

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~~ *primarily for the purpose of recycling* produced  
19 water. *Produced water recycling, storage and transportation equipment*  
20 *shall not include any such equipment used primarily in the production*  
21 *of oil and natural gas.*

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

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

33 (b) The amount of the credit to which a taxpayer is entitled shall be  
34 equal to the sum of: (1) An amount equal to ~~25%~~ **20%** of the taxpayer's  
35 qualified investment for the first ~~\$250,000,000~~ **\$100,000,000** invested; and  
36 (2) an amount equal to 15% of the amount of the taxpayers qualified

1 investment that exceeds ~~\$250,000,000~~ **\$100,000,000**. Such credit shall be  
2 taken in four equal, annual installments, beginning with the year in which  
3 the taxpayer places into service the produced water recycling, storage and  
4 transportation equipment.

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

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

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

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

43 Sec. 3. (a) If a qualified investment is made by or transferred to a

1 pass-through entity and the credit allowed by this act for a taxable year is  
2 greater than the entity's tax liability against which the tax credit may be  
3 applied, a shareholder, partner or member of the entity is entitled to a tax  
4 credit equal to the tax credit determined for the entity for the taxable year  
5 in excess of the entity's tax liability under the Kansas income tax act for  
6 the taxable year multiplied by the percentage of the entity's distributive  
7 income to which the shareholder, partner or member is entitled.

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

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

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

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

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

1       ~~(b) The election of the taxpayer to claim the deduction allowed by~~  
2 ~~subsection (a) shall be made by filing a statement of such election with the~~  
3 ~~secretary of revenue in the manner and form and within the time~~  
4 ~~prescribed by rules and regulations adopted by the secretary.~~

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

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

9       Sec. ~~6~~ **5**. This act shall take effect and be in force from and after its  
10 publication in the statute book.