

**SENATE BILL No. 430**

By Committee on Ways and Means

2-15

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1 AN ACT concerning taxation; relating to income tax rates, adjustment,  
2 procedure and requirements; credits; sales taxation, nexus  
3 presumptions; severance tax, exemptions; amending K.S.A. 79-32,176  
4 and K.S.A. 2011 Supp. 40-2246, 79-32,110, 79-32,143, 79-32,197, 79-  
5 32,205, 79-32,210, 79-32,211a, 79-3635, 79-3702 and 79-4217 and  
6 repealing the existing sections.  
7

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

9 New Section 1. (a) As used in this section, "selected actual state  
10 general fund receipts" means receipts from the following taxes and fees:  
11 Individual and corporation income taxes imposed under K.S.A. 79-32,110,  
12 and amendments thereto, financial institutions privilege taxes imposed  
13 under article 11 of chapter 79 of the Kansas Statutes Annotated, and  
14 amendments thereto, retail sales taxes imposed under K.S.A. 79-3601 *et*  
15 *seq.*, and amendments thereto, compensating use taxes imposed under  
16 K.S.A. 79-3701 *et seq.*, and amendments thereto, cigarette and tobacco  
17 product taxes imposed under K.S.A. 79-3301 *et seq.*, and amendments  
18 thereto, cereal malt beverage and liquor gallonage taxes imposed under  
19 K.S.A. 41-501 *et seq.*, and amendments thereto, liquor enforcement taxes  
20 imposed under K.S.A. 79-4101 *et seq.*, and amendments thereto, liquor  
21 drink taxes imposed under K.S.A. 79-41a01 *et seq.*, and amendments  
22 thereto, corporation franchise taxes imposed under K.S.A. 79-5401, and  
23 amendments thereto, annual franchise fees charged pursuant to law and  
24 mineral severance taxes imposed under K.S.A. 79-4216 *et seq.*, and  
25 amendments thereto.

26 (b) (1) Except as provided in subsection (b)(2), commencing with fiscal  
27 year 2013, in any fiscal year in which the amount of selected actual state  
28 general fund receipts from such fiscal year exceeds the selected actual  
29 state general fund receipts for the immediately preceding fiscal year, the  
30 director of budget and the director of legislative research shall jointly  
31 certify such excess amount to the secretary of revenue. Upon receipt of  
32 such certified amount, the secretary shall compute the percentage increase  
33 in selected actual state general receipts in such fiscal year. Based on such  
34 percentage of calculated receipt growth, the secretary shall reduce  
35 individual income tax rates prescribed by K.S.A. 79-32,110, and  
36 amendments thereto, by a percentage equal to such percentage of

1 calculated receipt growth for each income tax category and bracket for the  
2 income tax year in which the increase in selected actual state general fund  
3 receipts occurred. In any computation by the secretary pursuant to this  
4 section in which an individual income tax rate for any income tax category  
5 or bracket is below .4%, such rate shall be 0%.

6 (2) In any fiscal year in which the amount of selected actual state  
7 general fund receipts are less than the selected actual state general fund  
8 receipts from the immediately preceding fiscal year, the director of budget  
9 and the director of legislative research shall certify such amount and fact  
10 to the secretary of revenue. Upon receipt of such amount and fact, the  
11 secretary of revenue shall not make any adjustment to the individual  
12 income tax rates for that tax year.

13 (c) Any reduction in individual income tax rates prescribed by this  
14 section shall be reported to the chairperson of the assessment and taxation  
15 committee of the senate, the chairperson of the taxation committee of the  
16 house of representatives and the governor, and shall be published in the  
17 Kansas register prior to September 15 in any year in which there is such a  
18 reduction.

19 New Sec. 2. (a) If any person sells or leases tangible personal  
20 property to the state, a state department, a state agency or an agent thereof,  
21 that person and any affiliated person shall, as a prerequisite for any such  
22 sale or lease, register with the department of revenue as a retailer and  
23 comply with all legal requirements imposed on a retailer, including the  
24 requirement to collect and remit sales or use tax on all taxable sales of  
25 tangible personal property to customers in this state.

26 (b) Any ruling, agreement or contract, whether written or oral,  
27 expressed or implied, between a retailer and this state's executive branch,  
28 or any other state agency or department, stating, agreeing or ruling that the  
29 retailer is not required to collect sales and use tax in this state despite the  
30 presence of a warehouse, distribution center or fulfillment center in the  
31 state that is owned or operated by the retailer or an affiliated person of the  
32 retailer shall be null and void unless it is specifically approved by a  
33 majority vote of each of the houses of the Kansas legislature.

34 (c) As used in this section, "affiliated person" means any person that is  
35 a member of the same "controlled group of corporations" as defined in  
36 section 1563(a) of the federal internal revenue code as the retailer or any  
37 other entity that, notwithstanding its form of organization, bears the same  
38 ownership relationship to the retailer as a corporation that is a member of  
39 the same "controlled group of corporations" as defined in section 1563(a)  
40 of the federal internal revenue code.

41 Sec. 3. K.S.A. 2011 Supp. 40-2246 is hereby amended to read as  
42 follows: 40-2246. (a) A credit against the taxes otherwise due under the  
43 Kansas income tax act shall be allowed to an employer for amounts paid

1 during the taxable year for purposes of this act on behalf of an eligible  
2 employee as defined in K.S.A. 40-2239, and amendments thereto, to  
3 provide health insurance or care and amounts contributed to health savings  
4 accounts of eligible covered employees.

5 (b) (1) For employers that have established a small employer health  
6 benefit plan after December 31, 1999, but prior to January 1, 2005, the  
7 amount of the credit allowed by subsection (a) shall be \$35 per month per  
8 eligible covered employee or 50% of the total amount paid by the  
9 employer during the taxable year, whichever is less, for the first two years  
10 of participation. In the third year, the credit shall be equal to 75% of the  
11 lesser of \$35 per month per employee or 50% of the total amount paid by  
12 the employer during the taxable year. In the fourth year, the credit shall be  
13 equal to 50% of the lesser of \$35 per month per employee or 50% of the  
14 total amount paid by the employer during the taxable year. In the fifth year,  
15 the credit shall be equal to 25% of the lesser of \$35 per month per  
16 employee or 50% of the total amount paid by the employer during the  
17 taxable year. For the sixth and subsequent years, no credit shall be  
18 allowed.

19 (2) For employers that have established a small employer health  
20 benefit plan or made contributions to a health savings account of an  
21 eligible covered employee after December 31, 2004, the amount of credit  
22 allowed by subsection (a) shall be \$70 per month per eligible covered  
23 employee for the first 12 months of participation, \$50 per month per  
24 eligible covered employee for the next 12 months of participation and \$35  
25 per eligible covered employee for the next 12 months of participation.  
26 After 36 months of participation, no credit shall be allowed.

27 (c) If the credit allowed by this section is claimed, the amount of any  
28 deduction allowable under the Kansas income tax act for expenses  
29 described in this section shall be reduced by the dollar amount of the  
30 credit. The election to claim the credit shall be made at the time of filing  
31 the tax return in accordance with law. ~~If Commencing in tax year 2012,~~  
32 ~~and all tax years thereafter,~~ the credit allowed by this section ~~exceeds~~  
33 ~~shall not exceed~~ the taxes imposed under the Kansas income tax act for the  
34 taxable year, ~~that portion of the credit which exceeds those taxes shall be~~  
35 ~~refunded to the taxpayer~~ reduced by the sum of any other credits allowable  
36 against the tax liability of the taxpayer pursuant to law.

37 (d) Any amount of expenses paid by an employer under this act shall  
38 not be included as income to the employee for purposes of the Kansas  
39 income tax act. If such expenses have been included in federal taxable  
40 income of the employee, the amount included shall be subtracted in  
41 arriving at state taxable income under the Kansas income tax act.

42 (e) The secretary of revenue shall promulgate rules and regulations to  
43 carry out the provisions of this section.

1 (f) This section shall apply to all taxable years commencing after  
 2 December 31, 1999.

3 Sec. 4. K.S.A. 2011 Supp. 79-32,110 is hereby amended to read as  
 4 follows: 79-32,110. (a) *Resident Individuals*. Except as otherwise  
 5 provided by subsection (a) of K.S.A. 79-3220, and amendments thereto, a  
 6 tax is hereby imposed upon the Kansas taxable income of every resident  
 7 individual, which tax shall be computed in accordance with the following  
 8 tax schedules:

9 (1) *Married individuals filing joint returns.*

10 (A) *For tax years 2011 and 2012:*

11 If the taxable income is:	The tax is:
12 Not over \$30,000.....	3.5% of Kansas taxable
13	income
14 Over \$30,000 but not over \$60,000.....	\$1,050 plus 6.25% of
15	excess over \$30,000
16 Over \$60,000.....	\$2,925 plus 6.45% of
17	excess over \$60,000

18 (B) *For tax year 2013, and all tax years thereafter:*

19 <i>If the taxable income is:</i>	<i>The tax is:</i>
20 <i>Not over \$30,000.....</i>	<i>3.25% of Kansas taxable</i>
21	<i>income</i>
22 <i>Over \$30,000.....</i>	<i>\$975 plus 5.95% of</i>
23	<i>excess over \$30,000</i>

24 (2) All other individuals.

25 (A) *For tax year 1997:*

26 <del>If the taxable income is:</del>	<del>The tax is:</del>
27 <del>Not over \$20,000.....</del>	<del>4.1% of Kansas taxable</del>
28 <del>_____</del>	<del>income</del>
29 <del>Over \$20,000 but not over \$30,000.....</del>	<del>\$820 plus 7.5% of excess</del>
30 <del>_____</del>	<del>over \$20,000</del>
31 <del>Over \$30,000.....</del>	<del>\$1,570 plus 7.75% of</del>
32 <del>_____</del>	<del>excess over \$30,000</del>

33 (B) ~~For tax year 1998, and all tax years thereafter years 2011 and~~  
 34 ~~2012:~~

35 If the taxable income is:	The tax is:
36 Not over \$15,000.....	3.5% of Kansas taxable
37	income
38 Over \$15,000 but not over \$30,000.....	\$525 plus 6.25% of
39	excess over \$15,000
40 Over \$30,000.....	1,462.50 plus 6.45% of
41	excess over \$30,000

42 (B) *For tax year 2013, and all tax years thereafter:*

43 *If the taxable income is:* *The tax is:*

1	<i>Not over \$15,000.....</i>	<i>3.25% of Kansas taxable</i>
2		<i>income</i>
3	<i>Over \$15,000.....</i>	<i>\$487.50 plus 5.95% of</i>
4		<i>excess over \$15,000</i>

5 (b) *Nonresident Individuals.* A tax is hereby imposed upon the Kansas  
6 taxable income of every nonresident individual, which tax shall be an  
7 amount equal to the tax computed under subsection (a) as if the  
8 nonresident were a resident multiplied by the ratio of modified Kansas  
9 source income to Kansas adjusted gross income.

10 (c) *Corporations.* A tax is hereby imposed upon the Kansas taxable  
11 income of every corporation doing business within this state or deriving  
12 income from sources within this state. Such tax shall consist of a normal  
13 tax and a surtax and shall be computed as follows:

14 (1) *For tax years 2011 and 2012,* the normal tax shall be in an  
15 amount equal to 4% of the Kansas taxable income of such corporation.  
16 *For tax year 2013, and all tax years thereafter, the normal tax shall be in*  
17 *an amount equal to 3.95% of the Kansas taxable income of such*  
18 *corporation; and*

19 (2) ~~(A) for tax year 2008, the surtax shall be in an amount equal to~~  
20 ~~3.1% of the Kansas taxable income of such corporation in excess of~~  
21 ~~\$50,000;~~

22 ~~(B) for tax years 2009 and 2010, the surtax shall be in an amount~~  
23 ~~equal to 3.05% of the Kansas taxable income of such corporation in excess~~  
24 ~~of \$50,000; and~~

25 ~~(C) for tax year 2011, and all tax years thereafter, the surtax shall be~~  
26 ~~in an amount equal to 3% of the Kansas taxable income of such~~  
27 ~~corporation in excess of \$50,000.~~

28 (d) *Fiduciaries.* A tax is hereby imposed upon the Kansas taxable  
29 income of estates and trusts at the rates provided in paragraph (2) of  
30 subsection (a) hereof.

31 (e) *Tax rates provided in this section shall be adjusted pursuant to the*  
32 *provisions of section 1, and amendments thereto.*

33 Sec. 5. K.S.A. 2011 Supp. 79-32,143 is hereby amended to read as  
34 follows: 79-32,143. (a) For net operating losses incurred in taxable years  
35 beginning after December 31, 1987, a net operating loss deduction shall be  
36 allowed in the same manner that it is allowed under the federal internal  
37 revenue code except that such net operating loss may only be carried  
38 forward to each of the 10 taxable years following the taxable year of the  
39 net operating loss. For net operating farm losses, as defined by subsection  
40 (i) of section 172 of the federal internal revenue code, incurred in taxable  
41 years beginning after December 31, 1999, a net operating loss deduction  
42 shall be allowed in the same manner that it is allowed under the federal  
43 internal revenue code except that such net operating loss may be carried

1 forward to each of the 10 taxable years following the taxable year of the  
2 net operating loss. The amount of the net operating loss that may be  
3 carried back or forward for Kansas income tax purposes shall be that  
4 portion of the federal net operating loss allocated to Kansas under this act  
5 in the taxable year that the net operating loss is sustained.

6 (b) The amount of the loss to be carried back or forward will be the  
7 federal net operating loss after: (1) All modifications required under this  
8 act applicable to the net loss in the year the loss was incurred; and (2) after  
9 apportionment as to source in the case of corporations, nonresident  
10 individuals for losses incurred in taxable years beginning prior to January  
11 1, 1978, and nonresident estates and trusts in the same manner that income  
12 for such corporations, nonresident individuals, estates and trusts is  
13 required to be apportioned.

14 (c) If a net operating loss was incurred in a taxable year beginning  
15 prior to January 1, 1988, the amount of the net operating loss that may be  
16 carried back and carried forward and the period for which it may be  
17 carried back and carried forward shall be determined under the provisions  
18 of the Kansas income tax laws which were in effect during the year that  
19 such net operating loss was incurred.

20 (d) If any portion of a net operating loss described in subsections (a)  
21 and (b) is not utilized prior to the final year of the carryforward period  
22 provided in subsection (a), a refund shall be allowable in such final year in  
23 an amount equal to the refund which would have been allowable in the  
24 taxable year the loss was incurred by utilizing the three year carryback  
25 provided under K.S.A. 79-32,143, as in effect on December 31, 1987,  
26 multiplied by a fraction, the numerator of which is the unused portion of  
27 such net operating loss in the final year, and the denominator of which is  
28 the amount of such net operating loss which could have been carried back  
29 to the three years immediately preceding the year in which the loss was  
30 incurred. In no event may such fraction exceed 1.

31 (e) Notwithstanding any other provisions of the Kansas income tax  
32 act, the net operating loss as computed under subsections (a), (b) and (c) of  
33 this section shall be allowed in full in determining Kansas taxable income  
34 or at the option of the taxpayer allowed in full in determining Kansas  
35 adjusted gross income.

36 (f) *Commencing in tax year 2012, and all tax years thereafter, no*  
37 *refund of income tax which results from a net operating farm loss carry*  
38 *back shall be allowed in an amount exceeding \$1,500 in any year. Any*  
39 *overpayment in excess of \$1,500 may be carried forward to any year or*  
40 *years after the year of the loss and may be claimed as a credit against the*  
41 *tax. The refundable portion of such credit shall not exceed \$1,500 in any*  
42 *year.*

43 Sec. 6. K.S.A. 79-32,176 is hereby amended to read as follows: 79-

1 32,176. (a) Any resident individual taxpayer who makes expenditures for  
 2 the purpose of making all or any portion of an existing facility accessible  
 3 to individuals with a disability, which facility is used as, or in connection  
 4 with, such taxpayer's principal dwelling or the principal dwelling of a  
 5 lineal ascendant or descendant, including construction of a small barrier  
 6 free living unit attached to such principal dwelling, shall be entitled to  
 7 claim a tax credit in an amount equal to the applicable percentage of such  
 8 expenditures or \$9,000, whichever is less, against the income tax liability  
 9 imposed against such taxpayer pursuant to article 32 of chapter 79 of the  
 10 Kansas Statutes Annotated, *and amendments thereto*. Nothing in this  
 11 subsection shall be deemed to prevent any such taxpayer from claiming  
 12 such credit: (1) For each principal dwelling in which the taxpayer or lineal  
 13 ascendant or descendant may reside, or facility used in connection  
 14 therewith; or (2) more than once, but not more often than once every four-  
 15 year period of time. The applicable percentage of such expenditures  
 16 eligible for credit shall be as set forth in the following schedule:

Taxpayers Kansas Adjusted Gross Income	% of expenditures eligible for credit
21 \$0 to \$25,000 .....	100%
22 Over \$25,000 but not over \$30,000 .....	90%
23 Over \$30,000 but not over \$35,000 .....	80%
24 Over \$35,000 but not over \$40,000 .....	70%
25 Over \$40,000 but not over \$45,000 .....	60%
26 Over \$45,000 but not over \$55,000 .....	50%
27 Over \$55,000 .....	0

28 Such tax credit shall be deducted from the taxpayer's income tax  
 29 liability for the taxable year in which the expenditures are made by the  
 30 taxpayer. If the amount of such tax credit exceeds the taxpayer's income  
 31 tax liability for such taxable year, the amount thereof which exceeds such  
 32 tax liability may be carried over for deduction from the taxpayer's income  
 33 tax liability in the next succeeding taxable year or years until the total  
 34 amount of the tax credit has been deducted from tax liability, except that  
 35 no such tax credit shall be carried over for deduction after the fourth  
 36 taxable year succeeding the taxable year in which the expenditures are  
 37 made.

38 (b) ~~Notwithstanding the provisions of subsection (a), if the amount of~~  
 39 ~~the taxpayer's tax liability is less than \$2,250 in the first year in which the~~  
 40 ~~credit is claimed under this section, an amount equal to the amount by~~  
 41 ~~which <sup>1</sup>/<sub>4</sub> of the credit allowable under this section exceeds such tax~~  
 42 ~~liability shall be refunded to the taxpayer and the amount by which such~~  
 43 ~~credit exceeds such tax liability less the amount of such refund may be~~

1 carried over for the next three succeeding taxable years. If the amount of  
2 the taxpayer's tax liability is less than \$2,250 in the second year in which  
3 the credit is claimed under this section, an amount equal to the amount by  
4 which  $\frac{1}{3}$  of the amount of the credit carried over from the first taxable  
5 year exceeds such tax liability shall be refunded to the taxpayer and the  
6 amount by which the amount of the credit carried over from the first  
7 taxable year exceeds such tax liability less the amount of such refund may  
8 be carried over for the next two succeeding taxable years. If the amount of  
9 the taxpayer's tax liability is less than \$2,250 in the third year in which the  
10 credit is claimed under this section, an amount equal to the amount by  
11 which  $\frac{1}{2}$  of the amount carried over from the second taxable year exceeds  
12 such tax liability shall be refunded to the taxpayer and the amount by  
13 which the amount of the credit carried over from the second taxable year  
14 exceeds such tax liability less the amount of such refund may be carried  
15 over to the next succeeding taxable year. If the amount of the credit carried  
16 over from the third taxable year exceeds the taxpayer's income tax liability  
17 for such year, the amount thereof which exceeds such tax liability shall be  
18 refunded to the taxpayer. *The provisions of this section shall apply to tax*  
19 *year 2012, and all tax years thereafter.*

20 Sec. 7. K.S.A. 2011 Supp. 79-32,197 is hereby amended to read as  
21 follows: 79-32,197. The amount of credit allowed pursuant to K.S.A. 79-  
22 32,196, and amendments thereto, shall not exceed 50% of the total amount  
23 contributed during the taxable year by the business firm to a community  
24 service organization or governmental entity for programs approved  
25 pursuant to K.S.A. 79-32,198, and amendments thereto. The amount of  
26 credit allowed pursuant to K.S.A. 79-32,196, and amendments thereto,  
27 shall not exceed 70% of the total amount contributed during the taxable  
28 year by the business firm in a rural community to a community service  
29 organization or governmental entity located therein for programs approved  
30 pursuant to K.S.A. 79-32,198, and amendments thereto. *If Commencing in*  
31 *tax year 2012, and all tax years thereafter,* the amount of the credit  
32 allowed by K.S.A. 79-32,196, and amendments thereto, *exceeds shall not*  
33 *exceed* the taxpayer's income tax liability imposed under the Kansas  
34 income tax act, ~~such excess amount shall be refunded to the taxpayer~~  
35 *reduced by the sum of any other credits allowable against the tax liability*  
36 *of the taxpayer pursuant to law.* In no event shall the total amount of  
37 credits allowed under this section exceed \$4,130,000 for any one fiscal  
38 year.

39 Sec. 8. K.S.A. 2011 Supp. 79-32,205 is hereby amended to read as  
40 follows: 79-32,205. (a) There shall be allowed as a credit against the tax  
41 liability of a resident individual imposed under the Kansas income tax act  
42 an amount equal to 18% for tax years 2010 through 2012, and an amount  
43 equal to 17% for tax year 2013, and all tax years thereafter, of the amount

1 of the earned income credit allowed against such taxpayer's federal income  
2 tax liability pursuant to section 32 of the federal internal revenue code for  
3 the taxable year in which such credit was claimed against the taxpayer's  
4 federal income tax liability.

5 (b) *¶ Commencing in tax year 2012, and all tax years thereafter, the*  
6 *amount of the credit allowed by subsection (a) exceeds shall not exceed*  
7 *the taxpayer's income tax liability imposed under the Kansas income tax*  
8 *act, such excess amount shall be refunded to the taxpayer reduced by the*  
9 *sum of any other credits allowable against the tax liability of the taxpayer*  
10 *pursuant to law.*

11 Sec. 9. K.S.A. 2011 Supp. 79-32,210 is hereby amended to read as  
12 follows: 79-32,210. (a) For all taxable years commencing after December  
13 31, 2000, and with respect to property initially acquired and first placed  
14 into service in this state on and after January 1, 2001, there shall be  
15 allowed as a credit against the tax liability imposed by the Kansas income  
16 tax act of a telecommunications company, as defined in K.S.A. 79-3271  
17 and amendments thereto, an amount equal to the difference between the  
18 property tax levied for property tax year 2001, and all such years  
19 thereafter, and actually and timely paid during the appropriate income  
20 taxable year upon property assessed at the 33% assessment rate and the  
21 property tax which would be levied and paid on such property if assessed  
22 at a 25% assessment rate.

23 (b) *¶ Commencing in tax 2012, and all tax years thereafter, the*  
24 *amount of the tax credit determined under subsection (a) exceeds shall not*  
25 *exceed the tax liability for the telecommunications company for any*  
26 *taxable year, the amount thereof which exceeds such tax liability shall be*  
27 *refunded to the telecommunications company reduced by the sum of any*  
28 *other credits allowable against the tax liability of the taxpayer pursuant to*  
29 *law.* If the telecommunications company is a corporation having an  
30 election in effect under subchapter S of the federal internal revenue code, a  
31 partnership or a limited liability company, the credit provided by this  
32 section shall be claimed by the shareholders of such corporation, the  
33 partners of such partnership or the members of such limited liability  
34 company in the same manner as such shareholders, partners or members  
35 account for their proportionate shares of income or loss of the corporation,  
36 partnership or limited liability company.

37 (c) As used in this section, the term "acquired" shall not include the  
38 transfer of property pursuant to an exchange for stock securities, or the  
39 transfer of assets of one business entity to another due to a merger or other  
40 consolidation.

41 Sec. 10. K.S.A. 2011 Supp. 79-32,211a is hereby amended to read as  
42 follows: 79-32,211a. (a) For taxable years commencing after December  
43 31, 2006, subject to the provisions of subsection (d), any taxpayer which

1 contributes, gifts or donates to a state-owned historic site or an  
2 organization which is exempt from federal income taxation pursuant to  
3 section 501(c)(3) of the federal internal revenue code of 1986, which such  
4 organization owns and operates an historic site, to be used for the purpose  
5 of restoration, preservation or operation of such state-owned historic site  
6 or historic site or the establishment or maintenance of an endowment to  
7 provide for the future stability of such state-owned historic site or historic  
8 site shall be allowed a credit against the tax imposed by the Kansas income  
9 tax act, the premiums tax upon insurance companies imposed pursuant to  
10 K.S.A. 40-252, and amendments thereto, and the privilege tax imposed  
11 upon any national banking association, state bank, trust company or  
12 savings and loan association pursuant to article 11 of chapter 79 of the  
13 Kansas Statutes Annotated, *and amendments thereto*, in an amount equal  
14 to 50% of such contribution, gift or donation, if the total amount of such  
15 contribution, gift or donation is at least \$1,000. The amount of the credit  
16 shall not exceed \$2,500 for any one taxpayer in any one taxable year. In no  
17 event shall the total amount of credits allowed under this section exceed  
18 \$200,000 in any one fiscal year.

19 (b) The credit allowed by this section shall be deducted from the  
20 taxpayer's income, premiums or privilege tax liability imposed for the  
21 taxable year in which the contribution, gift or donation is made.

22 (c) ~~For tax year 2012~~, the amount of the credit allowed by this  
23 section ~~exceeds~~ *shall not exceed* the taxpayer's income tax liability  
24 imposed under the Kansas income tax act, ~~such excess amount shall be~~  
25 ~~refunded to the taxpayer~~ *reduced by the sum of any other credits allowable*  
26 *against the tax liability of the taxpayer pursuant to law.*

27 (d) The partnership historic site committee created pursuant to K.S.A.  
28 2011 Supp. 75-2732, and amendments thereto, shall develop a prioritized  
29 list of historic sites other than state-owned historic sites to which  
30 contributions, gifts or donations to organizations which own and operate  
31 an historic site qualify for the tax credit provided in this section. As used in  
32 this section: (1) "Contributions, gifts or donations" includes monetary  
33 contributions, gifts or donations and in kind contributions, gifts or  
34 donations that have an established market value;

35 (2) "historic site" means any building or structure that is significant in  
36 the history, architecture, archeology or culture of the state of Kansas or  
37 Kansas communities or the nation. Such historic site must be listed on the  
38 national register of historic places or the register of historic Kansas places,  
39 be open to the public or have the potential to be open to the public for at  
40 least 500 hours a year and be owned and operated for the purpose of  
41 educating the public about a specific aspect of Kansas and United States  
42 history; and

43 (3) "state-owned historic site" means an historic site under the

1 jurisdiction and control of the state historical society.

2 (e) Any contribution, gift or donation that is the basis of the credit  
3 provided in this section shall not qualify as a qualified expenditure for the  
4 purpose of qualifying for the credit provided in K.S.A. 79-32,211, and  
5 amendments thereto.

6 (f) The provisions of this section shall expire on June 30, 2012.

7 Sec. 11. K.S.A. 2011 Supp. 79-3635 is hereby amended to read as  
8 follows: 79-3635. (a) (1) A claimant shall be entitled to a refund of  
9 retailers' sales taxes paid upon food during the calendar year 2010 and  
10 each year thereafter in the amount hereinafter provided. There shall be  
11 allowed for each member of a household of a claimant having income of  
12 \$17,500 or less, an amount equal to \$90. There shall be allowed for each  
13 member of a household of a claimant having income of more than \$17,500  
14 but not more than \$35,000, an amount equal to \$45. There shall be allowed  
15 for a claimant who qualifies for an additional personal exemption amount  
16 pursuant to K.S.A. 79-32,121, and amendments thereto, an additional  
17 amount of \$45 or \$90, as the case requires. All such claims shall be paid  
18 from the sales tax refund fund upon warrants of the director of accounts  
19 and reports pursuant to vouchers approved by the director of taxation or by  
20 a person or persons designated by the director.

21 (2) As an alternative to the procedure described by subsection (a)(1),  
22 for all taxable years commencing after December 31, 2009, there shall be  
23 allowed as a credit against the tax liability of a resident individual imposed  
24 under the Kansas income tax act an amount equal to \$45 or \$90, as the  
25 case requires, for each member of a household. There shall be allowed for  
26 a claimant who qualifies for an additional personal exemption amount  
27 pursuant to K.S.A. 79-32,121, and amendments thereto, an additional  
28 amount of \$45 or \$90, as the case requires. ~~If Commencing in tax year~~  
29 ~~2012, and all tax years thereafter, the amount of such tax credit exceeds~~  
30 ~~shall not exceed the claimant's income tax liability for such taxable year,~~  
31 ~~such excess amount shall be refunded to the claimant reduced by the sum~~  
32 ~~of any other credits allowable against the tax liability of the taxpayer~~  
33 ~~pursuant to law.~~

34 (b) A head of household shall make application for refunds for all  
35 members of the same household upon a common form provided for the  
36 making of joint claims. All claims paid to members of the same household  
37 shall be paid as a joint claim by means of a single warrant.

38 (c) No claim for a refund of taxes under the provisions of K.S.A. 79-  
39 3632 *et seq.*, and amendments thereto, shall be paid or allowed unless such  
40 claim is actually filed with and in the possession of the department of  
41 revenue on or before April 15 of the year next succeeding the year in  
42 which such taxes were paid. The director of taxation may: (1) Extend the  
43 time for filing any claim under the provisions of this act when good cause

1 exists thereof; or (2) accept a claim filed after the deadline for filing in the  
2 case of sickness, absence or disability of the claimant if such claim has  
3 been filed within four years of such deadline.

4 (d) In the case of all tax years commencing after December 31, 2010,  
5 the threshold income amounts prescribed in this section and subsection (c)  
6 of K.S.A. 79-3633, and amendments thereto, and the amounts of refund of  
7 taxes and the amounts of the tax credit, both as prescribed in this section,  
8 shall be increased by an amount equal to such threshold amount multiplied  
9 by the cost-of-living adjustment determined under section 1 (f)(3) of the  
10 federal internal revenue code for the calendar year in which the taxable  
11 year commences.

12 Sec. 12. K.S.A. 2011 Supp. 79-3702 is hereby amended to read as  
13 follows: 79-3702. For the purposes of this act: (a) "Purchase price" means  
14 the consideration paid or given or contracted to be paid or given by any  
15 person to the seller of an article of tangible personal property for the article  
16 purchased. The term shall include, in addition to the consideration paid or  
17 given or contracted to be paid or given, the actual cost of transportation  
18 from the place where the article was purchased to the person using the  
19 same in this state. If a cash discount is allowed and taken on the sale it  
20 shall be deducted in arriving at the purchase price.

21 (b) The meaning ascribed to words and phrases in K.S.A. 79-3602,  
22 and amendments thereto, insofar as is practicable, shall be applicable  
23 herein unless otherwise provided. The provisions of K.S.A. 79-3601 to 79-  
24 3625, inclusive, 79-3650, K.S.A. 2011 Supp. 79-3693 and 79-3694, and  
25 amendments thereto, relating to enforcement, collection and  
26 administration, insofar as practicable, shall have full force and effect with  
27 respect to taxes imposed under the provisions of this act.

28 (c) "Use" means the exercise within this state by any person of any  
29 right or power over tangible personal property incident to the ownership of  
30 that property, except that it shall not include processing, or the sale of the  
31 property in the regular course of business, and except storage as  
32 hereinafter defined.

33 (d) "Storage" means any keeping or retaining in this state for any  
34 purpose except sale in the regular course of business or subsequent use  
35 solely outside this state of tangible personal property purchased from a  
36 retailer.

37 (e) "Storage" and "use" do not include the keeping, retaining or  
38 exercising of any right or power over tangible personal property shipped or  
39 brought into this state for the purpose of subsequently transporting it  
40 outside the state for use thereafter solely outside the state, or for the  
41 purpose of being processed, fabricated, or manufactured into, attached to  
42 or incorporated into, other tangible personal property to be transported  
43 outside the state and thereafter used solely outside the state.

1 (f) "Property used in processing" means: (1) Any tangible personal  
2 property which, when used in fabrication, compounding, manufacturing or  
3 germination, becomes an integral part of the new article resulting from  
4 such fabrication, compounding, manufacturing, or germination, and  
5 intended to be sold ultimately at retail; (2) fuel which is consumed in  
6 creating power, heat, or steam for processing or for generating electric  
7 current.

8 (g) "Retailer" means every person engaged in the business of selling  
9 tangible personal property for use within the meaning of this act, except  
10 that, when in the opinion of the director it is necessary for the efficient  
11 administration of this act to regard any salesperson, representatives,  
12 truckers, peddlers or canvassers as the agents of the dealers, distributors,  
13 supervisors, employers or persons under whom they operate or from whom  
14 they obtain the tangible personal property sold by them, irrespective of  
15 whether they are making sales on their own behalf or on behalf of such  
16 dealers, distributors, supervisors, employers, or persons, the director may  
17 so regard them and may regard the dealers, distributors, supervisors,  
18 employers, or persons as retailers for the purposes of this act.

19 (h) (1) "Retailer doing business in this state" or any like term, means:  
20 (A) Any retailer having or maintaining in this state, permanently,  
21 temporarily, directly or indirectly through a subsidiary, agent or  
22 representative, an office, distribution house, sales house, warehouse or  
23 other place of business;

24 (B) any retailer having an employee, independent contractor, agent,  
25 representative, salesperson, canvasser or solicitor operating in this state  
26 either permanently or temporarily, under the authority of the retailer or its  
27 subsidiary, for the purpose of selling, delivering, installing, assembling,  
28 servicing, repairing, soliciting sales or the taking of orders for tangible  
29 personal property;

30 (C) any retailer, including a contractor, repair person or other service  
31 provider, who enters this state to perform services that are enumerated in  
32 K.S.A. 79-3603 and amendments thereto, and who is required to secure a  
33 retailer's sales tax registration certificate before performing those services;

34 (D) any retailer deriving rental receipts from a lease of tangible  
35 personal property situated in this state;

36 (E) any person having a franchisee or licensee operating under its  
37 trade name if the franchisee or the licensee is required to collect the tax  
38 under the Kansas retailers' sales tax act;

39 (F) any person regularly maintaining a stock of tangible personal  
40 property in this state for sale in the normal course of business; and

41 (G) any retailer who has any other contact with this state that would  
42 allow this state to require the retailer to collect and remit tax under the  
43 provisions of the constitution and laws of the United States.

1 (2) A retailer shall be presumed to be doing business in this state if:

2 (A) Both of the following conditions exist:

3 (i) The retailer holds a substantial ownership interest in, or is owned  
4 in whole substantial part by, a retailer maintaining a sales location in  
5 Kansas; and

6 (ii) the retailer sells the same or a substantially similar line of  
7 products as the related Kansas retailer and does so under the same or a  
8 substantially similar business name, or the Kansas facilities or Kansas  
9 employees of the related Kansas retailer are used to advertise, promote or  
10 facilitate sales by the retailer to consumers.

11 (B) The retailer holds a substantial ownership interest in, or is owned  
12 in whole or in substantial part by, a business that maintains a distribution  
13 house, sales house, warehouse or similar place of business in Kansas that  
14 delivers *or facilitates the delivery of* property sold by the retailer to  
15 consumers.

16 (C) For purposes of paragraphs (A) and (B):

17 (i) "Substantial ownership interest" means an interest in an entity that  
18 is not less than the degree of ownership of equity interest in an entity that  
19 is specified by Section 78p of Title 15 of the United States Code, or any  
20 successor to that statute, with respect to a person other than a director or  
21 officer; and

22 (ii) "ownership" means and includes both direct ownership, and  
23 indirect ownership through a parent, subsidiary or affiliate.

24 (D) *The retailer enters into an agreement with one or more residents  
25 of this state under which the resident, for a commission or other  
26 consideration, directly or indirectly refers potential customers, whether by  
27 a link on an internet website, by telemarketing, by an in-person oral  
28 presentation, or otherwise, to the retailer; if the cumulative gross receipts  
29 from sales by the retailer to customers in the state who are referred to the  
30 retailer by all residents with this type of an agreement with the retailer is  
31 in excess of \$10,000 during the preceding 12 months. This presumption  
32 may be rebutted by submitting proof that the residents with whom the  
33 retailer has an agreement did not engage in any activity within the state  
34 that was significantly associated with the retailer's ability to establish or  
35 maintain the retailer's market in the state during the preceding 12 months.  
36 Such proof may consist of sworn written statements from all of the  
37 residents with whom the retailer has an agreement stating that they did not  
38 engage in any solicitation in the state on behalf of the retailer during the  
39 preceding year; provided that such statements were provided and obtained  
40 in good faith. This subparagraph shall take effect 90 days after the  
41 enactment of this statute and shall apply to sales made and uses occurring  
42 on or after the effective date of this subparagraph and without regard to  
43 the date the retailer and the resident entered into the agreement described*

1 *in this subparagraph. The term "preceding 12 months" as used in this*  
2 *subparagraph includes the 12 months commencing prior to the effective*  
3 *date of this subparagraph.*

4 (3) The processing of orders electronically, by fax, telephone, the  
5 internet or other electronic ordering process, does not relieve a retailer of  
6 responsibility for collection of the tax from the purchaser if the retailer is  
7 doing business in this state pursuant to this section.

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

9 Sec. 13. K.S.A. 2011 Supp. 79-4217 is hereby amended to read as  
10 follows: 79-4217. (a) There is hereby imposed an excise tax upon the  
11 severance and production of coal, oil or gas from the earth or water in this  
12 state for sale, transport, storage, profit or commercial use, subject to the  
13 following provisions of this section. Such tax shall be borne ratably by all  
14 persons within the term "producer" as such term is defined in K.S.A. 79-  
15 4216, and amendments thereto, in proportion to their respective beneficial  
16 interest in the coal, oil or gas severed. Such tax shall be applied equally to  
17 all portions of the gross value of each barrel of oil severed and subject to  
18 such tax and to the gross value of the gas severed and subject to such tax.  
19 The rate of such tax shall be 8% of the gross value of all oil or gas severed  
20 from the earth or water in this state and subject to the tax imposed under  
21 this act. The rate of such tax with respect to coal shall be \$1 per ton. For  
22 the purposes of the tax imposed hereunder the amount of oil or gas  
23 produced shall be measured or determined: (1) In the case of oil, by tank  
24 tables compiled to show 100% of the full capacity of tanks without  
25 deduction for overage or losses in handling; allowance for any reasonable  
26 and bona fide deduction for basic sediment and water, and for correction of  
27 temperature to 60 degrees Fahrenheit will be allowed; and if the amount of  
28 oil severed has been measured or determined by tank tables compiled to  
29 show less than 100% of the full capacity of tanks, such amount shall be  
30 raised to a basis of 100% for the purpose of the tax imposed by this act;  
31 and (2) in the case of gas, by meter readings showing 100% of the full  
32 volume expressed in cubic feet at a standard base and flowing temperature  
33 of 60 degrees Fahrenheit, and at the absolute pressure at which the gas is  
34 sold and purchased; correction to be made for pressure according to  
35 Boyle's law, and used for specific gravity according to the gravity at which  
36 the gas is sold and purchased, or if not so specified, according to the test  
37 made by the balance method.

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

40 (1) The severance and production of gas which is: (A) Injected into  
41 the earth for the purpose of lifting oil, recycling or repressuring; (B) used  
42 for fuel in connection with the operation and development for, or  
43 production of, oil or gas in the lease or production unit where severed; (C)

1 lawfully vented or flared; (D) severed from a well having an average daily  
2 production during a calendar month having a gross value of not more than  
3 \$87 per day, which well has not been significantly curtailed by reason of  
4 mechanical failure or other disruption of production; in the event that the  
5 production of gas from more than one well is gauged by a common meter,  
6 eligibility for exemption hereunder shall be determined by computing the  
7 gross value of the average daily combined production from all such wells  
8 and dividing the same by the number of wells gauged by such meter; (E)  
9 inadvertently lost on the lease or production unit by reason of leaks,  
10 blowouts or other accidental losses; (F) used or consumed for domestic or  
11 agricultural purposes on the lease or production unit from which it is  
12 severed; or (G) placed in underground storage for recovery at a later date  
13 and which was either originally severed outside of the state of Kansas, or  
14 as to which the tax levied pursuant to this act has been paid;

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

1 pursuant to subsection (d) is \$16 or less, whose average daily production is  
2 eight barrels or less per producing well, or, if the price of oil as determined  
3 pursuant to subsection (d) is \$15 or less, whose average daily production is  
4 nine barrels or less per producing well, or, if the price of oil as determined  
5 pursuant to subsection (d) is \$14 or less, whose average daily production is  
6 10 barrels or less per producing well, which well or wells have not been  
7 significantly curtailed by reason of mechanical failure or other disruption  
8 of production; (F) test, frac or swab oil which is sold or exchanged for  
9 value; or (G) inadvertently lost on the lease or production unit by reason of  
10 leaks or other accidental means;

11 (3) (A) any taxpayer applying for an exemption pursuant to  
12 subsection (b)(2)(A) and (B) shall make application biennially to the  
13 director of taxation therefor. Exemptions granted pursuant to subsection  
14 (b)(2)(A) and (B) shall be valid for a period of two years following the  
15 date of certification thereof by the director of taxation; (B) any taxpayer  
16 applying for an exemption pursuant to subsection (b)(2)(D) or (E) shall  
17 make application biennially to the director of taxation therefor. Such  
18 application shall be accompanied by proof of the approval of an  
19 application for the utilization of a water flood process therefor by the  
20 corporation commission pursuant to rules and regulations adopted under  
21 the authority of K.S.A. 55-152 and amendments thereto and proof that the  
22 oil produced therefrom is kept in a separate tank battery and that separate  
23 books and records are maintained therefor. Such exemption shall be valid  
24 for a period of two years following the date of certification thereof by the  
25 director of taxation; (C) any exemption granted pursuant to subsections (b)  
26 (2)(A), (B), (D) or (E) with an odd lease number and an exemption  
27 termination date between June 1, 2004, and May 31, 2005, inclusive, shall  
28 be valid for a period of one year following the date of certification; and  
29 (D) notwithstanding the provisions of paragraph (A) or (B), any exemption  
30 in effect on the effective date of this act affected by the amendments to  
31 subsection (b)(2) by this act shall be redetermined in accordance with such  
32 amendments. Any such exemption, and any new exemption established by  
33 such amendments and applied for after the effective date of this shall be  
34 valid for a period commencing with May 1, 1998, and ending on April 30,  
35 1999.

36 (4) the severance and production of gas or oil from any pool from  
37 which oil or gas was first produced on or after April 1, 1983, *and prior to*  
38 *July 1, 2012*, as determined by the state corporation commission and  
39 certified to the director of taxation, and continuing for a period of 24  
40 months from the month in which oil or gas was first produced from such  
41 pool as evidenced by an affidavit of completion of a well, filed with the  
42 state corporation commission and certified to the director of taxation.  
43 Exemptions granted for production from any well pursuant to this

1 paragraph shall be valid for a period of 24 months following the month in  
2 which oil or gas was first produced from such pool. The term "pool"  
3 means an underground accumulation of oil or gas in a single and separate  
4 natural reservoir characterized by a single pressure system so that  
5 production from one part of the pool affects the reservoir pressure  
6 throughout its extent;

7 (5) *the severance and production of oil of not more than 50 barrels*  
8 *per day from any pool from which oil was first produced on or after July 1,*  
9 *2012, as determined by the state corporation commission and certified to*  
10 *the director of taxation, and continuing for a period of 24 months from the*  
11 *month in which oil was first produced from such pool as evidenced by an*  
12 *affidavit of completion of a well, filed with the state corporation*  
13 *commission and certified to the director of taxation. Exemptions granted*  
14 *for production from any well pursuant to this subsection shall be valid for*  
15 *a period of 24 months following the month in which oil was first produced*  
16 *from such pool. The term "pool" means an underground accumulation of*  
17 *oil in a single and separate natural reservoir characterized by a single*  
18 *pressure system so that production from one part of the pool affects the*  
19 *reservoir pressure throughout its extent;*

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

35 ~~(6)~~(7) (A) The incremental severance and production of oil or gas  
36 which results from a production enhancement project begun on or after  
37 July 1, 1998, shall be exempt for a period of seven years from the startup  
38 date of such project. As used in this paragraph ~~(6)~~:

39 (1) "Incremental severance and production" means the amount of oil  
40 or natural gas which is produced as the result of a production enhancement  
41 project which is in excess of the base production of oil or natural gas, and  
42 is determined by subtracting the base production from the total monthly  
43 production after the production enhancement project is completed.

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

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

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

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

1 looping or other techniques or equipment which increases production from  
2 a well or a group of wells in a project;

3 (vii) new discoveries of oil or gas which are discovered as a result of  
4 the use of new technology, including, but not limited to, three dimensional  
5 seismic studies.

6 (B) The state corporation commission shall adopt rules and  
7 regulations necessary to efficiently and properly administer the provisions  
8 of this paragraph ~~(6)~~ including rules and regulations for the qualification of  
9 production enhancement projects, the procedures for determining the  
10 monthly rate of production decline, criteria for determining the share of  
11 incremental production attributable to each well when a production  
12 enhancement project includes a group of wells, criteria for determining the  
13 start up date for any project for which an exemption is claimed, and  
14 determining new qualifying technologies for the purposes of ~~paragraph (6)~~  
15 *subsection (7)(A)(4)(vii)*.

16 (C) Any taxpayer applying for an exemption pursuant to this  
17 paragraph ~~(6)~~ shall make application to the director of taxation. Such  
18 application shall be accompanied by a state corporation commission  
19 certification that the production for which an exemption is sought results  
20 from a qualified production enhancement project and certification of the  
21 base production for the enhanced wells or group of wells, and the rate of  
22 decline to be applied to that base production. The secretary of revenue  
23 shall provide credit for any taxes paid between the project startup date and  
24 the certification of qualifications by the commission.

25 (D) The exemptions provided for in this paragraph ~~(6)~~ shall not apply  
26 for 12 months beginning July 1 of the year subsequent to any calendar year  
27 during which: (1) In the case of oil, the secretary of revenue determines  
28 that the weighted average price of Kansas oil at the wellhead has exceeded  
29 \$20.00 per barrel; or (2) in the case of natural gas the secretary of revenue  
30 determines that the weighted average price of Kansas gas at the wellhead  
31 has exceeded \$2.50 per Mcf.

32 (E) The provisions of this paragraph ~~(6)~~ shall not affect any other  
33 exemption allowable pursuant to this section; and

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

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

43 (d) On April 15, 1988, and on April 15 of each year thereafter, the

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

8 Sec. 14. K.S.A. 79-32,176 and K.S.A. 2011 Supp. 40-2246, 79-  
9 32,110, 79-32,143, 79-32,197, 79-32,205, 79-32,210, 79-32,211a, 79-  
10 3635, 79-3702 and 79-4217 are hereby repealed.

11 Sec. 15. This act shall take effect and be in force from and after its  
12 publication in the statute book.