

Approved Wednesday, March 22, 1989  
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

The meeting was called to order by Senator Dan Thiessen, Chairman at  
Chairperson

11:00 a.m. ~~4:00~~ on Thursday, March 16, 1989 in room 519-S of the Capitol.

All members were present except:

Senator James Francisco

Committee staff present:

Don Hayward, Revisor's Office  
Chris Courtwright, Research Department  
Marion Anzek, Committee Secretary

Conferees appearing before the committee:

Senator Wint Winter  
Sandra Praeger, City Commissioner of Lawrence  
Ed DeSoignie-KS Contractors Association  
Janet Stubbs, Executive Director-Home Builders Association of KS, Inc.  
John Luttjohann, Director of Taxtion, Department of Revenue  
Donald P. Schnacke-KS Independent Oil & Gas Association  
Ken Peterson-KS Petroleum Council  
Glenn Hawkins-OXY, USA, INC.  
Mark Burghart-Department of Revenue

Chairman Dan Thiessen called the meeting to order and he turned the committees attention to SB325, calling upon Senator Wint Winter.

SB325:AN ACT relating to sales taxation; exempting sales of materials and services purchased by a contractor to improve platted subdivisions of cities; amending K.S.A. 1988 Supp 79-3606 and repealing the existing section.

**The following conferees were proponents of SB325**

Senator Wint Winter said this measure is in the nature of a technical bill. It relates to exemption of materials and services used in construction of roadways and streets constructed on right-away roadways, owned by the city. It addresses the situation, instead of having a municipality to contract to construct the streets and roads, it allows a private individual, the developer to finance the improvement so that technically the city isn't doing the contracting, but it is a city street.

In this situation, the Department of Revenue rules the city has to pay sales taxes, just as if the city did the construction. The Senator introduced Sandra Praeger, a City Commissioner of Lawrence, KS.

Sandra Praeger said there are currently three methods of development occurring in Lawrence, (1) Development of land and housing coinciding with construction of public improvements, which the materials and services for construction of public improvement are tax exempt. (2) Development of land where public improvements are constructed by the city and financed by a benefit district, the material and services are tax exempt. (3) Development of land in which public improvements are constructed by a private developer, the material and services are not exempt.

The current tax exemptions encourage developers to construct public improvement and rely on the city to finance the majority of costs. She said, they prefer private developers to finance the construction of public improvements, and she asked the committees consideration on SB325. (ATTACHMENT 1)

Ed DeSoignie representing the KS Contractors Association, said they believe the new language in SB325 lines 450 through 484, will realize cost savings to cities for their capital improvement projects, and he requested the committees favorable consideration of SB325. (ATTACHMENT 2)

Janet Stubbs said conferees before her very adequately stated the inequities of the current law. However, she said, it should be viewed as an expense which is passed on to the consumer, the purchaser of a new home. It is not a matter of cutting cost

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

room 519-S, Statehouse, at 11:00 a.m./~~xxx~~ on Thursday, March 16, 1989.

for the developer, but rather making housing more affordable for Kansans. It is a matter of equitable treatment for those who purchase a house in a subdivision whose public improvements were provided by the developer VS, the city or county. She said we should be encouraging less government, and asked for the committees support on SB325. (ATTACHMENT 3)

John Luttjohann said SB325 would add a new exemption subsection to the KS Retailers' Sales Tax Act, where all materials and services purchased by a contractor for constructing streets and sidewalks, sanitary and storm sewers, and water facilities in platted subdivisions, which subdivisions would be dedicated to the city would be exempt from sales tax. (ATTACHMENT 4)

Chairman Thiessen turned attention to SB334 and recognized John Luttjohann.

SB334:AN ACT relating to sales taxation; concerning the taxation of certain sales of property and services thereunder; amending K.S.A. 1988 Supp. 793603 and 79-3606 and repealing the existing sections.

John Luttjohann said SB334 as introduced would add a provision to the imposition of the KS Retailers Sales Tax Act, K.S.A. 79-3602(u), which sales tax would be imposed on the gross receipts received from FAX services and other similar data transmission. These types of services do not fall within any of the services currently subject to KS sales tax.

The other amendment contained in K.S.A. 79-3606(c) will conform with similar language found in 79-3606(d) and would not exempt tangible personal property or services purchased for the erection, construction, reconstruction, repair, enlargement, equipping, furnishing or remodeling of buildings used primarily for human habitation. (ATTACHMENT 5)

Chairman Thiessen turned attention to SB330 recognizing John Luttjohann.

SB330:AN ACT relating to income taxation; requiring the withholding of mineral production payments and prescribing procedures therefor; repealing K.S.A. 1988 Supp. 79-322a.

John Luttjohann said SB330 provides for income tax withholding equal to 10% of the amount of mineral production payments made to non-residents. The withholding to be submitted to the Department of Revenue on a quarterly basis, effective for payments after January 1, 1990.

The 10% withholding would provide an incentive for non-residents to meet the same filing requirements which we impose on resident taxpayers.

It is estimated about 24,000 non-resident taxpayers receive payments for KS mineral production. (ATTACHMENT 6)

**The following conferees were opponents of SB330**

Donald P. Schnacke, representing KS Independent Oil and Gas Association said they felt SB330 goes too far, as it will telegraph a harsh taxing policy to investors. KIOGA has 146 Company members residing in 20 States, but operating in KS. Much of our drilling money arises from out of state, creating working interest in KS production.

KS could require 1099 information be sent each year, and could follow-up on all non-residents not paying their taxes. Mr. Schnacke said they oppose SB330. (ATTACHMENT 7)

Ken Peterson representing KS Petroleum Council said they oppose SB330 which would require oil and gas producers in KS to withhold 10% from royalties paid to out-of-state residents, and remit the withholdings on a quarterly basis to the state. They felt this would turn oil and gas producers into tax collectors for the state, and the expense would be burdensome, for independent producers.

They felt the 1987 SB48 requested by the Department of Revenue, already deals with the tax liability of out-of-state royalty owners. (ATTACHMENT 8)

Glenn Hawkins representing OXY, USA, INC., the largest oil producer in the state and one of the largest gas producers, with a significant presence in the Hugoton field.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION,  
room 519-S, Statehouse, at 11:00 a.m./~~pm~~ on Thursday, March 16, 1989

Mr. Hawkins said currently we have more than 17,000 royalty owners receiving income based on KS production. Approximately 4,500 reside outside of KS.

When this legislature passed SB48 in 1987, OXY went to considerable system revisions and expense to provide the Department of Revenue with magnetic tapes from our 1099 system. The Department of Revenue wanted these tapes to determine which individuals were not paying. The taxes OXY provides shows the payments to all owners, both resident and non-resident and the income derived from the KS production source. OXY suggests the state use these tapes to determine who has failed to file State tax returns. He said, they strongly oppose SB330. (ATTACHMENT 9)

Chairman Thiessen turned attention to SB341 and he called upon Mark Burhart a proponent of SB341.

SB341:AN ACT concerning collection of delinquent taxes; amending K.S.A. 75-5140 and repealing the existing section.

Mark Burghart said SB341 would allow the Department of Revenue to fully utilize all available collection techniques to recover tax dollars which are due and owing the state of KS.

The ability to use in-state collection agencies is one way of addressing the problem of delinquent accounts.

Our experience with collection agencies on out-of-state accounts has been good and we are confident that the same favorable results would be obtained on in-state accounts.

The Department respectfully requests the committees' favorable consideration of SB341. (ATTACHMENT 10)

The Chairman adjourned the meeting at 12:08 p.m.

GUEST LIST

COMMITTEE: SENATE  
ASSESSMENT & TAXATION

DATE: Thursday, 3-16-89

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
MARK BURGHART	TOPEKA	REVENUE
John Luttjohann	✓	✓
Blum Hawkins	Tulsa	Oxy USA Inc
Ken Peterson	TOPEKA	KS Petroleum Cncl
ED DE SOIGNIE	TOPEKA	KS CONTRACTORS ASSOC.
Alan Steppat	TOPEKA	Pete McBill's Associates
Kelly Arnold	Lawrence	City of Lawrence
Terese Gardner	Lawrence	City of Lawrence
ROBERT DARR	LAWRENCE	CITY OF LAWRENCE
Larry Curacci	LAWRENCE	Academy
Laura Proctor	LAWRENCE	CITY OF LAWRENCE
Gerhard Metz	TOPEKA	KCCI
Mike Reecht	TOPEKA	ATT
ROD LAKE	"	KASTB
Jamie Schwarz	"	KN Energy
Scott Anderson	Atlanta	MID-CONT O&G
Doris Rolfe	TOPEKA	DEPT OF Adm
Don Miller	TOPEKA	Credit Bureau
Mary Vincent	Topeka	AGC of KS.
Janet Stelha	"	NBAK
Janet Robinson	"	Crograve, Webb's Omaha
Don Schwack	Topeka	KI OGA



# City of Lawrence KANSAS

## CITY COMMISSION

### MAYOR

BOB SCHUMM

### COMMISSIONERS

MIKE AMYX

DENNIS CONSTANCE

SANDRA K. PRAEGER

MIKE RUNDLE

BUFORD M. WATSON, JR., CITY MANAGER

CITY OFFICES

BOX 708

66044

6 EAST 8th

913-841-7722

## TESTIMONY OF SANDRA PRAEGER BEFORE THE KANSAS SENATE ASSESSMENT AND TAXATION COMMITTEE March 16, 1989

Mr. Chairman and members of the Committee, I am Sandra Praeger, and I am a City Commissioner from Lawrence, Kansas. I appreciate the opportunity to appear before you today and testify in support of Senate Bill 325. I appear on behalf of the City of Lawrence. As you are aware, this bill amends K.S.A. 1988 Supplement 79-3606 to provide for exemption of sales tax on materials and services purchased by a contractor to improve platted subdivisions of cities that is dedicated to public use.

This bill is important to the City because it resolves the current tax inequity that is placed on developers who take the initiative at their own expense to construct public improvements that will be dedicated to the City. Essentially, there are three methods of development currently occurring in Lawrence. These methods are:

1. Development of land and housing coinciding with the construction of public improvements. The materials and services for construction of public improvements are currently tax exempt.
2. Development of land where public improvements are constructed by the City and financed by a benefit district, the materials and services are tax exempt.

Attachment 1  
Thursday, March 16, 1989  
Senate Assessment and Taxation

3. Development of land in which public improvements are constructed by a private developer, the materials and services are not exempt.

As you can see, the current tax exemptions encourage developers to construct public improvements in a piecemeal fashion or rely on the City to finance a majority of the public improvement construction costs. We prefer private developers to finance the construction of public improvements. This small but important incentive using sales tax exemption will encourage developers to take the initiative in constructing public improvements using their own monies. This method avoids using City bonded debt and saves much time in the collection process.

We have worked with the State Division of Taxation on this bill currently before you and it meets with their approval. I would like to thank Mr. John Luttjohann, Director of Taxation, for his help.

I want to take this opportunity to thank you for your consideration of this bill.

TESTIMONY

By the Kansas Contractors Association  
Before the Senate Assessment and Taxation Committee

Regarding Senate Bill 325

March 16, 1989

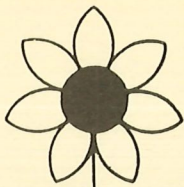
Mr. Chairman, and members of the Senate Assessment and Taxation Committee. Thank you for the opportunity to appear before you to provide some very brief testimony in support of Senate Bill 325.

My name is Ed DeSoignie. I am the Public Affairs Director of the Kansas Contractors Association. Our association represents over 335 heavy, highway and municipal utility contractor and associate member firms in the Kansas construction industry.

The association appears before you today in support of Senate Bill 325. We believe the new language appearing on lines 450 through 484 of the bill will realize cost savings to cities for their capital improvement projects. This policy is consistent with the existing policy of exempting construction materials and services used on projects of the state and its political subdivisions.

We would request your favorable consideration of Senate Bill 325.

This concludes my prepared remarks, Mr. Chairman. Thank you for the opportunity to appear before you.



# HOME BUILDERS ASSOCIATION OF KANSAS, INC.

Executive Director  
JANET J. STUBBS

## OFFICERS

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Central Kansas  
Dodge City  
Hutchinson  
Manhattan  
Montgomery County  
Pittsburg  
Salina  
Topeka  
Wichita

## PAST PRESIDENTS

Lee Haworth 1965 & 1970  
Warren Schmidt 1966  
Mel Clingan 1967  
Ken Murrow 1968  
Roger Harter 1969  
Dick Mika 1971-72  
Terry Messing 1973-74  
Denis C. Stewart 1975-76  
Jerry D. Andrews 1977  
R. Bradley Taylor 1978  
Joel M. Pollack 1979  
Richard H. Bassett 1980  
John W. McKay 1981  
Donald L. Tasker 1982  
Frank A. Stuckey 1983  
Harold Warner, Jr. 1984  
Joe Pashman 1985  
Jay Schrock 1986  
Richard Hill 1987  
M.S. Mitchell 1988

## SENATE ASSESSMENT & TAXATION COMMITTEE

TESTIMONY OF  
HOME BUILDERS ASSOCIATION OF KANSAS  
SB 325  
MARCH 16, 1989

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

My name is Janet Stubbs, Executive Director of the Home Builders Association of Kansas.

I am appearing today in support of SB 325.

The City of Lawrence very adequately stated the inequities of the current law which requires the developer, who constructs public improvements which he dedicates to the city, to pay sales tax on the construction material and services.

However, it should be viewed as an expense which is passed on to the consumer--the purchaser of a new home. It is not a matter of cutting costs for the developer, but rather making housing more affordable for Kansans. It is also a matter of equitable treatment for those who purchase a house in a subdivision whose public improvements were provided by the developer vs. the city or county. Shouldn't we be encouraging less government?

In conclusion, I do not have access to the number of cities which encourage this practice. It varies with each city, and within each city, across the state.

Thank you for your consideration of SB 325.

Assessment and Taxation  
Thursday, March 16, 1989  
Attachment 3







KANSAS DEPARTMENT OF REVENUE

*Division of Taxation*

Robert B. Docking State Office Building  
Topeka, Kansas 66625-0001

JOHN R. LUTTJOHANN  
*Director of Taxation*

MEMORANDUM

TO: THE HONORABLE DAN THIESSEN, CHAIRMAN  
SENATE COMMITTEE ON ASSESSMENT AND TAXATION

FROM: JOHN R. LUTTJOHANN  
DIRECTOR OF TAXATION

DATE: MARCH 16, 1989

SUBJECT: SENATE BILL NO. 325

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Thank you for the opportunity to appear before you today on Senate Bill No. 325.

This legislation would add a new exemption subsection to the Kansas Retailers' Sales Tax Act. Under new subsection (tt) of K.S.A. 79-3606, all materials and services purchased by a contractor for constructing streets and sidewalks, sanitary and storm sewers, and water utility facilities in platted subdivisions which subdivisions would be dedicated to the city would be exempt from sales tax. The cities would need to apply for project exemption certificates from the Department for these particular projects which is similar to the procedure currently followed by cities for other construction projects.

The Department does not oppose this legislation, inasmuch as the bill provides that these types of projects will always be dedicated to the local unit of government once the project has been completed.

I would be happy to respond to any questions which you may have.

Senate Assessment and Taxation  
Thursday, March 16, 1989  
Attachment 4



KANSAS DEPARTMENT OF REVENUE

*Division of Taxation*

Robert B. Docking State Office Building  
Topeka, Kansas 66625-0001

JOHN R. LUTTJOHANN  
*Director of Taxation*

MEMORANDUM

TO: THE HONORABLE DAN THIESSEN, CHAIRMAN  
SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

FROM: JOHN R. LUTTJOHANN  
DIRECTOR OF TAXATION

DATE: MARCH 16, 1989

SUBJECT: SENATE BILL NO. 334

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Thank you for the opportunity to appear before you today on Senate Bill No. 334.

As introduced, this legislation would add a provision to the imposition of the Kansas Retailers' Sales Tax Act - K.S.A. 79-3602(u). Under new subsection (u), sales tax would be imposed on the gross receipts received from FAX services and other similar data transmission services. These types of services do not fall within any of the services currently subject to Kansas sales tax.

The other amendment which this legislation makes is contained in K.S.A. 79-3606(c). Currently, our sales tax law does not exempt tangible personal property or services purchased by schools or nonprofit educational institutions for the erection, construction, repair, enlargement or equipment of buildings used primarily for human habitation (i.e., dormitories). Under the amendment, the language in 79-3606(c) will conform with similar language found in 79-3606(d). The new language would not exempt tangible personal property or services purchased for the erection, construction, reconstruction, repair, enlargement, equipping, furnishing or remodeling of buildings used primarily for human habitation.

I would be happy to respond to any questions which you may have.

Senate Assessment and Taxation  
Thursday, March 16, 1989  
Attachment 5

*Director of Taxation (913) 296-3044 • Income & Inheritance Tax Bureau (913) 296-3051  
Business Tax Bureau (913) 296-2461 • Mineral Tax Bureau (913) 296-7713  
Audit Services Bureau (913) 296-7719*



KANSAS DEPARTMENT OF REVENUE

*Division of Taxation*

Robert B. Docking State Office Building  
Topeka, Kansas 66625-0001

**MEMORANDUM**

TO: THE HONORABLE DAN THIESSEN, CHAIRMAN  
SENATE COMMITTEE ON ASSESSMENT AND TAXATION

FROM: JOHN R. LUTTJOHANN  
DIRECTOR OF TAXATION

RE: SENATE BILL 330

DATE: MARCH 16, 1989

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Thank you for the opportunity to appear today in support of Senate Bill 330.

The proposed legislation provides for income tax withholding equal to 10% of the amount of mineral production payments made to non-residents. The withholding is to be submitted to the Department of Revenue on a quarterly basis. The provisions of the bill would be effective for payments made after January 1, 1990.

The department of revenue currently receives 1099 forms which identify the amounts of production payments which are paid on account of Kansas production. Many times, however, the amount of tax which would be due from a non-resident is small. Under our current rates; absent some other Kansas source income, the tax could not equal 10% of the payment received. The 10% withholding would provide an incentive for non-residents to meet the same filing requirements which we impose on resident taxpayers. Due to our information exchange programs with the IRS, we can rather easily identify a resident who has not filed a required return. It is considerably more difficult and expensive to identify and collect from non-residents.

It is estimated that about 24,000 non-resident taxpayers receive payments for Kansas mineral production.

I would be happy to respond to any questions which you may have.

Senate Assessment and Taxation  
Thursday, March 16, 1989  
Attachment 6



## KANSAS INDEPENDENT OIL & GAS ASSOCIATION

105 SOUTH BROADWAY • SUITE 500 • WICHITA, KANSAS 67202 • (316) 263-7297

March 16, 1989

TO: Senate Committee on Assessment and Taxation

RE: SB 330

We are opposed to SB 330. We thought passage of SB 48 (1987) now cited as KSA 79-3222(a) addressed the problem of dealing with out of state mineral interest owners. As a result of that enactment notices were sent out - both by the Director of Taxation and voluntarily by the private companies. SB 48 (1987) was enacted because just a year before Oklahoma enacted similar legislation. We supported the Kansas effort because we felt what was supposedly good for Oklahoma had to be good for Kansas. Oklahoma did not in 1986, nor does it now, substitute the private companies for the Revenue Department in withholding money as is proposed in SB 330.

We haven't heard what success the Department has had implementing the 1987 act. Until SB 330 was introduced, we didn't know of any problems being experienced.

We think SB 330 goes too far. It will telegraph a harsh taxing policy to investors. We are attempting to encourage them to invest in Kansas, not discourage them. We have a 146 company members of KIOGA that reside in 20 states, but operate in Kansas. Much of our drilling money arises from out of state, creating working interests in Kansas production, hence covered by SB 330. SB 330 withholds income due to out of state investors in Kansas and may or may not have any relationship to taxes owed!

As we have stated before, Kansas could, like other states, require 1099 information be sent to them each year. While they would not have the opportunity to get 10% off the top, they could follow up on any and all nonresidents not paying their taxes. Besides, we believe that the director of taxation in Kansas can direct the withholding of production payments from interest owners if they are not paying their taxes. It appears Kansas already has a system in place that should work.

We like to think that most non-residents file their taxes properly. It seems unreasonable to withhold from honest taxpayers. We would anticipate numerous complaints from such individuals.

Kansas is known to have the highest taxes on oil and gas production in America. Requiring the withholding of 10% of production payments due non-resident investors is a bad message to communicate and will be another reason why one would not want to invest in exploration, drilling, and production of oil and gas in Kansas.

We oppose the passage of SB 330. We think KSA 79-3222(a) passed in 1987 is enough regulation on this subject.

Donald P. Schnacke

Senate Assessment and Taxation  
Thursday, March 16, 1989  
Attachment 7

Testimony in Opposition to  
SB 330  
Requiring the Withholding of Mineral Production Payments

Submitted by Kansas Petroleum Council  
before the  
Senate Assessment and Taxation Committee

March 16, 1989

Thank you, Mr. Chairman and members of the committee. We appreciate this opportunity to appear before you on Senate Bill 330.

My name is Ken Peterson. I am associate director of the Kansas Petroleum Council, a division of the American Petroleum Institute. We represent what you would term the major oil companies who do business in Kansas.

I appear today in opposition to Senate Bill 330, which would require oil and gas producers in Kansas to withhold 10 percent from royalties paid to out-of-state residents, and remit the withholdings on a quarterly basis to the state.

We are unaware of any need for this legislation, which in effect would turn oil and gas producers into tax collectors for the state. It would create a costly administrative headache for our production companies. For independent producers, the expense would be extremely burdensome.

We believe this bill is unnecessary since a law is already on the books to deal with the tax liability of out-of-state royalty owners. The 1987 Kansas Legislature, at the request of the Revenue Department and with the cooperation of the oil and gas industry, enacted Senate Bill 48. Senate Bill 48 gave the state authority to order companies to suspend any royalties to delinquent taxpayers. Production companies invested considerable time and money to comply with Senate Bill 48. Our companies provided Kansas with information needed to track down delinquent taxpayers, including computer tapes of all royalty owners, both resident and non-resident.

SB 330  
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Senate Bill 48 also gave the state authority to order companies to suspend any royalty payments to delinquent taxpayers. To the best of my knowledge, the Revenue Department has never asked our companies to enforce the law by withholding royalty payments in cases of tax delinquency.

We frankly see no crying need for Senate Bill 330.

Senate Bill 330 creates several other problems that will be addressed by the next conferee.

Thank you.

Att ✓

Testimony in Opposition to  
SB 330  
Requiring the Withholding of Mineral Production Payments

Submitted by Oxy USA, Inc.  
before the  
Senate Assessment and Taxation Committee

March 16, 1989

Mr. Chairman, members of the Committee we appreciate the opportunity to appear before you this morning to detail our opposition to SB 330.

I am Glenn Hawkins, the Kansas State Relations Manager for Oxy USA, Inc. We are the largest oil producer in the state and are one of the largest gas producers with a significant presence in the Hugoton field.

Kansans, the State of Kansas and our company have all benefited during our more than eighty years of operation in the state.

Just one aspect of that succesful relationship has been the substantial amount of revenue we disburse to the state of Kansas, its citizens, and their heirs in the form of bonuses, rentals, overrides and working interest and royalty income.

Currently we have more than 17,000 royalty owners receiving income based on Kansas production. Approximately 4,500 of these royalty owners reside outside of Kansas.

Royalty income derived from Kansas operations is paid to these royalty owners monthly. Amounts vary according to product price and volumes sold. This income is subject to Kansas tax.

Two years ago, in recognition that many out-of-state royalty owners were not filing or paying tax on their Kansas royalty income, the legislature passed SB 48. This bill provides a mechanism for the companies -- ie the payors -- and the Kansas Department of Revenue to work together to assure the timely and accurate tax filing by the individual out-of-state royalty owners receiving checks.

Now a new approach is being sought in SB 330. This bill would require the middleman payor, such as Oxy, to automatically withhold 10 percent of mineral production payments owed to an out-of-state mineral owner.

Certainly, we have no beef with these people paying the taxes they owe. But we do believe strongly that we should not be looked toward as a first resort to handle this assignment which is principally the responsibility of the Kansas Department of Revenue.

Although we are an easy target to "deputize" in this way, our mainline business is not as an assistant tax collector for the Department, but as an explorer and producer of oil and gas in Kansas.

We are deeply troubled by the trend to look toward legislation as a first resort to impose solutions rather than using SB 48. It is time to respond; not react to this Kansas State government problem.

The 72nd legislature in 1987 gave the Department the means to do this. One now wonders if the Department means to use it.

SB 48 addressed this problem in 1987. The question should now be asked and in some quarters is being asked: "Is the Kansas Department of Revenue fulfilling its statutory responsibilities with regards to delinquent out-of-state royalty recipients?"

SB 48 did two main things.

First, it required companies to provide the Tax Department with data on all the oil and gas mineral production payments it remits to owners.

Oxy went to considerable system revisions and expense to provide the Department with magnetic tapes from our 1099 system. Two years ago the Department wanted these tapes to determine which individuals were not paying. The tapes Oxy provides show the payments to all owners, both resident and non-resident and the income derived from Kansas production sources. Oxy strongly suggests the state use these tapes to determine who has failed to file state tax returns.



Second, the law authorized and empowered the Director to issue tax levies to the person or entity making production payments to withhold all production payments to any person who has failed to file a state income tax form or has failed to pay state income tax until such time as his tax bill has been settled with the state of Kansas.

In anticipation of the Department "hitting the ground running" with this authority granted by SB 48, Oxy changed its systems and procedures to comply quickly and accurately when the Department requests came. Since SB 48 became law, Oxy has never received a Department of Revenue order for a tax levy.

There are numerous other problems contained in this "simple little" one page bill. As Senator Bob Dole is fond of saying about bills that seem on the surface too good to be true. "For every problem there is a simple, easily understandable and workable solution . . . and it is generally wrong!"

Here are some of the numerous problems with SB 330:

- ~ Could a Kansas "mail drop" be used to circumvent the law?
- ~ Must ten percent be withheld on corporate or individual royalty accounts already filing a Kansas tax form?
- ~ In the interest of fairness should the state consider paying an "administrative service fee" to companies equal to the costs of another administrative and computer change over to comply with the provisions of SB 330?
- ~ And, what of individual out-of-state royalty owners who are not subject to tax -- such as persons who fall below the income threshold required for filing under Kansas law. Should these fixed-income persons be denied 10 percent of their royalty checks?
- ~ Has the Department thought out procedures and costs for the inevitable refund system likely to be needed?

It is for these reasons SB 330 is ill-advised.

As I earlier mentioned, Oxy has worked well with Kansas during our years of operation in Kansas. We believe the onus of responsibility in this matter is on the Department of Revenue.

SB 330 is unneeded because a remedy already exists in the 1987 law. But the question can legitimately be asked: "If the Department is not pursuing remedies for this situation provided under SB 48, why must the payors of mineral production payments be required to do so under SB 330?"

The Department of Revenue has a remedy to ensure tax revenues from out-of-state royalty owners is collected. We would ask that the Kansas Department of Revenue try the remedies provided in SB 48.

We oppose SB 330. Give the 1987 law now on the books a chance to work.

Thank you for your consideration of our views in opposition to SB 330.

KANSAS DEPARTMENT OF REVENUE  
Office of the Secretary  
Robert B. Docking State Office Building  
Topeka, Kansas 66612-1588

MEMORANDUM

TO: The Honorable Dan Thiessen, Chairman  
Senate Committee on Assessment and Taxation

FROM: Mark A. Burghart, General Counsel  
Kansas Department of Revenue

RE: Senate Bill No. 341

DATE: March 16, 1989

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Thank you for the opportunity to appear and express the Department of Revenue's strong support for S.B. 341. The bill would authorize the Department to contract with a debt collection agency to collect delinquent tax liabilities in cases where the taxpayer resides or is domiciled within Kansas. Current law restricts the use of collection agencies to out-of-state accounts.

The bill will allow the Department to fully utilize all available collection techniques to recover tax dollars which are due and owing the state of Kansas. Due to personnel limitations and the large number of delinquent accounts, some accounts are not being pursued in a timely fashion. The longer an account remains dormant, the more likely it is that a collection will not be made. The ability to use in-state collection agencies is one way of addressing this problem. Our experience with collection agencies on out-of-state accounts has been good and we are confident that the same favorable results would be obtained on in-state accounts.

The Department respectfully requests the Committee's favorable consideration of S.B. 341.

Senate Assessment and Taxation  
Thursday, March 16, 1989  
Attachment 10

General Information (913) 296-3909  
Office of the Secretary (913) 296-3041 • Legal Services Bureau (913) 296-2381  
Audit Services Bureau (913) 296-7719 • Planning & Research Services Bureau (913) 296-3081  
Administrative Services Bureau (913) 296-2331 • Personnel Services Bureau (913) 296-3077