

Approved: 2-3-99  
Date

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Chairperson Senator Audrey Langworthy at 11:08 p.m. on February 1, 1999, in Room 519-S of the Capitol.

All members were present except:

Committee staff present: Chris Courtwright, Legislative Research Department  
April Holman, Legislative Research Department  
Don Hayward, Revisor of Statutes Office  
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Mark Burghart, Western Association  
Senator Steve Morris  
Steve Rome, SWKI-Stevens North, Inc.  
Joe Thompson, SWKI-Stevens North, Inc.  
Mark Beck, Division of Property Valuation  
Shirley Sicilian, Department of Revenue

Others attending: See attached list.

The minutes of the January 27 and January 28, 1999, meetings were approved.

Mark, Burghart, Western Association, requested the introduction of a bill on behalf of Sprint. Mr. Burghart called attention to a copy of the bill draft and noted that, essentially, it provides for a refundable income tax credit for telecommunication companies. The credit is based on the differential between the property taxes that they pay at a 33 percent assessment rate and what that liability would be at a 25 percent assessment rate. The credit mechanism would be phased in over four years. (Attachment 1)

Senator Steffes moved to introduce the bill, seconded by Senator Goodwin. The motion carried.

**SB 78-Property taxation; concerning the exemption of certain farm machinery and equipment.**

Senator Steve Morris, sponsor of the bill, testified in support. He explained that the need for the bill arose due to the formation of several nonpublic utilities located in southwest Kansas in response to the rapidly declining pressures from gas wells in the Hugoton Field. He further explained that the majority of irrigation wells depend on natural gas for their fuel, and irrigators have formed several nonpublic utilities to address the pressure problem. **SB 78** expands the definition of the farm machinery and equipment exemption to include these gas lines. (Attachment 2) He called attention to copies of an amendment to **SB 78** suggested by the Property Valuation Division of the Department of Revenue. (Attachment 3) Senator Morris noted that the fiscal note on the bill prepared by the Division of Budget indicates there would be a negligible decrease in revenue; however, the report puzzles him as there has never been revenue associated with this type of utility.

Steve Rome, President of SWKI-Stevens North, Inc., gave further testimony in support of **SB 78**. Mr. Rome discussed in further detail the reason for the formation of the nonprofit utilities and itemized their accomplishments. In conclusion, he outlined the justification for exempting the systems of the nonprofit utilities. (Attachment 4)

Joe Thompson, secretary/treasurer of one of the nonprofit utilities described by Mr. Rome, testified in support of **SB 78**. He, too, noted that the nonpublic utilities were formed out of a necessity to assure a dependable natural gas supply to irrigation wells. He summarized the reasons he believes the bill deserves to be passed and, in conclusion, asked for the Committee's support. (Attachment 5)

Senator Langworthy called attention to written testimony in support of **SB 78** submitted by Leslie Kaufman, Kansas Farm Bureau. (Attachment 6)

CONTINUATION SHEET

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE, Room 519-S Statehouse, at 11:08 a.m. on February 1, 1999.

Mark Beck, Division of Property Valuation, presented an explanation of the proposed amendment to **SB 78**. He explained why "gathering and" on page 1, line 22 was stricken. He also noted that K.S.A. 79-5a01, which defines public utility for state assessment purposes, should be amended to expressly exclude from its definition natural gas distribution systems owned and operated by nonprofit public utilities described in K.S.A. 66-104c, which are operated predominately for the purpose of providing fuel for the irrigation of land devoted to agricultural use. (Attachment 7) With this, the hearing on **SB 78** was closed.

**Action on previously heard bills:**

**SB 43 relating to property taxation and concerning certain refunds relating to residential property.**  
**SB 47 relating to taxation and concerning collection procedures of the Department of Revenue.**

Senator Langworthy recalled that **SB 43** deals with the homestead property tax relief act and was introduced at the request of the Department of Revenue. As **SB 43** simply clarifies that the refund payments would come out of the homestead property tax refund account, Senator Langworthy suggested that it could be placed on the Consent Calendar. Shirley Sicilian, Department of Revenue, was in agreement with Senator Langworthy.

Senator Corbin moved to report **SB 43** as favorable for passage and that it be placed on the Consent Calendar, seconded by Senator Lee. The motion carried.

Senator Langworthy called upon Ms. Sicilian to answer questions arising at the hearing on **SB 47**. Ms. Sicilian first explained that the bill would allow the Secretary of Revenue to abate a tax liability in additional situations beyond just insolvency, and it raises the limits for an automatic charge off. Currently, if an account is older than seven years or less than \$25.00 and meets certain other requirements, it can be abated with no further action. The bill raises the amount to \$100.00 and reduces the seven year period to five years. Currently, when the amount is greater than \$25.00, there is no year requirement, and the law states that the Secretary "shall" petition the Board of Tax Appeals (BOTA) to abate. A question arose at the hearing about the use of "shall." Ms. Sicilian reported that the Department does not always petition BOTA. The Department believes the statute should read, "shall petition BOTA in order to abate" as this is the manner in which the Department has treated it—essentially treating "shall" as "may." She summarized that the intent of the first part of the bill is to increase the Department's ability to abate in full or in part, and it also increases the Department's recording requirements to insure that the increased ability and responsibility are handled appropriately.

The second part of the bill deals with the way the Department handles corporate officer liabilities. Currently, a corporate officer can be held responsible for the debt of the corporation if the officer is found to be a responsible individual as defined by statute. The bill does not change the criteria for determining when an officer of the corporation can be found to be a responsible individual. Ms. Sicilian noted that the Department does not assess the officer at the same time it assesses the corporation as there is no need to in the vast majority of cases. The only time Department assesses the officer is when the corporation is not going to pay the liability. The bill would create a process for officers to appeal before paying the assessment.

The third part of the bill subsumes the Division of Collections statutorily into the Division of Taxation. Ms. Sicilian explained that for at least six years the Director of Taxation has been the acting Director of Collections. The Department's whole process would be streamlined by putting the Division of Collections under Taxation, and it would like to recognize that fact statutorily.

Staff noted that a technical amendment is needed on page 7, line 12, to delete "the" before "dissolution."

Senator Lee moved to amend **SB 47** as suggested by staff and to report it as favorable for passage as amended, seconded by Senator Donovan. The motion carried.

The meeting was adjourned at 12:05 p.m.

The next meeting is scheduled for February 2, 1999.

# SENATE ASSESSMENT AND TAXATION COMMITTEE GUEST LIST

DATE: February 1, 1999

NAME	REPRESENTING
George Welch	Barbee & Assoc.
Jim Langford	Dir of Budget
MARK BECK	KDOT
MARK BURGART	WESTERN ASSN.
Mike Murray	Sprint
Steve Row	SWKI-Stevens Co. North Inc
Joe Thompson	SWKI-Stevens - E.C. Inc.
Scott Schneider	McGILL, GRACER & ASSOC.
Warren Spikes	SWKI - NORTH IN.
Robert E Krehbiel	KIOGA
Rich McKee	KS Livestock Assoc
Larry Klemman	League of KS Municipalities
Lee Magenthin	WDOC & H
Doug Smith	SWKROA
George Petersen	KS TAXPAYERS NETWORK
Jan Stephens	Gw Co./K-State Extension

An Act relating to taxation; authorizing certain income tax credits

Section 1. There shall be allowed as a credit against the tax liability of a telecommunications company, as defined in K.S.A. 79-3271 and amendments thereto, an amount equal to the difference between the property tax levied and paid on property assessed at a 33% assessment rate and the property tax which would be levied and paid on such property if assessed at a 25% assessment rate except that, for taxable year 1999, the credit shall be equal to 25% of such amount, for taxable year 2000, the credit shall be equal to 50% of such amount, for taxable year 2001, the credit shall be equal to 75% of such amount and for taxable year 2001, and all such taxable years thereafter, the credit shall be equal to 100% of such amount. If the amount of such tax credit exceeds the tax liability for the telecommunication company for the taxable year, the amount thereof which exceeds such tax liability shall be refunded to the telecommunications company. If the telecommunications company is a corporation having an election in effect under subchapter S of the federal internal revenue code, a partnership or a limited liability company, the credit provided by this section shall be claimed by the shareholders of such corporation, the partners of such partnership or the members of such limited liability company in the same manner as such shareholders, partners or members account for their proportionate shares of income or loss of the corporation, partnership or limited liability company.

Section 2. This act shall take effect and be in force from and after its publication in the statute book.

Senate Assessment & Taxation  
2-1-99  
Attachment 1

**STEVE MORRIS**

SENATOR, 39TH DISTRICT

600 TRINDLE

HUGOTON, KS 67951

(316) 544-2084

STATE CAPITOL BUILDING, ROOM 143-N

TOPEKA, KS 66612

(913) 296-7378



TOPEKA

**SENATE CHAMBER****COMMITTEE ASSIGNMENTS**

CHAIRMAN: AGRICULTURE  
SPECIAL CLAIMS AGAINST THE STATE

VICE CHAIR: ENERGY AND NATURAL RESOURCES  
SRS TRANSITION OVERSIGHT

MEMBER: STATE BUILDING CONSTRUCTION  
UTILITIES  
WAYS AND MEANS

**SENATE ASSESSMENT AND TAXATION**

SB 78

February 1, 1999

Madame Chairman and Members of the Committee:

Thank you for the opportunity to visit with you regarding SB 78. The need for this bill arose due to the formation of several non-public utilities located in Southwest Kansas. These utilities were formed in response to the rapidly declining pressures from gas wells in the Hugoton Field.

As you know, irrigation is a vital part of the economy in Kansas and particularly in Southwest Kansas. The vast majority of irrigation wells depend on natural gas for their fuel. The engines powering the irrigation wells require in most cases a minimum of eight psi to operate. The natural gas industry has pulled these wells so hard that most pressures are zero or close to zero. Because of the pressure problem and overall access to supplies of natural gas for irrigation engines, some irrigators have formed several non-public utilities. The irrigators have tackled this problem "head-on" and have spent thousands and thousands of dollars setting up their own infrastructure so they can be assured of a stable supply of fuel.

The members of the NPU's have been irrigating for years with the traditional "informal" infrastructure. This "informal" infrastructure consisted of an irrigation well, pump, engine, gearhead, water lines, sprinklers and gas lines from a gas source to the engine. All of these items are considered to be "agricultural equipment and machinery" as defined by statute and as such, are exempt from property tax.

These NPU's utilize a more "formal" infrastructure with the lines carrying the natural gas to the engine. These more "formal" lines need to be exempt just like the "informal" ones. They perform the same function and are agricultural in nature.

Thank you very much for your consideration of this bill. I will be glad to answer questions.

*Senate Assessment & Taxation*  
*2-1-99*  
*Attachment 2*

SENATE BILL No. 78

AN ACT relating to property taxation; concerning the exemption of certain farm machinery and equipment; amending K.S.A. 79-201j and K.S.A. 79-5a01 and repealing the existing section.

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

Section 1. K.S.A. 79-201j is hereby amended to read as follows: 79-201j. The following described property, to the extent specified by this section, shall be exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

(a) All farm machinery and equipment. The term "farm machinery and equipment" means that personal property actually and regularly used in any farming or ranching operation. *The term "farm machinery and equipment" shall include machinery and equipment comprising a natural gas gathering and distribution system which is owned and operated by a nonprofit public utility described by K.S.A. 66-104c, and amendments thereto, and which is operated predominantly for the purpose of providing fuel for the irrigation of land devoted to agricultural use.* The term "farming or ranching operation" shall include the operation of a feedlot and the performing of farm or ranch work for hire. The term "farm machinery and equipment" shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as the terms are defined by K.S.A. 8-126 and amendments thereto.

The provisions of this subsection shall apply to all taxable years commencing after December 31, 1984 1998.

(b) (1) All aquaculture machinery and equipment. The term "aquaculture machinery and equipment" means that personal property actually and regularly used in any aquaculture operation. The term "aquaculture operation" shall include the feeding out of aquatic plants and animals; breeding, growing or rearing aquatic plants and animals; and selling or transporting aquatic plants and animals. The term "aquaculture machinery and equipment" shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer. (2) All Christmas tree machinery and equipment. The term "Christmas tree machinery and equipment" means that personal property actually and regularly used in any Christmas tree operation. The term "Christmas tree operation" shall include the planting, cultivating and harvesting of Christmas trees; and selling or transporting Christmas trees. The term "Christmas tree machinery and equipment" shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer.

The provisions of this subsection shall apply to all taxable years commencing after December 31, 1992.

*Senate Assessment & Taxation  
2-1-99  
Attachment 3*

Sec. 2. K.S.A. 79-5a01 is hereby amended to read as follows: 79-5a01. (a) As used in this act, the terms "public utility" or "public utilities" shall mean every individual, company, corporation, association of persons, lessees or receivers that now or hereafter are in control, manage or operate a business of:

(1) A railroad or railroad corporation if such railroad or railroad corporation owns or holds, by deed or other instrument, an interest in right-of-way, track, franchise, roadbed or trackage in this state;

(2) transmitting to, from, through or in this state telegraphic messages;

(3) transmitting to, from, through or in this state telephonic messages;

(4) transporting or distributing to, from, through or in this state natural gas, oil or other commodities in pipes or pipelines, or engaging primarily in the business of storing natural gas in an underground formation;

(5) generating, conducting or distributing to, from, through or in this state electric power;

(6) transmitting to, from, through or in this state water if for profit or subject to regulation of the state corporation commission;

(7) transporting to, from, through or in this state cargo or passengers by means of any vessel or boat used in navigating any of the navigable watercourses within or bordering upon this state.

(b) The terms "public utility" or "public utilities" shall not include: (1) Rural water districts established under the laws of the state of Kansas; or (2) any individual, company, corporation, association of persons, lessee or receiver owning or operating an oil or natural gas production gathering line which is situated within one county in this state and does not cross any state boundary line; ~~or~~ (3) any individual, company, corporation, association of persons, lessee or receiver owning any vessel or boat operated upon the surface of any manmade waterway located entirely within one county in the state or (4) **any natural gas distribution system which is owned and operated by a nonprofit public utility described by K.S.A. 66-104c, and amendments thereto, and which is operated predominantly for the purpose of providing fuel for the irrigation of land devoted to agricultural use.**

Sec. 23 The provisions of this act shall apply to all taxable years commencing after December 31, 1998.

Sec. 24. K.S.A. 79-201j is hereby repealed.

Sec. 35. This act shall take effect and be in force from and after its publication in the statute book.

**Testimony of Steve Rome to the Senate Assessment  
and Taxation Committee  
February 1, 1999**

My name is Steve Rome, and I am an irrigation farmer from Stevens County. I currently serve as President of SWKI-Stevens North, Inc., a non-profit utility created under statute 66-104(c).

A little less than two years ago, I testified before two legislative committees; at which time, we explained that the declining pressure in the Hugoton Field was causing the producers and gatherers to install compressors to maintain the production of their gas wells. As a consequence of installing such compression there was a lowering of the gathering system pressure, which in turn caused a situation where an insufficient volume of gas to run an irrigation engine would flow through the lines irrigators had installed from the gas wells to their irrigation engines.

**Problem:**

- Irrigators were unable to receive adequate gas pressure to run their irrigation engines.
- Utilities were not coming forward to build lines to serve us with a replacement supply of natural gas for irrigation (one utility asked that irrigators commit to purchase gas before the conditions, terms, and prices were stated); we also had a desire to protect ourselves by having group ownership of a gas supply system, so that we would not be dependent on a utility for an absolutely essential component of our livelihood.
- Diesel, propane, and electricity were not long-term economical solutions for our needs.

**Solution:** The Southwest Kansas Irrigators Association called irrigators together to find a

*Senate Assessment + Taxation  
2-1-99  
Attachment 4*



## Testimony of Steve Rome

solution and the agreed upon solution was formation of non-profit utilities. In response to the problems caused by low field pressure and additional compression, irrigators have banded together to create Non-Profit Utilities (NPU's). A NPU is a non-profit corporation to whom the Kansas Corporation Commission has issued a certificate of public convenience and necessity to deliver natural gas to its members. NPU's are a self-help solution for irrigators to solve their own problems by creating a distribution pipeline to bring a reliable and economical natural gas supply to their own irrigation wells from transmission lines with adequate pressure. To create an NPU, irrigators have organized themselves into a corporation (NPU), researched the law and engineering, and agreed upon a distribution pipeline design and a set of rules, both to govern their pipeline and to pay for the pipeline.

### **NPU Accomplishments:**

- We have obtained a Kansas Corporation Commission certificate of public convenience and necessity; we were able to quickly obtain our certificate because of the direct and extensive support of the KCC staff.
- We have formed non-profit utilities so that collectively our membership can build and own their gas distribution lines.
- We have an estimated cost of the pipeline and Authorizations For Expenditure prepared based on extensive data collection and an engineering study.
- We have a pipeline designed so that everyone who is now a member can have wells included.
- We have been able to secure pipeline connections (taps) for gas delivery from high-pressure lines (with a durable supply of gas).

## Testimony of Steve Rome

- It is the presence of non-profit utilities that has created new access to irrigation natural gas.
- We have also used our group status as a non-profit utility to negotiate a gas price significantly lower than can be expected for individual irrigators.

Since this was actually only the first time the statute (66-104c) had been used, there were lots of questions and skepticism that had to be addressed. We were learning as we went. There were many questions for the KCC as to how they would look at a non-profit utility (NPU) and whether they saw a problem with this statute being used in this manner. The KCC has really been supportive during this process and went beyond the call of duty to make things happen in a timely manner. Because the compressor project was somewhat a new venture for the gas companies, they had a hard time giving us an indication as to how much time we had to get these systems built. So from day one it has felt like we have been in a crisis situation.

During the decision phase of this process many irrigators were looking for and continue to look for other sources of energy for irrigation. A few farmers bought diesel engines and there is a currently one in my own shop in case of an emergency. At our request, our county agent had a K-State economist complete an economic study of different energy sources and at the current price, diesel is competitive. There are several concerns we have with converting to diesel engines:

- 1.) The cost of a new engine is \$10,000 to \$15,000;
- 2.) The logistics of scheduling fuel deliveries on a weekly basis;
- 3.) The environmental and economic concerns of vandalism to these tanks, resulting in leakage;

## Testimony of Steve Rome

- 4.) The volatility of the price of diesel considering that oil prices are at an all time low.

Even though diesel engines would have been considered tax exempt, they have not been a popular solution.

Obviously, the cost of building these systems had to come from the proceeds of each member's operation, but unfortunately this problem came at a time when irrigators were receiving record low prices for the commodities they produce. The producer cannot automatically ask a higher price for the product he sells to offset the additional expense to build this system.

There is justification for the tax exemption of these systems:

- Since no utility offered to be a realistic part of the solution to this problem within the time frame we needed it, we were forced to spend many volunteered hours in meetings working for a solution to this problem;
- Since the lines are being paid for from the proceeds of production agriculture, it would appear that such lines could be considered similar to other farm machinery or equipment that is currently tax exempt;
- Also, many of the gas gathering lines that irrigators have already paid for are being abandoned because the gas well no longer has enough pressure to supply gas to the irrigation engines. These lines were also considered farm equipment and are tax exempt.

In conclusion, I thank you for your attention and invite any questions that you might have.

OUTLINE FOR TESTIMONY - SENATE BILL No. 78

I) Thank you for the opportunity to testify today in support of Senate Bill No. 78.

My Name is Joe Thompson and I am president of the Stevens County Farm Bureau Association and a secretary/treasurer for one of the Nonprofit Utilities described by K.S.A. 66-104c. The creation of N.P.U.'s have been necessitated mainly by the lack of consistent wellhead pressures in the Hugoton Gas Field. The N.P.U.'s were formed out of this necessity to assure a dependable natural gas supply to our irrigation wells.

III) We as farmers determined that since wellhead gas pressure was not going to be reliable, another source of gas or energy was needed. A comparison of energy costs indicated that natural gas is the most economical source, followed by diesel. The next problem was pipeline service, especially so after discussions with certificated and established natural gas companies showed us we were going to have a void of service. We also had a concern over the issue of time. The 1998 growing season was a stressful time for many irrigators with the either the threat or actual loss of gas service looming over our heads throughout the whole season. These issues led to the conclusion that we as irrigators had no other choice but to find a way to furnish our own gas.

Senate Assessment & Taxation  
2-1-99  
Attachment 5

IV) We think this act deserves passage for several reasons.

- The exemption of these pipelines from taxation, since they are newly formed and have not been taxed previously, would have no effect on the current tax base of the state.

- The line construction and operational costs are capitalized 100% through the equity in our members individual farm operations.

- The conversion to diesel fuel as the next cost efficient source of energy would require the purchase of new engines, fuel tanks and construction of environmental protection

facilities, these would fall under the current exemptions allowed by K.S.A. 79-201j.

- We as irrigators have not taken on this role of pipeline ownership voluntarily, established and certificated natural gas pipeline operators and suppliers would not construct and operate lines to service irrigators. This fact forced us to find an energy source to supply our own needs.

V) The amount of time and dedication to establish the N.P.U.'s has been a truly overwhelming task, the establishment, development and construction of the distribution pipelines was created out of necessity when no other reasonable alternative was available. The issues and remedies here are very plain in my opinion and I believe there is more than enough evidence to allow you to support passage of Bill No. 78. I appreciate your time and effort in this matter, if I can answer any of your questions, I would be happy to do so. Thank you.



## Kansas Farm Bureau

2627 KFB Plaza, P.O. Box 3500, Manhattan, Kansas 66505-8508 / (913) 587-6000

February 1, 1999

Dear Senator Langworthy and  
Members of the Senate Assessment and Taxation Committee,

Thank you for this opportunity to express our support for the concept of **SB 78**, which provides a property tax exemption for machinery and equipment comprising a natural gas gathering and distribution system which is owned and operated by a nonprofit public utility and used predominantly for providing fuel for irrigation of land devoted to agriculture use. Farm Bureau members are extremely concerned with various natural gas issues, particularly those associated with irrigation.

This past November, the farmer and rancher voting delegates of Kansas Farm Bureau reaffirmed their support for measures to prolong the life of existing gas fields and insure access to affordable, timely, dependable and uninterrupted supplies of natural gas for irrigation and other agricultural purposes. Delegates also expressed support for the opportunity current statutes provide for the creation of nonprofit utilities.

**SB 78** provides an appropriate property tax exemption for these nonprofit utilities. These nonprofit utilities will be filling a critical natural gas delivery service need in areas where current service does not exist or does not exist in a dependable, uninterruptable manner. For many, transmission and delivery of irrigation fuel by a nonprofit utility is an integral component to their agriculture operations.

We encourage the legislature to preserve the opportunity Kansas law currently provides for the formation of nonprofit utilities. The property tax exemption contained in **SB 78** is a reasonable, logical and much needed corollary to the nonprofit utility provisions. As such, we respectfully request the Senate Assessment and Taxation Committee recommend **SB 78** favorable for passage.

We appreciate your consideration of this bill. If you have any questions relative to our position on **SB 78**, please contact me at 785/234-4535.

Sincerely,

Leslie J. Kaufman, Assistant Director  
Public Affairs Division



Senate Assessment & Taxation  
2-1-99  
Attachment 6

Mark S. Beck, Director  
Kansas Department of Revenue  
915 SW Harrison St.  
Topeka, KS 66612-1588



(785) 296-2365  
FAX (785) 296-2320  
Hearing Impaired TTY (785) 296-3909  
Internet Address: www.ink.org/public/kdor

Division of Property Valuation

SENATE BILL 78

Explanation of Proposed Amendment

Gathering

- The facilities may be engaged in “distributing” gas directly from a well head to an irrigation pump, but they are not “gathering” gas for the purposes of refining. Gathering in conjunction with distribution implies a middle step of refining and there has been no suggestion that this type of operation will be engaged in refining gas.
- By using the phrase “natural gas gathering **and** distribution system,” arguably the exemption would not apply to a nonprofit public utility **not** engaged in natural gas gathering. By linking gathering and distribution, the company might have to be engaged in both gathering and distribution to qualify for the exemption. Such language actually limits the scope of the exemption.
- To retain the word “gathering” in this act will add a third assessment category for “gathering” properties in Kansas further confusing the situation with the ‘inter’ and ‘intra’ county “Public Utilities” engaged in natural gas gathering.

Removal from K.S.A. 79-5a01

K.S.A. 79-5a01, which defines public utility for state assessment purposes, should be amended to expressly exclude from its definition natural gas distribution systems owned and operated by nonprofit public utilities described in K.S.A. 66-104c, which are operated predominately for the purpose of providing fuel for the irrigation of land devoted to agricultural use. The reason these companies should be expressly excluded from the definition of a public utility is that the state, in valuing public utilities, determines the “unit value” of the state assessed public utility which includes intangible elements like the going concern value, as well as any real property that the public utility owns or uses in its operation. If you simply exempt the machinery and equipment (tangible personal property) as proposed by S.B. 78, any real property used in the operation, as well as any intangible property such as right-of ways associated with the nonprofit natural gas distribution system, would still be subject to valuation and assessment by the state as a “public utility” under K.S.A.-5a01.

Senate Assessment + Taxation  
2-1-99  
Attachment 7