

Approved: 3-10-98
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION.

The meeting was called to order by Chairperson Audrey Langworthy at 11:10 a.m. on February 24, 1998, in Room 519--S of the Capitol.

Members present: Senator Langworthy, Senator Corbin, Senator Lee, Senator Bond, Senator Goodwin, Senator Hardenburger, Senator Karr, Senator Praeger, Senator Steffes and Senator Steineger.

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

Conferees appearing before the committee: Dane Barclay, Kansas Aggregate Producers' Association
Mike Lackey, Kansas Department of Transportation
Paul Whitehair, Dickinson County Commissioner
Dale Curtis, Dickinson County Highway Commissioner

Others attending: See attached list

Senator Langworthy announced that the conference committee on **SB 500**, the Kansas Tax Reduction and Reform Act of 1998, was scheduled to meet February 25 from 12:00 p.m. to 1:15 p.m. in Room 519-S.

SB 602--County severance tax prohibited.

Dane Barclay, Kansas Aggregate Producers' Association (KAPA) testified in support of **SB 602**. The bill was requested by KAPA after attempts to work with the Dickinson County Commissioners to resolve issues regarding a county severance tax for the removal and processing of aggregates were unsuccessful. The bill would make it clear that counties do not have the power to impose a severance tax. (Attachment 1)

Mike Lackey, Kansas Department of Transportation (KDOT), testified in support of **SB 602**. A significant amount of aggregate is used each year by KDOT in highway construction and maintenance activities. KDOT used approximately 13.5 million tons of aggregate in 1996, and approximately 85 percent was produced in Kansas. If the bill is not passed, there is a potential for significant increased costs to KDOT. (Attachment 2)

Paul Whitehair, Dickinson County Commissioner, testified in opposition to **SB 602**. He explained that Dickinson County imposed a county severance tax in April of 1997 to provide revenue to support the maintenance of county roads. Carriers with heavy equipment and loads of rock and rock products cause major deterioration of county roads in the vicinity of five rock quarries located in Dickinson County. He maintained that funding for the cost to repair the destruction should be paid for by the industry rather than by the citizens of the county. Attached to Mr. Whitehair's written testimony were statistics proving the need for additional revenue for road maintenance. He also called attention to written testimony in support of the bill by Robert J. King, Superintendent of Chapman U.S.D. #473, who expressed the need for safe roads for school busses. (Attachment 3)

Dale Curtis, Dickinson County Highway Administrator, followed with further testimony in opposition to **SB 602** (Included in Attachment 3). Dickinson County has 35 1/2 miles of county black top road directly affected by rock quarry facilities. Those roads require more maintenance than roads without the traffic from the quarries. The county cannot afford to maintain the badly deteriorated roads.

Mr. Curtis informed the committee that the Dickinson County severance tax was currently in litigation. Dickinson County has not collected any severance tax as the lawsuit was filed three to four months after the severance tax was enacted.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S
Statehouse, at 11:00 a.m. on February 24, 1998.

Senator Steffes reminded the committee that recently the Senate passed a tax bill with a sales tax authorization for Dickinson County to help with county road maintenance in the event that **SB 602** passes. He also noted that if Dickinson County is allowed to collect a severance tax, other counties are certain to follow. With this, the hearing on **SB 602** was closed.

Senator Bond questioned if counties have the authority to impose a severance tax under current Kansas law, noting that the statutes are unclear. He observed that the issue in **SB 602** is gravel, but it might as well be water, sod, wheat, corn or a many other issues related to driving on county roads. He believed that it would be a dangerous precedent to permit Dickinson County to impose a severance tax as it leaves severance taxation wide open to abuse.

Senator Steineger commented that in his senatorial district, Kansas City has a similar problem with industrial roads heavily traveled by trucks. As in Dickinson County, Kansas City does not have the funds to maintain those industrial roads. He viewed the proposed severance tax in Dickinson County as a user tax as the road damage was definitely directly linked to users of the rock quarries. Therefore, he was supportive of the Dickinson County severance tax.

Senator Hardenburger moved to report **SB 602** favorable for passage, seconded by Senator Bond.

Senator Corbin asked what effect the passage of the bill would have on the pending lawsuit. Staff answered, if the Legislature passes the bill and the Governor signs it, it renders the issue moot.

Senator Lee observed that bad roads are a common problem in all rural districts. How to deal with the repair is becoming an increasing problem for all rural counties because they are experiencing a decline in population. However, she has concern about the use of a county severance tax to address the problem. She expressed her hope that Dickinson County and its quarries could find a way to come to a private agreement to make certain that the roads are maintained.

In response to Senator Corbin's question regarding the ongoing litigation, Senator Bond stated that he and others do not believe that the counties will prevail under current Kansas law. However, the fact that the lawsuit was filed indicates that state law may not be clear enough. He felt the Legislature has the responsibility to clearly state what is believed to be good public policy.

Upon a call for a vote on Senator Hardenburger's motion, the motion carried.

The meeting was adjourned at 11:50 a.m

The next meeting is to be announced.

SENATE ASSESSMENT AND TAXATION COMMITTEE GUEST LIST

DATE: February 24, 1998

NAME	REPRESENTING
Leo L. Lepore	Dickinson County Comm.
George Schlesener	1 st Dist Co. Comm Dickinson Co
Judy Melen	Ks. Assoc of Counties
Mike Curtis	Dickinson Co.
Paul Whitshair	Dickinson Co Comm.
Don Schuade	LI @ GIB
Kelley Kuntala	City of Overland Park
Randy Allen	Kansas Assoc. of Counties
Clark Duffy	Ks Petio Council
Jim Langford	DOB
Larry Sisson	Kearney Law office
Jack Graves	W N & Oly + Dalse
Ron Coches	McGill's Assn.
George Peterson	Ks Taxpayers Network
Bill Watts	KDOT
Mike Lockey	KDOT
Woody Moses	Ks. Agg Prod. Assn
John C. Frieden	Ks Agg Prod. Assn.
BILL GAHAN	MARIN MARIETTA/KAPA

KAPA

Kansas Aggregate
Producers' Association

Edward R. Moses
Managing Director

Testimony

By The
Kansas Aggregate Producers' Association

Before the
Senate Assessment & Taxation Committee

Regarding SB 602

February 24, 1998

Good morning, Madame Chair 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:

Senate Assessment + Taxation
2-24-98
Attachment 1

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.

2. It is hereby imposed a tax upon the severance and production of rock or gravel from land, quarries or pits which is removed from land, quarries or pits located in Dickinson County, Kansas for sale at retail or wholesale or transport storage, profit or commercial use subject to the provisions of this act.

3. Such tax shall be born ratably by all persons, firms, or corporations within the term producer as defined by this resolution and amendments thereto on all rock or gravel removed or severed and said rate shall be set in the amount of twenty cents (.20) per ton on all rock or gravel.

4. All persons, firms or corporations involved in the removal of ~~rock~~^{rock} or gravel pursuant to this resolution shall file and receive a license from the County Clerk of Dickinson County, Kansas, so stating that they will be acting as a producer as defined herein. Said license shall be available at no cost, and may be obtained on a yearly basis.

5. All producers of rock and gravel severed from land or water, quarries or pits located in Dickinson County, Kansas shall keep a record of the gross amount of said weight of said rock or gravel which was removed or severed and said producer shall file with the County Clerk of Dickinson County, Kansas every sixty days the amount reflected in gross weight of said rock or gravel removed.

6. Along with the filing of the rock or gravel gross weight documents with the County Clerk, said producer shall also pay to the Dickinson County Clerk, the tax imposed on removal of said rock or gravel.

7. The tax is upon the producer as defined by this section and is incurred at the time of severance. Failure to pay said taxes as specified herein, shall result in the license issued hereinabove being revoked. There is also imposed a penalty of 10% on the amount of tax due for any taxes not paid as imposed herein.

8. The producer of the rock or gravel as defined herein shall upon demand of the Board of County Commissioners of Dickinson County, Kansas, open all records for inspection and shall keep a list of all gross weights of the rock or gravel removed from Dickinson County, Kansas.

9. Every operator or producer shall make and keep a complete and accurate record showing the gross weight of rock or gravel severed and removed from each site, production unit, quarry or pit and such records shall be preserved during the entire period for which the producer is in operation.

10. All taxes received herein shall be placed in the general fund of Dickinson County, Kansas.

11. The Board of County Commissioners shall be authorized from time to time to amend change or modify the above resolution to carry out the intent of said resolution.

12. This resolution shall take effect sixty (60) days after the final publication herein and said resolution shall be published once each week for two consecutive weeks in the official county

newspaper.

IT IS SO RESOLVED.

BOARD OF COUNTY COMMISSIONERS



LEO LEFERT

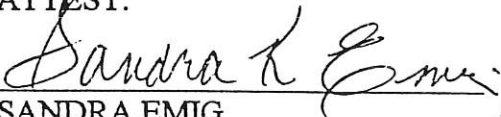


PAUL WHITEHAIR



GEORGE SCHLESENER

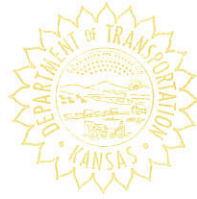
ATTEST:



SANDRA EMIG
Dickinson County Clerk



Passed this 17th day of 1997.



KANSAS DEPARTMENT OF TRANSPORTATION

E. Dean Carlson
Secretary of Transportation

Docking State Office Building
Topeka 66612-1568
(913) 296-3566
TTY (913) 296-3585
FAX (913) 296-1095

Bill Graves
Governor of Kansas

**TESTIMONY BEFORE THE SENATE COMMITTEE
ON ASSESSMENT AND TAXATION**

**Regarding Senate Bill 602
Prohibiting counties from levying a severance tax
February 24, 1998**

Madam Chair 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.

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.

Senate Assessment & Taxation
2-24-98
Attachment 2

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.

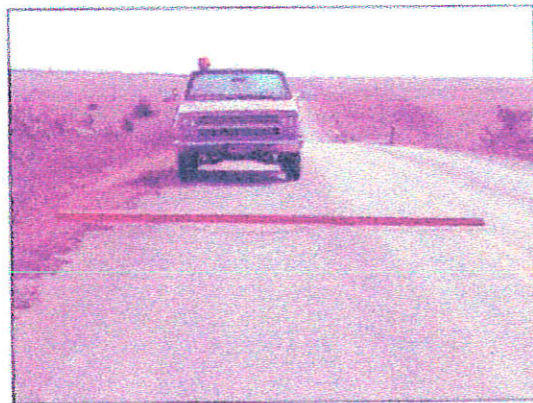
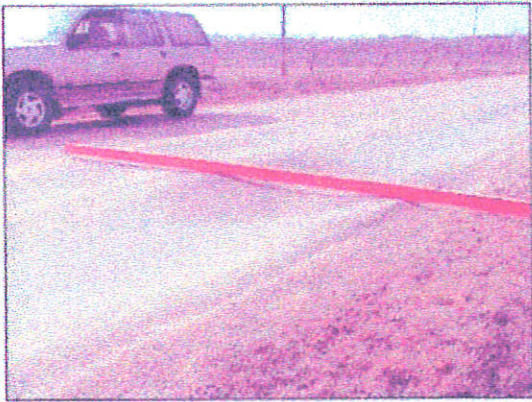
The following pictures show two roads, 2100 Ave. and Rain Rd. and a few of the bad spots, these roads are used by rock haulers. Their average daily volume is 243 to 352 vehicles per day. The second set of pictures are of 500 Ave. with out rock hauler traffic with the average daily volume of 699. All 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.

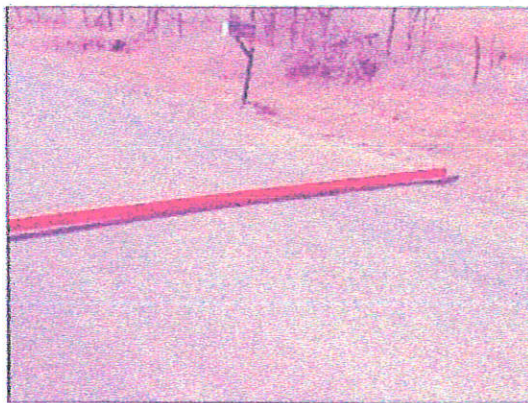
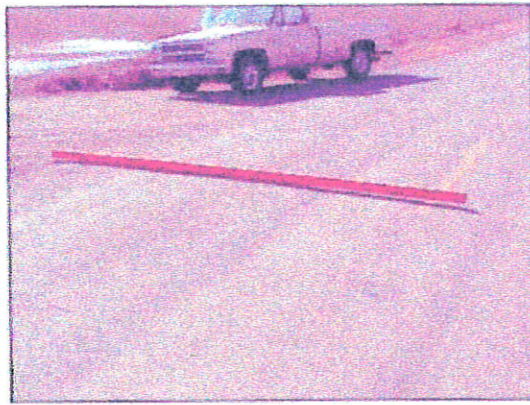
Senate Assessment & Taxation

2-24-98

Attachment 3

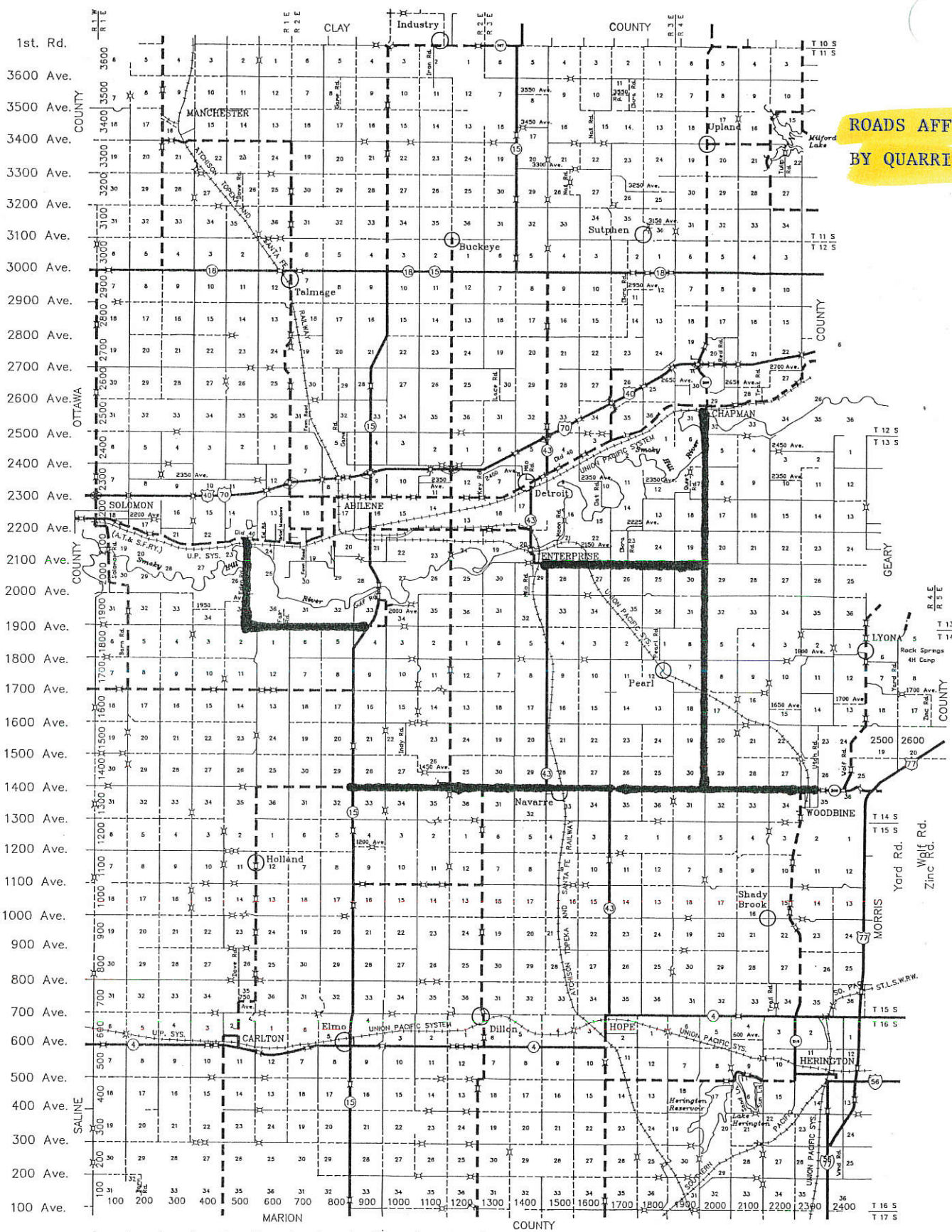


2100 Ave. & Rain Road
243 to 352 vehicles per day



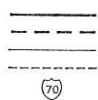
500 Ave.
699 vehicles per day

**ROADS AFFECTED
BY QUARRIES**

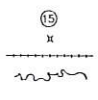


LEGEND

- 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



REVISED 04/28/81 JAV

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

DICKINSON COUNTY
ROAD & BRIDGE TAX LEVIES

YEAR	<u>ROAD & 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

3-11

W

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