

MINUTES OF THE HOUSE COMMITTEE ON TAXATION..

The meeting was called to order by Chairperson Phill Kline at 9:00 a.m. on March 17, 1998 in Room 519-S of the Capitol.

All members were present except: 9:00 a.m. meeting - all present  
5:00 p.m. meeting - Rep. Clark Shultz excused

Committee staff present: Chris Courtwright, Legislative Research Department  
Tom Severn, Legislative Research Department  
Don Hayward, Revisor of Statutes  
Shirley Sicilian, Department of Revenue  
Ann McMorris, Committee Secretary

Conferees appearing before the committee:  
William Lackey, Asst. Secy & State Transportation Engineer, KDOT  
Dane Barclay, Kansas Aggregate Producers Assn  
Paul Whitehair, Dickinson County Commissioner  
Dale Curtis, Dickinson County Highway Administrator

Others attending: See attached list

Chair Kline welcomed nine members of the Voronezh Delegation from Russia and dialogue was held through an interpreter concerning Russian and American forms of government and taxing and property ownership.

Chair opened hearing on:

**SB 602 - County severance tax prohibited**

Proponents:  
William Lackey, Asst. Secy & State Transportation Engineer, KDOT (Attachment 1)  
Dane Barclay, Kansas Aggregate Producers Assn (Attachment 2)

Opponents:  
Paul Whitehair, Dickinson County Commissioner (Attachment 3)  
Dale Curtis, Dickinson County Highway Administrator  
Clark Duffy, Topeka (Attachment 4)

Closed hearing on **SB 602**

Committee recessed till 5:00 p.m. on March 17.

Chair opened for discussion, amendments and action on:

**HB 2602 - Establishment of the Kansas tax appeals commission**

Staffer Chris Courtwright provided an update on HB 2602 as amended. (Attachment 5)

Moved by Representative Franklin, seconded by Representative Osborne, amend **HB 2602** by inserting new sections which include listing of courses required of the Kansas tax appeals commission and the hearing officers. (Attachment 6). After considerable discussion withdrew the motion.

Moved by Representative Franklin, seconded by Representative Osborne, amend **HB 2602** by inserting new sections which include listing of courses required of the Kansas tax appeals commission and the hearing officers to be completed within a six month time frame.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON TAXATION, ROOM 519-S Statehouse, at 9:00 a.m. on March 17, 1998.

Substitute motion by Representative Larkin, seconded by Representative Powell, to go back to the original amendment of Representative Franklin without six months requirement. Motion carried.

Moved by Representative Shore, seconded by Representative Cook, amend **HB 2602** to change taking an appeal from the tax court directly to the district court where the property is located. Motion failed. Yes 5, No 9

Moved by Representative Tanner, seconded by Representative Johnston, conceptual motion to give the name "Tax Court" to this body and place it under the aegis of the Judicial System with selection process being consistent with that of appellate judges. Representative Johnston withdrew his second after further explanation of the intent. Seconded by Representative Shore. After further discussion on the manner of retention of this body, Representative Shore withdrew his second. Motion died for lack of second.

Moved by Representative Presta, seconded by Representative Vickery, amend **HB 2602** by changing "any party" to "taxpayer" in new Sec. 9(c) line 18. Motion failed - Yes 8, No 11. Shriver did not vote.

Moved by Representative Presta, seconded by Representative Powell, amend **HB 2602** by taking language on page 13 (i) lines 28 through 38 ending with .."determination" and inserting it as (g) under new section 9. Motion carried.

Moved by Representative Shriver, seconded by Representative Larkin, amend **HB 2602** by eliminating requirement that all on the commission be attorneys.

Substitute motion by Representative Johnston, seconded by Representative Shore, amend **HB 2602** by increasing the number of members to five of which three are to be sttorneys with division balance. Motion carried. Yes 11, No 7 - No votes recorded by Rep. Powell and Rep. Mays.

Moved by Representative Shriver, seconded by Representative Larkin, amend **HB 2602** by removing on page 9, lines 17-19, the italicized sentence. Motion failed.

Moved by Representative Shriver, seconded by Representative Larkin, amend **HB 2602** by striking the language on page 9, line 39 starting with "a request ... and including the balloon ...for exemption."

Substitute motion by Representative Kline, seconded by Shriver, amend **HB 2602** by eliminating Motion carried. Yes 13, No 3 - No vote recorded by Vickery.

Moved by Representative Shriver amend **HB 2602** by adding commercial property in balloon language. Motion died for lack of second.

Moved by Representative Wempe, seconded by Representative Larkin, conceptual amendment to **HB 2602** to remove "multiple tenants." Motion carried. Yes 12, No. 5

Moved by Representative Wempe, seconded by Representative Shriver, amend **HB 2602** by removing the rentention language in the balloon on page 18, line 3. Motion carried. Yes 8 No 8, Chair voted yes. No voted recorded for Powell, Vickery, Mays, Osborne, Tanner, Franklin and Gregory.

Moved by Representative Powell, seconded by Representative Mays, amend **HB 2602** to show in cases where hearings are covered by more than one commissioner and is continued under only one commissioner, that commissioner must be an attorney. Motion carried.

Moved by Representative Powell, seconded by Representative Larkin, move the passage of **HB 2602** favorably as amended. Motion carried.

Chair opened for introduction of new bills.

Moved by Representative Powell, seconded by Representative Kline, introduction of committee bill allowing abatements for retention of jobs. Motion carried.

The next meeting is scheduled for March 18, 1998.

Adjournment.  
Attachments -6

# TAXATION COMMITTEE GUEST LIST

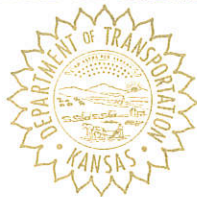
DATE:           **MARCH 17, 1998**          

NAME	REPRESENTING
<i>Thomas A. Salsman</i>	<i>Dickinson Co Comm</i>
<i>Leslie L. Lipton</i>	<i>Dickinson Co Comm</i>
<i>Paul R. Hildebrand</i>	<i>Dickinson Co Comm</i>
<i>Paul J. Cuntz</i>	<i>Dickinson Co. Hwy.</i>
<i>Clayton K. Kline</i>	<i>Ks Taxpayers Network</i>
<i>Tademe Cole</i>	<i>Latern Sen. Tyson</i>
<i>Paul Hedberg</i>	<i>Western Kansas</i>
<i>Mike Larksey</i>	<i>KDOT</i>
<i>Michelle Miller</i>	<i>Johnson County</i>
<i>Susan Anderson</i>	<i>Heim + Weir</i>
<i>Doug Smith</i>	<i>SWKROA</i>
<i>Harriet Lang</i>	<i>KAB</i>
<i>Marcin Zielsdorf</i>	<i>Hamm Companies</i>
<i>Wendy J. Harms</i>	<i>Ks Aggregate Producers' Assn.</i>

TAXATION COMMITTEE GUEST LIST

DATE: MARCH 17, 1998

NAME	REPRESENTING
1. Lidia Kuznetsova	Voronezh, Russia
2. Leonid Samokhval	" " " "
3. Tamara Tsubizova	
4. Anatolii Kolesnikov	
5. Aleksandr Pereferov	
6. IVAN SUZKOV	Voronezh, Russia
7. Борис Скворников	" " "
8. Тульнара Михайлова	" Россошь "
9. Валерий Соляник	г. Воронеж.



**KANSAS DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY OF TRANSPORTATION**

E. Dean Carlson  
SECRETARY OF TRANSPORTATION

**Docking State Office Building  
915 SW Harrison Street, Rm. 730  
Topeka, Kansas 66612-1568  
Ph. (785) 296-3461 FAX (785) 296-1095  
TTY (785) 296-3585**

Bill Graves  
GOVERNOR

**Testimony Before The House Taxation Committee  
Regarding Senate Bill 602  
Prohibiting counties from levying a severance tax  
March 17, 1998**

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to provide testimony on Senate Bill 602. I am Mike Lackey, Assistant Secretary and State Transportation Engineer for the Kansas Department of Transportation (KDOT). This bill would amend current law to prohibit counties from levying an excise, severance, or any other tax on the physical severance and production of any material from the earth or water.

This legislation is the result of actions taken by a county to levy a severance tax against quarry operators who haul their product over the county's roads. The county approached the Department of Transportation for assistance but was advised that assistance on local haul-roads was only provided through the specification of our contracts and was limited to project-specific instances where a specific threshold of hauled tonnage is met or exceeded. Such assistance would not apply to all of the roads traveled by a commercial quarry as a part of their day-to-day business. The Department of Transportation's current specifications on haul-roads have evolved over the years in numerous meetings with county officials, contractors, and aggregate suppliers providing a fair and equitable solution for all parties involved. The objective of this part of our specifications is simply to hold local roads harmless from damages caused by large state highway projects.

With respect to this specific severance tax, a significant amount of aggregate is used each year by KDOT in our highway construction and maintenance activities. In 1996, the Department used approximately 13.5 million tons of aggregate in the construction of highways. It is estimated that approximately 85 percent of these materials were produced within the state of Kansas. Assuming that a 10-cent per ton severance tax was to have been applied to all of these in-state produced materials, the additional cost to the Department would have been approximately \$1,147,500.

KDOT supports this legislation because if it is not passed there is a potential for significant increased costs to the Department.

# KAPA

Kansas Aggregate  
Producers' Association

Edward R. Moses  
Managing Director

## Testimony

By The  
Kansas Aggregate Producers' Association

Before the  
House Taxation Committee

Regarding SB 602

March 17, 1998

Good morning, Mr. Chairman and members of the committee. My name is Dane Barclay, owner of Alsop Sand Co., Inc. and the President of the Kansas Aggregate Producers' Association.

The Kansas Aggregate Producers' Association (KAPA) is an industry-wide trade association comprised of over two hundred fifty (250) members located in all one hundred and sixty five (165) legislative districts in this state, providing basic building materials to all Kansans.

We thank you for the opportunity to come before you today with our comments on SB 602. I would like to give you a little history behind SB 602. In April 1997, a Charter Resolution was introduced and passed by the Board of County Commissioners in Dickinson County mandating a .20¢ per ton severance tax for the removal and processing of aggregates, an action that has been contemplated by the Dickinson County Commissioners during the last two years. During this period, KAPA had attempted to work with the Dickinson County Commissioners to resolve the issues regarding severance tax, and has been unsuccessful. In our meetings with the County Commissioners, it became apparent to us that the purpose of a severance tax was to fund government operations. As the revenue generated by the severance tax was to be placed in the general fund, we felt it was unjust to put the burden of funding county government on three aggregate operators.

SB 602 was introduced at our request to resolve this issue and to make it clear that counties do not have the power to impose a severance tax. We think this bill should be approved favorable for passage for the following reasons:

1. Counties should be prohibited from passage of a severance tax as it creates inequities among other political subdivisions. Should taxpayers in the non-aggregate producing counties be forced to pay a .20¢ per ton severance tax, which will accrue to benefit counties with rock processing operations? For example, our largest counties Johnson and Sedgwick both could conceivably be forced to pay a .20¢ per ton, as they are net importers of rock. Additionally, in the jurisdiction of Dickinson County, the citizens of Abilene and other Dickinson County townships would be forced to pay the same tax.
2. A countywide severance tax on rock and quarry operations located within the imposing county put operators at a competitive disadvantage to compete with the producers operating outside the county line. These operators would suffer loss of sales and a corresponding reduction in employment would be necessary. Ironically, the county would suffer property tax loss, as the appraised values of operations would decline.
3. The Kansas Department of Transportation being the largest single purchaser of aggregates in the state would also be forced to pay severance tax. Such a tax would increase the cost of highway work while shifting tax burden to all Kansans.
4. After examination of the statutes governing home rule power delegated to counties and the statutes governing the passage of county and city wide sales or excise taxes it is easy to ascertain that this attempt to pass a severance tax is clearly beyond the boundaries of legislative intent.

Once again, we ask you to recommend SB 602 favorable for passage for those reasons mentioned above. Thank you for allowing me the time to appear before you today. At this time, I am willing to respond to any questions you may have.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF DICKINSON COUNTY, KANSAS

Resolution No. D41797

A RESOLUTION ESTABLISHING SEVERANCE TAX ON ROCK AND/OR GRAVEL FROM LAND LOCATED IN DICKINSON COUNTY, KANSAS AND IMPLEMENTING A TAX RATE FOR THE REMOVAL THEREOF, AND SETTING PROCEDURES FOR MEASUREMENT OF PRODUCTION.

Be it resolved by the Board of County Commissioners of Dickinson County, Kansas as follows:

1. Definitions: As used in this resolution, unless the contract clearly requires otherwise, the following words and phrases have the meanings described to them herein:

A) Rock shall be defined as any and all rock materials removed from a quarrying operation for sale at retail or wholesale.

B) Gravel shall be defined as any and all gravel removed from or processed from rock which is removed from a quarrying operation and sold for wholesale or retail.

C) Operator means the person primarily responsible for the management or operation of the rock or gravel productions from a lease, production unit or quarry or pit.

D) Person means any natural person, firm, corporation, joint venture, association, corporation, estate, trust, or other group or combination acting as a unit and a polaris whereas the singular number.

E) Producer means any person owning, controlling, managing, or leasing any rock or gravel pits, quarries, or operations or the land from which the same is removed and any person who severs in any manner any such rock or gravel and shall include any person owning any direct or beneficial interest in rock or gravel quarry or pit whether severed by such person or some other person on behalf either by lease, contract or otherwise including a royalty owner.

F) Remove or removal means a physical transportation of rock or gravel off the lease or production unit or from the quarry or pit where severed; and if manufacturer conversion of said rock or gravel into refined product occurs on the premises where severed, said rock or gravel shall be deemed to have been removed on the dates such manufacture or conversion begins.

G) Severed or severing means the production of rock or gravel through extraction, digging, crushing or withdrawal from the same from any land located in Dickinson County, Kansas.

H) Taxpayer means any person liable for taxes imposed under this act.

I) Gross Amount means the amount in total weight of the rock or gravel which was removed from the soil for the purpose of the sale at retail or wholesale.



newspaper.

IT IS SO RESOLVED.

BOARD OF COUNTY COMMISSIONERS

*Leo Lefert*  
LEO LEFERT

*Paul Whitehair*  
PAUL WHITEHAIR

*George Schlesener*  
GEORGE SCHLESENER

ATTEST:

*Sandra K Emig*  
SANDRA EMIG  
Dickinson County Clerk



Passed this 17th day of 1997.

STATE OF KANSAS



KANSAS DEPARTMENT OF TRANSPORTATION

E. Dean Carlson  
Secretary of Transportation

Bill Graves  
Governor of Kansas

DISTRICT TWO  
1006 North Third  
P. O. Box 857  
Salina, Kansas 67402-0857  
Ph. (785) 823-3754 FAX (785)823-1649  
TTY (785) 296-3585

February 25, 1998

Mr. Dale Curtis  
Highway Administrator  
1st & Buckeye, Courthouse  
Abilene, Kansas 67410

Dear Mr. Curtis:

I appreciate your call this morning concerning haul roads leading from quarries located on county roads in Dickinson County.

Attached is a copy of our specifications regarding haul roads and payments made to contractors for maintenance.


I certainly understand your predicament. It is my understanding of our past and present practice that a haul road leading from a commercial quarry can not be designated as a haul road. Thus we would not reimburse the contractors under terms of the "Lump Sum" moneys in the contract.

I am not aware of any other funding sources available, other than the moneys available through the Bureau of Local Projects or possibly economic development funding.

I have made an inquiry to the Bureau of Construction and Maintenance as to if there are other funds available.

If you need further information, please give me a call.

Sincerely,

  
DONALD C. DRICKEY, P.E.  
DISTRICT ENGINEER

DCD:jch

Attachments

OFFICE OF THE  
*Highway Administrator*

Dickinson County Court House  
ABILENE, KANSAS 67410

913/263-3093

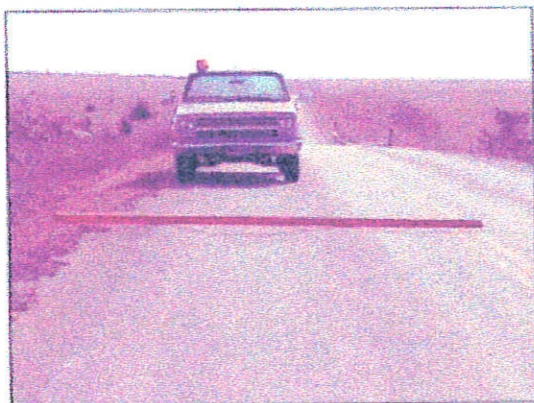
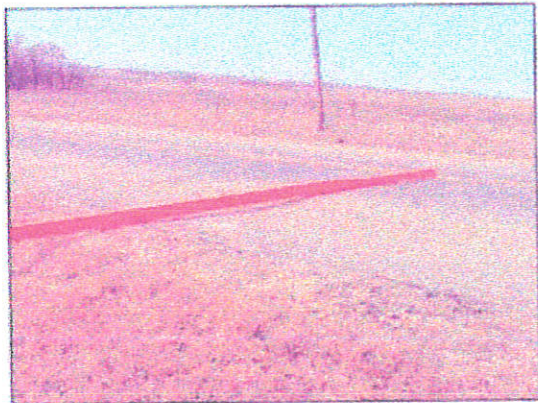
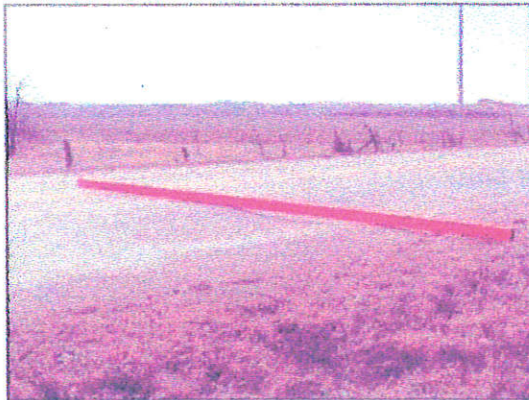
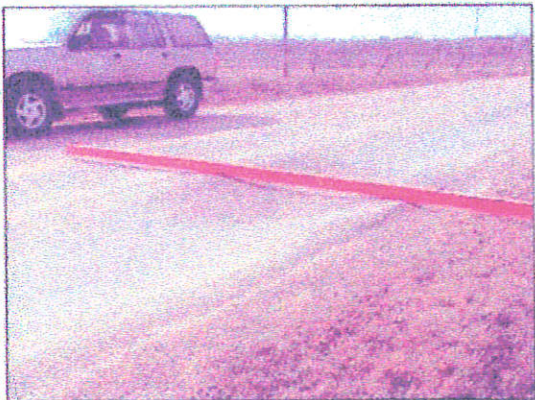


Dickinson County has five active rock quarries and one active sand plant. Thirty-five and one half miles of county black top road directly affected by these facilities and show noticeable deterioration and require more maintenance than roads without the traffic from the quarries.

In 1997 it cost \$18,032 to overlay, chip and seal and strip one mile of black top and should last for six years. The road that the rock traffic is on needs more attention and frequent repairs.

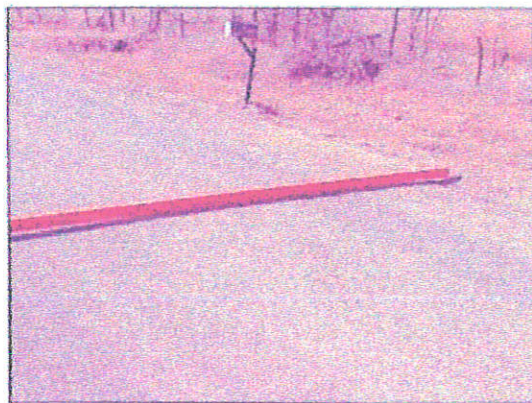
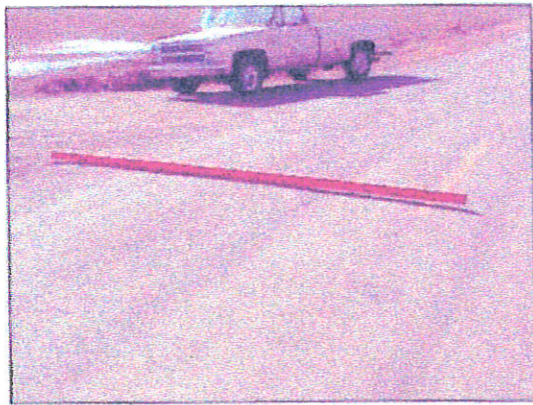
The following pictures show two roads, 2100 Ave. and Rain Rd. and a few of the bad spots, these roads are used by rock haulers. Their average daily volume is 243 to 352 vehicles per day. The second set of pictures are of 500 Ave. with out rock hauler traffic with the average daily volume of 699. All roads were overlayed about the same time and you can clearly see the difference in the stability of the roads that has twice the traffic but does not carry the weight from the rock haulers that the other roads carry.

Enclosed are maps to show where the quarries are located and the roads affected by the rock haulers.



2100 Ave. & Rain Road  
243 to 352 vehicles per day

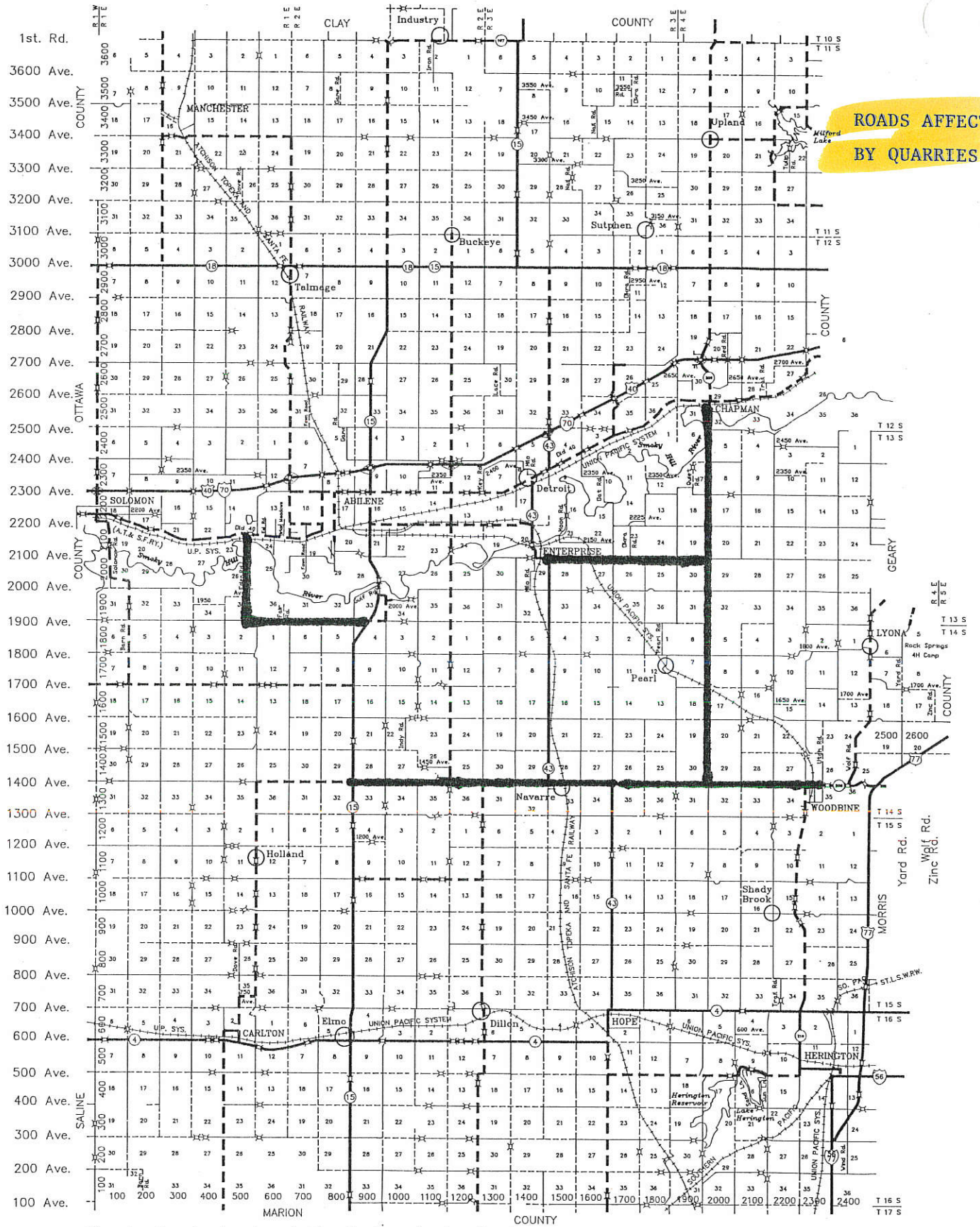
3-5



500 Ave.  
699 vehicles per day

3-6

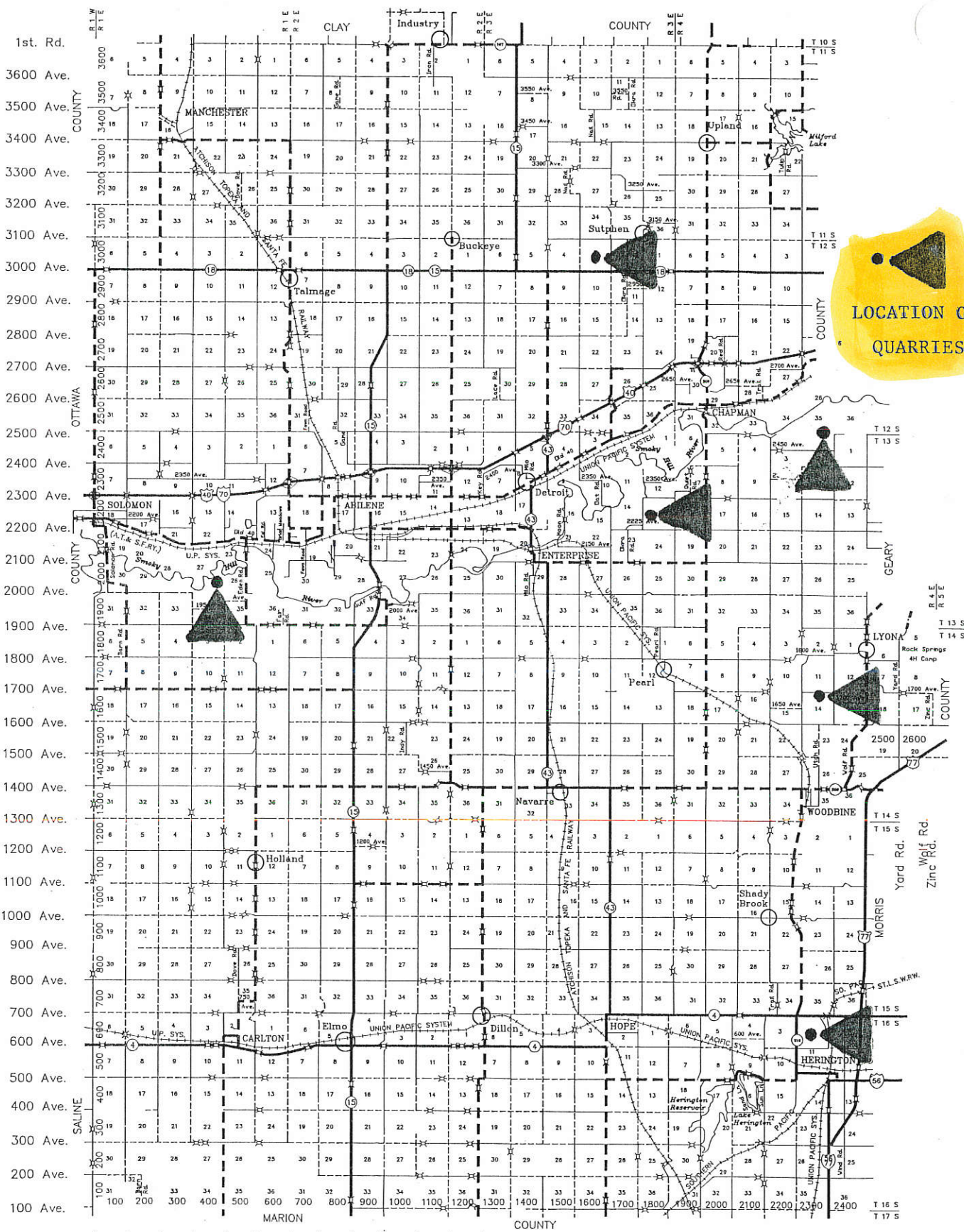
**ROADS AFFECTED BY QUARRIES**



**LEGEND**

- Major Highways
- Improved County Roads
- All Weather Roads
- Other Surfaces
- Interstate Highway
- Kansas State Highway
- Bridge
- Railroad
- Stream Symbols
- Even House Numbers
- South and East Side of Road
- Odd House Numbers
- North and West Side of Road

DICKINSON COUNTY  
KANSAS



LOCATION OF QUARRIES

LEGEND

- Major Highways
- Improved County Roads
- All Weather Roads
- Other Surfaces
- Interstate Highway
- Kansas State Highway
- Bridge
- Railroad
- Stream Symbols
- Even House Numbers South and East Side of Road
- Odd House Numbers North and West Side of Road

DICKINSON COUNTY KANSAS



REVISED 04/16/93 AW

Asphalt

1990	14.25 per ton	20% increase
1997	17.40 per ton	

Rock

1990	3.40 per ton	39% increase
1997	4.75 per ton	

Oil

1990	.48 per gal	29% increase
1997	.62 per gal	

County Tax for Highway Funds

1990	\$925,712	6% increase
1998	\$984,426	

Equipment

1990	\$44,000	25% increase
1998	\$55,000	



3-10

DICKINSON COUNTY  
ROAD & BRIDGE TAX LEVIES

YEAR	<u>ROAD &amp; BRIDGE</u>		<u>SPECIAL BRIDGE</u>		<u>SPECIAL ROAD</u>		<u>TOTALS</u>	
	TAX	LEVY	TAX	LEVY	TAX	LEVY	TAX	LEVY
1990	387,380	4.602	154,952	1.841	387,380	4.602	929,712	11.045
1991	387,380	4.774	154,952	1.910	387,380	4.774	929,712	11.458
1992	370,639	4.583	80,392	0.994	401,962	4.971	852,993	10.548
1993	399,780	4.967	79,956	0.993	399,780	4.967	879,516	10.927
1994	390,435	4.930	78,087	0.986	390,435	4.930	858,957	10.846
1995	427,010	4.983	85,402	0.997	427,010	4.983	939,422	10.963
1996	450,322	4.953	135,097	1.486	450,322	4.953	1,035,741	11.392
1997	462,360	5.006	138,707	1.502	369,886	4.005	970,953	10.513
1998	492,213	5.000	98,443	1.000	393,770	4.000	984,426	10.000

Rock Severance Tax  
Proposed for Dickinson County  
Testimony - Senate Hearing  
Topeka, Kansas

These comments are offered to you in consideration of Senate Bill 602-603.

Dickinson County needs the revenue created by the severance tax. Dickinson County proposed this tax in April of 1997. The purpose of creating the tax was to provide revenue to support the maintenance to the roads of the county.

Dickinson county is blessed with an abundant amount of a non-renewal source, rock and rock products. We need to use this resource in the most efficient manner possible. We, also, need to use, in any possible means, the economic value of this product. The product, rock and rock products are providing profit for the industries, jobs for people, families, need for schools, teachers, and many other facets of the rural economy. The rock industries also requires a need for adequate and safe roads. They need to get their product to the job site. The patrons of the county also need the same roads for transportation purposed essential for normal quality living. They need to get to their employment, their children to schools and for all other uses including recreational.

Now we have a dilemma as to how do we maintain these roads that we use each day in a manner that will satisfy all. Some parts of the living cycle do not require super highways to achieve the end result. But other parts need good sound passage ways to achieve their goal of delivering a product in an efficient, speedy and safe manner. These industries, namely, trucking and agriculture, are vital to our rural economy. They must have adequate roads to perform. Government wants to provide these essentials to our businesses and people. To do this we must have sufficient funding to build and maintain a road network that satisfies all.

We have found it difficult to maintain these roads with present funding procedures. In fact, we have the past few years drastically cut the road and bridge budget to fund first priority needs such as salaries, insurance and equipment. This can only lead to the demise of the road system to a point that they are neither adequate nor safe. We can not let this take place. We must find funding to provide the maintenance. We believe the rock severance tax will provide the needed funding. Yes, we are in agreement that a tax is regressive but also believe that all taxes are regressive. We each feel, personally, that we can better spend our dollars, rather than using them for tax dollars.

The carriers of rock and rock products are causing a major deterioration of our roads with heavy equipment and loads. We feel that a tax of this nature will fund any maintenance necessary for the upkeep of roads caused by this industry. We feel the funding needed should be derived by the cause of the deterioration. We feel that the citizens of the county should not be saddled for the cost of destruction but should be paid for by the industry and then distributed to all the citizens of the state of nation. We need equality of this expenditure. We need roads and we, Dickinson County, will pay our part but we do not feel we should pay the entire cost to provide profit, conveniences and pleasure for all of society.

You have or will hear many statistics regarding and authenticating the problem of road maintenance, consequently I will not labor or repeat any of them. These statistics will prove with out a doubt the need for additional revenue for road maintenance. We request your honest and sincere consideration of the defeat of the bill in question or at least that paragraph addressing the legality of the tax.

Commissioners of Dickinson County

TESTIMONY ON SENATE BILL 602 & 603

This testimony presented to the Senate Assessment and Taxation Committee by Robert J. King, Superintendent of Chapman USD #473.

The purpose of this letter is to express concern about the passage of Senate Bill 602 & 603.

USD #473 is located in Dickinson County. Our school district is rural and consists of five elementary schools, a middle school, and a high school. With an area of 576 square miles, a quality highway system is critical to the effective operation of our school system. Not only do our students, patrons, and faculty use Dickinson County roads each day but also our transportation fleet. Each day our buses run 90+ routes; these runs include regular, kindergarten, special education and activity trips. Our transportation fleet mileage for the 1996-1997 academic year was 701,737 miles. As you can see, it is very important to the USD #473 Board of Education that the roads in Dickinson County be maintained in a safe drivable condition.

In April of '97, the commissioners of Dickinson County issued Resolution No. 041797. This resolution calls for a severance tax of twenty cents per ton on all usable rock or gravel produced in Dickinson County. Rock and rock products are unique to our county and are sought by many industries across the state and nation. Since this is a non-renewable resource, it seems sensible that Dickinson county should derive some revenue to facilitate the maintenance of its' roads.

An informational fact is that it costs approximately \$18,032 per mile to "chip and seal" and blade applied overlay and striping, \$49,560 per mile for a two inch "contractor overlay", a mile of any of the 208 miles of improved road that we have in Dickinson County. It was the intention of the Dickinson County Highway Administrator and Commissioners to improve at least one fifth of this mileage each year, thus, improving each mile at least once each five years. With the budget our commissioners have now, that have dropped that expectation to twenty miles per year and consequently hitting each mile every ten years. This is not good! The traffic is just too great.

Kansas counties, like Kansas school districts, are very short of financial resources. Last year alone, the Dickinson County Commissioners were forced to cut \$350,000 out of the Road and Bridge budget. Kansas Counties should have the right to impose a severance tax. A first rate road system is critical to the needs and safety of the citizens of Dickinson County. Please do not pass Senate Bill 602 & 603.

I sincerely wish to thank you for your time and consideration on this matter.

Robert J. King  
Superintendent of Chapman  
USD # 473

3-14

**MAINTENANCE AGREEMENT**  
**CENTER TOWNSHIP – DICKINSON COUNTY KANSAS**

THIS AGREEMENT, made and entered into this 18 day of March 1997, by and between Center Township of Dickinson County, Kansas, hereinafter referred to as Township, and N.R. Hamm Quarry, Inc. of Perry, Kansas, hereinafter referred to as Hamm.

WHEREAS, Center Township is responsible for maintenance of Township Roads in said Township, and

WHEREAS, the Paint Road between 2300 Avenue to 2200 Avenue and the 2200 Avenue between Paint Road and Quail Road and Quail Road between 2200 Avenue and 2100 Avenue will be used as the haul road from proposed Kelly Quarry #95, and

WHEREAS, the use of this road by the trucks to and from the quarry may necessitate maintenance costs over and above normal maintenance costs for a Township Road, and

WHEREAS, the Township and Hamm desire to minimize the cost to the Township for additional maintenance.

NOW THEREFORE, in consideration of the Mutual Covenants and Agreements herein recited, the Parties agree:

1. Hamm will assist the Township with the cost of maintaining this road by:
  - A. Paying the Township five cents (.05) per ton royalty on all material hauled from quarry.
2. The regulatory signing that may be required will be determined by the Township or County, and installed by same.
3. By this agreement to minimize Township costs for maintaining the quarry road, Hamm does not expressly or impliedly assume the Township's responsibility or liability for maintaining township road. Hamm is acting for and on behalf of the Township in all acts to minimize the Township's maintenance cost on the road.

N.R.HAMM QUARRY, INC.  
PERRY, KANSAS

By: *N. Rodney Hamm*  
N.Rodney Hamm, President

CENTER TOWNSHIP

By: *Gary R. Yocum*  
Gary Yocum

By: *Tom Haslouer*  
Tom Haslouer

By: *Merl D. Peck*  
Merl Peck

MZ/nr

5. The Contractor shall carry liability insurance to protect the public from injuries by reason of carrying on of the work and to protect the Township from liability on account of injuries to workers, as provided by law, and to protect the Township from liabilities to any person for damages by reason of carrying on the work. Certified copies of Contractor's public liability and property damage insurance for this project shall be provided to the Township and shall remain in effect during the course of these project. Such coverage shall be for a minimum of \$250,000 per person and \$500~~X~~000 per incident.

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6. The Contractor shall provide, erect and maintain during the progress of the work suitable barricades and warning signs as maybe necessary to insure the safety of the public as well as those engaged in connection with the work.

7. Upon completion of the work, the Contractor shall be relieved of responsibility for accidents and damages to persons or property occurring thereafter.

8. The Contractor will abide and comply with all laws and regulations which in any manner affect those engaged or employed on the work or which in any way affect the conduct of the work.

9. The Township shall notify residents along the road in advance of the schedule for improvements. Residents along the road shall be allowed access in and out of their property during the project even though the road may be closed to through traffic during the work.

10. The location, of informational, regulatory and warning signs shall be determined by the Township. The signs specified shall be provided by the Contractor for installation by the Township or by the Contractor according to the Township's directions.

11. This agreement shall be binding upon the Township and their successors in office.

IN WITNESS WHEREOF, the Parties hereto have caused this agreement to be signed by their duly authorized representatives on this day and year written.

N.R.HAMM QUARRY, INC.  
PERRY, KANSAS

CENTER TOWNSHIP

By: *N. Rodney Hamm*  
N.Rodney Hamm, President

By: *Gary R. Yocum*  
Gary Yocum

By: *Tom Haslouer*  
Tom Haslouer

By: *Merl D. Peck*  
Merl Peck

MZ/nr

**CONTRACT FOR ROAD IMPROVEMENT**  
**CENTER TOWNSHIP -- DICKINSON COUNTY KANSAS**

THIS AGREEMENT, made and entered into this  / 8  day of March 1997, by and between Center Township of Dickinson County, Kansas, hereinafter referred to as Township, and N.R. Hamm Quarry, Inc. of Perry, Kansas, hereinafter referred to as Contractor.

WHEREAS, Center Township is empowered by the laws of Kansas to enter into contracts to improve and maintain the township roads in said Township, and

WHEREAS, the Contractor, N.R. Hamm Quarry, Inc., has applied for zoning to establish a rock quarry in Section 13, Township 13 South, Range 3 East. The Township and Contractor desire to make road improvements to allow for truck traffic on quarry road.

NOW THEREFORE, in consideration of the premises and to secure the improvements of the road, the Parties mutually agree as follows:

1. This project shall be undertaken, prosecuted and completed for and on behalf of the Township by the Contractor.
2. The Contractor shall furnish all labor, equipment, accessories, and materials and shall perform all work necessary to complete the improvements in a good substantial and workmanlike manner ready for use, and in accordance with the agreements hereinafter set forth.
3. The project will include;
  - A. Modify drainage structures and widening Paint Road from 2200 Avenue to 2300 Avenue.
  - B. 2200 Avenue will be widened and the top of three hills will be cut down to improve the site distances, extensions will be added to the current drainage structures to accommodate the road widening.
  - C. Quail Road will be widened and drainage structures will be extended to accommodate the widening of Quail Road.
4. The project will be constructed within the limits of the existing rights-of-ways, which will be staked out by the Township. The scope of the work does not include and should not require any improvements to the existing entrances to property beyond the Township right-of-way.



5. The Contractor shall carry liability insurance to protect the public from injuries by reason of carrying on of the work and to protect the Township from liability on account of injuries to workers, as provided by law, and to protect the Township from liabilities to any person for damages by reason of carrying on the work. Certified copies of Contractor's public liability and property damage insurance for this project shall be provided to the Township and shall remain in effect during the course of these project. Such coverage shall be for a minimum of \$250,000 per person and \$500,000 per incident.

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6. The Contractor shall provide, erect and maintain during the progress of the work suitable barricades and warning signs as maybe necessary to insure the safety of the public as well as those engaged in connection with the work.

7. Upon completion of the work, the Contractor shall be relieved of responsibility for accidents and damages to persons or property occurring thereafter.

8. The Contractor will abide and comply with all laws and regulations which in any manner affect those engaged or employed on the work or which in any way affect the conduct of the work.

9. The Township shall notify residents along the road in advance of the schedule for improvements. Residents along the road shall be allowed access in and out of their property during the project even though the road may be closed to through traffic during the work.

10. The location, of informational, regulatory and warning signs shall be determined by the Township. The signs specified shall be provided by the Contractor for installation by the Township or by the Contractor according to the Township's directions.

11. This agreement shall be binding upon the Township and their successors in office.

IN WITNESS WHEREOF, the Parties hereto have caused this agreement to be signed by their duly authorized representatives on this day and year written.

N.R.HAMM QUARRY, INC.  
PERRY, KANSAS

CENTER TOWNSHIP

By: [Signature]  
N.Rodney Hamm, President

By: [Signature]  
Gary Yocum

By: [Signature]  
Tom Haslouer

By: [Signature]  
Merl Peck

MZ/nr

3-18

**TESTIMONY OF CLARK DUFFY  
ON SENATE BILL 602**

**BEFORE THE  
HOUSE COMMITTEE ON ASSESSMENT AND TAXATION**

**MARCH 17, 1998**

My name is Clark Duffy. I reside in Topeka, but my family farm which I now own is in Dickinson County. I am not familiar with the specifics of this issue, but after observing the discussion on Senate Bill 602 in the Senate Committee, I would like to make some observations in opposition to this bill.

I am not opposed to aggregate production in our area if producers 1) clean up after themselves and 2) pay their fair share. Unfortunately, according to the State Conservation Commission, no land has ever been reclaimed in Dickinson County under the provisions of the Quarried Land Reclamation Act. Now, it appears aggregate producers do not want to pay for their share of road damages directly attributable to their activities. That is the issue regarding Senate Bill 602.

Since quarry lands are classified as wasteland, other taxpayers in the County have to pay most of the taxes. When the County was able to document the roads that were damaged directly by aggregate production, they found a creative way for the user (or beneficiary) to pay. That is the severance tax which would be prohibited by this legislation. I believe if a user is directly responsible for a governmental expense, then that user should pay for that government service. That is why I am opposed to Senate Bill 602.

## OBSERVATIONS ON SENATE BILL 602

***Economic Impact*** - Some have suggested that the taxpayers of Dickinson County should pay this additional cost because of the economic benefit of aggregate production in the County. The fact is aggregate production has a negative impact on the economy in Dickinson County. A financial economist would readily acknowledge that the benefits of sustained agricultural production has far more tax and economic benefit to a community than does the one-time benefit of aggregate taken from land that is then left as wasteland. I recognize that aggregate is an integral part of economic development in the State, but why should Dickinson County taxpayers pay a penalty to subsidize an economic development activity that primarily benefits those outside Dickinson County?

***"This will take money from the State Highway Fund"*** - The State Highway Fund is based on the concept of "user pay". Why shouldn't the user (or beneficiary) pay in this instance? In addition, I note that the Department is not concerned about the amount of money the Highway Fund would pay in Dickinson County. It is concerned that if applied statewide, it could cost over \$1 million. This is an indication to me that this issue may be a problem that the state should be concerned about in many communities across Kansas.

***"This is a local dispute"*** - I believe it is a localized problem that exists every place there is aggregate production in Kansas (see comments by the Kansas Department of Transportation). Even if the Kansas Legislature recognizes this as a local dispute, why does it want to pass this bill and take sides? Why not let the court decide?

***"This is a bad precedent"*** - If this is a local dispute it would only apply in Dickinson County, and there is no precedent. If however, it is a local problem

that may exist in other places, then I suggest that the legislative solution should be to sit down with the local communities and the aggregate producers and figure out a way to resolve the problem. If the problem is solved, then Senate Bill 602 may or may not be a good idea.

***“There are other solutions “*** - I am sure there are other solutions, but not the two I have heard suggested. One is to authorize a county sales tax for road construction. Why would we want to impose a sales tax on ourselves to pay for roads that are damaged specifically by aggregate production? That’s no different than the current situation.

The second solution suggested is to handle the issue through the permit. I don’t know if it is legal to impose a highway tax in a permit. But even if it is, if Senate Bill 602 passes, why wouldn’t aggregate producers simply come to the Legislature and have a bill passed that says they cannot be subject to highway use tax in a permit.

### **CONCLUSION**

- I am not opposed to aggregate production if aggregate producers clean up after themselves and pay their own way.
- I ask that the Legislature not “take sides” on this issue by passing Senate Bill 602. Instead, I ask the State to work with the aggregate producers and local units of government to help solve this problem.

## SUBCOMMITTEE REPORT ON HB 2602

HB 2602, as amended, would replace SBOTA with a new Tax Appeals Commission and make a number of changes in the appeals process. The bill also would create a new property tax exemption for certain property used for manufacturing, research and development, or warehousing purposes.

### The Tax Appeals Commission

The bill would abolish the State Board of Tax Appeals on January 1, 1999 and transfer all of its powers, duties, functions, property, and personnel to a new Kansas Tax Appeals Commission (TAC). The TAC would be an independent agency within the executive branch.

The main body of TAC would consist of three commissioners appointed by the Governor, all of whom would be subject to Senate confirmation. The Governor also would be authorized to appoint a commissioner pro tem when a conflict prevents a commissioner from hearing an appeal or a commissioner is otherwise unavailable. The votes of two commissioners would be required for any TAC action. Commissioners would be required to be Kansas residents and to have been "actively practicing" law in Kansas for at least five years. Commissioners would be subject to the Supreme Court Rules of Judicial Conduct applicable to all district court judges and would be bound by the doctrine of judicial precedent to adhere to published decisions of the appellate courts. The TAC would be required to give due deference to prior TAC decisions and to state reasons and justifications for overruling a prior decision based on similar facts. Commissioners could be removed by the Governor for cause, after public hearings had been conducted in accordance with KAPA.

The TAC would be required to appoint, subject to approval by the Governor, an executive director. The executive director, who would be required to have familiarity with the tax appeals process, would be authorized to employ all persons necessary, including appraisers and hearing officers, to implement the provisions of the act.

### The Small Claims Division

The bill establishes one division within the TAC as the Small Claims Division (SCD). Hearing officers appointed by the executive director would have authority to hear and decide SCD cases. Taxpayers could elect to appeal decisions, findings, orders, or rulings of the Kansas Director of Taxation to the small claims division when the amount of tax in controversy does not exceed \$20,000, or, in the case of property tax valuation disputes, when the property in question is single family residential property or the appraised valuation of the property in question is less than \$3,000,000, except that no cases involving agricultural use value could be considered in the SCD. SCD hearings would be required to be conducted with 60 days after appeals are filed, and hearing officers would be required to render decisions within 30 days of the hearings. Documents provided by taxpayers and county or district attorneys for SCD hearings would be returned and would be considered confidential. Taxpayers appealing to the small claims division would not be precluded from appealing subsequently to the regular division of TAC.

### TAC Proceedings and Requirements

No appeals of any kind could be docketed in the regular TAC division without the payment of a \$50 docket fee. All such docket fees would be credited to the SGF.

Proceedings before the regular division of TAC would be governed by the provisions of the Kansas Administrative Procedures Act. Taxpayers could be represented by an attorney, any person enrolled to practice before the United States Tax Court, or could appear *pro se*. All final actions of the TAC, including final actions on nonstate-assessed property tax cases, could be appealed to the Court of Appeals. Under current law, property tax valuation cases not involving state-assessed property are appealed from SBOTA to district court before being eligible for appeal to the Court of Appeals.

The TAC would be required to provide any property owner information and assistance sufficient to all the preparation of a proper request for exemption. New language would provide that all IRB and EDX exemption requests of cities and counties prepared in accordance with guidance provided by TAC would be deemed approved unless TAC subsequently scheduled a hearing within 30 days after the requests for exemption are received. All decisions denying property tax exemption requests of any kind would be required to be published.

### *Property Tax Appeals Process Changes*

Taxpayers appealing valuations for single family residential property or of other property except agricultural land with a valuation of \$3 million or less would have the option of skipping the local hearing officer step in the appeals process and moving directly to the SCD or to the regular division of the TAC. The requirement under current law that counties with 10,000 or more parcels or real estate appoint local hearing officers also would be repealed.

Taxpayers who own property leased to multiple tenants and who are appealing valuation or protesting taxes would be required to provide income and expense information to county appraisers. Such information would be required to be kept confidential by county appraisers.

### *IRB and EDX Exemptions*

With respect to locally-granted property tax exemptions, the amount of time parties seeking exemption have to request reconsideration of a decision would be expanded from 15 to 30 days. Cities and counties seeking to grant EDXs would be mandated to adopt resolutions or ordinances stipulating that:

- the property is to be used exclusively for one of the purposes outlined in Section 13 of Article 11 of the *Kansas Constitution*;

- if the property is to qualify for the exemption on the basis of manufacturing, the business using property exclusively for such purpose must be engaged in the business of transforming, refining, or combining materials and labor to convert tangible personal property from one form to another or to enhance value by physical processing or packaging;
- if the property is to be used to expand an existing business, the expansion will result in employment of one or more full-time employees or to "retain" jobs pursuant to KSA 79-252;
- if the business is relocating from elsewhere within Kansas, the Secretary of Commerce and Housing has approved the exemption.

K.S.A. 79-252 would be amended to exempt from property taxation buildings or added improvements, together with land and all associated tangible personal property, used exclusively for manufacturing, research and development, or warehousing, provided a board of county commissioners or governing body of a city has found that the exemption is necessary to facilitate the expansion of the business or to retain jobs in the state and the county or city. Exemptions so granted would be in effect for "not more than" 10 years. The exemptions provided through KSA 79-252 would be deemed to be "in accordance with" the EDX section of the Kansas Constitution.

#### Motor Vehicle Property Tax Exemption Filing Requirements

Finally, owners of motor vehicles exempt from property taxation pursuant to KSA 79-201 Ninth would also be removed from exemption filing requirements pursuant to KSA 79-213.

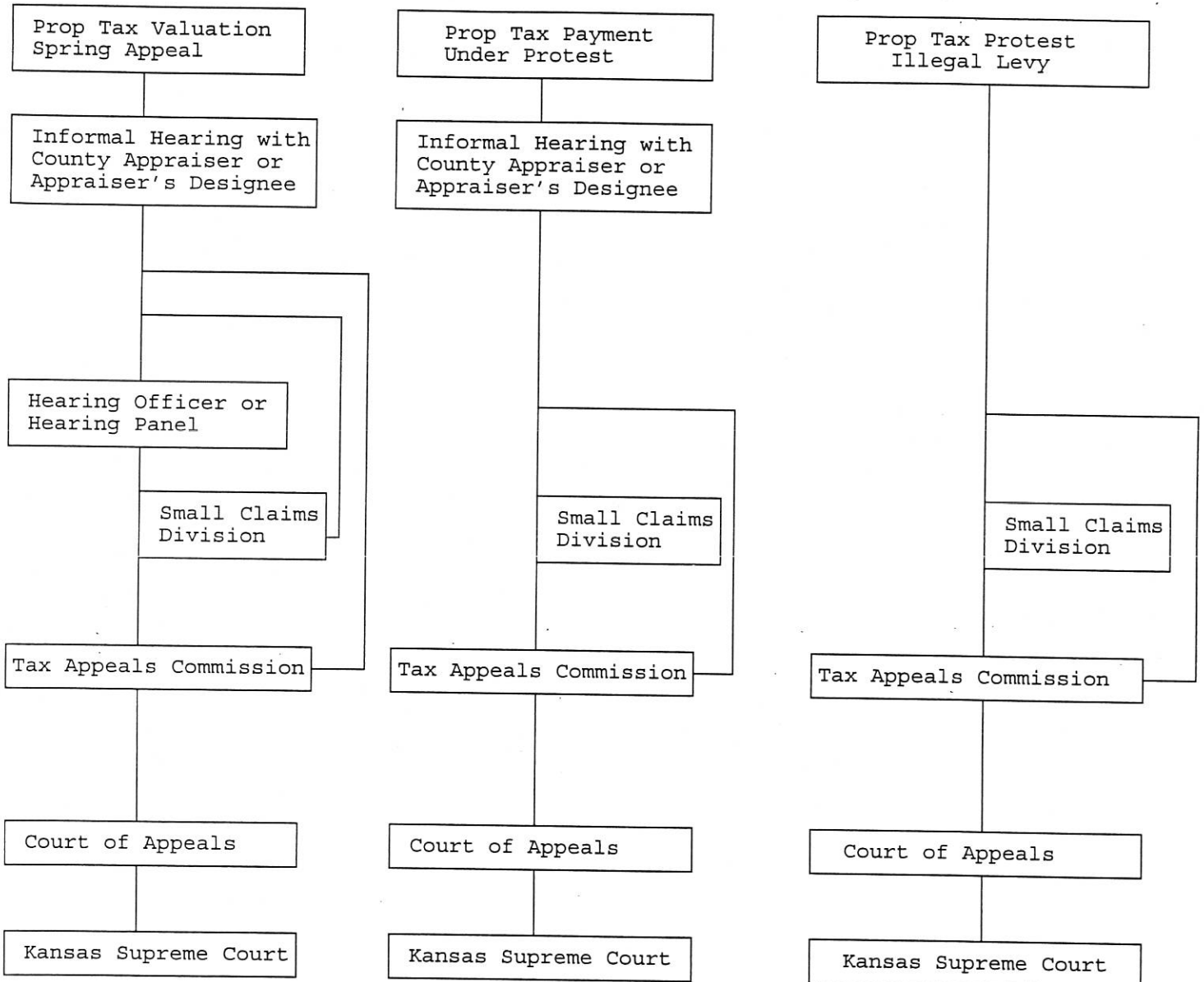
#### Changes in Appeals Process

The changes in the appeals process for property and non-property tax cases are summarized in the attached flow-charts.



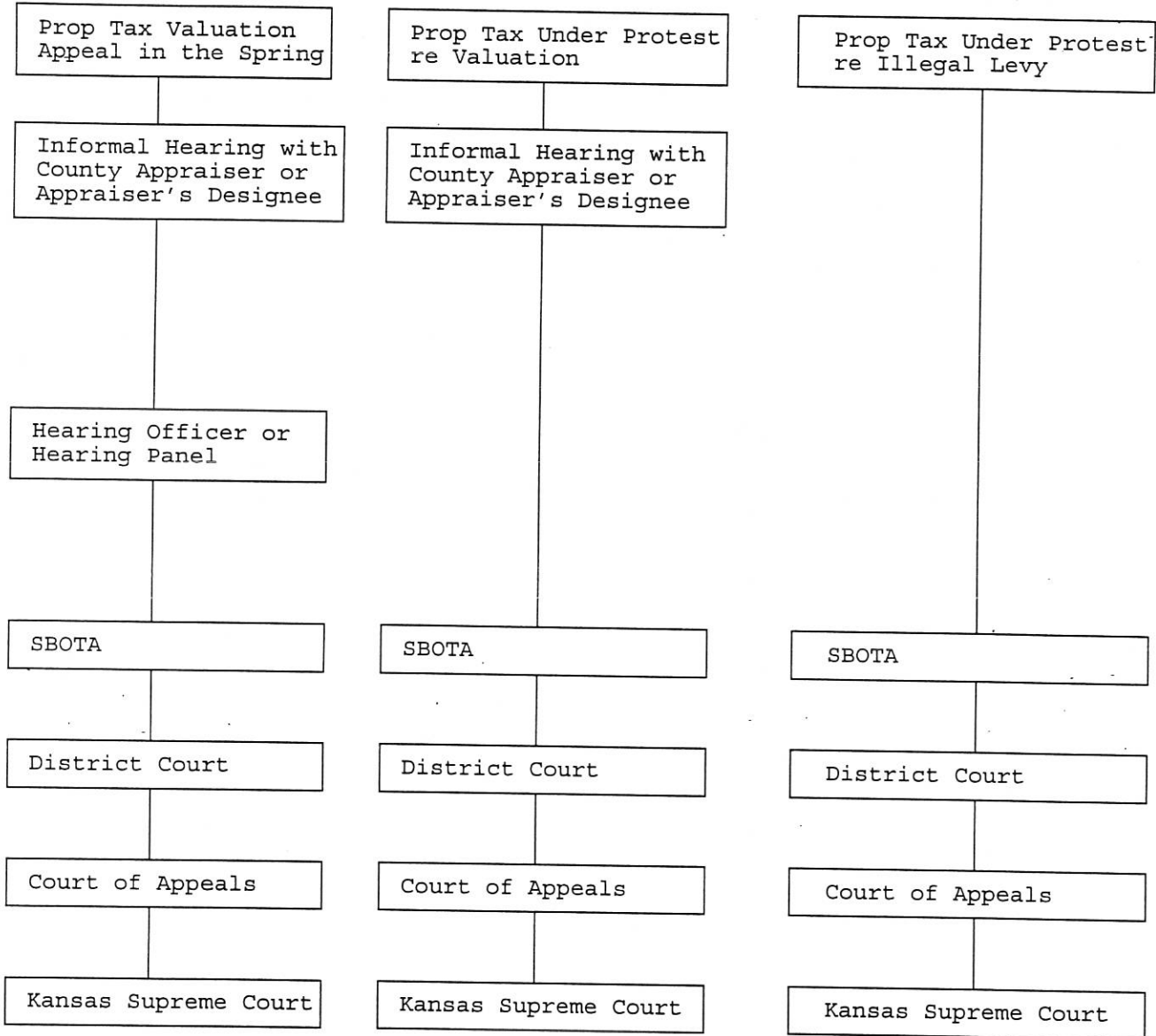
# Property Tax Cases

## Proposed Law



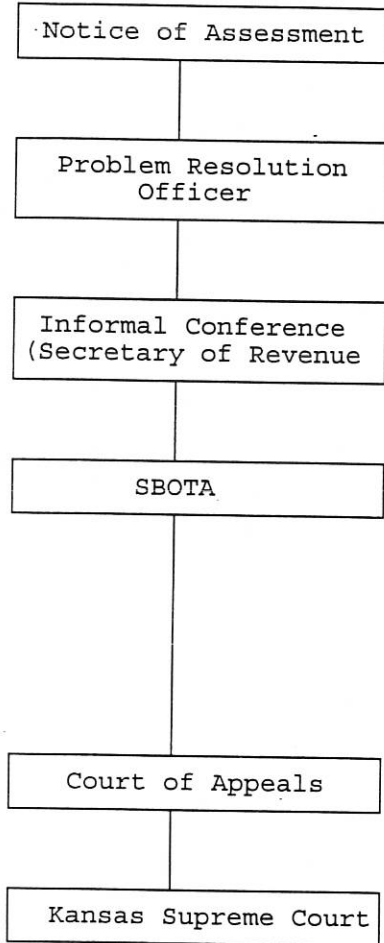
# Property Tax Cases

## Current Law

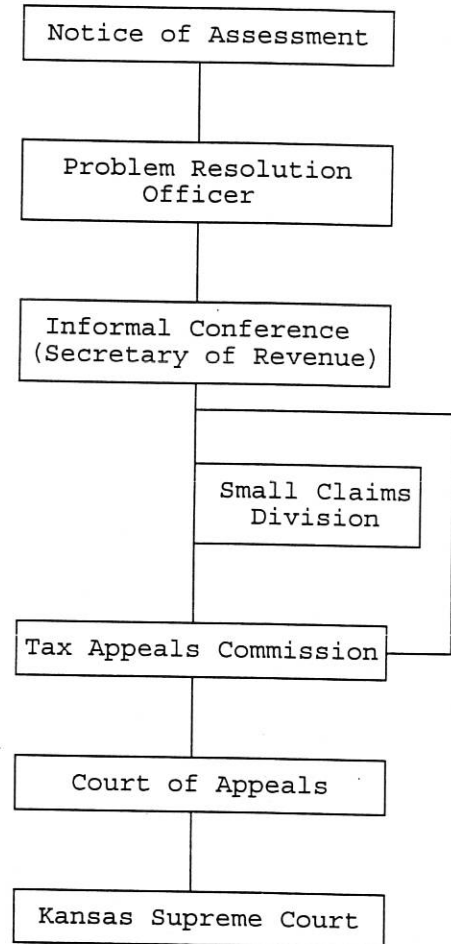


# SECRETARY OF REVENUE CASES (Income, Sales & Inheritance)

## Current Law



## Proposed Law



New Sec. \_\_. (a) Member of the Kansas tax appeals commission shall complete the following course requirements:

(1) a tested appraisal course of not less than 30 clock hours of instruction consisting of the fundamentals of real property appraisal with an emphasis on the cost and sales approaches to value;

(2) a tested appraisal course of not less than 30 clock hours of instruction consisting of the fundamentals of real property appraisal with an emphasis on the income approach to value;

(3) a tested appraisal course of not less than 30 clock hours of instruction with an emphasis on mass appraisal;

(4) an appraisal course prescribed by the director of property valuation with an emphasis on Kansas property tax laws and computer assisted mass appraisal;

(5) an appraisal course on the techniques and procedures for the valuation of state assessed properties with an emphasis on unit valuation; and

(6) a tested appraisal course on the techniques and procedures for the valuation of land devoted to agricultural use pursuant to K.S.A. 79-1476, and amendments thereto.

(b) The executive director shall adopt rules and regulations prescribing a timetable for the completion of the course requirements set forth in subsection (a), and prescribing continued education requirements for members of the Kansas tax appeals commission.

New Sec. \_\_. (a) Hearing officers appointed by the executive director shall have successfully completed the following course requirements:

(1) a tested appraisal course of not less than 30 clock hours of instruction consisting of the fundamentals of real property appraisal with an emphasis on the cost and sales approaches to value;

(2) a tested appraisal course of not less than 30 clock hours of instruction consisting of the fundamentals of real property appraisal with an emphasis on the income approach to value;

(3) a tested appraisal course of not less than 30 clock hours of instruction with an emphasis on mass appraisal;

(4) an appraisal course prescribed by the director of property valuation with an emphasis on Kansas property tax laws and computer assisted mass appraisal; and

HOUSE TAXATION  
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(b) The executive director shall maintain a list of approved courses, which meet the requirements prescribed by subsection (a), and shall make the final determination whether a candidate for hearing officer has successfully completed such requirements.

(c) The executive director shall adopt rules and regulations providing for the administration of this section and prescribing continued education requirements for hearing officers.