

As Amended by House Committee

Session of 2006

HOUSE BILL No. 2902

By Committee on Utilities

2-14

10 AN ACT concerning certain nitrogen fertilizer plants; providing certain
11 income tax credits, income tax deductions and property tax exemptions
12 relating thereto; providing for issuance of bonds and other financing
13 for certain purposes; amending K.S.A. 79-32,120 and 79-32,138 and
14 K.S.A. 2005 Supp. 79-32,117 and repealing the existing sections.
15

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

17 New Section 1. As used in sections 1 through 5, and amendments
18 thereto:

19 (a) "Integrated coal or coke gasification nitrogen fertilizer plant"
20 means a facility which: (1) Is located in Kansas, (2) converts coal or pe-
21 troleum coke into synthesis gas and (3) uses the synthesis gas to produce
22 nitrogen fertilizer.

23 (b) "Kansas coal" means coal from a mine whose coal deposits are
24 located in the ground wholly or partially in Kansas regardless of the lo-
25 cation of the mine's tittle.

26 (c) "Pass-through entity" means any: (1) Corporation which is exempt
27 from income tax under section 1363 of the ~~Internal Revenue Code~~ **fede-**
28 **eral internal revenue code** and which complies with the requirements
29 of K.S.A. 79-32,100e, and amendments thereto; (2) limited liability com-
30 pany; (3) partnership; or (4) limited liability partnership.

31 (d) "Qualified investment" means expenditures made in construction
32 of a new integrated coal or coke gasification nitrogen fertilizer plant, or
33 in expansion of the capacity of an existing integrated coal or coke gasifi-
34 cation nitrogen fertilizer plant by at least ~~10%~~ **20%** of such capacity, ~~for~~
35 ~~(1) Real for real~~ and tangible personal property incorporated in and used
36 as part of such plant and ~~(2) other real and personal property which are~~
37 ~~located at the site of such plant and which are employed specifically to~~
38 ~~serve such plant.~~

39 New Sec. 2. (a) For taxable years commencing after December 31,
40 2005, any taxpayer who is awarded a tax credit under this act by the
41 secretary of commerce and complies with the conditions set forth in this
42 act and the agreement entered into by the secretary and the taxpayer
43 under this act shall be allowed a credit against the taxpayer's tax liability

1 under the Kansas income tax act as provided in subsection ~~(e)~~ **(b)**. **Ex-**
2 **penditures used to qualify for this credit shall not be used to qual-**
3 **ify for any other type of Kansas income tax credit.**

4 ~~(b) Subject to the provisions of subsection (e), the~~ **The** amount of of
5 the credit to which a taxpayer is entitled shall be equal to the sum of: (1)
6 An amount equal to 10% of the taxpayer's qualified investment for the
7 first \$500,000,000 invested and (2) an amount equal to 5% of the amount
8 of the taxpayer's qualified investment that exceeds \$500,000,000. **Such**
9 **credit shall be taken in 10 equal, annual installments, beginning**
10 **with the year in which the taxpayer places into service the inte-**
11 **grated coal or coke gasification nitrogen fertilizer plant or the ex-**
12 **pansion of an existing integrated coal or coke nitrogen fertilizer**
13 **plant.**

14 ~~(c) Except as provided by subsection (d), a credit pursuant to this act~~
15 ~~shall be taken in 10 annual installments, beginning with the year in which~~
16 ~~the taxpayer places into service the integrated coal or coke gasification~~
17 ~~nitrogen fertilizer plant or the expansion of an existing integrated coal or~~
18 ~~coke nitrogen fertilizer plant. Subject to the provisions of section 3, and~~
19 ~~amendments thereto:~~

20 ~~—(1) The amount of an annual installment of the credit awarded under~~
21 ~~this act to an integrated coal or coke gasification nitrogen fertilizer plant~~
22 ~~which uses a coke gasification process shall be 25% of the lesser of: (A)~~
23 ~~The credit amount determined under subsection (b), divided by 10; or~~
24 ~~(B) the taxpayer's total tax liability under the Kansas income tax act for~~
25 ~~the taxable year.~~

26 ~~—(2) The amount of an annual installment of the credit awarded under~~
27 ~~this act to an integrated coal or coke gasification nitrogen fertilizer plant~~
28 ~~which uses a coal gasification process shall be equal to:~~

29 ~~—(A) Twenty-five percent of the lesser of: (i) The credit amount deter-~~
30 ~~mined under subsection (b), divided by 10; or (ii) the taxpayer's total~~
31 ~~tax liability under the Kansas income tax act for the taxable year; minus~~

32 ~~—(B) the amount determined by multiplying (i) the amount deter-~~
33 ~~mined pursuant to subsection (c)(2)(A) and (ii) the percentage deter-~~
34 ~~mined by subtracting the percentage of Kansas coal used in the taxpayer's~~
35 ~~integrated coal or coke gasification nitrogen fertilizer plant in the taxable~~
36 ~~year for which the annual installment of the credit is allowed from the~~
37 ~~percentage of Kansas coal determined by the secretary of commerce to~~
38 ~~be practicable in such year.~~

39 ~~—(d) If the amount of an annual installment of a tax credit allowed~~
40 ~~under this section exceeds the taxpayer's income tax liability for the tax-~~
41 ~~able year in which the annual installment is allowed, the amount thereof~~
42 ~~which exceeds such tax liability may be carried over for deduction from~~
43 ~~the taxpayer's income tax liability in the next succeeding taxable year or~~

1 years until the total amount of the annual installment of the tax credit has
 2 been deducted from tax liability, except that: ~~(1) No~~ **no** such tax credit
 3 shall be carried over for deduction after the 14th taxable year succeeding
 4 the taxable year in which the first annual installment is allowed, ~~and (2)~~
 5 ~~in no taxable year shall such tax credit exceed 50% of the taxpayer's in-~~
 6 ~~come tax liability for the taxable year.~~

7 (e) (1) ~~(d) (1)~~ Before making a qualified investment, a taxpayer ~~may~~
 8 **shall** apply to the secretary of commerce to enter into an agreement for
 9 a tax credit under this act. The secretary shall prescribe the form of the
 10 application. After receipt of such application, the secretary may enter into
 11 an agreement with the applicant for a credit under this act if the secretary
 12 determines that the taxpayer's proposed investment satisfies the require-
 13 ments of this act. The secretary shall enter into an agreement with an
 14 applicant which is awarded a credit under this act. The agreement shall
 15 include: (A) A detailed description of the nitrogen fertilizer plant project
 16 that is the subject of the agreement, (B) the first taxable year for which
 17 the credit may be claimed, (C) the maximum amount of tax credit that
 18 will be allowed for each taxable year, (D) a requirement that the taxpayer
 19 shall maintain operations at the project location for at least 10 years during
 20 the term that the tax credit is available and (E) if the taxpayer's nitrogen
 21 fertilizer plant uses a coal gasification process, a requirement that the
 22 taxpayer shall use at the taxpayer's integrated coal gasification ~~power ni-~~
 23 **trogen fertilizer** plant in any taxable year for which an annual install-
 24 ment of the credit is allowed that percentage of Kansas coal which the
 25 secretary determines practicable, based on availability and cost of Kansas
 26 coal, in such year.

27 (2) A taxpayer must comply with the terms of the agreement de-
 28 scribed in subsection ~~(e) (1)~~ **(d)(1)** to receive an annual installment of the
 29 tax credit awarded under this act. The secretary of commerce, in accord-
 30 ance with rules and regulations of the secretary, shall annually determine
 31 whether the taxpayer is in compliance with the agreement. **Such deter-**
 32 **mination of compliance shall include, but not be limited to, oper-**
 33 **ation of the integrated coal or coke gasification nitrogen fertilizer**
 34 **plant during the tax years when any installments of tax credits are**
 35 **claimed by the taxpayer.** If the secretary determines that the taxpayer
 36 is in compliance, the secretary shall issue a certificate of compliance to
 37 the taxpayer. **If the secretary determines that the taxpayer is not in**
 38 **compliance with the agreement, the secretary shall notify the tax-**
 39 **payer and the secretary of revenue of such determination of non-**
 40 **compliance, and any tax credits claimed pursuant to this section**
 41 **for any tax year shall be forfeited.**

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

1 New Sec. 3. (a) If a qualified investment is made by **or transferred**
 2 **to** a pass-through entity and the credit allowed by this act for a taxable
 3 year is greater than the entity's tax liability against which the tax credit
 4 may be applied, a shareholder, partner or member of the entity is entitled
 5 to a tax credit equal to: ~~(1) The~~ **the** tax credit determined for the entity
 6 for the taxable year in excess of the entity's tax liability under the Kansas
 7 income tax act for the taxable year multiplied by the percentage of the
 8 entity's distributive income to which the shareholder, partner or member
 9 is entitled ~~if the entity is an entity described in subsection (c)(1), (2), (3)~~
 10 ~~or (4) of section 1, and amendments thereto, or (2) the relative percentage~~
 11 ~~of the entity's patronage dividends allocable to the member for the taxable~~
 12 ~~year if the entity is an entity described in subsection (c)(5) or (6) of section~~
 13 ~~1, and amendments thereto.~~

14 (b) If an integrated coal or coke gasification nitrogen fertilizer plant
 15 is co-owned by two or more taxpayers, the amount of the credit that may
 16 be allowed to a co-owner in a taxable year is equal to the tax credit de-
 17 termined under section 2, and amendments thereto, with respect to the
 18 total qualified investment in such plant multiplied by the co-owner's per-
 19 centage of ownership in such plant.

20 (c) ~~Except as provided by subsection (d):~~

21 ~~—(1) For a coal or coke gasification nitrogen fertilizer plant which uses~~
 22 ~~a coke gasification process, the amount of an annual installment of the~~
 23 ~~credit allowed to the shareholder, partner or member of a pass-through~~
 24 ~~entity or a co-owner under this section shall be an amount equal to 25%~~
 25 ~~of the lesser of: (A) That portion of the credit allowed to the shareholder,~~
 26 ~~partner, member or co-owner under this section, divided by 10, or (B)~~
 27 ~~the total tax liability of the shareholder, partner, member or co-owner~~
 28 ~~under the Kansas income tax act for the taxable year.~~

29 ~~—(2) For a coal or coke gasification nitrogen fertilizer plant which uses~~
 30 ~~a coal gasification process, the amount of an annual installment of the~~
 31 ~~credit allowed to the shareholder, partner or member of a pass-through~~
 32 ~~entity or a co-owner under this section shall be an amount equal to:~~

33 ~~—(A) Twenty-five percent of the lesser of: (i) That portion of the credit~~
 34 ~~allowed to the shareholder, partner, member or co-owner under this sec-~~
 35 ~~tion, divided by 10, or (ii) the total tax liability of the shareholder, partner,~~
 36 ~~member or co-owner under the Kansas income tax act for the taxable~~
 37 ~~year, minus~~

38 ~~—(B) the amount determined by multiplying: (i) The amount deter-~~
 39 ~~mined pursuant to subsection (c)(2)(A), and (ii) the percentage deter-~~
 40 ~~mined by subtracting the percentage of Kansas coal used in the taxpayer's~~
 41 ~~integrated coal or coke gasification nitrogen fertilizer plant in the taxable~~
 42 ~~year for which the annual installment of the credit is allowed from the~~
 43 ~~percentage of Kansas coal determined by the secretary of commerce to~~

1 ~~be practicable in such year.~~ **Such credit shall be taken in 10 equal,**
 2 **annual installments, beginning with the year in which the entity**
 3 **places into service the coal or coke gasification nitrogen fertilizer**
 4 **plant or the expansion of the coal or coke gasification nitrogen**
 5 **fertilizer plant.**

6 (d) If the amount of an annual installment of a tax credit allowed a
 7 shareholder, partner, member or co-owner under this section exceeds the
 8 taxpayer's income tax liability for the taxable year in which the annual
 9 installment is allowed, the amount thereof which exceeds such tax liability
 10 may be carried over for deduction from the taxpayer's income tax liability
 11 in the next succeeding taxable year or years until the total amount of the
 12 tax credit has been deducted from tax liability, except that: ~~(1) No no~~
 13 ~~such tax credit shall be carried over for deduction after the 14th taxable~~
 14 ~~year succeeding the taxable year in which the first annual installment is~~
 15 ~~allowed; and (2) in no taxable year shall such tax credit exceed 50% of~~
 16 ~~the taxpayer's income tax liability for the taxable year.~~

17 New Sec. 4. To receive the credit awarded by this act, a taxpayer
 18 must claim the credit on the taxpayer's annual state income tax return or
 19 returns in the manner prescribed by the director of taxation. The taxpayer
 20 shall submit to the director a copy of the taxpayer's ~~certificate of com-~~
 21 ~~pliance issued under subsection (d)(2) of~~ **agreement for a tax credit**
 22 **entered into with the secretary of commerce pursuant to** section 2,
 23 and amendments thereto, and all information that the director deter-
 24 mines necessary for the calculation of the credit provided by this act.

25 New Sec. 5. (a) In addition to the income tax credit allowable pur-
 26 suant to sections 1 through 4, and amendments thereto, a taxpayer shall
 27 be entitled to a deduction from Kansas adjusted gross income with respect
 28 to the amortization of the amortizable costs of a new integrated coal or
 29 coke gasification nitrogen fertilizer plant or an expansion of an existing
 30 integrated coal or coke gasification nitrogen fertilizer plant based upon a
 31 period of 10 years. Such amortization deduction shall be an amount equal
 32 to 55% of the amortizable costs of such new plant or expansion of a plant
 33 for the first taxable year in which such plant or expansion of a plant is in
 34 production and 5% of the amortizable costs of such new plant or expan-
 35 sion of a plant for each of the next nine taxable years.

36 (b) The election of the taxpayer to claim the deduction allowed by
 37 subsection (a) shall be made by filing a statement of such election with
 38 the secretary of revenue in the manner and form and within the time
 39 prescribed by rules and regulations adopted by the secretary.

40 (c) The provisions of this section shall apply to all taxable years com-
 41 mencing after December 31, 2005.

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

1 (e) As used in this section:

2 (1) “Expansion of an integrated coal or coke gasification nitrogen fer-
3 tilizer plant” means expansion, ~~construction of~~ which begins after De-
4 cember 31, 2005, of the capacity of an existing integrated coal or coke
5 gasification nitrogen fertilizer plant by at least ~~10%~~ **20%** of such capacity.

6 (2) “Integrated coal or coke gasification nitrogen fertilizer plant” has
7 the meaning provided by section 1, and amendments thereto.

8 (3) “New integrated coal or coke gasification nitrogen fertilizer plant”
9 means an integrated coal or coke gasification nitrogen fertilizer plant,
10 construction of which begins after December 31, 2005.

11 Sec. 6. K.S.A. 2005 Supp. 79-32,117 is hereby amended to read as
12 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual
13 means such individual’s federal adjusted gross income for the taxable year,
14 with the modifications specified in this section.

15 (b) There shall be added to federal adjusted gross income:

16 (i) Interest income less any related expenses directly incurred in the
17 purchase of state or political subdivision obligations, to the extent that
18 the same is not included in federal adjusted gross income, on obligations
19 of any state or political subdivision thereof, but to the extent that interest
20 income on obligations of this state or a political subdivision thereof issued
21 prior to January 1, 1988, is specifically exempt from income tax under the
22 laws of this state authorizing the issuance of such obligations, it shall be
23 excluded from computation of Kansas adjusted gross income whether or
24 not included in federal adjusted gross income. Interest income on obli-
25 gations of this state or a political subdivision thereof issued after Decem-
26 ber 31, 1987, shall be excluded from computation of Kansas adjusted
27 gross income whether or not included in federal adjusted gross income.

28 (ii) Taxes on or measured by income or fees or payments in lieu of
29 income taxes imposed by this state or any other taxing jurisdiction to the
30 extent deductible in determining federal adjusted gross income and not
31 credited against federal income tax. This paragraph shall not apply to taxes
32 imposed under the provisions of K.S.A. 79-1107 or 79-1108, and amend-
33 ments thereto, for privilege tax year 1995, and all such years thereafter.

34 (iii) The federal net operating loss deduction.

35 (iv) Federal income tax refunds received by the taxpayer if the de-
36 duction of the taxes being refunded resulted in a tax benefit for Kansas
37 income tax purposes during a prior taxable year. Such refunds shall be
38 included in income in the year actually received regardless of the method
39 of accounting used by the taxpayer. For purposes hereof, a tax benefit
40 shall be deemed to have resulted if the amount of the tax had been de-
41 ducted in determining income subject to a Kansas income tax for a prior
42 year regardless of the rate of taxation applied in such prior year to the
43 Kansas taxable income, but only that portion of the refund shall be in-

- 1 cluded as bears the same proportion to the total refund received as the
2 federal taxes deducted in the year to which such refund is attributable
3 bears to the total federal income taxes paid for such year. For purposes
4 of the foregoing sentence, federal taxes shall be considered to have been
5 deducted only to the extent such deduction does not reduce Kansas tax-
6 able income below zero.
- 7 (v) The amount of any depreciation deduction or business expense
8 deduction claimed on the taxpayer's federal income tax return for any
9 capital expenditure in making any building or facility accessible to the
10 handicapped, for which expenditure the taxpayer claimed the credit al-
11 lowed by K.S.A. 79-32,177, and amendments thereto.
- 12 (vi) Any amount of designated employee contributions picked up by
13 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,
14 and amendments to such sections.
- 15 (vii) The amount of any charitable contribution made to the extent
16 the same is claimed as the basis for the credit allowed pursuant to K.S.A.
17 79-32,196, and amendments thereto.
- 18 (viii) The amount of any costs incurred for improvements to a swine
19 facility, claimed for deduction in determining federal adjusted gross in-
20 come, to the extent the same is claimed as the basis for any credit allowed
21 pursuant to K.S.A. 2005 Supp. 79-32,204 and amendments thereto.
- 22 (ix) The amount of any ad valorem taxes and assessments paid and
23 the amount of any costs incurred for habitat management or construction
24 and maintenance of improvements on real property, claimed for deduc-
25 tion in determining federal adjusted gross income, to the extent the same
26 is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203
27 and amendments thereto.
- 28 (x) Amounts received as nonqualified withdrawals, as defined by
29 K.S.A. 2005 Supp. 75-643, and amendments thereto, if, at the time of
30 contribution to a family postsecondary education savings account, such
31 amounts were subtracted from the federal adjusted gross income pur-
32 suant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and
33 amendments thereto, or if such amounts are not already included in the
34 federal adjusted gross income.
- 35 (xi) The amount of any contribution made to the same extent the
36 same is claimed as the basis for the credit allowed pursuant to K.S.A.
37 2005 Supp. 74-50,154, and amendments thereto.
- 38 (xii) For taxable years commencing after December 31, 2004,
39 amounts received as withdrawals not in accordance with the provisions
40 of K.S.A. 2005 Supp. 74-50,204, and amendments thereto, if, at the time
41 of contribution to an individual development account, such amounts were
42 subtracted from the federal adjusted gross income pursuant to paragraph
43 (xiii) of subsection (c), or if such amounts are not already included in the

1 federal adjusted gross income.

2 (xiii) *The amount of any ~~deductions claimed for~~ expenditures claimed*
3 *for deduction in determining federal adjusted gross income, to the extent*
4 *the same is claimed as the basis for any credit allowed pursuant to sections*
5 *1 through 4, and amendments thereto.*

6 (xiv) *The amount of any amortization deduction claimed in determin-*
7 *ing federal adjusted gross income to the extent the same is claimed for*
8 *deduction pursuant to section 5, and amendments thereto.*

9 (c) There shall be subtracted from federal adjusted gross income:

10 (i) Interest or dividend income on obligations or securities of any
11 authority, commission or instrumentality of the United States and its pos-
12 sessions less any related expenses directly incurred in the purchase of
13 such obligations or securities, to the extent included in federal adjusted
14 gross income but exempt from state income taxes under the laws of the
15 United States.

16 (ii) Any amounts received which are included in federal adjusted
17 gross income but which are specifically exempt from Kansas income tax-
18 ation under the laws of the state of Kansas.

19 (iii) The portion of any gain or loss from the sale or other disposition
20 of property having a higher adjusted basis for Kansas income tax purposes
21 than for federal income tax purposes on the date such property was sold
22 or disposed of in a transaction in which gain or loss was recognized for
23 purposes of federal income tax that does not exceed such difference in
24 basis, but if a gain is considered a long-term capital gain for federal in-
25 come tax purposes, the modification shall be limited to that portion of
26 such gain which is included in federal adjusted gross income.

27 (iv) The amount necessary to prevent the taxation under this act of
28 any annuity or other amount of income or gain which was properly in-
29 cluded in income or gain and was taxed under the laws of this state for a
30 taxable year prior to the effective date of this act, as amended, to the
31 taxpayer, or to a decedent by reason of whose death the taxpayer acquired
32 the right to receive the income or gain, or to a trust or estate from which
33 the taxpayer received the income or gain.

34 (v) The amount of any refund or credit for overpayment of taxes on
35 or measured by income or fees or payments in lieu of income taxes im-
36 posed by this state, or any taxing jurisdiction, to the extent included in
37 gross income for federal income tax purposes.

38 (vi) Accumulation distributions received by a taxpayer as a beneficiary
39 of a trust to the extent that the same are included in federal adjusted
40 gross income.

41 (vii) Amounts received as annuities under the federal civil service
42 retirement system from the civil service retirement and disability fund
43 and other amounts received as retirement benefits in whatever form

- 1 which were earned for being employed by the federal government or for
2 service in the armed forces of the United States.
- 3 (viii) Amounts received by retired railroad employees as a supple-
4 mental annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1)
5 et seq.
- 6 (ix) Amounts received by retired employees of a city and by retired
7 employees of any board of such city as retirement allowances pursuant to
8 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter
9 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and
10 amendments thereto.
- 11 (x) For taxable years beginning after December 31, 1976, the amount
12 of the federal tentative jobs tax credit disallowance under the provisions
13 of 26 U.S.C. 280 C. For taxable years ending after December 31, 1978,
14 the amount of the targeted jobs tax credit and work incentive credit dis-
15 allowances under 26 U.S.C. 280 C.
- 16 (xi) For taxable years beginning after December 31, 1986, dividend
17 income on stock issued by Kansas Venture Capital, Inc.
- 18 (xii) For taxable years beginning after December 31, 1989, amounts
19 received by retired employees of a board of public utilities as pension and
20 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249
21 and amendments thereto.
- 22 (xiii) For taxable years beginning after December 31, 2004, amounts
23 contributed to and the amount of income earned on contributions de-
24 posited to an individual development account under K.S.A. 2005 Supp.
25 74-50,201, et seq., and amendments thereto.
- 26 (xiv) For all taxable years commencing after December 31, 1996, that
27 portion of any income of a bank organized under the laws of this state or
28 any other state, a national banking association organized under the laws
29 of the United States, an association organized under the savings and loan
30 code of this state or any other state, or a federal savings association or-
31 ganized under the laws of the United States, for which an election as an
32 S corporation under subchapter S of the federal internal revenue code is
33 in effect, which accrues to the taxpayer who is a stockholder of such
34 corporation and which is not distributed to the stockholders as dividends
35 of the corporation.
- 36 (xv) For all taxable years beginning after December 31, 1999,
37 amounts not exceeding \$2,000, or \$4,000 for a married couple filing a
38 joint return, for each designated beneficiary which are contributed to a
39 family postsecondary education savings account established under the
40 Kansas postsecondary education savings program for the purpose of pay-
41 ing the qualified higher education expenses of a designated beneficiary
42 at an institution of postsecondary education. For all taxable years begin-
43 ning after December 31, 2004, amounts not exceeding \$3,000, or \$6,000

1 for a married couple filing a joint return, for each designated beneficiary
2 which are contributed to a family postsecondary education savings ac-
3 count established under the Kansas postsecondary education savings pro-
4 gram for the purpose of paying the qualified higher education expenses
5 of a designated beneficiary at an institution of postsecondary education.
6 The terms and phrases used in this paragraph shall have the meaning
7 respectively ascribed thereto by the provisions of K.S.A. 2005 Supp. 75-
8 643, and amendments thereto, and the provisions of such section are
9 hereby incorporated by reference for all purposes thereof.

10 (xvi) For the tax year beginning after December 31, 2004, an amount
11 not exceeding \$500; for the tax year beginning after December 31, 2005,
12 an amount not exceeding \$600; for the tax year beginning after December
13 31, 2006, an amount not exceeding \$700; for the tax year beginning after
14 December 31, 2007, an amount not exceeding \$800; for the tax year
15 beginning December 31, 2008, an amount not exceeding \$900; and for
16 all taxable years commencing after December 31, 2009, an amount not
17 exceeding \$1,000 of the premium costs for qualified long-term care in-
18 surance contracts, as defined by subsection (b) of section 7702B of public
19 law 104-191.

20 (xvii) For all taxable years beginning after December 31, 2004,
21 amounts received by taxpayers who are or were members of the armed
22 forces of the United States, including service in the Kansas army and air
23 national guard, as a recruitment, sign up or retention bonus received by
24 such taxpayer as an incentive to join, enlist or remain in the armed services
25 of the United States, including service in the Kansas army and air national
26 guard, and amounts received for repayment of educational or student
27 loans incurred by or obligated to such taxpayer and received by such
28 taxpayer as a result of such taxpayer's service in the armed forces of the
29 United States, including service in the Kansas army and air national guard.

30 (xviii) For all taxable years beginning after December 31, 2004,
31 amounts received by taxpayers who are eligible members of the Kansas
32 army and air national guard as a reimbursement pursuant to K.S.A. 48-
33 281, and amendments thereto, and amounts received for death benefits
34 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to sec-
35 tion 1 or section 2 of chapter 207 of the 2005 session laws of Kansas, and
36 amendments thereto, to the extent that such death benefits are included
37 in federal adjusted gross income of the taxpayer.

38 (d) There shall be added to or subtracted from federal adjusted gross
39 income the taxpayer's share, as beneficiary of an estate or trust, of the
40 Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and
41 amendments thereto.

42 (e) The amount of modifications required to be made under this sec-
43 tion by a partner which relates to items of income, gain, loss, deduction

1 or credit of a partnership shall be determined under K.S.A. 79-32,131,
 2 and amendments thereto, to the extent that such items affect federal
 3 adjusted gross income of the partner.

4 Sec. 7. K.S.A. 79-32,120 is hereby amended to read as follows: 79-
 5 32,120. (a) If federal taxable income of an individual is determined by
 6 itemizing deductions from such individual's federal adjusted gross in-
 7 come, such individual may elect to deduct the Kansas itemized deduction
 8 in lieu of the Kansas standard deduction. The Kansas itemized deduction
 9 of an individual means the total amount of deductions from federal ad-
 10 justed gross income, other than federal deductions for personal exemp-
 11 tions, as provided in the federal internal revenue code with the modifi-
 12 cations specified in this section.

13 (b) The total amount of deductions from federal adjusted gross in-
 14 come shall be reduced by the total amount of income taxes imposed by
 15 or paid to this state or any other taxing jurisdiction to the extent that the
 16 same are deducted in determining the federal itemized deductions and
 17 by the amount of all depreciation deductions claimed for any real or
 18 tangible personal property upon which the deduction allowed by ~~K.S.A.~~
 19 ~~79-32,168~~ section 5, and amendments thereto, is or has been claimed.

20 Sec. 8. K.S.A. 79-32,138 is hereby amended to read as follows: 79-
 21 32,138. (a) Kansas taxable income of a corporation taxable under this act
 22 shall be the corporation's federal taxable income for the taxable year with
 23 the modifications specified in this section.

24 (b) There shall be added to federal taxable income: (i) The same
 25 modifications as are set forth in subsection (b) of K.S.A. 79-32,117, and
 26 amendments thereto, with respect to resident individuals.

27 ~~(ii) The amount of all depreciation deductions claimed for any real~~
 28 ~~or tangible personal property upon which the deduction is allowed by~~
 29 ~~K.S.A. 79-32,161, and amendments thereto.~~

30 ~~—(iii) (ii)~~ (ii) The amount of all depreciation deductions claimed for any
 31 property upon which the deduction allowed by ~~K.S.A. 79-32,168~~ section
 32 5, and amendments thereto, is claimed.

33 ~~(iv) (iii)~~ (iii) The amount of any charitable contribution deduction claimed
 34 for any contribution or gift to or for the use of any racially segregated
 35 educational institution.

36 (c) There shall be subtracted from federal taxable income: (i) The
 37 same modifications as are set forth in subsection (c) of K.S.A. 79-32,117,
 38 and amendments thereto, with respect to resident individuals.

39 (ii) The federal income tax liability for any taxable year commencing
 40 prior to December 31, 1971, for which a Kansas return was filed after
 41 reduction for all credits thereon, except credits for payments on estimates
 42 of federal income tax, credits for gasoline and lubricating oil tax, and for
 43 foreign tax credits if, on the Kansas income tax return for such prior year,

1 the federal income tax deduction was computed on the basis of the federal
2 income tax paid in such prior year, rather than as accrued. Notwithstand-
3 ing the foregoing, the deduction for federal income tax liability for any
4 year shall not exceed that portion of the total federal income tax liability
5 for such year which bears the same ratio to the total federal income tax
6 liability for such year as the Kansas taxable income, as computed before
7 any deductions for federal income taxes and after application of subsec-
8 tions (d) and (e) of this section as existing for such year, bears to the
9 federal taxable income for the same year.

10 ~~(iii) An amount for amortization of the amortizable costs of a certified~~
11 ~~oil production process as computed under K.S.A. 79-32,161, and amend-~~
12 ~~ments thereto.~~

13 ~~(iv) (iii) An amount for the amortization deduction for a solar energy~~
14 ~~system allowed pursuant to K.S.A. 79-32,168 section 5, and amendments~~
15 ~~thereto.~~

16 ~~(v) (iv) For all taxable years commencing after December 31, 1987,~~
17 ~~the amount included in federal taxable income pursuant to the provisions~~
18 ~~of section 78 of the internal revenue code.~~

19 ~~(vi) (v) For all taxable years commencing after December 31, 1987,~~
20 ~~80% of dividends from corporations incorporated outside of the United~~
21 ~~States or the District of Columbia which are included in federal taxable~~
22 ~~income.~~

23 (d) If any corporation derives all of its income from sources within
24 Kansas in any taxable year commencing after December 31, 1979, its
25 Kansas taxable income shall be the sum resulting after application of
26 subsections (a) through (c) hereof. Otherwise, such corporation's Kansas
27 taxable income in any such taxable year, after excluding any refunds of
28 federal income tax and before the deduction of federal income taxes pro-
29 vided by subsection (c)(ii) shall be allocated as provided in K.S.A. 79-3271
30 to K.S.A. 79-3293, inclusive, and amendments thereto, plus any refund
31 of federal income tax as determined under paragraph (iv) of subsection
32 (b) of K.S.A. 79-32,117, and amendments thereto, and minus the deduc-
33 tion for federal income taxes as provided by subsection (c)(ii) shall be
34 such corporation's Kansas taxable income.

35 (e) A corporation may make an election with respect to its first taxable
36 year commencing after December 31, 1982, whereby no addition modi-
37 fications as provided for in subsection (b)(ii) of K.S.A. 79-32,138 and
38 subtraction modifications as provided for in subsection (c)(iii) of K.S.A.
39 79-32,138, as those subsections existed prior to their amendment by this
40 act, shall be required to be made for such taxable year.

41 New Sec. 9. (a) The following described property, to the extent
42 herein specified, shall be exempt from all property taxes levied under the
43 laws of the state of Kansas: Any new integrated coal or coke gasification

1 nitrogen fertilizer plant property or any expanded integrated coal or coke
2 gasification nitrogen fertilizer plant property.

3 (b) The provisions of subsection (a) shall apply from and after pur-
4 chase or commencement of construction or installation of such property
5 and for the 10 taxable years immediately following the taxable year in
6 which construction or installation of such property is completed.

7 (c) The provisions of this section shall apply to all taxable years com-
8 mencing after December 31, 2005.

9 (d) As used in this section:

10 (1) “Expanded integrated coal or coke gasification nitrogen fertilizer
11 plant property” means any real or tangible personal property purchased,
12 constructed or installed for incorporation in and use as part of an expan-
13 sion of an integrated coal or coke gasification nitrogen fertilizer plant,
14 construction of which expansion begins after December 31, 2005, ~~and~~
15 ~~any other real and personal property which are located at the site of such~~
16 ~~plant and are employed specifically to serve such expansion.~~

17 (2) “Expansion of an integrated coal or coke gasification nitrogen ferti-
18 lizer plant” means expansion of the capacity of an existing integrated
19 coal or coke gasification nitrogen fertilizer plant by at least ~~10%~~ **20%** of
20 such capacity.

21 (3) “Integrated coal or coke gasification nitrogen fertilizer plant” has
22 the meaning provided by section 1, and amendments thereto.

23 (4) “New integrated coal or coke gasification nitrogen fertilizer plant
24 property” means any real or tangible personal property purchased, con-
25 structed or installed for incorporation in and use as part of an integrated
26 coal or coke gasification nitrogen fertilizer plant, construction of which
27 begins after December 31, 2005, ~~and any other real and personal property~~
28 ~~which are located at the site of such plant and are employed specifically~~
29 ~~to serve such plant.~~

30 New Sec. 10. (a) For the purpose of financing the construction of a
31 new integrated coal or coke gasification nitrogen fertilizer plant or ex-
32 pansion of an existing integrated coal or coke gasification nitrogen ferti-
33 lizer plant, the Kansas development finance authority is hereby authorized
34 to issue revenue bonds pursuant to the Kansas development finance au-
35 thority act, K.S.A. 74-8901 et seq., and amendments thereto, in amounts
36 sufficient to pay the costs of such construction or expansion, including
37 any required interest on the bonds during construction and installation,
38 plus all amounts required for the costs of bond issuance, costs of credit
39 enhancement or other financial contracts, capitalized interest and any
40 required reserves on the bonds. The bonds, and interest thereon, issued
41 pursuant to this section shall be payable from revenues pledged to the
42 Kansas development finance authority for such purpose, which may in-
43 clude revenues derived from sales of nitrogen fertilizer produced at the

1 integrated coal or coke gasification nitrogen fertilizer plant.

2 (b) The provisions of subsection (a) of K.S.A. 74-8905, and amend-
3 ments thereto, shall not prohibit the issuance of bonds by the Kansas
4 development finance authority for the purposes of this section and any
5 such issuance of bonds is exempt from the provisions of subsection (a) of
6 K.S.A. 74-8905, and amendments thereto, which would operate to pre-
7 clude such issuance.

8 (c) Revenue bonds, including refunding revenue bonds, issued under
9 this section shall not constitute an indebtedness of the state of Kansas,
10 nor shall they constitute indebtedness within the meaning of any consti-
11 tutional or statutory provision limiting the incurring of indebtedness.

12 (d) Revenue bonds, including refunding revenue bonds, issued here-
13 under and the income derived therefrom are and shall be exempt from
14 all state, county and municipal taxation in the state of Kansas, except
15 Kansas estate taxes.

16 (e) As used in this section:

17 (1) “Expansion of an existing integrated coal or coke gasification ni-
18 trogen fertilizer plant” means expansion, beginning after December 31,
19 2005, of the capacity of an existing integrated coal or coke gasification
20 nitrogen fertilizer plant by at least ~~10%~~ **20%** of such capacity.

21 (2) “Integrated coal or coke gasification nitrogen fertilizer plant” has
22 the meaning provided by section 1, and amendments thereto.

23 (3) “New integrated coal or coke gasification nitrogen fertilizer plant”
24 means an integrated coal or coke gasification nitrogen fertilizer plant con-
25 struction of which begins after December 31, 2005.

26 Sec. 11. K.S.A. 79-32,120 and 79-32,138 and K.S.A. 2005 Supp. 79-
27 32,117 are hereby repealed.

28 Sec. 12. This act shall take effect and be in force from and after its
29 publication in the statute book.