possibly have been done.

Chris Courtwright, Legislative Research, passed to the Committee a review of the bill. (Attachment 3)

Senator Lee asked if this bill gives multi-state corporations the advantage over the single companies domiciled in Kansas.

Secretary LaFaver said the firms that are domiciled in Kansas, who either do or do not have out of state businesses will be treated essentially the same under the bill. All of their income apportionable to Kansas will be apportioned. He felt the firms that are domiciled out of the state will not take advantage of the election but will file based on the transactional test and they will not pay taxes on the same basis as firms domiciled here. He said that is to their advantage and that gets back to the comment he made about the unconstitutionality of the transactional test. The court will have an opportunity to take another look at this.

Senator Bond made a motion to approve the amendments. The motion was seconded by Senator Corbin. The motion passed.

Senator Bond then made a motion to pass favorably **SB 394** as amended. The motion was seconded by Senator Ranson. The motion passed.

Senator Langworthy announced that **SB 448** and **SB 430** will be discussed at the next meeting.

The meeting was adjourned at 11:20 a.m.

The next meeting is scheduled for Thursday, February 22, 1996.

SENATE ASSESSMENT AND TAXATION COMMITTEE GUEST LIST

DATE: Feb 21, 1996

NAME	REPRESENTING
Bill & Pam Gray	
MARK A. BURGHART	CENTRAL KS RAILWAY L.L.C.
Martin Hawver	Hawver's Capital Report
Ed Walbaum	Walbaum Co.
JASON PITZENBERGER	BRAD SMOOT
DAVE HULTHAUS	Western Resources
DAVE SCHNEWELS	" "
JAMES BARTLE	Dept. of Revenue
SK Sicilian	K'DOR
JOHN WATFAVER	KDOR
John Brown	mis - on (unsealer 1996)
John	Cessna
Ken Peters	KS Petroleum Council
Bob Corbin	KCCI
Steve Lehman	Yellow Corp.
J.P. Small	Koch Industries, Inc
Bill James	Boeing
Paul J. ...	Coffman, ... & ...
Marshall ...	KMAA

Mark S. Beck, Director
Division of Property Valuation
Robert B. Docking State Office Building
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Topeka, Kansas 66612-1585



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Division of Property Valuation

TO: Senator Audrey Langworthy, Chairperson
Assessment and Taxation Committee

FROM: Mark S. Beck, Director Division of Property Valuation

DATE: Friday, February 16, 1996

SUBJECT: 1995 State Assessed Property Report

Enclosed is a report listing all state assessed property for the most current year and for the three years immediately preceding. The report is made pursuant to K.S.A. 74-2441a and K.S.A. 74-2441b.

Should there be any questions regarding this report, please do not hesitate to call or write this office.

CC: Senators:
Corbin
Bond
Clark
Hardenburger
Ranson
Sallee
Martin
Feleciano
Lee
Wisdom

MB/RMB/RMB

95SENATE 74-2441b puRepor

Sen. Assess + Tax
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**Table II - Comparative Statement of Assessed Valuation of
State Appraised Railroads and Public Utility Companies for the Years
1992 thru 1995**

	1992 Valuation	1993 Valuation	1994 Valuation	1995 Valuation
BARGE LINES				
ALTER BARGE LINE, INC.	1,246	1,370	1,368	1,368
AMERICAN COMMERCIAL TOWING COMPANY	8,786	OUT OF BUSINESS		
BLASKE MARINE, INC.	3,220	3,542	3,766	3,766
HUFFMAN TOWING COMPANY	4,734	5,207	5,207	5,207
MAGNOLIA MARINE TRANSPORTATION COMPANY	1,983	354	336	2,332
MERCHANT GRAIN & TRANSPORTATIONS, INC.	NO OPERATIONS	NO OPERATIONS	NO OPERATIONS	NO OPERATIONS
MISSISSIPPI MARINE TRANSPORT CO.	3,359	NO OPERATIONS	13,970	6,361
RAMSEY TRANSPORTATION COMPANY, INC.	NO OPERATIONS	NO OPERATIONS	NO OPERATIONS	NO OPERATIONS
TOTAL	23,328	10,473	24,647	19,034
CELLULAR TELEPHONES				
ACC/MCCAW RCC COMM. OF KC (MCI AIRSIG.)	263,638	LOCALLY ASSESSED		
AIRPHONE INC.	7,937	LOCALLY ASSESSED		
AIRTOUCH CELLULAR OF KS (FORMERLY PACTEL & MIDWEST CELLULAR)				1,650,000
CMT PARTNERS (FORMERLY MCF, INC. & MIDWEST CELLULAR)			3,505,326	6,648,893
KAMO CELLULAR (NEW IN 1995)				778,998
KANSAS #4 CELLULAR L. P. (NEW 1993)		148,500	165,000	NOW PART OF
KANSAS #9 CELLULAR L. P.	90,000	147,989	165,000	KAMO CELLULAR
KANSAS #10 CELLULAR L. P.	270,000	429,000	429,000	
KANSAS CITY SMSA L. P.	2,178,799	3,166,587	5,581,351	9,731,084
KANSAS RSA 5B2	107,979	204,648	251,877	363,000
KANSAS RSA #15 L. P. (NEW IN 1993)		132,000	165,000	247,500
KAR KALL	13,500	13,200	2,310	1,650
KIN NETWORK	3,000,000	4,455,000	4,950,000	4,038,194
LETT ELECTRONICS INC.	11,400	LOCALLY ASSESSED		
LIBERTY CELLULAR	2,002,552	5,445,000	5,940,000	7,260,000
McCAW RCC OF WICHITA, INC.	90,000	LOCALLY ASSESSED		
MCF, INC. (MCCAW)	165,000	264,000	NOW CMT PARTNERS	
MIDWEST CELLULAR (NOW AIRTOUCH CELLULAR OF KS)	3,502,110	4,464,050	AND PACTEL	
MISCELLCO COMMUNICATION	760,742	910,312	899,741	1,577,862
MOBILE RADIO COMMUNICATIONS INC.	34,500	LOCALLY ASSESSED		
MOBILFONE OF KANSAS, INC.	75,000	LOCALLY ASSESSED		
MOBILFONE OF WESTERN KANSAS	6,000	LOCALLY ASSESSED		
PACTEL CELLULAR INC. OF KANSAS (FORMERLY MCF, INC. & MIDWEST CELLULAR)			660,000	NOW AIRTOUCH
PAGE-COMM	11,400	4 LOCALLY ASSESSED		
PARSONS MOBILE PAGING INC.	13,800	LOCALLY ASSESSED		
S.T. PAGING	43,500	LOCALLY ASSESSED		
STAR COMMUNICATIONS INC.	1,500	5 LOCALLY ASSESSED		
TEAM ELECTRONICS	23,100	LOCALLY ASSESSED		
TOPEKA CELLULAR TELEPHONE CO.	195,000	198,000	280,500	528,000
TOPEKA SMSA L. P.	540,000	1,031,250	1,047,698	1,749,000
TWO WAY RADIO COMM. CO. OF KANSAS INC.	45,671	LOCALLY ASSESSED		
WICHITA SMSA L. P.	810,000	1,430,009	2,825,564	3,531,000
TOTAL	14,263,128	22,439,545	26,868,367	38,105,181
1992-1 ADDED VALUATION 01-26-92			1992-5 ADDED VALUATION 01-26-92	
1992-2 ADDED VALUATION 01-26-92			1993-1 ADDED VALUATION 02-01-94	
1992-3 SUPPLEMENTAL VALUATION OF \$52,552 01-26-92			1993-2 ADDED VALUATION 02-01-94	
1992-4 ADDED VALUATION 01-26-92				
ELECTRIC POWER COMPANIES				
ALFALFA ELECTRIC COOPERATIVE INC.	430,410	441,375	439,135	448,241
ARK VALLEY ELECTRIC COOP., ASSN., INC.	3,225,000	3,580,500	3,712,500	3,564,000
BOWERSOCK MILLS & POWER COMPANY	40,500	44,550	49,500	44,550
BROWN ATCHISON ELECTRIC COOP ASSN INC.	450,000	608,850	825,000	1,023,000
BUTLER RURAL ELECTRIC COOP., ASSN.	2,100,000	2,557,500	2,904,000	3,069,000
C & W RURAL ELECTRIC COOP., INC.	840,000	1,105,500	1,287,000	1,237,500

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ELECTRIC POWER COMPANIES (CONT'D)				
CANEY VALLEY ELECTRIC COOP., ASSN., INC.	2,700,000	3,102,000	3,135,000	3,168,000
CMS ELECTRIC COOPERATIVE INC.	2,624,160	3,035,071	3,332,037	3,431,077
DONIPHAN ELECTRIC COOP., ASSN., INC.	330,000	396,000	462,000	495,000
DS&O RURAL ELECTRIC COOP., ASSN., INC.	1,500,000	1,716,000	1,749,000	1,749,000
EMPIRE DISTRICT ELECTRIC COMPANY	12,706,406	13,907,586	13,706,372	12,862,724
FLINT HILLS RURAL ELECTRIC COOP ASSN INC	2,100,000	2,442,000	2,409,000	2,376,000
JEWELL-MITCHELL COOP., ELECTRIC CO.	1,350,000	1,501,500	1,501,500	1,485,000
KANSAS CITY POWER & LIGHT CO.	347,170,260	371,946,762	369,359,892	357,478,853
KANSAS ELECTRIC POWER COOP.	38,207,754	42,527,414	46,502,552	46,588,587
KANSAS GAS & ELECTRIC COMPANY	441,798,750	491,249,880	501,997,330	502,379,034
KAW VALLEY ELECTRIC COOP COMPANY, INC.	3,750,000	4,488,000	5,445,000	5,610,000
LANE-SCOTT ELECTRIC COOPERATIVE INC.	960,000	1,089,000	990,000	1,039,500
LEAVENWORTH-JEFFERSON ELEC., COOP., INC.	2,430,000	2,772,000	2,970,000	3,267,000
LYON-COFFEY COUNTY ELECTRIC COOP INC.	2,775,000	3,184,500	3,300,000	3,630,000
MIDWEST ENERGY INC.	32,930,931	36,300,000	37,950,000	35,310,000
N.C.K. ELECTRIC COOPERATIVE INC.	1,170,000	1,221,000	1,221,000	1,221,000
NEMAHA-MARSHALL ELECTRIC COOP. ASSN. INC	1,470,000	1,650,000	1,914,000	2,013,000
NINNESCAH RURAL ELECTRIC COOP. ASSN. INC	1,680,000	1,881,000	1,848,000	1,848,000
NORTHWEST KANSAS ELECTRIC COOP ASSN INC	1,350,000	1,485,000	1,320,000	1,485,000
NORTON-DECATUR COOPERATIVE ELEC. CO. INC	3,630,000	4,290,000	3,795,000	3,465,000
PIONEER ELECTRIC COOPERATIVE INC.	8,100,000	9,438,000	10,560,000	11,550,000
PR&W ELECTRIC COOP., ASSN., INC.	1,380,000	1,584,000	1,650,000	1,567,500
RADIANT ELECTRIC COOPERATIVE INC.	1,260,000	1,386,000	1,551,000	1,617,000
SEDGWICK COUNTY ELECTRIC COOP. ASSN. INC	1,980,000	2,145,000	2,277,000	2,376,000
SEKAN ELECTRIC COOPERATIVE ASSN., INC.	1,230,000	1,353,000	1,452,000	1,650,000
SMOKY HILL ELECTRIC COOP., ASSN., INC.	1,500,000	1,650,000	1,584,000	1,353,000
SOUTHWESTERN PUBLIC SERVICE COMPANY	337,689	373,200	392,812	382,140
SUMNER-COWLEY ELECTRIC COOP., INC.	2,760,000	3,036,000	3,201,000	2,640,000
SUNFLOWER ELECTRIC COOPERATIVE INC.	52,304,753	33,000,000	57,090,000	57,750,000
TWIN VALLEY ELECTRIC COOP., INC.	900,000	1,056,000	1,221,000	1,221,000
UNITED ELECTRIC COOPERATIVE INC.	2,250,000	2,607,000	3,003,000	3,300,000
UTILICORP UNITED (MO PUBLIC SERVICE)	18,002,376	19,963,075	20,962,640	20,745,698
VICTORY ELECTRIC COOP., ASSN., INC.	1,980,000	1,815,000	1,815,000	1,914,000
WESTERN COOPERATIVE ELECTRIC ASSN., INC.	3,270,000	3,630,000	3,300,000	2,310,000
WESTERN RESOURCES (ELEC. DIVISION)	314,353,973	352,669,583	337,448,311	338,491,346
WESTERN FARMERS ELECTRIC COOP.	36,097	38,634	38,491	36,722
WESTPLAINS ENERGY	48,771,410	54,120,000	50,160,000	50,160,000
WHEATLAND ELECTRIC COOPERATIVE INC.	11,690,359	12,199,365	11,208,769	12,528,112
TOTAL	1,381,825,828	1,500,586,845	1,523,039,841	1,511,880,584
PIPE LINE COMPANIES				
AMERICUS GAS COMPANY, INC.	18,000	23,100	33,000	33,000
AMOCO PIPELINE COMPANY INC.	8,280,922	8,499,883	8,073,949	9,168,073
AMOCO CUSHING-CHICAGO PIPELINE CO. (NEW 1993)		820,335	619,392	665,547
ANADARKO GATHERING INC. (NEW 1993)		5,651,437	6,600,000	7,392,000
ANR PIPELINE COMPANY	23,153,760	25,685,352	25,510,389	24,832,922
ARCO PIPE LINE COMPANY	1,528,821	1,798,220	1,717,313	1,666,978
ARKLA ENERGY RESOURCES (NEW IN 1994)			1,636,767	NOW NOR-AM GAS
ARKLA INC.	3,947,475	4,291,073	3,114,293	SOLD TO PEOPLES
ASSOCIATED NATURAL GAS	345,000	528,000	396,000	396,000
BENSON MINERAL GROUP INC.	195,000	214,500	247,500	247,500
CASHE CREEK CORPORATION & SUBSIDIARIES	594,493	653,951	1,024,289	1,252,148
CENTANA (ANADARKO)	1,500,000	1,004,582	654,174	660,000
CHASE COUNTY GAS SERVICE COMPANY	58,500	NOW GREELEY GAS		
CHASE TRANSPORTATION COMPANY	5,473,802	6,280,846	7,195,447	6,431,345
CHISHOLM PIPELINE COMPANY (NEW IN 1995)	1,389,713	1,495,053	1,632,212	1,620,855
CIMARRON RIVER SYSTEM (NEW IN 1995)				660,000
CLEAR CREEK INC.	1,044,987	NOW PART OF NCRA		
COASTAL REFINING COMPANY INC.	330,000	297,000	33,000	22,110

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PIPELINES (CONT'D)				
COASTAL GAS MARKETING	18,000	OUT OF BUSINESS		
COLORADO INTERSTATE GAS COMPANY	13,072,590	16,770,758	15,853,687	14,701,408
CONOCO PIPE LINE COMPANY (FORMERLY CONT'L PL)	3,106,335	2,278,095	2,508,475	3,110,422
COTTONWOOD GAS GATHERING (MAPLE/FOOR)	37,500	49,500	49,500	99,000
DELHI GAS PIPELINE INC.	690,000	660,000	528,000	NOW WESTERN GAS RESOURCES
EMERALD PIPELINE CORP.	65,355	80,286	88,934	82,516
ENERGY DYNAMICS, INC	120,000	82,500	72,600	66,000
ENRON LIQUIDS PIPELINE COMPANY	5,466,864	6,353,407	6,894,856	6,538,960
EXXON CORPORATION	63,000	64,350	66,000	LOCALLY ASSESSED
FARMLAND INDUSTRIES, INC.	861,623	969,713	1,017,280	964,806
FLINT HILLS GAS COMPANY, INC.	3,900	4,290	4,290	4,290
GETTY GAS GATHERING INC.	930,000	759,000	792,000	924,000
GPM GAS CORP. (NEW IN 1994)			57,750	198,000
GRANT GATHERING COMPANY	1,290,000	1,584,000	1,650,000	1,650,000
GREAT EASTERN ENERGY & DEVELOPMENT CORP	78,000	115,500	LOCALLY ASSESSED	
GREELEY GAS COMPANY	3,841,098	4,196,461	4,556,957	4,685,470
HAVANA GAS DEVELOPMENT	75,000	57,750	29,700	26,400
HEARTLAND PIPELINE CO.	865,324	1,034,594	974,480	870,174
HUGOTON CAPITAL LIMITED PART.	1,950,000	2,145,000	924,000	1,320,000
HUGOTON CAPITAL LIMITED PART.	2,700,000	2,970,000	396,000	0
HUGOTON GATHERING INC.	6,300,000	NOW ANADARKO		
JAYHAWK PIPELINE CORP.	7,091,348	7,900,461	7,900,844	7,602,832
K. N. ENERGY, INC.	14,122,028	18,046,121	19,155,282	2,674,624
K-N GAS GATHERING	398,479	396,000	429,000	8,598,633
KANEB PIPE LINE COMPANY	9,578,024	12,040,653	13,294,116	13,376,920
KANSAS GAS GATHERING CO., INC.	6,000	6,600	6,600	6,600
KANSAS GAS SUPPLY CORPORATION	4,350,000	4,950,000	4,620,000	3,953,949
KANSAS NATURAL INC. (PHENIX)	3,450,000	4,521,000	6,600,000	8,910,000
KANSAS PIPELINE COMPANY L.P.	1,740,000	3,003,000	4,884,000	7,260,000
KANSAS PUBLIC SERVICE (UTILICORP UNITED)	2,025,000	2,640,000	3,630,000	3,465,000
KAW PIPE LINE COMPANY	2,220,000	2,706,000	1,980,000	1,980,000
KB GATHERING CO. (NEW IN 1993)		19,800	42,900	46,200
KN INTERSTATE GAS TRANSMISSION CO. (NEW IN 1995)				10,915,562
KOCH GATHERING SYSTEMS, INC.	3,150,000	4,290,000	3,960,000	3,960,000
KOCH PIPELINES, INC.	4,449,897	3,860,275	5,155,175	6,324,714
KOCH HYDROCARBON CO.			2,640,000	1,980,000
LAGG INC.	5,100	5,775	6,600	6,600
MAC COUNTY GAS INC.	159,000	198,000	148,500	135,300
MAPCO AMMONIA PIPELINE, INC.	2,419,056	2,821,185	2,426,426	2,503,502
MAPCO FRACTIONATOR INC.	3,450,000	3,795,000	3,795,000	3,795,000
MIAMI PIPE LINE COMPANY	90,000	108,900	108,900	90,750
MID AMERICA PIPELINE COMPANY-DIV. MAPCO	19,556,868	24,287,974	22,183,118	20,973,530
MID-GULF, INC. (NEW IN 1994)			2,970	2,970
MIDWEST ENERGY (GAS)	1,230,000	1,353,000	1,419,000	1,188,000
MIDWEST GRAIN PIPELINE INC.	330,000	437,250	495,000	627,000
MOBIL OIL CORPORATION (HICKOK FACILITY)	2,250,000	2,475,000	2,475,000	2,475,000
MOBIL PIPE LINE COMPANY	991,452	1,018,383	NOW PART OF KAW PIPELINE	
NATIONAL COOPERATIVE REFINERY ASSOC.	210,000	363,000	429,000	429,000
NATURAL GAS PIPELINE COMPANY OF AMERICA	17,098,200	22,790,064	22,344,036	23,068,238
NEMAHA PIPELINE CORP. (FORMARLY ENEX)	67,500	75,900	99,000	99,000
NGP PIPELINE CO. (DIV. OF ENRON)	1,125,137	970,188	990,318	1,083,163
NIMROD NATURAL GAS CO.	420,000	462,000	330,000	330,000
NOR-AM GAS TRANSMISSION CO. (NEW IN 1995, ARKLA ENERGY RESOURCES)				255,420
NORTHERN NATURAL GAS CO. (ENRON CORP)	59,263,200	73,857,792	82,977,206	82,000,958
OSAGE PIPELINE COMPANY, DIV. GETTY OIL	3,349,035	3,593,593	3,600,044	3,601,538
PANHANDLE EASTERN PIPELINE COMPANY	32,919,900	54,755,102	68,633,819	73,743,516
PAN GAS STORAGE COMPANY (SOUTHWEST GAS)	10,500,000	11,302,500	10,725,000	8,250,000
PEOPLES NATRL. GAS (DIV. OF UTILICORP UNITED)	8,583,246	8,269,158	9,627,004	15,184,868
PHILLIPS PIPE LINE COMPANY	15,492,405	18,086,112	20,799,240	18,215,848
PLATTE PIPE LINE COMPANY	1,606,651	1,601,315	1,328,795	869,946

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PIPELINES (CONT'D)				
PONDEROSA RESOURCE CO.	52,500	52,800	39,600	33,000
PONDEROSA RESOURCE CO. II	40,500	44,550	44,550	44,550
PRAXAIR INC. (FORMERLY UNION CARBIDE CORP.)		41,250	46,200	46,200
REPUBLIC NATURAL GAS CO. (FORMERLY SUNRISE ENERGY)				957,000
RICHFIELD GAS STORAGE (NEW 1993)		990,000	2,970,000	1,650,000
RIVERSIDE PIPELINE COMPANY, L.P.	242,807	413,068	547,259	553,277
SANTA FE MINERALS C/O PROPERTY TAX SVC.	30,000	31,680	33,000	33,000
SEVERY GAS COMPANY	18,000	19,800	19,800	23,100
SHAMROCK PIPELINE CORP.	82,832	92,505	91,128	82,231
SINCLAIR PIPELINE CO. (NEW IN 1995)				130,198
STANTON JOINT VENTURE (NEW IN 1994)			438,900	438,900
STROUD OIL PROPERTIES	22,500	24,750	26,400	26,400
SUNRISE ENERGY CORPORATION	685,736	785,407	957,000	NOW REPUBLIC NATURAL GAS
SYCAMORE VALLEY GATHERING, LTD.	75,000	82,500	LOCALLY ASSESSED	
TEXACO PIPELINE INC. (GETTY, WESCO)	3,508,644	3,894,706	4,046,929	4,351,024
TEXACO EXPLORATION & PRODUCTION INC (KS GAS GATH)	60,000	49,500	51,150	51,150
TEXACO TRADING & TRAN. INC.(GCGI-OIL)	3,300,000	3,300,000	2,640,000	2,640,000
TOTAL PIPELINE CORP. (POTWIN)	68,354	95,700	PROPERTY ABANDON	
TOTAL PIPELINE CORPORATION	212,318	113,014	172,884	192,111
TRIDENT NGL., INC.	900,000	990,000	NOW KOCH HYDROCARBON	
TRIDENT NGL. INC. (OXY CITIES SERVICE NGL, INC.)	252,000	277,200	290,400	290,400
TWIN COUNTY GAS CO., INC.	48,000	72,600	85,800	74,250
UNION CARBIDE CORPORATION	37,500	NOW PRAXAIR INC.		
UNITED CITIES GAS	11,619,600	12,383,580	15,862,620	15,495,873
UNITED CITIES GAS STORAGE	1,250,804	2,653,924	3,285,765	3,210,082
UNOCAL	263,561	225,365	157,937	140,833
WACO PIPELINE SYSTEM	40,500	77,550	LOCALLY ASSESSED	
WESTERN GAS RESOURCES (NEW IN 1995, FORMERLY DELHI GAS)				330,000
WESTERN RESOURCES (GAS DIV.)	61,149,353	69,424,478	108,372,686	69,123,404
WILLIAMS NATURAL GAS COMPANY	49,321,838	56,996,212	57,684,046	62,861,337
WILLIAMS PIPE LINE COMPANY	12,753,440	13,536,427	12,832,934	12,532,278
TOTAL	469,128,375	561,094,203	634,891,115	605,584,703
1992-1 AMENDED VALUE 6-18-93			1993-3 ADDED VALUATION 02-01-94	
1993-1 ADDED VALUATION 02-01-94			1995-1 ADDED VALUATION 02-05-96	
1993-2 ADDED VALUATION 02-01-94				
RAILROAD COMPANIES				
ATCHISON, TOPEKA & SANTA FE RAILROAD CO.	30,885,776	26,769,049	34,809,491	35,460,586
BURLINGTON NORTHERN RAILROAD, INC.	9,349,927	8,283,828	11,022,375	10,353,798
CENTRAL KANSAS RAILWAY (NEW FOR 1993)		1,166,761	1,445,553	1,288,512
DENVER & RIO GRANDE WESTERN RAILROAD CO.	1,778,528	1,381,040	3,917,764	PART OF SOUTHERN PACIFIC
DODGE CITY FORD & BUCKLIN	180,000	125,000	112,500	100,000
GARDEN CITY WESTERN RY. CO.	300,000	250,000	250,000	225,000
HUTCHINSON & NORTHERN RY. CO.	75,000	57,500	57,500	60,000
KANSAS & MISSOURI RY. & TERMINAL CO.	120,000	MERGED WITH KANSAS CITY SOUTHERN		
KANSAS CITY SOUTHERN RY. CO.	1,474,226	1,039,634	1,538,644	1,507,857
KANSAS CITY TERMINAL RY. CO.	1,209,097	990,801	1,061,885	1,064,124
KANSAS SOUTHWESTERN RAILROAD	1,500,000	991,500	1,015,500	954,570
KYLE RAILROAD CO.	1,741,434	1,004,520	1,195,200	1,146,190
MISSOURI & NORTHERN ARKANSAS RR (NEW IN 1993)		28,604	30,034	33,967
NORFOLK SOUTHERN RAILWAY CO.	111,819	110,277	60,005	34,629
NORTHEAST KANSAS & MISSOURI RAILROAD	399,895	337,898	352,120	376,610
SOO LINE RAILROAD COMPANY	23,990	17,651	21,578	19,262
SOUTH KANSAS & OKLAHOMA RAILROAD	1,147,577	777,902	795,390	698,002
SOUTHEAST KANSAS RAILROAD	102,404	81,013	119,505	163,928
SOUTHERN PACIFIC RAILROAD	5,720,247	4,642,371	5,588,490	8,437,057

**Table II - Comparative Statement of Assessed Valuation of
State Appraised Railroads and Public Utility Companies for the Years
1992 thru 1995**

	1992 Valuation	1993 Valuation	1994 Valuation	1995 Valuation
RAILROAD COMPANIES (CONT'D)				
T & P RAILROAD CORP.	300,000	337,500	OUT OF BUSINESS	
UNION PACIFIC / MISSOURI PACIFIC RR. CO.	71,183,243	65,229,336	91,904,383	79,595,260 3
WICHITA UNION TERMINAL RY. CO.	156,618	124,661	125,522	126,137
TOTAL	127,759,781	113,746,846	155,423,439	141,645,489
1992-1 ADDED VALUATION 01-26-93				1995-2 ADDED VALUATION OF \$25,706 02/05/96
1993-1 ADDED VALUATION 02-01-94				1995-2 ADDED VALUATION OF \$11,022 02/05/96
1995-1 ADDED VALUATION OF \$22,821 02/05/96				
TELEPHONE COMPANIES				
AMERICAN TELEPHONE & TELEGRAPH COMPANY	32,989,200	33,179,190	29,546,748	29,071,350
ASSARIA TELEPHONE EXCHANGE INC.	330,000	363,000	COMBINED WITH HOME TELEPHONE	
BENKELMAN TELEPHONE COMPANY INC.	33,299	45,051	48,769	49,753
BLUE VALLEY TELEPHONE COMPANY	1,413,033	1,717,105	1,993,025	2,333,926
CABLE & WIRELESS COMMUNICATION	12,056	OUT OF BUSINESS		
CENTRAL STATES MICROWAVE TRANSMISSION CO	187,263	201,313	87,023	83,445
COLUMBUS TELEPHONE COMPANY	960,000	990,000	990,000	1,188,000
CONTEL OF MISSOURI, INC.	75,235	82,635	NOW GTE MIDWEST	
COUNCIL GROVE TELEPHONE COMPANY	510,000	561,000	627,000	660,000
CRAW-KAN TELEPHONE COOP., ASSN., INC.	7,787,107	9,103,172	10,243,304	10,701,703
CUNNINGHAM TELEPHONE COMPANY INC.	990,000	1,122,000	1,221,000	1,353,000
DILLER TELEPHONE COMPANY	9,749	9,367	7,885	7,392
ECON-A-CALL, INC.	30,000	24,067	33,000	56,100
ELKHART TELEPHONE COMPANY, INC.	466,835	515,499	565,584	549,848
FEIST LONG DISTANCE SERVICE (NEW IN 1993)		99,000 1	130,024	137,197
GTE NORTH	24,420	25,740	NOW GTE MIDWEST	
GOLDEN BELT TELEPHONE ASSN. INC.-BURDETT	3,000,000	3,564,000	3,729,000	3,696,000
GORHAM TELEPHONE COMPANY	102,000	115,500	132,000	115,500
GREAT PLAINS COMMUNICATIONS	25,421	28,869	30,467	29,402
GTE MIDWEST, INC. (NEW IN 1994, FORMERLY GTE NORTH)			109,794	112,200
H & B COMMUNICATIONS INC.	630,000	726,000	742,500	693,000
HARTMAN TELEPHONE EXCHANGE INC.	35,842	52,108	52,582	57,127
HAVILAND TELEPHONE COMPANY INC.	1,500,000	1,683,000	1,683,000	1,617,000
HOME TELEPHONE COMPANY INC.-(GALVA)	1,080,000	1,485,000	1,749,000	1,650,000
INDEPENDENT COMMUNICATIONS INC.	1,050,000	1,155,000	957,000	990,000
J.B.N. TELEPHONE COMPANY INC.	1,200,000	1,320,000	1,650,000	1,485,000
KAN-OKLA TELEPHONE ASSOCIATION INC	1,562,960	1,842,910	1,844,006	1,822,083
LA HARPE TELEPHONE COMPANY INC.	114,000	118,800	148,500	198,000
LDOS COMMUNICATIONS, INC.	192,788	337,636	354,184	284,130 1
LINCOLN TELEPHONE & TELEGRAPH COMPANY	27,924	32,607	34,947	34,353
MADISON TELEPHONE COMPANY INC.	585,000	693,000	792,000	792,000
MCI TELECOMMUNICATIONS CORPORATION	2,672,208	1,522,043	3,339,105	3,931,389
MID-AMERICA COMMUNICATION CORP.	17,790	12,918	10,382	MERGED INTO LDOS
MIDWEST TELEPHONE SERVICE, INC.	54,000	23,760	39,600	39,600
MO-KAN DIAL COMPANY INC.	753,734	1,104,674	1,223,728	1,443,540
MOUNDRIDGE TELEPHONE COMPANY	1,125,000	1,353,000	1,650,000	1,716,000
MUTUAL TELEPHONE COMPANY	195,000	198,000	191,400	181,500
PEOPLES MUTUAL TELEPHONE COMPANY	675,000	750,750	808,500	940,500
PIONEER TELEPHONE ASSOCIATION INC.	9,450,000	10,494,000	11,517,000	10,534,558
RAINBOW TELEPHONE COOP. ASSN. INC.	960,000	1,221,000	1,320,000	1,320,000
RTSC COMMUNICATIONS INC. (NEW IN 1992)	750,000	825,000	825,000	825,000
RURAL TELEPHONE SERVICE COMPANY INC.	6,600,000	7,854,000	8,250,000	7,557,000
S & A TELEPHONE COMPANY INC.	390,000	429,000	478,500	528,000
S & T TELEPHONE COOPERATIVE ASSN.	2,479,158	3,398,243	3,801,725	3,474,864
SOUTH CENTRAL TELEPHONE ASSN., INC.	907,249	1,155,962	1,167,302	1,462,401
SOUTHEAST NEBRASKA TELEPHONE CO.	2,051	2,241	2,213	2,084
SOUTHERN KANSAS TELEPHONE COMPANY INC.	1,200,142	1,830,856	1,964,368	1,976,671
SOUTHWESTERN BELL TELEPHONE COMPANY	283,104,420	325,929,582	330,441,953	322,756,434
SUNFLOWER TELEPHONE COMPANY INC.	2,601,089	3,153,778	3,104,009	2,363,331

**Table II - Comparative Statement of Assessed Valuation of
State Appraised Railroads and Public Utility Companies for the Years
1992 thru 1995**

	1992 Valuation	1993 Valuation	1994 Valuation	1995 Valuation
TELEPHONE COMPANIES (CONT'D)				
THE COMMUNIGROUP OF KANSAS CITY	332,559	587,007	705,502	603,984
TOTAH TELEPHONE COMPANY INC.	982,375	942,785	982,722	1,152,171
TRI-COUNTY TELEPHONE ASSN., INC.	1,830,000	2,062,500	2,128,500	2,128,500
TWIN VALLEY TELEPHONE INC.	1,245,000	1,485,000	1,782,000	2,013,000
U.S. SPRINT	17,382,975	19,023,180	23,396,918	28,507,545
UNITED TELEPHONE ASSOCIATION INC.	4,650,000	6,154,500	5,900,248	5,900,387
UNITED TELEPHONE CO, OF EASTERN KANSAS (NEW 1993)		23,430,000	24,750,000	27,390,000
UNITED TELEPHONE COMPANY OF KANSAS INC.	21,000,000	24,189,000	23,100,000	20,460,000
UNITED TELEPHONE OF SOUTH CENTRAL KANSAS (NEW 1993)		5,940,000	5,940,000	5,610,000
UNITED TELEPHONE OF SOUTHEASTERN KANSAS (NEW 1993)		1,468,190	1,495,068	1,556,709
UNITED TELEPHONE OF ARKANSAS	4,680,000	NOW UNITED TELE. OF SOUTH CENTRAL KS		
UNITED TELEPHONE OF IOWA	18,750,000	NOW UNITED TELE. OF EASTERN KS		
UNITED TELEPHONE OF MISSOURI	1,349,964	NOW UNITED TELE. OF SOUTH EASTERN KS		
VALU-LINE OF KANSAS, INC.	128,147	118,226	135,527	133,753
VYVX, INC. (NEW IN 1995, FORMERLY PART OF WILTEL)				175,849
WAMEGO TELEPHONE COMPANY INC.	1,230,000	1,683,000	1,881,000	1,980,000
WHEAT STATE TELEPHONE COMPANY INC.	1,140,000	1,485,000	1,650,000	1,633,500
WILLIAMS TELECOMMUNICATIONS	6,102,150	5,502,965	6,246,504	6,683,663
WILSON TELEPHONE COMPANY INC.	1,080,000	1,188,000	1,287,000	1,386,000
ZENDA TELEPHONE COMPANY INC.	150,000	165,000	214,500	214,500
TOTAL	452,894,143	517,875,729	531,232,616	528,349,942
1993-1 AMMENDED VALUATION			1995-1 ADDED VALUATION 02/05/96	
WATER PLANTS				
BARTON HILLS WATER DIST.	1,950	2,640	3,300	3,960
CALDWELL UTILITIES (NEW 1992)	90,000	89,100	89,100	95,700
CEDAR BLUFF WATER PIPELINE	4,200	4,785	4,785	4,785
CENTRAL KANSAS UTILITIES (FORMERLY CENTEL)	660,000	742,500 1	742,500	759,000
CHEROKEE COOPERATIVE WATER CORP., INC.	1,500	1,650	1,650	1,650
COLONIAL GARDEN MOBILE HOME PARK	7,800	10,230	10,230	10,230
D & W WATER COMPANY INC.	3,000	3,300	3,300	2,970
DEEP CREEK WATER COMPANY INC.	4,200 1	4,620	OUT OF BUSINESS	
DUB'S DREAD WATER COMPANY	21,000	OUT OF BUSINESS		
EL PASO WATER COMPANY, INC.	765,950	849,912	866,933	1,122,000
FAIRMONT KONZA VALLEY RURAL WATER CO (NEW NAME)	28,500	49,500	49,500	49,500
McCRACKEN WATER CO., INC. (NEW IN 1992)	30,000	34,650	34,650	34,650
NORTH ARMA WATER CORPORATION	2,100 2	2,310	2,310	LOCALLY ASSESSED
ONION CREEK WATER INC.	5,700	OUT OF BUSINESS		
RIVERTON WATER CO., INC. (NEW IN 1992)	10,500 3	36,300	36,300 1	6,050 1
SANDOTT LUMBER	7,500	OUT OF BUSINESS		
SCOTSMAN ESTATES ASSN., INC.	3,000	3,300	3,300	3,300
SUBURBAN WATER	83,400	99,000	99,000	99,000
TUTTLE CREEK WATER CO.	3,900	5,280	5,280	5,280
VALLEYWOOD IMPROVEMENT DISTRICT	9,000	8,910 2	OUT OF BUSINESS	
WILSON LAKE ESTATES, INC.	1,560 4	2,640	2,640	2,640
TOTAL	1,744,760	1,950,627	1,954,778	2,200,715
1992-1 ADDED VALUATION 01-26-93			1993-1 ADDED VALUATION 02-01-94	
1992-2 ADDED VALUATION 01-26-93			1993-2 ADDED VALUATION 02-01-94	
1992-3 ADDED VALUATION 01-26-93			1994-1 ADDED VALUATION 02-05-96	
1992-4 ADDED VALUATION 01-26-93			1995-1 ADDED VALUATION 02-05-96	
GRAND TOTAL	2,447,639,343	2,717,704,268	2,873,434,803	2,827,785,648

SENATE BILL No. 394

By Special Committee on Assessment and Taxation
Re Proposal No. 6

12-20

10 AN ACT relating to income taxation; defining business income for uni-
11 form division of income for tax purposes act purposes; amending
12 K.S.A. 1995 Supp. 79-3271 and repealing the existing section.

13

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

15 Section 1. K.S.A. 1995 Supp. 79-3271 is hereby amended to read as
16 follows: 79-3271. As used in this act, unless the context otherwise re-
17 quires:

18 (a) "Business income" means income arising from transactions and
19 activity in the regular course of the taxpayer's trade or business and in-
20 cludes income from tangible and intangible property if the acquisition,
21 management, and disposition of the property constitute integral parts of
22 the taxpayer's regular trade or business operations, *except that for taxable*
23 *years commencing after December 31, 1995, a taxpayer may elect that all*
24 *income derived from the acquisition, management, use or disposition of*
25 *tangible or intangible property constitutes business income. The election*
26 *shall be ~~made by including a statement so providing with a timely filed~~*
27 *tax return and shall be effective and irrevocable for the taxable year of*
28 *the election and the following nine taxable years. The election shall be*
29 *binding on all members of a unitary group of corporations.*

30 (b) "Commercial domicile" means the principal place from which the
31 trade or business of the taxpayer is directed or managed.

32 (c) "Compensation" means wages, salaries, commissions and any
33 other form of remuneration paid to employees for personal services.

34 (d) "Financial organization" means any bank, trust company, savings
35 bank, industrial bank, land bank, safe deposit company, private banker,
36 savings and loan association, credit union, cooperative bank, investment
37 company, or any type of insurance company, but such term shall not be
38 deemed to include any business entity, other than those hereinbefore
39 enumerated, whose primary business activity is making consumer loans
40 or purchasing retail installment contracts from one or more sellers.

41 (e) "Nonbusiness income" means all income other than business in-
ome.

(f) "Public utility" means any business entity which owns or operates

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for public use any plant, equipment, property, franchise, or license for the transmission of communications, transportation of goods or persons, or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, oil, oil products or gas.

(g) "Sales" means all gross receipts of the taxpayer not allocated under K.S.A. 79-3274 through 79-3278, and amendments thereto.

(h) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(i) "Telecommunications company" means any business entity or unitary group of entities whose primary business activity is the transmission of communications in the form of voice, data, signals or facsimile communications by wire or fiber optic cable.

New Sec. 2. ~~(a) Notwithstanding any other provision of law to the contrary, no claim by a taxpayer for a refund of income tax paid which, except for the provisions of this section, would be allowable pursuant to law as a result of the decision rendered by the Kansas supreme court in the matter of the appeal of Chief Industries Inc. regarding corporate income taxes (255K640), shall be allowed, nor shall any assessment of additional tax due be levied against any taxpayer by the department of revenue which, except for the provisions of this section, could be levied pursuant to law as a result of such decision.~~

~~(b) The provisions of this section shall be applicable to all taxable years or portion thereof commencing prior to January 1, 1996.~~

Sec. 3. K.S.A. 1995 Supp. 79-3271 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

(a) Except as otherwise provided by subsections (b) and (c), the election allowed by subsection (a) of K.S.A. 79-3271, and amendments thereto, shall be filed by the taxpayer on or before the last day of the tax year immediately preceding the tax year for which such election is made.

(b) Any taxpayer currently doing business in the state which has a tax year commencing during calendar year 1996, and which intends to make the election allowed by subsection (a) of K.S.A. 79-3271, and amendments thereto, for such taxable year, shall file such election within 60 days after the effective date of this act or on or before the last day of the tax year immediately preceding, whichever date is later.

(c) Any taxpayer which is a domestic or foreign corporation doing business in the state for the first time and which intends to make the election allowed by subsection (a) of K.S.A. 79-3271, and amendments thereto, for its initial tax year shall file such election within 60 days after filing the taxpayer's articles of incorporation or application for authority to engage in business as a foreign corporation with the secretary of state or otherwise becomes subject to taxation under article 32 of chapter 79 of the Kansas Statutes Annotated.

(d) The election allowed by subsection (a) of K.S.A. 79-3271, and amendments thereto, shall be made by filing a written statement with the director clearly identifying the tax year for which such election is made.

SUPPLEMENTAL NOTE ON SENATE BILL NO. 394

As Amended by Senate Committee on
Assessment and Taxation

Brief*

S.B. 394, as amended, would allow corporations beginning with tax year 1996 to elect to have all income arising from the acquisition, management, use, or disposition of tangible or intangible property treated as "business income." Any such election, which would be effective for the tax year of the election and the following nine years, would be binding on all members of a unitary group of corporations.

Taxpayers would be required to file for the election on or before the last day of the tax year immediately preceding the tax year for which the election is being made, except that:

1. those taxpayers currently doing business in Kansas with a tax year commencing in calendar year 1996 who are seeking to have the election effective for tax year 1996 must file for the election by the later of: (a) 60 days after the July 1 effective date of the act, or (b) the last day of the immediately preceding tax year; and
2. taxpayers -- domestic or foreign -- who are doing business in Kansas for the first time and are seeking to have the election effective for their initial tax year have 60 days after filing their articles of incorporation or application for the authority to engage in business as a foreign corporation or otherwise becoming subject to the income tax to file for the election.

* Supplemental Notes are prepared by the Legislative Research Department and do not express legislative intent.

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Corporations making the election would be required to file a written statement with the Director of Taxation clearly identifying the tax year for which such election is to be made.

Background

S.B. 394 was introduced as a result of an interim study reviewing the implications of the 1994 decision by the Kansas Supreme Court in the *Chief Industries* case (255 Kan. 640).

In *Chief*, the Kansas Supreme Court held that the only test to be applied in determining whether the proceeds from the sale of stock by the nondomiciliary corporation was business income under K.S.A. 79-3271(a), and thus apportionable to Kansas, is the transactional test set forth in the 1968 Kansas Supreme Court case, *Western Natural Gas* (202 Kan. 98). In *Western Natural Gas*, the court noted that:

“ . . . business income . . . must arise from transactions and activity in the regular course of a trade or business. Business income includes income from intangible property if the acquisition, management and disposition giving rise to the income constitute integral parts of the regular trade or business operations. It is not the use of the property in the business which is the determining factor under the statute. The controlling factor by which the statute identifies business income is the nature of the particular transaction giving rise to the income. To be business income the transaction and activity must have been in the regular course of taxpayer's business operations.”

The Board of Tax Appeals (BOTA) had held that while the sale of stock at issue in the *Chief* case did not satisfy this statutory construction from *Western Natural Gas*, an additional separate and independent functional test existed pursuant to the adoption of a regulation by the Department of Revenue. This functional test enabled the Department to attempt to treat the sale of stock as business income apportionable to Kansas.

But the Kansas Supreme Court in *Chief* ruled that BOTA erred in holding that an independent functional test had been added by virtue of a regulation adopted by the Department of Revenue in 1979, KAR 92-12-73(b). (That

regulation states that the "gain or loss from the sale, exchange or other disposition of real or tangible or intangible personal property constitutes business income if the property while owned by the taxpayer was used in the taxpayer's trade or business.")

The court noted that while duly adopted administrative regulations have the force of law, they do not supplant statutory law nor do they preempt judicial statutory construction. "Neither BOTA nor the Department can change the test this court established in *Western Natural Gas* by reliance on a regulation," the court stated in *Chief*. "The legislature can modify this court's statutory construction, but it has not done so."

BOTA also had ruled that a more "broadly defined" transactional test such as set forth in *Welded Tube* (101 Pa. Comm. 32), a 1986 Pennsylvania case, would determine the sale of the stock to be business income and thus apportionable to Kansas. But the Kansas Supreme Court again noted in *Chief* that the fatal flaw inherent in the argument was that the "holding in *Western Natural Gas* has not been modified nor has the statute it construed been subsequently amended by the legislature although over 25 years have passed since the date of the decision."

So because the sale of stock did not satisfy the transactional test set forth in *Western Natural Gas* and no valid functional test (or broader transactional test) existed, the income ultimately was treated as nonbusiness income pursuant to K.S.A. 79-3271(e).

To the extent that nondomiciliary corporations no longer have any Kansas income tax liability on nonrecurring capital gains, the question arose as to whether Kansas-domiciled corporations -- who potentially could have nonrecurring capital gains allocated entirely to Kansas -- are at a competitive disadvantage under the transactional test set forth in *Western Natural Gas*.

S.B. 394 was introduced to address this issue and allow corporations the option of having such gains treated as business income and apportioned among the states.