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House Taxation Committee

Testimony in Support of House Bill 2481

Presented by Michael Hale

Chairman Richard Carlson and Members of the Committee:

The Department of Revenue respectfully submits the following in support of House Bill 2481:

Since 1983, the term "gas" has been defined by the Mineral Severance Tax Act to mean "natural gas taken from below the surface of the earth or water in this state, regardless of whether from a gas well or from a well also productive of oil or any other product."

The severance tax is imposed on the severance of gas from the earth. KSA 79-4217(a). At the time it is severed, gas is a raw, unrefined substance that consists of numerous components. On certain wells, the gas that flows from the wellhead includes helium and may also include methane, ethane, propane, butane and other gases.

The Department has always interpreted the Severance Tax Act to impose tax on helium and all other components that are severed from the earth and its interpretation is set forth in a Revenue Ruling that was issued in 1998. This bill would amend the definition of "gas" to read as follows:

(c) "Gas" means natural gas, *and all other raw, unrefined gas or gases, all constituent parts of any such gas or gases and refined products derived from any such gas or gases, including, but not limited to, methane, ethane, propane, butane and helium,* taken from below the surface of the earth or water in this state, regardless of whether from a gas well or from a well also productive of oil or any other product.

This amendment would clarify that the legislature has always intended to tax helium and all other components of gas that is severed from the earth and also confirm the Department has correctly interpreted and administered the law by imposing and collecting tax on helium.

1 record in the form required by the director showing the gross quantity of
2 coal, oil or gas severed and removed from each lease, production unit or
3 mine, the names of the purchasers of such products, the price paid therefor
4 and the date of purchase. Every purchaser of coal, oil or gas severed in this
5 state who is required to collect and remit the tax on the same shall make
6 and keep a complete and accurate record in the form required by the
7 director showing the gross quantity of coal, oil or gas purchased from each
8 lease, production unit or mine, the price paid therefor, the name of the
9 operator and the date of purchase. Such records shall at all times during
10 business hours of the day be available for and subject to inspection by the
11 director, or the director's duly authorized agents and employees, for a
12 period of three years from the last day of the calendar year to which the
13 records pertain. Such records shall be preserved during the entire period
14 during which they are subject to inspection by the director, unless the
15 director in writing previously authorized their disposal.

16 (b) The amount of taxes imposed by this act is to be assessed within
17 three years after the return is filed. In the case of a false or fraudulent
18 return with intent to evade tax, the tax may be assessed or a proceeding in
19 court for collection of such tax may be begun at any time, within two years
20 from the discovery of such fraud. The provisions of K.S.A. 79-3226, and
21 amendments thereto, relating to procedures for contesting a proposed
22 assessment of additional tax or the denial of a refund shall apply as if set
23 forth in this section. No refund shall be allowed by the director after three
24 years from the date the return was filed, or one year after the assessment is
25 made, whichever is the later date unless before the expiration of such
26 period a claim therefor is filed by the taxpayer. No suit or action to recover
27 on any claim for refund shall be commenced until after the expiration of
28 six months from the date of filing a claim therefor with the director.

29 (c) Before the expiration of time prescribed in this section for the
30 assessment of additional tax or the filing of a claim for refund, the director
31 is hereby authorized to enter into an agreement in writing with the
32 taxpayer consenting to the extension of the periods of limitations for the
33 assessment of tax or for the filing of a claim for refund, at any time prior to
34 the expiration of the periods of limitations. The periods so agreed upon
35 may be extended by subsequent agreements in writing made before the
36 expiration of the periods previously agreed upon. In consideration of such
37 agreement or agreements, interest due in excess of 48 months on any
38 additional tax shall be waived.

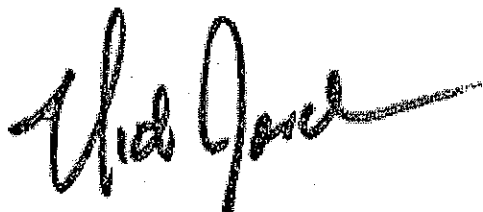
39 (d) *No refund of mineral severance tax shall be allowed by the*
40 *director or by any court of this state based on any administrative or*
41 *judicial claim, petition, pleading, cause of action or request for relief*
42 *alleging that any constituent part of gas and any refined products derived*
43 *from any such gas is not taxable pursuant to the provisions of K.S.A. 79-*

that has been or may be filed on or after July 1, 1983]

Taxpayer/Customer Impact

Legal Impact

Approved By:

A handwritten signature in black ink, appearing to read "Nick Jordan", with a long horizontal flourish extending to the right.

Nick Jordan
Secretary of Revenue