

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

As Amended by House Committee

Session of 2007

HOUSE BILL No. 2038

By Committee on Energy and Utilities

1-9

14 AN ACT concerning **energy; relating to** nuclear power plants; ~~con-~~
15 ~~cerning~~, siting permits; **and** providing certain property tax exemptions;
16 **production of energy from renewable energy resources or tech-**
17 **nologies and use of waste energy, income tax credits and deduc-**
18 **tions and property tax exemptions; certain fuel storage and**
19 **blending equipment, income tax credits and deductions and prop-**
20 **erty tax exemptions;** amending K.S.A. 66-1,158, 66-1,159, 66-1,159a,
21 66-1,161, 66-1,162, 66-1,169a and 66-1,169b and K.S.A. 2006 Supp.
22 66-1,160, **74-8949b, 79-229, 79-32,117, 79-32,120, 79-32,138, 79-**
23 **32,218, 79-32,224, 79-32,229, 79-32,233, 79-32,234, 79-32,235,**
24 **79-32,237 and 79-32,239** and repealing the existing sections; **also**
25 **repealing K.S.A. 2006 Supp. 79-32,117l.**
26

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

28 New Section 1. (a) The following described property, to the extent
29 herein specified, shall be exempt from all property taxes levied under the
30 laws of the state of Kansas:

31 Any new nuclear generation facility property ~~or any expanded nuclear~~
32 ~~generation facility property.~~

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

37 (c) The provisions of this section shall apply to all taxable years com-
38 mencing after December 31, 2006.

39 (d) **The owner or owners of any new nuclear generation facility**
40 **property or any expanded nuclear generation facility property shall**
41 **pay to the appropriate taxing subdivisions of the state a payment**
42 **in lieu of taxes in an amount equal to the amount which would have**
43 **been levied upon the real property portion of such property if such**

1 *real property were subject to ad valorem taxes as long as any ex-*
 2 *emption granted pursuant to this section is still in effect, and such*
 3 *taxing subdivision is authorized to receive and expend revenue re-*
 4 *sulting therefrom in the manner as otherwise provided by law.*

5 (e) As used in this section:

6 (1) “Existing nuclear generation facility” means a nuclear generation
 7 facility which is in existence on January 1, 2007.

8 ~~(2) “Expanded nuclear generation facility property” means any real~~
 9 ~~or tangible personal property purchased, constructed or installed for in-~~
 10 ~~corporation in and use as part of an expansion of an existing nuclear~~
 11 ~~generation facility, construction of which expansion begins after Decem-~~
 12 ~~ber 31, 2006.~~

13 ~~(3) “Expansion of an existing nuclear generation facility” means ex-~~
 14 ~~pansion of the **generating** capacity of an existing nuclear generation fa-~~
 15 ~~cility, which increases the **generating** capacity of such facility by at least~~
 16 ~~10% and is within 3 miles of the reactor of such facility.~~

17 ~~(4) [2]~~ “New nuclear generation facility property” means any real or
 18 tangible personal property purchased, constructed or installed for incor-
 19 poration in and use as part of a nuclear generation facility, of which con-
 20 struction begins after December 31, 2006, and which is within three miles
 21 of the reactor of an existing nuclear generation facility.

22 ~~(5) [3]~~ “Nuclear generation facility” means any physical plant utiliz-
 23 ing nuclear energy as the primary fuel for the production or generation
 24 of electricity or electric power.

25 Sec. 2. K.S.A. 66-1,158 is hereby amended to read as follows: 66-
 26 1,158. As used in this act:

27 (a) “Addition to an existing nuclear generation facility” means any
 28 addition of nuclear generation capacity to an existing nuclear generation
 29 facility.

30 (b) “Commission” means the state corporation commission.

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

36 (d) “Existing nuclear generation facility” means a nuclear generation
 37 facility which is in existence on January 1, 2007.

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

42 ~~(f)~~ (f) (1) “Nuclear generation facility or addition to a nuclear gen-
 43 eration facility” means: ~~(A)~~ any physical plant utilizing nuclear energy as

1 the primary fuel for the production or generation of electricity or electric
 2 power; ~~or (B) any addition of nuclear generation capacity to an existing~~
 3 ~~generation facility.~~

4 (2) “Nuclear generation facility ~~or addition to a nuclear generation~~
 5 ~~facility~~” does not include: (A) Remodeling, reconditioning or retrofitting
 6 of ~~an existing nuclear plant~~ *a nuclear generation facility*; (B) construction
 7 of nonnuclear generation capacity at the site of ~~an existing nuclear plant,~~
 8 ~~or (C) a nuclear generation facility; (C) an addition to an existing nuclear~~
 9 ~~generation facility which is within three miles of the reactor of an existing~~
 10 ~~nuclear generation facility; (D) construction of a nuclear generation fa-~~
 11 ~~cility which is within three miles of the reactor of an existing nuclear~~
 12 ~~generation facility; or (E) any facility or addition to a facility proposed to~~
 13 ~~be located outside this state if: (i) The need for the facility or addition~~
 14 ~~and the reasonableness of its proposed siting is subject to review by the~~
 15 ~~utility regulatory authority of that state; (ii) less than 10% of the retail~~
 16 ~~customers on the electric system intended to be served by such facility~~
 17 ~~or addition are located in this state; and (iii) such retail customers located~~
 18 ~~in this state number no more than 15,000.~~

19 ~~(e)~~ (g) “Party” means any landowner, electric utility, governmental
 20 board or agency, or any other person allowed to intervene in any pro-
 21 ceeding under this act.

22 ~~(f)~~ (h) “Person” means any individual, partnership, corporation or
 23 other association of persons.

24 Sec. 3. K.S.A. 66-1,159 is hereby amended to read as follows: 66-
 25 1,159. No electric utility may begin site preparation for or construction
 26 of a nuclear generation facility ~~or addition to a nuclear generation facility~~
 27 or exercise the right of eminent domain to acquire any land in connection
 28 with site preparation for or construction of any such facility ~~or addition~~
 29 ~~thereto~~, without first acquiring a permit from the commission. Whenever
 30 any such electric utility desires to obtain such a permit, the utility shall
 31 file an application with the commission, setting forth therein that the
 32 utility proposes to construct a nuclear generation facility ~~or addition to a~~
 33 ~~nuclear generation facility~~ and specifying the description and the total
 34 number of acres of land that such utility contemplates is needed in con-
 35 nection with the construction, operation and maintenance of such facility
 36 ~~or addition thereto~~. Also, the electric utility shall file with the application
 37 documents and plans which indicate the total planned utilization of a
 38 proposed location for electric generation purposes and documents and
 39 plans for utilization of an alternative location or locations. ~~Such docu-~~
 40 ~~ments and plans with respect to alternative locations shall not be required~~
 41 ~~for additions to existing nuclear generation facilities.~~ In addition, the elec-
 42 tric utility shall file with the application such documents pertaining to the
 43 construction, operation and maintenance of the proposed facility ~~or ad-~~

1 ~~dition~~ and such other matters deemed relevant thereto as may be re-
2 quired by rules and regulations of the commission. Thereupon, the com-
3 mission shall fix a time for a public hearing on such application, which
4 shall be not less than 30 nor more than 180 days from the date the ap-
5 plication was filed and shall be conducted in accordance with the provi-
6 sions of the Kansas administrative procedure act, to determine the ne-
7 cessity for the proposed facility ~~or addition~~ and the most reasonable
8 location and size of the proposed facility ~~or addition~~. The commission
9 shall fix the place for hearing, which may be in the county in which is
10 located the major portion of the land which has been or is proposed to
11 be acquired in connection with the construction, operation and mainte-
12 nance of the proposed facility ~~or addition~~. Such hearing may be held in
13 Topeka.

14 Sec. 4. K.S.A. 66-1,159a is hereby amended to read as follows: 66-
15 1,159a. Any electric generation facility, ~~or addition thereto~~, for which a
16 permit application was pending under the electric generation facility sit-
17 ting act as it existed immediately before the effective date of this act shall
18 be required to have such permit only if the facility is required to have a
19 permit pursuant to this act.

20 Sec. 5. K.S.A. 2006 Supp. 66-1,160 is hereby amended to read as
21 follows: 66-1,160. The commission shall publish notice of the time, place
22 and subject matter of such hearing in newspapers having general circula-
23 tion in the counties in which is located any portion of the land which
24 has been or is proposed to be acquired in connection with the construc-
25 tion, operation and maintenance of the proposed nuclear generation fa-
26 cility ~~or addition to a nuclear generation facility~~ once each week for three
27 consecutive weeks, the last publication to be not less than five days before
28 such hearing date. Written notice of such hearing and a copy of the ap-
29 plication also shall be served not less than 20 days prior to the hearing
30 date upon all landowners, as shown by the files, records and indexes of
31 the register of deeds of the county in which such land is located, and the
32 chief administrative officer, or any person designated by such officer to
33 receive such service, of the department of commerce, Kansas department
34 of agriculture, Kansas water office, department of health and environ-
35 ment, department of transportation, state geological survey and division
36 of the budget of the department of administration. In addition to the
37 information contained in the published notice, such written notice shall
38 state that the electric utility has filed the application and supporting doc-
39 uments as required by K.S.A. 66-1,159 and amendments thereto, and that
40 such application and supporting documents are available in the office of
41 the commission for examination and copying by the person or board or
42 agency desiring copies thereof.

43 Sec. 6. K.S.A. 66-1,161 is hereby amended to read as follows: 66-

1 1,161. The commission shall appoint an attorney to represent the interests
2 of the landowners at the hearing and shall allow a reasonable attorney's
3 fee, which shall be taxed as part of the costs thereof. Landowners, at their
4 own expense, may retain counsel to represent their individual interests at
5 such hearing. The chief administrative officer, or any other person or
6 persons designated by such officer, of any governmental board or agency
7 affected by the siting of the proposed nuclear generation facility ~~or ad-~~
8 ~~dition to a nuclear generation facility~~ shall be deemed to meet the re-
9 quirement for intervention contained in subsection (a)(2) of K.S.A. 77-
10 521 and amendments thereto. Any owner or lessee of land whose estate
11 or interest in such land would not be acquired by the electric utility but
12 would be affected in some other manner by the construction, operation
13 or maintenance of the facility ~~or addition~~ may petition for intervention in
14 accordance with the provisions of K.S.A. 77-521 and amendments
15 thereto.

16 Sec. 7. K.S.A. 66-1,162 is hereby amended to read as follows: 66-
17 1,162. Except as otherwise provided in this act, the rules and regulations
18 adopted by the commission pursuant to K.S.A. 66-106 and amendments
19 thereto to govern the commission's proceedings shall be applicable to any
20 proceeding before the commission under this act. The electric utility shall
21 proceed with the introduction of evidence of the necessity for the pro-
22 posed nuclear generation facility ~~or addition to a nuclear generation fa-~~
23 ~~ility~~ and of the reasonableness of the proposed location and size of the
24 facility ~~or addition~~. The burden of proof on any such matter shall be upon
25 the electric utility and shall be established by a preponderance of the
26 evidence. All parties present or represented by counsel at the hearing
27 shall have an opportunity to be heard and the right to cross-examine any
28 witness appearing before the commission at the hearing. The commission
29 shall cause a transcript to be made of the hearing. All costs of any hearing
30 shall be taxed against the electric utility. The hearing and all parties' ar-
31 guments shall be completed within 90 days after the commencement
32 thereof. At any time after the commencement of the hearing, the electric
33 utility may withdraw its application for the permit required by K.S.A. 66-
34 1,159 and amendments thereto.

35 The commission shall make findings of fact and file such findings with
36 its decision to grant, grant conditioned by such findings or withhold the
37 permit applied for, except that whenever approval of applications are
38 pending with or must be obtained from any state regulatory authority
39 which relate to the operation of any such facility ~~or addition to a facility~~,
40 the commission shall postpone its decision until proof of the approval or
41 disapproval of any such application is received. In any case where a state
42 regulatory authority cannot render final approval of any such application
43 until the facility ~~or addition to a facility~~ is in actual operation, the com-

1 mission shall accept as proof of approval or disapproval the state regula-
2 tory authority's certification of probable acceptability or unacceptability
3 of an application. Prior to making its determination with respect to the
4 most reasonable location and size of a proposed nuclear generation facility
5 ~~or addition to a nuclear generation facility~~, the commission shall make its
6 determination of whether or not a necessity exists for the electric gen-
7 eration capacity of a proposed facility ~~or addition to a facility~~. In addition
8 to any other consideration deemed necessary in making such determi-
9 nation, the commission shall consider and make determinations on the
10 following factors: (1) Whether or not the electric generating capacity of
11 the proposed facility ~~or addition to a facility~~ meets or contributes to the
12 meeting of the electrical energy needs of the people of this state consid-
13 ering the probable future statewide electrical energy needs thereof; and
14 (2) whether or not available electrical generating capacity exists within
15 the state that is capable of being distributed economically, reliably, tech-
16 nically and environmentally. Whenever the commission determines that
17 a necessity exists for electric generation capacity to be provided by a
18 proposed nuclear generation facility ~~or addition to a nuclear generation~~
19 ~~facility~~, the commission shall make its determinations with respect to the
20 most reasonable size and location of any such facility ~~or addition to a~~
21 ~~facility~~. In addition to any other consideration deemed necessary in mak-
22 ing a determination with respect to the size of a proposed facility ~~or~~
23 ~~addition to a facility~~, the commission shall consider the electric utility's
24 total planned utilization of a proposed location for electric generation
25 purposes as it relates to the necessity found by the commission for ad-
26 ditional electric generating capacity in the state. In addition to any other
27 consideration deemed necessary in making a determination with respect
28 to the most reasonable location of a proposed facility ~~or addition to a~~
29 ~~facility~~, the commission shall consider the availability of natural resources
30 necessary in the operation of a proposed facility ~~or addition to a facility~~
31 as the same relates to each alternative location submitted by the electric
32 utility as required by the provisions of K.S.A. 66-1,159 and amendments
33 thereto. ~~The location of the existing nuclear generation facility shall be~~
34 ~~the most reasonable location for any addition to such facility~~. Upon a
35 determination that a necessity exists for the proposed nuclear generation
36 facility ~~or addition to a nuclear generation facility~~ and that the proposed
37 location and size of such facility ~~or addition thereto~~ are the most reason-
38 able, the commission shall issue to the electric utility a permit to construct
39 such facility ~~or addition thereto~~, except that the commission may condi-
40 tion such permit with respect to the location and size of the proposed
41 nuclear generation facility ~~or addition to a nuclear generation facility~~ to
42 provide for an alternate location or size, or both, thereof, but in no case
43 shall the commission provide for a size larger than that applied for. Upon

1 the issuance of such permit, no local ordinance, resolution or regulation
2 shall prohibit the construction of the nuclear generation facility ~~or addi-~~
3 ~~tion to a nuclear generation facility~~, and the electric utility may proceed
4 with such facility ~~or addition thereto~~ notwithstanding any requirement to
5 obtain any building permit under any local zoning ordinance, resolution
6 or regulation.

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

22 Sec. 9. K.S.A. 66-1,169b is hereby amended to read as follows: 66-
23 1,169b. With regard to a facility proposed to be located outside this state,
24 K.S.A. 66-1,160 and 66-1,161, and amendments thereto, shall not apply
25 and, for purposes of determining the most reasonable location of a pro-
26 posed facility ~~or addition to a facility~~ pursuant to K.S.A. 66-1,162, and
27 amendments thereto, the commission shall consider only the effects on
28 system reliability and economic efficiency.

29 ***New Sec. 10. As used in sections 10 through 14, and amend-***
30 ***ments thereto:***

31 (a) ***“New renewable electric cogeneration facility” means a re-***
32 ***newable electric cogeneration facility which is located in this state***
33 ***and construction of which begins after December 31, 2006.***

34 (b) ***“Pass-through entity” means any: (1) Corporation which is***
35 ***exempt from income tax under section 1363 of the federal internal***
36 ***revenue code and which complies with the requirements of K.S.A.***
37 ***79-32,100e, and amendments thereto; (2) limited liability company;***
38 ***(3) partnership; or (4) limited liability partnership.***

39 (c) ***“Qualified investment” means expenditures made in con-***
40 ***struction of a new renewable electric cogeneration facility, for real***
41 ***and tangible personal property incorporated in and used as part of***
42 ***such facility.***

43 (d) ***“Renewable electric cogeneration facility” means a facility***

1 *which generates electricity utilizing renewable energy resources or*
2 *technologies, as defined in K.S.A. 79-201, and amendments thereto,*
3 *and which is owned and operated by the owner of an industrial,*
4 *commercial or agricultural process to generate electricity for use*
5 *in such process to displace current or provide for future electricity*
6 *use.*

7 *New Sec. 11. (a) For taxable years commencing after December*
8 *31, 2006, and before January 1, 2012, any taxpayer who is awarded*
9 *a tax credit under this act by the secretary of commerce and com-*
10 *plies with the conditions set forth in this act and the agreement*
11 *entered into by the secretary and the taxpayer under this act shall*
12 *be allowed a credit against the taxpayer's tax liability under the*
13 *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*
15 *other type of Kansas income tax credit.*

16 *(b) The amount of the credit to which a taxpayer is entitled shall*
17 *be 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*
19 *amount equal to 5% of the amount of the taxpayer's qualified in-*
20 *vestment that exceeds \$50,000,000. Such credit shall be taken in 10*
21 *equal, annual installments, beginning with the year in which the*
22 *taxpayer places into service the new renewable electric cogenera-*
23 *tion facility.*

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

34 *(d) (1) Before making a qualified investment, a taxpayer shall*
35 *apply to the secretary of commerce to enter into an agreement for*
36 *a tax credit under this act. The secretary shall prescribe the form*
37 *of the application. After receipt of such application, the secretary*
38 *may enter into an agreement with the applicant for a credit under*
39 *this act if the secretary determines that the taxpayer's proposed*
40 *investment satisfies the requirements of this act. The secretary shall*
41 *enter into an agreement with an applicant which is awarded a credit*
42 *under this act. The agreement shall include: (A) A detailed descrip-*
43 *tion of the renewable electric cogeneration facility project that is*

1 *the subject of the agreement, (B) the first taxable year for which*
2 *the credit may be claimed, (C) the maximum amount of tax credit*
3 *that will be allowed for each taxable year and (D) a requirement*
4 *that the taxpayer shall maintain operation of the new renewable*
5 *electric cogeneration facility for at least 10 years during the term*
6 *that the tax credit is available.*

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

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

24 *New Sec. 12. (a) If a qualified investment is made by or trans-*
25 *ferred to a pass-through entity and the credit allowed by this act*
26 *for a taxable year is greater than the entity's tax liability against*
27 *which the tax credit may be applied, a shareholder, partner or mem-*
28 *ber of the entity is entitled to a tax credit equal to the tax credit*
29 *determined for the entity for the taxable year in excess of the entity's*
30 *tax liability under the Kansas income tax act for the taxable year*
31 *multiplied by the percentage of the entity's distributive income to*
32 *which the shareholder, partner or member is entitled.*

33 (b) *If a new renewable electric cogeneration facility is co-owned*
34 *by two or more taxpayers, the amount of the credit that may be*
35 *allowed to a co-owner in a taxable year is equal to the tax credit*
36 *determined under section 11, and amendments thereto, with respect*
37 *to the total qualified investment in such facility multiplied by the*
38 *co-owner's percentage of ownership in such facility.*

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

42 (d) *If the amount of an annual installment of a tax credit al-*
43 *lowed a shareholder, partner, member or co-owner under this sec-*

1 *tion exceeds the taxpayer's income tax liability for the taxable year*
2 *in which the annual installment is allowed, the amount thereof*
3 *which exceeds such tax liability may be carried over for deduction*
4 *from the taxpayer's income tax liability in the next succeeding tax-*
5 *able year or years until the total amount of the tax credit has been*
6 *deducted from tax liability, except that no such tax credit shall be*
7 *carried over for deduction after the 14th taxable year succeeding*
8 *the taxable year in which the first annual installment is allowed.*

9 *New Sec. 13. To receive the credit awarded by this act, a tax-*
10 *payer must claim the credit on the taxpayer's annual state income*
11 *tax return or returns in the manner prescribed by the director of*
12 *taxation. The taxpayer shall submit to the director a copy of the*
13 *taxpayer's agreement for a tax credit entered into with the secretary*
14 *of commerce pursuant to section 11, and amendments thereto, and*
15 *all information that the director determines necessary for the cal-*
16 *ulation of the credit provided by this act.*

17 *New Sec. 14. (a) In addition to the income tax credit allowable*
18 *pursuant to sections 10 through 13, and amendments thereto, a tax-*
19 *payer shall be entitled to a deduction from Kansas adjusted gross*
20 *income with respect to the amortization of the amortizable costs of*
21 *a new renewable electric cogeneration facility based upon a period*
22 *of 10 years. Such amortization deduction shall be an amount equal*
23 *to 55% of the amortizable costs of such new renewable electric co-*
24 *generation facility for the first taxable year in which such new re-*
25 *newable electric cogeneration facility is in production and 5% of*
26 *the amortizable costs of such new renewable electric cogeneration*
27 *facility for each of the next nine taxable years.*

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

33 *(c) The provisions of this section shall apply to all taxable years*
34 *commencing after December 31, 2006.*

35 *(d) The secretary of revenue shall adopt such rules and regu-*
36 *lations as deemed necessary to carry out the provisions of this*
37 *section.*

38 *New Sec. 15. (a) For the purpose of financing the construction*
39 *of a new renewable electric cogeneration facility, the Kansas de-*
40 *velopment finance authority is hereby authorized to issue revenue*
41 *bonds pursuant to the Kansas development finance authority act,*
42 *K.S.A. 74-8901 et seq., and amendments thereto, in amounts suffi-*
43 *cient to pay the costs of such construction, including any required*

1 *interest on the bonds during construction and installation, plus all*
2 *amounts required for the costs of bond issuance, costs of credit en-*
3 *hancement or other financial contracts, capitalized interest and any*
4 *required reserves on the bonds. The bonds, and interest thereon,*
5 *issued pursuant to this section shall be payable from revenues*
6 *pledged to the Kansas development finance authority for such pur-*
7 *pose, which may include revenues derived from cost savings attrib-*
8 *utable to the renewable electric cogeneration facility.*

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

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

20 *(d) Revenue bonds, including refunding revenue bonds, issued*
21 *hereunder and the income derived therefrom are and shall be ex-*
22 *empt from all state, county and municipal taxation in the state of*
23 *Kansas, except Kansas estate taxes.*

24 *(e) As used in this section, terms have the meanings provided in*
25 *section 10, and amendments thereto.*

26 *New Sec. 16. (a) For the purpose of financing the construction,*
27 *purchase and installation of a waste heat utilization system at an*
28 *electric generation facility, the Kansas development finance au-*
29 *thority is hereby authorized to issue revenue bonds pursuant to the*
30 *Kansas development finance authority act, K.S.A. 74-8901 et seq.,*
31 *and amendments thereto, in amounts sufficient to pay the costs of*
32 *such construction, including any required interest on the bonds*
33 *during construction and installation, plus all amounts required for*
34 *the costs of bond issuance, costs of credit enhancement or other*
35 *financial contracts, capitalized interest and any required reserves*
36 *on the bonds. The bonds, and interest thereon, issued pursuant to*
37 *this section shall be payable from revenues pledged to the Kansas*
38 *development finance authority for such purpose, which may include*
39 *revenues derived from sales of electricity generated by such gen-*
40 *eration facility.*

41 *(b) The provisions of subsection (a) of K.S.A. 74-8905, and*
42 *amendments thereto, shall not prohibit the issuance of bonds by the*
43 *Kansas development finance authority for the purposes of this sec-*

1 *tion and any such issuance of bonds is exempt from the provisions*
2 *of subsection (a) of K.S.A. 74-8905, and amendments thereto, which*
3 *would operate to preclude such issuance.*

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

9 *(d) Revenue bonds, including refunding revenue bonds, issued*
10 *hereunder and the income derived therefrom are and shall be ex-*
11 *empt from all state, county and municipal taxation in the state of*
12 *Kansas, except Kansas estate taxes.*

13 *(e) As used in this section, “waste heat utilization system”*
14 *means facilities and equipment for the recovery of waste heat gen-*
15 *erated in the process of generating electricity at an electric gener-*
16 *ation facility located in this state and the use of such heat to gen-*
17 *erate additional electricity or to produce fuels from renewable*
18 *energy resources or technologies, as defined in K.S.A. 79-201, and*
19 *amendments thereto.*

20 *New Sec. 17. (a) The following described property, to the ex-*
21 *tent herein specified, shall be exempt from all property taxes levied*
22 *under the laws of the state of Kansas: Any waste heat utilization*
23 *system property.*

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

29 *(c) The provisions of this section shall apply to all taxable years*
30 *commencing after December 31, 2006.*

31 *(d) As used in this section:*

32 *(1) “Waste heat utilization system” has the meaning provided*
33 *in section 16, and amendments thereto.*

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

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

1 *taxable years.*

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

7 *(c) The provisions of this section shall apply to all taxable years*
8 *commencing after December 31, 2006.*

9 *(d) The secretary of revenue shall adopt such rules and regu-*
10 *lations as deemed necessary to carry out the provisions of this*
11 *section.*

12 *(e) As used in this section, “waste heat utilization system” has*
13 *the meaning provided by section 16, and amendments thereto.*

14 *Sec. 19. K.S.A. 2006 Supp. 74-8949b is hereby amended to read*
15 *as follows: 74-8949b. (a) For the purpose of financing the construc-*
16 *tion of a new ~~cellulosic-alcohol~~ biomass-to-energy plant or expansion*
17 *of an existing ~~cellulosic-alcohol~~ biomass-to-energy plant, the Kansas*
18 *development finance authority is hereby authorized to issue reve-*
19 *nuce bonds pursuant to the Kansas development finance authority*
20 *act, K.S.A. 74-8901 et seq., and amendments thereto, in amounts*
21 *sufficient to pay the costs of such construction or expansion, in-*
22 *cluding any required interest on the bonds during construction and*
23 *installation, plus all amounts required for the costs of bond issu-*
24 *ance, costs of credit enhancement or other financial contracts, cap-*
25 *italized interest and any required reserves on the bonds. The bonds,*
26 *and interest thereon, issued pursuant to this section shall be paya-*
27 *ble from revenues pledged to the Kansas development finance au-*
28 *thority for such purpose, which may include revenues derived from*
29 *sales of ~~cellulosic-alcohol~~ products fuels, energy and coproducts pro-*
30 *duced at the plant.*

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

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

42 *(d) Revenue bonds, including refunding revenue bonds, issued*
43 *hereunder and the income derived therefrom are and shall be ex-*

1 *empt from all state, county and municipal taxation in the state of*
 2 *Kansas, except Kansas estate taxes.*

3 *(e) As used in this section:*

4 *(1) “~~Cellulosic alcohol biomass-to-energy plant~~” has the meaning*
 5 *provided by K.S.A. 2006 Supp. 79-32,233, and amendments thereto.*

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

10 *(3) “New ~~cellulosic alcohol biomass-to-energy plant~~” means a ~~cel-~~*
 11 *lulosic alcohol biomass-to-energy plant, construction of which begins*
 12 *after December 31, 2005.*

13 *Sec. 20. K.S.A. 2006 Supp. 79-229 is hereby amended to read*
 14 *as follows: 79-229. (a) The following described property, to the ex-*
 15 *tent herein specified, shall be exempt from all property taxes levied*
 16 *under the laws of the state of Kansas: Any new ~~cellulosic alcohol bi-~~*
 17 *omass-to-energy plant property or any expanded ~~cellulosic alcohol bi-~~*
 18 *omass-to-energy plant property.*

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

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

26 *(d) As used in this section:*

27 *(1) “~~Cellulosic alcohol biomass-to-energy plant~~” has the meaning*
 28 *provided by K.S.A. 2006 Supp. 79-32,233, and amendments thereto.*

29 *(2) “Expanded ~~cellulosic alcohol biomass-to-energy plant prop-~~*
 30 *erty” means any real or tangible personal property purchased, con-*
 31 *structed or installed for incorporation in and use as part of an ex-*
 32 *pansion of an existing ~~cellulosic alcohol biomass-to-energy plant,~~*
 33 *construction of which expansion begins after December 31, 2005.*

34 *(3) “Expansion of an existing ~~cellulosic alcohol biomass-to-energy~~*
 35 *plant” means expansion of the capacity of an existing ~~cellulosic al-~~*
 36 *cohol biomass-to-energy plant by at least 10% of such capacity.*

37 *(4) “New ~~cellulosic alcohol biomass-to-energy plant property~~”*
 38 *means any real or tangible personal property purchased, con-*
 39 *structed or installed for incorporation in and use as part of a ~~cel-~~*
 40 *lulosic alcohol biomass-to-energy plant, construction of which begins*
 41 *after December 31, 2005.*

42 *Sec. 21. K.S.A. 2006 Supp. 79-32,117 is hereby amended to*
 43 *read as follows: 79-32,117. (a) The Kansas adjusted gross income*

1 *of an individual means such individual's federal adjusted gross in-*
2 *come for the taxable year, with the modifications specified in this*
3 *section.*

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

5 *(i) Interest income less any related expenses directly incurred*
6 *in the purchase of state or political subdivision obligations, to the*
7 *extent that the same is not included in federal adjusted gross in-*
8 *come, on obligations of any state or political subdivision thereof,*
9 *but to the extent that interest income on obligations of this state or*
10 *a political subdivision thereof issued prior to January 1, 1988, is*
11 *specifically exempt from income tax under the laws of this state*
12 *authorizing the issuance of such obligations, it shall be excluded*
13 *from computation of Kansas adjusted gross income whether or not*
14 *included in federal adjusted gross income. Interest income on ob-*
15 *ligations of this state or a political subdivision thereof issued after*
16 *December 31, 1987, shall be excluded from computation of Kansas*
17 *adjusted gross income whether or not included in federal adjusted*
18 *gross income.*

19 *(ii) Taxes on or measured by income or fees or payments in lieu*
20 *of income taxes imposed by this state or any other taxing jurisdic-*
21 *tion to the extent deductible in determining federal adjusted gross*
22 *income and not credited against federal income tax. This paragraph*
23 *shall not apply to taxes imposed under the provisions of K.S.A. 79-*
24 *1107 or 79-1108, and amendments thereto, for privilege tax year*
25 *1995, and all such years thereafter.*

26 *(iii) The federal net operating loss deduction.*

27 *(iv) Federal income tax refunds received by the taxpayer if the*
28 *deduction of the taxes being refunded resulted in a tax benefit for*
29 *Kansas income tax purposes during a prior taxable year. Such re-*
30 *funds shall be included in income in the year actually received re-*
31 *gardless of the method of accounting used by the taxpayer. For pur-*
32 *poses hereof, a tax benefit shall be deemed to have resulted if the*
33 *amount of the tax had been deducted in determining income subject*
34 *to a Kansas income tax for a prior year regardless of the rate of*
35 *taxation applied in such prior year to the Kansas taxable income,*
36 *but only that portion of the refund shall be included as bears the*
37 *same proportion to the total refund received as the federal taxes*
38 *deducted in the year to which such refund is attributable bears to*
39 *the total federal income taxes paid for such year. For purposes of*
40 *the foregoing sentence, federal taxes shall be considered to have*
41 *been deducted only to the extent such deduction does not reduce*
42 *Kansas taxable income below zero.*

43 *(v) The amount of any depreciation deduction or business ex-*

- 1 *pense deduction claimed on the taxpayer's federal income tax return*
2 *for any capital expenditure in making any building or facility ac-*
3 *cessible to the handicapped, for which expenditure the taxpayer*
4 *claimed the credit allowed by K.S.A. 79-32,177, and amendments*
5 *thereto.*
- 6 *(vi) Any amount of designated employee contributions picked*
7 *up by an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919*
8 *and 74-4965, and amendments to such sections.*
- 9 *(vii) The amount of any charitable contribution made to the*
10 *extent the same is claimed as the basis for the credit allowed pur-*
11 *suant to K.S.A. 79-32,196, and amendments thereto.*
- 12 *(viii) The amount of any costs incurred for improvements to a*
13 *swine facility, claimed for deduction in determining federal ad-*
14 *justed gross income, to the extent the same is claimed as the basis*
15 *for any credit allowed pursuant to K.S.A. 2006 Supp. 79-32,204 and*
16 *amendments thereto.*
- 17 *(ix) The amount of any ad valorem taxes and assessments paid*
18 *and the amount of any costs incurred for habitat management or*
19 *construction and maintenance of improvements on real property,*
20 *claimed for deduction in determining federal adjusted gross income,*
21 *to the extent the same is claimed as the basis for any credit allowed*
22 *pursuant to K.S.A. 79-32,203 and amendments thereto.*
- 23 *(x) Amounts received as nonqualified withdrawals, as defined*
24 *by K.S.A. 2006 Supp. 75-643, and amendments thereto, if, at the*
25 *time of contribution to a family postsecondary education savings*
26 *account, such amounts were subtracted from the federal adjusted*
27 *gross income pursuant to paragraph (xv) of subsection (c) of K.S.A.*
28 *79-32,117, and amendments thereto, or if such amounts are not al-*
29 *ready included in the federal adjusted gross income.*
- 30 *(xi) The amount of any contribution made to the same extent*
31 *the same is claimed as the basis for the credit allowed pursuant to*
32 *K.S.A. 2006 Supp. 74-50,154, and amendments thereto.*
- 33 *(xii) For taxable years commencing after December 31, 2004,*
34 *amounts received as withdrawals not in accordance with the pro-*
35 *visions of K.S.A. 2006 Supp. 74-50,204, and amendments thereto,*
36 *if, at the time of contribution to an individual development account,*
37 *such amounts were subtracted from the federal adjusted gross in-*
38 *come pursuant to paragraph (xiii) of subsection (c), or if such*
39 *amounts are not already included in the federal adjusted gross*
40 *income.*
- 41 *(xiii) The amount of any expenditures claimed for deduction in*
42 *determining federal adjusted gross income, to the extent the same*
43 *is claimed as the basis for any credit allowed pursuant to K.S.A.*

1 **2006 Supp. 79-32,217 through 79-32,220 or 79-32,222, and amend-**
2 **ments thereto.**

3 **(xiv) The amount of any amortization deduction claimed in de-**
4 **termining federal adjusted gross income to the extent the same is**
5 **claimed for deduction pursuant to K.S.A. 2006 Supp. 79-32,221, and**
6 **amendments thereto.**

7 **(xv) The amount of any expenditures claimed for deduction in**
8 **determining federal adjusted gross income, to the extent the same**
9 **is claimed as the basis for any credit allowed pursuant to K.S.A.**
10 **2006 Supp. 79-32,223 through 79-32,226, 79-32,228 through 79-**
11 **32,231, 79-32,233 through 79-32,236, 79-32,238 through 79-32,241, sec-**
12 **tions 10 through 13 or sections 32 through 35, and amendments thereto.**

13 **(xvi) The amount of any amortization deduction claimed in de-**
14 **termining federal adjusted gross income to the extent the same is**
15 **claimed for deduction pursuant to K.S.A. 2006 Supp. 79-32,227, 79-**
16 **32,232, 79-32,237, section 14, 18 or 36, and amendments thereto.**

17 ~~(xvii) The amount of any expenditures claimed for deduction in de-~~
18 ~~termining federal adjusted gross income, to the extent the same is claimed~~
19 ~~as the basis for any credit allowed pursuant to K.S.A. 2006 Supp. 79-~~
20 ~~32,228 through 79-32,231, and amendments thereto.~~

21 ~~—(xviii) The amount of any amortization deduction claimed in deter-~~
22 ~~mining federal adjusted gross income to the extent the same is claimed~~
23 ~~for deduction pursuant to K.S.A. 2006 Supp. 79-32,232, and amendments~~
24 ~~thereto.~~

25 ~~—(xix) The amount of any expenditures claimed for deduction in de-~~
26 ~~termining federal adjusted gross income, to the extent the same is claimed~~
27 ~~as the basis for any credit allowed pursuant to K.S.A. 2006 Supp. 79-~~
28 ~~32,233 through 79-32,236, and amendments thereto.~~

29 ~~—(xx) The amount of any amortization deduction claimed in deter-~~
30 ~~mining federal adjusted gross income to the extent the same is claimed for~~
31 ~~deduction pursuant to K.S.A. 2006 Supp. 79-32,237, and amendments~~
32 ~~thereto.~~

33 ~~—(xxi) The amount of any expenditures claimed for deduction in de-~~
34 ~~termining federal adjusted gross income, to the extent the same is claimed~~
35 ~~as the basis for any credit allowed pursuant to K.S.A. 2006 Supp. 79-~~
36 ~~32,238 through 79-32,241, and amendments thereto.~~

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

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

- 1 *under the laws of the United States.*
- 2 (ii) *Any amounts received which are included in federal ad-*
3 *justed gross income but which are specifically exempt from Kansas*
4 *income taxation under the laws of the state of Kansas.*
- 5 (iii) *The portion of any gain or loss from the sale or other dis-*
6 *position of property having a higher adjusted basis for Kansas in-*
7 *come tax purposes than for federal income tax purposes on the date*
8 *such property was sold or disposed of in a transaction in which gain*
9 *or loss was recognized for purposes of federal income tax that does*
10 *not exceed such difference in basis, but if a gain is considered a*
11 *long-term capital gain for federal income tax purposes, the modifi-*
12 *cation shall be limited to that portion of such gain which is included*
13 *in federal adjusted gross income.*
- 14 (iv) *The amount necessary to prevent the taxation under this*
15 *act of any annuity or other amount of income or gain which was*
16 *properly included in income or gain and was taxed under the laws*
17 *of this state for a taxable year prior to the effective date of this act,*
18 *as amended, to the taxpayer, or to a decedent by reason of whose*
19 *death the taxpayer acquired the right to receive the income or gain,*
20 *or to a trust or estate from which the taxpayer received the income*
21 *or gain.*
- 22 (v) *The amount of any refund or credit for overpayment of taxes*
23 *on or measured by income or fees or payments in lieu of income*
24 *taxes imposed by this state, or any taxing jurisdiction, to the extent*
25 *included in gross income for federal income tax purposes.*
- 26 (vi) *Accumulation distributions received by a taxpayer as a ben-*
27 *eficiary of a trust to the extent that the same are included in federal*
28 *adjusted gross income.*
- 29 (vii) *Amounts received as annuities under the federal civil serv-*
30 *ice retirement system from the civil service retirement and disabil-*
31 *ity fund and other amounts received as retirement benefits in what-*
32 *ever form which were earned for being employed by the federal*
33 *government or for service in the armed forces of the United States.*
- 34 (viii) *Amounts received by retired railroad employees as a sup-*
35 *plemental annuity under the provisions of 45 U.S.C. 228b (a) and*
36 *228c (a)(1) et seq.*
- 37 (ix) *Amounts received by retired employees of a city and by*
38 *retired employees of any board of such city as retirement allow-*
39 *ances pursuant to K.S.A. 13-14,106, and amendments thereto, or*
40 *pursuant to any charter ordinance exempting a city from the pro-*
41 *visions of K.S.A. 13-14,106, and amendments thereto.*
- 42 (x) *For taxable years beginning after December 31, 1976, the*
43 *amount of the federal tentative jobs tax credit disallowance under*

- 1 *the provisions of 26 U.S.C. 280 C. For taxable years ending after*
2 *December 31, 1978, the amount of the targeted jobs tax credit and*
3 *work incentive credit disallowances under 26 U.S.C. 280 C.*
- 4 *(xi) For taxable years beginning after December 31, 1986, div-*
5 *idend income on stock issued by Kansas Venture Capital, Inc.*
- 6 *(xii) For taxable years beginning after December 31, 1989,*
7 *amounts received by retired employees of a board of public utilities*
8 *as pension and retirement benefits pursuant to K.S.A. 13-1246, 13-*
9 *1246a and 13-1249 and amendments thereto.*
- 10 *(xiii) For taxable years beginning after December 31, 2004,*
11 *amounts contributed to and the amount of income earned on con-*
12 *tributions deposited to an individual development account under*
13 *K.S.A. 2006 Supp. 74-50,201, et seq., and amendments thereto.*
- 14 *(xiv) For all taxable years commencing after December 31,*
15 *1996, that portion of any income of a bank organized under the*
16 *laws of this state or any other state, a national banking association*
17 *organized under the laws of the United States, an association or-*
18 *ganized under the savings and loan code of this state or any other*
19 *state, or a federal savings association organized under the laws of*
20 *the United States, for which an election as an S corporation under*
21 *subchapter S of the federal internal revenue code is in effect, which*
22 *accrues to the taxpayer who is a stockholder of such corporation*
23 *and which is not distributed to the stockholders as dividends of the*
24 *corporation.*
- 25 *(xv) For all taxable years beginning after December 31, 1999,*
26 *amounts not exceeding ~~\$2,000, or \$4,000~~ \$3,000 or \$6,000 for a mar-*
27 *ried couple filing a joint return, for each designated beneficiary*
28 *which are contributed to a family postsecondary education savings*
29 *account established under the Kansas postsecondary education sav-*
30 *ings program for the purpose of paying the qualified higher edu-*
31 *cation expenses of a designated beneficiary at an institution of pos-*
32 *tsecondary education. For all taxable years beginning after*
33 *December 31, ~~2004~~ 2006, amounts not exceeding \$3,000, or \$6,000*
34 *for a married couple filing a joint return, for each designated ben-*
35 *eficiary which are contributed to a family postsecondary education*
36 *savings account established under the Kansas postsecondary education*
37 *savings program qualified tuition program established and maintained by*
38 *another state or agency or instrumentality thereof pursuant to section 529*
39 *of the internal revenue code of 1986, as amended, for the purpose of*
40 *paying the qualified higher education expenses of a designated ben-*
41 *eficiary at an institution of postsecondary education. The terms and*
42 *phrases used in this paragraph shall have the meaning respectively*
43 *ascribed thereto by the provisions of K.S.A. 2006 Supp. 75-643, and*

1 *amendments thereto, and the provisions of such section are hereby*
2 *incorporated by reference for all purposes thereof.*

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

13 *(xvii) For all taxable years beginning after December 31, 2004,*
14 *amounts received by taxpayers who are or were members of the*
15 *armed forces of the United States, including service in the Kansas*
16 *army and air national guard, as a recruitment, sign up or retention*
17 *bonus received by such taxpayer as an incentive to join, enlist or*
18 *remain in the armed services of the United States, including service*
19 *in the Kansas army and air national guard, and amounts received*
20 *for repayment of educational or student loans incurred by or obli-*
21 *gated to such taxpayer and received by such taxpayer as a result of*
22 *such taxpayer's service in the armed forces of the United States,*
23 *including service in the Kansas army and air national guard.*

24 *(xviii) For all taxable years beginning after December 31, 2004,*
25 *amounts received by taxpayers who are eligible members of the*
26 *Kansas army and air national guard as a reimbursement pursuant*
27 *to K.S.A. 48-281, and amendments thereto, and amounts received*
28 *for death benefits pursuant to K.S.A. 48-282, and amendments*
29 *thereto, or pursuant to section 1 or section 2 of chapter 207 of the*
30 *2005 session laws of Kansas, and amendments thereto, to the extent*
31 *that such death benefits are included in federal adjusted gross in-*
32 *come of the taxpayer.*

33 *(d) There shall be added to or subtracted from federal adjusted*
34 *gross income the taxpayer's share, as beneficiary of an estate or*
35 *trust, of the Kansas fiduciary adjustment determined under K.S.A.*
36 *79-32,135, and amendments thereto.*

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

42 *Sec. 22. K.S.A. 2006 Supp. 79-32,120 is hereby amended to*
43 *read as follows: 79-32,120. (a) If federal taxable income of an in-*

1 *dividual is determined by itemizing deductions from such individ-*
2 *ual's federal adjusted gross income, such individual may elect to*
3 *deduct the Kansas itemized deduction in lieu of the Kansas standard*
4 *deduction. The Kansas itemized deduction of an individual means*
5 *the total amount of deductions from federal adjusted gross income,*
6 *other than federal deductions for personal exemptions, as provided*
7 *in the federal internal revenue code with the modifications specified*
8 *in this section.*

9 *(b) The total amount of deductions from federal adjusted gross*
10 *income shall be reduced by the total amount of income taxes im-*
11 *posed by or paid to this state or any other taxing jurisdiction to the*
12 *extent that the same are deducted in determining the federal item-*
13 *ized deductions and by the amount of all depreciation deductions*
14 *claimed for any real or tangible personal property upon which the*
15 *deduction allowed by K.S.A. 2006 Supp. 79-32,221, 79-32,227, 79-*
16 *32,232 ~~or~~, 79-32,237, section 14, 18 or 36, and amendments thereto,*
17 *is or has been claimed.*

18 *Sec. 23. K.S.A. 2006 Supp. 79-32,138 is hereby amended to*
19 *read as follows: 79-32,138. (a) Kansas taxable income of a corpo-*
20 *ration taxable under this act shall be the corporation's federal tax-*
21 *able income for the taxable year with the modifications specified in*
22 *this section.*

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

26 *(ii) The amount of all depreciation deductions claimed for any*
27 *property upon which the deduction allowed by K.S.A. 2006 Supp.*
28 *79-32,221, 79-32,227, 79-32,232 ~~or~~, 79-32,237, section 14, 18 or 36,*
29 *and amendments thereto, is claimed.*

30 *(iii) The amount of any charitable contribution deduction*
31 *claimed for any contribution or gift to or for the use of any racially*
32 *segregated educational institution.*

33 *(c) There shall be subtracted from federal taxable income: (i)*
34 *The same modifications as are set forth in subsection (c) of K.S.A.*
35 *79-32,117, and amendments thereto, with respect to resident*
36 *individuals.*

37 *(ii) The federal income tax liability for any taxable year com-*
38 *mencing prior to December 31, 1971, for which a Kansas return*
39 *was filed after reduction for all credits thereon, except credits for*
40 *payments on estimates of federal income tax, credits for gasoline*
41 *and lubricating oil tax, and for foreign tax credits if, on the Kansas*
42 *income tax return for such prior year, the federal income tax de-*
43 *duction was computed on the basis of the federal income tax paid*

- 1 *in such prior year, rather than as accrued. Notwithstanding the*
2 *foregoing, the deduction for federal income tax liability for any year*
3 *shall not exceed that portion of the total federal income tax liability*
4 *for such year which bears the same ratio to the total federal income*
5 *tax liability for such year as the Kansas taxable income, as com-*
6 *puted before any deductions for federal income taxes and after ap-*
7 *plication of subsections (d) and (e) of this section as existing for*
8 *such year, bears to the federal taxable income for the same year.*
- 9 *(iii) An amount for the amortization deduction allowed pursu-*
10 *ant to K.S.A. 2006 Supp. 79-32,221, 79-32,227, 79-32,232 or, 79-*
11 *32,237, section 14, 18 or 36, and amendments thereto.*
- 12 *(iv) For all taxable years commencing after December 31, 1987,*
13 *the amount included in federal taxable income pursuant to the pro-*
14 *visions of section 78 of the internal revenue code.*
- 15 *(v) For all taxable years commencing after December 31, 1987,*
16 *80% of dividends from corporations incorporated outside of the*
17 *United States or the District of Columbia which are included in*
18 *federal taxable income.*
- 19 *(d) If any corporation derives all of its income from sources*
20 *within Kansas in any taxable year commencing after December 31,*
21 *1979, its Kansas taxable income shall be the sum resulting after*
22 *application of subsections (a) through (c) hereof. Otherwise, such*
23 *corporation's Kansas taxable income in any such taxable year, after*
24 *excluding any refunds of federal income tax and before the deduc-*
25 *tion of federal income taxes provided by subsection (c)(ii) shall be*
26 *allocated as provided in K.S.A. 79-3271 to K.S.A. 79-3293, inclusive,*
27 *and amendments thereto, plus any refund of federal income tax as*
28 *determined under paragraph (iv) of subsection (b) of K.S.A. 79-*
29 *32,117, and amendments thereto, and minus the deduction for fed-*
30 *eral income taxes as provided by subsection (c)(ii) shall be such*
31 *corporation's Kansas taxable income.*
- 32 *(e) A corporation may make an election with respect to its first*
33 *taxable year commencing after December 31, 1982, whereby no ad-*
34 *dition modifications as provided for in subsection (b)(ii) of K.S.A.*
35 *79-32,138 and subtraction modifications as provided for in subsec-*
36 *tion (c)(iii) of K.S.A. 79-32,138, as those subsections existed prior*
37 *to their amendment by this act, shall be required to be made for*
38 *such taxable year.*
- 39 *Sec. 24. K.S.A. 2006 Supp. 79-32,218 is hereby amended to*
40 *read as follows: 79-32,218. (a) For taxable years commencing after*
41 *December 31, 2005, and before January 1, 2011, any taxpayer who is*
42 *awarded a tax credit under this act by the secretary of commerce*
43 *and complies with the conditions set forth in this act and the agree-*

1 *ment entered into by the secretary and the taxpayer under this act*
2 *shall be allowed a credit against the taxpayer's tax liability under*
3 *the Kansas income tax act as provided in subsection (b). Expendi-*
4 *tures used to qualify for this credit shall not be used to qualify for*
5 *any other type of Kansas income tax credit.*

6 *(b) The amount of the credit to which a taxpayer is entitled shall*
7 *be equal to the sum of: (1) An amount equal to 10% of the taxpayer's*
8 *qualified investment for the first \$250,000,000 invested and (2) an*
9 *amount equal to 5% of the amount of the taxpayer's qualified in-*
10 *vestment that exceeds \$250,000,000. Such credit shall be taken in*
11 *10 equal, annual installments, beginning with the year in which the*
12 *taxpayer places into service the new refinery, the expansion of an*
13 *existing refinery or the restoration of production of a refinery as*
14 *provided in this section.*

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

25 *(d) (1) Before making a qualified investment, a taxpayer shall*
26 *apply to the secretary of commerce to enter into an agreement for*
27 *a tax credit under this act. The secretary shall prescribe the form*
28 *of the application. After receipt of such application, the secretary*
29 *may enter into an agreement with the applicant for a credit under*
30 *this act if the secretary determines that the taxpayer's proposed*
31 *investment satisfies the requirements of this act. The secretary shall*
32 *enter into an agreement with an applicant which is awarded a credit*
33 *under this act. The agreement shall include: (A) A detailed descrip-*
34 *tion of the refinery project that is the subject of the agreement, (B)*
35 *the first taxable year for which the credit may be claimed, (C) the*
36 *maximum amount of tax credit that will be allowed for each taxable*
37 *year and (D) a requirement that the taxpayer shall maintain oper-*
38 *ation of the new, expanded or restored refinery for at least 10 years*
39 *during the term that the tax credit is available.*

40 *(2) A taxpayer must comply with the terms of the agreement*
41 *described in subsection (d)(1) to receive an annual installment of*
42 *the tax credit awarded under this act. The secretary of commerce,*
43 *in accordance with rules and regulations of the secretary, shall an-*

1 *nually determine whether the taxpayer is in compliance with the*
2 *agreement. Such determination of compliance shall include, but not*
3 *be limited to, operation of the new, expanded or restored refinery*
4 *during the tax years when any installments of tax credits are*
5 *claimed by the taxpayer. If the secretary determines that the tax-*
6 *payer is in compliance, the secretary shall issue a certificate of com-*
7 *pliance to the taxpayer. If the secretary determines that the tax-*
8 *payer is not in compliance with the agreement, the secretary shall*
9 *notify the taxpayer and the secretary of revenue of such determi-*
10 *nation of noncompliance, and any tax credits claimed pursuant to*
11 *this section for any tax year shall be forfeited.*

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

14 *Sec. 25. K.S.A. 2006 Supp. 79-32,224 is hereby amended to*
15 *read as follows: 79-32,224. (a) For taxable years commencing after*
16 *December 31, 2005, and before January 1, 2011, any taxpayer who is*
17 *awarded a tax credit under this act by the secretary of commerce*
18 *and complies with the conditions set forth in this act and the agree-*
19 *ment entered into by the secretary and the taxpayer under this act*
20 *shall be allowed a credit against the taxpayer's tax liability under*
21 *the Kansas income tax act as provided in subsection (b). Expendi-*
22 *tures used to qualify for this credit shall not be used to qualify for*
23 *any other type of Kansas income tax credit.*

24 (b) *The amount of the credit to which a taxpayer is entitled shall*
25 *be equal to the sum of: (1) An amount equal to 10% of the taxpayer's*
26 *qualified investment for the first \$250,000,000 invested and (2) an*
27 *amount equal to 5% of the amount of the taxpayer's qualified in-*
28 *vestment that exceeds \$250,000,000. Such credit shall be taken in*
29 *10 equal, annual installments, beginning with the year in which the*
30 *taxpayer places into service the new qualifying pipeline.*

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

41 (d) (1) *Before making a qualified investment, a taxpayer shall*
42 *apply to the secretary of commerce to enter into an agreement for*
43 *a tax credit under this act. The secretary shall prescribe the form*

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

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

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

30 *Sec. 26. K.S.A. 2006 Supp. 79-32,229 is hereby amended to*
31 *read as follows: 79-32,229. (a) For taxable years commencing after*
32 *December 31, 2005, and before January 1, 2011, any taxpayer who is*
33 *awarded a tax credit under this act by the secretary of commerce*
34 *and complies with the conditions set forth in this act and the agree-*
35 *ment entered into by the secretary and the taxpayer under this act*
36 *shall be allowed a credit against the taxpayer's tax liability under*
37 *the Kansas income tax act as provided in subsection (b). Expendi-*
38 *tures used to qualify for this credit shall not be used to qualify for*
39 *any other type of Kansas income tax credit.*

40 *(b) The amount of the credit to which a taxpayer is entitled shall*
41 *be equal to the sum of: (1) An amount equal to 10% of the taxpayer's*
42 *qualified investment for the first \$250,000,000 invested and (2) an*
43 *amount equal to 5% of the amount of the taxpayer's qualified in-*

1 *vestment that exceeds \$250,000,000. Such credit shall be taken in*
2 *10 equal, annual installments, beginning with the year in which the*
3 *taxpayer places into service the new integrated coal or coke gasi-*
4 *fication nitrogen fertilizer plant or the expansion of an existing in-*
5 *tegrated coal or coke gasification nitrogen fertilizer plant.*

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

16 *(d) (1) Before making a qualified investment, a taxpayer shall*
17 *apply to the secretary of commerce to enter into an agreement for*
18 *a tax credit under this act. The secretary shall prescribe the form*
19 *of the application. After receipt of such application, the secretary*
20 *may enter into an agreement with the applicant for a credit under*
21 *this act if the secretary determines that the taxpayer's proposed*
22 *investment satisfies the requirements of this act. The secretary shall*
23 *enter into an agreement with an applicant which is awarded a credit*
24 *under this act. The agreement shall include: (A) A detailed descrip-*
25 *tion of the nitrogen fertilizer plant project that is the subject of the*
26 *agreement, (B) the first taxable year for which the credit may be*
27 *claimed, (C) the maximum amount of tax credit that will be allowed*
28 *for each taxable year, (D) a requirement that the taxpayer shall*
29 *maintain operation of the new or expanded nitrogen fertilizer plant*
30 *for at least 10 years during the term that the tax credit is available*
31 *and (E) if the taxpayer's nitrogen fertilizer plant uses a coal gasi-*
32 *fication process, a requirement that the taxpayer shall use at the*
33 *taxpayer's integrated coal gasification nitrogen fertilizer plant in*
34 *any taxable year for which an annual installment of the credit is*
35 *allowed that percentage of Kansas coal which the secretary deter-*
36 *mines practicable, based on availability and cost of Kansas coal, in*
37 *such year.*

38 *(2) A taxpayer must comply with the terms of the agreement*
39 *described in subsection (d)(1) to receive an annual installment of*
40 *the tax credit awarded under this act. The secretary of commerce,*
41 *in accordance with rules and regulations of the secretary, shall an-*
42 *nually determine whether the taxpayer is in compliance with the*
43 *agreement. Such determination of compliance shall include, but not*

1 *be limited to, operation of the new or expanded integrated coal or*
 2 *coke gasification nitrogen fertilizer plant during the tax years when*
 3 *any installments of tax credits are claimed by the taxpayer. If the*
 4 *secretary determines that the taxpayer is in compliance, the secre-*
 5 *tary shall issue a certificate of compliance to the taxpayer. If the*
 6 *secretary determines that the taxpayer is not in compliance with the*
 7 *agreement, the secretary shall notify the taxpayer and the secretary*
 8 *of revenue of such determination of noncompliance, and any tax*
 9 *credits claimed pursuant to this section for any tax year shall be*
 10 *forfeited.*

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

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

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

21 (b) *“Biomass-to-energy plant” means an industrial process plant,*
 22 *located in this state, where* ~~matter which contains cellulose and is avail-~~
 23 ~~able on a renewable or recurring basis is processed to produce cellulosic~~
 24 ~~alcohol and coproducts biomass is processed to produce annually any of~~
 25 *the following, and coproducts: (1) Not less than 500,000 gallons of cellu-*
 26 *losic alcohol; (2) liquid or gaseous fuel or energy in a quantity having*
 27 *BTU value equal to or greater than 500,000 gallons of cellulosic alcohol;*
 28 *or (3) oil produced for direct conversion into fuel in a quantity having*
 29 *BTU value equal to or greater than 500,000 gallons of cellulosic alcohol.*

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

34 ~~(c)~~ (d) *“New ~~cellulosic alcohol~~ biomass-to-energy plant” means a*
 35 *~~cellulosic alcohol~~ biomass-to-energy plant, construction of which be-*
 36 *gins after December 31, 2005.*

37 ~~(d)~~ (e) *“Pass-through entity” means any: (1) Corporation which*
 38 *is exempt from income tax under section 1363 of the federal internal*
 39 *revenue code and which complies with the requirements of K.S.A.*
 40 *2006 Supp. 79-32,100e, and amendments thereto; (2) limited lia-*
 41 *bility company; (3) partnership; or (4) limited liability partnership.*

42 ~~(e)~~ (f) *“Qualified investment” means expenditures made in con-*
 43 *struction of a new ~~cellulosic alcohol~~ biomass-to-energy plant or in ex-*

1 *pansion of the capacity of an existing ~~cellulosic-alcohol~~ biomass-to-*
2 *energy plant, for real and tangible personal property incorporated*
3 *in and used as part of such plant.*

4 **Sec. 28. K.S.A. 2006 Supp. 79-32,234 is hereby amended to**
5 **read as follows: 79-32,234. (a) For taxable years commencing after**
6 **December 31, 2005, and before January 1, 2011, any taxpayer who is**
7 **awarded a tax credit under this act by the secretary of commerce**
8 **and complies with the conditions set forth in this act and the agree-**
9 **ment entered into by the secretary and the taxpayer under this act**
10 **shall be allowed a credit against the taxpayer's tax liability under**
11 **the Kansas income tax act as provided in subsection (b). Expendi-**
12 **tures used to qualify for this credit shall not be used to qualify for**
13 **any other type of Kansas income tax credit.**

14 **(b) The amount of the credit to which a taxpayer is entitled shall**
15 **be equal to the sum of: (1) An amount equal to 10% of the taxpayer's**
16 **qualified investment for the first \$250,000,000 invested and (2) an**
17 **amount equal to 5% of the amount of the taxpayer's qualified in-**
18 **vestment that exceeds \$250,000,000. Such credit shall be taken in**
19 **10 equal, annual installments, beginning with the year in which the**
20 **taxpayer places into service the new ~~cellulosic-alcohol~~ biomass-to-en-**
21 **ergy plant or the expansion of an existing ~~cellulosic-alcohol~~ biomass-**
22 **to-energy plant.**

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

33 **(d) (1) Before making a qualified investment, a taxpayer shall**
34 **apply to the secretary of commerce to enter into an agreement for**
35 **a tax credit under this act. The secretary shall prescribe the form**
36 **of the application. After receipt of such application, the secretary**
37 **may enter into an agreement with the applicant for a credit under**
38 **this act if the secretary determines that the taxpayer's proposed**
39 **investment satisfies the requirements of this act. The secretary shall**
40 **enter into an agreement with an applicant which is awarded a credit**
41 **under this act. The agreement shall include: (A) A detailed descrip-**
42 **tion of the ~~cellulosic-alcohol~~ biomass-to-energy plant project that is the**
43 **subject of the agreement, (B) the first taxable year for which the**

1 *credit may be claimed, (C) the maximum amount of tax credit that*
2 *will be allowed for each taxable year and (D) a requirement that*
3 *the taxpayer shall maintain operation of the new or expanded ~~cellu-~~*
4 *~~lulose-alcohol~~ biomass-to-energy plant for at least 10 years during the*
5 *term that the tax credit is available.*

6 (2) *A taxpayer must comply with the terms of the agreement*
7 *described in subsection (d)(1) to receive an annual installment of*
8 *the tax credit awarded under this act. The secretary of commerce,*
9 *in accordance with rules and regulations of the secretary, shall an-*
10 *nually determine whether the taxpayer is in compliance with the*
11 *agreement. Such determination of compliance shall include, but not*
12 *be limited to, operation of the new or expanded ~~cellulose-alcohol~~*
13 *biomass-to-energy plant during the tax years when any installments*
14 *of tax credits are claimed by the taxpayer. If the secretary deter-*
15 *mines that the taxpayer is in compliance, the secretary shall issue*
16 *a certificate of compliance to the taxpayer. If the secretary deter-*
17 *mines that the taxpayer is not in compliance with the agreement,*
18 *the secretary shall notify the taxpayer and the secretary of revenue*
19 *of such determination of noncompliance, and any tax credits*
20 *claimed pursuant to this section for any tax year shall be forfeited.*

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

23 *Sec. 29. K.S.A. 2006 Supp. 79-32,235 is hereby amended to*
24 *read as follows: 79-32,235. (a) If a qualified investment is made by*
25 *or transferred to a pass-through entity and the credit allowed by*
26 *this act for a taxable year is greater than the entity's tax liability*
27 *against which the tax credit may be applied, a shareholder, partner*
28 *or member of the entity is entitled to a tax credit equal to the tax*
29 *credit determined for the entity for the taxable year in excess of the*
30 *entity's tax liability under the Kansas income tax act for the taxable*
31 *year multiplied by the percentage of the entity's distributive income*
32 *to which the shareholder, partner or member is entitled.*

33 (b) *If a ~~cellulose-alcohol~~ biomass-to-energy plant is co-owned by*
34 *two or more taxpayers, the amount of the credit that may be allowed*
35 *to a co-owner in a taxable year is equal to the tax credit determined*
36 *under K.S.A. 2006 Supp. 79-32,234, and amendments thereto, with*
37 *respect to the total qualified investment in such plant multiplied by*
38 *the co-owner's percentage of ownership in such plant.*

39 (c) *Such credit shall be taken in 10 equal, annual installments,*
40 *beginning with the year in which the entity places into service the*
41 *new ~~cellulose-alcohol~~ biomass-to-energy plant or the expansion of an*
42 *existing ~~cellulose-alcohol~~ biomass-to-energy plant.*

43 (d) *If the amount of an annual installment of a tax credit al-*

1 *lowed a shareholder, partner, member or co-owner under this sec-*
2 *tion exceeds the taxpayer's income tax liability for the taxable year*
3 *in which the annual installment is allowed, the amount thereof*
4 *which exceeds such tax liability may be carried over for deduction*
5 *from the taxpayer's income tax liability in the next succeeding tax-*
6 *able year or years until the total amount of the tax credit has been*
7 *deducted from tax liability, except that no such tax credit shall be*
8 *carried over for deduction after the 14th taxable year succeeding*
9 *the taxable year in which the first annual installment is allowed.*

10 *Sec. 30. K.S.A. 2006 Supp. 79-32,237 is hereby amended to*
11 *read as follows: 79-32,237. (a) In addition to the income tax credit*
12 *allowable pursuant to K.S.A. 2006 Supp. 79-32,233 through 79-*
13 *32,236, and amendments thereto, a taxpayer shall be entitled to a*
14 *deduction from Kansas adjusted gross income with respect to the*
15 *amortization of the amortizable costs of a new ~~cellulosic-alcohol~~ bi-*
16 *omass-to-energy plant or an expansion of an existing ~~cellulosic-alcohol~~*
17 *biomass-to-energy plant based upon a period of 10 years. Such am-*
18 *ortization deduction shall be an amount equal to 55% of the am-*
19 *ortizable costs of such new plant or expansion of an existing plant*
20 *for the first taxable year in which such new plant or expansion of*
21 *an existing plant is in production and 5% of the amortizable costs*
22 *of such new plant or expansion of an existing plant for each of the*
23 *next nine taxable years.*

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

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

31 *(d) The secretary of revenue shall adopt such rules and regu-*
32 *lations as deemed necessary to carry out the provisions of this*
33 *section.*

34 *(e) As used in this section, terms have the meanings provided by*
35 *K.S.A. 2006 Supp. 79-32,233, and amendments thereto.*

36 *Sec. 31. K.S.A. 2006 Supp. 79-32,239 is hereby amended to*
37 *read as follows: 79-32,239. (a) For taxable years commencing after*
38 *December 31, 2005, and before January 1, 2011, any taxpayer who is*
39 *awarded a tax credit under this act by the commission and complies*
40 *with the conditions set forth in this act and the agreement entered*
41 *into by the commission and the taxpayer under this act shall be*
42 *allowed a credit against the taxpayer's tax liability under the Kan-*
43 *sas income tax act as provided in subsection (b). Expenditures used*

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

3 *(b) The amount of the credit to which a taxpayer is entitled shall*
4 *be equal to the sum of: (1) An amount equal to 10% of the taxpayer's*
5 *qualified investment for the first \$250,000,000 invested and (2) an*
6 *amount equal to 5% of the amount of the taxpayer's qualified in-*
7 *vestment that exceeds \$250,000,000. Such credit shall be taken in*
8 *10 equal, annual installments, beginning with the year in which the*
9 *taxpayer places into service the new integrated coal gasification*
10 *power plant or the expansion of an existing integrated coal gasifi-*
11 *cation power plant.*

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

22 *(d) (1) Before making a qualified investment, a taxpayer shall*
23 *apply to the commission to enter into an agreement for a tax credit*
24 *under this act. The commission shall prescribe the form of the ap-*
25 *plication. After receipt of such application, the commission may*
26 *enter into an agreement with the applicant for a credit under this*
27 *act if the commission determines that the taxpayer's proposed in-*
28 *vestment satisfies the requirements of this act. The commission shall*
29 *enter into an agreement with an applicant which is awarded a credit*
30 *under this act. The agreement shall include: (A) A detailed descrip-*
31 *tion of the power plant project that is the subject of the agreement,*
32 *(B) the first taxable year for which the credit may be claimed, (C)*
33 *the maximum amount of tax credit that will be allowed for each*
34 *taxable year, (D) a requirement that the taxpayer shall maintain*
35 *operation of the new or expanded power plant for at least 10 years*
36 *during the term that the tax credit is available, (E) a requirement*
37 *that the taxpayer shall use at the taxpayer's integrated coal gasifi-*
38 *cation power plant in any taxable year for which an annual install-*
39 *ment of the credit is allowed that percentage of Kansas coal which*
40 *the commission determines is prudent, based on availability and*
41 *cost of Kansas coal, in such year and (F) a requirement that the*
42 *taxpayer obtain from the commission a determination that the pub-*
43 *lic necessity and convenience require, or will require, construction*

1 *of the taxpayer's integrated coal gasification power plant.*

2 *(2) A taxpayer must comply with the terms of the agreement*
3 *described in subsection (d)(1) to receive an annual installment of*
4 *the tax credit awarded under this act. The commission, in accord-*
5 *ance with rules and regulations of the commission, shall annually*
6 *determine whether the taxpayer is in compliance with the agree-*
7 *ment. Such determination of compliance shall include, but not be*
8 *limited to, operation of the new or expanded integrated coal gasi-*
9 *fication power plant during the tax years when any installments of*
10 *tax credits are claimed by the taxpayer. If the commission deter-*
11 *mines that the taxpayer is in compliance, the commission shall issue*
12 *a certificate of compliance to the taxpayer. If the secretary deter-*
13 *mines that the taxpayer is not in compliance with the agreement,*
14 *the secretary shall notify the taxpayer and the secretary of revenue*
15 *of such determination of noncompliance, and any tax credits*
16 *claimed pursuant to this section for any tax year shall be forfeited.*

17 *(3) The state corporation commission may adopt rules and reg-*
18 *ulations to administer the provisions of this subsection.*

19 *New Sec. 32. As used in sections 32 through 36, and amend-*
20 *ments thereto:*

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

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

30 *(c) "Qualified investment" means expenditures made for pur-*
31 *chase, construction or installation of storage and blending*
32 *equipment.*

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

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

42 *New Sec. 33. (a) For taxable years commencing after December*
43 *31, 2006, and before January 1, 2012, any taxpayer who is awarded*

1 *a tax credit under this act by the secretary of commerce and com-*
2 *plies with the conditions set forth in this act and the agreement*
3 *entered into by the secretary and the taxpayer under this act shall*
4 *be allowed a credit against the taxpayer's tax liability under the*
5 *Kansas income tax act as provided in subsection (b). Expenditures*
6 *used to qualify for this credit shall not be used to qualify for any*
7 *other type of Kansas income tax credit.*

8 *(b) The amount of the credit to which a taxpayer is entitled shall*
9 *be equal to the sum of: (1) An amount equal to 10% of the taxpayer's*
10 *qualified investment for the first \$10,000,000 invested and (2) an*
11 *amount equal to 5% of the amount of the taxpayer's qualified in-*
12 *vestment that exceeds \$10,000,000. Such credit shall be taken in 10*
13 *equal, annual installments, beginning with the year in which the*
14 *taxpayer places into service the storage and blending equipment.*

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

25 *(d) (1) Before making a qualified investment, a taxpayer shall*
26 *apply to the secretary of commerce to enter into an agreement for*
27 *a tax credit under this act. The secretary shall prescribe the form*
28 *of the application. After receipt of such application, the secretary*
29 *may enter into an agreement with the applicant for a credit under*
30 *this act if the secretary determines that the taxpayer's proposed*
31 *investment satisfies the requirements of this act. The secretary shall*
32 *enter into an agreement with an applicant which is awarded a credit*
33 *under this act. The agreement shall include: (A) A detailed descrip-*
34 *tion of the storage and blending equipment that is the subject of the*
35 *agreement, (B) the first taxable year for which the credit may be*
36 *claimed, (C) the maximum amount of tax credit that will be allowed*
37 *for each taxable year and (D) a requirement that the taxpayer shall*
38 *maintain operation of the equipment for at least 10 years during*
39 *the term that the tax credit is available.*

40 *(2) A taxpayer must comply with the terms of the agreement*
41 *described in subsection (d)(1) to receive an annual installment of*
42 *the tax credit awarded under this act. The secretary of commerce,*
43 *in accordance with rules and regulations of the secretary, shall an-*

1 *nually determine whether the taxpayer is in compliance with the*
2 *agreement. Such agreement shall include, but not be limited to, op-*
3 *eration of the storage and blending equipment during the tax years*
4 *when any installments of tax credits are claimed by the taxpayer.*
5 *If the secretary determines that the taxpayer is in compliance, the*
6 *secretary shall issue a certificate of compliance to the taxpayer. If*
7 *the secretary determines that the taxpayer is not in compliance with*
8 *the agreement, the secretary shall notify the taxpayer and the sec-*
9 *retary of revenue of such determination of noncompliance, and any*
10 *tax credits claimed pursuant to this section for any tax year shall*
11 *be forfeited.*

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

14 *New Sec. 34. (a) If a qualified investment is made by or trans-*
15 *ferred to a pass-through entity and the credit allowed by this act*
16 *for a taxable year is greater than the entity's tax liability against*
17 *which the tax credit may be applied, a shareholder, partner or mem-*
18 *ber of the entity is entitled to a tax credit equal to the tax credit*
19 *determined for the entity for the taxable year in excess of the entity's*
20 *tax liability under the Kansas income tax act for the taxable year*
21 *multiplied by the percentage of the entity's distributive income to*
22 *which the shareholder, partner or member is entitled.*

23 *(b) If the storage and blending equipment is co-owned by two*
24 *or more taxpayers, the amount of the credit that may be allowed to*
25 *a co-owner in a taxable year is equal to the tax credit determined*
26 *under section 33, and amendments thereto, with respect to the total*
27 *qualified investment in such equipment multiplied by the co-*
28 *owner's percentage of ownership in such equipment.*

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

32 *(d) If the amount of an annual installment of a tax credit al-*
33 *lowed a shareholder, partner, member or co-owner under this sec-*
34 *tion exceeds the taxpayer's income tax liability for the taxable year*
35 *in which the annual installment is allowed, the amount thereof*
36 *which exceeds such tax liability may be carried over for deduction*
37 *from the taxpayer's income tax liability in the next succeeding tax-*
38 *able year or years until the total amount of the tax credit has been*
39 *deducted from tax liability, except that no such tax credit shall be*
40 *carried over for deduction after the 14th taxable year succeeding*
41 *the taxable year in which the first annual installment is allowed.*

42 *New Sec. 35. To receive the credit awarded by this act, a tax-*
43 *payer must claim the credit on the taxpayer's annual state income*

1 *tax return or returns in the manner prescribed by the director of*
2 *taxation. The taxpayer shall submit to the director a copy of the*
3 *taxpayer's agreement for a tax credit entered into with the secretary*
4 *of commerce pursuant to section 33, and amendments thereto, and*
5 *all information that the director determines necessary for the cal-*
6 *ulation of the credit provided by this act.*

7 *New Sec. 36. (a) In addition to the income tax credit allowable*
8 *pursuant to sections 32 through 35, and amendments thereto, a tax-*
9 *payer shall be entitled to a deduction from Kansas adjusted gross*
10 *income with respect to the amortization of the amortizable costs of*
11 *storage and blending equipment based upon a period of 10 years.*
12 *Such amortization deduction shall be an amount equal to 55% of*
13 *the amortizable costs of such equipment for the first taxable year*
14 *in which such equipment is in production and 5% of the amortizable*
15 *costs of such equipment for each of the next nine taxable years.*

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

21 *(c) The provisions of this section shall apply to all taxable years*
22 *commencing after December 31, 2006.*

23 *(d) The secretary of revenue shall adopt such rules and regu-*
24 *lations as deemed necessary to carry out the provisions of this*
25 *section.*

26 *New Sec. 37. (a) The following described property, to the ex-*
27 *tent herein specified, shall be exempt from all property taxes levied*
28 *under the laws of the state of Kansas: Any storage and blending*
29 *equipment.*

30 *(b) The provisions of subsection (a) shall apply from and after*
31 *installation of such equipment and for the 10 taxable years imme-*
32 *diately following the taxable year in which installation of such*
33 *equipment is completed.*

34 *(c) The provisions of this section shall apply to all taxable years*
35 *commencing after December 31, 2006.*

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

38 *Sec. ~~10~~ 38. K.S.A. 66-1,158, 66-1,159, 66-1,159a, 66-1,161, 66-*
39 *1,162, 66-1,169a and 66-1,169b and K.S.A. 2006 Supp. 66-1,160, 74-*
40 *8949b, 79-229, 79-32,117, 79-32,117l, 79-32,120, 79-32,138, 79-*
41 *32,218, 79-32,224, 79-32,229, 79-32,233, 79-32,234, 79-32,235,*
42 *79-32,237 and 79-32,239 are hereby repealed.*

43

1 Sec. ~~38~~ **39**. This act shall take effect and be in force from and after
2 its publication in the statute book.