

## CHAPTER 209

### HOUSE Substitute for SENATE BILL No. 303

AN ACT enacting the Kansas energy development act; concerning certain energy-related industries; providing certain income tax credits, income tax deductions and property tax exemptions relating thereto; providing for issuance of bonds and other financing for certain purposes; relating to certain permits; amending K.S.A. 79-32,120 and 79-32,138 and K.S.A. 2005 Supp. 79-32,117 and repealing the existing sections.

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

New Section 1. As used in sections 1 through 4, and amendments thereto:

(a) "Expansion of an existing refinery" means expansion which begins after December 31, 2005, of the capacity of an existing refinery by at least 10% of such capacity.

(b) "New refinery" means a refinery, construction of which begins after December 31, 2005.

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

(d) "Qualified investment" means expenditures made in construction of a new refinery, expansion of an existing refinery or restoration of production of a refinery, for real and tangible personal property incorporated in and used as part of such refinery.

(e) "Refinery" means an industrial process plant, located in this state, where crude oil is processed and refined into petroleum products.

(f) "Restoration of production of a refinery" means restoration which begins after December 31, 2005, of production of a refinery which has been out of production for five or more years.

New Sec. 2. (a) For taxable years commencing after December 31, 2005, any taxpayer who is awarded a tax credit under this act by the secretary of commerce and complies with the conditions set forth in this act and the agreement entered into by the secretary and the taxpayer under this act shall be allowed a credit against the taxpayer's tax liability under the Kansas income tax act as provided in subsection (b). Expenditures used to qualify for this credit shall not be used to qualify for any other type of Kansas income tax credit.

(b) The amount of the credit to which a taxpayer is entitled shall be equal to the sum of: (1) An amount equal to 10% of the taxpayer's qualified investment for the first \$250,000,000 invested and (2) an amount equal to 5% of the amount of the taxpayer's qualified investment that exceeds \$250,000,000. Such credit shall be taken in 10 equal, annual installments, beginning with the year in which the taxpayer places into service the new refinery, the expansion of an existing refinery or the restoration of production of a refinery as provided in this section.

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

(d) (1) Before making a qualified investment, a taxpayer shall apply to the secretary of commerce to enter into an agreement for a tax credit under this act. The secretary shall prescribe the form of the application. After receipt of such application, the secretary may enter into an agreement with the applicant for a credit under this act if the secretary determines that the taxpayer's proposed investment satisfies the requirements of this act. The secretary shall enter into an agreement with an applicant which is awarded a credit under this act. The agreement shall include: (A) A detailed description of the refinery project that is the subject of the agreement, (B) the first taxable year for which the credit may be claimed, (C) the maximum amount of tax credit that will be allowed for each taxable year and (D) a requirement that the taxpayer shall maintain operation of the new, expanded or restored refinery for at least 10 years during the

term that the tax credit is available.

(2) A taxpayer must comply with the terms of the agreement described in subsection (d)(1) to receive an annual installment of the tax credit awarded under this act. The secretary of commerce, in accordance with rules and regulations of the secretary, shall annually determine whether the taxpayer is in compliance with the agreement. Such determination of compliance shall include, but not be limited to, operation of the new, expanded or restored refinery during the tax years when any installments of tax credits are claimed by the taxpayer. If the secretary determines that the taxpayer is in compliance, the secretary shall issue a certificate of compliance to the taxpayer. If the secretary determines that the taxpayer is not in compliance with the agreement, the secretary shall notify the taxpayer and the secretary of revenue of such determination of noncompliance, and any tax credits claimed pursuant to this section for any tax year shall be forfeited.

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

New Sec. 3. (a) If a qualified investment is made by or transferred to a pass-through entity and the credit allowed by this act for a taxable year is greater than the entity's tax liability against which the tax credit may be applied, a shareholder, partner or member of the entity is entitled to a tax credit equal to the tax credit determined for the entity for the taxable year in excess of the entity's tax liability under the Kansas income tax act for the taxable year multiplied by the percentage of the entity's distributive income to which the shareholder, partner or member is entitled.

(b) If a refinery is co-owned by two or more taxpayers, the amount of the credit that may be allowed to a co-owner in a taxable year is equal to the tax credit determined under section 2, and amendments thereto, with respect to the total qualified investment in such refinery multiplied by the co-owner's percentage of ownership in such refinery.

(c) Such credit shall be taken in 10 equal, annual installments, beginning with the year in which the entity places into service the new refinery, the expansion of an existing refinery or the restoration of production of a refinery which has been out of production for five or more years.

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

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

New Sec. 5. (a) In addition to the income tax credit allowable pursuant to sections 1 through 4, and amendments thereto, a taxpayer shall be entitled to a deduction from Kansas adjusted gross income with respect to the amortization of the amortizable costs of a new refinery, an expansion of an existing refinery or restoration of production of a refinery which has been out of production for five or more years based upon a period of 10 years. Such amortization deduction shall be an amount equal to 55% of the amortizable costs of such new refinery, such expansion of an existing refinery or such restoration of production of a refinery for the first taxable year in which such refinery, such expansion of an existing refinery or such restoration of production of a refinery is in production and 5% of the amortizable costs of such new refinery, such expansion of an existing refinery or such restoration of production of a refinery for each of the next nine taxable years.

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

(c) The provisions of this section shall apply to all taxable years commencing after December 31, 2005.

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

(e) As used in this section, terms have the meanings provided by section 1, and amendments thereto.

New Sec. 6. (a) As used in this section:

(1) "Refinery" has the meaning provided by section 1, and amendments thereto.

(2) "Qualified expenditures" means expenditures which the secretary of health and environment certifies to the director of taxation are required for an existing refinery to comply with environmental standards or requirements established pursuant to federal statute or regulation, or state statute or rules and regulation, adopted after December 31, 2006.

(b) There shall be allowed as a credit against the tax liability of a taxpayer imposed under the Kansas income tax act an amount equal to the taxpayer's qualified expenditures. The tax credit allowed by this subsection shall be deducted from the taxpayer's income tax liability for the taxable year in which the expenditures are made by the taxpayer. If the amount of such tax credit exceeds the taxpayer's income tax liability for such taxable year, the taxpayer may carry over the amount thereof that exceeds such tax liability for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability, except that no such tax credit shall be carried over for deduction after the fourth taxable year succeeding the year in which the costs are incurred.

(c) (1) To qualify the expenditures of the tax credit allowed by this section, a taxpayer shall apply to the secretary of health and environment for a certification that the costs were incurred to comply with environmental standards or requirements as specified in subsection (a). The secretary shall prescribe the form of the application, which shall include, but not be limited to, the following information: (A) A detailed description of the refinery project that is the subject of the expenditure; (B) a citation to the applicable federal or state statutes, regulations or rules and regulations which require the environmental compliance; (C) a detailed accounting of the costs incurred for the environmental compliance; and (D) a certification by a responsible official that, based on information and belief formed after reasonable inquiry, the statements and information in the application are true, accurate and complete.

(2) If the secretary of health and environment determines that the expenditures were incurred to comply with environmental standards or requirements as specified in subsection (a), the secretary shall issue a certificate of compliance to the director of taxation.

(3) The secretary of health and environment may adopt rules and regulations to administer the provisions of this subsection, including rules and regulations to fix, charge and collect an application fee to cover all or any part of the department of health and environment's cost of certifying the taxpayer's qualified expenditures under this subsection.

(d) The provisions of this section shall be applicable to all taxable years commencing after December 31, 2006.

New Sec. 7. As used in sections 7 through 10, and amendments thereto:

(a) "New qualifying pipeline" means a qualifying pipeline, construction of which begins after December 31, 2005.

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

(c) "Qualified investment" means expenditures made in construction of a new qualifying pipeline for real and tangible personal property incorporated in and used as part of such pipeline.

(d) "Qualifying pipeline" means a pipeline which is located in this state, is used primarily for transportation of crude oil or natural gas liquids and has a length of more than 190 miles in this state and to which refineries or natural gas liquid processing facilities in this state have access.

New Sec. 8. (a) For taxable years commencing after December 31, 2005, any taxpayer who is awarded a tax credit under this act by the secretary of commerce and complies with the conditions set forth in this

act and the agreement entered into by the secretary and the taxpayer under this act shall be allowed a credit against the taxpayer's tax liability under the Kansas income tax act as provided in subsection (b). Expenditures used to qualify for this credit shall not be used to qualify for any other type of Kansas income tax credit.

(b) The amount of the credit to which a taxpayer is entitled shall be equal to the sum of: (1) An amount equal to 10% of the taxpayer's qualified investment for the first \$250,000,000 invested and (2) an amount equal to 5% of the amount of the taxpayer's qualified investment that exceeds \$250,000,000. Such credit shall be taken in 10 equal, annual installments, beginning with the year in which the taxpayer places into service the new qualifying pipeline.

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

(d) (1) Before making a qualified investment, a taxpayer shall apply to the secretary of commerce to enter into an agreement for a tax credit under this act. The secretary shall prescribe the form of the application. After receipt of such application, the secretary may enter into an agreement with the applicant for a credit under this act if the secretary determines that the taxpayer's proposed investment satisfies the requirements of this act. The secretary shall enter into an agreement with an applicant which is awarded a credit under this act. The agreement shall include: (A) A detailed description of the qualifying pipeline project that is the subject of the agreement, (B) the first taxable year for which the credit may be claimed, (C) the maximum amount of tax credit that will be allowed for each taxable year and (D) a requirement that the taxpayer shall maintain operation of the new qualifying pipeline for at least 10 years during the term that the tax credit is available.

(2) A taxpayer must comply with the terms of the agreement described in subsection (d)(1) to receive an annual installment of the tax credit awarded under this act. The secretary of commerce, in accordance with rules and regulations of the secretary, shall annually determine whether the taxpayer is in compliance with the agreement. Such agreement shall include, but not be limited to, operation of the new qualifying pipeline during the tax years when any installments of tax credits are claimed by the taxpayer. If the secretary determines that the taxpayer is in compliance, the secretary shall issue a certificate of compliance to the taxpayer. If the secretary determines that the taxpayer is not in compliance with the agreement, the secretary shall notify the taxpayer and the secretary of revenue of such determination of noncompliance, and any tax credits claimed pursuant to this section for any tax year shall be forfeited.

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

New Sec. 9. (a) If a qualified investment is made by or transferred to a pass-through entity and the credit allowed by this act for a taxable year is greater than the entity's tax liability against which the tax credit may be applied, a shareholder, partner or member of the entity is entitled to a tax credit equal to the tax credit determined for the entity for the taxable year in excess of the entity's tax liability under the Kansas income tax act for the taxable year multiplied by the percentage of the entity's distributive income to which the shareholder, partner or member is entitled.

(b) If a new qualifying pipeline is co-owned by two or more taxpayers, the amount of the credit that may be allowed to a co-owner in a taxable year is equal to the tax credit determined under section 8, and amendments thereto, with respect to the total qualified investment in such pipeline multiplied by the co-owner's percentage of ownership in such pipeline.

(c) Such credit shall be taken in 10 equal, annual installments, beginning with the year in which the entity places into service the new qualifying pipeline.

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

New Sec. 10. To receive the credit awarded by this act, a taxpayer must claim the credit on the taxpayer's annual state income tax return or returns in the manner prescribed by the director of taxation. The taxpayer shall submit to the director a copy of the taxpayer's agreement for a tax credit entered into with the secretary of commerce pursuant to section 8, and amendments thereto, and all information that the director determines necessary for the calculation of the credit provided by this act.

New Sec. 11. (a) In addition to the income tax credit allowable pursuant to sections 7 through 10, and amendments thereto, a taxpayer shall be entitled to a deduction from Kansas adjusted gross income with respect to the amortization of the amortizable costs of a new qualifying pipeline based upon a period of 10 years. Such amortization deduction shall be an amount equal to 55% of the amortizable costs of such new qualifying pipeline for the first taxable year in which such new qualifying pipeline is in production and 5% of the amortizable costs of such new qualifying pipeline for each of the next nine taxable years.

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

(c) The provisions of this section shall apply to all taxable years commencing after December 31, 2005.

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

(e) As used in this section, terms have the meanings provided by section 7, and amendments thereto.

New Sec. 12. As used in sections 12 through 15, and amendments thereto:

(a) "Expansion of an existing coal or coke gasification nitrogen fertilizer plant" means expansion which begins after December 31, 2005, of the capacity of an existing coal or coke gasification nitrogen fertilizer plant by at least 20% of such capacity.

(b) "Integrated coal or coke gasification nitrogen fertilizer plant" means a facility which: (1) Is located in Kansas, (2) converts coal or petroleum coke into synthesis gas and (3) uses the synthesis gas to produce nitrogen fertilizer.

(c) "Kansas coal" means coal from a mine whose coal deposits are located in the ground wholly or partially in Kansas regardless of the location of the mine's tippie.

(d) "New coal or coke gasification nitrogen fertilizer plant" means a coal or coke gasification nitrogen fertilizer plant, construction of which begins after December 31, 2005.

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

(f) "Qualified investment" means expenditures made in construction of a new integrated coal or coke gasification nitrogen fertilizer plant or expansion of an existing integrated coal or coke gasification nitrogen fertilizer plant, for real and tangible personal property incorporated in and used as part of such plant.

New Sec. 13. (a) For taxable years commencing after December 31, 2005, any taxpayer who is awarded a tax credit under this act by the secretary of commerce and complies with the conditions set forth in this act and the agreement entered into by the secretary and the taxpayer under this act shall be allowed a credit against the taxpayer's tax liability under the Kansas income tax act as provided in subsection (b). Expenditures used to qualify for this credit shall not be used to qualify for any other type of Kansas income tax credit.

(b) The amount of the credit to which a taxpayer is entitled shall be equal to the sum of: (1) An amount equal to 10% of the taxpayer's qualified investment for the first \$250,000,000 invested and (2) an amount equal to 5% of the amount of the taxpayer's qualified investment that exceeds \$250,000,000. Such credit shall be taken in 10 equal, annual installments, beginning with the year in which the taxpayer places into service the new integrated coal or coke gasification nitrogen fertilizer plant or the expansion of an existing integrated coal or coke gasification nitrogen fertilizer plant.

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

(d) (1) Before making a qualified investment, a taxpayer shall apply to the secretary of commerce to enter into an agreement for a tax credit under this act. The secretary shall prescribe the form of the application. After receipt of such application, the secretary may enter into an agreement with the applicant for a credit under this act if the secretary determines that the taxpayer's proposed investment satisfies the requirements of this act. The secretary shall enter into an agreement with an applicant which is awarded a credit under this act. The agreement shall include: (A) A detailed description of the nitrogen fertilizer plant project that is the subject of the agreement, (B) the first taxable year for which the credit may be claimed, (C) the maximum amount of tax credit that will be allowed for each taxable year, (D) a requirement that the taxpayer shall maintain operation of the new or expanded nitrogen fertilizer plant for at least 10 years during the term that the tax credit is available and (E) if the taxpayer's nitrogen fertilizer plant uses a coal gasification process, a requirement that the taxpayer shall use at the taxpayer's integrated coal gasification nitrogen fertilizer plant in any taxable year for which an annual installment of the credit is allowed that percentage of Kansas coal which the secretary determines practicable, based on availability and cost of Kansas coal, in such year.

(2) A taxpayer must comply with the terms of the agreement described in subsection (d)(1) to receive an annual installment of the tax credit awarded under this act. The secretary of commerce, in accordance with rules and regulations of the secretary, shall annually determine whether the taxpayer is in compliance with the agreement. Such determination of compliance shall include, but not be limited to, operation of the new or expanded integrated coal or coke gasification nitrogen fertilizer plant during the tax years when any installments of tax credits are claimed by the taxpayer. If the secretary determines that the taxpayer is in compliance, the secretary shall issue a certificate of compliance to the taxpayer. If the secretary determines that the taxpayer is not in compliance with the agreement, the secretary shall notify the taxpayer and the secretary of revenue of such determination of noncompliance, and any tax credits claimed pursuant to this section for any tax year shall be forfeited.

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

New Sec. 14. (a) If a qualified investment is made by or transferred to a pass-through entity and the credit allowed by this act for a taxable year is greater than the entity's tax liability against which the tax credit may be applied, a shareholder, partner or member of the entity is entitled to a tax credit equal to the tax credit determined for the entity for the taxable year in excess of the entity's tax liability under the Kansas income tax act for the taxable year multiplied by the percentage of the entity's distributive income to which the shareholder, partner or member is entitled.

(b) If an integrated coal or coke gasification nitrogen fertilizer plant is co-owned by two or more taxpayers, the amount of the credit that may be allowed to a co-owner in a taxable year is equal to the tax credit determined under section 13, and amendments thereto, with respect to the total qualified investment in such plant multiplied by the co-owner's per-

centage of ownership in such plant.

(c) Such credit shall be taken in 10 equal, annual installments, beginning with the year in which the entity places into service the new coal or coke gasification nitrogen fertilizer plant or the expansion of the existing coal or coke gasification nitrogen fertilizer plant.

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

New Sec. 15. To receive the credit awarded by this act, a taxpayer must claim the credit on the taxpayer's annual state income tax return or returns in the manner prescribed by the director of taxation. The taxpayer shall submit to the director a copy of the taxpayer's agreement for a tax credit entered into with the secretary of commerce pursuant to section 13, and amendments thereto, and all information that the director determines necessary for the calculation of the credit provided by this act.

New Sec. 16. (a) In addition to the income tax credit allowable pursuant to sections 12 through 15, and amendments thereto, a taxpayer shall be entitled to a deduction from Kansas adjusted gross income with respect to the amortization of the amortizable costs of a new integrated coal or coke gasification nitrogen fertilizer plant or an expansion of an existing integrated coal or coke gasification nitrogen fertilizer plant based upon a period of 10 years. Such amortization deduction shall be an amount equal to 55% of the amortizable costs of such new plant or expansion of an existing plant for the first taxable year in which such plant or expansion of an existing plant is in production and 5% of the amortizable costs of such new plant or expansion of an existing plant for each of the next nine taxable years.

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

(c) The provisions of this section shall apply to all taxable years commencing after December 31, 2005.

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

(e) As used in this section, terms have the meanings provided by section 12, and amendments thereto.

New Sec. 17. As used in sections 17 through 20, and amendments thereto:

(a) "Cellulosic alcohol plant" means an industrial process plant, located in this state, where matter which contains cellulose and is available on a renewable or recurring basis is processed to produce cellulosic alcohol and coproducts.

(b) "Expansion of an existing cellulosic alcohol plant" means expansion which begins after December 31, 2005, of the capacity of an existing cellulosic alcohol plant by at least 10% of such capacity.

(c) "New cellulosic alcohol plant" means a cellulosic alcohol plant, construction of which begins after December 31, 2005.

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

(e) "Qualified investment" means expenditures made in construction of a new cellulosic alcohol plant or in expansion of the capacity of an existing cellulosic alcohol plant, for real and tangible personal property incorporated in and used as part of such plant.

New Sec. 18. (a) For taxable years commencing after December 31, 2005, any taxpayer who is awarded a tax credit under this act by the secretary of commerce and complies with the conditions set forth in this act and the agreement entered into by the secretary and the taxpayer under this act shall be allowed a credit against the taxpayer's tax liability under the Kansas income tax act as provided in subsection (b). Expend-

itures used to qualify for this credit shall not be used to qualify for any other type of Kansas income tax credit.

(b) The amount of the credit to which a taxpayer is entitled shall be equal to the sum of: (1) An amount equal to 10% of the taxpayer's qualified investment for the first \$250,000,000 invested and (2) an amount equal to 5% of the amount of the taxpayer's qualified investment that exceeds \$250,000,000. Such credit shall be taken in 10 equal, annual installments, beginning with the year in which the taxpayer places into service the new cellulosic alcohol plant or the expansion of an existing cellulosic alcohol plant.

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

(d) (1) Before making a qualified investment, a taxpayer shall apply to the secretary of commerce to enter into an agreement for a tax credit under this act. The secretary shall prescribe the form of the application. After receipt of such application, the secretary may enter into an agreement with the applicant for a credit under this act if the secretary determines that the taxpayer's proposed investment satisfies the requirements of this act. The secretary shall enter into an agreement with an applicant which is awarded a credit under this act. The agreement shall include: (A) A detailed description of the cellulosic alcohol plant project that is the subject of the agreement, (B) the first taxable year for which the credit may be claimed, (C) the maximum amount of tax credit that will be allowed for each taxable year and (D) a requirement that the taxpayer shall maintain operation of the new or expanded cellulosic alcohol plant for at least 10 years during the term that the tax credit is available.

(2) A taxpayer must comply with the terms of the agreement described in subsection (d)(1) to receive an annual installment of the tax credit awarded under this act. The secretary of commerce, in accordance with rules and regulations of the secretary, shall annually determine whether the taxpayer is in compliance with the agreement. Such determination of compliance shall include, but not be limited to, operation of the new or expanded cellulosic alcohol plant during the tax years when any installments of tax credits are claimed by the taxpayer. If the secretary determines that the taxpayer is in compliance, the secretary shall issue a certificate of compliance to the taxpayer. If the secretary determines that the taxpayer is not in compliance with the agreement, the secretary shall notify the taxpayer and the secretary of revenue of such determination of noncompliance, and any tax credits claimed pursuant to this section for any tax year shall be forfeited.

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

New Sec. 19. (a) If a qualified investment is made by or transferred to a pass-through entity and the credit allowed by this act for a taxable year is greater than the entity's tax liability against which the tax credit may be applied, a shareholder, partner or member of the entity is entitled to a tax credit equal to the tax credit determined for the entity for the taxable year in excess of the entity's tax liability under the Kansas income tax act for the taxable year multiplied by the percentage of the entity's distributive income to which the shareholder, partner or member is entitled.

(b) If a cellulosic alcohol plant is co-owned by two or more taxpayers, the amount of the credit that may be allowed to a co-owner in a taxable year is equal to the tax credit determined under section 18, and amendments thereto, with respect to the total qualified investment in such plant multiplied by the co-owner's percentage of ownership in such plant.

(c) Such credit shall be taken in 10 equal, annual installments, beginning with the year in which the entity places into service the new cellulosic alcohol plant or the expansion of an existing cellulosic alcohol plant.

(d) If the amount of an annual installment of a tax credit allowed a shareholder, partner, member or co-owner under this section exceeds the taxpayer's income tax liability for the taxable year in which the annual



installment is allowed, the amount thereof which exceeds such tax liability may be carried over for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability, except that no such tax credit shall be carried over for deduction after the 14th taxable year succeeding the taxable year in which the first annual installment is allowed.

New Sec. 20. To receive the credit awarded by this act, a taxpayer must claim the credit on the taxpayer's annual state income tax return or returns in the manner prescribed by the director of taxation. The taxpayer shall submit to the director a copy of the taxpayer's agreement for a tax credit entered into with the secretary of commerce pursuant to section 18, and amendments thereto, and all information that the director determines necessary for the calculation of the credit provided by this act.

New Sec. 21. (a) In addition to the income tax credit allowable pursuant to sections 17 through 20, and amendments thereto, a taxpayer shall be entitled to a deduction from Kansas adjusted gross income with respect to the amortization of the amortizable costs of a new cellulosic alcohol plant or an expansion of an existing cellulosic alcohol plant based upon a period of 10 years. Such amortization deduction shall be an amount equal to 55% of the amortizable costs of such new plant or expansion of an existing plant for the first taxable year in which such new plant or expansion of an existing plant is in production and 5% of the amortizable costs of such new plant or expansion of an existing plant for each of the next nine taxable years.

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

(c) The provisions of this section shall apply to all taxable years commencing after December 31, 2005.

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

(e) As used in this section, terms have the meanings provided by section 17, and amendments thereto.

New Sec. 22. As used in sections 22 through 25, and amendments thereto:

(a) "Commission" means the state corporation commission.

(b) "Expansion of an existing integrated coal gasification power plant" means expansion which begins after December 31, 2005, of the capacity of an existing integrated coal gasification power plant by at least 10% of such capacity.

(c) "Integrated coal gasification power plant" means a facility which: (1) Is located in Kansas, (2) converts coal into synthesis gas that can be used as a fuel to generate energy and (3) uses the synthesis gas as a fuel to generate electric energy.

(d) "Kansas coal" means coal from a mine whose coal deposits are located in the ground wholly or partially in Kansas regardless of the location of the mine's tippie.

(e) "New integrated coal gasification power plant" means an integrated coal gasification power plant, construction of which begins after December 31, 2005.

(f) "Pass-through entity" means any: (1) Corporation which is exempt from income tax under section 1363 of the federal internal revenue code and which complies with the requirements of K.S.A. 79-32,100e, and amendments thereto; (2) limited liability company; (3) partnership; (4) limited liability partnership; (5) corporation organized under the electric cooperative act; or (6) nonstock member-owned electric cooperative corporation incorporated in this state.

(g) "Qualified investment" means expenditures made in construction of a new integrated coal gasification power plant or in expansion of an existing integrated coal gasification power plant, for real and tangible personal property incorporated in and used as part of such plant.

New Sec. 23. (a) For taxable years commencing after December 31, 2005, any taxpayer who is awarded a tax credit under this act by the commission and complies with the conditions set forth in this act and the agreement entered into by the commission and the taxpayer under this act shall be allowed a credit against the taxpayer's tax liability under the Kansas income tax act as provided in subsection (b). Expenditures used to qualify for this credit shall not be used to qualify for any other type of

Kansas income tax credit.

(b) The amount of the credit to which a taxpayer is entitled shall be equal to the sum of: (1) An amount equal to 10% of the taxpayer's qualified investment for the first \$250,000,000 invested and (2) an amount equal to 5% of the amount of the taxpayer's qualified investment that exceeds \$250,000,000. Such credit shall be taken in 10 equal, annual installments, beginning with the year in which the taxpayer places into service the new integrated coal gasification power plant or the expansion of an existing integrated coal gasification power plant.

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

(d) (1) Before making a qualified investment, a taxpayer shall apply to the commission to enter into an agreement for a tax credit under this act. The commission shall prescribe the form of the application. After receipt of such application, the commission may enter into an agreement with the applicant for a credit under this act if the commission determines that the taxpayer's proposed investment satisfies the requirements of this act. The commission shall enter into an agreement with an applicant which is awarded a credit under this act. The agreement shall include: (A) A detailed description of the power plant project that is the subject of the agreement, (B) the first taxable year for which the credit may be claimed, (C) the maximum amount of tax credit that will be allowed for each taxable year, (D) a requirement that the taxpayer shall maintain operation of the new or expanded power plant for at least 10 years during the term that the tax credit is available, (E) a requirement that the taxpayer shall use at the taxpayer's integrated coal gasification power plant in any taxable year for which an annual installment of the credit is allowed that percentage of Kansas coal which the commission determines is prudent, based on availability and cost of Kansas coal, in such year and (F) a requirement that the taxpayer obtain from the commission a determination that the public necessity and convenience require, or will require, construction of the taxpayer's integrated coal gasification power plant.

(2) A taxpayer must comply with the terms of the agreement described in subsection (d)(1) to receive an annual installment of the tax credit awarded under this act. The commission, in accordance with rules and regulations of the commission, shall annually determine whether the taxpayer is in compliance with the agreement. Such determination of compliance shall include, but not be limited to, operation of the new or expanded integrated coal gasification power plant during the tax years when any installments of tax credits are claimed by the taxpayer. If the commission determines that the taxpayer is in compliance, the commission shall issue a certificate of compliance to the taxpayer. If the secretary determines that the taxpayer is not in compliance with the agreement, the secretary shall notify the taxpayer and the secretary of revenue of such determination of noncompliance, and any tax credits claimed pursuant to this section for any tax year shall be forfeited.

(3) The state corporation commission may adopt rules and regulations to administer the provisions of this subsection.

New Sec. 24. (a) If a qualified investment is made by or transferred to a pass-through entity and the credit allowed by this act for a taxable year is greater than the entity's tax liability against which the tax credit may be applied, a shareholder, partner or member of the entity is entitled to a tax credit equal to the tax credit determined for the entity for the taxable year in excess of the entity's tax liability under the Kansas income tax act for the taxable year multiplied by the percentage of the entity's distributive income to which the shareholder, partner or member is entitled.

(b) If an integrated coal gasification power plant is co-owned by two or more taxpayers, the amount of the credit that may be allowed to a co-owner in a taxable year is equal to the tax credit determined under section 23, and amendments thereto, with respect to the total qualified investment in such plant multiplied by the co-owner's percentage of ownership

in such plant.

(c) Such credit shall be taken in 10 equal, annual installments, beginning with the year in which the entity places into service the new integrated coal gasification power plant or the expansion of an existing integrated coal gasification power plant.

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

New Sec. 25. To receive the credit awarded by this act, a taxpayer must claim the credit on the taxpayer's annual state income tax return or returns in the manner prescribed by the director of taxation. The taxpayer shall submit to the director a copy of the taxpayer's agreement for a tax credit entered into with the commission pursuant to section 23, and amendments thereto, and all information that the director determines necessary for the calculation of the credit provided by this act.

New Sec. 26. (a) The following described property, to the extent herein specified, shall be exempt from all property taxes levied under the laws of the state of Kansas:

(1) Any new integrated coal gasification power plant property or any expanded integrated coal gasification power plant property.

(2) All property purchased for or constructed or installed at an integrated coal gasification power plant to comply with air emission standards imposed by state or federal law.

(b) The provisions of subsection (a) shall apply from and after purchase or commencement of construction or installation of such property and for the 12 taxable years immediately following the taxable year in which construction or installation of such property is completed.

(c) The provisions of this section shall apply to all taxable years commencing after December 31, 2005.

(d) As used in this section:

(1) "Expanded integrated coal gasification power plant property" means any real or tangible personal property purchased, constructed or installed for incorporation in and use as part of an expansion of an existing integrated coal gasification power plant, construction of which expansion begins after December 31, 2005.

(2) "Expansion of an existing integrated coal gasification power plant" means expansion of the capacity of an existing integrated coal gasification power plant by at least 10% of such capacity.

(3) "Integrated coal gasification power plant" has the meaning provided by section 22, and amendments thereto.

(4) "New integrated coal gasification power plant property" means any real or tangible personal property purchased, constructed or installed for incorporation in and use as part of an integrated coal gasification power plant, construction of which begins after December 31, 2005.

New Sec. 27. (a) For the purpose of financing the construction of a new integrated coal gasification power plant or expansion of an existing integrated coal gasification power plant, the Kansas development finance authority is hereby authorized to issue revenue bonds pursuant to the Kansas development finance authority act, K.S.A. 74-8901 et seq., and amendments thereto, in amounts sufficient to pay the costs of such construction or expansion, including any required interest on the bonds during construction and installation, plus all amounts required for the costs of bond issuance, costs of credit enhancement or other financial contracts, capitalized interest and any required reserves on the bonds. The bonds, and interest thereon, issued pursuant to this section shall be payable from revenues pledged to the Kansas development finance authority for such purpose, which may include revenues derived from sales of generation from the integrated coal gasification power plant.

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

clude such issuance.

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

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

(e) As used in this section:

(1) "Expansion of an existing integrated coal gasification power plant" means expansion, beginning after December 31, 2005, of the capacity of an existing integrated coal gasification power plant by at least 10% of such capacity, and includes construction or expansion of transmission facilities which are located at the site of such plant and are employed specifically to serve such expansion.

(2) "Integrated coal gasification power plant" has the meaning provided by section 22, and amendments thereto.

(3) "New integrated coal gasification power plant" means an integrated coal gasification power plant construction of which begins after December 31, 2005, and includes transmission facilities which are located at the site of such plant and are employed specifically to serve such plant.

Sec. 28. K.S.A. 2005 Supp. 79-32,117 is hereby amended to read as follows: 79-32,117. (a) The Kansas adjusted gross income of an individual means such individual's federal adjusted gross income for the taxable year, with the modifications specified in this section.

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

(i) Interest income less any related expenses directly incurred in the purchase of state or political subdivision obligations, to the extent that the same is not included in federal adjusted gross income, on obligations of any state or political subdivision thereof, but to the extent that interest income on obligations of this state or a political subdivision thereof issued prior to January 1, 1988, is specifically exempt from income tax under the laws of this state authorizing the issuance of such obligations, it shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income. Interest income on obligations of this state or a political subdivision thereof issued after December 31, 1987, shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income.

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

(iii) The federal net operating loss deduction.

(iv) Federal income tax refunds received by the taxpayer if the deduction of the taxes being refunded resulted in a tax benefit for Kansas income tax purposes during a prior taxable year. Such refunds shall be included in income in the year actually received regardless of the method of accounting used by the taxpayer. For purposes hereof, a tax benefit shall be deemed to have resulted if the amount of the tax had been deducted in determining income subject to a Kansas income tax for a prior year regardless of the rate of taxation applied in such prior year to the Kansas taxable income, but only that portion of the refund shall be included as bears the same proportion to the total refund received as the federal taxes deducted in the year to which such refund is attributable bears to the total federal income taxes paid for such year. For purposes of the foregoing sentence, federal taxes shall be considered to have been deducted only to the extent such deduction does not reduce Kansas taxable income below zero.

(v) The amount of any depreciation deduction or business expense deduction claimed on the taxpayer's federal income tax return for any capital expenditure in making any building or facility accessible to the handicapped, for which expenditure the taxpayer claimed the credit allowed by K.S.A. 79-32,177, and amendments thereto.

(vi) Any amount of designated employee contributions picked up by an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965, and amendments to such sections.

(vii) The amount of any charitable contribution made to the extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-32,196, and amendments thereto.

(viii) The amount of any costs incurred for improvements to a swine facility, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2005 Supp. 79-32,204 and amendments thereto.

(ix) The amount of any ad valorem taxes and assessments paid and the amount of any costs incurred for habitat management or construction and maintenance of improvements on real property, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203 and amendments thereto.

(x) Amounts received as nonqualified withdrawals, as defined by K.S.A. 2005 Supp. 75-643, and amendments thereto, if, at the time of contribution to a family postsecondary education savings account, such amounts were subtracted from the federal adjusted gross income pursuant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amendments thereto, or if such amounts are not already included in the federal adjusted gross income.

(xi) The amount of any contribution made to the same extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 2005 Supp. 74-50,154, and amendments thereto.

(xii) For taxable years commencing after December 31, 2004, amounts received as withdrawals not in accordance with the provisions of K.S.A. 2005 Supp. 74-50,204, and amendments thereto, if, at the time of contribution to an individual development account, such amounts were subtracted from the federal adjusted gross income pursuant to paragraph (xiii) of subsection (c), or if such amounts are not already included in the federal adjusted gross income.

*(xiii) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to sections 1 through 4 or section 6, and amendments thereto.*

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

*(xv) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to sections 7 through 10, and amendments thereto.*

*(xvi) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to section 11, and amendments thereto.*

*(xvii) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to sections 12 through 15, and amendments thereto.*

*(xviii) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to section 16, and amendments thereto.*

*(xix) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to sections 17 through 20, and amendments thereto.*

*(xx) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to section 21, and amendments thereto.*

*(xxi) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to sections 22 through 25, and amendments thereto.*

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

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

(ii) Any amounts received which are included in federal adjusted gross income but which are specifically exempt from Kansas income taxation under the laws of the state of Kansas.

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

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

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

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

(vii) Amounts received as annuities under the federal civil service retirement system from the civil service retirement and disability fund and other amounts received as retirement benefits in whatever form which were earned for being employed by the federal government or for service in the armed forces of the United States.

(viii) Amounts received by retired railroad employees as a supplemental annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1) et seq.

(ix) Amounts received by retired employees of a city and by retired employees of any board of such city as retirement allowances pursuant to K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter ordinance exempting a city from the provisions of K.S.A. 13-14,106, and amendments thereto.

(x) For taxable years beginning after December 31, 1976, the amount of the federal tentative jobs tax credit disallowance under the provisions of 26 U.S.C. 280 C. For taxable years ending after December 31, 1978, the amount of the targeted jobs tax credit and work incentive credit disallowances under 26 U.S.C. 280 C.

(xi) For taxable years beginning after December 31, 1986, dividend income on stock issued by Kansas Venture Capital, Inc.

(xii) For taxable years beginning after December 31, 1989, amounts received by retired employees of a board of public utilities as pension and retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249 and amendments thereto.

(xiii) For taxable years beginning after December 31, 2004, amounts contributed to and the amount of income earned on contributions deposited to an individual development account under K.S.A. 2005 Supp. 74-50,201, et seq., and amendments thereto.

(xiv) For all taxable years commencing after December 31, 1996, that portion of any income of a bank organized under the laws of this state or any other state, a national banking association organized under the laws of the United States, an association organized under the savings and loan code of this state or any other state, or a federal savings association organized under the laws of the United States, for which an election as an S corporation under subchapter S of the federal internal revenue code is in effect, which accrues to the taxpayer who is a stockholder of such corporation and which is not distributed to the stockholders as dividends of the corporation.

(xv) For all taxable years beginning after December 31, 1999, amounts not exceeding \$2,000, or \$4,000 for a married couple filing a joint return, for each designated beneficiary which are contributed to a family postsecondary education savings account established under the Kansas postsecondary education savings program for the purpose of paying the qualified higher education expenses of a designated beneficiary

at an institution of postsecondary education. For all taxable years beginning after December 31, 2004, amounts not exceeding \$3,000, or \$6,000 for a married couple filing a joint return, for each designated beneficiary which are contributed to a family postsecondary education savings account established under the Kansas postsecondary education savings program for the purpose of paying the qualified higher education expenses of a designated beneficiary at an institution of postsecondary education. The terms and phrases used in this paragraph shall have the meaning respectively ascribed thereto by the provisions of K.S.A. 2005 Supp. 75-643, and amendments thereto, and the provisions of such section are hereby incorporated by reference for all purposes thereof.

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

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

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

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

(e) The amount of modifications required to be made under this section by a partner which relates to items of income, gain, loss, deduction or credit of a partnership shall be determined under K.S.A. 79-32,131, and amendments thereto, to the extent that such items affect federal adjusted gross income of the partner.

Sec. 29. K.S.A. 79-32,120 is hereby amended to read as follows: 79-32,120. (a) If federal taxable income of an individual is determined by itemizing deductions from such individual's federal adjusted gross income, such individual may elect to deduct the Kansas itemized deduction in lieu of the Kansas standard deduction. The Kansas itemized deduction of an individual means the total amount of deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section.

(b) The total amount of deductions from federal adjusted gross income shall be reduced by the total amount of income taxes imposed by or paid to this state or any other taxing jurisdiction to the extent that the same are deducted in determining the federal itemized deductions and by the amount of all depreciation deductions claimed for any real or tangible personal property upon which the deduction allowed by ~~K.S.A. 79-32,168~~ section 5, 11, 16 or 21, and amendments thereto, is or has been claimed.

Sec. 30. K.S.A. 79-32,138 is hereby amended to read as follows: 79-32,138. (a) Kansas taxable income of a corporation taxable under this act shall be the corporation's federal taxable income for the taxable year with the modifications specified in this section.

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

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

~~(iii) (ii) The amount of all depreciation deductions claimed for any property upon which the deduction allowed by K.S.A. 79-32,168 section 5, 11, 16 or 21, and amendments thereto, is claimed.~~

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

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

(ii) The federal income tax liability for any taxable year commencing prior to December 31, 1971, for which a Kansas return was filed after reduction for all credits thereon, except credits for payments on estimates of federal income tax, credits for gasoline and lubricating oil tax, and for foreign tax credits if, on the Kansas income tax return for such prior year, the federal income tax deduction was computed on the basis of the federal income tax paid in such prior year, rather than as accrued. Notwithstanding the foregoing, the deduction for federal income tax liability for any year shall not exceed that portion of the total federal income tax liability for such year which bears the same ratio to the total federal income tax liability for such year as the Kansas taxable income, as computed before any deductions for federal income taxes and after application of subsections (d) and (e) of this section as existing for such year, bears to the federal taxable income for the same year.

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

~~(iv) (iii) An amount for the amortization deduction for a solar energy system allowed pursuant to K.S.A. 79-32,168 section 5, 11, 16 or 21, and amendments thereto.~~

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

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

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

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

New Sec. 31. (a) The following described property, to the extent herein specified, shall be exempt from all property taxes levied under the laws of the state of Kansas: Any new refinery property, any expanded refinery property or any restored refinery property.

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

(c) The provisions of this section shall apply to all taxable years com-



mening after December 31, 2005.

(d) As used in this section:

(1) "Expanded refinery property" means any real or tangible personal property purchased, constructed or installed for incorporation in and use as part of an expansion of an existing refinery, construction of which expansion begins after December 31, 2005.

(2) "Expansion of an existing refinery" means expansion of the capacity of an existing refinery by at least 10% of such capacity.

(3) "New refinery property" means any real or tangible personal property purchased, constructed or installed for incorporation in and use as part of a refinery, construction of which begins after December 31, 2005.

(4) "Refinery" has the meaning provided by section 1, and amendments thereto.

(5) "Restored refinery property" means any real or tangible personal property purchased, constructed or installed for incorporation in and use as part of restoration of production of a refinery which has been out of production for five or more years.

New Sec. 32. (a) For the purpose of financing the construction of a new refinery, expansion of an existing refinery or restoration of a refinery, the Kansas development finance authority is hereby authorized to issue revenue bonds pursuant to the Kansas development finance act, K.S.A. 74-8901 et seq., and amendments thereto, in amounts sufficient to pay the costs of such construction, expansion or restoration, including any required interest on the bonds during construction, expansion or restoration, plus all amounts required for the costs of bond issuance, costs of credit enhancement or other financial contracts, capitalized interest and any required reserves on the bonds. The bonds, and interest thereon, issued pursuant to this section shall be payable from revenues pledged to the Kansas development finance authority for such purpose, which may include revenues derived from sales of petroleum products produced at the refinery.

(b) The provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto, shall not prohibit the issuance of bonds by the Kansas development finance authority for the purposes of this section and any such issuance of bonds is exempt from the provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto, which would operate to preclude such issuance.

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

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

(e) As used in this section:

(1) "Expansion of an existing refinery" means expansion, beginning after December 31, 2005, of the capacity of an existing refinery by at least 10% of such capacity.

(2) "New refinery" means a refinery, construction of which begins after December 31, 2005.

(3) "Refinery" has the meaning provided by section 1, and amendments thereto.

(4) "Restoration of a refinery" means restoration of production of a refinery which has been out of production for five or more years.

New Sec. 33. (a) The department of health and environment shall expedite processing and issuance of any permit required to be issued by the department for construction or operation of a refinery.

(b) As used in this section, "refinery" means an industrial process plant where crude oil is processed and refined into petroleum products.

New Sec. 34. (a) The following described property, to the extent herein specified, shall be exempt from all property taxes levied under the laws of the state of Kansas: Any new qualifying pipeline property.

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

(c) The provisions of this section shall apply to all taxable years com-

mencing after December 31, 2005.

(d) As used in this section:

(1) "New qualifying pipeline property" means any real or tangible personal property purchased, constructed or installed for incorporation in and use as part of a new qualifying pipeline, construction of which begins after December 31, 2005.

(2) "Qualifying pipeline" has the meaning provided by section 7, and amendments thereto.

New Sec. 35. (a) For the purpose of financing the construction of a new qualifying pipeline, the Kansas development finance authority is hereby authorized to issue revenue bonds pursuant to the Kansas development finance authority act, K.S.A. 74-8901 et seq., and amendments thereto, in amounts sufficient to pay the costs of such construction, including any required interest on the bonds during construction and installation, plus all amounts required for the costs of bond issuance, costs of credit enhancement or other financial contracts, capitalized interest and any required reserves on the bonds. The bonds, and interest thereon, issued pursuant to this section shall be payable from revenues pledged to the Kansas development finance authority for such purpose, which may include revenues derived from transportation fees paid for transporting oil through the qualifying pipeline.

(b) The provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto, shall not prohibit the issuance of bonds by the Kansas development finance authority for the purposes of this section and any such issuance of bonds is exempt from the provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto, which would operate to preclude such issuance.

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

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

(e) As used in this section:

(1) "New qualifying pipeline" means a qualifying pipeline, construction of which begins after December 31, 2005.

(2) "Qualifying pipeline" has the meaning provided by section 7, and amendments thereto.

New Sec. 36. (a) The following described property, to the extent herein specified, shall be exempt from all property taxes levied under the laws of the state of Kansas: Any new integrated coal or coke gasification nitrogen fertilizer plant property or any expanded integrated coal or coke gasification nitrogen fertilizer plant property.

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

(c) The provisions of this section shall apply to all taxable years commencing after December 31, 2005.

(d) As used in this section:

(1) "Expanded integrated coal or coke gasification nitrogen fertilizer plant property" means any real or tangible personal property purchased, constructed or installed for incorporation in and use as part of an expansion of an existing integrated coal or coke gasification nitrogen fertilizer plant, construction of which expansion begins after December 31, 2005.

(2) "Expansion of an existing integrated coal or coke gasification nitrogen fertilizer plant" means expansion of the capacity of an existing integrated coal or coke gasification nitrogen fertilizer plant by at least 20% of such capacity.

(3) "Integrated coal or coke gasification nitrogen fertilizer plant" has the meaning provided by section 12, and amendments thereto.

(4) "New integrated coal or coke gasification nitrogen fertilizer plant property" means any real or tangible personal property purchased, constructed or installed for incorporation in and use as part of an integrated coal or coke gasification nitrogen fertilizer plant, construction of which begins after December 31, 2005.

New Sec. 37. (a) For the purpose of financing the construction of a

new integrated coal or coke gasification nitrogen fertilizer plant or expansion of an existing integrated coal or coke gasification nitrogen fertilizer plant, the Kansas development finance authority is hereby authorized to issue revenue bonds pursuant to the Kansas development finance authority act, K.S.A. 74-8901 et seq., and amendments thereto, in amounts sufficient to pay the costs of such construction or expansion, including any required interest on the bonds during construction and installation, plus all amounts required for the costs of bond issuance, costs of credit enhancement or other financial contracts, capitalized interest and any required reserves on the bonds. The bonds, and interest thereon, issued pursuant to this section shall be payable from revenues pledged to the Kansas development finance authority for such purpose, which may include revenues derived from sales of nitrogen fertilizer produced at the integrated coal or coke gasification nitrogen fertilizer plant.

(b) The provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto, shall not prohibit the issuance of bonds by the Kansas development finance authority for the purposes of this section and any such issuance of bonds is exempt from the provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto, which would operate to preclude such issuance.

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

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

(e) As used in this section:

(1) "Expansion of an existing integrated coal or coke gasification nitrogen fertilizer plant" means expansion, beginning after December 31, 2005, of the capacity of an existing integrated coal or coke gasification nitrogen fertilizer plant by at least 20% of such capacity.

(2) "Integrated coal or coke gasification nitrogen fertilizer plant" has the meaning provided by section 12, and amendments thereto.

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

New Sec. 38. (a) The following described property, to the extent herein specified, shall be exempt from all property taxes levied under the laws of the state of Kansas: Any new cellulosic alcohol plant property or any expanded cellulosic alcohol plant property.

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

(c) The provisions of this section shall apply to all taxable years commencing after December 31, 2005.

(d) As used in this section:

(1) "Cellulosic alcohol plant" has the meaning provided by section 17, and amendments thereto.

(2) "Expanded cellulosic alcohol plant property" means any real or tangible personal property purchased, constructed or installed for incorporation in and use as part of an expansion of an existing cellulosic alcohol plant, construction of which expansion begins after December 31, 2005.

(3) "Expansion of an existing cellulosic alcohol plant" means expansion of the capacity of an existing cellulosic alcohol plant by at least 10% of such capacity.

(4) "New cellulosic alcohol plant property" means any real or tangible personal property purchased, constructed or installed for incorporation in and use as part of a cellulosic alcohol plant, construction of which begins after December 31, 2005.

New Sec. 39. (a) For the purpose of financing the construction of a new cellulosic alcohol plant or expansion of an existing cellulosic alcohol plant, the Kansas development finance authority is hereby authorized to issue revenue bonds pursuant to the Kansas development finance authority act, K.S.A. 74-8901 et seq., and amendments thereto, in amounts sufficient to pay the costs of such construction or expansion, including any required interest on the bonds during construction and installation,

plus all amounts required for the costs of bond issuance, costs of credit enhancement or other financial contracts, capitalized interest and any required reserves on the bonds. The bonds, and interest thereon, issued pursuant to this section shall be payable from revenues pledged to the Kansas development finance authority for such purpose, which may include revenues derived from sales of cellulosic alcohol products produced at the plant.

(b) The provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto, shall not prohibit the issuance of bonds by the Kansas development finance authority for the purposes of this section and any such issuance of bonds is exempt from the provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto, which would operate to preclude such issuance.

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

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

(e) As used in this section:

(1) "Cellulosic alcohol plant" has the meaning provided by section 17, and amendments thereto.

(2) "Expansion of an existing cellulosic alcohol plant" means expansion, beginning after December 31, 2005, of the capacity of an existing cellulosic alcohol plant by at least 10% of such capacity.

(3) "New cellulosic alcohol plant" means a cellulosic alcohol plant, construction of which begins after December 31, 2005.

New Sec. 40. This act shall be known and may be cited as the Kansas energy development act.

Sec. 41. K.S.A. 79-32,120 and 79-32,138 and K.S.A. 2005 Supp. 79-32,117 are hereby repealed.

Sec. 42. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 23, 2006.

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