

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairperson David Corbin at 10:45 a.m. on April 2, 2003, in Room 519-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee: Richard Cram, Kansas Department of Revenue  
Ron Hein, Pioneer Natural Resources U.S.A., Inc.  
Ken Peterson, Kansas Petroleum Council  
Pete Schrepferman, Wichita Independent Business Association  
Marlee Carpenter, Kansas Chamber of Commerce & Industry  
Hal Hudson, National Federation of Independent Business  
Bob Krehbiel, Kansas Independent Oil & Gas Association

Others attending: See attached list.

**SB 279–Taxation; relating to time for payment**

Richard Cram, Kansas Department of Revenue, testified in support of **SB 279**, noting that it is part of the Governor’s budget proposal. He explained that **SB 279** would accelerate the collection of withholding, sales and use taxes, and mineral taxes and that its passage would increase state general fund revenues for Fiscal Year 2004 by approximately \$18 million. He compared current law with the proposed changes in Sections 1, 2, and 3 and discussed the estimated increase to state general fund revenues for each section. In conclusion, he noted that the Department is working with the oil and gas industry on their suggested amendments to Section 3. (Attachment 1) Mr. Cram responded to committee questions regarding the remittance of withholding taxes at which time he acknowledged that the proposed change to accelerate collection would be a permanent change for a one-time benefit.

Ron Hein, representing Pioneer Natural Resources U.S.A., testified in opposition to the portion of **SB 279** which accelerates the payment of severance tax, noting that the issue has been debated by the legislature in past years. He emphasized that it is extremely difficult, if not impossible, for the oil and gas industry to collect data and remit the severance tax sooner than the time now allowed by law. He noted that if acceleration legislation is passed, it will be necessary for the industry to hire additional personnel to read meters, estimate monthly volumes, and process any adjustments. In conclusion, he commented that passage of the bill will create a permanent business inefficiency for a one-time benefit to the state. (Attachment 2)

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Ken Peterson, Kansas Petroleum Council, echoed Mr. Hein's opposition to the portion of **SB 279** concerning the severance tax. He reminded the Committee that the 2001 Legislature barely approved a similar bill. However, the Governor vetoed it, citing burdensome consequences to the industry and minimal benefits to the state. He called attention to a copy of the veto message and a copy of the fiscal note on the 2001 legislation indicating that the costs of implementing the one-month reduction in remittance time would carry significant costs to the state. In addition, he called attention to testimony presented in 2001 by Dick Brewster, BP, in which Mr. Brewster states that the additional accounting process involved would significantly increase the cost of producing gas in Kansas. Mr. Peterson maintained that the one-time increase in tax revenues is not worth the ongoing problems it will create for both the industry and the state. (Attachment 3)

Pete Schrepferman, Wichita Independent Business Association, testified in opposition to **SB 279**, contending that it does nothing to address the long-term fiscal problems facing the state. He expressed concern that the acceleration of withholding and sales tax payments from quarterly to monthly will place a significant burden on small "Mom and Pop" businesses, who will be forced to cover the cost of additional administrative and auditing expenses. In addition, he noted that the bill forces business owners to pay taxes to the state on money they have yet to collect. He recommended that the bill be amended to exempt businesses which collect \$1,600 or less per year in sales taxes and those which withhold \$1,200 or less in payroll taxes. (Attachment 4)

Marlee Carpenter, Kansas Chamber of Commerce and Industry, testified in opposition to **SB 279**. She commented that the increase in filings from four to twelve times per year will create a burden for small businesses due to the increased cost required for compliance and the increased paperwork. She also pointed out that small businesses would lose the time value of money. In addition, she believes the Department of Revenue will have to hire more employees to handle the increased paperwork. In conclusion, Ms. Carpenter commented that, although the Chamber is encouraged by the Governor's plan because it does not include a tax increase, it hopes to work with the Legislature to develop other solutions to budget concerns. (Attachment 5)

Hal Hudson, National Federation of Independent Business (NFIB), testified in opposition to **SB 279** on behalf of the 6,000 small business owners in Kansas who are members of NFIB. He noted that, by lowering the thresholds for reporting sales tax receipts, small businesses will be required to prepare reports and write checks to the Department of Revenue when as little as \$6.00 or \$7.00 is due. Additionally, firms with only one minimum wage employee will be required to file monthly reports and remit withholding when as little as \$50.00 or less is due. He pointed out that the proposal does not raise any additional money, and it creates 16 additional opportunities a year for errors to be made by the taxpayer and the Department. In his opinion, the additional time and cost imposed on the Department to process the accelerated collections could be better spent. (Attachment 6)

Bob Krehbiel, Kansas Independent Oil and Gas Association, testified in opposition to **SB 279** with regard to provision in Section 3 accelerating the remittance of the tax on natural gas. He noted that the acceleration of tax payments on natural gas would put many gas producers in the position of having to pay the tax before knowing the amount and receiving payment. As a result, tax payments would be based on estimated amounts that would need to be adjusted to actual on a monthly basis. In addition, every payer of the severance tax and

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remitter of royalties will be forced to revamp their computer program, which will be costly. In his opinion, the cost of resolving these practical aspects will far exceed the one-time benefit to the state. (Attachment 7)

There being not others wishing to testify, the hearing on **SB 279** was closed.

Senator Corbin commented that the alternative to this portion of the Governor's budget proposal is to consider either cutting the education budget or to consider other ways to raise revenue. Senator Oleen commented that she felt it was appropriate that all members of the Senate be given an opportunity to consider **SB 279** on the floor of the Senate.

Senator Oleen moved to technically amend SB 279 to alleviate the concerns expressed by the oil and gas industry relating to the procedures for estimated severance tax payments and to report the bill as amended to the full Senate without a recommendation, seconded by Senator Buhler.

Senator Allen raised a question regarding the fiscal note submitted by the Department of Revenue on a similar bill considered in 2001. She noted that the Department indicated that the cost to rewrite the mineral tax system in 2001 would be approximately \$304,000 and asked why the Department's fiscal note on **SB 279** does not include administrative costs relating to the severance tax. In response, Joan Wagon, Secretary, Department of Revenue, commented that, although the proposed change in the collection of severance taxes will create more work for the Department, the Department will have the same amount of programers doing the same amount of work and that it simply comes down to a decision as to which project staff will be assigned to complete. Because the resources to complete the work are in place, the work can be completed within the current approved budget for the Department. As to the concerns expressed by the oil and gas industry, she noted that the Department is willing to work with the industry on a solution.

Senator Pugh questioned if it was appropriate for the Committee to pass **SB 279** out of committee without making a decision as to whether or not the provisions are good policy. In response, Senator Oleen reiterated that the intent of her motion was to allow all Senators to look at the measure. She pointed out that, historically, legislators have always considered the governor's budget proposals. She noted that her motion alleviates Committee members from having to take a formal position in support or in opposition to the bill. She went on to say that, due to the nature of the introduction of the pieces of the Governor's plan, they do not all fit in one bill. However, the plan is that all parts of the Governor's plan will come to the floor of the House and Senate for consideration.

Senator Donovan commented that passing the bill out of committee without a recommendation sends a message that there is some support for it. He went on to say that he views the approach in the bill to fill "holes" with revenue as "blatantly awful." In his opinion, this approach would be terrible policy even if the economy was healthy because it is "foolish and extremely counter productive." For the reasons cited, he strongly opposed passing **SB 279** out of committee.

Upon a call for a vote on Senator Oleen's motion, Senator Corbin declared that the motion carried. Senator Pugh called for a division. The motion carried.

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The meeting was adjourned at 11:55 a.m.

The next meeting is scheduled for April 3, 2003.