

1 **As Amended by House Committee**

2 *Session of 2001*

3
4 **HOUSE BILL No. 2066**

5
6 By Committee on Taxation

7
8 1-18

9
10 AN ACT relating to severance taxation; ~~exempting coal and oil produc-~~
11 ~~tion therefrom~~ **concerning the rate thereof imposed upon coal**
12 **and oil**; amending K.S.A. ~~2000~~ **2001** Supp. 79-4217 and repealing the
13 existing section.
14

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

16 Section 1. K.S.A. ~~2000~~ **2001** Supp. 79-4217 is hereby amended to
17 read as follows: 79-4217. (a) There is hereby imposed an excise tax upon
18 the severance and production of coal, oil or gas from the earth or water
19 in this state for sale, transport, storage, profit or commercial use, subject
20 to the following provisions of this section. Such tax shall be borne ratably
21 by all persons within the term "producer" as such term is defined in
22 K.S.A. 79-4216, and amendments thereto, in proportion to their respec-
23 tive beneficial interest in the coal, oil or gas severed. Such tax shall be
24 applied equally to all portions of the gross value of each barrel of oil
25 severed and subject to such tax and to the gross value of the gas severed
26 and subject to such tax. The rate of such tax shall be 8% of the gross value
27 of all ~~oil or~~ gas severed from the earth or water in this state and subject
28 to the tax imposed under this act. **The rate of such tax shall be 7.567%**
29 **of the gross value of all oil severed from the earth or water in this**
30 **state and subject to the tax imposed under this act.** The rate of such
31 tax with respect to coal shall be ~~\$1~~ **\$.90** per ton. For the purposes of the
32 tax imposed hereunder the amount of oil or gas produced shall be meas-
33 ured or determined: (1) In the case of oil, by tank tables compiled to
34 show 100% of the full capacity of tanks without deduction for overage or
35 losses in handling; allowance for any reasonable and bona fide deduction
36 for basic sediment and water, and for correction of temperature to 60
37 degrees Fahrenheit will be allowed; and if the amount of oil severed has
38 been measured or determined by tank tables compiled to show less than
39 100% of the full capacity of tanks, such amount shall be raised to a basis
40 of 100% for the purpose of the tax imposed by this act; and (2) in the
41 case of gas, by meter readings showing 100% of the full volume expressed
42 in cubic feet at a standard base and flowing temperature of 60 degrees
43 Fahrenheit, and at the absolute pressure at which the gas is sold and

1 purchased; correction to be made for pressure according to Boyle's law,
2 and used for specific gravity according to the gravity at which the gas is
3 sold and purchased, or if not so specified, according to the test made by
4 the balance method.

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

7 (1) The severance and production of gas which is: (A) Injected into
8 the earth for the purpose of lifting oil, recycling or repressuring; (B) used
9 for fuel in connection with the operation and development for, or pro-
10 duction of, oil or gas in the lease or production unit where severed; (C)
11 lawfully vented or flared; (D) severed from a well having an average daily
12 production during a calendar month having a gross value of not more
13 than \$87 per day, which well has not been significantly curtailed by reason
14 of mechanical failure or other disruption of production; in the event that
15 the production of gas from more than one well is gauged by a common
16 meter, eligibility for exemption hereunder shall be determined by com-
17 puting the gross value of the average daily combined production from all
18 such wells and dividing the same by the number of wells gauged by such
19 meter; (E) inadvertently lost on the lease or production unit by reason of
20 leaks, blowouts or other accidental losses; (F) used or consumed for do-
21 mestic or agricultural purposes on the lease or production unit from which
22 it is severed; or (G) placed in underground storage for recovery at a later
23 date and which was either originally severed outside of the state of Kansas,
24 or as to which the tax levied pursuant to this act has been paid;

25 (2) the severance and production of oil which is: (A) From a lease or
26 production unit whose average daily production is five barrels or less per
27 producing well, which well or wells have not been significantly curtailed
28 by reason of mechanical failure or other disruption of production; (B)
29 from a lease or production unit, the producing well or wells upon which
30 have a completion depth of 2,000 feet or more, and whose average daily
31 production is six barrels or less per producing well or, if the price of oil
32 as determined pursuant to subsection (d) is \$16 or less, whose average
33 daily production is seven barrels or less per producing well, or, if the price
34 of oil as determined pursuant to subsection (d) is \$15 or less, whose
35 average daily production is eight barrels or less per producing well, or, if
36 the price of oil as determined pursuant to subsection (d) is \$14 or less,
37 whose average daily production is nine barrels or less per producing well,
38 or, if the price of oil as determined pursuant to subsection (d) is \$13 or
39 less, whose average daily production is 10 barrels or less per producing
40 well, which well or wells have not been significantly curtailed by reason
41 of mechanical failure or other disruption of production; (C) from a lease
42 or production unit, whose production results from a tertiary recovery
43 process. "Tertiary recovery process" means the process or processes de-

1 scribed in subparagraphs (1) through (9) of 10 C.F.R. 212.78(c) as in
2 effect on June 1, 1979; (D) from a lease or production unit, the producing
3 well or wells upon which have a completion depth of less than 2,000 feet
4 and whose average daily production resulting from a water flood process,
5 is six barrels or less per producing well, which well or wells have not been
6 significantly curtailed by reason of mechanical failure or other disruption
7 of production; (E) from a lease or production unit, the producing well or
8 wells upon which have a completion depth of 2,000 feet or more, and
9 whose average daily production resulting from a water flood process, is
10 seven barrels or less per producing well or, if the price of oil as deter-
11 mined pursuant to subsection (d) is \$16 or less, whose average daily pro-
12 duction is eight barrels or less per producing well, or, if the price of oil
13 as determined pursuant to subsection (d) is \$15 or less, whose average
14 daily production is nine barrels or less per producing well, or, if the price
15 of oil as determined pursuant to subsection (d) is \$14 or less, whose
16 average daily production is 10 barrels or less per producing well, which
17 well or wells have not been significantly curtailed by reason of mechanical
18 failure or other disruption of production; (F) test, frac or swab oil which
19 is sold or exchanged for value; or (G) inadvertently lost on the lease or
20 production unit by reason of leaks or other accidental means;

21 (3) (A) any taxpayer applying for an exemption pursuant to subsec-
22 tion (b)(2)(A) and (B) shall make application annually to the director of
23 taxation therefor. Exemptions granted pursuant to subsection (b)(2)(A)
24 and (B) shall be valid for a period of one year following the date of cer-
25 tification thereof by the director of taxation; (B) any taxpayer applying for
26 an exemption pursuant to subsection (b)(2)(D) or (E) shall make appli-
27 cation annually to the director of taxation therefor. Such application shall
28 be accompanied by proof of the approval of an application for the utili-
29 zation of a water flood process therefor by the corporation commission
30 pursuant to rules and regulations adopted under the authority of K.S.A.
31 55-152 and amendments thereto and proof that the oil produced there-
32 from is kept in a separate tank battery and that separate books and records
33 are maintained therefor. Such exemption shall be valid for a period of
34 one year following the date of certification thereof by the director of
35 taxation; and (C) notwithstanding the provisions of paragraph (A) or (B),
36 any exemption in effect on the effective date of this act affected by the
37 amendments to subsection (b)(2) by this act shall be redetermined in
38 accordance with such amendments. Any such exemption, and any new
39 exemption established by such amendments and applied for after the
40 effective date of this shall be valid for a period commencing with May 1,
41 1998, and ending on April 30, 1999.

42 (4) the severance and production of gas or oil from any pool from
43 which oil or gas was first produced on or after April 1, 1983, as determined

1 by the state corporation commission and certified to the director of tax-
2 ation, and continuing for a period of 24 months from the month in which
3 oil or gas was first produced from such pool as evidenced by an affidavit
4 of completion of a well, filed with the state corporation commission and
5 certified to the director of taxation. Exemptions granted for production
6 from any well pursuant to this paragraph shall be valid for a period of 24
7 months following the month in which oil or gas was first produced from
8 such pool. The term “pool” means an underground accumulation of oil
9 or gas in a single and separate natural reservoir characterized by a single
10 pressure system so that production from one part of the pool affects the
11 reservoir pressure throughout its extent;

12 (5) the severance and production of oil or gas from a three-year in-
13 active well, as determined by the state corporation commission and cer-
14 tified to the director of taxation, for a period of 10 years after the date of
15 receipt of such certification. As used in this paragraph, “three-year in-
16 active well” means any well that has not produced oil or gas in more than
17 one month in the three years prior to the date of application to the state
18 corporation commission for certification as a three-year inactive well. An
19 application for certification as a three-year inactive well shall be in such
20 form and contain such information as required by the state corporation
21 commission, and shall be made prior to July 1, 1996. The commission
22 may revoke a certification if information indicates that a certified well was
23 not a three-year inactive well or if other lease production is credited to
24 the certified well. Upon notice to the operator that the certification for a
25 well has been revoked, the exemption shall not be applied to the pro-
26 duction from that well from the date of revocation;

27 (6) (A) The incremental severance and production of oil or gas which
28 results from a production enhancement project begun on or after July 1,
29 1998, shall be exempt for a period of seven years from the startup date
30 of such project. As used in this paragraph (6):

31 (1) “Incremental severance and production” means the amount of oil
32 or natural gas which is produced as the result of a production enhance-
33 ment project which is in excess of the base production of oil or natural
34 gas, and is determined by subtracting the base production from the total
35 monthly production after the production enhancement ~~projects~~ *project*
36 is completed.

37 (2) “Base production” means the average monthly amount of pro-
38 duction for the twelve-month period immediately prior to the production
39 enhancement project beginning date, minus the monthly rate of produc-
40 tion decline for the well or project for each month beginning 180 days
41 prior to the project beginning date. The monthly rate of production de-
42 cline shall be equal to the average extrapolated monthly decline rate for
43 the well or project for the twelve-month period immediately prior to the

1 production enhancement project beginning date, except that the monthly
2 rate of production decline shall be equal to zero in the case where the
3 well or project has experienced no monthly decline during the twelve-
4 month period immediately prior to the production enhancement project
5 beginning date. Such monthly rate of production decline shall be contin-
6 ued as the decline that would have occurred except for the enhancement
7 project. Any well or project which may have produced during the twelve-
8 month period immediately prior to the production enhancement project
9 beginning date but is not capable of production on the project beginning
10 date shall have a base production equal to zero. The calculation of the
11 base production amount shall be evidenced by an affidavit and supporting
12 documentation filed by the applying taxpayer with the state corporation
13 commission.

14 (3) “Workover” means any downhole operation in an existing oil or
15 gas well that is designed to sustain, restore or increase the production
16 rate or ultimate recovery of oil or gas, including but not limited to aci-
17 dizing, reperforation, fracture treatment, sand/paraffin/scale removal or
18 other wellbore cleanouts, casing repair, squeeze cementing, initial instal-
19 lation, or enhancement of artificial lifts including plunger lifts, rods,
20 pumps, submersible pumps and coiled tubing velocity strings, downsizing
21 existing tubing to reduce well loading, downhole commingling, bacteria
22 treatments, polymer treatments, upgrading the size of pumping unit
23 equipment, setting bridge plugs to isolate water production zones, or any
24 combination of the aforementioned operations; “workover” shall not
25 mean the routine maintenance, routine repair, or like for-like replace-
26 ment of downhole equipment such as rods, pumps, tubing packers or
27 other mechanical device.

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

- 30 (i) Workover;
- 31 (ii) recompletion to a different producing zone in the same well bore,
32 except recompletions in formations and zones subject to a state corpo-
33 ration commission proration order;
- 34 (iii) secondary recovery projects;
- 35 (iv) addition of mechanical devices to dewater a gas or oil well;
- 36 (v) replacement or enhancement of surface equipment;
- 37 (vi) installation or enhancement of compression equipment, line
38 looping or other techniques or equipment which increases production
39 from a well or a group of wells in a project;
- 40 (vii) new discoveries of oil or gas which are discovered as a result of
41 the use of new technology, including, but not limited to, three dimen-
42 sional seismic studies.

43 (B) The state corporation commission shall adopt rules and regula-

1 tions necessary to efficiently and properly administer the provisions of
2 this paragraph (6) including rules and regulations for the qualification of
3 production enhancement projects, the procedures for determining the
4 monthly rate of production decline, criteria for determining the share of
5 incremental production attributable to each well when a production en-
6 hancement project includes a group of wells, criteria for determining the
7 start up date for any project for which an exemption is claimed, and
8 determining new qualifying technologies for the purposes of paragraph
9 (6)(A)(4)(vii).

10 (C) Any taxpayer applying for an exemption pursuant to this para-
11 graph (6) shall make application to the director of taxation. Such appli-
12 cation shall be accompanied by a state corporation commission certifi-
13 cation that the production for which an exemption is sought results from
14 a qualified production enhancement project and certification of the base
15 production for the enhanced wells or group of wells, and the rate of
16 decline to be applied to that base production. The secretary of revenue
17 shall provide credit for any taxes paid between the project startup date
18 and the certification of qualifications by the commission.

19 (D) The exemptions provided for in this paragraph (6) shall not apply
20 for 12 months beginning July 1 of the year subsequent to any calendar
21 year during which: (1) In the case of oil, the secretary of revenue deter-
22 mines that the weighted average price of Kansas oil at the wellhead has
23 exceeded \$20.00 per barrel; or (2) in the case of natural gas the secretary
24 of revenue determines that the weighted average price of Kansas gas at
25 the wellhead has exceeded \$2.50 per Mcf.

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

28 (7) ~~for the calendar year 1988, and any year thereafter, the severance~~
29 ~~or production of the first 350,000 tons of coal from any mine as certified~~
30 ~~by the state geological survey *the severance and production of coal or oil*~~
31 ~~*occurring on and after July 1, 2001* for the calendar year 1988, and~~
32 **all years thereafter, the severance or production of the first**
33 **350,000 tons of coal from any mine as certified by the state geo-**
34 **logical survey.**

35 (c) No exemption shall be granted pursuant to subsection (b)(3) or
36 (4) to any person who does not have a valid operator's license issued by
37 the state corporation commission, and no refund of tax shall be made to
38 any taxpayer attributable to any production in a period when such tax-
39 payer did not hold a valid operator's license issued by the state corporation
40 commission.

41 (d) On April 15, 1988, and on April 15 of each year thereafter, the
42 secretary of revenue shall determine from statistics compiled and pro-
43 vided by the United States department of energy, the average price per

1 barrel paid by the first purchaser of crude oil in this state for the six-
2 month period ending on December 31 of the preceding year. Such price
3 shall be used for the purpose of determining exemptions allowed by sub-
4 section (b)(2)(B) or (E) for the twelve-month period commencing on May
5 1 of such year and ending on April 30 of the next succeeding year.

6 Sec. 2. K.S.A. ~~2000~~ **2001** Supp. 79-4217 is hereby repealed.

7 Sec. 3. This act shall take effect and be in force from and after its
8 publication in the statute book.

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43