

SENATE BILL No. 468

By Committee on Ways and Means

3-14

1 AN ACT concerning income taxation; relating to credits; renewable
2 electric cogeneration facilities; amending K.S.A. 2011 Supp. 79-32,246
3 and repealing the existing section.
4

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

6 Section 1. K.S.A. 2011 Supp. 79-32,246 is hereby amended to read as
7 follows: 79-32,246. (a) For taxable years commencing after December 31,
8 ~~2006~~ 2011, and before January 1, ~~2012~~ 2017, any taxpayer who is awarded
9 a tax credit under this act *on or after the effective date of this act* by the
10 secretary of commerce and complies with the conditions set forth in this
11 act and the agreement entered into by the secretary and the taxpayer under
12 this act shall be allowed a credit against the taxpayer's tax liability under
13 the Kansas income tax act as provided in subsection (b). Expenditures
14 used to qualify for this credit shall not be used to qualify for any other type
15 of Kansas income tax credit.

16 (b) The amount of the credit to which a taxpayer is entitled shall be
17 equal to the sum of: (1) An amount equal to 10% of the taxpayer's
18 qualified investment for the first \$50,000,000 invested and (2) an amount
19 equal to 5% of the amount of the taxpayer's qualified investment that
20 exceeds \$50,000,000. Such credit shall be taken in 10 equal, annual
21 installments, beginning with the year in which the taxpayer places into
22 service the new renewable electric cogeneration facility.

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

32 (d) (1) Before making a qualified investment, a taxpayer shall apply
33 to the secretary of commerce to enter into an agreement for a tax credit
34 under this act. The secretary shall prescribe the form of the application.
35 After receipt of such application, the secretary may enter into an
36 agreement with the applicant for a credit under this act if the secretary

1 determines that the taxpayer's proposed investment satisfies the
2 requirements of this act. The secretary shall enter into an agreement with
3 an applicant which is awarded a credit under this act. The agreement shall
4 include: (A) A detailed description of the renewable electric cogeneration
5 facility project that is the subject of the agreement, (B) the first taxable
6 year for which the credit may be claimed, (C) the maximum amount of tax
7 credit that will be allowed for each taxable year and (D) a requirement that
8 the taxpayer shall maintain operation of the new renewable electric
9 cogeneration facility for at least 10 years during the term that the tax credit
10 is available.

11 (2) A taxpayer must comply with the terms of the agreement
12 described in subsection (d)(1) to receive an annual installment of the tax
13 credit awarded under this act. The secretary of commerce, in accordance
14 with rules and regulations of the secretary, shall annually determine
15 whether the taxpayer is in compliance with the agreement. Such agreement
16 shall include, but not be limited to, operation of the new renewable electric
17 cogeneration facility during the tax years when any installments of tax
18 credits are claimed by the taxpayer. If the secretary determines that the
19 taxpayer is in compliance, the secretary shall issue a certificate of
20 compliance to the taxpayer. If the secretary determines that the taxpayer is
21 not in compliance with the agreement, the secretary shall notify the
22 taxpayer and the secretary of revenue of such determination of
23 noncompliance, and any tax credits claimed pursuant to this section for
24 any tax year shall be forfeited.

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

27 Sec. 2. K.S.A. 2011 Supp. 79-32,246 is hereby repealed.

28 Sec. 3. This act shall take effect and be in force from and after its
29 publication in the Kansas register.