Approved: april 29, 1999
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION.

The meeting was called to order by Chairperson David Adkins at 9:00 a.m. on March 10, 1999 in Room 519-S of the Capitol.

All members were present except: Rep.Campbell - excused
Rep. Johnston - excused

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Don Hayward, Revisor of Statutes
Shirley Sicilian, Department of Revenue
Mary Shaw, Committee Secretary

Conferees appearing before the committee:
Shirley Sicilian, Director of Policy & Research, Kansas Department of Revenue

Others attending: See attached list

The Chairman appointed a Subcommittee on Property Tax. He mentioned that the subcommittee will have **HCR 5031**, **SB 252**, **HB 2453**, and if received, **SB 226**. The Chairman appointed Vice Chairman Clay Aurand to chair the subcommittee and other members appointed were Representatives Campbell, Gregory, Flora and Tedder. The Chairman asked that the subcommittee deliberate on repealing of mill levy limits, extension for sunsetting of the tax lid, and various other circuit breaker type proposals such as caps on valuation increases. The Chairman also noted that the subcommittee will have the flexibility to consider whether these kinds of relief measures should be targeted to the elderly, those on fixed incomes, or those at the poverty level. The Chairman requested that the subcommittee report back to the full House Taxation Committee with a report by the following week.

The Chairman mentioned that last fall Chris Courtwright, of the Kansas Legislative Research Department, prepared a memorandum dated October 22, 1998, for an interim committee that was working several tax exemptions and credits that affected the oil and gas industry (Attachment 1). The Chairman thought that in preparing to consider additional tax relief in this area it might be helpful to have some brief historical review of taxation policy in that area and other types of tax relief that has been granted in past legislative sessions. The Chairman introduced Chris who briefed the committee on the various tax exemptions and credits affecting the oil and gas industry. Committee questions and discussion followed.

The Chairman called the committees attention to:

HB 2543 - Income tax credit for oil lease working interest property tax

The Chairman recognized Representative Minor who made a motion, and seconded by Representative Edmonds, to amend on line 19 following 15 barrels or less, to add and to gas lease the average daily production for wells which are 90 cubic feet or less. Committee questions and discussion followed. The vote was taken and division was requested. The vote was 11 in favor and 8 opposed. Motion carried.

The Chairman recognized Representative Edmonds who made a motion, and seconded by Representative Gregory, to amend the provisions of **HB 2009** into **HB 2543** including concrete trucks and regarding grain storage facilities, not be limited to commercial grain storage facilities and take out the word "commercial". Motion carried.

The Chairman recognized Representative Gregory who made a motion, and seconded by Representative Sharp, to offer a conceptual amendment which would eliminate the tax credit when oil hits $20 a barrel in price and also if oil hits $15 a barrel in price, and these are average prices for the year, that half of that credit would go away at that point, and on the natural gas side, when natural gas hits $1.60 per thousand then it would end up being that half credit and when natural gas finally hits $2.00 per thousand of the entire credit for natural gas of those well-producing wells then be eliminated. Committee questions and discussion followed. The vote was taken and division was requested. The vote was 9 in favor and 10 opposed. Motion failed.

The Chairman recognized Representative Wilk who made a motion, and seconded by Representative Gregory, to offer a three-year sunset on **HB 2543** on the income tax credit (**SB 18** part) as amended. Questions and discussion followed. The vote was taken and division was requested. The vote was 8 in favor and 10 opposed. Motion failed.

The Chairman recognized Representative Minor who made a motion, and seconded by Representative Edmonds, regarding **HB 2543**, line 32, add the wording as an alternative method of claiming credit, operators of oil and gas wells may apply for a refund if property is paid on the lease directly to the Kansas Department of Revenue on forms prescribed by the department. Questions and discussion followed. Motion carried.

The Chairman recognized Representative Wilk who made a motion, and seconded by Representative Vickrey, to put the provisions of **SB 44** regarding the increasing income tax credit for property tax paid by businesses on machinery and equipment from 15% to 20% into **HB 2543** as part one and part two will be to increase the threshold for the personal property tax exemption for businesses from $250 to $500. Questions and discussion followed on part one of the amendment. Motion carried. Questions and discussion followed on part two of the amendment. The vote was taken and division was requested. The vote was 11 in favor and 8 against. Motion carried.

The Chairman recognized Representative Edmonds who made a motion, and seconded by Representative Howell, to report **HB 2543** favorable for passage as amended. Representative Edmonds withdrew his motion upon agreement by Representative Howell who had seconded the motion.

The Chairman recognized Representative Minor who made a motion, and seconded by Representative Edmonds, to amend **HB 2039** into **HB 2543** to repeal the severance tax on 30% of production and on 3% of the mills still would be paying some severance related to oil only. Motion carried.

The Chairman recognized Representative Edmonds who made a motion, and seconded by Representative Howell, to pass **HB 2543** favorable as amended. Motion carried.

The Chairman opened public hearings on:

SB 43 - Procedure for residential property refunds

Proponents:

The Chairman introduced Shirley Sicilian, Director of Policy and Research, Kansas Department of Revenue, who spoke regarding creating a funding source for Homestead Circuit Breaker Refunds. Ms. Sicilian mentioned that the criteria for receiving the refund is clearly outlined in the statute, but the statute does not identify a funding source. She further mentioned that their proposed amendment would establish the fund source for these refunds. She noted that it would allow a taxpayer who is claiming property tax relief under the homestead circuit breaker to be paid from the homestead refund fund. (Attachment 2)

SB 47 - Tax collection procedures of the department of revenue

Proponents:

The Chairman introduced Shirley Sicilian, Director of Policy and Research, Kansas Department of Revenue, who spoke regarding improving administration fairness after a final tax determination. Ms. Sicilian mentioned that the **SB 47** deals with the Department procedures for collecting tax liability once it has become final. She noted their goal is to improve the collection process in the same way they improved the assessment and review process that came before it and the amendments would streamline the process thereby increasing fairness for taxpayers. (Attachment 3)

Questions and discussion followed.

The Chairman closed the public hearings on **SB 43** and **SB 47**.

The Chairman called the committee's attention to:

HB 2549 - Kansas estate tax amendments

The Chairman explained that the bill would enact a number of estate tax reform provisions to clarify the Kansas law in wake of recent federal law changes in the repeal of the Kansas inheritance tax. He mentioned that the bill would remove an estate tax lien provision which is in current law and repeal a provision which requires District Court findings when all estate taxes have been paid prior to the acceptance of the final accounting. He also noted that these measures would virtually eliminate the need for non-taxable estates to file returns and was supported by strong endorsement of the Judicial Council. The Chairman also mentioned that Representative Carmody was the chief architect of the repeal of the inheritance tax in favor of the estate tax in Kansas. The Chairman also noted that the bill, as printed, has the amendments that were suggested as a result of earlier hearings on the previous version of **HB 2158**.

The Chairman recognized Representative Gregory who made a motion, which was seconded by Representative Tomlinson, to pass **HB 2549** favorable for passage. Questions and discussion followed. Motion carried.

The Chairman called the committee's attention to:

HB 2226 - Alternative-fueled vehicles, incentives

The Chairman mentioned that this bill that would expand and enhance income tax credits such that credits would be available when taxpayers made expenditures for alternative-fueled vehicles which is Representative Jeff Peterson's bill.

The Chairman recognized Representative Osborne who made a motion, and seconded by Representative Howell, to report **HB 2226** favorable for passage. Questions and discussion followed. Motion carried.

The meeting was adjourned at 10:45 a.m.

The next meeting is scheduled for March 11, 1999.

HOUSE TAXATION COMMITTEE
GUEST LIST
DATE: March 10, 1999

Don Schnacke	KIOGA
NICK POWELL	COLT ENERGY, INC.+EKOGA
George Welch	Barbee & Assoc.
Christy Caldwell	Topeka Chamber of Comm
Natalie Bright	KCCI
[illegible]	Ks taxpayers Network
Wendy Harms	KS aggregate Producers' Assn.
Woody Moses	KS Ready Mixed Concrete Assn.
Randy M. Hearrell	Kansas Judicial Council
Karl Peterjohn	KS Taxpayers Network
Marcia Hess	Sedgwick County
Tom Bruno	Allen & Assoc.
SCOTT SCHNEIDER	MGA
Roger Franzke	KGC
Ken Peterson	KS Petroleum Council
Bo Koch	Wichita Chamber
Nora Fenton	Johnson County

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October 22, 1998

To: Special Committee on Assessment and Taxation

From: Chris W. Courtwright, Principal Analyst

Re: Various Tax Exemptions and Credits Affecting Oil and Gas Industry

Sales Tax Exemptions (date enacted)

K.S.A. 79-3606 (w) exempts all sales of natural gas, electricity, heat, and water delivered through mains, lines, or pipes . . . for use in the severing of oil. (1994)

K.S.A. 79-3606 (pp) all sales of drill bits and explosives actually utilized in the exploration and production of oil or gas. (1988)

K.S.A. 79-3602 (m) property which is consumed (and not subject to sales tax) includes tangible personal property which is essential and necessary to and which is used in the actual process of and immediately consumed or dissipated in . . . the . . . mining or . . . drilling of tangible personal property. (1971) **Note**: This exemption would be expanded substantially under the interim Committee bill to change "immediately" to "within one year." (Expansion proposed for 1999.)

Additional proposed exemption in interim sales tax bill for "oil and gas drilling services and supplies, and drilling, pumping, and monitoring equipment, used at a well site or in oil and gas exploration." (Proposed for 1999.)

Severance Tax Exemptions

Note: Severance tax on salt in effect from 1983-87. Tax on coal still in effect, but exemption expansion in 1987 has substantially reduced revenue.

Gas Severance Tax Exemptions (date enacted)

- injected into the earth for the purpose of lifting oil, recycling, or repressuring (1983);
- used for fuel in connection with the operation and development for, or production of, oil or gas in the lease or production unit where severed (1983);
- lawfully vented or flared (1983);

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- average daily production during a calendar month having gross value of \$87 or less (1983: \$81; 1998: \$87);
- inadvertently lost due to leaks, blowouts, or other accidental losses (1983; clarified in 1992);
- used or consumed for domestic agricultural purposes on the lease or production unit from which it is severed (1983);
- placed in underground storage for recovery at a later date after having been taxed originally in Kansas or originally severed in another state (1983);
- new pool exemption for two years (1983);
- all production from a three-year inactive well for the next ten years (1994); and
- incremental production resulting from certain production enhancement projects (1998).

Note: Effective gas severance tax rate reduced from 7 percent to 4.33 percent over three years (1994 veto override).

Oil Severance Tax Exemptions (date enacted)

- severed as a result of tertiary recovery process (1983);
- test, frac, or swab oil which is sold or exchanged for value (1983);
- inadvertently lost due to leaks, blowouts, or other accidental losses (1983; clarified in 1992);
- new pool exemption for two years (1983); and
- low production exemption: 3 bbls per day or less and 4 or less for water flood (1983-1988).

Oil Low Production Severance Tax Exemptions—1988-1998

Price	Normal Exemption Threshold	Water-Flood Exemption Threshold
Over \$30	3 bbls per day or less	4 bbls per day or less
\$24.01 to \$30.00	4 bbls per day or less	5 bbls per day or less
\$16.01 to \$24.00	5 bbls per day or less	6 bbls per day or less
\$10.01 to 16.00	6 bbls per day or less	7 bbls per day or less
\$10.00 to less	7 bbls per day or less	8 bbls per day or less

Oil Low Production Severance Tax Exemptions—1998

Price	Normal Exemption Threshold	Water-Flood Exemption Threshold
Over $16	6 bbls per day or less	7 bbls per day or less
$15.01 to $16.00	7 bbls per day or less	8 bbls per day or less
$14.01 to $15.00	8 bbls per day or less	9 bbls per day or less
$13.01 to 14.00	9 bbls per day or less	10 bbls per day or less
$13.00 to less	10 bbls per day or less	10 bbls per day or less

- all production from a three-year inactive well for the next ten years (1994); and
- incremental production resulting from certain production enhancement projects (1998).

Property Tax Exemptions and Reduced Assessment Level

K.S.A. 79-201t (1992, expanded in 1998) exempts low-production oil leases (other than royalty interests) as follows, based on depth:

	(1992-1997)	(1998 Law)
Less than 2,000 feet	2 bbls per day or less	3 bbls per day or less
2,000 feet or more	3 bbls per day or less	5 bbls per day or less

Reduced Assessment Level Authorized by Voters in New Classification Amendment, Effective for Tax Year 1993 (All Mineral Leaseholds had been taxable at 30 percent of fair market value up to that time)

Oil: 5 bbls per day or less—25 percent (Other taxable oil property still assessed at 30 percent)

Gas: 100 mcf per day or less—25 percent (Other gas property still assessed at 25 percent)

Income Tax Credit

In addition to other income tax credits available to the oil and gas industry (job expansion and investment credits, etc.), the 1998 Legislature enacted a measure advocated by the oil and gas industry which allows for certain costs associated with plugging abandoned wells to be claimed as income tax credits.

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S TE OF KANSAS
Bill Graves, Governor

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Office of Policy & Research

TESTIMONY

To: Representative David Adkins
Chair, House Taxation Committee

From: Shirley Sicilian
Director of Policy & Research

Re: **SB 43 Creating a Funding Source for Homestead Circuit Breaker Refunds**

Date: March 10, 1999

Good morning Chairman Adkins and members of the Taxation Committee. My name is Shirley Sicilian and I serve as Director of Policy & Research at the Kansas Department of Revenue. I appreciate the opportunity to testify before you today regarding Senate bills 43, which was requested for introduction by the Department.

Senate bill 43 deals with the homestead circuit breaker which was enacted as part of the Taxpayer Equity and Fairness Act of 1997. (K.S.A. 79-4530). That law created a property tax refund for taxpayers whose single-family, owner occupied residential real property increases in appraised value by 75% or more from one year to the next. The criteria for receiving the refund is clearly outlined in the statute. However, the statute does not identify a funding source. Our proposed amendment would establish the funding source for these refunds. It would allow a taxpayer who is claiming property tax relief under the homestead circuit breaker to be paid from the homestead refund fund. The homestead refund fund is an existing fund that currently supports another property tax relief provision, the Homestead Refund Act (K.S.A. 79-4504). In fact, the department has processed the handful of circuit breaker claims that have been made to-date from the homestead refund fund, but there is currently no specific statutory authority to use those funds for that purpose. This bill would clarify the department may use the homestead refund funding source to satisfy the circuit breaker claims.

This bill passed the Senate via the consent calendar.

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raves, Governor

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Office of Policy & Research

TESTIMONY

To: Representative David Adkins
Chair, House Taxation Committee

From: Shirley Sicilian
Director of Policy & Research

Re: **SB 47 - Improving Administration Fairness after a Final Tax Determination**

Date: March 10, 1999

Good morning Chairman Adkins and members of the Taxation Committee. My name is Shirley Sicilian and I serve as Director of Policy & Research at the Kansas Department of Revenue. I appreciate the opportunity to testify before you today regarding Senate bills 47, which was requested for introduction by the Department.

The Taxpayer Equity and Fairness Act of 1997 made several major improvements to the way the Department determines the amount of tax due. The Act also made significant improvements in how the Department reviews its determination and issues a final decision, if the matter is appealed. These procedures, along with possible further review through the BOTA and the Court system, culminate in a final determination of tax liability. Senate bill 47 deals with the next, and final steps in the process: the Department procedures for collecting that tax liability once it has become final. Our goal is to improve this collection process in the same way we have improved the assessment and review processes that came before it. We believe the amendments would streamline the process and increase fairness for taxpayers.

The bill has four substantive parts:

1. **Expand Secretary's authority to abate final liability.** Under the current statutes, the Secretary can abate a final income tax liability "in the event of insolvency of the taxpayer." (K.S.A. 79-3233a). Section 2 of SB 47 would expand that authority to cases where the Secretary finds "serious doubt as to either the collectability of the tax due or the taxpayer's liability." This new criteria would give the Department additional flexibility to abate all or a portion of a tax liability in situations where it makes sense to do so. These situations typically arise where the taxpayer neglected to appeal for one reason or another. The assessment becomes final, collection is pursued, and in the course of pursuing collection, it becomes apparent that the final liability is erroneous. To ensure accountability, section 3 requires the Secretary to maintain records of all abatements of $5,000 or more, including the name of the taxpayer and the reason for abatement. An annual report summarizing this information is required to be submitted to the secretary or state, the legislative division of post audit, and the attorney general. These records would also be available for public inspection upon written request. Section 7 of the bill would

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e. . these provisions to sales and compensating use taxes, and section 8 further extends the provisio to other excise taxes.

2. Increase the limit for charge-off of individual income tax accounts receivable. Under current law, accounts receivable for less than $25 which have been delinquent for more than seven years may be charged off if the director finds them to be uncollectable after all reasonable efforts have been made. A finding of "uncollectable" must be based on one of the reasons enumerated in statute. These reasons include cases where the taxpayer is receiving social security or welfare and has no other assets, mentally ill or physically incapacitated and not economically productive, etc. The $25 limit has been in place since 1969. Sections 4, 5, and 6 of the proposed legislation would raise that $25 limit to $100, and reduce the waiting period from 7 to 5 years. Necessary corresponding changes have been made in other sections. These changes would reflect inflation and reduce administrative costs of maintaining these accounts. Again, Section 7 of the bill would extend these provisions to sales and compensating use taxes. Section 8 further extends the provisions to other excise taxes.

3. Provide a hearing where "responsible individuals" are held liable. Current statutes establish certain limited circumstances where an individual may be held personally liable for the sales or excise tax debt of a business entity. (K.S.A. 79-2971 and 3643). These are trust taxes where the tax has been collected from customers, but not remitted to the state. We only look to a "responsible individual" if we are unable to collect the final liability from the business entity itself. The individual has a constitutional right to due process at that point. However, the current statutes do not provide for direct agency review of our determination that the required circumstances were met to hold the individual liable. In order to satisfy constitutional due process requirements, the department practice is to provide review by having the individual pay the debt, seek a refund, be denied, and appeal the denial of refund. This is cumbersome and a recent Kansas Court of Appeals ruling found it was not sufficient to meet due process requirements (*Copeland v. Robinson*, et al, Docket No. 77,652 [Ks. Ct. of Appeals, Dec. 11, 1998]; the Department has petitioned for review). The only current statutory alternative is to assess "responsible individuals" at the same time we assess the business entity. But because there are so few circumstances where we need to look to the individual, we want to avoid this. Sections 9 and 10 of this bill would allow for a direct agency review of the determinations that 1) the circumstances exist for the individual to be liable, and 2) the amount of the liability. This bill will clarify that due process will be met and also streamline the process for taxpayers.

4. Subsume the Division of Collections into the Division of Taxation. Section 11 repeals the above amended statutes. But it also makes a substantive change by repealing the statutes that establish a Division and Director of Collections. The Division of Collections currently operates under the Division of Taxation. The Department has not had a separate Director of Collections for 6 years.