

SENATE BILL No. 212

By Committee on Assessment and Taxation

2-19

1 AN ACT concerning income tax; relating to credits and deductions for
2 investments in certain produced water recycling storage and
3 transportation equipment.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. As used in sections 1 through 5, and amendments thereto:

7 (a) "Pass-through entity" means any: (1) Corporation which is exempt
8 from income tax under section 1363 of the federal internal revenue code
9 and which complies with the requirements of K.S.A. 2012 Supp. 79-
10 32,100e, and amendments thereto; (2) limited liability company; (3)
11 partnership; or (4) limited liability partnership.

12 (b) "Produced water" means water brought up from the hydrocarbon
13 bearing strata during the extraction of oil or gas and can include formation
14 water, injection water, condensed water and trace amounts of treatment
15 chemicals.

16 (c) "Produced water recycling, storage and transportation equipment"
17 means any tangible personal or real property which is used to recycle,
18 store, transport or use produced water.

19 (d) "Qualified investment" means expenditures made for purchase,
20 construction or installation of produced water recycling, storage and
21 transportation equipment.

22 Sec. 2. (a) For taxable years commencing after December 31, 2012,
23 any taxpayer who is awarded a tax credit pursuant to this act by the
24 secretary of commerce and complies with the conditions set forth in this
25 act and the agreement entered into by the secretary and the taxpayer
26 required by this act shall be allowed a credit against the taxpayer's tax
27 liability under the Kansas income tax act as provided in subsection (b).
28 Expenditures used to qualify for this credit shall not be used to qualify for
29 any other type of Kansas income tax credit.

30 (b) The amount of the credit to which a taxpayer is entitled shall be
31 equal to the sum of: (1) An amount equal to 25% of the taxpayer's
32 qualified investment for the first \$250,000,000 invested; and (2) an
33 amount equal to 15% of the amount of the taxpayers qualified investment
34 that exceeds \$250,000,000. Such credit shall be taken in four equal, annual
35 installments, beginning with the year in which the taxpayer places into
36 service the produced water recycling, storage and transportation

1 equipment.

2 (c) If the amount of an annual installment of a tax credit allowed
3 under this section exceeds the taxpayer's income tax liability for the
4 taxable year in which the annual installment is allowed, the amount thereof
5 which exceeds such tax liability may be carried over for deduction from
6 the taxpayer's income tax liability in the next succeeding taxable year or
7 years until the total amount of the annual installment of the tax credit has
8 been deducted from the tax liability, except no such tax credit shall be
9 carried over for a deduction after the 14th taxable year succeeding the
10 taxable year in which the first annual installment is allowed.

11 (d) (1) To qualify for a credit allowed by this act, a taxpayer shall
12 apply to the secretary of commerce to enter into an agreement for such tax
13 credit. The secretary shall prescribe the form of the application. After
14 receipt of such application, the secretary shall enter into an agreement with
15 the applicant for a credit allowed by this act if the secretary determines
16 that the taxpayer's proposed investment satisfies the requirements of this
17 act. The agreement shall include, but not be limited to: (A) A detailed
18 description of the produced water recycling, storage and transportation
19 equipment that is the subject of the agreement; (B) the first taxable year
20 for which the credit may be claimed; and (C) the maximum amount of tax
21 credit that will be allowed for each taxable year. Such agreement shall also
22 include, but not be limited to, operation of the storage and blending
23 equipment during the tax years when any installment of tax credits are
24 claimed by the taxpayer.

25 (2) A taxpayer must comply with the terms of the agreement
26 described in subsection (d)(1) to receive an annual installment of the tax
27 credit awarded under the terms of the agreement. The secretary of
28 commerce, in accordance with rules and regulations of the secretary, shall
29 annually determine whether the taxpayer is in compliance with the
30 agreement. If the secretary determines that the taxpayer is in compliance,
31 the secretary shall issue a certificate of compliance to the taxpayer, which
32 shall be provided to the department of revenue as required by the
33 department. If the secretary determines that the taxpayer is not in
34 compliance with the agreement, the secretary shall notify the taxpayer and
35 the secretary of revenue of such determination of noncompliance, and any
36 tax credits claimed pursuant to this section for such tax year shall be
37 forfeited.

38 (3) The secretary of commerce may adopt rules and regulations to
39 administer the provisions of this subsection.

40 Sec. 3. (a) If a qualified investment is made by or transferred to a
41 pass-through entity and the credit allowed by this act for a taxable year is
42 greater than the entity's tax liability against which the tax credit may be
43 applied, a shareholder, partner or member of the entity is entitled to a tax

1 credit equal to the tax credit determined for the entity for the taxable year
2 in excess of the entity's tax liability under the Kansas income tax act for
3 the taxable year multiplied by the percentage of the entity's distributive
4 income to which the shareholder, partner or member is entitled.

5 (b) If the produced water recycling, storage and transportation
6 equipment is co-owned by two or more taxpayers, the amount of the credit
7 that may be allowed to a co-owner in a taxable year is equal to the tax
8 credit determined pursuant to section 2, and amendments thereto, with
9 respect to the total qualified investment in such equipment multiplied by
10 the co-owner's percentage of ownership in such equipment.

11 (c) Such credit shall be taken in four equal, annual installments,
12 beginning with the year in which the pass-through entity or co-owners
13 place into service the produced water recycling, storage and transportation
14 equipment.

15 (d) If the amount of annual installment of a tax credit allowed a
16 shareholder, partner, member or co-owner under this section exceeds the
17 taxpayer's income tax liability for the taxable year in which the annual
18 installment is allowed, the amount thereof which exceeds such tax liability
19 may be carried over for deduction from the taxpayer's income tax liability
20 in the next succeeding taxable year or years until the total amount of the
21 tax credit has been deducted from tax liability, except that no such tax
22 credit shall be carried over for deduction after the 14th taxable year
23 succeeding the taxable year in which the first annual installment is
24 allowed.

25 Sec. 4. To receive the credit awarded by this act, a taxpayer must
26 claim the credit on the taxpayer's annual state income tax return or returns
27 in the manner prescribed by the director of taxation. The taxpayer shall
28 submit to the director a copy of the taxpayer's agreement for a tax credit
29 entered into with the secretary of commerce pursuant to section 2, and
30 amendments thereto, and all information that the director determines
31 necessary for the calculation of the credit provided by this act.

32 Sec. 5. (a) In addition to the income tax credit allowable pursuant to
33 sections 1 through 4 of this act, and amendments thereto, a taxpayer shall
34 be entitled to a deduction from Kansas adjusted gross income with respect
35 to the amortization of the amortizable costs of produced water recycling,
36 storage and transportation equipment based upon a period of 10 years.
37 Such amortization deduction shall be an amount equal to 55% of the
38 amortizable costs of such equipment for the first taxable year in which
39 such equipment is in production and 5% of the amortizable costs of such
40 equipment for each of the next nine taxable years.

41 (b) The election of the taxpayer to claim the deduction allowed by
42 subsection (a) shall be made by filing a statement of such election with the
43 secretary of revenue in the manner and form and within the time

1 prescribed by rules and regulations adopted by the secretary.

2 (c) The provisions of this section shall apply to all taxable years
3 commencing after December 31, 2012.

4 (d) The secretary of revenue shall adopt such rules and regulations as
5 deemed necessary to carry out the provisions of this section.

6 Sec. 6. This act shall take effect and be in force from and after its
7 publication in the statute book.