

## HOUSE BILL No. 2310

By Committee on Utilities

2-5

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AN ACT concerning the mineral severance tax; removing such tax from severance and production of natural gas; amending K.S.A. 79-4216, 79-4218, 79-4219, 79-4220, 79-4221, 79-4222, 79-4223, 79-4224, 79-4226, 79-4227 and 79-4230 and K.S.A. 2000 Supp. 79-4217 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 79-4216 is hereby amended to read as follows: 79-4216. As used in this act, unless the context clearly requires otherwise, ~~the following words and phrases shall have the meanings ascribed to them herein:~~

(a) "Barrel" for oil measurement means a barrel of 42 U.S. gallons of 231 cubic inches per gallon, computed at a temperature of 60 degrees Fahrenheit.

(b) "Director" means the director of taxation.

~~(c) "Gas" means natural gas taken from below the surface of the earth or water in this state, regardless of whether from a gas well or from a well also productive of oil or any other product.~~

~~(d) "Gross value" means the sale price of oil or gas at the time of removal of the oil or gas from the lease or production unit and if oil or gas is exchanged for something other than cash, or if no sale occurs at the time of removal or if the director determines that the relationship between the buyer and the seller is such that the consideration paid, if any, is not indicative of the true value or market price, then the director shall determine the value of the oil or gas subject to tax based on the cash price paid to one or more producers for the oil or gas or based on the cash price paid to producers for like quality oil or gas in the vicinity of the lease or production unit at the time of the removal of the oil or gas from the lease or production unit.~~

~~(e) (d) "Oil" means petroleum, or other crude oil, condensate, casinghead gasoline, or other mineral oil which is severed or withdrawn from below the surface of the soil or water in this state.~~

~~(f) (e) "Operator" means the person primarily responsible for the management and operation of coal, oil or gas or oil productions from a lease, production unit or mine.~~

1 ~~(g)~~ (f) "Person" means any natural person, firm, copartnership, joint  
2 venture, association, corporation, estate, trust or any other group or com-  
3 bination acting as a unit, and the plural as well as the singular number.

4 ~~(h)~~ (g) "Producer" means any person owning, controlling, managing  
5 or leasing any coal, ~~oil or gas~~ or oil property or oil ~~or gas~~ well or coal or  
6 salt mine, and any person who serves in any manner any coal, ~~oil or gas~~  
7 or oil in this state, and shall include any person owning any direct and  
8 beneficial interest in any coal, ~~oil or gas~~ or oil produced, whether severed  
9 by such person or some other person on their behalf, either by lease,  
10 contract or otherwise, including a royalty owner.

11 ~~(i)~~ (h) "Remove" or "removal" means the physical transportation of  
12 coal, ~~oil or gas~~ or oil off of the lease or production unit or from the mine  
13 where severed; and if the manufacture or conversion of crude oil ~~or nat-~~  
14 ~~ural gas~~ into refined products occurs on the premises where severed, oil  
15 ~~or gas~~ shall be deemed to have been removed on the date such manu-  
16 facture or conversion begins.

17 ~~(j)~~ (i) "Secretary" means the secretary of revenue.

18 ~~(k)~~ (j) "Severed" or "severing" means: (1) The production of oil  
19 through extraction or withdrawal of the same from below the surface of  
20 the soil or water, whether such extraction or withdrawal shall be by natural  
21 flow, mechanical flow, forced flow, pumping or any other means em-  
22 ployed to get the oil from below the surface of the soil or water and shall  
23 include the withdrawal by any means whatsoever of oil upon which the  
24 tax has not been paid, from any surface reservoir, natural or artificial, or  
25 from a water surface; ~~(2) the production of gas through the extraction or~~  
26 ~~withdrawal of the same by any means whatsoever, from below the surface~~  
27 ~~of the earth or water; and (3) and (2) the physical removal of coal from~~  
28 the earth.

29 ~~(l)~~ (k) "Taxpayer" means any person liable for the taxes imposed by  
30 this act.

31 ~~(m)~~ (l) "Disruption of production" means, in the case of oil, a con-  
32 tinuous 24-hour period during which a well is not producing. Circulating  
33 and missed production days shall be considered production days if the  
34 operator can demonstrate that any lost production is subsequently recov-  
35 ered during a later production day. ~~In the case of gas, a continuous one-~~  
36 ~~hour period during which a well is not open to the pipeline shall be~~  
37 ~~deemed to be a disruption of production.~~ Missed production hours shall  
38 be considered production hours if the operator can demonstrate that any  
39 lost production is subsequently recovered during later production hours.

40 Sec. 2. K.S.A. 2000 Supp. 79-4217 is hereby amended to read as  
41 follows: 79-4217. (a) There is hereby imposed an excise tax upon the  
42 severance and production of coal, ~~oil or gas~~ or oil from the earth or water  
43 in this state for sale, transport, storage, profit or commercial use, subject

1 to the following provisions of this section. Such tax shall be borne ratably  
2 by all persons within the term "producer" as such term is defined in  
3 K.S.A. 79-4216, and amendments thereto, in proportion to their respec-  
4 tive beneficial interest in the coal, ~~oil or gas~~ or *oil* severed. Such tax shall  
5 be applied equally to all portions of the gross value of each barrel of oil  
6 severed and subject to such tax ~~and to the gross value of the gas severed~~  
7 ~~and subject to such tax.~~ The rate of such tax shall be 8% of the gross value  
8 of all oil ~~or gas~~ severed from the earth or water in this state and subject  
9 to the tax imposed under this act. The rate of such tax with respect to  
10 coal shall be \$1 per ton. For the purposes of the tax imposed hereunder  
11 the amount of oil ~~or gas~~ produced shall be measured or determined: ~~(1)~~  
12 ~~In the case of oil,~~ by tank tables compiled to show 100% of the full  
13 capacity of tanks without deduction for overage or losses in handling;  
14 allowance for any reasonable and bona fide deduction for basic sediment  
15 and water, and for correction of temperature to 60 degrees Fahrenheit  
16 will be allowed; and if the amount of oil severed has been measured or  
17 determined by tank tables compiled to show less than 100% of the full  
18 capacity of tanks, such amount shall be raised to a basis of 100% for the  
19 purpose of the tax imposed by this act; ~~and (2) in the case of gas, by meter~~  
20 ~~readings showing 100% of the full volume expressed in cubic feet at a~~  
21 ~~standard base and flowing temperature of 60 degrees Fahrenheit, and at~~  
22 ~~the absolute pressure at which the gas is sold and purchased; correction~~  
23 ~~to be made for pressure according to Boyle's law, and used for specific~~  
24 ~~gravity according to the gravity at which the gas is sold and purchased, or~~  
25 ~~if not so specified, according to the test made by the balance method.~~

26 (b) The following shall be exempt from the tax imposed under this  
27 section:

28 (1) ~~The severance and production of gas which is: (A) Injected into~~  
29 ~~the earth for the purpose of lifting oil, recycling or repressuring; (B) used~~  
30 ~~for fuel in connection with the operation and development for, or pro-~~  
31 ~~duction of, oil or gas in the lease or production unit where severed; (C)~~  
32 ~~lawfully vented or flared; (D) severed from a well having an average daily~~  
33 ~~production during a calendar month having a gross value of not more~~  
34 ~~than \$87 per day, which well has not been significantly curtailed by reason~~  
35 ~~of mechanical failure or other disruption of production; in the event that~~  
36 ~~the production of gas from more than one well is gauged by a common~~  
37 ~~meter, eligibility for exemption hereunder shall be determined by com-~~  
38 ~~puting the gross value of the average daily combined production from all~~  
39 ~~such wells and dividing the same by the number of wells gauged by such~~  
40 ~~meter; (E) inadvertently lost on the lease or production unit by reason of~~  
41 ~~leaks, blowouts or other accidental losses; (F) used or consumed for do-~~  
42 ~~mestic or agricultural purposes on the lease or production unit from which~~  
43 ~~it is severed; or (G) placed in underground storage for recovery at a later~~

1 ~~date and which was either originally severed outside of the state of Kansas,~~  
2 ~~or as to which the tax levied pursuant to this act has been paid;~~

3 ~~—(2)—~~the severance and production of oil which is: (A) From a lease or  
4 production unit whose average daily production is five barrels or less per  
5 producing well, which well or wells have not been significantly curtailed  
6 by reason of mechanical failure or other disruption of production; (B)  
7 from a lease or production unit, the producing well or wells upon which  
8 have a completion depth of 2,000 feet or more, and whose average daily  
9 production is six barrels or less per producing well or, if the price of oil  
10 as determined pursuant to subsection (d) is \$16 or less, whose average  
11 daily production is seven barrels or less per producing well, or, if the price  
12 of oil as determined pursuant to subsection (d) is \$15 or less, whose  
13 average daily production is eight barrels or less per producing well, or, if  
14 the price of oil as determined pursuant to subsection (d) is \$14 or less,  
15 whose average daily production is nine barrels or less per producing well,  
16 or, if the price of oil as determined pursuant to subsection (d) is \$13 or  
17 less, whose average daily production is 10 barrels or less per producing  
18 well, which well or wells have not been significantly curtailed by reason  
19 of mechanical failure or other disruption of production; (C) from a lease  
20 or production unit, whose production results from a tertiary recovery  
21 process. “Tertiary recovery process” means the process or processes de-  
22 scribed in subparagraphs (1) through (9) of 10 C.F.R. 212.78(c) as in  
23 effect on June 1, 1979; (D) from a lease or production unit, the producing  
24 well or wells upon which have a completion depth of less than 2,000 feet  
25 and whose average daily production resulting from a water flood process,  
26 is six barrels or less per producing well, which well or wells have not been  
27 significantly curtailed by reason of mechanical failure or other disruption  
28 of production; (E) from a lease or production unit, the producing well or  
29 wells upon which have a completion depth of 2,000 feet or more, and  
30 whose average daily production resulting from a water flood process, is  
31 seven barrels or less per producing well or, if the price of oil as deter-  
32 mined pursuant to subsection (d) is \$16 or less, whose average daily pro-  
33 duction is eight barrels or less per producing well, or, if the price of oil  
34 as determined pursuant to subsection (d) is \$15 or less, whose average  
35 daily production is nine barrels or less per producing well, or, if the price  
36 of oil as determined pursuant to subsection (d) is \$14 or less, whose  
37 average daily production is 10 barrels or less per producing well, which  
38 well or wells have not been significantly curtailed by reason of mechanical  
39 failure or other disruption of production; (F) test, frac or swab oil which  
40 is sold or exchanged for value; or (G) inadvertently lost on the lease or  
41 production unit by reason of leaks or other accidental means;

42 ~~(3)~~ (2) (A) any taxpayer applying for an exemption pursuant to sub-  
43 section ~~(b)(2)(A)~~ (b)(1)(A) and (B) shall make application annually to the

1 director of taxation therefor. Exemptions granted pursuant to subsection  
2 ~~(b)(2)(A)~~ (b)(1)(A) and (B) shall be valid for a period of one year following  
3 the date of certification thereof by the director of taxation; (B) any tax-  
4 payer applying for an exemption pursuant to subsection ~~(b)(2)(D)~~  
5 (b)(1)(D) or (E) shall make application annually to the director of taxation  
6 therefor. Such application shall be accompanied by proof of the approval  
7 of an application for the utilization of a water flood process therefor by  
8 the corporation commission pursuant to rules and regulations adopted  
9 under the authority of K.S.A. 55-152 and amendments thereto and proof  
10 that the oil produced therefrom is kept in a separate tank battery and that  
11 separate books and records are maintained therefor. Such exemption shall  
12 be valid for a period of one year following the date of certification thereof  
13 by the director of taxation; and (C) notwithstanding the provisions of  
14 paragraph (A) or (B), any exemption in effect on the effective date of this  
15 act affected by the amendments to subsection ~~(b)(2)~~ (b)(1) by this act  
16 shall be redetermined in accordance with such amendments. Any such  
17 exemption, and any new exemption established by such amendments and  
18 applied for after the effective date of this shall be valid for a period com-  
19 mencing with May 1, 1998, and ending on April 30, 1999-;

20 ~~(4)~~ (3) the severance and production of ~~gas or~~ oil from any pool from  
21 which oil ~~or gas~~ was first produced on or after April 1, 1983, as determined  
22 by the state corporation commission and certified to the director of tax-  
23 ation, and continuing for a period of 24 months from the month in which  
24 oil ~~or gas~~ was first produced from such pool as evidenced by an affidavit  
25 of completion of a well, filed with the state corporation commission and  
26 certified to the director of taxation. Exemptions granted for production  
27 from any well pursuant to this paragraph shall be valid for a period of 24  
28 months following the month in which oil ~~or gas~~ was first produced from  
29 such pool. The term "pool" means an underground accumulation of oil  
30 ~~or gas~~ in a single and separate natural reservoir characterized by a single  
31 pressure system so that production from one part of the pool affects the  
32 reservoir pressure throughout its extent;

33 ~~(5)~~ (4) the severance and production of oil ~~or gas~~ from a three-year  
34 inactive well, as determined by the state corporation commission and  
35 certified to the director of taxation, for a period of 10 years after the date  
36 of receipt of such certification. As used in this paragraph, "three-year  
37 inactive well" means any well that has not produced oil ~~or gas~~ in more  
38 than one month in the three years prior to the date of application to the  
39 state corporation commission for certification as a three-year inactive  
40 well. An application for certification as a three-year inactive well shall be  
41 in such form and contain such information as required by the state cor-  
42 poration commission, and shall be made prior to July 1, 1996. The com-  
43 mission may revoke a certification if information indicates that a certified

1 well was not a three-year inactive well or if other lease production is  
2 credited to the certified well. Upon notice to the operator that the cer-  
3 tification for a well has been revoked, the exemption shall not be applied  
4 to the production from that well from the date of revocation;

5 ~~(6)~~ (5) (A) The incremental severance and production of oil ~~or gas~~  
6 which results from a production enhancement project begun on or after  
7 July 1, 1998, shall be exempt for a period of seven years from the startup  
8 date of such project. As used in this paragraph ~~(6)~~ (5):

9 (1) "Incremental severance and production" means the amount of oil  
10 ~~or natural gas~~ which is produced as the result of a production enhance-  
11 ment project which is in excess of the base production of oil ~~or natural~~  
12 ~~gas~~, and is determined by subtracting the base production from the total  
13 monthly production after the production enhancement ~~projects~~ *project*  
14 is completed.

15 (2) "Base production" means the average monthly amount of pro-  
16 duction for the twelve-month period immediately prior to the production  
17 enhancement project beginning date, minus the monthly rate of produc-  
18 tion decline for the well or project for each month beginning 180 days  
19 prior to the project beginning date. The monthly rate of production de-  
20 cline shall be equal to the average extrapolated monthly decline rate for  
21 the well or project for the twelve-month period immediately prior to the  
22 production enhancement project beginning date, except that the monthly  
23 rate of production decline shall be equal to zero in the case where the  
24 well or project has experienced no monthly decline during the twelve-  
25 month period immediately prior to the production enhancement project  
26 beginning date. Such monthly rate of production decline shall be contin-  
27 ued as the decline that would have occurred except for the enhancement  
28 project. Any well or project which may have produced during the twelve-  
29 month period immediately prior to the production enhancement project  
30 beginning date but is not capable of production on the project beginning  
31 date shall have a base production equal to zero. The calculation of the  
32 base production amount shall be evidenced by an affidavit and supporting  
33 documentation filed by the applying taxpayer with the state corporation  
34 commission.

35 (3) "Workover" means any downhole operation in an existing oil ~~or~~  
36 ~~gas~~ well that is designed to sustain, restore or increase the production  
37 rate or ultimate recovery of oil ~~or gas~~, including but not limited to aci-  
38 dizing, reperforation, fracture treatment, sand/paraffin/scale removal or  
39 other wellbore cleanouts, casing repair, squeeze cementing, initial instal-  
40 lation, or enhancement of artificial lifts including plunger lifts, rods,  
41 pumps, submersible pumps and coiled tubing velocity strings, downsizing  
42 existing tubing to reduce well loading, downhole commingling, bacteria  
43 treatments, polymer treatments, upgrading the size of pumping unit

1 equipment, setting bridge plugs to isolate water production zones, or any  
2 combination of the aforementioned operations; “workover” shall not  
3 mean the routine maintenance, routine repair, or like for-like replace-  
4 ment of downhole equipment such as rods, pumps, tubing packers or  
5 other mechanical device.

6 (4) “Production enhancement project” means performing or causing  
7 to be performed the following:

- 8 (i) Workover;
- 9 (ii) recompletion to a different producing zone in the same well bore,  
10 except recompletions in formations and zones subject to a state corpo-  
11 ration commission proration order;
- 12 (iii) secondary recovery projects;
- 13 (iv) addition of mechanical devices to dewater a ~~gas or~~ an oil well;
- 14 (v) replacement or enhancement of surface equipment;
- 15 (vi) installation or enhancement of compression equipment, line  
16 looping or other techniques or equipment which increases production  
17 from a well or a group of wells in a project;
- 18 (vii) new discoveries of oil ~~or gas~~ which are discovered as a result of  
19 the use of new technology, including, but not limited to, three dimen-  
20 sional seismic studies.

21 (B) The state corporation commission shall adopt rules and regula-  
22 tions necessary to efficiently and properly administer the provisions of  
23 this paragraph ~~(6)~~ (5) including rules and regulations for the qualification  
24 of production enhancement projects, the procedures for determining the  
25 monthly rate of production decline, criteria for determining the share of  
26 incremental production attributable to each well when a production en-  
27 hancement project includes a group of wells, criteria for determining the  
28 start up date for any project for which an exemption is claimed, and  
29 determining new qualifying technologies for the purposes of paragraph  
30 ~~(6)(A)(4)(vii)~~ (5)(A)(4)(vii).

31 (C) Any taxpayer applying for an exemption pursuant to this para-  
32 graph ~~(6)~~ (5) shall make application to the director of taxation. Such ap-  
33 plication shall be accompanied by a state corporation commission certi-  
34 fication that the production for which an exemption is sought results from  
35 a qualified production enhancement project and certification of the base  
36 production for the enhanced wells or group of wells, and the rate of  
37 decline to be applied to that base production. The secretary of revenue  
38 shall provide credit for any taxes paid between the project startup date  
39 and the certification of qualifications by the commission.

40 (D) The exemptions provided for in this paragraph ~~(6)~~ (5) shall not  
41 apply for 12 months beginning July 1 of the year subsequent to any cal-  
42 endar year during which: ~~(1) In the case of oil,~~ the secretary of revenue  
43 determines that the weighted average price of Kansas oil at the wellhead

1 has exceeded \$20.00 per barrel; or ~~(2) in the case of natural gas the~~  
2 ~~secretary of revenue determines that the weighted average price of Kan-~~  
3 ~~sas gas at the wellhead has exceeded \$2.50 per Mcf.~~

4 (E) The provisions of this paragraph ~~(6)~~ (5) shall not affect any other  
5 exemption allowable pursuant to this section; and

6 (7) for the calendar year 1988, and any year thereafter, the severance  
7 or production of the first 350,000 tons of coal from any mine as certified  
8 by the state geological survey.

9 (c) No exemption shall be granted pursuant to subsection ~~(b)(3) or~~  
10 ~~(4) (b)(2) or (3)~~ to any person who does not have a valid operator's license  
11 issued by the state corporation commission, and no refund of tax shall be  
12 made to any taxpayer attributable to any production in a period when  
13 such taxpayer did not hold a valid operator's license issued by the state  
14 corporation commission.

15 (d) On April 15, 1988, and on April 15 of each year thereafter, the  
16 secretary of revenue shall determine from statistics compiled and pro-  
17 vided by the United States department of energy, the average price per  
18 barrel paid by the first purchaser of crude oil in this state for the six-  
19 month period ending on December 31 of the preceding year. Such price  
20 shall be used for the purpose of determining exemptions allowed by sub-  
21 section ~~(b)(2)(B)~~ (b)(1)(B) or (E) for the twelve-month period commenc-  
22 ing on May 1 of such year and ending on April 30 of the next succeeding  
23 year.

24 Sec. 3. K.S.A. 79-4218 is hereby amended to read as follows: 79-  
25 4218. Except as otherwise provided in this act, the tax imposed by K.S.A.  
26 79-4217 shall be upon the severing and producing of coal, ~~oil or gas or~~  
27 ~~oil~~ in this state, regardless of the place of sale of such coal, ~~oil or gas or~~  
28 ~~oil~~ or to whom sold or by whom used, or the fact that the delivery thereof  
29 may be made to points outside the state. The taxes imposed by this act  
30 shall be in addition to all taxes imposed upon real or personal property  
31 by the state of Kansas or by any taxing subdivision thereof.

32 Sec. 4. K.S.A. 79-4219 is hereby amended to read as follows: 79-  
33 4219. ~~(a)~~ There shall be allowed to each taxpayer who is liable for ad  
34 valorem property taxes upon oil property as defined by K.S.A. 79-329,  
35 and amendments thereto, a credit against the tax levied under K.S.A. 79-  
36 4217, and amendments thereto, upon the severance and production of  
37 oil, in an amount equal to 3.67% of the gross value of oil severed and  
38 taxable under this act, and in which the taxpayer has a beneficial interest.

39 ~~(b)~~ ~~There shall be allowed to each taxpayer who is liable for ad va-~~  
40 ~~lorem property taxes upon gas property as defined by K.S.A. 79-329, and~~  
41 ~~amendments thereto, a credit against the tax levied under K.S.A. 79-4217,~~  
42 ~~and amendments thereto, upon the severance and production of gas, in~~  
43 ~~an amount equal to the following amounts: (1) 2% of the gross value of~~



1 ~~gas severed and taxable under this act, and in which the taxpayer has a~~  
2 ~~beneficial interest for the fiscal year commencing on July 1, 1994, and~~  
3 ~~ending on June 30, 1995; (2) 3% of the gross value of gas severed and~~  
4 ~~taxable under this act, and in which the taxpayer has a beneficial interest~~  
5 ~~for the fiscal year commencing on July 1, 1995, and ending on June 30,~~  
6 ~~1996; and (3) 3.67% of the gross value of gas severed and taxable under~~  
7 ~~this act, and in which the taxpayer has a beneficial interest for the fiscal~~  
8 ~~year commencing on July 1, 1996, and all fiscal years thereafter.~~

9 Sec. 5. K.S.A. 79-4220 is hereby amended to read as follows: 79-  
10 4220. (a) The amount of the tax payable each month under the provisions  
11 of K.S.A. 79-4221, and amendments thereto, shall be due and payable on  
12 or before the 20th day of the second month following the end of the  
13 month in which the coal, ~~oil or gas~~ or *oil* is removed from the lease or  
14 production unit or mine. The tax is upon the producers, as defined in  
15 K.S.A. 79-4216, of such coal, ~~oil or gas~~ in the proportion to their respec-  
16 tive beneficial interests at the time of severance, but unless the operator  
17 of the lease or production unit, upon written notice to the first purchaser  
18 and the director, elects to remit the tax, the first purchaser of any ~~oil or~~  
19 ~~gas~~ sold shall collect the amount of the tax due from the producers, as  
20 defined by K.S.A. 79-4216, by deducting and withholding such amount  
21 from any payments made by such purchaser to the operator, or such  
22 producers where payment is made to same directly, and shall remit the  
23 same as provided in this act. An operator of an ~~oil or gas~~ lease or pro-  
24 duction unit, upon having given written notice to the first purchaser and  
25 the director, may elect to collect and remit the tax due under this act. If  
26 an operator of an ~~oil or gas~~ lease or production unit makes this election,  
27 such operator shall collect the total amount of tax due and shall remit the  
28 same to the director. The operator of a coal mine shall collect the total  
29 amount of tax due and shall remit the same to the director.

30 In no event shall a producer be relieved of responsibility for the tax  
31 until the same has been paid. In the event the tax shall be withheld by a  
32 purchaser from payments due an operator or producer and such pur-  
33 chaser fails to make payment of the tax to the state as required herein,  
34 the operator or producer shall be entitled to bring an action against such  
35 purchaser to recover the amount of tax so withheld together with pen-  
36 alties and interest which may have accrued by failure to make such pay-  
37 ment. The operator or producer shall be entitled to reasonable attorney  
38 fees and court costs incurred in such action.

39 (b) The state shall have a lien on all the coal, ~~oil or gas~~ or *oil* severed  
40 in this state in the hands of the operator, any producer or the first or any  
41 subsequent purchaser thereof to secure the payment of the tax. In the  
42 event any person required herein to pay the tax fails to do so, the director  
43 shall proceed against such person to collect the tax in the manner pro-

1 vided by K.S.A. 79-3235 and amendments thereto.

2 Sec. 6. K.S.A. 79-4221 is hereby amended to read as follows: 79-  
3 4221. (a) Every purchaser or operator responsible for remitting the tax  
4 imposed under the provisions of K.S.A. 79-4217, and amendments  
5 thereto, on or before the last day of the first month following the end of  
6 every calendar month in which oil ~~or gas~~ is removed from the lease or  
7 production unit, shall make a return to the director upon forms prescribed  
8 and furnished by the director showing the gross quantity of oil ~~or gas~~  
9 purchased during the month for which the return is filed, the price paid  
10 therefor, the correct name and address of the operator or other person  
11 from whom the same was purchased, a full description of the property in  
12 the manner prescribed by the director from which such oil ~~or gas~~ was  
13 severed and the amount of tax due on or before the 20th day of the  
14 following month. In the case of coal the return shall be made on or before  
15 the 20th day of the second month following the end of the calendar month  
16 in which the coal is removed from the mine, and such return shall be  
17 accompanied by a remittance of the full amount of the tax due. For the  
18 purposes of determining the amount of tax to be remitted, such purchaser  
19 or operator shall compute the full amount of the tax due under K.S.A.  
20 79-4217, and amendments thereto, upon all coal, ~~oil or gas~~ or oil severed  
21 and removed from the lease or production unit or mine during such  
22 month and shall deduct an amount equal to the full amount of the tax  
23 credit allowed pursuant to K.S.A. 79-4219, and amendments thereto.

24 (b) If oil ~~or gas~~ is removed from the lease or production unit but not  
25 sold to a purchaser or if the operator elects to remit the tax as authorized  
26 under K.S.A. 79-4220, and amendments thereto, or the operator is re-  
27 quired to remit the tax pursuant to K.S.A. 79-4220, and amendments  
28 thereto, the operator shall on or before the last day of the first month  
29 following the end of every calendar month in which oil ~~or gas~~ is removed  
30 from the lease or production unit make a return to the director upon  
31 forms prescribed and furnished by the director showing the gross quantity  
32 of oil ~~or gas~~ removed during such month and a full description of the  
33 property in the manner prescribed by the director from which the same  
34 was severed. In the case of coal the return shall be made on or before  
35 the 20th day of the second month following the end of the calendar month  
36 in which the coal is removed from the mine. If the coal, ~~oil or gas~~ or oil  
37 has not been sold by the time prescribed by K.S.A. 79-4220, and amend-  
38 ments thereto, for the payment of the tax, the operator shall remit the  
39 full amount of the tax due upon certification of the amount thereof by  
40 the director. The amount of taxes to be remitted shall be determined in  
41 the same manner prescribed for remittances by purchasers or operators  
42 under subsection (a) ~~of this section~~.

43 (c) Each monthly return required hereunder shall be filed on sepa-

1 rate forms as to product and county and lease, production unit or mine.  
2 All such monthly returns shall be signed by the purchaser or operator, as  
3 the case may be, or a duly authorized agent thereof.

4 (d) The director may grant a reasonable extension of time for filing  
5 any return and remittance of taxes due under this act upon good cause  
6 shown therefor. Interest shall be charged at the rate prescribed by sub-  
7 section (a) of K.S.A. 79-2968, and amendments thereto, for the period of  
8 such extension for the remittance of taxes.

9 (e) The reporting requirements of this section shall be applicable to  
10 the severance and production in this state of ~~all gas which is metered and~~  
11 all coal and oil regardless of whether the severance and production  
12 thereof is subject to or exempt from the tax imposed by K.S.A. 79-4217,  
13 and amendments thereto.

14 Sec. 7. K.S.A. 79-4222 is hereby amended to read as follows: 79-  
15 4222. When the title to any coal, ~~oil or gas~~ or oil severed from the earth  
16 or water is in dispute and the purchaser of such coal, ~~oil or gas~~ or oil is  
17 withholding payments on account of litigation, or for any other reason,  
18 such purchaser is hereby authorized, empowered and required to deduct  
19 from the gross amount thus held the amount of the tax imposed less the  
20 amount of any credit to which the taxpayer is entitled and to make re-  
21 mittance thereof to the director as provided in this act.

22 Sec. 8. K.S.A. 79-4223 is hereby amended to read as follows: 79-  
23 4223. When requested by the director, all transporters of coal, ~~oil or gas~~  
24 or oil out of, within or across the state of Kansas shall be required to  
25 furnish the director such information relative to the transportation of such  
26 coal, ~~oil or gas~~ or oil as the director may require. The director shall have  
27 authority to inspect bills of lading, waybills, meter or other charts, doc-  
28 uments, books and records as may relate to the transportation of coal, ~~oil~~  
29 or ~~gas~~ or oil in the hands of each transporter herein referred to. The  
30 director shall further be empowered to demand the production of such  
31 bills of lading, waybills, charts, documents, books and records relating to  
32 the transportation of coal, ~~oil or gas~~ or oil at any point in the state of  
33 Kansas which may be designated, except that in the case of common  
34 carriers using bills of lading or waybills prescribed or approved by the  
35 interstate commerce commission, such common carrier shall only be re-  
36 quired to keep the usual records at offices in the state where such records  
37 are usually kept.

38 Sec. 9. K.S.A. 79-4224 is hereby amended to read as follows: 79-  
39 4224. The director shall have the power to require any operator, producer  
40 or person purchasing any coal, ~~oil or gas~~ or oil severed from the earth or  
41 water to furnish any additional information deemed to be necessary for  
42 the purpose of computing the amount of the tax, and for such purpose  
43 to examine the meter and other charts, books, records and all files of such

1 person, and for such purpose the director shall have the power to issue  
2 subpoenas and examine witnesses under oath, and if any witness shall fail  
3 or refuse to appear at the request of the director, or refuses access to  
4 books, records and files, the district court of the proper county, or the  
5 judge thereof, on application of the director, shall compel obedience by  
6 proceedings for contempt, as in the case of disobedience of the require-  
7 ments of a subpoena issued from such court or a refusal to testify therein.

8 Sec. 10. K.S.A. 79-4226 is hereby amended to read as follows: 79-  
9 4226. Every operator shall make and keep a complete and accurate record  
10 in the form required by the director showing the gross quantity of coal,  
11 ~~oil or gas~~ or *oil* severed and removed from each lease, production unit or  
12 mine, the names of the purchasers of such products, the price paid there-  
13 for and the date of purchase. Every purchaser of coal, ~~oil or gas~~ or *oil*  
14 severed in this state who is required to collect and remit the tax on the  
15 same shall make and keep a complete and accurate record in the form  
16 required by the director showing the gross quantity of coal, ~~oil or gas~~ or  
17 *oil* purchased from each lease, production unit or mine, the price paid  
18 therefor, the name of the operator and the date of purchase. Such records  
19 shall at all times during business hours of the day be available for and  
20 subject to inspection by the director, or the director's duly authorized  
21 agents and employees, for a period of three years from the last day of the  
22 calendar year to which the records pertain. Such records shall be pre-  
23 served during the entire period during which they are subject to inspec-  
24 tion by the director, unless the director in writing previously authorized  
25 their disposal.

26 The amount of taxes imposed by this act is to be assessed within three  
27 years after the return is filed. In the case of a false or fraudulent return  
28 with intent to evade tax, the tax may be assessed or a proceeding in court  
29 for collection of such tax may be begun at any time, within two years from  
30 the discovery of such fraud. The provisions of K.S.A. 79-3226, and amend-  
31 ments thereto, relating to procedures for contesting a proposed assess-  
32 ment of additional tax or the denial of a refund shall apply as if set forth  
33 in this section. No refund shall be allowed by the director after three  
34 years from the date the return was filed, or one year after the assessment  
35 is made, whichever is the later date unless before the expiration of such  
36 period a claim therefor is filed by the taxpayer. No suit or action to recover  
37 on any claim for refund shall be commenced until after the expiration of  
38 six months from the date of filing a claim therefor with the director.

39 Before the expiration of time prescribed in this section for the assess-  
40 ment of additional tax or the filing of a claim for refund, the director is  
41 hereby authorized to enter into an agreement in writing with the taxpayer  
42 consenting to the extension of the periods of limitations for the assess-  
43 ment of tax or for the filing of a claim for refund, at any time prior to the

1 expiration of the periods of limitations. The periods so agreed upon may  
2 be extended by subsequent agreements in writing made before the ex-  
3 piration of the periods previously agreed upon. In consideration of such  
4 agreement or agreements, interest due in excess of 48 months on any  
5 additional tax shall be waived.

6 Sec. 11. K.S.A. 79-4227 is hereby amended to read as follows: 79-  
7 4227. (a) All revenue collected or received by the director from the tax  
8 imposed by this act shall be remitted daily to the state treasurer. Upon  
9 receipt of each such remittance, the state treasurer shall deposit the entire  
10 amount thereof in the state treasury. The state treasurer shall first credit  
11 such amount thereof as the director shall order to the mineral production  
12 tax refund fund created under subsection (b) ~~of this section~~. The state  
13 treasurer shall credit the remainder of such amounts as follows: (1) Seven  
14 percent to the special county mineral production tax fund created under  
15 subsection (c) ~~of this section~~; and (2) the remainder shall be credited to  
16 the state general fund.

17 (b) A refund fund designated as "mineral production tax refund fund"  
18 not to exceed \$50,000 is hereby created for the prompt payment of all  
19 tax refunds. The mineral production tax refund fund shall be in such  
20 amount, within the limit set by this section, as the director shall determine  
21 is necessary to meet current refunding requirements under this act.

22 (c) There is hereby created a special county mineral production tax  
23 fund. On December 1, 1983, and quarterly thereafter, the director of  
24 taxation shall distribute all moneys credited to such fund to the county  
25 treasurers of all counties in which taxes were levied under K.S.A. 79-4217  
26 for the severing and producing of coal, ~~oil or gas~~ or oil from property  
27 within the county, in the proportion that the taxes levied upon production  
28 in each county bears to the total of all of such taxes levied in all of such  
29 counties. Such distribution shall be based on returns filed, with any ad-  
30 justments or corrections thereto made by the director of taxation.

31 (d) The secretary of revenue shall make provision for the determi-  
32 nation of the counties within which taxes are levied under K.S.A. 79-4217  
33 for the severance of coal, ~~oil or gas~~ or oil and shall certify the same to the  
34 director of accounts and reports.

35 (e) The director of accounts and reports shall draw warrants on the  
36 state treasurer payable to the county treasurer of each county entitled to  
37 payment from the special county mineral production tax fund upon  
38 vouchers approved by the director of taxation. Upon receipt of such war-  
39 rant, each county treasurer shall credit 50% of the amount thereof to the  
40 county general fund and shall distribute the remaining 50% thereof to  
41 the treasurer of each school district all or any portion of which is located  
42 within the county in the proportion that the assessed value of coal, ~~oil~~  
43 ~~and gas~~ or oil properties within each district bears to the total of the

1 assessed value of all coal, ~~oil and gas~~ *and oil* properties within the county.  
2 Such assessed valuation shall be determined upon the basis of the most  
3 recent November 1 tax roll. The treasurer of each school district shall  
4 credit the entire amount of the moneys so received to the general fund  
5 of the school district.

6 Sec. 12. K.S.A. 79-4230 is hereby amended to read as follows: 79-  
7 4230. An oil ~~or gas~~ mineral severance tax return required to be submitted  
8 pursuant to K.S.A. 79-4221 and amendments thereto, in addition to the  
9 provisions therein, shall be utilized to report those fees assessed by the  
10 state corporation commission pursuant to subsection (c) of K.S.A. 55-609  
11 and amendments thereto or subsection (c) of K.S.A. 55-711 and amend-  
12 ments thereto and such other information pertaining to the production  
13 on which such fees are assessed as determined necessary pursuant to a  
14 memorandum of agreement executed on behalf of the state corporation  
15 commission and the departments of revenue and health and environment.  
16 Such fees shall be payable to the state at the same time the tax is payable  
17 under the provisions of K.S.A. 79-4220 and amendments thereto and they  
18 shall be remitted at the same time the tax is remitted by the purchaser  
19 or operator responsible for remitting the tax.

20 Sec. 13. K.S.A. 79-4216, 79-4218, 79-4219, 79-4220, 79-4221, 79-  
21 4222, 79-4223, 79-4224, 79-4226, 79-4227 and 79-4230 and K.S.A. 2000  
22 Supp. 79-4217 are hereby repealed.

23 Sec. 14. This act shall take effect and be in force from and after its  
24 publication in the statute book.

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