

SENATE BILL No. 487

AN ACT relating to taxation; concerning mineral severance tax; relating to disposition of revenue; creating the gas valuation depletion trust fund and providing for distribution of moneys therefrom; providing for the Ogallala public improvement district; amending K.S.A. 2003 Supp. 79-4227 and repealing the existing section.

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

Section 1. K.S.A. 2003 Supp. 79-4227 is hereby amended to read as follows: 79-4227. (a) All revenue collected or received by the director from the tax imposed by this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. The state treasurer shall first credit such amount as the director shall order to the mineral production tax refund fund created under subsection (b) of this section. *Except as otherwise provided by this section*, the state treasurer shall credit the remainder of such amounts as follows: (1) Seven percent to the special county mineral production tax fund created under subsection (c) of this section; and (2) the remainder shall be credited to the state general fund. *On and after July 1, 2006, and thereafter, the state treasurer shall credit the remainder of such amounts for gas for any county which in fiscal year 2003 had \$500,000 or more in receipts of the excise tax upon the severance and production of gas as follows: (1) Seven percent to the special county mineral production tax fund created under subsection (c); (2) 4.96% from July 1, 2006, through June 30, 2007, to the gas valuation depletion trust fund; 7.44% from July 1, 2007, through June 30, 2008, to the gas valuation depletion trust fund; 9.93% from July 1, 2008, to June 30, 2009, to the gas valuation depletion trust fund; 12.41% from July 1, 2009, and thereafter, to the gas valuation depletion trust fund; and (3) the remainder shall be credited to the state general fund.*

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

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

(d) The secretary of revenue shall make provision for the determination of the counties within which taxes are levied under K.S.A. 79-4217, and amendments thereto, for the severance of coal, oil or gas and shall certify the same to the director of accounts and reports.

(e) The director of accounts and reports shall draw warrants on the state treasurer payable to the county treasurer of each county entitled to payment from the special county mineral production tax fund upon vouchers approved by the director of taxation. Upon receipt of such warrant, each county treasurer shall credit 50% of the amount thereof to the county general fund and shall distribute the remaining 50% thereof to the treasurer of each school district all or any portion of which is located within the county in the proportion that the assessed value of coal, oil and gas properties within each district bears to the total of the assessed value of all coal, oil and gas properties within the county. Such assessed valuation shall be determined upon the basis of the most recent November 1 tax roll. The treasurer of each school district shall credit the entire amount of the moneys so received to the general fund of the school district.

New Sec. 2. (a) There is hereby created in the state treasury the gas valuation depletion trust fund. The director of taxation shall administer the gas valuation depletion trust fund. All amounts credited to the gas valuation depletion trust fund pursuant to the provisions of K.S.A. 79-4227, and amendments thereto, shall be credited to a separate trust account which shall be established within such fund for each county which in fiscal year 2003 had \$500,000 or more in receipts of the excise tax upon

the severance and production of gas. Each county's trust account shall be credited in the proportion that the amount of gas valuation depletion trust fund receipts collected from that county bears to the total amount of moneys credited to the gas valuation depletion trust fund pursuant to K.S.A. 79-4227, and amendments thereto. Commencing July 1, 2006, and thereafter on an annual basis, such moneys shall remain credited in such account in trust for such county for distributions pursuant to this section.

For any tax year that the gas leasehold ad valorem valuation of any county, which has a trust account established and maintained in the gas valuation depletion trust fund as provided by this section, is less than 50% of the gas leasehold ad valorem valuation of such county for tax year 2005 as certified by the property valuation division, on or before January 15 of the year following such tax year, the director of taxation shall distribute 20% of the moneys credited to such county's trust account to the county treasurer of such county. In any year in which a county's gas leasehold valuation is 50% or more of the gas leasehold valuation of such county for tax year 2005, such county shall not receive a distribution of trust moneys pursuant to this section for such tax year. On an annual basis, the director of taxation shall certify to the director of accounts and reports the counties entitled to a distribution pursuant to this section. The director of accounts and reports shall draw warrants on the state treasurer payable to the county treasurer of each county entitled to payment from such county's trust account in the gas valuation depletion trust fund upon vouchers approved by the director of taxation.

New Sec. 3. (a) The governing bodies of any three or more of counties of Finney, Grant, Hamilton, Haskell, Kearny, Morton, Seward, Stanton or Stevens may enter into an agreement for interlocal cooperation under K.S.A. 12-2901, et seq., and amendments thereto, to create an Ogallala public improvement district for the purposes of constructing, operating and maintaining community facilities.

For the purposes of financing the cost of the construction, operation and maintenance of any such public improvements authorized and constructed, the improvement district shall be authorized to levy a tax upon all real and tangible personal property in an amount of not to exceed 1 mill per year, or any fraction thereof, or impose a sales tax of not to exceed .50% or any fraction thereof or both such mill levy and sales tax for a period of not to exceed 10 years.

No such tax shall be imposed by the Ogallala public improvement district until a question of the authority therefor shall be submitted to and approved by the electors of each such county which is a member of such improvement district.

No mill levy shall be imposed upon the property within any county nor sales taxes imposed within any such county under the provisions of this section if the residents of such county have not favorably approved such question.

If any such improvement is a building within which is provided higher education, the residents of Ogallala public improvement district shall receive an appropriate tuition credit as determined by the Kansas board of regents.

(b) The Ogallala public improvement district may:

(1) Acquire by gift, purchase, lease-purchase, condemnation or otherwise, and own, lease, use and operate property, whether real, personal, or mixed, or any interest therein, which is necessary or desirable for lawful purposes. Any lease-purchase agreement entered into under authority of this subsection shall be subject to the conditions set forth in K.S.A. 10-1116c, and amendments thereto. The term of any lease entered into under authority of this subsection may be for not to exceed 10 years. Such lease may provide for annual or other payment of rent or rental fees and may obligate the Ogallala public improvement district to payment of maintenance or other expenses. Any lease or lease-purchase agreement entered into under authority of this subsection shall be subject to change or termination at any time by the legislature. Any assignment of rights in any lease or lease-purchase made under this subsection shall contain a citation of this section and a recitation that the lease or lease-purchase agreement and assignment thereof are subject to change or termination by the legislature.

(2) Enter into lease agreements as lessor of any property, whether

real, personal, or mixed, which is owned or controlled by the Ogallala public improvement district. Any such agreement may specify the purposes for which the property may be used, require that the property be maintained and operated by the lessee, and may contain such restrictions or limitations on the use of the property, be entered into for such period of time, and include such other terms and conditions as the governing body of the Ogallala public improvement district determines to be necessary and proper. Every such agreement shall be subject to change or termination at any time by the legislature. Any assignment of rights under any such agreement shall be subject to approval by the board of trustees and shall contain a citation of this section and a recitation that the lease agreement and assignment of rights thereunder are subject to change or termination by the legislature.

(c) The governing body of the Ogallala public improvement district may purchase or otherwise acquire land or land and improvements and may acquire, construct, reconstruct, repair or remodel improvements thereon or additions thereto, including furnishings, equipment, and architectural and incidental expense related thereto, and for such purposes the Ogallala public improvement district is authorized to issue and sell general obligation bonds. No such bonds shall be issued until the question of their issuance shall have been submitted to a vote of the electors of the Ogallala public improvement district at a regular election or at a special election called for that purpose and the majority of the electors voting on the proposition in such district shall have voted in favor of the issuance of the bonds. Such election shall be called, noticed and held and the bonds issued, sold, delivered and retired in accordance with the provisions of the general bond law.

Sec. 4. K.S.A. 2003 Supp. 79-4227 is hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

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SENATE concurred in  
HOUSE amendments \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE  
as amended \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*

Veto Message from the Governor  
SB 487

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto Senate Bill 487. SB 487 has two major provisions that both deserve additional discussion by the Legislature.

The first provision establishes a trust fund for a few natural gas producing counties that will use state severance tax monies to help provide local property tax relief to those counties. Today, as we search for ways to fund critical programs within our current fiscal limitations, our focus, and any available state dollars must be directed toward higher priorities.

The second provision allows nine counties the option of creating a new higher education facility in conjunction with the Board of Regents. This provision can be of great value, but to guarantee that all residents of Southwest Kansas are included in the opportunity for a new facility, I believe the Legislature, Board of Regents, and regional stakeholders must engage in more discussion and planning.

I support and will continue to search for ways to strengthen the rural Kansas economy. However, I believe that a much more extensive analysis of both provisions in SB 487 is needed because of their potential far-reaching consequences on the state budget and the future development of southwest Kansas. For these reasons I find it necessary to veto SB 487.

Kathleen Sebelius, Governor

Date: May 13, 2004