CHAPTER 113
HOUSE BILL No. 2038
(Amended by Chapter 195)

AN ACT concerning energy; relating to nuclear power plants, siting permits and providing certain property tax exemptions; production of energy from renewable energy resources or technologies and use of waste energy, income tax credits and deductions and property tax exemptions; certain fuel storage and blending equipment, income tax credits and deductions and property tax exemptions; amending K.S.A. 66-1,158, 66-1,159, 66-1,159a, 66-1,161, 66-1,162, 66-1,169a and 66-1,169b and K.S.A. 2006 Supp. 66-1,160, 74-8949b, 79-229, 79-32,117, 79-32,120, 79-32,138, 79-32,218, 79-32,224, 79-32,229, 79-32,233, 79-32,234, 79-32,235, 79-32,237 and 79-32,239 and repealing the existing sections; also repealing K.S.A. 2006 Supp. 79-32,117l.

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

New Section 1. (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 nuclear generation facility 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, 2006.

(d) The owner or owners of any new nuclear generation facility property shall pay to the appropriate taxing subdivisions of the state a payment in lieu of taxes in an amount equal to the amount which would have been levied upon the real property portion of such property if such real property were subject to ad valorem taxes as long as any exemption granted pursuant to this section is still in effect, and such taxing subdivision is authorized to receive and expend revenue resulting therefrom in the manner as otherwise provided by law.

(e) As used in this section:

(1) "Existing nuclear generation facility" means a nuclear generation facility which is in existence on January 1, 2007.

(2) "New nuclear generation facility property" means any real or tangible personal property purchased, constructed or installed for incorporation in and use as part of a nuclear generation facility, of which construction begins after December 31, 2006, and which is within three miles of the reactor of an existing nuclear generation facility.

(3) "Nuclear generation facility" means any physical plant utilizing nuclear energy as the primary fuel for the production or generation of electricity or electric power.

Sec. 2. K.S.A. 66-1,158 is hereby amended to read as follows: 66-1,158. As used in this act:

(a) *"Addition to an existing nuclear generation facility" means any addition of nuclear generation capacity to an existing nuclear generation facility.*

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

~~(b)~~ *(c)* "Electric utility" means every public utility, as defined by K.S.A. 66-104, and amendments thereto, which owns, controls, operates or manages any equipment, plant or generating machinery for the production, transmission, delivery or furnishing, of electricity or electric power.

(d) "Existing nuclear generation facility" means a nuclear generation facility which is in existence on January 1, 2007.

~~(c)~~ *(e)* "Landowner" means any person having an estate or interest in any land, which land is proposed to be acquired by an electric utility in connection with the construction, operation and maintenance of a nuclear generation facility ~~or addition to a nuclear generation facility~~.

~~(d)~~ *(f)* (1) "Nuclear generation facility ~~or addition to a nuclear generation facility~~" means~~: (A)~~ any physical plant utilizing nuclear energy as the primary fuel for the production or generation of electricity or electric power~~; or (B) any addition of nuclear generation capacity to an existing generation facility~~.

(2) "Nuclear generation facility ~~or addition to a nuclear generation facility~~" does not include: (A) Remodeling, reconditioning or retrofitting of ~~an existing nuclear plant~~ *a nuclear generation facility*; (B) construction of nonnuclear generation capacity at the site of ~~an existing nuclear plant, or (C)~~ *a nuclear generation facility; (C) an addition to an existing nuclear*

generation facility which is within three miles of the reactor of an existing nuclear generation facility; (D) construction of a nuclear generation facility which is within three miles of the reactor of an existing nuclear generation facility; or (E) any facility ~~or addition to a facility~~ proposed to be located outside this state if: (i) The need for the facility ~~or addition~~ and the reasonableness of its proposed siting is subject to review by the utility regulatory authority of that state; (ii) less than 10% of the retail customers on the electric system intended to be served by such facility ~~or addition~~ are located in this state; and (iii) such retail customers located in this state number no more than 15,000.

~~(e)~~ *(g)* "Party" means any landowner, electric utility, governmental board or agency, or any other person allowed to intervene in any proceeding under this act.

~~(f)~~ *(h)* "Person" means any individual, partnership, corporation or other association of persons.

Sec. 3. K.S.A. 66-1,159 is hereby amended to read as follows: 66-1,159. No electric utility may begin site preparation for or construction of a nuclear generation facility ~~or addition to a nuclear generation facility~~ or exercise the right of eminent domain to acquire any land in connection with site preparation for or construction of any such facility ~~or addition thereto~~, without first acquiring a permit from the commission. Whenever any such electric utility desires to obtain such a permit, the utility shall file an application with the commission, setting forth therein that the utility proposes to construct a nuclear generation facility ~~or addition to a nuclear generation facility~~ and specifying the description and the total number of acres of land that such utility contemplates is needed in connection with the construction, operation and maintenance of such facility ~~or addition thereto~~. Also, the electric utility shall file with the application documents and plans which indicate the total planned utilization of a proposed location for electric generation purposes and documents and plans for utilization of an alternative location or locations. ~~Such documents and plans with respect to alternative locations shall not be required for additions to existing nuclear generation facilities.~~ In addition, the electric utility shall file with the application such documents pertaining to the construction, operation and maintenance of the proposed facility ~~or addition~~ and such other matters deemed relevant thereto as may be required by rules and regulations of the commission. Thereupon, the commission shall fix a time for a public hearing on such application, which shall be not less than 30 nor more than 180 days from the date the application was filed and shall be conducted in accordance with the provisions of the Kansas administrative procedure act, to determine the necessity for the proposed facility ~~or addition~~ and the most reasonable location and size of the proposed facility ~~or addition~~. The commission shall fix the place for hearing, which may be in the county in which is located the major portion of the land which has been or is proposed to be acquired in connection with the construction, operation and maintenance of the proposed facility ~~or addition~~. Such hearing may be held in Topeka.

Sec. 4. K.S.A. 66-1,159a is hereby amended to read as follows: 66-1,159a. Any electric generation facility~~, or addition thereto,~~ for which a permit application was pending under the electric generation facility siting act as it existed immediately before the effective date of this act shall be required to have such permit only if the facility is required to have a permit pursuant to this act.

Sec. 5. K.S.A. 2006 Supp. 66-1,160 is hereby amended to read as follows: 66-1,160. The commission shall publish notice of the time, place and subject matter of such hearing in newspapers having general circulation in the counties in which is located any portion of the land which has been or is proposed to be acquired in connection with the construction, operation and maintenance of the proposed nuclear generation facility ~~or addition to a nuclear generation facility~~ once each week for three consecutive weeks, the last publication to be not less than five days before such hearing date. Written notice of such hearing and a copy of the application also shall be served not less than 20 days prior to the hearing date upon all landowners, as shown by the files, records and indexes of the register of deeds of the county in which such land is located, and the chief administrative officer, or any person designated by such officer to receive such service, of the department of commerce, Kansas department of agriculture, Kansas water office, department of health and environ-

ment, department of transportation, state geological survey and division of the budget of the department of administration. In addition to the information contained in the published notice, such written notice shall state that the electric utility has filed the application and supporting documents as required by K.S.A. 66-1,159 and amendments thereto, and that such application and supporting documents are available in the office of the commission for examination and copying by the person or board or agency desiring copies thereof.

Sec. 6. K.S.A. 66-1,161 is hereby amended to read as follows: 66-1,161. The commission shall appoint an attorney to represent the interests of the landowners at the hearing and shall allow a reasonable attorney's fee, which shall be taxed as part of the costs thereof. Landowners, at their own expense, may retain counsel to represent their individual interests at such hearing. The chief administrative officer, or any other person or persons designated by such officer, of any governmental board or agency affected by the siting of the proposed nuclear generation facility ~~or addition to a nuclear generation facility~~ shall be deemed to meet the requirement for intervention contained in subsection (a)(2) of K.S.A. 77-521 and amendments thereto. Any owner or lessee of land whose estate or interest in such land would not be acquired by the electric utility but would be affected in some other manner by the construction, operation or maintenance of the facility ~~or addition~~ may petition for intervention in accordance with the provisions of K.S.A. 77-521 and amendments thereto.

Sec. 7. K.S.A. 66-1,162 is hereby amended to read as follows: 66-1,162. Except as otherwise provided in this act, the rules and regulations adopted by the commission pursuant to K.S.A. 66-106 and amendments thereto to govern the commission's proceedings shall be applicable to any proceeding before the commission under this act. The electric utility shall proceed with the introduction of evidence of the necessity for the proposed nuclear generation facility ~~or addition to a nuclear generation facility~~ and of the reasonableness of the proposed location and size of the facility ~~or addition~~. The burden of proof on any such matter shall be upon the electric utility and shall be established by a preponderance of the evidence. All parties present or represented by counsel at the hearing shall have an opportunity to be heard and the right to cross-examine any witness appearing before the commission at the hearing. The commission shall cause a transcript to be made of the hearing. All costs of any hearing shall be taxed against the electric utility. The hearing and all parties' arguments shall be completed within 90 days after the commencement thereof. At any time after the commencement of the hearing, the electric utility may withdraw its application for the permit required by K.S.A. 66-1,159 and amendments thereto.

The commission shall make findings of fact and file such findings with its decision to grant, grant conditioned by such findings or withhold the permit applied for, except that whenever approval of applications are pending with or must be obtained from any state regulatory authority which relate to the operation of any such facility ~~or addition to a facility~~, the commission shall postpone its decision until proof of the approval or disapproval of any such application is received. In any case where a state regulatory authority cannot render final approval of any such application until the facility ~~or addition to a facility~~ is in actual operation, the commission shall accept as proof of approval or disapproval the state regulatory authority's certification of probable acceptability or unacceptability of an application. Prior to making its determination with respect to the most reasonable location and size of a proposed nuclear generation facility ~~or addition to a nuclear generation facility~~, the commission shall make its determination of whether or not a necessity exists for the electric generation capacity of a proposed facility ~~or addition to a facility~~. In addition to any other consideration deemed necessary in making such determination, the commission shall consider and make determinations on the following factors: (1) Whether or not the electric generating capacity of the proposed facility ~~or addition to a facility~~ meets or contributes to the meeting of the electrical energy needs of the people of this state considering the probable future statewide electrical energy needs thereof; and (2) whether or not available electrical generating capacity exists within the state that is capable of being distributed economically, reliably, technically and environmentally. Whenever the commission determines that a necessity exists for electric generation capacity to be provided by a

proposed nuclear generation facility ~~or addition to a nuclear generation facility~~, the commission shall make its determinations with respect to the most reasonable size and location of any such facility ~~or addition to a facility~~. In addition to any other consideration deemed necessary in making a determination with respect to the size of a proposed facility ~~or addition to a facility~~, the commission shall consider the electric utility's total planned utilization of a proposed location for electric generation purposes as it relates to the necessity found by the commission for additional electric generating capacity in the state. In addition to any other consideration deemed necessary in making a determination with respect to the most reasonable location of a proposed facility ~~or addition to a facility~~, the commission shall consider the availability of natural resources necessary in the operation of a proposed facility ~~or addition to a facility~~ as the same relates to each alternative location submitted by the electric utility as required by the provisions of K.S.A. 66-1,159 and amendments thereto. ~~The location of the existing nuclear generation facility shall be the most reasonable location for any addition to such facility.~~ Upon a determination that a necessity exists for the proposed nuclear generation facility ~~or addition to a nuclear generation facility~~ and that the proposed location and size of such facility ~~or addition thereto~~ are the most reasonable, the commission shall issue to the electric utility a permit to construct such facility ~~or addition thereto~~, except that the commission may condition such permit with respect to the location and size of the proposed nuclear generation facility ~~or addition to a nuclear generation facility~~ to provide for an alternate location or size, or both, thereof, but in no case shall the commission provide for a size larger than that applied for. Upon the issuance of such permit, no local ordinance, resolution or regulation shall prohibit the construction of the nuclear generation facility ~~or addition to a nuclear generation facility~~, and the electric utility may proceed with such facility ~~or addition thereto~~ notwithstanding any requirement to obtain any building permit under any local zoning ordinance, resolution or regulation.

Sec. 8. K.S.A. 66-1,169a is hereby amended to read as follows: 66-1,169a. In order to more effectively administer the provisions of the Kansas nuclear generation facility siting act with respect to determining whether or not a necessity exists for a proposed nuclear generation facility ~~or addition to a nuclear generation facility~~, the commission shall compile and maintain a comprehensive statewide electric generation capacity forecast. In compiling and maintaining said forecast, the commission may hold such hearings deemed necessary. The proceedings of any such hearing shall be governed by the rules and regulations adopted by the commission pursuant to K.S.A. 66-106 and amendments thereto. For the purposes of this section, every municipally owned or operated electric utility and every electric utility operating wholly and solely within the legal boundaries of any municipality and within three miles thereof shall furnish to the commission such information as to electric generation capacity as the commission may require.

Sec. 9. K.S.A. 66-1,169b is hereby amended to read as follows: 66-1,169b. With regard to a facility proposed to be located outside this state, K.S.A. 66-1,160 and 66-1,161, and amendments thereto, shall not apply and, for purposes of determining the most reasonable location of a proposed facility ~~or addition to a facility~~ pursuant to K.S.A. 66-1,162, and amendments thereto, the commission shall consider only the effects on system reliability and economic efficiency.

New Sec. 10. As used in sections 10 through 14, and amendments thereto:

(a) "New renewable electric cogeneration facility" means a renewable electric cogeneration facility which is located in this state and construction of which begins after December 31, 2006.

(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 renewable electric cogeneration facility, for real and tangible personal property incorporated in and used as part of such facility.

(d) "Renewable electric cogeneration facility" means a facility which generates electricity utilizing renewable energy resources or technologies,

as defined in K.S.A. 79-201, and amendments thereto, and which is owned and operated by the owner of an industrial, commercial or agricultural process to generate electricity for use in such process to displace current or provide for future electricity use.

New Sec. 11. (a) For taxable years commencing after December 31, 2006, and before January 1, 2012, 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 $50,000,000 invested and (2) an amount equal to 5% of the amount of the taxpayer's qualified investment that exceeds $50,000,000. Such credit shall be taken in 10 equal, annual installments, beginning with the year in which the taxpayer places into service the new renewable electric cogeneration facility.

(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 renewable electric cogeneration facility 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 renewable electric cogeneration facility 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 renewable electric cogeneration facility 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. 12. (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 renewable electric cogeneration facility 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 11, and amendments thereto, with respect to the total qualified investment in such facility multiplied by the co-owner's percentage of ownership in such facility.

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

(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. 13. 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 11, and amendments thereto, and all information that the director determines necessary for the calculation of the credit provided by this act.

New Sec. 14. (a) In addition to the income tax credit allowable pursuant to sections 10 through 13, 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 renewable electric cogeneration facility based upon a period of 10 years. Such amortization deduction shall be an amount equal to 55% of the amortizable costs of such new renewable electric cogeneration facility for the first taxable year in which such new renewable electric cogeneration facility is in production and 5% of the amortizable costs of such new renewable electric cogeneration facility 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, 2006.

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

New Sec. 15. (a) For the purpose of financing the construction of a new renewable electric cogeneration facility, 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 cost savings attributable to the renewable electric cogeneration facility.

(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, terms have the meanings provided in section 10, and amendments thereto.

New Sec. 16. (a) For the purpose of financing the construction, purchase and installation of a waste heat utilization system at an electric generation facility, 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 sales of electricity generated by such generation facility.

(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, "waste heat utilization system" means facilities and equipment for the recovery of waste heat generated in the process of generating electricity at an electric generation facility located in this state and the use of such heat to generate additional electricity or to produce fuels from renewable energy resources or technologies, as defined in K.S.A. 79-201, and amendments thereto.

New Sec. 17. (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 waste heat utilization system 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, 2006.

(d) As used in this section:

(1) "Waste heat utilization system" has the meaning provided in section 16, and amendments thereto.

(2) "Waste heat utilization system property" means any real or tangible personal property purchased, constructed or installed for incorporation in and use as part of a waste heat utilization system.

New Sec. 18. (a) A taxpayer shall be entitled to a deduction from Kansas adjusted gross income with respect to the amortization of the amortizable costs of a waste heat utilization system based upon a period of 10 years. Such amortization deduction shall be an amount equal to 55% of the amortizable costs of such system for the first taxable year in which such system is in operation and 5% of the amortizable costs of such system 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, 2006.

(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, "waste heat utilization system" has the meaning provided by section 16, and amendments thereto.

Sec. 19. K.S.A. 2006 Supp. 74-8949b is hereby amended to read as

follows: 74-8949b. (a) For the purpose of financing the construction of a new ~~cellulosic alcohol~~ *biomass-to-energy* plant or expansion of an existing ~~cellulosic alcohol~~ *biomass-to-energy* 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~~ *fuels, energy and coproducts* 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~~ *Biomass-to-energy* plant" has the meaning provided by K.S.A. 2006 Supp. 79-32,233, and amendments thereto.

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

(3) "New ~~cellulosic alcohol~~ *biomass-to-energy* plant" means a ~~cellulosic alcohol~~ *biomass-to-energy* plant, construction of which begins after December 31, 2005.

Sec. 20. K.S.A. 2006 Supp. 79-229 is hereby amended to read as follows: 79-229. (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~~ *biomass-to-energy* plant property or any expanded ~~cellulosic alcohol~~ *biomass-to-energy* 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~~ *Biomass-to-energy* plant" has the meaning provided by K.S.A. 2006 Supp. 79-32,233, and amendments thereto.

(2) "Expanded ~~cellulosic alcohol~~ *biomass-to-energy* 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~~ *biomass-to-energy* plant, construction of which expansion begins after December 31, 2005.

(3) "Expansion of an existing ~~cellulosic alcohol~~ *biomass-to-energy* plant" means expansion of the capacity of an existing ~~cellulosic alcohol~~ *biomass-to-energy* plant by at least 10% of such capacity.

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

Sec. 21. K.S.A. 2006 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. 2006 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. 2006 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. 2006 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. 2006 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 K.S.A. 2006 Supp. 79-32,217 through 79-32,220 or 79-32,222, 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 K.S.A. 2006 Supp. 79-32,221, 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 K.S.A. 2006 Supp. 79-32,223 through 79-32,226, *79-32,228 through 79-32,231, 79-32,233 through 79-32,236, 79-32,238 through 79-32,241, sections 10 through 13 or sections 32 through 35,* 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 K.S.A. 2006 Supp. 79-32,227, *79-32,232, 79-32,237, section 14, 18 or 36,* 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 K.S.A. 2006 Supp. 79-32,228 through 79-32,231, 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 K.S.A. 2006 Supp. 79-32,232, 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 K.S.A. 2006 Supp. 79-32,233 through 79-32,236, 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 K.S.A. 2006 Supp. 79-32,237, 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 K.S.A. 2006 Supp. 79-32,238 through 79-32,241, 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. 2006 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~~ *$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. For all taxable years beginning after December 31, ~~2004~~ *2006*, 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~~ *qualified tuition program established and maintained by another state or agency or instrumentality thereof pursuant to section 529 of the internal revenue code of 1986, as amended*, 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. 2006 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. 22. K.S.A. 2006 Supp. 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. 2006 Supp. 79-32,221, 79-32,227, 79-32,232 ~~or~~, 79-32,237, *section 14, 18 or 36*, and amendments thereto, is or has been claimed.

Sec. 23. K.S.A. 2006 Supp. 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 property upon which the deduction allowed by K.S.A. 2006 Supp. 79-32,221, 79-32,227, 79-32,232 ~~or~~, 79-32,237, *section 14, 18 or 36*, and amendments thereto, is claimed.

(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 the amortization deduction allowed pursuant to K.S.A. 2006 Supp. 79-32,221, 79-32,227, 79-32,232 ~~or~~, 79-32,237, *section 14, 18 or 36*, and amendments thereto.

(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.

(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.

Sec. 24. K.S.A. 2006 Supp. 79-32,218 is hereby amended to read as follows: 79-32,218. (a) For taxable years commencing after December 31, 2005, *and before January 1, 2011,* 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 deter-

mines 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.

Sec. 25. K.S.A. 2006 Supp. 79-32,224 is hereby amended to read as follows: 79-32,224. (a) For taxable years commencing after December 31, 2005, *and before January 1, 2011,* 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 agree-

ment 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.

Sec. 26. K.S.A. 2006 Supp. 79-32,229 is hereby amended to read as follows: 79-32,229. (a) For taxable years commencing after December 31, 2005, *and before January 1, 2011,* 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 compli-

ance 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.

Sec. 27. K.S.A. 2006 Supp. 79-32,233 is hereby amended to read as follows: 79-32,233. As used in K.S.A. 2006 Supp. 79-32,233 through 79-32,236, and amendments thereto:

(a) ~~"Cellulosic alcohol plant"~~ *"Biomass" means any organic matter available on a renewable or recurring basis, including solid and liquid organic waste, but excluding: (1) Petroleum oil, natural gas, coal and lignite, and any products thereof; and (2) corn or grain sorghum suitable for human consumption.*

(b) "Biomass-to-energy 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~~ *biomass is processed to produce annually any of the following, and coproducts: (1) Not less than 500,000 gallons of cellulosic alcohol; (2) liquid or gaseous fuel or energy in a quantity having BTU value equal to or greater than 500,000 gallons of cellulosic alcohol; or (3) oil produced for direct conversion into fuel in a quantity having BTU value equal to or greater than 500,000 gallons of cellulosic alcohol.*

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

~~(c)~~ *(d)* "New ~~cellulosic alcohol~~ *biomass-to-energy* plant" means a ~~cellulosic alcohol~~ *biomass-to-energy* plant, construction of which begins after December 31, 2005.

~~(d)~~ *(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. 2006 Supp. 79-32,100e, and amendments thereto; (2) limited liability company; (3) partnership; or (4) limited liability partnership.

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

Sec. 28. K.S.A. 2006 Supp. 79-32,234 is hereby amended to read as follows: 79-32,234. (a) For taxable years commencing after December 31, 2005, *and before January 1, 2011,* 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 ~~cellulosic alcohol~~ *biomass-to-energy* plant or the expansion of an existing ~~cellulosic alcohol~~ *biomass-to-energy* 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~~ *biomass-to-energy* 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~~ *biomass-to-energy* 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~~ *biomass-to-energy* 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.

Sec. 29. K.S.A. 2006 Supp. 79-32,235 is hereby amended to read as follows: 79-32,235. (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~~ *biomass-to-energy* 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 K.S.A. 2006 Supp. 79-32,234, 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~~ *biomass-to-energy* plant or the expansion of an existing ~~cellulosic alcohol~~ *biomass-to-energy* 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.

Sec. 30. K.S.A. 2006 Supp. 79-32,237 is hereby amended to read as follows: 79-32,237. (a) In addition to the income tax credit allowable pursuant to K.S.A. 2006 Supp. 79-32,233 through 79-32,236, 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~~ *biomass-to-energy* plant or an expansion of an existing ~~cellulosic alcohol~~ *biomass-to-energy* 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 K.S.A. 2006 Supp. 79-32,233, and amendments thereto.

Sec. 31. K.S.A. 2006 Supp. 79-32,239 is hereby amended to read as follows: 79-32,239. (a) For taxable years commencing after December 31, 2005, *and before January 1, 2011,* 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. 32. As used in sections 32 through 36, and amendments thereto:

(a) "Biofuel" means fuel made from organic matter, including solid and liquid organic waste, but excluding fuel made from oil, natural gas, coal or lignite, or any product thereof.

(b) "Fuel terminal" means a fuel storage and distribution facility which is supplied by motor vehicle, pipeline or marine vessel and from which motor fuels may be removed at a rack. "Fuel terminal" does not include any facility at which motor fuel blend stocks and additives are used in the manufacture of products other than motor fuels and from which no motor fuels are removed.

(c) "Qualified investment" means expenditures made for purchase, construction or installation of storage and blending equipment.

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

(e) "Storage and blending equipment" means any equipment which is used for storing and blending petroleum-based fuel and biodiesel, ethanol or other biofuel and is installed at a fuel terminal, refinery or biofuel production plant. "Storage and blending equipment" does not include equipment used only for denaturing ethyl alcohol.

New Sec. 33. (a) For taxable years commencing after December 31, 2006, and before January 1, 2012, 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 $10,000,000 invested and (2) an amount equal to 5% of the amount of the taxpayer's qualified investment that exceeds $10,000,000. Such credit shall be taken in 10 equal, annual installments, beginning with the year in which the taxpayer places into service the storage and blending equipment.

(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 storage and blending equipment 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 equipment 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 storage and

blending equipment 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. 34. (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 the storage and blending equipment 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 33, and amendments thereto, with respect to the total qualified investment in such equipment multiplied by the co-owner's percentage of ownership in such equipment.

(c) Such credit shall be taken in 10 equal, annual installments, beginning with the year in which the entity places into service the storage and blending equipment.

(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. 35. 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 33, and amendments thereto, and all information that the director determines necessary for the calculation of the credit provided by this act.

New Sec. 36. (a) In addition to the income tax credit allowable pursuant to sections 32 through 35, 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 storage and blending equipment based upon a period of 10 years. Such amortization deduction shall be an amount equal to 55% of the amortizable costs of such equipment for the first taxable year in which such equipment is in production and 5% of the amortizable costs of such equipment 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, 2006.

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

New Sec. 37. (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 storage and blending equipment.

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

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

mencing after December 31, 2006.

(d) As used in this section, "storage and blending equipment" has the meaning provided in section 32, and amendments thereto.

Sec. 38. K.S.A. 66-1,158, 66-1,159, 66-1,159a, 66-1,161, 66-1,162, 66-1,169a and 66-1,169b and K.S.A. 2006 Supp. 66-1,160, 74-8949b, 79-229, 79-32,117, 79-32,117l, 79-32,120, 79-32,138, 79-32,218, 79-32,224, 79-32,229, 79-32,233, 79-32,234, 79-32,235, 79-32,237 and 79-32,239 are hereby repealed.

Sec. 39. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 13, 2007.