CHAPTER 180

SENATE Substitute for HOUSE BILL No. 2145
(Amends Chapter 34)

AN ACT relating to energy; relating to petroleum products; concerning electric generation facilities; relating to contracts for parallel generation services, providing for the issuance of bonds; relating to renewable fuel; providing for certain incentives relating to renewable fuels; amending K.S.A. 55-422, 55-426, 66-1,184, 83-221 and 83-401 and K.S.A. 2006 Supp. 65-34,132, as amended by section 4 of 2007 Senate Bill No. 190, 79-32,201 and 79-34,155 and repealing the existing sections.

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

Section 1. K.S.A. 55-422 is hereby amended to read as follows: 55-422. K.S.A. 55-422 ~~through 55-445~~ *et seq.*, and amendments thereto, may be cited as the petroleum products inspection law. As used in the petroleum products inspection law:

(a) "Director" means the director of taxation of the Kansas department of revenue, or the director's duly authorized deputy, agent, or representative.

(b) "Secretary" means the secretary of agriculture or the secretary's authorized representative.

(c) "Person" means an individual, firm, association, organization, partnership, business trust, joint stock company, company, corporation, or other legal entity.

(d) "Motor fuel" means any refined or blended motor fuel products, including gasoline, diesel fuel, aviation fuel, oxygenated fuel, or any other fuel used for generation of power in an internal combustion engine as specified by the secretary by rules and regulations adopted under the petroleum products inspection law.

(e) "Petroleum product" includes gasoline, kerosene, motor-fuels and such other products as defined by rules and regulations adopted pursuant to the petroleum products inspection law.

(f) The terms "manufacturer", "distributor" and "importer" shall have the meanings ascribed to them in the motor-fuel tax law.

(g) "Dispensing device" means a motor-vehicle fuel or liquid fuel dispensing pump, meter or other similar measuring device and shall include any device which dispenses refined or blended gasoline or diesel fuel product. This definition shall not include liquefied petroleum meters.

Sec. 2. K.S.A. 55-426 is hereby amended to read as follows: 55-426. *(a)* The director of taxation is entitled to demand and receive from the manufacturer, importer, exporter or distributor first selling, offering for sale, using or delivering gasoline or diesel including government sales, the sum of $.015 per barrel. *For the purposes of this section* ~~(~~50 gallons *is* to be considered and counted as a barrel~~)~~.

(b) The secretary is hereby authorized and empowered to reduce the fees and charges provided by subsection (a) for any period deemed justified whenever the secretary shall determine that such fees and charges being paid into the state treasury as required by law are yielding more revenue than is required for the purposes to which such fees and charges are devoted by law. In the event that the secretary determines that sufficient revenues are not being produced by such reduced fees and charges, the secretary is hereby authorized and empowered to restore the fees and charges in full or in part to a rate not exceeding that provided in subsection (a) that will in the secretary's judgment produce sufficient revenue for the purposes to which such fees and charges are devoted by law.

Sec. 3. K.S.A. 83-221 is hereby amended to read as follows: 83-221. All inspections and tests to inspect, test and seal, certify or reject any dispensing device, *as defined in K.S.A. 83-401, and amendments thereto,* or the capacity of any vehicle tank used in the transportation of liquefied petroleum gas, motor-vehicle fuels or liquid fuels shall be made in compliance with the provisions of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, and the rules and regulations promulgated thereunder.

Sec. 4. K.S.A. 83-401 is hereby amended to read as follows: 83-401. As used in K.S.A. 83-401 ~~to 83-410~~ *et seq.* and 83-501 ~~and K.S.A. 1997 Supp. 55-447~~ *et seq.*, and amendments thereto~~, inclusive~~:

(a) "Dispensing device" means a motor-vehicle fuel or liquid fuel dispensing pump, meter or other similar measuring device and shall include any device which dispenses refined or blended gasoline or diesel

fuel product. This definition shall not include ~~vehicle tank meters or~~ liquefied petroleum meters;

(b) "person" means any individual, agent, technical representative, partnership, association, corporation or governmental agency but does not include the secretary;

(c) "secretary" means the secretary of agriculture, the secretary's authorized representative or the secretary's authorized inspector;

(d) "place of business" means any location from which a testing service, or one or more representatives or employees thereof, sell and perform services for the purpose of testing, repairing, adjusting, measuring or calibrating dispensing devices;

(e) "technical representative" means an individual who is responsible for the proper installation, repair, adjustment or calibration and certification of the accuracy of such dispensing devices; and

(f) "service company" means a company which is in the business of examining, calibrating, testing, repairing and adjusting of dispensing devices but such term does not include a technical representative unless the technical representative is the owner of such service company.

Sec. 5. K.S.A. 66-1,184 is hereby amended to read as follows: 66-1,184. (a) Except as provided in subsection (b), every public utility which provides retail electric services in this state shall enter into a contract for parallel generation service with any person who is a customer of such utility, upon request of such customer, whereby such customer may attach or connect to the utility's delivery and metering system an apparatus or device for the purpose of feeding excess electrical power which is generated by such customer's energy producing system into the utility's system. No such apparatus or device shall either cause damage to the public utility's system or equipment or present an undue hazard to utility personnel. Every such contract shall include, but need not be limited to, provisions relating to fair and equitable compensation on such customer's monthly bill for energy supplied to the utility by such customer.

(b) (1) For purposes of this subsection~~,~~*:*

(A) "Utility" means an electric public utility, as defined by K.S.A. 66-101a, and amendments thereto, any cooperative, as defined by K.S.A. 17-4603, and amendments thereto, or a nonstock member-owned electric cooperative corporation incorporated in this state, or a municipally owned or operated electric utility~~.~~*;*

(B) "school" means Cloud county community college and Dodge City community college.

(2) Every utility which provides retail electric services in this state shall enter into a contract for parallel generation service with any person who is a customer of such utility, if such customer is a residential customer of the utility and owns a renewable generator with a capacity of 25 kilowatts or less, or is a commercial customer of the utility and owns a renewable generator with a capacity of ~~100~~ *200* kilowatts or less *or is a school and owns a renewable generator with a capacity of 1.5 megawatts or less. Such generator shall be appropriately sized for such customer's anticipated electric load. A commercial customer who uses the operation of a renewable generator in connection with irrigation pumps shall not request more than 10 irrigation pumps connected to renewable generators be attached or connected to the utility's system.* ~~Such~~ *At the customer's delivery point on the customer's side of the retail meter such* customer may attach or connect to the utility's delivery and metering system an apparatus or device for the purpose of feeding excess electrical power which is generated by such customer's energy producing system into the utility's system. No such apparatus or device shall either cause damage to the utility's system or equipment or present an undue hazard to utility personnel. Every such contract shall include, but need not be limited to, provisions relating to fair and equitable compensation for energy supplied to the utility by such customer. Such compensation shall be not less than ~~150%~~ *100%* of the utility's monthly system average cost of energy per kilowatt hour *except that in the case of renewable generators with a capacity of 200 kilowatts or less, such compensation shall be not less than 150% of the utility's monthly system average cost of energy per kilowatt hour*. A utility may credit such compensation to the customer's account or pay such compensation to the customer at least annually or when the total compensation due equals $25 or more.

(c) The following terms and conditions shall apply to contracts entered into under subsection (a) or (b):

(1) The utility will supply, own, and maintain all necessary meters and associated equipment utilized for billing. In addition, and for the purposes of monitoring customer generation and load, the utility may install at its expense, load research metering. The customer shall supply, at no expense to the utility, a suitable location for meters and associated equipment used for billing and for load research;

(2) for the purposes of insuring the safety and quality of utility system power, the utility shall have the right to require the customer, at certain times and as electrical operating conditions warrant, to limit the production of electrical energy from the generating facility to an amount no greater than the load at the customer's facility of which the generating facility is a part;

(3) the customer shall furnish, install, operate, and maintain in good order and repair and without cost to the utility, such relays, locks and seals, breakers, automatic synchronizer, and other control and protective apparatus as shall be designated by the utility as being required as suitable for the operation of the generator in parallel with the utility's system. In any case where the customer and the utility cannot agree to terms and conditions of any such contract, the state corporation commission shall establish the terms and conditions for such contract. In addition, the utility may install, own, and maintain a disconnecting device located near the electric meter or meters. Interconnection facilities between the customer's and the utility's equipment shall be accessible at all reasonable times to utility personnel. *Upon notification by the customer of the customer's intent to construct and install parallel generation, the utility shall provide the customer a written estimate of all costs that will be incurred by the utility and billed to the customer to accommodate the interconnection.* The customer may be required to reimburse the utility for any equipment or facilities required as a result of the installation by the customer of generation in parallel with the utility's service. The customer shall notify the utility prior to the initial energizing and start-up testing of the customer-owned generator, and the utility shall have the right to have a representative present at such test; ~~and~~

(4) the utility may require a special agreement for conditions related to technical and safety aspects of parallel generation.*; and*

(5) the utility may limit the number and size of renewable generators to be connected to the utility's system due to the capacity of the distribution line to which such renewable generator would be connected, and in no case shall the utility be obligated to purchase an amount greater than 4% of such utility's peak power requirements.

(d) Service under any contract entered into under subsection (a) or (b) shall be subject to *either* the utility's rules and regulations on file with the state corporation commission*, which shall include a standard interconnection process and requirements for such utility's system, or the current federal energy regulatory commission interconnection procedures and regulations*.

(e) In any case where the owner of the renewable generator and the utility cannot agree to terms and conditions of any contract provided for by this section, the state corporation commission shall establish the terms and conditions for such contract.

(f) The governing body of any school desiring to proceed under this section shall, prior to taking any action permitted by this section, make a finding that either: (1) Net energy cost savings will accrue to the school from such renewable generation over a 20-year period; or (2) that such renewable generation is a science project being conducted for educational purposes and that such project may not recoup the expenses of the project through energy cost savings. Any school proceeding under this section may contract or enter into a finance, pledge, loan or lease-purchase agreement with the Kansas development finance authority as a means of financing the cost of such renewable generation.

(g) For the purpose of meeting the governor's stated goal of producing 10% of the state's electricity by wind power by 2010 and 20% by 2020, the parallel generation of electricity provided for in this section shall be included as part of the state's energy generation by wind power.

New Sec. 6. (a) For the purpose of financing the construction and installation of a renewable generator to be used by a school, as defined by K.S.A. 66-1,184, and amendments thereto, for parallel generation in accordance with K.S.A. 66-1,184, and amendments thereto, the Kansas development finance authority is hereby authorized to issue revenue

bonds in amounts sufficient to pay the costs of such construction and installation, including any required interest on the bonds during construction and installation, plus all amounts required for costs of the bond issuance and for any required reserves on the bonds. The bonds, and interest thereon, issued pursuant to this section shall be payable from revenues derived from sales of electricity generated by the renewable generator pursuant to K.S.A. 66-1,184, and amendments thereto, or from any other revenues available to be pledged by the Kansas development finance authority for such purpose.

(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 hereunder 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.

New Sec. 7. As used in sections 7 through 12, and amendments thereto:

(a) "Biodiesel" means a renewable, biodegradable, mono alkyl ester combustible liquid fuel derived from vegetable oils or animal fats and that meets the specifications adopted by rules and regulations of the secretary of agriculture pursuant to K.S.A. 55-442, and amendments thereto. Such specification shall meet American society for testing and materials specification D6751-07 for biodiesel fuel (B100) blend stock for distillate fuels, but may be more stringent regarding biodiesel quality and usability than specification D6751-07;

(b) "diesel" means any liquid, other than gasoline and biodiesel, which is used as fuel for use in an internal combustion engine and ignited by pressure without the presence of an electric spark;

(c) "gasoline" means any liquid product sold as motor fuel for use in a spark-ignition internal combustion engine;

(d) "motor fuel" means any inflammable liquid by whatever name such liquid shall be known or sold, which is used, or practically or commercially usable, either alone or when mixed or combined in an internal combustion engine for the generation of power;

(e) "motor fuel pump" means a commercial measuring device used to measure and dispense motor fuel or special fuels on a retail basis at a fixed retail motor fuel site;

(f) "renewable fuels" means a combustible liquid derived from grain starch, oil seed, animal fat or other biomass; or produced from biogas source, including any nonfossilized, decaying, organic matter which is capable of powering spark-ignition machinery; and

(g) "retail dealer" means a licensed seller of motor fuel or special fuels at retail at a fixed retail motor fuel site.

New Sec. 8. (a) On January 1, 2009, and quarterly thereafter, the director of accounts and reports shall transfer $400,000 from the state general fund to the Kansas retail dealer incentive fund. On and after July 1, 2009, the unobligated balance in the Kansas retail dealer incentive fund shall not exceed $1.5 million. If the unobligated balance of the fund exceeds $1.1 million at the time of a quarterly transfer, the transfer shall be limited to the amount necessary for the fund to reach a total of $1.5 million.

(b) There is hereby created in the state treasury the Kansas retail dealer incentive fund. All moneys in the Kansas retail dealer incentive fund shall be expended by the secretary of the department of revenue for the payment of incentives to Kansas retail dealers who sell and dispense renewable fuels or biodiesel through a motor fuel pump in accordance with the provisions of sections 7 through 12, and amendments thereto.

(c) All moneys remaining in the Kansas retail dealer incentive fund upon the expiration of sections 7 through 12, and amendments thereto, shall be credited by the state treasurer to the state general fund.

New Sec. 9. (a) A retail dealer of motor fuel shall be paid an incentive for the selling or dispensing of renewable fuels through a motor fuel pump as provided in this section.

(b) In order to be eligible for such incentive all of the following must apply:

(1) The retail dealer sells and dispenses renewable fuels through a motor fuel pump in the quarter in which the incentive is claimed.

(2) The retail dealer complies with requirements of the department of revenue to administer this section.

(c) In order to receive the incentive, the retail dealer must calculate all of the following:

(1) The retail dealer's renewable fuels distribution percentage which is the sum of the retail dealer's total renewable fuels blended into gasoline expressed as a percentage of the retail dealer's total gasoline gallonage, in the retail dealer's applicable determination period.

(2) The retail dealer's renewable fuels threshold percentage is as follows:

(A) Ten percent for any quarter of the determination period beginning on January 1, 2009, and ending December 31, 2009;

(B) eleven percent for any quarter of the determination period beginning on January 1, 2010, and ending December 31, 2010;

(C) twelve percent for any quarter of the determination period beginning on January 1, 2011, and ending December 31, 2011;

(D) thirteen percent for any quarter of the determination period beginning on January 1, 2012, and ending December 31, 2012;

(E) fourteen percent for any quarter of the determination period beginning on January 1, 2013, and ending December 31, 2013;

(F) fifteen percent for any quarter of the determination period beginning on January 1, 2014, and ending December 31, 2014;

(G) sixteen percent for any quarter of the determination period beginning on January 1, 2015, and ending December 31, 2015;

(H) seventeen percent for any quarter of the determination period beginning on January 1, 2016, and ending December 31, 2016;

(I) eighteen percent for any quarter of the determination period beginning on January 1, 2017, and ending December 31, 2017;

(J) nineteen percent for any quarter of the determination period beginning on January 1, 2018, and ending December 31, 2018;

(K) twenty percent for any quarter of the determination period beginning on January 1, 2019, and ending December 31, 2019;

(L) twenty-one percent for any quarter of the determination period beginning on January 1, 2020, and ending December 31, 2020;

(M) twenty-two percent for any quarter of the determination period beginning on January 1, 2021, and ending December 31, 2021;

(N) twenty-three percent for any quarter of the determination period beginning on January 1, 2022, and ending December 31, 2022;

(O) twenty-four percent for any quarter of the determination period beginning on January 1, 2023, and ending December 31, 2023;

(P) twenty-five percent for any quarter of the determination period beginning on January 1, 2024, and ending December 31, 2024; and

(Q) twenty-five percent for any quarter of the determination period beginning on and after January 1, 2025.

(d) The incentive may be calculated separately for each retail motor fuel site from which the retail dealer sells and dispenses renewable fuel or may be calculated for all retail motor fuel sites which the retail dealer has in Kansas that sells and dispenses renewable fuels.

(e) The retail dealer's incentive is calculated by multiplying the retail dealer's total renewable fuel gallonage by an incentive rate, which may be adjusted based on the retail dealer's renewable fuels threshold percentage disparity. The incentive rate is as follows:

(1) For any quarter in which the retail dealer has attained a renewable fuels threshold percentage for the determination period, the incentive rate is 6½ cents.

(2) For any quarter in which the retail dealer has not attained a renewable fuels threshold percentage for the determination period, the incentive rate shall be adjusted based on the retail dealer's renewable fuels threshold percentage disparity. The amount of the adjusted incentive rate is as follows:

(A) If the retail dealer's renewable fuels threshold percentage disparity equals 2% or less, the incentive rate is 4½ cents.

(B) A retail dealer is not eligible for an incentive if the retail dealer's renewable fuels threshold percentage disparity equals more than 2%.

New Sec. 10. (a) A retail dealer of biodiesel shall be paid an incentive for the selling or dispensing of biodiesel as provided in this section.

(b) In order to be eligible for such incentive all of the following must apply:

(1) The retail dealer sells and dispenses biodiesel in the quarter in which the incentive is claimed.

(2) The retail dealer complies with requirements of the department of revenue to administer this section.

(c) In order to receive the incentive, the retail dealer must calculate the following:

(1) The retail dealer's biodiesel distribution percentage which is the sum of the retail dealer's total biodiesel gallonage expressed as a percentage of the retail dealer's total diesel and biodiesel gallonage, in the retail dealer's applicable determination period.

(2) The retail dealer's biodiesel threshold percentage is as follows:

(A) Two percent for any quarter of the determination period beginning on January 1, 2009, and ending December 31, 2009;

(B) four percent for any quarter of the determination period beginning on January 1, 2010, and ending December 31, 2010;

(C) six percent for any quarter of the determination period beginning on January 1, 2011, and ending December 31, 2011;

(D) eight percent for any quarter of the determination period beginning on January 1, 2012, and ending July 1, 2012;

(E) ten percent for any quarter of the determination period beginning on January 1, 2013, and ending on December 31, 2013;

(F) twelve percent for any quarter of the determination period beginning on January 1, 2014, and ending on December 31, 2014;

(G) fourteen percent for any quarter of the determination period beginning on January 1, 2015, and ending on December 31, 2015;

(H) sixteen percent for any quarter of the determination period beginning on January 1, 2016, and ending on December 31, 2016;

(I) seventeen percent for any quarter of the determination period beginning on January 1, 2017, and ending on December 31, 2017;

(J) eighteen percent for any quarter of the determination period beginning on January 1, 2018, and ending on December 31, 2018;

(K) nineteen percent for any quarter of the determination period beginning on January 1, 2019, and ending on December 31, 2019;

(L) twenty percent for any quarter of the determination period beginning on January 1, 2020, and ending on December 31, 2020;

(M) twenty-one percent for any quarter of the determination period beginning on January 1, 2021, and ending on December 31, 2021;

(N) twenty-two percent for any quarter of the determination period beginning on January 1, 2022, and ending on December 31, 2022;

(O) twenty-three percent for any quarter of the determination period beginning on January 1, 2023, and ending on December 31, 2023;

(P) twenty-four percent for any quarter of the determination period beginning on January 1, 2024, and ending on December 31, 2024; and

(Q) twenty-five percent for any quarter of the determination period beginning on January 1, 2025, and ending on December 31, 2025.

(d) The incentive may be calculated separately for each retail motor fuel site from which the retail dealer sells and dispenses biodiesel or may be calculated for all retail motor fuel sites which the retail dealer has in Kansas that sells and dispenses biodiesel.

(e) The retail dealer's incentive is calculated by multiplying the retail dealer's biodiesel gallonage by the incentive rate for any quarter in which the retail dealer has attained a biodiesel threshold percentage for the determination period, the incentive rate is three cents.

New Sec. 11. (a) The retail dealer shall file electronically for the incentive for selling or dispensing of renewable fuels or biodiesel beginning January 1, 2009, and quarterly thereafter in the manner required by the department of revenue. The retail dealer shall file such information as the secretary of revenue may require by rules and regulations, but shall include the total number of gallons of renewable fuels or biodiesel sold.

(b) The secretary of revenue may adopt rules and regulations necessary to administer the provisions of sections 7 through 12, and amendments thereto, including the development of a procedure for the payment of the incentive on a pro rata basis if the unobligated balance in the fund

is insufficient to pay all incentives.

New Sec. 12. The secretary of revenue shall annually submit a written report to the house appropriations and energy and utilities committees and to the senate ways and means and agriculture committees, or the successors to those committees, beginning with the 2010 legislative session. The report shall contain information regarding the amount of incentives claimed and paid pursuant to sections 7 through 12, and amendments thereto, and information regarding the amount of renewable fuels and biodiesel sold in the state. The secretary also may include in the report any recommendations for changes to law necessary to implement sections 7 through 12, and amendments thereto.

New Sec. 13. The provisions of sections 7 through 12, and amendments thereto, shall expire on January 1, 2026.

Sec. 14. K.S.A. 2006 Supp. 79-32,201 is hereby amended to read as follows: 79-32,201. (a) Any taxpayer who makes expenditures for a qualified alternative-fueled motor vehicle or alternative-fuel fueling station shall be allowed a credit against the income tax imposed by article 32 of chapter 79 of the Kansas Statutes Annotated, as follows:

(1) For any qualified alternative-fueled motor vehicle placed in service on or after January 1, 1996, and before January 1, 2005, an amount equal to 50% of the incremental cost or conversion cost for each qualified alternative-fueled motor vehicle but not to exceed $3,000 for each such motor vehicle with a gross vehicle weight of less than 10,000 lbs.; $5,000 for a heavy duty motor vehicle with a gross vehicle weight of greater than 10,000 lbs. but less than 26,000 lbs.; and $50,000 for motor vehicles having a gross vehicle weight of greater than 26,000 lbs.;

(2) for any qualified alternative-fueled motor vehicle placed in service on or after January 1, 2005, an amount equal to 40% of the incremental cost or conversion cost for each qualified alternative-fueled motor vehicle, but not to exceed $2,400 for each such motor vehicle with a gross vehicle weight of less than 10,000 lbs.; $4,000 for a heavy duty motor vehicle with a gross vehicle weight of greater than 10,000 lbs. but less than 26,000 lbs.; and $40,000 for motor vehicles having a gross vehicle weight of greater than 26,000 lbs.;

(3) for any qualified alternative-fuel fueling station placed in service on or after January 1, 1996, and before January 1, 2005, an amount equal to 50% of the total amount expended for each qualified alternative-fuel fueling station but not to exceed $200,000 for each fueling station;

(4) for any qualified alternative-fuel fueling station placed in service on or after January 1, 2005, *and before January 1, 2009,* an amount equal to 40% of the total amount expended for each qualified alternative-fuel fueling station, but not to exceed $160,000 for each fueling station~~.~~*;*

(5) for any qualified alternative-fuel fueling station placed in service on or after January 1, 2009, an amount equal to 40% of the total amount expended for each qualified alternative-fuel fueling station, but not to exceed $100,000 for each fueling station.

(b) If no credit has been claimed pursuant to subsection (a), a credit in an amount not exceeding the lesser of 5% of the cost of the vehicle or $750 shall be allowed to a taxpayer who purchases a motor vehicle equipped by the vehicle manufacturer with an alternative fuel system and who is unable or elects not to determine the exact basis attributable to such property. The credit under this subsection shall be allowed only to the first individual to take title to such motor vehicle, other than for resale. The credit under this subsection for motor vehicles which are capable of operating on a blend of 85% ethanol and 15% gasoline shall be allowed for taxable years commencing after December 31, 1999, only if the individual claiming the credit furnishes evidence of the purchase, during the period of time beginning with the date of purchase of such vehicle and ending on December 31 of the next succeeding calendar year, of 500 gallons of such ethanol and gasoline blend as may be required or is satisfactory to the secretary of revenue.

(c) The tax credit under subsection ~~(a)~~ *(a)(1) through (a)(4)* or (b) shall be deducted from the taxpayer's income tax liability for the taxable year in which the expenditures are made by the taxpayer. If the amount of the tax credit exceeds the taxpayer's income tax liability for the taxable year, the amount which exceeds the 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 third taxable year succeeding the taxable year in which the expenditures are made.

(d) The tax credit under subsection (a)(5) shall be deducted from the taxpayer's income tax liability for the taxable year in which the expenditures are made by the taxpayer. If the amount of the tax credit exceeds the taxpayer's income tax liability for the taxable year, the amount which exceeds the 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 fourth taxable year in which the expenditures are made.

~~(d)~~ *(e)* As used in this section:

(1) "Alternative fuel" ~~has the meaning provided by 42 U.S.C. 13211~~ *means a combustible liquid derived from grain starch, oil seed, animal fat or other biomass; or produced from biogas source, including any nonfossilized, decaying, organic matter.*

(2) "Qualified alternative-fueled motor vehicle" means a motor vehicle that operates on an alternative fuel, meets or exceeds the clean fuel vehicle standards in the federal clean air act amendments of 1990, Title II and meets one of the following categories:

(A) Bi-fuel motor vehicle: A motor vehicle with two separate fuel systems designed to run on either an alternative fuel or conventional fuel, using only one fuel at a time;

(B) dedicated motor vehicle: A motor vehicle with an engine designed to operate on a single alternative fuel only; or

(C) flexible fuel motor vehicle: A motor vehicle that may operate on a blend of an alternative fuel with a conventional fuel, such as E-85 (85% ethanol and 15% gasoline) or M-85 (85% methanol and 15% gasoline), as long as such motor vehicle is capable of operating on at least an 85% alternative fuel blend.

(3) "Qualified alternative-fuel fueling station" means the property which is directly related to the delivery of alternative fuel into the fuel tank of a motor vehicle propelled by such fuel, including the compression equipment, storage vessels and dispensers for such fuel at the point where such fuel is delivered but only if such property is primarily used to deliver such fuel for use in a qualified alternative-fueled motor vehicle.

(4) "Incremental cost" means the cost that results from subtracting the manufacturer's list price of the motor vehicle operating on conventional gasoline or diesel fuel from the manufacturer's list price of the same model motor vehicle designed to operate on an alternative fuel.

(5) "Conversion cost" means the cost that results from modifying a motor vehicle which is propelled by gasoline or diesel to be propelled by an alternative fuel.

(6) "Taxpayer" means any person who owns and operates a qualified alternative-fueled vehicle licensed in the state of Kansas or who makes an expenditure for a qualified alternative-fuel fueling station.

(7) "Person" means every natural person, association, partnership, limited liability company, limited partnership or corporation.

~~(e)~~ *(f)* Except as otherwise more specifically provided, the provisions of this section shall apply to all taxable years commencing after December 31, 1995.

Sec. 15. K.S.A. 2006 Supp. 79-34,155 is hereby amended to read as follows: 79-34,155. As used in K.S.A. 2006 Supp. 79-34,155 through 79-34,158, and amendments thereto:

(a) "Biodiesel fuel" means a renewable, biodegradable, mono alkyl ester combustible liquid fuel derived from vegetable oils or animal fats and that meets ~~American society for testing and materials specification D6751-02 for biodiesel fuel (B100) blend stock for distillate fuels~~ *the specifications adopted by rules and regulations of the secretary of agriculture pursuant to K.S.A. 55-442, and amendments thereto. Such specification shall meet American society for testing and materials specification D6751-07 for biodiesel fuel (B100) blend stock for distillate fuels, but may be more stringent regarding biodiesel quality and usability than specification D6751-07*.

(b) "Kansas qualified biodiesel fuel producer" means any producer of biodiesel fuel whose principal place of business and facility for the production of biodiesel fuel are located within the state of Kansas and who has made formal application to and conformed to the requirements by the department of revenue pursuant to this act.

(c) "Secretary" means the secretary of the department of revenue of the state of Kansas.

(d) "Kansas qualified biodiesel fuel producer incentive fund" means a fund created in K.S.A. 2006 Supp. 79-34,157, and amendments thereto, from which producer incentives shall be provided pursuant to this act to Kansas qualified biodiesel fuel producers.

Sec. 16. K.S.A. 2006 Supp. 65-34,132, as amended by section 4 of 2007 Senate Bill No. 190, is hereby amended to read as follows: 65-34,132. (a) The secretary may provide for the reimbursement to eligible owners of aboveground storage tanks or bulk plants in accordance with the provisions of this section and subject to the availability of moneys in the Kansas essential fuels supply trust fund. An aboveground storage tank or bulk plant shall be eligible for reimbursement under this section, if such aboveground storage tank or bulk plant is used for the storage of petroleum products for resale.

(b) The secretary may reimburse the owner of an aboveground storage tank facility or bulk plant for upgrade expenses or permanent closure expenses, in the amount specified in subsection (c), if all of the following criteria are met:

(1) The aboveground storage tank facility was registered with the department on or after November 22, 1993;

(2) the aboveground storage tank contains petroleum products;

(3) application is made on or before January 1, ~~2009~~ *2011*, on a form provided by the department;

(4) upgrade expenses must be incurred after August 1, 2001, and not later than July 1, 2009. Upgrade expenses are limited to reasonable and necessary to the installation or improvement of equipment or systems required for compliance with 40 CFR 112. Such expenses shall include, but are not limited to, installation or upgrade of the following:

(A) Secondary containment;

(B) integrity testing;

(C) corrosion protection;

(D) loss prevention;

(E) engineering costs;

(F) security;

(G) drainage; and

(H) removal of noncompliant tanks;

(5) expenses for permanent closure activities, must be incurred after August 1, 2001, and not later than July 1, 2009. Only expenses for activities reasonable and necessary to permanently close an aboveground storage tank facility are eligible for reimbursement. Reasonable and necessary activities eligible for reimbursement include, but are not limited to, the following:

(A) Removal of the tank and piping system;

(B) removal of tank support and confinement systems;

(C) removal of security systems;

(D) cleaning of tanks; and

(E) disposal of waste petroleum and other waste material including concrete.

(c) Applications for reimbursement must be made on forms supplied by the department. Applications for reimbursement must include documentation of the facility upgrade or permanent closure activities and expense. Proof of payment of all expenses for which reimbursement is requested must be provided. The department will review those expenses based on current industry costs and provide reimbursement of reasonable and necessary costs. The department shall reimburse an applicant for 90% of the approved cost of the facility upgrade or permanent closure not to exceed $25,000 per facility. Disputes regarding application approval, reimbursements rates or reimbursement amounts will be referred to the Kansas essential fuel supply trust fund compensation advisory board.

(d) If the owner of an aboveground storage tank facility contracts with another individual or business entity to perform the upgrade or permanent closure activities, the expenses may be submitted to the department for reimbursement under this section. The department may deny any claim for reimbursement that fails to provide adequate proof of payment in full to the contracting party. The owner may obtain prior approval from the department of the activities to be performed and the expenses to be incurred.

(e) Owners of aboveground storage tanks or bulk plant may enter

into an agreement with the department to perform upgrades or permanent closures after the deadline and receive reimbursement if they comply with the following criteria:

(1) The owner has signed a contract with a vendor to perform the work prior to the deadline; and

(2) the vendor indicates that they are unable to perform the work before the deadline.

(f) The secretary may adopt such rules and regulations deemed necessary to carry out the provisions of this section.

(g) The provisions of this section shall be part of and supplemental to the Kansas storage tank act.

Sec. 17. K.S.A. 55-422, 55-426, 66-1,184, 83-221 and 83-401 and K.S.A. 2006 Supp. 65-34,132, as amended by section 4 of 2007 Senate Bill No. 190, 79-32,201 and 79-34,155 are hereby repealed.

Sec. 18. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 11, 2007.