

Approved April 23, 1983
Date

MINUTES OF THE HOUSE COMMITTEE ON ASSESSMENT AND TAXATION

The meeting was called to order by Representative Jim Braden at
Chairperson

9:00 a.m./~~p.m.~~ on March 28, 1983 in room 519-S of the Capitol.

All members were present ~~except~~:

Committee staff present:

Wayne Morris, Research Department
Tom Severn, Research Department
Don Hayward, Revisor of Statutes' Office
Nancy Wolff, Secretary to the Committee

Conferees appearing before the committee:

The meeting was called to order by the Chairman.

The committee discussed Substitute for Senate Bill 267 which would impose a severance tax on the minerals severed from the earth within the state of Kansas.

Representative L. Fry made a motion that Senate Bill 267 be amended by removing the elements of salt and coal from the bill. Representative Lowther seconded the motion.

Representative Wunsch made a substitute motion to amend Senate Bill 267 by the amendments set forth in the attached (Attachment I). Representative Crowell seconded the motion. The motion failed. Representatives Wunsch, Aylward, Lowther and King voted "Yes".

Representative Rolfs made a substitute motion that Senate Bill 267 be amended according to the attached. (Attachment II) Representative Jarchow seconded the motion. The motion carried. Representatives Wunsch, Crowell, King, R. Frey, and Aylward voted "No".

Representative King made a motion to amend Senate Bill 267 with respect to the attached (Attachment III), which would impose an 8% tax with respect to oil and a 4% tax with respect to gas and would allow a dredit, in the case of oil, equal to the county wide average of ad valorem property taxes on oil producing property. Representative R. Frey seconded the motion. The motion failed. Representative Wunsch voted "Yes".

Representative V. Miller made a motion that Senate Bill 267 be reported favorable for passage as amended and Representative Erne seconded the motion.

Representative King made a substitute conceptual motion that Senate Bill 267 be amended on page 4 so that in no case shall such tax on the production of oil or gas removed from any lease or production unit equal or exceed an amount equal to 90% of the net income attributable to the oil or gas severed and produced from such lease or production unit during the period for which the tax is being paid. (Attachment IV) Representative Lowther seconded the motion. The motion failed. Representatives Lowther, Wunsch, King and R. Frey voted "Yes".

The Chairman then called for the vote on the original motion that Substitute for Senate Bill 267 be reported favorable for passage as amended. The motion carried. Representatives Crowell, Wunsch, Roe and Spaniol voted "No".

The meeting was adjourned.

DATE: March 28, 1983

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GUEST REGISTER

HOUSE

ASSESSMENT & TAXATION
COMMITTEE

NAME	ORGANIZATION	ADDRESS
J. Rusman		Mid Valley
Jana Peach		Prinwood
Donald B. Hall	Legislative Assistant	Topeka
Tom Whitaker	Ks Motor Carriers Assn	Topeka
Pat Sobush	Kansas Railroad Assn.	Topeka
Margie Didenes	KIMHI	Topeka
Chip Wheelen	Legis. Policy Group	"
Tom Hageman	" " "	Lakem
Don Boyer	EKOGA	Idola
BEN Neill	Gov. office	Mission, KS
Shelby Smith	SLAWSON	Wichita
Tracy		L.R.
Dab Miller	Gov office	Topeka
Ruth Wilbur	LS	"
TERRA HARDER		Hesston, KS
Marge Harder		Hesston
Karl Zarley	Ks. Geological Survey	Lawrence
Max Moorman	117th District	
Robert G. Anderson	Miss. Cartman	Ottawa
Richard Hossinga		Lawrence
Mark Lambrecht		Lawrence
Don Willoughby	INI	Topeka
WALTER DUNN	EKOGA	✓

Substitute FOR SENATE BILL No. 267

By Committee on Assessment and Taxation

2-28

0017 AN ACT relating to taxation; imposing a tax upon the privilege of
0018 covering coal, ~~and salt,~~ oil and gas from the earth or water of the
0019 state; providing for the levy and collection of such taxes and
0020 the administration and enforcement of the provisions of the
0021 act; prescribing penalties for violations thereof and providing
0022 for the use and disposition of revenues derived therefrom.

an excise tax upon the production of

0023 *Be it enacted by the Legislature of the State of Kansas:*

0024 Section 1. As used in this act, unless the context clearly
0025 requires otherwise, the following words and phrases shall have
0026 the meanings ascribed to them herein:

0027 (a) "Barrel" for oil measurement means a barrel of 42 U.S.
0028 gallons of 231 cubic inches per gallon, computed at a tempera-
0029 ture of 60 degrees Fahrenheit.

0030 ~~(b) "Coal" means any material composed predominantly of~~
0031 ~~hydrocarbons in a solid state.~~

(b)

0032 ~~(c)~~ "Director" means the director of taxation.

0033 ~~(d) "Enhanced recovery methods" means methods of sup-~~
0034 ~~plementing natural reservoir forces or energy, or otherwise in-~~
0035 ~~creasing ultimate recovery from an oil reservoir. Such term shall~~
0036 ~~include but not be limited to secondary recovery methods and~~
0037 ~~such other techniques as use of thermal stimulation, the use of~~
0038 ~~thickeners in the fluids injected and the use of miscible dis-~~
0039 ~~placement fluids.~~

(c)

0040 ~~(e)~~ "Gas" means natural gas taken from below the surface of
0041 the earth or water in this state, regardless of whether from a gas
0042 well or from a well also productive of oil or any other product.

(d)

0043 ~~(f)~~ "Gross value" means the sale price of oil or gas at the time
0044 of removal of the oil or gas from the lease or production unit ~~and~~
0045 ~~with respect to coal ~~(and salt)~~, the sale price after extraction and~~

Atch. I

16 ~~preparation for shipment f.o.b. mine, and if coal, ~~salt,~~ oil or gas~~
0047 is exchanged for something other than cash, or if no sale occurs at
0048 the time of removal or if the relation between the buyer and the
0049 seller is such that the consideration paid, if any, is not indicative
0050 of the true value or market price, then the director shall deter-
0051 mine the value of the coal, ~~salt,~~ oil or gas subject to tax, based
0052 on the cash price paid to producers for like quality coal, ~~salt,~~ oil
0053 or gas in the vicinity of the well ~~or mine~~ at the time of the
0054 removal of the coal, ~~salt,~~ oil or gas from the lease or production
0055 unit ~~or mine~~.

If no sale of gas occurs at the time of removal, then the value of gas subject to tax at the point of removal will be the same per BTU as the gas is sold for at the point of sale if such sale is not between related parties.

(e)

0056 ~~(g)~~ "Oil" means petroleum, or other crude oil, condensate,
0057 casinghead gasoline, or other mineral oil which is ~~mined~~, sev-
0058 ered or withdrawn from below the surface of the soil or water in
0059 this state.

(f)

0060 ~~(h)~~ "Operator" means the person primarily responsible for
0061 the management and operation of coal, ~~salt,~~ oil or gas produc-
0062 tions on a property.

0063 (i) "Overriding royalty interest" means a right created from a
0064 working interest that entitles the owner to a specified fraction of
0065 production, in kind or in value, free of expense of development
0066 and operation of the property.

(g) "Overriding royalty interest" means a right created from a working interest that entitles the owner to a specified fraction of production, in kind or in value, free of expense of development and operation of the property.

0067 ~~(j)~~ ~~(i)~~ "Person" means any natural person, firm, copartner-
0068 ship, joint venture, association, corporation, estate, trust or any
0069 other group or combination acting as a unit, and the plural as
0070 well as the singular number.

(h)

0071 ~~(k)~~ ~~(j)~~ "Producer" means any person owning, controlling,
0072 managing or leasing any coal, ~~salt,~~ oil or gas property or oil or
0073 gas well ~~or coal for salt mine~~, and any person who severs in any
0074 manner any coal, ~~salt,~~ oil or gas in this state, and shall include
0075 any person owning any interest in any coal, ~~salt,~~ oil or gas ~~or the~~
0076 ~~value thereof~~, whether severed by such person or some other
0077 person on their behalf, either by lease, contract or otherwise, but
0078 such term shall not include any royalty owner.

(i)

direct and beneficial

produced

including a royalty owner

0079 ~~(l)~~ ~~(k)~~ "Production" means the total gross amount of coal,
0080 ~~salt,~~ oil or gas, which amount for the purpose of the tax imposed
0081 ~~by this act shall be measured or determined: (1) In the case of oil,~~
0082 ~~by tank tables compiled to show 100% of the full capacity of~~

~~0083 tanks without deduction for overage or losses in handling, at
0084 lowance for any reasonable and bona fide deduction for basic
0085 sediment and water, and for correction of temperature to 60
0086 degrees Fahrenheit will be allowed; and if the amount of oil
0087 severed has been measured or determined by tank tables com-
0088 piled to show less than 100% of the full capacity of tanks, such
0089 amount shall be raised to a basis of 100% for the purpose of the
0090 tax imposed by this act; and (2) in the case of gas, by meter
0091 readings showing 100% of the full volume expressed in cubic
0092 feet at a standard base and flowing temperature of 60 degrees
0093 Fahrenheit, and at the absolute pressure at which the gas is sold
0094 and purchased; correction to be made for pressure according to
0095 Boyle's law, and used for specific gravity according to the gravity
0096 at which the gas is sold and purchased, or if not so specified,
0097 according to the test made by the balance method.~~

(j)

0098 (m) ~~[(l)]~~ "Remove" or "removal" means the physical trans-
0099 portation of ~~coal, [salt,]~~ oil or gas off of the lease or production
0100 unit ~~or from the mine~~ where severed; and if the manufacture or
0101 conversion of crude oil or natural gas into refined products
0102 occurs on the premises where severed, oil or gas shall be
0103 deemed to have been removed on the date such manufacture or
0104 conversion begins. Removal shall not mean disposition of test,
0105 frac or ~~swap~~ oil which is sold or exchanged for value.

swab

0106 (n) "Royalty interest" means the share of not to exceed $\frac{1}{8}$ of
0107 any coal, ~~[salt,]~~ oil or gas actually severed; either in kind or in
0108 value; reserved by the lessor as consideration for the right
0109 granted to a lessee to mine, drill and produce the same.

(k) "Royalty interest" means the share of oil or gas actually severed, either in kind or in value, reserved by the lessor as consideration for the right granted to a lessee to drill and produce the same.
(l) "Royalty owner" means an owner of the royalty interest but such term shall not include the owner of any overriding royalty or other payment carved out of the working interest.

0110 (o) "Royalty owner" means an owner of the royalty interest
0111 but such term shall not include the owner of any overriding
0112 royalty or other payment carved out of the working interest.

production of oil through

0113 (p) ~~[(m)]~~ "Secretary" means the secretary of revenue.

the same

0114 (q) ~~[(n)]~~ "Severed" or "severing" means: (1) The extraction or
0115 withdrawing from below the surface of the soil or water of any
0116 oil, whether such extraction or withdrawal shall be by natural
0117 flow, mechanical flow, forced flow, pumping or any other means
0118 employed to get the oil from below the surface of the soil or
0119 water and shall include the withdrawing by any means whatso-

ever of oil upon which the tax has not been paid, from any surface reservoir, natural or artificial, or from a water surface; ~~(2) the extraction or withdrawing by any means whatsoever, from below the surface of the earth or water, of any gas, and (3) the physical removal of coal [or salt] from the earth.~~

and (2) the production of gas through

the same

(o)

(r) ~~[(o)]~~ "Taxpayer" means any person liable for the taxes imposed by this act.

(p) "Working interest" means an interest granted to a lessee in oil or gas actually severed from a property

(s) "Working interest" means an interest granted to a lessee in coal, ~~or salt,~~ oil or gas actually severed from a property

May

Sec. 2. (a) From and after ~~May 1,~~ 1983, there is hereby imposed a tax upon the ~~privilege of engaging in the business activity of severing coal, [or salt],~~ oil or gas from the earth or water

an excise tax upon the severance and production of

in this state for sales, transport, storage, profit or commercial use, subject to the following provisions of this section. ~~Such tax is hereby imposed at the time of the removal of the coal, [salt], oil~~

7%. For the purposes of the tax imposed hereunder the amount of oil or gas produced shall be measured or determined: (1) In the case of oil, by tank tables compiled to show 100% of the full capacity of tanks without deduction for overage or losses in handling; allowance for any reasonable and bona fide deduction for basic sediment and water, and for correction of temperature to 60 degrees Fahrenheit will be allowed; and if the amount of oil severed has been measured or determined by tank tables compiled to show less than 100% of the full capacity of tanks, such amount shall be raised to a basis of 100% for the purpose of the tax imposed by this act; and (2) in the case of gas, by meter readings showing 100% of the full volume expressed in cubic feet at a standard base and flowing temperature of 60 degrees Fahrenheit, and at the absolute pressure at which the gas is sold and purchased; correction to be made for pressure according to Boyle's law, and used for specific gravity according to the gravity at which the gas is sold and purchased, or if not so specified, according to the test made by the balance method.

~~or gas from the lease or production unit or coal [or salt] mine.~~ Such tax shall be borne ratably by all persons within the term "producer" as such term is defined in section 1 of this act. Such tax shall be applied equally to all portions of the gross value of each barrel of oil severed and subject to such tax and to the gross value of the ~~coal, salt,~~ or gas severed and subject to such tax.

The rate of such tax shall be ~~8%.~~

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

and production

30

(1) The severance ~~and removal~~ of gas which is: (A) Injected into the earth for the purpose of lifting oil, storing, recycling or repressuring; (B) used for fuel in connection with the operation and development for, or production of, oil or gas in the field where severed; (C) lawfully vented or flared; (D) severed from a well having an average daily production during a calendar month of ~~60 mcf or less, which well has not been significantly curtailed~~ by reason of mechanical failure or other disruption of production; (E) inadvertently lost by reason of leaks, blowouts or other accidental losses; or (F) used or consumed for domestic or agricultural purposes on the lease or production unit from which it is severed;

and production

(2) The severance ~~and removal~~ of oil which is: (A) From a well

0157 ~~whose depth is less than 2,000 feet and whose average daily~~
0158 ~~primary production is one barrel or less or whose average daily~~
0159 ~~production resulting from enhanced recovery methods is two~~
0160 ~~barrels or less, which well has not been significantly curtailed by~~
0161 ~~reason of mechanical failure or other disruption of production;~~
0162 ~~(B) from a well whose depth is 2,000 feet or more but less than~~
0163 ~~3,000 feet and whose average daily primary production is two~~
0164 ~~barrels or less or whose average daily production resulting from~~
0165 ~~enhanced recovery methods is four barrels or less, which well~~
0166 ~~has not been significantly curtailed by reason of mechanical~~
0167 ~~failure or other disruption of production; (C) from a well whose~~
0168 ~~depth is 3,000 feet or more and whose average daily primary~~
0169 ~~production is three barrels or less or whose average daily pro-~~
0170 ~~duction resulting from enhanced recovery methods is six barrels~~
0171 ~~or less, which well has not been significantly curtailed by reason~~
0172 ~~of mechanical failure or other disruption of production; or (D)~~
0173 ~~inadvertently lost by reason of leaks or other accidental means;~~
0174 (3) the severance and removal of coal; ~~coal,~~ oil or gas which
0175 is attributable to a royalty interest as defined by this act;
0176 ~~(1) [(3)] the severance and removal of gas or oil produced~~
0177 ~~from any well from which the first commercial production occurs~~
0178 ~~on or after the effective date of this act from the month of the first~~
0179 ~~sale of such production and continuing for a period of 24 months~~
0180 ~~thereafter.~~
0181 Whenever the production of an oil well is not separately
0182 gauged, the average daily production for purposes of this sub-
0183 section shall be determined for such well by conventional ~~bitum~~
0184 ~~tests.~~

0185 Sec. 3. Except as otherwise provided in this act, the tax
0186 imposed by section 2 of this act shall be upon the ~~business-~~
0187 ~~activity of covering and removal of coal, coal,~~ oil or gas in this
0188 state, regardless of the place of sale of such ~~coal, coal,~~ oil or gas
0189 or to whom sold or by whom used, or the fact that the delivery
0190 thereof may be made to points outside the state. The taxes
0191 imposed by this act shall be in addition to all other taxes imposed
0192 upon real or personal property by the state of Kansas or by any
0193 taxing subdivision thereof.

, or wells located upon the same lease or pro-
duction unit, whose average daily production
is two barrels or less, which well or wells
have not been significantly curtailed by reason
of mechanical failure or other disruption of
production; (B) from a well, or wells located
upon the same lease or production unit, whose
completion depth is 2,000 feet or more and
whose average daily production is three barrels
or less, which well or wells have not been
significantly curtailed by reason of mechanical
failure or other disruption of production;

or (C)

MARCH
(3) The severance and production of gas or
oil from any lease from which oil or gas was
first produced on or after April 1, 1983,
and continuing for a period of 12 months
from the month in which oil or gas was
first produced from such lease as evidenced
by an affidavit of completion of a well,
filed with the state corporation commission.

severing and producing of

0104 ~~Sec. 4. (a) [Except as otherwise provided in this subsection,~~
 0105 ~~there shall be allowed to each taxpayer, as a credit against the tax~~
 0106 ~~levied under the provisions of section 2 of this act, an amount~~
 0107 ~~equal to the full amount of all ad valorem taxes actually paid [due~~
 0108 ~~and payable] by such taxpayer upon oil or gas property, as~~
 0109 ~~defined by K.S.A. 79-329, or coal property during the next pre-~~
 0200 ~~ceding calendar year [during [on November 1 of] the next~~
 0201 ~~preceding calendar year upon coal [and salt] property and upon~~
 0202 ~~oil property, as defined by K.S.A. 79-329, and an amount equal~~
 0203 ~~to the full amount of the ad valorem taxes actually paid [due and~~
 0204 ~~payable] by the taxpayer during [on November 1 of] the next~~
 0205 ~~preceding calendar year upon gas property, as defined by K.S.A.~~
 0206 ~~79-329, which has not been allowed as a pass through under the~~
 0207 ~~terms of the gas purchase contract of which has not been~~
 0208 ~~allowed as a pass through as a result of a rule or order of the~~
 0209 ~~Federal Energy Regulatory Commission.]~~

0210 On or before June 1, 1983, and January 15 of each year
 0211 thereafter each taxpayer who is not required to collect and remit
 0212 taxes under this act shall notify the person required to collect and
 0213 remit such taxes of the full amount of ad valorem taxes actually
 0214 paid [due and payable] by such taxpayer upon oil or gas property,
 0215 as defined by K.S.A. 79-329, or coal [or salt] property during [on
 0216 November 1 of] the next preceding calendar year. If the ad
 0217 valorem taxes paid [due and payable] in such year exceed the tax
 0218 liability of the taxpayer under the provisions of this act, no
 0219 refund or other credit shall result from such excess. The credit
 0220 applicable for one tax year shall not be used in another tax year.

0221 [The amount of the ad valorem tax credit allowed to any
 0222 taxpayer under this subsection for deduction from the taxes
 0223 imposed under this act shall not exceed the amount of ad
 0224 valorem taxes due and payable in the preceding year upon oil or
 0225 gas property used in producing oil or gas which is taxable under
 0226 this act.]

0227 (b) For the purpose of insuring that ad valorem property tax
 0228 credits claimed under subsection (a) of this section are valid, the
 0229 director of property valuation shall annually obtain such number
 0230 of independent appraisals of oil and gas properties located in

Sec. 4. (a) There shall be allowed to each taxpayer, other than an owner of a royalty interest, who is liable for ad valorem property taxes upon oil property as defined by K.S.A. 79-329, a credit against the tax levied under section 2 upon the severance and production of oil, an amount equal to the product of the ratio of the county-wide average of ad valorem property taxes on oil producing property for the county in which the property from which such oil was severed and produced for the year 1982, to the gross value of oil severed and produced in such county for the year 1981, multiplied by the gross value of oil attributable to such taxpayer and taxable under this act. The director of property valuation shall certify the product of such ratio to be applied in each county for the purposes of this subsection.

(b) There shall be allowed to each taxpayer, other than an owner of a royalty interest, liable for ad valorem property taxes upon gas property as defined by K.S.A. 79-329, as a credit against the tax levied upon the severance and production of gas from such property under section 2 of this act, an amount equal to 2½% of the gross value of the gas severed and produced.

(c) There shall be allowed to each taxpayer who is the owner of a royalty interest in oil or gas, as a credit against the tax levied under the provisions of section 2 of this act, an amount equal to the full amount of all ad valorem taxes due and payable by such taxpayer on November 1 of the next preceding calendar year upon oil or gas property, as defined by K.S.A. 79-329 or if there be no such ad valorem taxes due and payable for the next preceding calendar year, then such credit shall be an amount computed for oil in the same manner as section 4(a) and for gas in the same manner as section 4(b) limited, however, to the gross value of such oil or gas attributable to such taxpayer. On or before June 1, 1983, and January 15 of each year thereafter each taxpayer who is not required to collect and remit taxes under this act shall notify the person required to collect and remit such taxes of the full amount of ad valorem taxes due and payable by such taxpayer upon such oil or gas property on November 1 of the next preceding calendar year.

(d) Every operator shall file with the county appraiser of any county in which oil ~~or~~ gas property is located from which oil or gas is severed and produced a division order covering all interests in any oil or gas severed and produced.

0231 ~~counties representing different geographic and oil and gas pro-~~
0232 ~~duction areas of the state as the director deems necessary to~~
0233 ~~insure that such property is valued in accordance with guides~~
0234 ~~prescribed by the director. Such appraisals shall be reviewed by~~
0235 ~~the director of property valuation with a committee consisting of~~
0236 ~~the director of property valuation, three county appraisers, se-~~
0237 ~~lected by the director of property valuation, from counties rep-~~
0238 ~~resenting different geographic and oil and gas production areas~~
0239 ~~of the state and three members selected by the governor from the~~
0240 ~~general public having education or experience in the field of oil~~
0241 ~~and gas production.~~

0242 Sec. 5. (a) The amount of the tax payable each month under
0243 the provisions of section 6 of this act shall be due and payable on
0244 or before the last day of the second month following the end of
0245 the month in which the ~~coal, [salt,]~~ oil or gas is removed from the
0246 lease or production unit ~~or coal [or salt] mine~~. The tax is upon ^{the} ~~the~~
0247 producers of such ~~coal, [salt,]~~ oil or gas in the proportion to their
0248 ~~ownership~~ at the time of severance, and unless the operator of
0249 the well ~~or mine~~, upon written notice to the first purchaser and
0250 the director, elects to remit the tax, the first purchaser of any ~~coal,~~
0251 ~~[salt,]~~ oil or gas sold shall collect the amount of the tax due from
0252 the producers by deducting and withholding such amount from
0253 any payments made by such purchaser to the operator, or such
0254 producers where payment is made to same directly, and shall
0255 remit the same as provided in this act.

0256 In no event shall a producer be relieved of responsibility for
0257 the tax until the same has been paid. In the event the tax shall be
0258 withheld by a purchaser from payments due an operator or
0259 producer and such purchaser fails to make payment of the tax to
0260 the state as required herein, the operator or producer shall be
0261 entitled to bring an action against such purchaser to recover the
0262 amount of tax so withheld together with penalties and interest
0263 which may have accrued by failure to make such payment. The
0264 operator or producer shall be entitled to reasonable attorney fees
0265 and court costs incurred in such action.

0266 (b) The state shall have a lien on all the ~~coal, [salt,]~~ oil or gas
0267 severed in this state in the hands of the operator, any producer or

4 Except as otherwise provided in subsection (c),

5

20th

as defined in section 1,

interest

as defined by section 1

0268 the first or any subsequent purchaser thereof to secure the
0269 payment of the tax. In the event any person required herein to
0270 pay the tax fails to do so, the director shall proceed against such
0271 person to collect the tax in the manner provided by K.S.A.
0272 79-3235 and amendments thereto.

0273 ~~Sec. 6. (a) Every purchaser responsible for remitting the tax~~
0274 ~~imposed under the provisions of section 2 shall on or before the~~
0275 ~~last day of the second month following the end of every calendar~~
0276 ~~month~~ make a return to the director upon forms prescribed and
0277 furnished by the director showing the gross amount of ~~coal,~~
0278 ~~salt,~~ oil or gas purchased during the month for which the return
0279 is filed, the price paid therefor, the correct name and address of
0280 the operator or other person from whom the same was purchased,
0281 a full description of the property in the manner prescribed by the
0282 director from which such ~~coal, salt,~~ oil or gas was severed and
0283 the amount of tax due. Such return shall be accompanied by a
0284 remittance of the amount of the tax computed under this sub-
0285 section. For the purposes of determining the amount of tax to be
0286 remitted such purchaser shall compute the full amount of the tax
0287 due under section 2 of this act upon all ~~coal, salt,~~ oil or gas
0288 severed and removed from the lease or production unit ~~or mine~~
0289 during such month and shall deduct from this amount an amount
0290 equal to the full amount of the ~~ad valorem property taxes actually~~
0291 ~~paid by the taxpayer upon coal, salt, oil or gas properties during~~
0292 ~~the next preceding calendar year [tax credit allowed to the~~
0293 ~~taxpayer pursuant to section 4,]~~ multiplied by the number of
0294 months for which the tax is being remitted under this act,
0295 divided by 12. Whenever a taxpayer sells ~~coal, salt,~~ oil or gas to
0296 more than one purchaser in any month, such taxpayer shall
0297 provide to each such purchaser the names of all such purchasers
0298 to whom oil, ~~gas, salt,~~ or ~~coal~~ was sold in such month and
0299 whether or not or to what extent the ~~ad valorem property tax~~
0300 ~~deduction~~ has been utilized in determining the taxes to be
0301 remitted by each such purchaser.

0302 ~~(b) If coal, salt, oil or gas is removed from the lease or~~
0303 ~~production unit or mine but not sold to a purchaser the operator~~
0304 ~~shall on or before the last day of the second month following the~~

(c) All taxes imposed under the provisions of section 2 of this act upon oil or gas removed from the lease or production unit in the months of May and June in the year 1983, shall be due and payable on or before the 20th day of September, 1983. In addition all returns required to be filed by purchasers and operators in relation to oil or gas removed from the lease or production unit in the months of May and June in the year 1983 shall be filed on or before the 20th day of September, 1983.

Sec. 5. (a) Except as otherwise provided in subsection (c) of section 4, every purchaser responsible for remitting the tax imposed under the provisions of section 2 shall on or before the 20th day of the second month following the end of every calendar month in which oil or gas is removed from the lease or production unit

quantity

full

For the purpose of computing the amount of the credit to be deducted pursuant to subsections (a) and (c) of section 4, the full amount of such credit shall be

or

credit

(b) Except as otherwise provided in subsection (c) of section 4, if oil or gas is removed from the lease or production unit but not sold to a purchaser or if the operator elects to remit the tax as authorized under section 4, the operator shall on or before the 20th day of the second month following the

0205 end of every calendar month make a return to the director upon
0305 forms prescribed and furnished by the director showing the gross
0307 ~~value of coal, [salt,]~~ oil or gas removed during such month and a
0308 full description of the property in the manner prescribed by the
0309 director from which the same was severed. Such return shall be
0310 accompanied by a remittance of the full amount of tax due upon
0311 ~~the coal, [salt,] oil or gas~~ less the amount of any credits to which
0312 the taxpayer is entitled. The amount of the taxes to be remitted
0313 shall be determined in the same manner prescribed for remit-
0314 tances by purchasers under subsection (a) of this section.

0315 (c) Each monthly return required hereunder shall be filed on
0316 separate forms as to product and county. All such monthly
0317 returns shall be signed by the purchaser or operator, as the case
0318 may be, or a duly authorized agent thereof.

0319 (d) The director may grant a reasonable extension of time for
0320 filing any return and remittance of taxes due under this act upon
0321 good cause shown therefor. Interest shall be charged at the rate
0322 prescribed by subsection (a) of K.S.A. 1982 Supp. 79-2968 for the
0323 period of such extension.

0324 Sec. 7. When the title to any ~~coal, [salt,]~~ oil or gas being
0325 severed from the earth or water is in dispute and the purchaser of
0326 such ~~coal, [salt,]~~ oil or gas is withholding payments on account of
0327 litigation, or for any other reason, such purchaser is hereby
0328 authorized, empowered and required to deduct from the gross
0329 amount thus held the amount of the tax imposed less the amount
0330 of any credit to which the taxpayer is entitled and to make
0331 remittance thereof to the director as provided in this act.

0332 Sec. 8. When requested by the director, all transporters of
0333 ~~coal, [salt,]~~ oil or gas out of, within or across the state of Kansas
0334 shall be required to furnish the director such information relative
0335 to the transportation of such ~~coal, [salt,]~~ oil or gas as the director
0336 may require. The director shall have authority to inspect bills of
0337 lading, waybills, meter or other charts, documents, books and
0 records as may relate to the transportation of ~~coal, [salt,]~~ oil or gas
0339 in the hands of each transporter herein referred to. The director
0340 shall further be empowered to demand the production of such
0341 bills of lading, waybills, charts, documents, books and records

in which oil or gas is removed from the lease or production unit

quantity

If the oil or gas has been sold

If the oil or gas has not been sold the operator shall remit the full amount of the tax due upon certification of the amount thereof by the director.

6

7

0342 relating to the transportation of ~~coal, salt,~~ oil or gas at any point
0343 in the state of Kansas which may be designated, except that in
0344 the case of common carriers using bills of lading or waybills
0345 prescribed or approved by the interstate commerce commission,
0346 such common carrier shall only be required to keep the usual
0347 records at offices in the state where such records are usually
0348 kept.

8

0349 ~~Sec. 9.~~ The director shall have the power to require any
0350 operator, producer or person purchasing any ~~coal, salt,~~ oil or gas
0351 severed from the earth or water to furnish any additional infor-
0352 mation deemed to be necessary for the purpose of computing the
0353 amount of the tax, and for such purpose to examine the meter and
0354 other charts, books, records and all files of such person, and for
0355 such purpose the director shall have the power to issue subpoe-
0356 nas and examine witnesses under oath, and if any witness shall
0357 fail or refuse to appear at the request of the director, or refuses
0358 access to books, records and files, the district court of the proper
0359 county, or the judge thereof, on application of the director, shall
0360 compel obedience by proceedings for contempt, as in the case of
0361 disobedience of the requirements of a subpoena issued from
0362 such court or a refusal to testify therein.

9

0363 ~~Sec. 10.~~ (a) If any taxes imposed under this act and deter-
0364 mined and assessed by the director are unpaid: (1) Not due to
0365 negligence or to intentional disregard of rules and regulations
0366 promulgated by the secretary, interest on such taxes shall be
0367 added at the rate per month prescribed by subsection (a) of
0368 K.S.A. 1982 Supp. 79-2968, and amendments thereto, from the
0369 date the tax was due until paid; (2) due to negligence or to
0370 intentional disregard of the rules and regulations promulgated
0371 by the secretary, but without intent to defraud, a penalty of 10%
0372 of the amount of such taxes shall be added, together with interest
0373 at the rate per month prescribed by subsection (a) of K.S.A. 1982
0374 Supp. 79-2968, and amendments thereto, from the date the tax
0375 was due until paid; (3) due to fraud with intent to evade the taxes
0376 imposed by this act, there shall be added thereto a penalty of
0377 50% of the amount of such taxes, together with interest at the rate
0378 per month prescribed by subsection (a) of K.S.A. 1982 Supp.

0379 79-2968, and amendments thereto, from the date the tax was due
0380 until paid.

0381 (b) If any person fails or refuses to make any return, when
0382 required to do so under the provisions of this act, such person
0383 shall be subject to a penalty of \$25 per day for each return which
0384 such person fails or refuses to file.

0385 (c) Whenever, in the judgment of the director, the failure of
0386 any person to comply with the provisions of subsection (a)(1),
0387 (a)(2), and (b) of this section, was due to reasonable cause, the
0388 director may, in the exercise of discretion, waive or reduce any of
0389 the penalties upon making a record of the reason therefor.

0390 (d) In addition to all other penalties herein provided, any
0391 person who fails to make a return, or to pay any tax herein
0392 provided, or who makes a false or fraudulent return, or fails to
0393 keep any books or records prescribed by this act, or who willfully
0394 violates any rules and regulations promulgated by the secretary
0395 for the enforcement and administration of this act, or who aids
0396 and abets another in attempting to evade the payment of any tax
0397 imposed by this act, or who violates any other provisions of this
0398 act, shall, upon conviction thereof, be guilty of a class C mis-
0399 demeanor.

0400 Sec. 44. Every operator shall make and keep a complete and
0401 accurate record in the form required by the director showing the
0402 gross quantity of ~~coal, salt,~~ oil or gas severed and removed, the
0403 names of the purchasers of such products, the price paid therefor
0404 and the date of purchase. Every purchaser of ~~coal, salt,~~ oil or
0405 gas severed in this state who is required to collect and remit the
0406 tax on the same shall make and keep a complete and accurate
0407 record in the form required by the director showing the gross
0408 quantity of ~~coal, salt,~~ oil or gas purchased, the price paid
0409 therefor, the name of the operator and the date of purchase. Such
0410 records shall at all times during business hours of the day be
0411 available for and subject to inspection by the director, or the
0412 director's duly authorized agents and employees, for a period of
0413 three years from the last day of the calendar year to which the
0414 records pertain. Such records shall be preserved during the
0415 entire period during which they are subject to inspection by the

0417 director, unless the director in writing previously authorized
0417 their disposal.

0418 The amount of taxes imposed by this act is to be assessed
0419 within three years after the return is filed, and no proceedings in
0420 court for the collection of such taxes shall be begun after the
0421 expiration of such period. In the case of a false or fraudulent
0422 return with intent to evade tax, the tax may be assessed or a
0423 proceeding in court for collection of such tax may be begun at
0424 any time, within two years from the discovery of such fraud. No
0425 refund or credit shall be allowed by the director after three years
0426 from the date of payment of the tax as provided in this act unless
0427 before the expiration of such period a claim therefor is filed by
0428 the taxpayer, and no suit or action to recover on any claim for
0429 refund shall be commenced until after the expiration of six
0430 months from the date of filing a claim therefor with the director.

0431 Before the expiration of time prescribed in this section for the
0432 assessment of additional tax or the filing of a claim for refund, the
0433 director is hereby authorized to enter into an agreement in
0434 writing with the taxpayer consenting to the extension of the
0435 periods of limitations for the assessment of tax or for the filing of
0436 a claim for refund, at any time prior to the expiration of the
0437 periods of limitations. The periods so agreed upon may be
0438 extended by subsequent agreements in writing made before the
0439 expiration of the periods previously agreed upon. In considera-
0440 tion of such agreement or agreements, interest due in excess of
0441 48 months on any additional tax shall be waived.

0442 Sec. 12. (a) All revenue collected or received by the director
0443 from the taxes imposed by this act shall be remitted daily to the
0444 state treasurer. Upon receipt of each such remittance, the state
0445 treasurer shall deposit the entire amount thereof in the state
0446 treasury. The state treasurer shall first credit such amount
0447 thereof as the director shall order to the mineral production tax
0448 refund fund created under subsection (b) of this section. The
0449 state treasurer shall credit the remainder of such amounts as
0450 follows: (1) ~~On November 1, 1983, and November 1 of each year~~
0451 ~~thereafter the amount of \$1,000,000 shall be credited to the low-~~
0452 ~~income energy assistance plan, elderly, created under subsection-~~

0153 ~~(1), (2)~~ eight percent to the special county mineral production tax
 0154 fund created under subsection (c) of this section; and ~~(2) (3)~~ the
 0155 remainder thereof to the state general fund.

(2)

0156 (b) A refund fund designated as "mineral production tax
 0157 refund fund" not to exceed \$50,000 is hereby created for the
 0158 prompt payment of all tax refunds. The mineral production tax
 0159 refund fund shall be in such amount, within the limit set by this
 0160 section, as the director shall determine is necessary to meet
 0161 current refunding requirements under this act.

0162 (c) There is hereby created a special county mineral produc-
 0163 tion tax fund. On December 1, 1983, and quarterly thereafter, the
 0164 director of taxation shall distribute all moneys credited to such
 0165 fund to the county treasurers of all counties in which taxes were
 0166 levied under section 2 of this act for the privilege of severing
 0167 ~~coal, {salt,}~~ oil or gas from property within the county, in the
 0168 proportion that the taxes levied upon production in each county
 0169 bears to the total of all of such taxes levied in all of such counties.
 0170 Such distribution shall be based on returns filed, with any
 0171 adjustments or corrections made by the director of taxation.

0172 (d) The secretary of revenue shall make provision for the
 0173 determination of the counties within which taxes are levied
 0174 under section 2 of this act for the severance of ~~coal, {salt,}~~ oil or
 0175 gas and shall certify the same to the director of accounts and
 0176 reports.

0177 (e) The director of accounts and reports shall draw warrants
 0178 on the state treasurer payable to the county treasurer of each
 0179 county entitled to payment from the special county mineral
 0180 production tax fund upon vouchers approved by the director of
 0181 taxation. Upon receipt of such warrant, each county treasurer
 0182 shall credit 50% of the amount thereof to the county general fund
 0183 and shall distribute the remaining 50% thereof to the treasurer of

districts,

0184 ~~each school district~~ all or any portion of which is located within
 0185 the county in the proportion that the assessed value of ~~coal, {salt,}~~
 0186 oil and gas properties within each district bears to the total of the
 0187 assessed value of all ~~coal, {salt,}~~ oil and gas properties within the
 0188 county. Such assessed valuation shall be determined upon the
 0189 basis of the most recent November 1 tax roll. The treasurer of

1

0490 each school district shall credit the entire amount of the moneys
0491 so received to the general fund of the school district.

0492 ~~[(f) There is hereby created the low-income energy assistance~~
0493 ~~plan, elderly. All moneys credited to such fund shall be used by~~
0494 ~~the secretary of social and rehabilitation services for the pur-~~
0495 ~~poses of extending benefits to the elderly poor having an income~~
0496 ~~level of not to exceed 150% of the poverty level.]~~

0497 Sec. 13. The secretary is hereby authorized to adopt such
0498 rules and regulations as may be necessary to administer and
0499 enforce the provisions of this act.

0500 ~~[Sec. 14. The provisions of this act shall expire on July 1,~~
0501 ~~1986.]~~

0502 Sec. 14 ~~[15].~~ This act shall take effect and be in force from
0503 and after its publication in the Kansas register.

12

Sec. 13. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

14

Substitute FOR SENATE BILL No. 267

By Committee on Assessment and Taxation

2-28

MARCH 28
9 AM

0017 AN ACT relating to taxation; imposing a tax upon the privilege of
0018 ~~covering coal, [salt],~~ oil and gas from the earth or water of the
0019 state; providing for the levy and collection of such taxes and
0020 the administration and enforcement of the provisions of the
0021 act; prescribing penalties for violations thereof and providing
0022 for the use and disposition of revenues derived therefrom.

an excise tax upon the production of

0023 *Be it enacted by the Legislature of the State of Kansas:*

0024 Section 1. As used in this act, unless the context clearly
0025 requires otherwise, the following words and phrases shall have
0026 the meanings ascribed to them herein:

0027 (a) "Barrel" for oil measurement means a barrel of 42 U.S.
0028 gallons of 231 cubic inches per gallon, computed at a tempera-
0029 ture of 60 degrees Fahrenheit.

0030 ~~(b) "Coal" means any material composed predominantly of~~
0031 ~~hydrocarbons in a solid state.~~

0032 ~~(c)~~ "Director" means the director of taxation.

(b)

0033 ~~(d) "Enhanced recovery methods" means methods of sup-~~
0034 ~~plementing natural reservoir forces or energy, or otherwise in-~~
0035 ~~creasing ultimate recovery from an oil reservoir. Such term shall~~
0036 ~~include but not be limited to secondary recovery methods and~~
0037 ~~such other techniques as use of thermal stimulation, the use of~~
0038 ~~thickeners in the fluids injected and the use of miscible dis-~~
0039 ~~placement fluids.~~

0040 ~~(e)~~ "Gas" means natural gas taken from below the surface of
0041 the earth or water in this state, regardless of whether from a gas
0042 well or from a well also productive of oil or any other product.

(c)

0043 ~~(f)~~ "Gross value" means the sale price of oil or gas at the time
0044 of removal of the oil or gas from the lease or production unit ~~and,~~
0045 ~~with respect to coal [and salt], the sale price after extraction and~~

(d)

Atch. II

0016 ~~preparation for shipment f.o.b. mine, and if coal, [salt,] oil or gas~~
0017 ~~is exchanged for something other than cash, or if no sale occurs at~~
0018 ~~the time of removal or if the relation between the buyer and the~~
0019 ~~seller is such that the consideration paid, if any, is not indicative~~
0020 ~~of the true value or market price, then the director shall deter-~~
0021 ~~mine the value of the coal, [salt,] oil or gas subject to tax, based~~
0022 ~~on the cash price paid to producers for like quality coal, [salt,] oil~~
0023 ~~or gas in the vicinity of the well or mine at the time of the~~
0024 ~~removal of the coal, [salt,] oil or gas from the lease or production~~
0025 ~~unit or mine.~~

(e)

0026 ~~(g)~~ "Oil" means petroleum, or other crude oil, condensate,
0027 casinghead gasoline, or other mineral oil which is ~~mined,~~ sev-
0028 ~~ered or withdrawn from below the surface of the soil or water in~~
0029 ~~this state.~~

(f)

0030 ~~(h)~~ "Operator" means the person primarily responsible for
0031 the management and operation of coal, [salt,] oil or gas produc-
0032 tions on a property.

0033 (i) "Overriding royalty interest" means a right created from a
0034 working interest that entitles the owner to a specified fraction of
0035 production, in kind or in value, free of expense of development
0036 and operation of the property.

(g)

0037 ~~(j)~~ ~~[(i)]~~ "Person" means any natural person, firm, copartner-
0038 ship, joint venture, association, corporation, estate, trust or any
0039 other group or combination acting as a unit, and the plural as
0040 well as the singular number.

(h)

0041 ~~(k)~~ ~~[(j)]~~ "Producer" means any person owning, controlling,
0042 managing or leasing any coal, [salt,] oil or gas property or oil or
0043 gas well or coal ~~for salt~~ mine, and any person who severs in any
0044 manner any coal, [salt,] oil or gas in this state, and shall include
0045 any person owning any interest in any coal, [salt,] oil or gas or the
0046 ~~value thereof,~~ whether severed by such person or some other
0047 person on their behalf, either by lease, contract or otherwise; but
0048 such term shall not include any royalty owner.

direct and beneficial

produced

including a royalty owner

0049 ~~(l)~~ ~~[(k)]~~ "Production" means the total gross amount of coal,
0050 ~~[salt,] oil or gas, which amount for the purpose of the tax imposed~~
0051 ~~by this act shall be measured or determined: (1) In the case of oil,~~
0052 ~~by tank tables compiled to show 100% of the full capacity of~~

0083 ~~tanks without deduction for average or losses in handling, al-~~
 0084 ~~lowance for any reasonable and bona fide deduction for basic~~
 0085 ~~sediment and water, and for correction of temperature to 60~~
 0086 ~~degrees Fahrenheit will be allowed; and if the amount of oil~~
 0087 ~~severed has been measured or determined by tank tables com-~~
 0088 ~~puted to show less than 100% of the full capacity of tanks, such~~
 0089 ~~amount shall be raised to a basis of 100% for the purpose of the~~
 0090 ~~tax imposed by this act; and (2) in the case of gas, by meter~~
 0091 ~~readings showing 100% of the full volume expressed in cubic~~
 0092 ~~feet at a standard base and flowing temperature of 60 degrees~~
 0093 ~~Fahrenheit, and at the absolute pressure at which the gas is sold~~
 0094 ~~and purchased, correction to be made for pressure according to~~
 0095 ~~Boyle's law, and used for specific gravity according to the gravity~~
 0096 ~~at which the gas is sold and purchased, or if not so specified,~~
 0097 ~~according to the test made by the balance method.~~

0098 (m) ~~[(l)]~~ "Remove" or "removal" means the physical trans-
 0099 portation of ~~coal, [salt,]~~ oil or gas off of the lease or production
 0100 unit ~~or from the mine~~ where severed; and if the manufacture or
 0101 conversion of crude oil or natural gas into refined products
 0102 occurs on the premises where severed, oil or gas shall be
 0103 deemed to have been removed on the date such manufacture or
 0104 conversion begins. Removal shall not mean disposition of test,
 0105 frac or ~~swap~~ oil which is sold or exchanged for value.

0106 (n) "Royalty interest" means the share of not to exceed 1/8 of
 0107 any ~~coal, [salt,]~~ oil or gas actually severed, either in kind or in
 0108 value, reserved by the lessor as consideration for the right
 0109 granted to a lessee to mine, drill and produce the same.

0110 (o) "Royalty owner" means an owner of the royalty interest
 0111 but such term shall not include the owner of any overriding
 0112 royalty or other payment carved out of the working interest.

0113 (p) ~~[(m)]~~ "Secretary" means the secretary of revenue.

0114 (q) ~~[(n)]~~ "Severed" or "severing" means: (1) The ~~extraction or~~
 0115 ~~withdrawing from below the surface of the soil or water of any~~
 0116 ~~oil~~, whether such extraction or withdrawal shall be by natural
 0117 flow, mechanical flow, forced flow, pumping or any other means
 0118 employed to get the oil from below the surface of the soil or
 0119 water and shall include the withdrawing by any means whatso-

(i)

swab

(j)

(k)

production of oil through

the same

0120 ever of oil upon which the tax has not been paid, from any
0121 surface reservoir, natural or artificial, or from a water surface; (2)
0122 the extraction or withdrawing by any means whatsoever, from
0123 below the surface of the earth or water, ~~of any gas; and (3) the~~
0124 ~~physical removal of coal [or salt] from the earth.~~

0125 (†) ~~[(†)]~~ "Taxpayer" means any person liable for the taxes
0126 imposed by this act.

0127 (s) "Working interest" means an interest granted to a lessee
0128 in coal, ~~[salt,] oil or gas actually severed from a property.~~

0129 Sec. 2. (a) From and after ~~May~~ 1, 1983, there is hereby
0130 imposed ~~a tax upon the privilege of engaging in the business~~
0131 ~~activity of severing coal, [salt,] oil or gas from the earth or water~~

0132 in this state for sales, transport, storage, profit or commercial use,
0133 subject to the following provisions of this section. ~~Such tax is~~
0134 ~~hereby imposed at the time of the removal of the coal, [salt,] oil~~

0135 ~~or gas from the lease or production unit or coal [or salt] mine:~~
0136 Such tax shall be borne ratably by all persons within the term
0137 "producer" as such term is defined in section 1 of this act. Such
0138 tax shall be applied equally to all portions of the gross value of
0139 each barrel of oil severed and subject to such tax and to the gross
0140 value of the ~~coal, salt,] or gas severed and subject to such tax.~~

0141 The rate of such tax shall be ~~8%~~.

0142 (b) The following ~~activities~~ shall be exempt from the tax
0143 imposed under this section:

0144 (1) The severance ~~and removal~~ of gas which is: (A) Injected
0145 into the earth for the purpose of lifting oil, storing, recycling or
0146 repressuring; (B) used for fuel in connection with the operation
0147 and development for, or production of, oil or gas in the field
0148 where severed; (C) lawfully vented or flared; (D) severed from a
0149 well having an average daily production during a calendar month
0150 of ~~60~~ mcf or less, which well has not been significantly curtailed
0151 by reason of mechanical failure or other disruption of produc-
0152 tion; (E) inadvertently lost by reason of leaks, blowouts or other
0153 accidental losses; or (F) used or consumed for domestic or
0154 agricultural purposes on the lease or production unit from which
0155 it is severed;

0156 (2) the severance ~~and removal~~ of oil which is: (A) From a well

and (2) the production of gas through

the same

(1)

May

an excise tax upon the severance and pro-
duction of

4% with respect to oil and 7% with respect
to gas. For the purposes of the tax imposed
hereunder the amount of oil or gas produced

shall be measured or determined: (1) In the case of oil,
0082 by tank tables compiled to show 100% of the full capacity of
0083 tanks without deduction for overage or losses in handling; al-
0084 lowance for any reasonable and bona fide deduction for basic
0085 sediment and water, and for correction of temperature to 60
0086 degrees Fahrenheit will be allowed; and if the amount of oil
0087 severed has been measured or determined by tank tables com-
0088 piled to show less than 100% of the full capacity of tanks, such
0089 amount shall be raised to a basis of 100% for the purpose of the
0090 tax imposed by this act; and (2) in the case of gas, by meter
0091 readings showing 100% of the full volume expressed in cubic
0092 feet at a standard base and flowing temperature of 60 degrees
0093 Fahrenheit, and at the absolute pressure at which the gas is sold
0094 and purchased; correction to be made for pressure according to
0095 Boyle's law, and used for specific gravity according to the gravity
0096 at which the gas is sold and purchased, or if not so specified,
0097 according to the test made by the balance method.

and production

30

and production

0157 ~~whose depth is less than 2,000 feet and whose average daily~~
 0158 ~~primary production is one barrel or less or whose average daily~~
 0159 ~~production resulting from enhanced recovery methods is two~~
 0160 ~~barrels or less, which well has not been significantly curtailed by~~
 0161 ~~reason of mechanical failure or other disruption of production;~~
 0162 ~~(B) from a well whose depth is 2,000 feet or more but less than~~
 0163 ~~3,000 feet and whose average daily primary production is two~~
 0164 ~~barrels or less or whose average daily production resulting from~~
 0165 ~~enhanced recovery methods is four barrels or less, which well~~
 0166 ~~has not been significantly curtailed by reason of mechanical~~
 0167 ~~failure or other disruption of production; (C) from a well whose~~
 0168 ~~depth is 3,000 feet or more and whose average daily primary~~
 0169 ~~production is three barrels or less or whose average daily pro-~~
 0170 ~~duction resulting from enhanced recovery methods is six barrels~~
 0171 ~~or less, which well has not been significantly curtailed by reason~~
 0172 ~~of mechanical failure or other disruption of production, or (D)~~
 0173 ~~inadvertently lost by reason of leaks or other accidental means;~~

0174 (3) the severance and removal of coal, ~~oil or gas~~ which
 0175 is attributable to a royalty interest as defined by this act;

0176 ~~(3) the severance and removal of gas or oil produced~~
 0177 ~~from any well from which the first commercial production occurs~~
 0178 ~~on or after the effective date of this act from the month of the first~~
 0179 ~~sale of such production and continuing for a period of 24 months~~
 0180 ~~thereafter.~~

0181 Whenever the production of an oil well is not separately
 0182 gauged, the average daily production for purposes of this sub-
 0183 section shall be determined for such well by conventional barrel
 0184 tests.

0185 Sec. 3. Except as otherwise provided in this act, the tax
 0186 imposed by section 2 of this act shall be upon the business
 0187 ~~activity of severing and removal of coal, salt, oil or gas~~ in this
 0188 state, regardless of the place of sale of such coal, salt, oil or gas
 0189 or to whom sold or by whom used, or the fact that the delivery
 0190 thereof may be made to points outside the state. The taxes
 0191 imposed by this act shall be in addition to all other taxes imposed
 0192 upon real or personal property by the state of Kansas or by any
 0193 taxing subdivision thereof.

, or wells located upon the same lease or pro-
 duction unit, whose average daily production
 is two barrels or less, which well or wells
 have not been significantly curtailed by reason
 of mechanical failure or other disruption of
 production; (B) from a well, or wells located
 upon the same lease or production unit, whose
 completion depth is 2,000 feet or more and
 whose average daily production is three barrels
 or less, which well or wells have not been
 significantly curtailed by reason of mechanical
 failure or other disruption of production;

or (C)

(3) The severance and production of gas or oil
 from any pool from which oil or gas was first
 produced on or after ~~May~~ ^{APRIL} 1, 1983, and con-
 tinuing for a period of 24 months from the
 month in which oil or gas was first produced
 from such pool as evidenced by an affidavit
 of completion of a well, filed with the state
 corporation commission. The term "pool" means
 an underground accumulation of oil or gas in
 a single and separate natural reservoir charac-
 terized by a single pressure system so that
 production from one part of the pool affects
 the reservoir pressure throughout its extent.

severing and producing of

0194 ~~Sec. 4. (a) [Except as otherwise provided in this subsection,~~
0195 ~~there shall be allowed to each taxpayer, as a credit against the tax~~
0196 ~~levied under the provisions of section 2 of this act, an amount~~
0197 ~~equal to the full amount of all ad valorem taxes actually paid [due~~
0198 ~~and payable] by such taxpayer upon oil or gas property, as~~
0200 ~~defined by K.S.A. 79-329; or coal property during the next pre-~~
0201 ~~ceding calendar year: [during [on November 1 of] the next~~
0202 ~~oil property, as defined by K.S.A. 79-329, and an amount equal~~
0203 ~~to the full amount of the ad valorem taxes actually paid [due and~~
0204 ~~payable] by the taxpayer during [on November 1 of] the next~~
0205 ~~preceding calendar year upon gas property, as defined by K.S.A.~~
0206 ~~79-329, which has not been allowed as a pass through under the~~
0207 ~~terms of the gas purchase contract of which has not been~~
0208 ~~allowed as a pass through as a result of a rule or order of the~~
0209 ~~Federal Energy Regulatory Commission.]~~

0210 On or before June 1, 1983, and January 15 of each year
0211 thereafter each taxpayer who is not required to collect and remit
0212 taxes under this act shall notify the person required to collect and
0213 remit such taxes of the full amount of ad valorem taxes actually
0214 paid [due and payable] by such taxpayer upon oil or gas property,
0215 as defined by K.S.A. 79-329, or coal [or salt] property during [on
0216 November 1 of] the next preceding calendar year. If the ad
0217 valorem taxes paid [due and payable] in such year exceed the tax
0218 liability of the taxpayer under the provisions of this act, no
0219 refund or other credit shall result from such excess. The credit
0220 applicable for one tax year shall not be used in another tax year.

0221 [The amount of the ad valorem tax credit allowed to any
0222 taxpayer under this subsection for deduction from the taxes
0223 imposed under this act shall not exceed the amount of ad
0224 valorem taxes due and payable in the preceding year upon oil or
0225 gas property used in producing oil or gas which is taxable under
0226 this act.]

0227 (b) For the purpose of insuring that ad valorem property tax
0228 credits claimed under subsection (a) of this section are valid, the
0229 director of property valuation shall annually obtain such number
0230 of independent appraisals of oil and gas properties located in

0231 ~~counties representing different geographic and oil and gas pro-~~
 0232 ~~duction areas of the state as the director deems necessary to~~
 0233 ~~insure that such property is valued in accordance with guides~~
 0234 ~~prescribed by the director. Such appraisals shall be reviewed by~~
 0235 ~~the director of property valuation with a committee consisting of~~
 0236 ~~the director of property valuation, three county appraisers, se-~~
 0237 ~~lected by the director of property valuation, from counties rep-~~
 0238 ~~resenting different geographic and oil and gas production areas~~
 0239 ~~of the state and three members selected by the governor from the~~
 0240 ~~general public having education or experience in the field of oil~~
 0241 ~~and gas production.~~

0242 Sec. 5. (a) The amount of the tax payable each month under
 0243 the provisions of section 6 of this act shall be due and payable on
 0244 or before the last day of the second month following the end of
 0245 the month in which the ~~coal, [salt,]~~ oil or gas is removed from the
 0246 lease or production unit ~~or coal for salt mine~~. The tax is upon ^{the}
 0247 producers of such ~~coal, [salt,]~~ oil or gas in the proportion to their
 0248 ownership at the time of severance, and unless the operator of
 0249 the well ~~or mine~~, upon written notice to the first purchaser and
 0250 the director, elects to remit the tax, the first purchaser of any ~~coal,~~
 0251 ~~[salt,]~~ oil or gas sold shall collect the amount of the tax due from
 0252 the producers by deducting and withholding such amount from
 0253 any payments made by such purchaser to the operator, or such
 0254 producers where payment is made to same directly, and shall
 0255 remit the same as provided in this act.

0256 In no event shall a producer be relieved of responsibility for
 0257 the tax until the same has been paid. In the event the tax shall be
 0258 withheld by a purchaser from payments due an operator or
 0259 producer and such purchaser fails to make payment of the tax to
 0260 the state as required herein, the operator or producer shall be
 0261 entitled to bring an action against such purchaser to recover the
 0262 amount of tax so withheld together with penalties and interest
 0263 which may have accrued by failure to make such payment. The
 0264 operator or producer shall be entitled to reasonable attorney fees
 0265 and court costs incurred in such action.

0266 (b) The state shall have a lien on all the ~~coal, [salt,]~~ oil or gas
 0267 severed in this state in the hands of the operator, any producer or

4 Except as otherwise provided in subsection (c),

5

20th

as defined in section 1,

interest

as defined by section 1

0268 the first or any subsequent purchaser thereof to secure the
0269 payment of the tax. In the event any person required herein to
0270 pay the tax fails to do so, the director shall proceed against such
0271 person to collect the tax in the manner provided by K.S.A.
0272 79-3235 and amendments thereto.

0273 ~~Sec. 5. (a) Every purchaser responsible for remitting the tax~~
0274 ~~imposed under the provisions of section 2 shall on or before the~~
0275 ~~last day of the second month following the end of every calendar~~

0276 ~~month~~ make a return to the director upon forms prescribed and
0277 furnished by the director showing the gross amount of coal,
0278 ~~[salt,]~~ oil or gas purchased during the month for which the return
0279 is filed, the price paid therefor, the correct name and address of
0280 the operator or other person from whom the same was purchased,
0281 a full description of the property in the manner prescribed by the
0282 director from which such coal, ~~[salt,]~~ oil or gas was severed and
0283 the amount of tax due. Such return shall be accompanied by a

0284 ~~remittance of the amount of the tax computed under this sub-~~
0285 ~~section. For the purposes of determining the amount of tax to be~~

0286 ~~remitted such purchaser shall compute the full amount of the tax~~
0287 ~~due under section 2 of this act upon all coal, [salt,] oil or gas~~
0288 ~~severed and removed from the lease or production unit or mine~~
0289 ~~during such month and shall deduct from this amount an amount~~
0290 ~~equal to the full amount of the ad valorem property taxes actually~~
0291 ~~paid by the taxpayer upon coal, [salt,] oil or gas properties during~~
0292 ~~the next preceding calendar year [tax credit allowed to the~~
0293 ~~taxpayer pursuant to section 4.] multiplied by the number of~~
0294 ~~months for which the tax is being remitted under this act,~~
0295 ~~divided by 12. Whenever a taxpayer sells coal, [salt,] oil or gas to~~
0296 ~~more than one purchaser in any month, such taxpayer shall~~
0297 ~~provide to each such purchaser the names of all such purchasers~~
0298 ~~to whom oil, gas, [salt,] or coal was sold in such month and~~
0299 ~~whether or not or to what extent the ad valorem property tax~~
0300 ~~deduction has been utilized in determining the taxes to be~~
0301 ~~remitted by each such purchaser.~~

0302 (b) ~~If coal, [salt,] oil or gas is removed from the lease or~~
0303 ~~production unit or mine but not sold to a purchaser the operator~~
0304 ~~shall on or before the last day of the second month following the~~

(c) All taxes imposed under the provisions of section 2 of this act upon oil or gas removed from the lease or production unit in the months of May and June in the year 1983, shall be due and payable on or before the 20th day of September, 1983. In addition all returns required to be filed by purchasers and operators in relation to oil or gas removed from the lease or production unit in the months of May and June in the year 1983 shall be filed on or before the 20th day of September, 1983.

Sec. 5. (a) Except as otherwise provided in subsection (c) of section 4, every purchaser responsible for remitting the tax imposed under the provisions of section 2 shall on or before the 20th day of the second month following the end of every calendar month in which oil or gas is removed from the lease or production unit

quantity

full

due

(b) Except as otherwise provided in subsection (c) of section 4, if oil or gas is removed from the lease or production unit but not sold to a purchaser or if the operator elects to remit the tax as authorized under section 4, the operator shall on or before the 20th day of the second month following the

0305 end of every calendar month make a return to the director upon
 0306 forms prescribed and furnished by the director showing the gross
 0307 ~~value of coal, [salt,]~~ oil or gas removed during such month and a
 0308 full description of the property in the manner prescribed by the
 0309 director from which the same was severed. Such return shall be
 0310 accompanied by a remittance of the full amount of tax due ~~upon~~
 0311 ~~the coal, [salt,] oil or gas less the amount of any credits to which~~
 0312 ~~the taxpayer is entitled. The amount of the taxes to be remitted~~
 0313 ~~shall be determined in the same manner prescribed for remit-~~
 0314 ~~tances by purchasers under subsection (a) of this section.~~

0315 (c) Each monthly return required hereunder shall be filed on
 0316 separate forms as to product and county. All such monthly
 0317 returns shall be signed by the purchaser or operator, as the case
 0318 may be, or a duly authorized agent thereof.

0319 (d) The director may grant a reasonable extension of time for
 0320 filing any return and remittance of taxes due under this act upon
 0321 good cause shown therefor. Interest shall be charged at the rate
 0322 prescribed by subsection (a) of K.S.A. 1982 Supp. 79-2968 for the
 0323 period of such extension.

0324 Sec. 7. When the title to any ~~coal, [salt,]~~ oil or gas being
 0325 severed from the earth or water is in dispute and the purchaser of
 0326 such ~~coal, [salt,]~~ oil or gas is withholding payments on account of
 0327 litigation, or for any other reason, such purchaser is hereby
 0328 authorized, empowered and required to deduct from the gross
 0329 amount thus held the amount of the tax imposed ~~less the amount~~
 0330 ~~of any credit to which the taxpayer is entitled~~ and to make
 0331 remittance thereof to the director as provided in this act.

0332 Sec. 8. When requested by the director, all transporters of
 0333 ~~coal, [salt,]~~ oil or gas out of, within or across the state of Kansas
 0334 shall be required to furnish the director such information relative
 0335 to the transportation of such ~~coal, [salt,]~~ oil or gas as the director
 0336 may require. The director shall have authority to inspect bills of
 0337 lading, waybills, meter or other charts, documents, books and
 0338 records as may relate to the transportation of ~~coal, [salt,]~~ oil or gas
 0339 in the hands of each transporter herein referred to. The director
 0340 shall further be empowered to demand the production of such
 0341 bills of lading, waybills, charts, documents, books and records

in which oil or gas is removed from the lease or production unit

quantity

If the oil or gas has been sold

If the oil or gas has not been sold the operator shall remit the full amount of the tax due upon certification of the amount thereof by the director.

6

7

0342 relating to the transportation of ~~coal, *fealty*~~ oil or gas at any point
0343 in the state of Kansas which may be designated, except that in
0344 the case of common carriers using bills of lading or waybills
0345 prescribed or approved by the interstate commerce commission,
0346 such common carrier shall only be required to keep the usual
0347 records at offices in the state where such records are usually
0348 kept.

0349 Sec. ~~6~~. The director shall have the power to require any
0350 operator, producer or person purchasing any ~~coal, *fealty*~~ oil or gas
0351 severed from the earth or water to furnish any additional infor-
0352 mation deemed to be necessary for the purpose of computing the
0353 amount of the tax, and for such purpose to examine the meter and
0354 other charts, books, records and all files of such person, and for
0355 such purpose the director shall have the power to issue subpoe-
0356 nas and examine witnesses under oath, and if any witness shall
0357 fail or refuse to appear at the request of the director, or refuses
0358 access to books, records and files, the district court of the proper
0359 county, or the judge thereof, on application of the director, shall
0360 compel obedience by proceedings for contempt, as in the case of
0361 disobedience of the requirements of a subpoena issued from
0362 such court or a refusal to testify therein.

0363 Sec. ~~10~~ (a) If any taxes imposed under this act and deter-
0364 mined and assessed by the director are unpaid: (1) Not due to
0365 negligence or to intentional disregard of rules and regulations
0366 promulgated by the secretary, interest on such taxes shall be
0367 added at the rate per month prescribed by subsection (a) of
0368 K.S.A. 1982 Supp. 79-2968, and amendments thereto, from the
0369 date the tax was due until paid; (2) due to negligence or to
0370 intentional disregard of the rules and regulations promulgated
0371 by the secretary, but without intent to defraud, a penalty of 10%
0372 of the amount of such taxes shall be added, together with interest
0373 at the rate per month prescribed by subsection (a) of K.S.A. 1982
0374 Supp. 79-2968, and amendments thereto, from the date the tax
0375 was due until paid; (3) due to fraud with intent to evade the taxes
0376 imposed by this act, there shall be added thereto a penalty of
0377 50% of the amount of such taxes, together with interest at the rate
0378 per month prescribed by subsection (a) of K.S.A. 1982 Supp.

8

9

0379 79-2968, and amendments thereto, from the date the tax was due
0380 until paid.

0381 (b) If any person fails or refuses to make any return, when
0382 required to do so under the provisions of this act, such person
0383 shall be subject to a penalty of \$25 per day for each return which
0384 such person fails or refuses to file.

0385 (c) Whenever, in the judgment of the director, the failure of
0386 any person to comply with the provisions of subsection (a)(1),
0387 (a)(2), and (b) of this section, was due to reasonable cause, the
0388 director may, in the exercise of discretion, waive or reduce any of
0389 the penalties upon making a record of the reason therefor.

0390 (d) In addition to all other penalties herein provided, any
0391 person who fails to make a return, or to pay any tax herein
0392 provided, or who makes a false or fraudulent return, or fails to
0393 keep any books or records prescribed by this act, or who willfully
0394 violates any rules and regulations promulgated by the secretary
0395 for the enforcement and administration of this act, or who aids
0396 and abets another in attempting to evade the payment of any tax
0397 imposed by this act, or who violates any other provisions of this
0398 act, shall, upon conviction thereof, be guilty of a class C mis-
0399 demeanor.

0400 Sec. 11. Every operator shall make and keep a complete and
0401 accurate record in the form required by the director showing the
0402 gross quantity of ~~coal, [salt,]~~ oil or gas severed and removed, the
0403 names of the purchasers of such products, the price paid therefor
0404 and the date of purchase. Every purchaser of ~~coal, [salt,]~~ oil or
0405 gas severed in this state who is required to collect and remit the
0406 tax on the same shall make and keep a complete and accurate
0407 record in the form required by the director showing the gross
0408 quantity of ~~coal, [salt,]~~ oil or gas purchased, the price paid
0409 therefor, the name of the operator and the date of purchase. Such
0410 records shall at all times during business hours of the day be
0411 available for and subject to inspection by the director, or the
0412 director's duly authorized agents and employees, for a period of
0413 three years from the last day of the calendar year to which the
0414 records pertain. Such records shall be preserved during the
0415 entire period during which they are subject to inspection by the

0416 director, unless the director in writing previously authorized
0417 their disposal.

0418 The amount of taxes imposed by this act is to be assessed
0419 within three years after the return is filed, and no proceedings in
0420 court for the collection of such taxes shall be begun after the
0421 expiration of such period. In the case of a false or fraudulent
0422 return with intent to evade tax, the tax may be assessed or a
0423 proceeding in court for collection of such tax may be begun at
0424 any time, within two years from the discovery of such fraud. No
0425 refund ~~or credit~~ shall be allowed by the director after three years
0426 from the date of payment of the tax as provided in this act unless
0427 before the expiration of such period a claim therefor is filed by
0428 the taxpayer, and no suit or action to recover on any claim for
0429 refund shall be commenced until after the expiration of six
0430 months from the date of filing a claim therefor with the director.

0431 Before the expiration of time prescribed in this section for the
0432 assessment of additional tax or the filing of a claim for refund, the
0433 director is hereby authorized to enter into an agreement in
0434 writing with the taxpayer consenting to the extension of the
0435 periods of limitations for the assessment of tax or for the filing of
0436 a claim for refund, at any time prior to the expiration of the
0437 periods of limitations. The periods so agreed upon may be
0438 extended by subsequent agreements in writing made before the
0439 expiration of the periods previously agreed upon. In considera-
0440 tion of such agreement or agreements, interest due in excess of
0441 48 months on any additional tax shall be waived.

0442 ~~Sec. 12.~~ (a) All revenue collected or received by the director
0443 from the taxes imposed by this act shall be remitted daily to the
0444 state treasurer. Upon receipt of each such remittance, the state
0445 treasurer shall deposit the entire amount thereof in the state
0446 treasury. The state treasurer shall first credit such amount
0447 thereof as the director shall order to the mineral production tax
0448 refund fund created under subsection (b) of this section. The
0449 state treasurer shall credit the remainder of such amounts as
0450 follows: (1) ~~On November 1, 1983, and November 1 of each year~~
0451 ~~thereafter the amount of \$1,000,000 shall be credited to the low~~
0452 ~~income energy assistance plan, elderly, created under subsection~~

five

0453 ~~(2), (3)~~ eight percent to the special county mineral production tax
0454 fund created under subsection (c) of this section; and ~~(2) (3)~~ the
0455 remainder thereof to the state general fund.

(2)

0456 (b) A refund fund designated as "mineral production tax
0457 refund fund" not to exceed \$50,000 is hereby created for the
0458 prompt payment of all tax refunds. The mineral production tax
0459 refund fund shall be in such amount, within the limit set by this
0460 section, as the director shall determine is necessary to meet
0461 current refunding requirements under this act.

0462 (c) There is hereby created a special county mineral produc-
0463 tion tax fund. On December 1, 1983, and quarterly thereafter, the
0464 director of taxation shall distribute all moneys credited to such
0465 fund to the county treasurers of all counties in which taxes were
0466 levied under section 2 of this act for the privilege of severing
0467 ~~coal, salt,~~ oil or gas from property within the county, in the
0468 proportion that the taxes levied upon production in each county
0469 bears to the total of all of such taxes levied in all of such counties.
0470 Such distribution shall be based on returns filed, with any
0471 adjustments or corrections made by the director of taxation.

0472 (d) The secretary of revenue shall make provision for the
0473 determination of the counties within which taxes are levied
0474 under section 2 of this act for the severance of ~~coal, salt,~~ oil or
0475 gas and shall certify the same to the director of accounts and
0476 reports.

0477 (e) The director of accounts and reports shall draw warrants
0478 on the state treasurer payable to the county treasurer of each
0479 county entitled to payment from the special county mineral
0480 production tax fund upon vouchers approved by the director of
0481 taxation. Upon receipt of such warrant, each county treasurer
0482 shall credit 50% of the amount thereof to the county general fund
0483 and shall distribute the remaining 50% thereof to the treasurer of

districts,

0484 ~~each~~ school district all or any portion of which is located within
0485 the county in the proportion that the assessed value of ~~coal, salt,~~
0486 oil and gas properties within each district bears to the total of the
0487 assessed value of all ~~coal, salt,~~ oil and gas properties within the
0488 county. Such assessed valuation shall be determined upon the
0489 basis of the most recent November 1 tax roll. The treasurer of

1

0487 each school district shall credit the entire amount of the moneys
0488 so received to the general fund of the school district.

0492 ~~{(f) There is hereby created the low income energy assistance~~
0493 ~~plan, elderly. All moneys credited to such fund shall be used by~~
0494 ~~the secretary of social and rehabilitation services for the pur-~~
0495 ~~poses of extending benefits to the elderly poor having an income~~
0496 ~~level of not to exceed 150% of the poverty level.}~~

0497 Sec. 13. The secretary is hereby authorized to adopt such
0498 rules and regulations as may be necessary to administer and
0499 enforce the provisions of this act.

0500 ~~{Sec. 14. The provisions of this act shall expire on July 1,~~
0501 ~~1986.}~~

0502 Sec. 14 ~~{15}~~. This act shall take effect and be in force from
0503 and after its publication in the Kansas register.

12

Sec. 13. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

14

Substitute FOR SENATE BILL No. 267

By Committee on Assessment and Taxation

2-28

0017 AN ACT relating to taxation; imposing a tax upon the privilege of
0018 covering coal, ~~salts,~~ oil and gas from the earth or water of the
0019 state; providing for the levy and collection of such taxes and
0020 the administration and enforcement of the provisions of the
0021 act; prescribing penalties for violations thereof and providing
0022 for the use and disposition of revenues derived therefrom.

an excise tax upon the production of

0023 Be it enacted by the Legislature of the State of Kansas:
0024 Section 1. As used in this act, unless the context clearly
0025 requires otherwise, the following words and phrases shall have
0026 the meanings ascribed to them herein:

0027 (a) "Barrel" for oil measurement means a barrel of 42 U.S.
0028 gallons of 231 cubic inches per gallon, computed at a tempera-
0029 ture of 60 degrees Fahrenheit.

0030 ~~(b) "Coal" means any material composed predominantly of~~
0031 ~~hydrocarbons in a solid state.~~

(b)

0032 ~~(c)~~ "Director" means the director of taxation.

0033 ~~(d) "Enhanced recovery methods" means methods of sup-~~
0034 ~~plementing natural reservoir forces or energy, or otherwise in-~~
0035 ~~creasing ultimate recovery from an oil reservoir. Such term shall~~
0036 ~~include but not be limited to secondary recovery methods and~~
0037 ~~such other techniques as use of thermal stimulation, the use of~~
0038 ~~thickeners in the fluids injected and the use of miscible dis-~~
0039 ~~placement fluids.~~

(c)

0040 ~~(e)~~ "Gas" means natural gas taken from below the surface of
0041 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)

0043 ~~(f)~~ "Gross value" means the sale price of oil or gas at the time
0044 of removal of the oil or gas from the lease or production unit and
0045 with respect to coal ~~and salt~~, the sale price after extraction and

Atch. III

0046 ~~preparation for shipment from mine;~~ and if coal, ~~[salt,]~~ oil or gas
0047 is exchanged for something other than cash, or if no sale occurs at
0048 the time of removal or if the relation between the buyer and the
0049 seller is such that the consideration paid, if any, is not indicative
0050 of the true value or market price, then the director shall deter-
0051 mine the value of the coal, ~~[salt,]~~ oil or gas subject to tax, based
0052 on the cash price paid to producers for like quality coal, ~~[salt,]~~ oil
0053 or gas in the vicinity of the well or mine at the time of the
0054 removal of the coal, ~~[salt,]~~ oil or gas from the lease or production
0055 unit or mine.

If no sale of gas occurs at the time of removal, then the value of gas subject to tax at the point of removal will be the same per BTU as the gas is sold for at the point of sale if such sale is not between related parties.

(e)

0056 (g) ~~“Oil”~~ means petroleum, or other crude oil, condensate,
0057 casinghead gasoline, or other mineral oil which is mined, sev-
0058 ered or withdrawn from below the surface of the soil or water in
0059 this state.

(f)

0060 (h) ~~“Operator”~~ means the person primarily responsible for
0061 the management and operation of coal, ~~[salt,]~~ oil or gas produc-
0062 tions on a property.

0063 (i) ~~“Overriding royalty interest”~~ means a right created from a
0064 working interest that entitles the owner to a specified fraction of
0065 production, in kind or in value, free of expense of development
0066 and operation of the property.

(g) "Overriding royalty interest" means a right created from a working interest that entitles the owner to a specified fraction of production, in kind or in value, free of expense of development and operation of the property.

0067 (j) ~~[(i)]~~ ~~“Person”~~ means any natural person, firm, copartner-
0068 ship, joint venture, association, corporation, estate, trust or any
0069 other group or combination acting as a unit, and the plural as
0070 well as the singular number.

(h)

0071 (k) ~~[(j)]~~ ~~“Producer”~~ means any person owning, controlling,
0072 managing or leasing any coal, ~~[salt,]~~ oil or gas property or oil or
0073 gas well or coal ~~for salt~~ mine, and any person who severs in any
0074 manner any coal, ~~[salt,]~~ oil or gas in this state, and shall include
0075 any person owning any interest in any coal, ~~[salt,]~~ oil or gas or the
0076 value thereof, whether severed by such person or some other
0077 person on their behalf, either by lease, contract or otherwise; but
0078 such term shall not include any royalty owner.

(i)

direct and beneficial

produced

including a royalty owner

0079 (l) ~~[(k)]~~ ~~“Production”~~ means the total gross amount of coal,
0080 ~~[salt,]~~ oil or gas, which amount for the purpose of the tax imposed
0081 by this act shall be measured or determined: (1) In the case of oil,
0082 by tank tables compiled to show 100% of the full capacity of

0083 ~~tanks without deduction for overage or losses in handling, at-~~
 c allowance for any reasonable and bona fide deduction for basic
 0085 sediment and water, and for correction of temperature to 60
 0086 degrees Fahrenheit will be allowed; and if the amount of oil
 0087 severed has been measured or determined by tank tables com-
 0088 piled to show less than 100% of the full capacity of tanks, such
 0089 amount shall be raised to a basis of 100% for the purpose of the
 0090 tax imposed by this act; and (2) in the case of gas, by meter
 0091 readings showing 100% of the full volume expressed in cubic
 0092 feet at a standard base and flowing temperature of 60 degrees
 0093 Fahrenheit, and at the absolute pressure at which the gas is sold
 0094 and purchased; correction to be made for pressure according to
 0095 Boyle's law, and used for specific gravity according to the gravity
 0096 at which the gas is sold and purchased, or if not so specified,
 0097 ~~according to the test made by the balance method.~~

0098 (m) ~~[(l)]~~ "Remove" or "removal" means the physical trans-
 0099 portation of coal, ~~[salt,]~~ oil or gas off of the lease or production
 0100 unit ~~or from the mine~~ where severed; and if the manufacture or
 0101 conversion of crude oil or natural gas into refined products
 0102 occurs on the premises where severed, oil or gas shall be
 0103 deemed to have been removed on the date such manufacture or
 0104 conversion begins. Removal shall not mean disposition of test,
 0105 frac or ~~swap~~ oil which is sold or exchanged for value.

0106 (n) "Royalty interest" means the share of not to exceed $\frac{1}{8}$ of
 0107 any coal, ~~[salt,]~~ oil or gas actually severed, either in kind or in
 0108 value, reserved by the lessor as consideration for the right
 0109 granted to a lessee to mine, drill and produce the same.

0110 (o) "Royalty owner" means an owner of the royalty interest
 0111 but such term shall not include the owner of any overriding
 0112 royalty or other payment carved out of the working interest.

0113 (p) ~~[(m)]~~ "Secretary" means the secretary of revenue.

0114 (q) ~~[(n)]~~ "Severed" or "severing" means: (1) The extraction or
 0115 withdrawing from below the surface of the soil or water ~~of any~~
 0. oil, whether such extraction or withdrawal shall be by natural
 0117 flow, mechanical flow, forced flow, pumping or any other means
 0118 employed to get the oil from below the surface of the soil or
 0119 water and shall include the withdrawing by any means whatso-

(j)

swab

(k) "Royalty interest" means the share of oil or gas actually severed, either in kind or in value, reserved by the lessor as consideration for the right granted to a lessee to drill and produce the same.

(l) "Royalty owner" means an owner of the royalty interest but such term shall not include the owner of any overriding royalty or other payment carved out of the working interest

production of oil through

the same

0120 ever of oil upon which the tax has not been paid, from any
0121 surface reservoir, natural or artificial, or from a water surface; ~~(2)~~
0122 the extraction or withdrawing by any means whatsoever, from
0123 below the surface of the earth or water, ~~of any gas, and (3) the~~
0124 ~~physical removal of coal for salt} from the earth.~~

0125 (e) ~~(f)~~ "Taxpayer" means any person liable for the taxes
0126 imposed by this act.

0127 (s) "Working interest" means an interest granted to a lessee
0128 in coal; ~~oil or gas actually severed from a property.~~

0129 Sec. 2. (a) From and after ~~May 1,~~ 1983, there is hereby
0130 imposed a tax upon the ~~privilege of engaging in the business~~
0131 ~~activity of severing coal; salt; oil or gas from the earth or water~~
0132 in this state for sales, transport, storage, profit or commercial use,
0133 subject to the following provisions of this section. ~~Such tax is~~
0134 ~~hereby imposed at the time of the removal of the coal; salt; oil~~
0135 ~~or gas from the lease or production unit or coal for salt} mine.~~

0136 Such tax shall be borne ratably by all persons within the term
0137 "producer" as such term is defined in section 1 of this act. Such
0138 tax shall be applied equally to all portions of the gross value of
0139 each barrel of oil severed and subject to such tax and to the gross
0140 value of the ~~coal; salt; or gas severed and subject to such tax.~~
0141 The rate of such tax shall be ~~84%.~~

0142 (b) The following ~~activities~~ shall be exempt from the tax
0143 imposed under this section:

0144 (1) The severance ~~and removal~~ of gas which is: (A) Injected
0145 into the earth for the purpose of lifting oil, storing, recycling or
0146 repressuring; (B) used for fuel in connection with the operation
0147 and development for, or production of, oil or gas in the field
0148 where severed; (C) lawfully vented or flared; (D) severed from a
0149 well having an average daily production during a calendar month
0150 of ~~60 mcf~~ or less, which well has not been significantly curtailed
0151 by reason of mechanical failure or other disruption of produc-
0152 tion; (E) inadvertently lost by reason of leaks, blowouts or other
0153 accidental losses; or (F) used or consumed for domestic or
0154 agricultural purposes on the lease or production unit from which
0155 it is severed;

and (2) the production of gas through

the same

(o)

(p) "Working interest" means an interest granted to a lessee in oil or gas actually severed from a property

May

an excise tax upon the severance and production of

8% with respect to oil and 4% with respect to gas. For the purposes of the tax imposed hereunder the amount of oil or gas produced

shall be measured or determined: (1) In the case of oil,
0082 by tank tables compiled to show 100% of the full capacity of
0083 tanks without deduction for overage or losses in handling; al-
0084 lowance for any reasonable and bona fide deduction for basic
0085 sediment and water, and for correction of temperature to 60
0086 degrees Fahrenheit will be allowed; and if the amount of oil
0087 severed has been measured or determined by tank tables com-
0088 piled to show less than 100% of the full capacity of tanks, such
0089 amount shall be raised to a basis of 100% for the purpose of the
0090 tax imposed by this act; and (2) in the case of gas, by meter
0091 readings showing 100% of the full volume expressed in cubic
0092 feet at a standard base and flowing temperature of 60 degrees
0093 Fahrenheit, and at the absolute pressure at which the gas is sold
0094 and purchased; correction to be made for pressure according to
0095 Boyle's law, and used for specific gravity according to the gravity
0096 at which the gas is sold and purchased, or if not so specified,
0097 according to the test made by the balance method.

and production

30

and production

157 ~~whose depth is less than 2,000 feet and whose average daily~~
 158 ~~primary production is one barrel or less or whose average daily~~
 159 ~~production resulting from enhanced recovery methods is two~~
 160 ~~barrels or less, which well has not been significantly curtailed by~~
 161 ~~reason of mechanical failure or other disruption of production;~~
 162 ~~(B) from a well whose depth is 2,000 feet or more but less than~~
 163 ~~3,000 feet and whose average daily primary production is two~~
 164 ~~barrels or less or whose average daily production resulting from~~
 165 ~~enhanced recovery methods is four barrels or less, which well~~
 166 ~~has not been significantly curtailed by reason of mechanical~~
 167 ~~failure or other disruption of production; (C) from a well whose~~
 168 ~~depth is 3,000 feet or more and whose average daily primary~~
 169 ~~production is three barrels or less or whose average daily pro-~~
 170 ~~duction resulting from enhanced recovery methods is six barrels~~
 171 ~~or less, which well has not been significantly curtailed by reason~~
 172 ~~of mechanical failure or other disruption of production, or (D)~~
 173 ~~inadvertently lost by reason of leaks or other accidental means;~~

174 (3) the severance and removal of coal, ~~[salt,]~~ oil or gas which
 175 is attributable to a royalty interest as defined by this act;

176 ~~(4) [(3)] the severance and removal of gas or oil produced~~
 177 ~~from any well from which the first commercial production occurs~~
 178 ~~on or after the effective date of this act from the month of the first~~
 179 ~~sale of such production and continuing for a period of 24 months~~
 180 ~~thereafter.~~

181 Whenever the production of an oil well is not separately
 182 gauged, the average daily production for purposes of this sub-
 183 section shall be determined for such well by conventional barrel
 184 units.

185 Sec. 3. Except as otherwise provided in this act, the tax
 186 imposed by section 2 of this act shall be upon the business
 187 ~~activity of severing and removal of coal, [salt,]~~ oil or gas in this
 188 state, regardless of the place of sale of such coal, ~~[salt,]~~ oil or gas
 189 or to whom sold or by whom used, or the fact that the delivery
 190 thereof may be made to points outside the state. The taxes
 191 imposed by this act shall be in addition to all other taxes imposed
 192 upon real or personal property by the state of Kansas or by any
 193 taxing subdivision thereof.

, or wells located upon the same lease or pro-
 duction unit, whose average daily production
 is two barrels or less, which well or wells
 have not been significantly curtailed by reason
 of mechanical failure or other disruption of
 production; (B) from a well, or wells located
 upon the same lease or production unit, whose
 completion depth is 2,000 feet or more and
 whose average daily production is three barrels
 or less, which well or wells have not been
 significantly curtailed by reason of mechanical
 failure or other disruption of production;

or (C)

(3) The severance and production of gas or oil
 from any pool from which oil or gas was first
 produced on or after May 1, 1983, and con-
 tinuing for a period of 24 months from the
 month in which oil or gas was first produced
 from such pool as evidenced by an affidavit
 of completion of a well, filed with the state
 corporation commission. The term "pool" means
 an underground accumulation of oil or gas in
 a single and separate natural reservoir charac-
 terized by a single pressure system so that
 production from one part of the pool affects
 the reservoir pressure throughout its extent.

severing and producing of

~~Sec. 4. (a) [Except as otherwise provided in this subsection, there shall be allowed to each taxpayer, as a credit against the tax levied under the provisions of section 2 of this act, an amount equal to the full amount of all ad valorem taxes actually paid [due and payable] by such taxpayer upon oil or gas property, as defined by K.S.A. 79-320, or coal property during the next preceding calendar year, [during [on November 1 of] the next preceding calendar year upon coal [and salt] property and upon oil property, as defined by K.S.A. 79-329, and an amount equal to the full amount of the ad valorem taxes actually paid [due and payable] by the taxpayer during [on November 1 of] the next preceding calendar year upon gas property, as defined by K.S.A. 79-329, which has not been allowed as a pass through under the terms of the gas purchase contract or which has not been allowed as a pass through as a result of a rule or order of the Federal Energy Regulatory Commission.]~~

~~On or before June 1, 1983, and January 15 of each year thereafter each taxpayer who is not required to collect and remit taxes under this act shall notify the person required to collect and remit such taxes of the full amount of ad valorem taxes actually paid [due and payable] by such taxpayer upon oil or gas property, as defined by K.S.A. 79-320, or coal [or salt] property during [on November 1 of] the next preceding calendar year. If the ad valorem taxes paid [due and payable] in such year exceed the tax liability of the taxpayer under the provisions of this act, no refund or other credit shall result from such excess. The credit applicable for one tax year shall not be used in another tax year.~~

~~[The amount of the ad valorem tax credit allowed to any taxpayer under this subsection for deduction from the taxes imposed under this act shall not exceed the amount of ad valorem taxes due and payable in the preceding year upon oil or gas property used in producing oil or gas which is taxable under this act.]~~

~~(b) For the purpose of insuring that ad valorem property tax credits claimed under subsection (a) of this section are valid, the director of property valuation shall annually obtain such number~~

Sec. 4. (a) There shall be allowed to each taxpayer, other than an owner of a royalty interest, who is liable for ad valorem property taxes upon oil property as defined by K.S.A. 79-329, a credit against the tax levied under section 2 upon the severance and production of oil, an amount equal to the product of the ratio of the county-wide average of ad valorem property taxes on oil producing property for the county in which the property from which such oil was severed and produced for the year 1982, to the gross value of oil severed and produced in such county for the year 1981, multiplied by the gross value of oil attributable to such taxpayer and taxable under this act. The director of property valuation shall certify the product of such ratio to be applied in each county for the purposes of this subsection.

(b) There shall be allowed to each taxpayer, who is the owner of a royalty interest in oil, who is liable for ad valorem property taxes upon such interest, a credit against the tax levied under section 2 upon the severance or production of oil, an amount equal to the product of the ratio of the countywide average of ad valorem property taxes on royalty interests in oil for the county in which the property from which such oil was severed and produced for the year 1982, to the gross value of royalty interests in oil severed and produced in such county for the year 1981, multiplied by the gross value of oil attributable to such taxpayer and taxable under this act. The director of property valuation shall certify the product of such ratio to be applied in each county for the purposes of this subsection.

(c) Every operator shall file with the county appraiser of any county in which oil property is located from which oil is severed and produced a division order covering all interests in any oil severed and produced.

0231 ~~counties representing different geographic and oil and gas pro-~~
 0232 ~~duction areas of the state as the director deems necessary to~~
 0233 ~~insure that such property is valued in accordance with guides~~
 0234 ~~prescribed by the director. Such appraisals shall be reviewed by~~
 0235 ~~the director of property valuation with a committee consisting of~~
 0236 ~~the director of property valuation, three county appraisers, se-~~
 0237 ~~lected by the director of property valuation, from counties rep-~~
 0238 ~~resenting different geographic and oil and gas production areas~~
 0239 ~~of the state and three members selected by the governor from the~~
 0240 ~~general public having education or experience in the field of oil~~
 0241 ~~and gas production.~~

0242 Sec. 5. (a) The amount of the tax payable each month under
 0243 the provisions of section 6 of this act shall be due and payable on
 0244 or before the last day of the second month following the end of
 0245 the month in which the coal, ~~oil~~ or gas is removed from the
 0246 lease or production unit ~~or coal~~ ^{the} mine. The tax is upon the
 0247 producers of such coal, ~~oil~~ or gas in the proportion to their
 0248 ownership at the time of severance, and unless the operator of
 0249 the well ~~or mine~~, upon written notice to the first purchaser and
 0250 the director, elects to remit the tax, the first purchaser of any coal,
 0251 ~~oil~~ or gas sold shall collect the amount of the tax due from
 0252 the producers by deducting and withholding such amount from
 0253 any payments made by such purchaser to the operator, or such
 0254 producers where payment is made to same directly, and shall
 0255 remit the same as provided in this act.

0256 In no event shall a producer be relieved of responsibility for
 0257 the tax until the same has been paid. In the event the tax shall be
 0258 withheld by a purchaser from payments due an operator or
 0259 producer and such purchaser fails to make payment of the tax to
 0260 the state as required herein, the operator or producer shall be
 0261 entitled to bring an action against such purchaser to recover the
 0262 amount of tax so withheld together with penalties and interest
 0263 which may have accrued by failure to make such payment. The
 0264 operator or producer shall be entitled to reasonable attorney fees
 0265 and court costs incurred in such action.

0266 (b) The state shall have a lien on all the coal, ~~oil~~ or gas
 0267 severed in this state in the hands of the operator, any producer or

4 Except as otherwise provided in subsection (c),

5

20th

as defined in section 1,

interest

as defined by section 1

0268 the first or any subsequent purchaser thereof to secure the
0269 payment of the tax. In the event any person required herein to
0270 pay the tax fails to do so, the director shall proceed against such
0271 person to collect the tax in the manner provided by K.S.A.
0272 79-3235 and amendments thereto.

0273 ~~Sec. 6. (a) Every purchaser responsible for remitting the tax~~
0274 ~~imposed under the provisions of section 2 shall on or before the~~
0275 ~~last day of the second month following the end of every calendar~~
0276 ~~month~~ make a return to the director upon forms prescribed and
0277 furnished by the director showing the gross amount of ~~coal,~~
0278 ~~salt,~~ oil or gas purchased during the month for which the return
0279 is filed, the price paid therefor, the correct name and address of
0280 the operator or other person from whom the same was purchased,
0281 a full description of the property in the manner prescribed by the
0282 director from which such ~~coal,~~ ~~salt,~~ oil or gas was severed and
0283 the amount of tax due. Such return shall be accompanied by a
0284 remittance of the ~~amount of the tax computed under this sub-~~
0285 ~~section.~~ For the purposes of determining the amount of tax to be
0286 remitted such purchaser shall compute the full amount of the tax
0287 due under section 2 of this act upon all ~~coal,~~ ~~salt,~~ oil or gas
0288 severed and removed from the lease or production unit ~~or mine~~
0289 during such month and shall deduct from this amount an amount
0290 equal to the full amount of the ~~ad-valorem property taxes~~ actually
0291 paid by the taxpayer upon ~~coal,~~ ~~salt,~~ oil or gas properties during
0292 the next preceding calendar year ~~[tax credit allowed to the~~
0293 ~~taxpayer pursuant to section 4,]~~ multiplied by the number of
0294 months for which the tax is being remitted under this act,
0295 divided by 12. Whenever a taxpayer sells ~~coal,~~ ~~salt,~~ oil or gas to
0296 more than one purchaser in any month, such taxpayer shall
0297 provide to each such purchaser the names of all such purchasers
0298 to whom oil ~~gas,~~ ~~salt,~~ ~~or coal~~ was sold in such month and
0299 whether or not or to what extent the ~~ad-valorem property tax~~
0300 ~~deduction~~ has been utilized in determining the taxes to be
0301 remitted by each such purchaser.

0302 ~~(b) If coal,~~ ~~salt,~~ oil or gas is removed from the lease or
0303 ~~production unit or mine but not sold to a purchaser the operator~~
0304 ~~shall on or before the last day of the second month following the~~

(c) All taxes imposed under the provisions of section 2 of this act upon oil or gas removed from the lease or production unit in the months of May and June in the year 1983, shall be due and payable on or before the 20th day of September, 1983. In addition all returns required to be filed by purchasers and operators in relation to oil or gas removed from the lease or production unit in the months of May and June in the year 1983 shall be filed on or before the 20th day of September, 1983.

Sec. 5. (a) Except as otherwise provided in subsection (c) of section 4, every purchaser responsible for remitting the tax imposed under the provisions of section 2 shall on or before the 20th day of the second month following the end of every calendar month in which oil or gas is removed from the lease or production unit

quantity

full

for the purpose of computing the amount of the credit to be deducted pursuant to subsections (a) and (b) of section 4, the full amount of such credit shall be

or

credit

(b) Except as otherwise provided in subsection (c) of section 4, if oil or gas is removed from the lease or production unit but not sold to a purchaser or if the operator elects to remit the tax as authorized under section 4, the operator shall on or before the 20th day of the second month following the

0305 end of every calendar month make a return to the director upon
 0306 forms prescribed and furnished by the director showing the gross
 0307 value of coal, ~~oil,~~ oil or gas removed during such month and a
 0308 full description of the property in the manner prescribed by the
 0309 director from which the same was severed. Such return shall be
 0310 accompanied by a remittance of the full amount of tax due upon
 0311 the coal, ~~oil,~~ oil or gas less the amount of any credits to which
 0312 the taxpayer is entitled. The amount of the taxes to be remitted
 0313 shall be determined in the same manner prescribed for remit-
 0314 tances by purchasers under subsection (a) of this section.

0315 (c) Each monthly return required hereunder shall be filed on
 0316 separate forms as to product and county. All such monthly
 0317 returns shall be signed by the purchaser or operator, as the case
 0318 may be, or a duly authorized agent thereof.

0319 (d) The director may grant a reasonable extension of time for
 0320 filing any return and remittance of taxes due under this act upon
 0321 good cause shown therefor. Interest shall be charged at the rate
 0322 prescribed by subsection (a) of K.S.A. 1982 Supp. 79-2968 for the
 0323 period of such extension.

0324 Sec. 7. When the title to any coal, ~~oil,~~ oil or gas being
 0325 severed from the earth or water is in dispute and the purchaser of
 0326 such coal, ~~oil,~~ oil or gas is withholding payments on account of
 0327 litigation, or for any other reason, such purchaser is hereby
 0328 authorized, empowered and required to deduct from the gross
 0329 amount thus held the amount of the tax imposed less the amount
 0330 of any credit to which the taxpayer is entitled and to make
 0331 remittance thereof to the director as provided in this act.

0332 Sec. 8. When requested by the director, all transporters of
 0333 coal, ~~oil,~~ oil or gas out of, within or across the state of Kansas
 0334 shall be required to furnish the director such information relative
 0335 to the transportation of such coal, ~~oil,~~ oil or gas as the director
 0336 may require. The director shall have authority to inspect bills of
 0337 lading, waybills, meter or other charts, documents, books and
 0338 records as may relate to the transportation of coal, ~~oil,~~ oil or gas
 0339 in the hands of each transporter herein referred to. The director
 0340 shall further be empowered to demand the production of such
 0341 bills of lading, waybills, charts, documents, books and records

in which oil or gas is removed from the lease
or production unit

quantity

If the oil or gas has been sold

If the oil or gas has not been sold the
operator shall remit the full amount of the
tax due upon certification of the amount
thereof by the director.

6

7

0342 relating to the transportation of coal, ~~salt~~ oil or gas at any point
0343 in the state of Kansas which may be designated, except that in
0344 the case of common carriers using bills of lading or waybills
0345 prescribed or approved by the interstate commerce commission,
0346 such common carrier shall only be required to keep the usual
0347 records at offices in the state where such records are usually
0348 kept.

8

0349 Sec. 9. The director shall have the power to require any
0350 operator, producer or person purchasing any coal, ~~salt~~ oil or gas
0351 severed from the earth or water to furnish any additional infor-
0352 mation deemed to be necessary for the purpose of computing the
0353 amount of the tax, and for such purpose to examine the meter and
0354 other charts, books, records and all files of such person, and for
0355 such purpose the director shall have the power to issue subpoe-
0356 nas and examine witnesses under oath, and if any witness shall
0357 fail or refuse to appear at the request of the director, or refuses
0358 access to books, records and files, the district court of the proper
0359 county, or the judge thereof, on application of the director, shall
0360 compel obedience by proceedings for contempt, as in the case of
0361 disobedience of the requirements of a subpoena issued from
0362 such court or a refusal to testify therein.

9

0363 Sec. 10. (a) If any taxes imposed under this act and deter-
0364 mined and assessed by the director are unpaid: (1) Not due to
0365 negligence or to intentional disregard of rules and regulations
0366 promulgated by the secretary, interest on such taxes shall be
0367 added at the rate per month prescribed by subsection (a) of
0368 K.S.A. 1982 Supp. 79-2968, and amendments thereto, from the
0369 date the tax was due until paid; (2) due to negligence or to
0370 intentional disregard of the rules and regulations promulgated
0371 by the secretary, but without intent to defraud, a penalty of 10%
0372 of the amount of such taxes shall be added, together with interest
0373 at the rate per month prescribed by subsection (a) of K.S.A. 1982
0374 Supp. 79-2968, and amendments thereto, from the date the tax
0375 was due until paid; (3) due to fraud with intent to evade the taxes
0376 imposed by this act, there shall be added thereto a penalty of
0377 50% of the amount of such taxes, together with interest at the rate
0378 per month prescribed by subsection (a) of K.S.A. 1982 Supp.

0379 79-2968, and amendments thereto, from the date the tax was due
0380 until paid.

0381 (b) If any person fails or refuses to make any return, when
0382 required to do so under the provisions of this act, such person
0383 shall be subject to a penalty of \$25 per day for each return which
0384 such person fails or refuses to file.

0385 (c) Whenever, in the judgment of the director, the failure of
0386 any person to comply with the provisions of subsection (a)(1),
0387 (a)(2), and (b) of this section, was due to reasonable cause, the
0388 director may, in the exercise of discretion, waive or reduce any of
0389 the penalties upon making a record of the reason therefor.

0390 (d) In addition to all other penalties herein provided, any
0391 person who fails to make a return, or to pay any tax herein
0392 provided, or who makes a false or fraudulent return, or fails to
0393 keep any books or records prescribed by this act, or who willfully
0394 violates any rules and regulations promulgated by the secretary
0395 for the enforcement and administration of this act, or who aids
0396 and abets another in attempting to evade the payment of any tax
0397 imposed by this act, or who violates any other provisions of this
0398 act, shall, upon conviction thereof, be guilty of a class C mis-
0399 demeanor.

0400 Sec. ~~11~~ Every operator shall make and keep a complete and
0401 accurate record in the form required by the director showing the
0402 gross quantity of ~~coal, salt,~~ oil or gas severed and removed, the
0403 names of the purchasers of such products, the price paid therefor
0404 and the date of purchase. Every purchaser of ~~coal, salt,~~ oil or
0405 gas severed in this state who is required to collect and remit the
0406 tax on the same shall make and keep a complete and accurate
0407 record in the form required by the director showing the gross
0408 quantity of ~~coal, salt,~~ oil or gas purchased, the price paid
0409 therefor, the name of the operator and the date of purchase. Such
0410 records shall at all times during business hours of the day be
0411 available for and subject to inspection by the director, or the
0412 director's duly authorized agents and employees, for a period of
0413 three years from the last day of the calendar year to which the
0414 records pertain. Such records shall be preserved during the
0415 entire period during which they are subject to inspection by the

0416 director, unless the director in writing previously authorized
0417 their disposal.

0418 The amount of taxes imposed by this act is to be assessed
0419 within three years after the return is filed, and no proceedings in
0420 court for the collection of such taxes shall be begun after the
0421 expiration of such period. In the case of a false or fraudulent
0422 return with intent to evade tax, the tax may be assessed or a
0423 proceeding in court for collection of such tax may be begun at
0424 any time, within two years from the discovery of such fraud. No
0425 refund or credit shall be allowed by the director after three years
0426 from the date of payment of the tax as provided in this act unless
0427 before the expiration of such period a claim therefor is filed by
0428 the taxpayer, and no suit or action to recover on any claim for
0429 refund shall be commenced until after the expiration of six
0430 months from the date of filing a claim therefor with the director.

0431 Before the expiration of time prescribed in this section for the
0432 assessment of additional tax or the filing of a claim for refund, the
0433 director is hereby authorized to enter into an agreement in
0434 writing with the taxpayer consenting to the extension of the
0435 periods of limitations for the assessment of tax or for the filing of
0436 a claim for refund, at any time prior to the expiration of the
0437 periods of limitations. The periods so agreed upon may be
0438 extended by subsequent agreements in writing made before the
0439 expiration of the periods previously agreed upon. In considera-
0440 tion of such agreement or agreements, interest due in excess of
0441 48 months on any additional tax shall be waived.

0442 ~~Sec. 12.~~ (a) All revenue collected or received by the director
0443 from the taxes imposed by this act shall be remitted daily to the
0444 state treasurer. Upon receipt of each such remittance, the state
0445 treasurer shall deposit the entire amount thereof in the state
0446 treasury. The state treasurer shall first credit such amount
0447 thereof as the director shall order to the mineral production tax
0448 refund fund created under subsection (b) of this section. The
0449 state treasurer shall credit the remainder of such amounts as
0450 follows: (1) ~~On November 1, 1983; and November 1 of each year~~
0451 ~~thereafter the amount of \$1,000,000 shall be credited to the low-~~
0452 ~~income energy assistance plan; elderly; created under subsection-~~

five

0453 ~~(9)~~, ~~(2)~~ eight percent to the special county mineral production tax
0454 fund created under subsection (c) of this section; and ~~(2)~~ ~~(3)~~ the
0455 remainder thereof to the state general fund.

0456 (b) A refund fund designated as "mineral production tax
0457 refund fund" not to exceed \$50,000 is hereby created for the
0458 prompt payment of all tax refunds. The mineral production tax
0459 refund fund shall be in such amount, within the limit set by this
0460 section, as the director shall determine is necessary to meet
0461 current refunding requirements under this act.

0462 (c) There is hereby created a special county mineral produc-
0463 tion tax fund. On December 1, 1983, and quarterly thereafter, the
0464 director of taxation shall distribute all moneys credited to such
0465 fund to the county treasurers of all counties in which taxes were
0466 levied under section 2 of this act for the privilege of severing
0467 ~~coal~~, ~~[salt]~~ oil or gas from property within the county, in the
0468 proportion that the taxes levied upon production in each county
0469 bears to the total of all of such taxes levied in all of such counties.
0470 Such distribution shall be based on returns filed, with any
0471 adjustments or corrections made by the director of taxation.

0472 (d) The secretary of revenue shall make provision for the
0473 determination of the counties within which taxes are levied
0474 under section 2 of this act for the severance of ~~coal~~, ~~[salt]~~ oil or
0475 gas and shall certify the same to the director of accounts and
0476 reports.

0477 (e) The director of accounts and reports shall draw warrants
0478 on the state treasurer payable to the county treasurer of each
0479 county entitled to payment from the special county mineral
0480 production tax fund upon vouchers approved by the director of
0481 taxation. Upon receipt of such warrant, each county treasurer
0482 shall credit 50% of the amount thereof to the county general fund
0483 and shall distribute the remaining 50% thereof to the treasurer of
0484 each school district all or any portion of which is located within
0485 the county in the proportion that the assessed value of ~~coal~~, ~~[salt]~~
0486 oil and gas properties within each district bears to the total of the
0487 assessed value of all ~~coal~~, ~~[salt]~~ oil and gas properties within the
0488 county. Such assessed valuation shall be determined upon the
0489 basis of the most recent November 1 tax roll. The treasurer of

(2) in fiscal year 1984, commencing on December 15 and on the 15th day of each month thereafter there shall be credited to the state highway fund, equal amounts which in the aggregate equal \$20,000,000 and

; and (3) in fiscal year 1985 and in each fiscal year thereafter there shall be credited to the state highway fund an amount equal to 20% of the revenues received from taxes imposed by this act, excluding the amounts credited to funds created pursuant to subsections (b) and (c), except that the amounts so credited in any fiscal year shall not in the aggregate be less than \$20,000,000, and the remainder shall be credited to the state general fund.

districts

,

0490 each school district shall credit the entire amount of the moneys
0491 so received to the general fund of the school district.

0492 ~~{(f) There is hereby created the low-income energy assistance~~
0493 ~~plan, elderly. All moneys credited to such fund shall be used by~~
0494 ~~the secretary of social and rehabilitation services for the pur-~~
0495 ~~poses of extending benefits to the elderly poor having an income~~
0496 ~~level of not to exceed 150% of the poverty level.}~~

0497 Sec. 13. The secretary is hereby authorized to adopt such
0498 rules and regulations as may be necessary to administer and
0499 enforce the provisions of this act.

0500 ~~{Sec. 14. The provisions of this act shall expire on July 1,~~
0501 ~~1985.}~~

0502 Sec. 14 ~~{15}~~. This act shall take effect and be in force from
0503 and after its publication in the Kansas register.

12

Sec. 13. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

14

0120 ever of oil upon which the tax has not been paid, from any
0121 surface reservoir, natural or artificial, or from a water surface; (2)
0122 the extraction or withdrawing by any means whatsoever, from
0123 below the surface of the earth or water, of any gas; and (3) the
0124 physical removal of coal [or salt] from the earth.

0125 (†) [(o)] "Taxpayer" means any person liable for the taxes
0126 imposed by this act.

0127 (s) "Working interest" means an interest granted to a lessee
0128 in coal, [salt,] oil or gas actually severed from a property.

0129 Sec. 2. (a) From and after May 1, 1983, there is hereby
0130 imposed a tax upon the privilege of engaging in the business
0131 activity of severing coal, [salt,] oil or gas from the earth or water
0132 in this state for sales, transport, storage, profit or commercial use,
0133 subject to the following provisions of this section. Such tax is
0134 hereby imposed at the time of the removal of the coal, [salt,] oil
0135 or gas from the lease or production unit or coal [or salt] mine.
0136 Such tax shall be borne ratably by all persons within the term
0137 "producer" as such term is defined in section 1 of this act. Such
0138 tax shall be applied equally to all portions of the gross value of
0139 each barrel of oil severed and subject to such tax and to the gross
0140 value of the coal[, salt] or gas severed and subject to such tax.
0141 The rate of such tax shall be 8%.

0142 (b) The following activities shall be exempt from the tax
0143 imposed under this section:

0144 (1) The severance and removal of gas which is: (A) Injected
0145 into the earth for the purpose of lifting oil, storing, recycling or
0146 repressuring; (B) used for fuel in connection with the operation
0147 and development for, or production of, oil or gas in the field
0148 where severed; (C) lawfully vented or flared; (D) severed from a
0149 well having an average daily production during a calendar month
0150 of 60 mcf or less, which well has not been significantly curtailed
0151 by reason of mechanical failure or other disruption of produc-
0152 tion; (E) inadvertently lost by reason of leaks, blowouts or other
0153 accidental losses; or (F) used or consumed for domestic or
0154 agricultural purposes on the lease or production unit from which
0155 it is severed;

0156 (2) the severance and removal of oil which is: (A) From a well

except that in no case shall such tax on the production of oil or gas removed from any lease or production unit equal or exceed an amount equal to 90% of the net income attributable to the oil or gas severed and produced from such lease or production unit during the period for which the tax is being paid

Atch. IV