

SENATE BILL No. 79

By Committee on Assessment and Taxation

1-25

1 AN ACT concerning taxation; relating to income tax deductions and
2 modifications; severance tax; sales tax; amending K.S.A. 79-32,109
3 and K.S.A. 2012 Supp. 79-32,118, 79-32,266, 79-3620 and 79-4217
4 and repealing the existing sections; also repealing K.S.A. 79-3632 and
5 K.S.A. 2012 Supp. 79-32,117n and 79-3639a.
6

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

8 Section 1. K.S.A. 79-32,109 is hereby amended to read as follows:
9 79-32,109. As used in this act, unless the context otherwise requires:

10 (a) (1) Any term used in this act shall have the same meaning as when
11 used in a comparable context in the federal internal revenue code. Any
12 reference in this act to the "federal internal revenue code" shall mean the
13 provisions of the federal internal revenue code of 1986, and amendments
14 thereto, and other provisions of the laws of the United States relating to
15 federal income taxes, as the same may be or become effective at any time,
16 or from time to time, for the taxable year.

17 (2) *Any reference in this act to a federal form or schedule, or to a line*
18 *number on a federal form or schedule, shall be to such form, schedule and*
19 *line number as they existed for tax year 2011 and as revised thereafter by*
20 *the internal revenue service. Any such reference shall include comparable*
21 *federal forms, schedules, and line numbers used by non-United States*
22 *residents when filing their federal income tax return with the internal*
23 *revenue service.*

24 (b) "Resident individual" means a natural person who is domiciled in
25 this state. A natural person who spends in the aggregate more than six
26 months of the taxable year within this state shall be presumed to be a
27 resident for purposes of this act in absence of proof to the contrary. A
28 nonresident individual means an individual other than a resident
29 individual.

30 (c) "Resident estate" means the estate of a deceased person whose
31 domicile was in this state at the time of such person's death. "Nonresident
32 estate" means an estate other than a resident estate.

33 (d) "Resident trust" means a trust which is administered in this state.
34 A trust shall not be deemed to be administered in this state solely because
35 it is subject to the jurisdiction of a district court within this state.
36 "Nonresident trust" means a trust other than a resident trust.

1 (e) "Resident partner" means a partner who is a resident individual, a
2 resident estate, or a resident trust. "Nonresident partner" means a partner
3 other than a resident partner.

4 (f) "Resident beneficiary" means a beneficiary of an estate or trust
5 which beneficiary is a resident individual, a resident estate, or a resident
6 trust. "Nonresident beneficiary" means a beneficiary other than a resident
7 beneficiary.

8 (g) "Director" means the director of taxation.

9 (h) "Modified Kansas source income" means that part of a
10 nonresident individual's Kansas adjusted gross income as set forth in
11 K.S.A. 79-32,117, and amendments thereto, derived from sources in
12 Kansas. Items of income including unemployment compensation, gain,
13 loss or deduction reflected in Kansas adjusted gross income shall be
14 considered derived from sources in Kansas to the extent that they are
15 attributable to: (1) The ownership of any interest in real or tangible
16 personal property in this state; (2) a business, trade, profession or
17 occupation carried on in this state; (3) a business, trade, profession or
18 occupation carried on partly within and partly without this state as
19 determined by the uniform division of income for tax purposes act as set
20 forth in K.S.A. 79-3271 through K.S.A. 79-3293, and amendments thereto;
21 (4) the distributive share of partnership income, gain, loss and deduction
22 determined under this section as if the partnership were a nonresident
23 individual; (5) the share of estate or trust income, gain, loss and deduction
24 determined under K.S.A. 79-32,137, and amendments thereto; (6) prizes
25 won from lottery games conducted by the Kansas lottery; (7) any winnings
26 from parimutuel wagering derived from the conduct of parimutuel
27 activities within this state; or (8) income from intangible personal property,
28 including annuities, dividends, interest, and gains from the disposition of
29 intangible personal property to the extent that such income is from
30 property employed in a trade, business, profession or occupation carried
31 on in Kansas. A nonresident, other than a dealer holding property primarily
32 for sale to customers in the ordinary course of such dealer's trade or
33 business, shall not be deemed to carry on a business, trade, profession or
34 occupation in Kansas solely by reason of the purchase and sale of property
35 for such nonresident's own account.

36 "Modified Kansas source income" shall not include: (1) Compensation
37 paid by the United States for service in the armed forces of the United
38 States, performed during an induction period by an individual not
39 domiciled in this state; or (2) such individual's share of distributed or
40 undistributed taxable income or net operating loss of a corporation which
41 is an electing small business corporation unless an agreement is filed as
42 provided in K.S.A. 79-32,139, and amendments thereto, in which event,
43 the "modified Kansas source income" of such nonresident individual shall

1 include such individual's share of such corporation's distributed and
2 undistributed taxable income or net operating loss as such share is
3 determined under the internal revenue code only to the extent, however,
4 that such income, gain or loss is at the corporate level, derived from
5 sources within Kansas.

6 Sec. 2. K.S.A. 2012 Supp. 79-32,118 is hereby amended to read as
7 follows: 79-32,118. ~~Commencing in tax year 2013,~~The Kansas deduction
8 of an individual shall be such individual's Kansas standard deduction
9 *unless such individual elects to deduct such individual's Kansas itemized*
10 *deductions under the conditions set forth in K.S.A. 79-32,120, and*
11 *amendments thereto.*

12 Sec. 3. K.S.A. 2012 Supp. 79-32,266 is hereby amended to read as
13 follows: 79-32,266. (a) For taxable years commencing after December 31,
14 2010, there shall be allowed as a credit against the tax liability of a
15 resident individual taxpayer an amount equal to 95% of the resident
16 individual's income tax liability under the provisions of the Kansas income
17 tax act for Kansas source income received from a qualified company that
18 is business income attributable to business activities conducted at the
19 business facility, office, department or other operation relocated to Kansas
20 when the taxpayer owns such qualified company and materially
21 participates in such business activities conducted at such relocated
22 business facility, office, department or other operation of such qualified
23 company which qualified for benefits under the provisions of subsection
24 (a)(1) of K.S.A. 74-50,212, and amendments thereto. A taxpayer shall be
25 treated as materially participating in such qualified company's business
26 activities conducted at such business facility, office, department or other
27 operation relocated to Kansas only if the taxpayer is involved in such
28 business activities of such qualified company on a basis which is regular,
29 continuous and substantial. A taxpayer may claim the credit authorized by
30 this section during any tax year in which the qualified company owned by
31 the taxpayer qualifies for benefits under provisions of K.S.A. 74-50,212,
32 and amendments thereto.

33 (b) Business income attributable to the business activities conducted
34 at the business facility, office, department or other operation relocated to
35 Kansas of a qualified company which qualified for benefits under the
36 provisions of subsection (a)(1) of K.S.A. 74-50,212, and amendments
37 thereto, shall be determined by multiplying the business income of the
38 company apportioned to this state by a fraction, the numerator of which is
39 the property factor plus the payroll factor plus the sales factor, and the
40 denominator of which is three. For purposes of this subsection, the
41 property factor is a fraction, the numerator of which is the average value of
42 the company's real and tangible personal property owned or rented and
43 used during the tax period at such relocated facility, office, department or

1 other relocated operation in Kansas, and the denominator of which is the
2 average value of the company's real and tangible personal property owned
3 or rented and used within this state during the tax period. The payroll
4 factor is a fraction, the numerator of which is the total amount paid during
5 the tax period by the company for compensation at such relocated facility,
6 office, department or other relocated operation in Kansas, and the
7 denominator of which is the total compensation paid by the company in
8 this state during the tax period. The sales factor is a fraction, the numerator
9 of which is the total sales of the relocated facility, office, department or
10 other relocated operation in this state during the tax period, and the
11 denominator of which is the total sales of the company in this state during
12 the tax period.

13 (c) This credit shall not be available to any taxpayer making a
14 modification under (b)(xix) or ~~(e)(xxi)~~ (c)(xx) of K.S.A. 79-32,117, and
15 amendments thereto.

16 (d) The secretary of revenue shall adopt rules and regulations
17 regarding the filing of documents that support the qualifications of the
18 taxpayer for the credit claimed pursuant to this section.

19 Sec. 4. K.S.A. 2012 Supp. 79-3620 is hereby amended to read as
20 follows: 79-3620. (a) All revenue collected or received by the director of
21 taxation from the taxes imposed by this act shall be remitted to the state
22 treasurer in accordance with the provisions of K.S.A. 75-4215, and
23 amendments thereto. Upon receipt of each such remittance, the state
24 treasurer shall deposit the entire amount in the state treasury, less amounts
25 withheld as provided in subsection (b) and amounts credited as provided in
26 subsection (c), (d) and (e), to the credit of the state general fund.

27 (b) A refund fund, designated as "sales tax refund fund" not to exceed
28 \$100,000 shall be set apart and maintained by the director from sales tax
29 collections and estimated tax collections and held by the state treasurer for
30 prompt payment of all sales tax refunds ~~including refunds authorized~~
31 ~~under the provisions of K.S.A. 79-3635, and amendments thereto.~~ Such
32 fund shall be in such amount, within the limit set by this section, as the
33 director shall determine is necessary to meet current refunding
34 requirements under this act. In the event such fund as established by this
35 section is, at any time, insufficient to provide for the payment of refunds
36 due claimants thereof, the director shall certify the amount of additional
37 funds required to the director of accounts and reports who shall promptly
38 transfer the required amount from the state general fund to the sales tax
39 refund fund, and notify the state treasurer, who shall make proper entry in
40 the records.

41 (c) (1) The state treasurer shall credit $\frac{5}{98}$ of the revenue collected or
42 received from the tax imposed by K.S.A. 79-3603, and amendments
43 thereto, at the rate of 4.9%, and deposited as provided in subsection (a),

1 exclusive of amounts credited pursuant to subsection (d), in the state
2 highway fund.

3 (2) The state treasurer shall credit $\frac{5}{106}$ of the revenue collected or
4 received from the tax imposed by K.S.A. 79-3603, and amendments
5 thereto, at the rate of 5.3%, and deposited as provided in subsection (a),
6 exclusive of amounts credited pursuant to subsection (d), in the state
7 highway fund.

8 (3) On July 1, 2006, the state treasurer shall credit $\frac{19}{265}$ of the revenue
9 collected and received from the tax imposed by K.S.A. 79-3603, and
10 amendments thereto, at the rate of 5.3%, and deposited as provided by
11 subsection (a), exclusive of amounts credited pursuant to subsection (d), in
12 the state highway fund.

13 (4) On July 1, 2007, the state treasurer shall credit $\frac{13}{106}$ of the revenue
14 collected and received from the tax imposed by K.S.A. 79-3603, and
15 amendments thereto, at the rate of 5.3%, and deposited as provided by
16 subsection (a), exclusive of amounts credited pursuant to subsection (d), in
17 the state highway fund.

18 (5) On July 1, 2010, the state treasurer shall credit 11.427% of the
19 revenue collected and received from the tax imposed by K.S.A. 79-3603,
20 and amendments thereto, at the rate of 6.3%, and deposited as provided by
21 subsection (a), exclusive of amounts credited pursuant to subsection (d), in
22 the state highway fund.

23 (6) On July 1, 2011, the state treasurer shall credit 11.26% of the
24 revenue collected and received from the tax imposed by K.S.A. 79-3603,
25 and amendments thereto, at the rate of 6.3%, and deposited as provided by
26 subsection (a), exclusive of amounts credited pursuant to subsection (d), in
27 the state highway fund.

28 (7) On July 1, 2012, the state treasurer shall credit 11.233% of the
29 revenue collected and received from the tax imposed by K.S.A. 79-3603,
30 and amendments thereto, at the rate of 6.3%, and deposited as provided by
31 subsection (a), exclusive of amounts credited pursuant to subsection (d), in
32 the state highway fund, as well as such revenue collected and received at
33 the rate of 6.3%, after June 30, 2013.

34 (8) On July 1, 2013, and thereafter, the state treasurer shall credit
35 18.421% of the revenue collected and received from the tax imposed by
36 K.S.A. 79-3603, and amendments thereto, at the rate of 5.7%, and
37 deposited as provided by subsection (a), exclusive of amounts credited
38 pursuant to subsection (d), in the state highway fund.

39 (d) The state treasurer shall credit all revenue collected or received
40 from the tax imposed by K.S.A. 79-3603, and amendments thereto, as
41 certified by the director, from taxpayers doing business within that portion
42 of a STAR bond project district occupied by a STAR bond project or
43 taxpayers doing business with such entity financed by a STAR bond

1 project as defined in K.S.A. 2012 Supp. 12-17,162, and amendments
2 thereto, that was determined by the secretary of commerce to be of
3 statewide as well as local importance or will create a major tourism area
4 for the state or the project was designated as a STAR bond project as
5 defined in K.S.A. 2012 Supp. 12-17,162, and amendments thereto, to the
6 city bond finance fund, which fund is hereby created. The provisions of
7 this subsection shall expire when the total of all amounts credited
8 hereunder and under subsection (d) of K.S.A. 79-3710, and amendments
9 thereto, is sufficient to retire the special obligation bonds issued for the
10 purpose of financing all or a portion of the costs of such STAR bond
11 project.

12 (e) All revenue certified by the director of taxation as having been
13 collected or received from the tax imposed by subsection (c) of K.S.A. 79-
14 3603, and amendments thereto, on the sale or furnishing of gas, water,
15 electricity and heat for use or consumption within the intermodal facility
16 district described in this subsection, shall be credited by the state treasurer
17 to the state highway fund. Such revenue may be transferred by the
18 secretary of transportation to the rail service improvement fund pursuant to
19 law. The provisions of this subsection shall take effect upon certification
20 by the secretary of transportation that a notice to proceed has been
21 received for the construction of the improvements within the intermodal
22 facility district, but not later than December 31, 2010, and shall expire
23 when the secretary of revenue determines that the total of all amounts
24 credited hereunder and pursuant to subsection (e) of K.S.A. 79-3710, and
25 amendments thereto, is equal to \$53,300,000, but not later than December
26 31, 2045. Thereafter, all revenues shall be collected and distributed in
27 accordance with applicable law. For all tax reporting periods during which
28 the provisions of this subsection are in effect, none of the exemptions
29 contained in K.S.A. 79-3601 et seq., and amendments thereto, shall apply
30 to the sale or furnishing of any gas, water, electricity and heat for use or
31 consumption within the intermodal facility district. As used in this
32 subsection, "intermodal facility district" shall consist of an intermodal
33 transportation area as defined by subsection (oo) of K.S.A. 12-1770a, and
34 amendments thereto, located in Johnson county within the polygonal-
35 shaped area having Waverly Road as the eastern boundary, 191st Street as
36 the southern boundary, Four Corners Road as the western boundary, and
37 Highway 56 as the northern boundary, and the polygonal-shaped area
38 having Poplar Road as the eastern boundary, 183rd Street as the southern
39 boundary, Waverly Road as the western boundary, and the BNSF mainline
40 track as the northern boundary, that includes capital investment in an
41 amount exceeding \$150 million for the construction of an intermodal
42 facility to handle the transfer, storage and distribution of freight through
43 railway and trucking operations.

1 Sec. 5. K.S.A. 2012 Supp. 79-4217 is hereby amended to read as
2 follows: 79-4217. (a) There is hereby imposed an excise tax upon the
3 severance and production of coal, oil or gas from the earth or water in this
4 state for sale, transport, storage, profit or commercial use, subject to the
5 following provisions of this section. Such tax shall be borne ratably by all
6 persons within the term "producer" as such term is defined in K.S.A. 79-
7 4216, and amendments thereto, in proportion to their respective beneficial
8 interest in the coal, oil or gas severed. Such tax shall be applied equally to
9 all portions of the gross value of each barrel of oil severed and subject to
10 such tax and to the gross value of the gas severed and subject to such tax.
11 The rate of such tax shall be 8% of the gross value of all oil or gas severed
12 from the earth or water in this state and subject to the tax imposed under
13 this act. The rate of such tax with respect to coal shall be \$1 per ton. For
14 the purposes of the tax imposed hereunder the amount of oil or gas
15 produced shall be measured or determined: (1) In the case of oil, by tank
16 tables compiled to show 100% of the full capacity of tanks without
17 deduction for overage or losses in handling; allowance for any reasonable
18 and bona fide deduction for basic sediment and water, and for correction of
19 temperature to 60 degrees Fahrenheit will be allowed; and if the amount of
20 oil severed has been measured or determined by tank tables compiled to
21 show less than 100% of the full capacity of tanks, such amount shall be
22 raised to a basis of 100% for the purpose of the tax imposed by this act;
23 and (2) in the case of gas, by meter readings showing 100% of the full
24 volume expressed in cubic feet at a standard base and flowing temperature
25 of 60 degrees Fahrenheit, and at the absolute pressure at which the gas is
26 sold and purchased; correction to be made for pressure according to
27 Boyle's law, and used for specific gravity according to the gravity at which
28 the gas is sold and purchased, or if not so specified, according to the test
29 made by the balance method.

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

32 (1) The severance and production of gas which is: (A) Injected into
33 the earth for the purpose of lifting oil, recycling or repressuring; (B) used
34 for fuel in connection with the operation and development for, or
35 production of, oil or gas in the lease or production unit where severed; (C)
36 lawfully vented or flared; (D) severed from a well having an average daily
37 production during a calendar month having a gross value of not more than
38 \$87 per day, which well has not been significantly curtailed by reason of
39 mechanical failure or other disruption of production; in the event that the
40 production of gas from more than one well is gauged by a common meter,
41 eligibility for exemption hereunder shall be determined by computing the
42 gross value of the average daily combined production from all such wells
43 and dividing the same by the number of wells gauged by such meter; (E)

1 inadvertently lost on the lease or production unit by reason of leaks,
2 blowouts or other accidental losses; (F) used or consumed for domestic or
3 agricultural purposes on the lease or production unit from which it is
4 severed; or (G) placed in underground storage for recovery at a later date
5 and which was either originally severed outside of the state of Kansas, or
6 as to which the tax levied pursuant to this act has been paid;

7 (2) the severance and production of oil which is: (A) From a lease or
8 production unit whose average daily production is five barrels or less per
9 producing well, which well or wells have not been significantly curtailed
10 by reason of mechanical failure or other disruption of production; (B) from
11 a lease or production unit, the producing well or wells upon which have a
12 completion depth of 2,000 feet or more, and whose average daily
13 production is six barrels or less per producing well or, if the price of oil as
14 determined pursuant to subsection (d) is \$16 or less, whose average daily
15 production is seven barrels or less per producing well, or, if the price of oil
16 as determined pursuant to subsection (d) is \$15 or less, whose average
17 daily production is eight barrels or less per producing well, or, if the price
18 of oil as determined pursuant to subsection (d) is \$14 or less, whose
19 average daily production is nine barrels or less per producing well, or, if
20 the price of oil as determined pursuant to subsection (d) is \$13 or less,
21 whose average daily production is 10 barrels or less per producing well,
22 which well or wells have not been significantly curtailed by reason of
23 mechanical failure or other disruption of production; (C) from a lease or
24 production unit, whose production results from a tertiary recovery process.
25 "Tertiary recovery process" means the process or processes described in
26 subparagraphs (1) through (9) of 10 C.F.R. § 212.78(c) as in effect on June
27 1, 1979; (D) from a lease or production unit, the producing well or wells
28 upon which have a completion depth of less than 2,000 feet and whose
29 average daily production resulting from a water flood process, is six
30 barrels or less per producing well, which well or wells have not been
31 significantly curtailed by reason of mechanical failure or other disruption
32 of production; (E) from a lease or production unit, the producing well or
33 wells upon which have a completion depth of 2,000 feet or more, and
34 whose average daily production resulting from a water flood process, is
35 seven barrels or less per producing well or, if the price of oil as determined
36 pursuant to subsection (d) is \$16 or less, whose average daily production is
37 eight barrels or less per producing well, or, if the price of oil as determined
38 pursuant to subsection (d) is \$15 or less, whose average daily production is
39 nine barrels or less per producing well, or, if the price of oil as determined
40 pursuant to subsection (d) is \$14 or less, whose average daily production is
41 10 barrels or less per producing well, which well or wells have not been
42 significantly curtailed by reason of mechanical failure or other disruption
43 of production; (F) test, frac or swab oil which is sold or exchanged for

1 value; or (G) inadvertently lost on the lease or production unit by reason of
2 leaks or other accidental means;

3 (3) (A) any taxpayer applying for an exemption pursuant to
4 subsection (b)(2)(A) and (B) shall make application biennially to the
5 director of taxation therefor. Exemptions granted pursuant to subsection
6 (b)(2)(A) and (B) shall be valid for a period of two years following the
7 date of certification thereof by the director of taxation; (B) any taxpayer
8 applying for an exemption pursuant to subsection (b)(2)(D) or (E) shall
9 make application biennially to the director of taxation therefor. Such
10 application shall be accompanied by proof of the approval of an
11 application for the utilization of a water flood process therefor by the
12 corporation commission pursuant to rules and regulations adopted under
13 the authority of K.S.A. 55-152, and amendments thereto, and proof that
14 the oil produced therefrom is kept in a separate tank battery and that
15 separate books and records are maintained therefor. Such exemption shall
16 be valid for a period of two years following the date of certification thereof
17 by the director of taxation; (C) any exemption granted pursuant to
18 subsections (b)(2)(A), (B), (D) or (E) with an odd lease number and an
19 exemption termination date between June 1, 2004, and May 31, 2005,
20 inclusive, shall be valid for a period of one year following the date of
21 certification; and (D) notwithstanding the provisions of paragraph (A) or
22 (B), any exemption in effect on the effective date of this act affected by the
23 amendments to subsection (b)(2) by this act shall be redetermined in
24 accordance with such amendments. Any such exemption, and any new
25 exemption established by such amendments and applied for after the
26 effective date of this *act* shall be valid for a period commencing with May
27 1, 1998, and ending on April 30, 1999;

28 (4) the severance and production of gas or oil from any pool from
29 which oil or gas was first produced on or after April 1, 1983, and prior to
30 July 1, 2012, as determined by the state corporation commission and
31 certified to the director of taxation, and continuing for a period of 24
32 months from the month in which oil or gas was first produced from such
33 pool as evidenced by an affidavit of completion of a well, filed with the
34 state corporation commission and certified to the director of taxation.
35 Exemptions granted for production from any well pursuant to this
36 paragraph shall be valid for a period of 24 months following the month in
37 which oil or gas was first produced from such pool. The term "pool"
38 means an underground accumulation of oil or gas in a single and separate
39 natural reservoir characterized by a single pressure system so that
40 production from one part of the pool affects the reservoir pressure
41 throughout its extent;

42 (5) the severance and production of oil from any *well within a* pool
43 from which oil was first produced on or after July 1, 2012, *as certified by*

1 *the state corporation commission to the director of taxation, and from*
2 *which the average daily severance and production of oil during the initial*
3 *six months of production from the date of first production from such pool*
4 *producing well, which well has not been significantly curtailed by reason*
5 *of mechanical failure or other disruption of production, does not exceed*
6 *50 barrels per day as certified by the state corporation commission and*
7 *certified to the director of taxation, and continuing for a period of 24*
8 *months from the month in which oil was first produced from such pool as*
9 *evidenced by an affidavit of completion of a well, filed with the state*
10 *corporation commission and certified to the director of taxation.*
11 *Exemptions granted for production from any well pursuant to this*
12 *subsection shall be valid for a period of 24 months following the month in*
13 *which oil was first produced from such pool. The term "pool" means an*
14 *underground accumulation of oil in a single and separate natural reservoir*
15 *characterized by a single pressure system so that production from one part*
16 *of the pool affects the reservoir pressure throughout its extent. For any*
17 *such well that has qualified for exemption, if the average daily severance*
18 *and production of oil from such well exceeds 50 barrels per day within any*
19 *qualifying one-month production period after the initial qualifying*
20 *production period, the exemption for such well shall be terminated as of*
21 *the commencement of such one-month production period;*

22 (6) the severance and production of oil or gas from a three-year
23 inactive well, as determined by the state corporation commission and
24 certified to the director of taxation, for a period of 10 years after the date
25 of receipt of such certification. As used in this paragraph, "three-year
26 inactive well" means any well that has not produced oil or gas in more
27 than one month in the three years prior to the date of application to the
28 state corporation commission for certification as a three-year inactive well.
29 An application for certification as a three-year inactive well shall be in
30 such form and contain such information as required by the state
31 corporation commission, and shall be made prior to July 1, 1996. The
32 commission may revoke a certification if information indicates that a
33 certified well was not a three-year inactive well or if other lease
34 production is credited to the certified well. Upon notice to the operator that
35 the certification for a well has been revoked, the exemption shall not be
36 applied to the production from that well from the date of revocation;

37 (7) (A) The incremental severance and production of oil or gas which
38 results from a production enhancement project begun on or after July 1,
39 1998, shall be exempt for a period of seven years from the start-up date of
40 such project. As used in this paragraph:

41 (1) "Incremental severance and production" means the amount of oil
42 or natural gas which is produced as the result of a production enhancement
43 project which is in excess of the base production of oil or natural gas, and

1 is determined by subtracting the base production from the total monthly
2 production after the production enhancement project is completed.

3 (2) "Base production" means the average monthly amount of
4 production for the twelve-month period immediately prior to the
5 production enhancement project beginning date, minus the monthly rate of
6 production decline for the well or project for each month beginning 180
7 days prior to the project beginning date. The monthly rate of production
8 decline shall be equal to the average extrapolated monthly decline rate for
9 the well or project for the twelve-month period immediately prior to the
10 production enhancement project beginning date, except that the monthly
11 rate of production decline shall be equal to zero in the case where the well
12 or project has experienced no monthly decline during the twelve-month
13 period immediately prior to the production enhancement project beginning
14 date. Such monthly rate of production decline shall be continued as the
15 decline that would have occurred except for the enhancement project. Any
16 well or project which may have produced during the twelve-month period
17 immediately prior to the production enhancement project beginning date
18 but is not capable of production on the project beginning date shall have a
19 base production equal to zero. The calculation of the base production
20 amount shall be evidenced by an affidavit and supporting documentation
21 filed by the applying taxpayer with the state corporation commission.

22 (3) "Workover" means any downhole operation in an existing oil or
23 gas well that is designed to sustain, restore or increase the production rate
24 or ultimate recovery of oil or gas, including, but not limited to, acidizing,
25 reperforation, fracture treatment, sand/paraffin/scale removal or other
26 wellbore cleanouts, casing repair, squeeze cementing, initial installation, or
27 enhancement of artificial lifts including plunger lifts, rods, pumps,
28 submersible pumps and coiled tubing velocity strings, downsizing existing
29 tubing to reduce well loading, downhole commingling, bacteria treatments,
30 polymer treatments, upgrading the size of pumping unit equipment, setting
31 bridge plugs to isolate water production zones, or any combination of the
32 aforementioned operations; "workover" shall not mean the routine
33 maintenance, routine repair, or like for-like replacement of downhole
34 equipment such as rods, pumps, tubing packers or other mechanical
35 device.

36 (4) "Production enhancement project" means performing or causing
37 to be performed the following:

- 38 (i) Workover;
39 (ii) recompletion to a different producing zone in the same well bore,
40 except recompletions in formations and zones subject to a state
41 corporation commission proration order;
42 (iii) secondary recovery projects;
43 (iv) addition of mechanical devices to dewater a gas or oil well;

- 1 (v) replacement or enhancement of surface equipment;
2 (vi) installation or enhancement of compression equipment, line
3 looping or other techniques or equipment which increases production from
4 a well or a group of wells in a project; *or*
5 (vii) new discoveries of oil or gas which are discovered as a result of
6 the use of new technology, including, but not limited to, three dimensional
7 seismic studies.

8 (B) The state corporation commission shall adopt rules and
9 regulations necessary to efficiently and properly administer the provisions
10 of this paragraph including rules and regulations for the qualification of
11 production enhancement projects, the procedures for determining the
12 monthly rate of production decline, criteria for determining the share of
13 incremental production attributable to each well when a production
14 enhancement project includes a group of wells, criteria for determining the
15 start-up date for any project for which an exemption is claimed, and
16 determining new qualifying technologies for the purposes of subsection (b)
17 (7)(A)(4)(vii).

18 (C) Any taxpayer applying for an exemption pursuant to this
19 paragraph shall make application to the director of taxation. Such
20 application shall be accompanied by a state corporation commission
21 certification that the production for which an exemption is sought results
22 from a qualified production enhancement project and certification of the
23 base production for the enhanced wells or group of wells, and the rate of
24 decline to be applied to that base production. The secretary of revenue
25 shall provide credit for any taxes paid between the project start-up date
26 and the certification of qualifications by the commission.

27 (D) The exemptions provided for in this paragraph shall not apply for
28 12 months beginning July 1 of the year subsequent to any calendar year
29 during which: (1) In the case of oil, the secretary of revenue determines
30 that the weighted average price of Kansas oil at the wellhead has exceeded
31 \$20.00 per barrel; or (2) in the case of natural gas the secretary of revenue
32 determines that the weighted average price of Kansas gas at the wellhead
33 has exceeded \$2.50 per Mcf.

34 (E) The provisions of this paragraph shall not affect any other
35 exemption allowable pursuant to this section; and

36 (7) for the calendar year 1988, and any year thereafter, the severance
37 or production of the first 350,000 tons of coal from any mine as certified
38 by the state geological survey.

39 (c) No exemption shall be granted pursuant to subsection (b)(3) or (4)
40 to any person who does not have a valid operator's license issued by the
41 state corporation commission, and no refund of tax shall be made to any
42 taxpayer attributable to any production in a period when such taxpayer did
43 not hold a valid operator's license issued by the state corporation

1 commission.

2 (d) On April 15, 1988, and on April 15 of each year thereafter, the
3 secretary of revenue shall determine from statistics compiled and provided
4 by the United States department of energy, the average price per barrel
5 paid by the first purchaser of crude oil in this state for the six-month
6 period ending on December 31 of the preceding year. Such price shall be
7 used for the purpose of determining exemptions allowed by subsection (b)
8 (2)(B) or (E) for the twelve-month period commencing on May 1 of such
9 year and ending on April 30 of the next succeeding year.

10 Sec. 6. K.S.A. 79-32,109 and 79-3632 and K.S.A. 2012 Supp. 79-
11 32,117n, 79-32,118, 79-32,266, 79-3620, 79-3639a and 79-4217 are
12 hereby repealed.

13 Sec. 7. This act shall take effect and be in force from and after its
14 publication in the Kansas register.