

SESSION OF 2006

**SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR
SENATE BILL NO. 93**

As Recommended by House Committee on
Utilities

Brief*

House Sub. for SB 93 would enact the Kansas Petroleum Education and Marketing Act (KPEMA), authorize the establishment of the Kansas Oil and Gas Resources Board. The Board, which would be a voluntary private organization with authority to organize as a not-for-profit entity, would not be deemed in any manner to be a governmental or quasi-governmental organization. The purpose of the Board would be to:

- Coordinate public education regarding the oil and natural gas industry;
- Encourage energy efficiency;
- Promote environmentally sound production;
- Support research and educational activities concerning the industry;
- Promote exploration and production safety;
- Support job training and research activities; and
- Implement and comply with other provisions of KPEMA.

The Board's governing body would be composed of 15 trustees appointed by the governing bodies of various qualified producer associations and one representative of nonindustry interests. (The nonindustry representative would be appointed by the Board, at the Board's discretion.) Trustees would serve three-year, staggered terms and would be prohibited from receiving salaries for duties performed but could receive reimbursements for travel expenses incurred in association with such duties. The Board would be authorized to elect a presiding officer and any other officers deemed necessary; and to appoint a director to help carry out the provisions of KPEMA. The Board also would be authorized to employ personnel and enter into contracts for research studies or other projects associated with the act.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

The Board would be authorized to levy assessments on oil and gas production in an amount up to 0.05 percent of the gross revenue from oil or natural gas produced. For producers who participate in the program, the assessment would be deducted from the proceeds paid by the first purchaser to each interest owner. Producers would be able to opt out of the assessment program. Interest owners also would be entitled to seek refunds of assessments, including interest thereon, within 15 months. All assessments would be construed as not constituting a tax or a governmental assessment of any kind. An annual cap of \$20,000 would be placed on assessments imposed on an a single owner. The Board specifically would be prohibited from using funds collected under the assessment provisions for influencing government action or policy, except to recommend amendments to KPEMA.

Background

The Kansas Petroleum Education and Marketing Act was introduced during the 2005 Legislative Session as SB 70. That bill was referred to the Senate Ways and Means Committee and subsequently to the Senate Committee on Assessment and Taxation. The latter Committee recommended the bill favorably to the Senate. The Senate Committee of the Whole amended the bill and passed it during the 2005 Session. The bill was referred to the House Committee on Utilities where a hearing was held, but no action was taken, during the 2005 Session. During the 2006 Session, the House Committee amended the proposed Act and recommended it favorably as a substitute for 2005 SB 93. The introduced version of the latter bill addressed the issue of the use of eminent domain for wind energy projects. The substance of SB 93 was enacted as part of SB 63 by the 2005 Legislature.

Proponents of the bill at the Senate Assessment and Taxation Committee hearing included the Kansas Independent Oil and Gas Association. The Association said that the bill was similar to petroleum education and marketing laws in effect in Oklahoma and Ohio.

The provisions of SB 70, as amended by the Senate Committee of the Whole, would have authorized creation of the "Kansas Energy Resources Board." A Senate Committee of the Whole amendment would rename the Board the "Kansas Oil and Gas Resources Board." A second Senate Committee of the Whole amendment would exclude

royalty interest owners from being subject to the assessments. Those amendments to SB 70 were retained in House Sub. SB 93.

The House Committee on Utilities amended the provisions of SB 70, as amended by the Senate Committee of the Whole, to:

- Reduce from 11 to 10 the number of members of the Board who would be appointed by the Kansas Independent Oil and Gas Association;
- Increase from one to two the number of Board members who would be appointed by the Eastern Kansas Oil and Gas Association;
- Eliminate the Board's option to appoint to the Board a representative of royalty owners;
- Change the basis of the assessment to a portion of gross revenues rather than a set price per unit of oil or gas produced;
- Provide that if any interest owner's assessment reaches the \$20,000 cap, assessment of that owner would cease (under the Senate-passed version of SB 70, the amount collected in excess of the cap would have been refunded annually);
- Provide that legal action by the Board to collect any assessment revenue that had not been paid to the Board would be taken against the first purchaser; and
- Provide an "opt-out" for producers who do not wish to participate in the assessment program.

The Committee replaced the contents of SB 93 with the provisions of SB 70 as amended.

A fiscal note indicated that the Kansas Corporation Commission had estimated that slightly over \$1.1 million in assessments could be available to the board, assuming interest owners declined to seek refunds.