

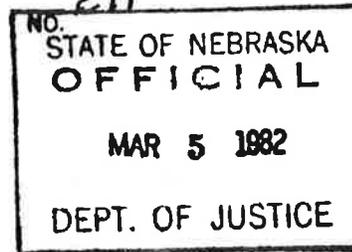
DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509

March 4, 1982

Senator Don Wesely
Member of the Legislature
808 State Capitol
Lincoln, Nebraska 68509



PAUL L. DOUGLAS
Attorney General
GERALD S. VITAMVAS
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JOHN R. THOMPSON
Deputy Attorney General

Dear Senator Wesely:

In your letter of February 26, 1982, you indicated that there seemed to be some confusion regarding the responsibilities of state agencies for the collection of state severance tax, oil and gas conservation assessments, and royalty payments from school and public lands. You ask for our opinion on these matters, because they relate to three legislative proposals currently before the Legislature, and you are considering an amendment to some of those bills to address problems related to the collection of these taxes and royalties, if such an amendment is necessary. We have detected no confusion, so far as the statutes are concerned, and all we can do is set forth the statutory provisions involved.

The oil and gas severance tax is provided for by Neb.Rev. Stat. §§57-701 to 57-714 (Reissue 1978), as amended. Section 57-704 provides for the filing of monthly reports or returns with the Tax Commissioner. Neb.Rev.Stat. §57-705 (Supp. 1981) provides that all severance taxes shall be paid to the Tax Commissioner. Section 57-709 authorizes the Tax Commissioner to bring actions for the collection of due and delinquent taxes. Section 57-712 makes it his duty to supervise and enforce the collection of all taxes due under §§57-701 to 57-714. Section 57-714 permits the Attorney General or the county attorney of any county where the natural resources are located to bring an action to enjoin the severance of oil products while there is a delinquency in any report or the payment of any tax, penalty, or cost required by §§57-701 to 57-714.

Neb.Rev.Stat. §57-919(2) (Supp. 1981) makes provision for an assessment on the value at the well of oil and gas produced, saved, and sold or transported from premises in Nebraska where produced, the sums collected to be credited to the Oil and Gas Conservation Fund. The Oil and Gas Conservation Commission fixes the amount of the assessment, and formerly was charged

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by §57-919 with the duty of collecting it. However, that section was amended in 1980, and now provides that it shall be the duty of the Tax Commissioner to make collection of such assessments.

Neb.Rev.Stat. §57-218 (Reissue 1978) provides:

The governing board of all lands of the State of Nebraska, except the Board of Educational Lands and Funds, and the governing board of all cities, town, counties, public power districts, school districts and all other governmental subdivisions of the State of Nebraska are respectively authorized and empowered to lease lands under their control for oil and gas exploration and development.

We find no statutory provision for anyone else to collect the royalties from leases entered into pursuant to that section, so presumably they should be collected by the lessors.

Neb.Rev.Stat. §72-901 (Reissue 1976) authorizes the Board of Educational Lands and Funds to lease "any school and public lands belonging to the state and under its control" for oil and gas exploration. Again, we find no provision for anyone other than the Board to collect the royalties, and it would appear to be its responsibility.

Very truly yours,

PAUL L. DOUGLAS
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cc: Patrick O'Donnell
Clerk of the Legislature