

## HOUSE BILL No. 2262

By Committee on Appropriations

2-7

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1 AN ACT concerning the oil and gas valuation depletion trust fund; relating  
2 to transfer of moneys to the state general fund; abolishing the fund;  
3 amending K.S.A. 2012 Supp. 19-101a and 79-4227 and repealing the  
4 existing sections; also repealing K.S.A. 2012 Supp. 19-271 and 79-  
5 4231.  
6

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

8 New Section 1. On the effective date of this act, the director of  
9 accounts and reports shall transfer all moneys in the oil and gas valuation  
10 depletion trust fund to the state general fund. On the effective date of this  
11 act, all liabilities of the oil and gas valuation depletion trust fund are  
12 hereby transferred to and imposed on the state general fund, and the oil  
13 and gas valuation depletion trust fund is hereby abolished.

14 New Sec. 2. On the effective date of this act, any moneys in each  
15 county's county oil and gas valuation depletion trust fund established  
16 pursuant to K.S.A. 2012 Supp. 19-271, as such statute existed prior to the  
17 effective date of this act, which have not been authorized for release to the  
18 county general fund by the director of taxation pursuant to subsection (b)  
19 of K.S.A. 2012 Supp. 79-4231, as such statute existed prior to the effective  
20 date of this act, or have not been released from a county's county oil and  
21 gas valuation depletion trust fund to the county general fund by the county  
22 treasurer pursuant to subsection (b) of K.S.A. 2012 Supp. 19-271, as such  
23 statute existed prior to the effective date of this act, shall be remitted to the  
24 state treasurer in accordance with the provisions of K.S.A. 75-4215, and  
25 amendments thereto. Upon receipt of each such remittance, the state  
26 treasurer shall deposit the entire amount in the state treasury to the credit  
27 of the state general fund.

28 Sec. 3. K.S.A. 2012 Supp. 19-101a is hereby amended to read as  
29 follows: 19-101a. (a) The board of county commissioners may transact all  
30 county business and perform all powers of local legislation and  
31 administration it deems appropriate, subject only to the following  
32 limitations, restrictions or prohibitions:

33 (1) Counties shall be subject to all acts of the legislature which apply  
34 uniformly to all counties.

35 (2) Counties may not affect the courts located therein.

36 (3) Counties shall be subject to acts of the legislature prescribing

1 limits of indebtedness.

2 (4) In the exercise of powers of local legislation and administration  
3 authorized under provisions of this section, the home rule power conferred  
4 on cities to determine their local affairs and government shall not be  
5 superseded or impaired without the consent of the governing body of each  
6 city within a county which may be affected.

7 (5) Counties may not legislate on social welfare administered under  
8 state law enacted pursuant to or in conformity with public law No. 271 –  
9 74<sup>th</sup> congress, or amendments thereof.

10 (6) Counties shall be subject to all acts of the legislature concerning  
11 elections, election commissioners and officers and their duties as such  
12 officers and the election of county officers.

13 (7) Counties shall be subject to the limitations and prohibitions  
14 imposed under K.S.A. 12-187 to 12-195, inclusive, and amendments  
15 thereto, prescribing limitations upon the levy of retailers' sales taxes by  
16 counties.

17 (8) Counties may not exempt from or effect changes in statutes made  
18 nonuniform in application solely by reason of authorizing exceptions for  
19 counties having adopted a charter for county government.

20 (9) No county may levy ad valorem taxes under the authority of this  
21 section upon real property located within any redevelopment project area  
22 established under the authority of K.S.A. 12-1772, and amendments  
23 thereto, unless the resolution authorizing the same specifically authorized  
24 a portion of the proceeds of such levy to be used to pay the principal of  
25 and interest upon bonds issued by a city under the authority of K.S.A. 12-  
26 1774, and amendments thereto.

27 (10) Counties shall have no power under this section to exempt from  
28 any statute authorizing or requiring the levy of taxes and providing  
29 substitute and additional provisions on the same subject, unless the  
30 resolution authorizing the same specifically provides for a portion of the  
31 proceeds of such levy to be used to pay a portion of the principal and  
32 interest on bonds issued by cities under the authority of K.S.A. 12-1774,  
33 and amendments thereto.

34 (11) Counties may not exempt from or effect changes in the  
35 provisions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

36 (12) Except as otherwise specifically authorized by K.S.A. 12-1,101  
37 through 12-1,109, and amendments thereto, counties may not levy and  
38 collect taxes on incomes from whatever source derived.

39 (13) Counties may not exempt from or effect changes in K.S.A. 19-  
40 430, and amendments thereto.

41 (14) Counties may not exempt from or effect changes in K.S.A. 19-  
42 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

43 (15) Counties may not exempt from or effect changes in K.S.A. 19-

1 15,139, 19-15,140 and 19-15,141, and amendments thereto.

2 (16) Counties may not exempt from or effect changes in the  
3 provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c  
4 and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-  
5 1260 through 12-1270 and 12-1276, and amendments thereto.

6 (17) Counties may not exempt from or effect changes in the  
7 provisions of K.S.A. 19-211, and amendments thereto.

8 (18) Counties may not exempt from or effect changes in the  
9 provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto.

10 (19) Counties may not regulate the production or drilling of any oil or  
11 gas well in any manner which would result in the duplication of regulation  
12 by the state corporation commission and the Kansas department of health  
13 and environment pursuant to chapter 55 and chapter 65 of the Kansas  
14 Statutes Annotated, and amendments thereto, and any rules and regulations  
15 adopted pursuant thereto. Counties may not require any license or permit  
16 for the drilling or production of oil and gas wells. Counties may not  
17 impose any fee or charge for the drilling or production of any oil or gas  
18 well.

19 (20) Counties may not exempt from or effect changes in K.S.A. 79-  
20 41a04, and amendments thereto.

21 (21) Counties may not exempt from or effect changes in K.S.A. 79-  
22 1611, and amendments thereto.

23 (22) Counties may not exempt from or effect changes in K.S.A. 79-  
24 1494, and amendments thereto.

25 (23) Counties may not exempt from or effect changes in subsection  
26 (b) of K.S.A. 19-202, and amendments thereto.

27 (24) Counties may not exempt from or effect changes in subsection  
28 (b) of K.S.A. 19-204, and amendments thereto.

29 (25) Counties may not levy or impose an excise, severance or any  
30 other tax in the nature of an excise tax upon the physical severance and  
31 production of any mineral or other material from the earth or water.

32 (26) Counties may not exempt from or effect changes in K.S.A. 79-  
33 2017 or 79-2101, and amendments thereto.

34 (27) Counties may not exempt from or effect changes in K.S.A. 2-  
35 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-  
36 1,178 through 65-1,199, 65-3001 through 65-3028, and amendments  
37 thereto.

38 (28) Counties may not exempt from or effect changes in K.S.A. 2012  
39 Supp. 80-121, and amendments thereto.

40 (29) Counties may not exempt from or effect changes in K.S.A. 19-  
41 228, and amendments thereto.

42 (30) Counties may not exempt from or effect changes in the wireless  
43 enhanced 911 act, in the VoIP enhanced 911 act or in the provisions of

1 K.S.A. 12-5301 through 12-5308, and amendments thereto.

2 (31) Counties may not exempt from or effect changes in K.S.A. 2012  
3 Supp. 26-601, and amendments thereto.

4 (32) (A) Counties may not exempt from or effect changes in the  
5 Kansas liquor control act except as provided by paragraph (B).

6 (B) Counties may adopt resolutions which are not in conflict with the  
7 Kansas liquor control act.

8 (33) (A) Counties may not exempt from or effect changes in the  
9 Kansas cereal malt beverage act except as provided by paragraph (B).

10 (B) Counties may adopt resolutions which are not in conflict with the  
11 Kansas cereal malt beverage act.

12 (34) Counties may not exempt from or effect changes in the Kansas  
13 lottery act.

14 (35) Counties may not exempt from or effect changes in the Kansas  
15 expanded lottery act.

16 (36) Counties may neither exempt from nor effect changes to the  
17 eminent domain procedure act.

18 (37) Any county granted authority pursuant to the provisions of  
19 K.S.A. 19-5001 through 19-5005, and amendments thereto, shall be  
20 subject to the limitations and prohibitions imposed under K.S.A. 19-5001  
21 through 19-5005, and amendments thereto.

22 (38) Except as otherwise specifically authorized by K.S.A. 19-5001  
23 through 19-5005, and amendments thereto, counties may not exercise any  
24 authority granted pursuant to K.S.A. 19-5001 through 19-5005, and  
25 amendments thereto, including the imposition or levy of any retailers' sales  
26 tax.

27 ~~(39) Counties may not exempt from or effect changes in K.S.A. 2012~~  
28 ~~Supp. 19-271, and amendments thereto.~~

29 (b) Counties shall apply the powers of local legislation granted in  
30 subsection (a) by resolution of the board of county commissioners. If no  
31 statutory authority exists for such local legislation other than that set forth  
32 in subsection (a) and the local legislation proposed under the authority of  
33 such subsection is not contrary to any act of the legislature, such local  
34 legislation shall become effective upon passage of a resolution of the  
35 board and publication in the official county newspaper. If the legislation  
36 proposed by the board under authority of subsection (a) is contrary to an  
37 act of the legislature which is applicable to the particular county but not  
38 uniformly applicable to all counties, such legislation shall become  
39 effective by passage of a charter resolution in the manner provided in  
40 K.S.A. 19-101b, and amendments thereto.

41 (c) Any resolution adopted by a county which conflicts with the  
42 restrictions in subsection (a) is null and void.

43 Sec. 4. K.S.A. 2012 Supp. 79-4227 is hereby amended to read as

1 follows: 79-4227. (a) All revenue collected or received by the director  
2 from the tax imposed by this act shall be remitted to the state treasurer in  
3 accordance with the provisions of K.S.A. 75-4215, and amendments  
4 thereto. Upon receipt of each such remittance, the state treasurer shall  
5 deposit the entire amount in the state treasury. The state treasurer shall first  
6 credit such amount as the director shall order to the mineral production tax  
7 refund fund created under subsection (b) of this section. ~~Except as~~  
8 ~~otherwise provided by this section,~~ The state treasurer shall credit the  
9 remainder of such amounts as follows: (1) Seven percent to the special  
10 county mineral production tax fund created under subsection (c) of this  
11 section; and (2) the remainder shall be credited to the state general fund.  
12 ~~On and after July 1, 2012, and thereafter, except as otherwise provided by~~  
13 ~~this section, the state treasurer shall credit the remainder of such amounts~~  
14 ~~for oil and gas for any county which had \$100,000 or more in receipts of~~  
15 ~~the excise tax upon the severance and production of oil and gas as follows:~~  
16 ~~(1) Seven percent to the special county mineral production tax fund~~  
17 ~~created under subsection (c); (2) 12.41% to the oil and gas valuation~~  
18 ~~depletion trust fund; and (3) the remainder shall be credited to the state~~  
19 ~~general fund. During fiscal year 2013, the state treasurer shall credit the~~  
20 ~~remainder of such amounts as follows: (1) As otherwise provided in this~~  
21 ~~section; and (2) on the 15<sup>th</sup> day of each month, the state treasurer shall~~  
22 ~~determine the amount of revenue collected or received by the director from~~  
23 ~~the tax imposed by this act during the preceding month which exceeds the~~  
24 ~~consensus revenue estimate for such preceding month. If such amount of~~  
25 ~~revenue collected or received for such preceding month is greater than the~~  
26 ~~estimated amount of revenue for such preceding month, then the state~~  
27 ~~treasurer shall credit 14.63% of the difference between the actual amount~~  
28 ~~collected or received and the estimated amount of revenue to the incentive~~  
29 ~~for technical education fund, and 85.37% of the difference between the~~  
30 ~~actual amount collected or received and the estimated amount of revenue~~  
31 ~~to the tuition for technical education fund. During fiscal year 2013, the~~  
32 ~~amount credited to the incentive for technical education fund shall not~~  
33 ~~exceed \$1,500,000, and the amount credited to the tuition for technical~~  
34 ~~education fund shall not exceed \$8,750,000. The incentive for technical~~  
35 ~~education fund and the tuition for technical education fund are hereby~~  
36 ~~created in the state treasury.~~

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

42 (c) There is hereby created a special county mineral production tax  
43 fund. On December 1, 1983, and quarterly thereafter, the director of

1 taxation shall distribute all moneys credited to such fund to the county  
2 treasurers of all counties in which taxes were levied under K.S.A. 79-4217,  
3 and amendments thereto, for the severing and producing of coal, oil or gas  
4 from property within the county, in the proportion that the taxes levied  
5 upon production in each county bears to the total of all of such taxes levied  
6 in all of such counties. Such distribution shall be based on returns filed,  
7 with any adjustments or corrections thereto made by the director of  
8 taxation.

9 (d) The secretary of revenue shall make provision for the  
10 determination of the counties within which taxes are levied under K.S.A.  
11 79-4217, and amendments thereto, for the severance of coal, oil or gas and  
12 shall certify the same to the director of accounts and reports.

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

26 Sec. 5. K.S.A. 2012 Supp. 19-101a, 19-271, 79-4227 and 79-4231 are  
27 hereby repealed.

28 Sec. 6. This act shall take effect and be in force from and after its  
29 publication in the Kansas register.