

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION.

The meeting was called to order by Chairperson Audrey Langworthy at 11:05 a.m. on January 28, 1993 in Room 519-S of the Capitol.

Members present: Senator Langworthy, Senator Tiahrt, Senator Martin, Senator Bond, Senator Corbin, Senator Feleciano Jr., Senator Hardenburger, Senator Lee, Senator Reynolds, Senator Sallee

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

Conferees appearing before the committee: Don Schnacke, KIOGA
Mike Vess, KIOGA
Louis Stroup, Kansas Municipal Utilities
Vern Silver, Phillips Lighting, Salina
Carl Surritt, Atchison Casting
Don Seifert, City of Olathe
Susan Pleasant, Frito-Lay, Topeka
Don Lilya, Plant Manager, Goodyear
Jack Graves, Panhandle Eastern
Bernie Koch, Wichita Chamber
Marty Vanier, Committee of Kansas Farm Organization
Dale Stinson, Manhattan Chamber
Gary Hanson, Kansas Rural Water Association

Others attending: See attached list

SB 4--Sales tax on exemption for utilities in production; rate increase
Re Proposal No. 7

Don Schnacke, KIOGA, was introduced as the first conferee. He spoke from a prepared statement. (Attachment 1) He went over the history of the school finance bill during the session last year and said it was not mentioned during the floor debate that removing this exemption would directly impact Kansas oil and gas producers \$5.7 million. It is a new tax borne by the producers and cannot be passed on to the consumer. He said he thought adequate debate had taken place and he urged the committee to pass **SB 4** out of committee and support its passage on the Senate floor.

Mike Vess, KIOGA, said they desire to maintain the stripper wells. Kansas ranks #3 in and maintains 10 per cent of the stripper wells in the country. Kansas jobs are being lost and subsequently as jobs are reduced, less taxes are being paid into Kansas. He asked the committee to repeal this tax for the benefit of Kansas. (Attachment 2)

Louis Stroup, Kansas Municipal Utilities, McPherson, read from an attached report. (Attachment 3) He stated the cities are facing three major problems as a result of the removal of the exemption from sales tax last year. The first, fuel discrimination, although the 2.5 percent tax applies to natural gas consumed, it does not apply on coal consumed in generating electricity. Second, a concern for "double and triple taxation" on a series of progressive transactions involving a single commodity, and third, the complexity of calculating the appropriate tax obligation.

Vern Silver, Phillips Lighting, Salina, presented a letter from Gerald F. Greaney, Plant Manager. (Attachment 4) He said the Phillips Lighting Company has put in \$1 million in equipment since 1983 and is now looking at equipment to put in new lighting. The removal of this tax would help this Kansas industry a great deal.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S
Statehouse, at 11:05 a.m. on January 28, 1993.

Carl Surritt, Atchison Casting Corporation, told about his corporation and said it is one of the larger consumers of electrical power in the state. The company has been in the state since 1872. (Attachment 5) Utilities are their biggest single purchase, exceeding \$3 million each year. He said they are producing about 50 percent more than a year ago and the tax is costing them in excess of \$165 million per year at this time. They hope to expand the business and they are looking into other states and Canada because of taxes in Kansas not being conducive to business. A question from the committee was why this company was looking at other states, and Mr. Surritt responded because of workers compensation, taxation and other taxation issues.

Donald Seifer, City of Olathe, said their community has a significant base of manufacturers. (Attachment 6) The city hopes this tax will be repealed so the Kansas communities can send a positive message to industry.

Susan Pleasant, Frito-Lay, handed out a chart to the committee members which lists actual taxes for 1992 compared with 1993 and the cost of potato chips per pound in Topeka, and other communities in this region. (Attachment 7) She said **SB 4**, if passed, would prevent the increase of 5 cents per package of potato chips. She also stated they cannot bring expansion to Topeka because of the cost. Senator Lee asked how many plants they have in the country and she said 38. Senator Lee requested a breakdown for all 38 plants such as Attachment 7.

Don Lilya, Plant Manager, Goodyear, stated the Topeka Goodyear plant is the highest taxed Goodyear plant in the United States. In comparing taxes on the plant in Danville, Virginia, he said the taxes are \$600 thousand while in Topeka the taxes are \$2.4 million. He said workers compensation is bad in the United States, not only in Kansas, but it is an attraction for expansion when taxes are low. (Attachment 8)

Jack Graves, representing Panhandle Eastern Corporation and OXY USA, summarized his prepared statement. (Attachment 9) He said Panhandle Eastern is a large user of utilities. He said the utility bills for 1992 totaled approximately \$8 million. With the 2.5 percent sales tax, it added a financial burden exceeding \$200,000 annually. He urged the adoption of **SB 4**.

Bernie Koch, Wichita Chamber of Commerce, urged favorable consideration for **SB 4**. (Attachment 10) He said most manufacturers were willing to live with the corporate tax increase and the increase of general sales tax; however, the difference was the sales tax on utilities used in production. Removing the sales tax on utilities will help encourage business development in Kansas. Mr. Koch also spoke about the loss of jobs in Wichita with the layoffs at Boeing and the closing of some Sears stores. He said the average aviation job in Kansas pays about \$3,000 per year in taxes to Kansas. By passing **SB 4**, it would send a message to manufacturers they are welcome in Kansas.

Marty Vanier, Committee of Kansas Farm Organizations, read from a prepared statement. (Attachment 11) She urged the support of the interim committee proposal to restore the exemption of the 2.5 percent sales tax on utilities consumed in the production of value added products. She said they believe this is double taxation since the end products are taxed at sale.

Dale Stinson, Manhattan Chamber, said Manhattan has concentrated more on industry located there. This kind of tax makes a problem when competing with the state of Arizona for a facility for 85 new employees.

Gary Hanson, Kansas Rural Water Association, said he represent 275 rural water districts and 250 cities. (Attachment 12) The application of this tax is extremely difficult to administer for public water systems. It is only the services performed in installing the improvement which are subject to tax. He stated they believe that the public interests are best served by simplifying this tax.

Lawrence L. Tenopir, Board of Tax Appeals

Senator Feleciano moved the name of Lawrence L. Tenopir, Board of Tax Appeals, be recommended to the Senate for confirmation. Senator Martin seconded the motion. The motion carried.

The meeting adjourned at 12:00 noon.

The next meeting is scheduled for February 1, 1993.

GUEST LIST

COMMITTEE: Senate
ASSESSMENT & TAXATION.

DATE: Jan 28, 1993

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Jack Graves	Wichita	King's Bldg. - Ofc.
J. M. Vess	Wichita	: KIOGA OFFICE
Don Schumacher	Tenck	ILIOGA
Matt Holt	Dodge City	.
Mary Camarota	Topeka	Senator Frdm
Bill Abbott	Wichita	BOEING
FRANCOS KASTNER	Topeka	Ks Food Dealers Assn
LEE EISENHAEUER	Topeka	Propane Mktg Assn of Ks
Bill Anderson	Mission	Water DIST #1 of J & Co
Christy Young	Topeka	Topeka Chamber of C.
Don Lilyn	Topeka	Goodyear
Butt Brown	-	Ks CBA dealers MK
Tom Tunnel	Topeka	KSGRAIN & FEED ASSN
RICHARD PRODEWALD	RUDORD	TAXPAYERS
Kathie Farrell	Topeka	KDOT
Trudy ARON	"	Am Inst of Architects
Kevin Robertson	Topeka	Backer & Assoc.
Albert Hanson, Jr	Mission	Ks Muni Energy Agency
Louie Stroup	McPherson	Kas. Municipal Utilities
George Raebel	Topeka	AARP-SKC-CCTF
Julie Main	Top	Heim, Ebert & Rosen
Susan E. Present	Topeka	Frito-Lay Inc.
Nancy E. Turkington	Topeka	Ks Motor Carriers Assn
PR Duffy	"	Ks Petro Council
Rebecca Rice	Topeka	Propane Aircraft Utilicorp Limited



KANSAS INDEPENDENT OIL & GAS ASSOCIATION

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**TESTIMONY OF DONALD P. SCHNACKE
BEFORE THE
SENATE COMMITTEE ON ASSESSMENT AND TAXATION
RE: SB 4--SALES TAX ON UTILITIES RELATED TO MANUFACTURING AND PRODUCTION
January 28, 1993**

School finance was a difficult issue to work during the 1992 legislative session. We tiptoed around throughout the session trying to avoid the land mines that lay in wait for our industry. SB 4, arising from the Special Interim Study Committee this last summer, addresses one of the inequities contained in the school finance legislation.

The 1992 legislative session was one that addressed excessive taxation of oil and gas producers. Legislation was passed in an attempt to prevent the premature abandonment of oil wells.

In our analysis of the school finance legislation (HB 2892 - 1992), the positive effects on our industry of a uniform school levy of 32 mills was negated by the offsetting increases in state sales and income tax. The result was a wash.

On the House floor and without House committee deliberation, the House voted to remove the sales tax exemption on electricity, gas and water used in manufacturing and production processes, defined under KSA 79-3602(m)(b). It was not mentioned during the floor debate that removing this exemption directly impacts Kansas oil and gas producers \$5.7 million, adding yet one more level to the cost of operations of lifting crude oil and brine, at a time when lifting costs often exceed the price received for the crude oil produced. This is a cost that cannot be passed along to consumers. It is a new tax borne by producers.

For you who are not familiar with pumping oil wells, a pumping unit is often driven by an electric motor or an engine using propane. These power sources often run around the clock, 24 hours a day, 7 days a week. The cost for energy is a large percentage of the total lifting cost to oil producers.

The net effect of the 1992 legislation attempting to protect marginal oil wells is that they granted a modest exemption to marginal oil wells (SB 8 - 1992) from ad valorem taxes, but added a new sales tax on the same wells. Instead of paying the counties, now the producer pays the State. The predicament is that marginal oil wells and their associated jobs within the industry in Kansas are still in jeopardy. Marginal oil properties are the ones least able to pay the new tax.

Additionally, the problem with attempts to protect marginal oil and gas properties with exemptions and reduce tax rates is that they don't mean much when school districts and counties simply offset losses with increased mill levies. Without meaningful tax spending lids, we fear our tax bills will continue to climb, regardless of production and price declines.

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Attach. 1-1*

TESTIMONY OF DONALD P. SCHNACKE
SENATE COMMITTEE ON ASSESSMENT AND TAXATION
RE: SB 4--SALES TAX ON UTILITIES RELATED
TO MANUFACTURING AND PRODUCTION
January 28, 1993

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The 1991 legislature authorized the Kansas Natural Gas Policy Commission (SCR 1626). Its goal was to provide the legislature and the Governor with a strategy to develop the full economic potential of the substantial natural gas reserves found in Kansas. The study was extended by the 1992 legislature (SCR 1633). The study is now complete. It emphasizes that the State of Kansas must assist the development of the natural gas industry. It states, "*Clearly, taxes are too high and are being borne solely by the producer.*"

Its recommendation includes the concept of SB 4, the elimination of the 2.5% sales tax on utilities consumed in production.

Governor Finney also called for an interim study on the subject of taxes related to oil and gas production. After deliberation by the Special Interim Committee, SB 4 was authorized for introduction in the 1993 session.

In the section of the *Report on Legislative Interim Studies to the 1993 Kansas Legislature* which I have just handed out, please note on page 54 in the second paragraph under "Committee Activities" where it states, "*Conferees from the oil and gas industry said that the new 2.5 percent sales tax on utilities consumed in the production process was being unfairly levied on the oil and gas industry while irrigators remained exempt.*"

Oil pumping and irrigation pumping are the only industries that cannot pass the tax along in the price of the product. HB 2892 - 1992 contained language indicating irrigation would be taxed, but due to conflicting language, the Department of Revenue ruled irrigation as exempt. We maintain irrigation pumping and oil well pumping are the same and both should be exempt. SB 4 would accomplish this goal.

Madam Chairman and members of the Senate Committee on Assessment and Taxation, we think adequate debate has taken place on this subject. You have a report from a legislative authorized study begun in 1991 and completed in 1992 asking for repeal of the 2.5% sales tax. You have the recommendation of the Special Interim Committee on Assessment and Taxation authorizing the introduction of SB 4. It is time to act. We urge you to pass SB 4 out of Committee and support its passage on the floor of the Senate.

Donald P. Schnacke

STATEMENT OF J. M. VESS
Chairman of KIOGA Ad Valorem Tax Committee
before Senate Committee on Assessment and Taxation

January 28, 1993

Re: SB-4 - Sales Tax on Utilities related to manufacturing
and production.

Preservation of Kansas Oil & Gas Industry

Preservation of a Kansas Industry. The preservation of marginal wells is a significant issue across the United States. The Dept. of Interior is enacting the reduced royalty program in an effort to preserve stripper wells on Federal lands. The IOGCC stated in memorandum dated January 11, 1993 that "Oil and Gas Wells idled by economic conditions may yield large quantities of oil and gas, and states should implement measures that encourage production". "The IOGCC found a significant number of wells idle due to natural production decline and low crude oil and gas prices, the lack of sophisticated recovery techniques, and a growing number of operators in financial trouble or out of business altogether". This commission is chaired by Kansas Governor Joan Finney.

The IOGCC published its National Stripper Well Survey as of January 1, 1992. This survey defined marginal wells as those producing 10 BOPD or less. The survey set the stripper

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Attach. 2-1

well count at 462,823 wells from the 28 oil and gas producing states. Kansas was the third largest stripper well state with 44,959 wells (10% of total wells) averaging 2.44 BOPD.

The Kansas Oil and Gas Industry is a stripper well industry. Due to the small reserve potential and high tax structure on oil and gas in Kansas outside capitol is difficult to generate. This means further exploration and maintenance of existing wells must come primarily from existing Kansas oil and gas producers. These producers draw on their existing stripper well base to meet the call.

Without the combined effort of the Kansas legislature, the Kansas oil and gas producers, vendors and all the men and women who make up the oil patch across our State there won't be a Kansas oil and gas industry. Many industry employees compensation levels are the same today as they were seven years ago or lower.

What is the loss to Kansas?

- Kansas jobs
- Increasing income, property and sales tax collections on other Kansans.
- Higher electrical costs for Kansas farms and residences.

It is estimated that Kansas oil and gas producers pour in excess of one half billion dollars annually into the Kansas economy maintaining our stripper wells. This does not include exploration and down stream operations.

Where does the money go?

<u>Classification</u>	<u>Percent</u>
Power and Fuel	25%
Field Labor	19%
Office Labor	18%
State Taxes	18%
Vendors/Services	<u>20%</u>
Total	<u>100%</u>

1992 Legislative efforts to produce much needed tax relief can be summarized as follows:

	<u>Estimated Tax Effect Annually</u>
Marginal Well Bill (SB8-1992)	\$ 2,500,000
Low Producing Well Assessment (HCR 5007-1992)	3,000,000
Power/Fuel Sales Tax (HB 2892-1992)	<u>(6,000,000)</u>
TAX INCREASE	\$ (500,000)

This sort of cumulative tax effect does not provide any tax relief to producers.

The new sales tax is particularly damaging in as much as it is paid by the leases that can least afford it. The majority of the tax goes to those leases already burdened with the highest power and fuel bills.

The Kansas Oil and Gas Industry asks for your help in repealing the 2.5% sales tax.

Comments on SENATE BILL 4
January 28, 1993
Senate Energy & Natural Resources Committee

Madame Chair - members of the committee, I am Louis Stroup, Jr., executive director of Kansas Municipal Utilities, Inc., a statewide organization of cities that operate municipal water, gas and electric systems.

As the result of the removal of the exemption from sales tax last year on water, gas and electricity "consumed," our cities are currently facing three major problems which I would like to address briefly.

The removal of the exemption has resulted in a quagmire of interpretations on how to apply the tax, how to prorate it, etc. This clearly was not contemplated when the exemption was removed.

FUEL DISCRIMINATION

The 2.5% sales tax applies to natural gas consumed in the production of electricity; whereas, there is no sales tax on coal consumed in generating electricity. This is an unfair situation.

This also creates an economic burden to 59 of our 60 electric generating cities that burn only natural gas as their primary fuel. Our largest system, the Kansas City Board of Public Utilities, utilizes both natural gas and coal.

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Attach. 3-1

The tax also penalizes the use of a state resource (natural gas) and one that is environmentally friendly.

TAX COMPOUNDING PROBLEM

We have a concern about the potential for "double and triple taxation" on a series of progressive transactions involving a single commodity.

For example, a city purchases natural gas for the production of electricity. Most of this gas is subject to the 2.5% sales tax rate (governmental purposes exempt). A city's water department uses this electricity for the production of water for resale and in this case, the electricity is subject to the 2.5% sales tax (sales tax now collected twice). The city's sale of water to taxable entities is subject to either the 2.5% or 4.9% sales tax (sales tax now collected 3 times).

COMPLEXITY OF CALCULATING THE APPROPRIATE TAX OBLIGATION

Cities, and especially the water departments, have a major problem in calculating the appropriate 2.5% sales tax obligation on the "production" of water and electricity. Two examples are:

(1) A large percentage of water produced by a city is "consumed" for governmental purposes (street cleaning, fire fighting, parks, line loss, etc) on which the tax is not applied. This consumption varies on a monthly and yearly basis -- making it difficult to calculate the tax obligation.

(2) Natural gas purchased for the production of electricity is subject to the 2.5% sales tax when the electricity is for resale. The portion of the gas which is used in production of electricity for governmental purposes is not taxed (street lights, city hall, city parks, etc. and electricity used by the water department to produce water for governmental purposes).

It is evident that not all the natural gas purchased by a power plant is subject to the 2.5% sales tax; however, the tax obligation is difficult to calculate.

Many cities are being billed taxes based upon 100% of the power plant gas being subject to the sales tax since the supplier has no way of knowing how to prorate for gas used for governmental purposes.



PHILIPS

Philips Lighting

Gerald F. Greaney
3961 South 9th Street
Salina, Kansas 67401

January 22, 1993

Kansas Senate
Special Committee on Assessment and Taxation
State House
Topeka, KS 66607

RE: S B 4

I strongly endorse passage of S B 4. The Lamp Industry is very competitive and cost driven. Since the Philips Salina Plant is completely integrated it consumes large amounts of gas and electricity. I believe the Plant is one of the largest consumers of energy in the State of Kansas with annual energy costs of approximately \$4.1 million. A tax on energy usage could endanger our competitive position in the industry.

I feel that passage of this bill would be a sign of strong support for existing Kansas Industry and helpful as the State attempts to attract new industry.

Please let me know if you would like further information.

Sincerely,

Gerald F. Greaney
Plant Manager

GFG:beh

cc: Senator Ben Vidricksen

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Attach. 4-1

Bill Surritt, Materials Manager, Atchison Casting Corporation

Thank you, ^{DAVID} ~~Mister~~ Chairman, and Members of the Committee for allowing me to testify on the behalf of my Company.

I'm here representing the largest employer in North East Kansas, one of larger consumers of Electrical power in the State.

We are a Steel Foundry & Machining Facility supplying steel castings to the Military, Transportation, Construction, Mining, Valve & Turbine Markets.

Our operation has been in Kansas since 1872; Until a year & a half ago, we were a part of Rockwell International.

With the decline in Military business, Rockwell decided to sell the Kansas operation.

We were able to form our own corporation and keep 650 jobs in Kansas. Since that time we have been diversifying the business and have in fact doubled our customer base to date.

We are in a very competitive industry where many Businesses have ceased to exist due to competition to OFF SHORE & other areas of lower wages, utility costs & lower taxes.

While we are a labor intensive Industry, Utilities are our highest single Purchase, exceeding \$ 3 Million each year.

The great portion of our Electrical consumption is for power that is consumed in the production of our product. This is not power to run air conditioners and lights but is used to melt steel to produce castings.

We maintain that the Utility Tax legislation does not recognize the difference between the Large Industrial user & the average consumer. There are only a handful of Electric Arc furnaces operations in the State & very few Electrical power consumers of our size.

We been involved in programs to conserve Electrical power & have the only Large Power Interruptible Utility Contract in the State. This is not a recent effort but something that we done since the 60's. Without our co-operation in this matter, Western Resources would have faced capacity expansion to handle their peak power loads.

This Utility tax will cost Atchison Casting in excess of \$165,000 annually. Only a portion of this cost was offset this year by Mill Levy reductions. The Mill levy will increase & we will still have the penalty of the Utility Tax.

Our Corporate MISSION is not to merely continue the operation but to grow & diversify.

We have a machining facility in Missouri that is one of the largest in a several state area.

In the past few months, we have considered the purchase of a foundry in Canada.

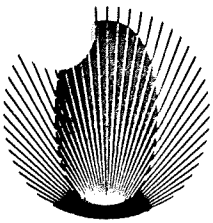
We currently are in the process of negotiating the purchase of a foundry and machining facility in Louisiana.

We are committed to expand our business & we are looking for places other than Kansas to accomplish this due to Workers Compensation, Taxation and other Legislation that we consider to be prohibitive to business expansion.

We ask this committee to help those Business that are struggling to exist in Kansas by carefully considering the effect of this tax. We maintain that the way to support services like Education is not through SELECTIVE taxation but rather by broad based taxation. Taxation that encourages Industrial growth will create more jobs and thereby create a broader tax base for the State.

Thank you for your consideration.

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Attach. 5-1*



City of Olathe

MEMORANDUM

TO: Senate Committee on Assessment and Taxation

FROM: Donald R. Seifert, Assistant Director, Administrative Services *DRS*

SUBJECT: Senate Bill No. 4; Sales Tax Exemption for Utilities in Production

DATE: January 28, 1993

On behalf of the city of Olathe, thank you for the opportunity to appear today in support of Senate Bill 4. This bill would restore the sales tax exemption for utilities consumed in the manufacturing process. The exemption would be paid for by a .1 cent increase in the state sales tax rate.

Unlike many communities in Johnson County, the Olathe economy has a significant manufacturing base. The community is comfortable with manufacturers, and the city and Chamber of Commerce are constantly working to expand the base. A number of our manufacturers, such as Bendix-King, Delco Battery, and Southwest Petro-Chem are quite energy intensive. We believe the 2.5% sales tax imposed last year on utilities consumed in manufacturing was ill advised, adding an additional burden making our Kansas manufacturers that much less competitive in national and world markets. We believe this tax is contrary to the economic development efforts of the state to create and retain basic jobs.

With the addition of local sales taxes, the 2.5% rate is actually 4.1% in our community, and is even higher in some places in Kansas. Although local governments always appreciate additional revenue sources, this tax is something we neither asked for, nor planned for in our 1993 budget process. I might add we have not been able to measure any additional revenue from this tax.

The city urges the committee to approve this bill, and send a positive message to our basic Kansas industries.

rc

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Attach. 6-1*



STATE TAXES

FRITO-LAY PLANT	1992 ACTUAL \$	COST PER LB	1993 ACTUAL \$	COST PER LB
TOPEKA	\$521,200	\$.635	\$906,000	\$.989
FRANKFORT, IN	\$377,000	\$.344	\$430,000	\$.392
BELOIT, WI	\$181,700	\$.297	\$188,000	\$.272
DALLAS, TX	\$794,000	\$.881	\$800,000	\$.814

- **SENATE BILL #4 VALUE \$44,000**
- **BELOIT, WI AWARDED NEW
POTATO CHIP FRYER – 1993**
- **ALL FIXED COST INCREASES MUST
BE OFFSET WITH PRODUCTIVITY OR
EXPENSE ELIMINATION**

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Attach. 7-1

The Goodyear Tire & Rubber Company

P. O. BOX 1069

TOPEKA, KANSAS 66601

January 28, 1993

PHONE (913) 295-7111
FAX (913) 295-7134

2.5% TAX ON UTILITIES - MANUFACTURING

1983 \$1.6 million dollar tax liability - Topeka Plant.

Increased every year until taxes peaked at \$3.8 million dollars in 1988, a 138% increase.

In 1989 re-classification and inventory tax exemption reduced Goodyear's tax liability to \$2.4 million dollars.

Favorable trends through legislation allowed the Topeka Plant to announce a \$32.0 million dollar expansion creating new jobs.

We are currently working with Akron to once again invest in Topeka with a \$21.5 million dollar expansion, and I know for a fact that long range plans dictate further investment in 1994-1995.

If we are to look to the future, we must make every effort to have Kansas show a favorable business attitude not a negative position. Industries like Goodyear will provide the higher skilled, better paying jobs, to keep Kansas viable for the years ahead.

The Goodyear Topeka Plant is still the highest taxed plant in the U.S. for Goodyear.

My appeal to you is to consider removing the 2.5% tax on utilities used in manufacturing. This is a negative \$192,000 cost to our location and puts the Topeka, Kansas Plant at a disadvantage when capital investment is being considered.

Donald E. Lilya
D E Lilya
Plant Manager

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Attach. 8-1

**REMARKS OF JACK GLAVES
BEFORE SENATE COMMITTEE ON ASSESSMENT AND TAXATION
IN BEHALF OF PANHANDLE EASTERN CORPORATION AND OXY USA**

RE: Senate Bill 4

My client, Panhandle Eastern's subsidiary, National Helium Corporation, operates a large helium and natural gas liquids extraction plant in the Liberal area. The original plant was built in the early 1960's, and helium production was discontinued in the early 1970's because of lack of market. In recent years the market for helium has expanded and a decision was made to modernize and enlarge the plant involving an expenditure of some \$25 million. Additionally, Air Products & Chemicals, Inc. constructed an adjacent facility for refining of the helium into a marketable product, also involving a multi-million dollar investment. These facilities, of course, added to employment and constituted ideal economic development for the Southwest Kansas area. Construction was completed on the plant and operations began for extraction of helium in 1991.

The economics of the operations were, of course, predicated on existing and projected tax burdens. No one anticipated rescission of the exemption on sales taxes on utilities used in the manufacturing process. This is not an insignificant burden on this type operation, it is an extremely heavy utility user. The 1992 utility bills totaled \$8,328,063.00 for electricity, water, and steam. Enactment of the 2 1/2 percent sales tax resulted in an unanticipated financial burden exceeding \$200,000 annually. To put

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Attach. 9-1*

things in perspective, the utility expenses in 1992 constitute about 45 percent of the total expenses in the operation of the plant. Additionally, taxes were paid of over \$1.5 million, with combined utilities and taxes of some \$9.8 million out of total expenses of \$18 million, or over 50 percent of operating expenses. These plants can to be located wherever a natural gas transmission system exists, which is to say it could easily have been located in Texas, Oklahoma, or Kansas.

The Governor's Natural Gas Policy Committee has urged development of additional extraction facilities in Kansas and, in fact, more facilities are scheduled and contemplated. We believe that this onerous tax burden can be a significant factor in decisions for future investment in natural gas extraction facilities. This tax is not a "loop hole". It is a novel burden that is added to the cost of doing business in Kansas and one more disincentive to locating a facility in Kansas and doing business here.

This is a competitive business subject, particularly in the liquids extraction segment, to wildly fluctuating markets. We pay retail sales tax, and we do not oppose increasing the rate as proposed in this bill. This will, of course, more than offset any revenue lost from restoring the proposed exemption. Another affect of this tax is to cause manufacturing and refining industries, such as ours, to look seriously at co-generation of electricity. We are a high-load factor customer of West Plains Energy, which means we take power around the clock, which is beneficial to the electric

company and its other rate payers. The effect of losing this type of load is detrimental to the residential and commercial rate payers who would experience increased rates to cover the utilities fixed costs.

In the instance of Oxy, its electric bill at El Dorado in 1992 was over \$1 million even though Oxy owns its distribution system and takes power off the grid. Its fuel and electricity expenses equated to about 22 percent of operating costs. This is marginal production and every expense item is important in the abandonment versus continued production decisions. In the Plainview district its electric bill was over \$2.5 million, which is about 40 percent of all operating expenses. Again, the tax is onerous and one more impediment to successful oil operations in Kansas.

We strenuously urge the adoption of Senate Bill 4 in the interest of economic development, tax fairness, and tax stability, which is essential for attracting and retaining industry and the jobs created by it.

TESTIMONY OF BERNIE KOCH
WICHITA AREA CHAMBER OF COMMERCE
ON SENATE BILL 4

SENATE ASSESSMENT AND TAXATION COMMITTEE
January 28, 1993

Members of the committee, I am Bernie Koch with The Wichita Area Chamber of Commerce, testifying in support of Senate Bill 4.

The sales tax on utilities used in production sends a mixed message about Kansas economic development. Our economic development strategy in this state has been to encourage businesses, like manufacturing, which produce wealth. For example, we key enterprise zone credits and tax abatements to manufacturing. Those jobs tend to be higher paying and create other jobs in the service and trade sectors.

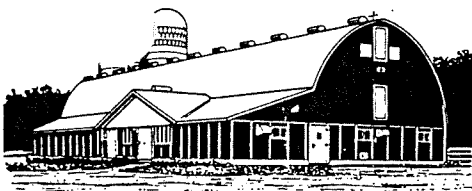
On the other hand, we are now taxing the utilities used in manufacturing production, adding to the expense of such enterprises. Most manufacturers I discussed this issue with during the last session were willing to live with the corporate tax increase, although they didn't like it. Likewise, they were willing to live with the increase in the general state sales tax rate, even though business pays about a third of the sales tax collected in this state. Combined with the property tax reductions they experienced, it was just about a wash for most. What made the difference was the sales tax on utilities used in production.

Manufacturers will be further hit when the new classification amendment kicks in and their property taxes on machinery and equipment increase due to the assessment rate increase from 20 to 25 percent.

Removing the sales tax on utilities used in production will help compensate for a portion of that change and I urge your favorable consideration, for that reason, of Senate Bill 4.

Thank you for the opportunity to appear today.

Sen. Assess. & Taxation
Jan. 28, 1993
Attach. 10-1



Committee of Kansas Farm Organizations

Marty Vanier, DVM

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Committee of Kansas
Farm Organization Members

Associated Milk Producers, Inc.

Kansas Agri-Women Association

Kansas Association of Nurserymen

Kansas Association of Soil
Conservation Districts

Kansas Association of Wheat Growers

Kansas Cooperative Council

Kansas Corn Growers Association

Kansas Electric Cooperative

Kansas Ethanol Association

Kansas Farm Bureau

Kansas Fertilizer and
Chemical Association

Kansas Grain and Feed
Dealers Association

Kansas Grain Sorghum Producers

Kansas Livestock Association

Kansas Meat Processors
Association

Kansas Pork Producers Council

Kansas Rural Water
Districts Association

Kansas Seed Industry Association

Kansas Soybean Association

Kansas State Grange

Kansas Veterinary Medical Association

Kansas Water Resources Association

Kansas Water Well Association

Mid America Dairymen, Inc.

Western Retail Implement
& Hardware Association

STATEMENT OF THE
COMMITTEE OF KANSAS FARM ORGANIZATIONS
BEFORE THE
SENATE ASSESSMENT AND TAXATION COMMITTEE
AUDREY LANGWORTHY, CHAIRPERSON
REGARDING S.B. 4
JANUARY 28, 1993

The Committee of Kansas Farm Organizations (CKFO) is a coalition of 25 agribusiness organizations that covers the full spectrum of Kansas agriculture including crop production, livestock production, input suppliers, allied industries and professions. We support the interim committee proposal to restore the exemption of the 2.5% sales tax on utilities consumed in the production of value added products. Simply stated, we believe it sets a bad precedent to require a sales tax on inputs. The ramifications on economic viability are clear. We believe this is double taxation since the end products are taxed at sale. Essentially, this becomes a hidden tax which is passed on to Kansas consumers and in some instances reduces competitiveness of Kansas companies that engage in interstate commerce.

While I represent a wide range of groups involved in agriculture, specifically this tax has affected our members who are involved in flour and feed processing, fertilizer blending, production greenhouses and farmer-owned cooperatives. The

*Sen. Assess. + Taxation
Jan. 28, 1993
Attach. 11-1*

Committee has received testimony from others, including Farmland Industries, that provides specific and detailed examples of the effects of the 2.5% sales tax on utilities consumed in production.

The Committee of Kansas Farm Organizations supports the adoption of S.B. 4. S.B. 4 will help Kansas agribusiness continue to produce affordable, value-added agricultural products for the state.

I appreciate the opportunity to appear before the committee today. If you have any questions about the effects of the exemptions on various aspects of agriculture, I would be happy to direct your question to the appropriate source. Thank you.



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TESTIMONY ON SENATE BILL 4
BEFORE THE SENATE ASSESSMENT AND TAXATION COMMITTEE
January 27, 1993

Madam Chairman and Members of the Committee, thank you for the opportunity to present testimony on Senate Bill 4. My name is Gary Hanson. I am a partner with the Topeka law firm of Stumbo, Hanson & Hendricks. I appear today at the request of the Kansas Rural Water Association. The Association provides training and on-site technical assistance to cities and rural water districts, mobile home parks and other community water systems. I have represented the Association on various matters and recently produced an opinion for the Association on the application of sales taxes for cities and rural water districts.

The Kansas Rural Water Association supports Senate Bill 4. The exemption of sales tax on power to produce or process water is supported by cities and rural water districts.

Our membership, which consists of more than 250 cities and 275 rural water districts, respectfully draws your attention to another area on which we ask for your help. That is to exempt sales tax on services to install public water supply wells or transmission lines and appurtenances thereto. Legislation passed in the '92 Session requires that sales tax be imposed on original construction of buildings or facilities. The application of this tax is extremely difficult for public water systems as it is nearly non-definable. As the tax applies to water wells or water lines, there are previous rulings by the Revenue Department that exempt any preparatory work. In other words, it's only the services performed in installing the improvement which are subject to tax. In the business of constructing a water line, the owner (city or rural water district) has extreme difficulty in determining where preparatory work begins and ends. The Kansas Department of Revenue has advised contractors that the cost of trenching is not subject to sales tax. It is only the labor that installs the pipeline that is taxable. This cost is very minimal on any project; it's the machine and preparatory work which are the largest costs.

We believe that the public interests are best served by simplifying this tax. We believe there is general non-compliance with the law as it now stands because of the difficulty in defining which services are taxed and which are not.

Respectfully submitted,

Gary H. Hanson
Stumbo, Hanson & Hendricks

Sen. Assess. & Taxation
Jan. 28, 1993
Attach. 12-1