

**SENATE BILL No. 406**

By Committee on Natural Resources

2-8

1 AN ACT concerning the Kansas storage tank act; relating to the  
2 underground storage tank fund; amending K.S.A. 65-34,123 and K.S.A.  
3 2011 Supp. 65-34,102, 65-34,110, 65-34,117, 65-34,131, 65-34,132,  
4 65-34,133 and 65-34,134 and repealing the existing sections.  
5

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

7 Section 1. K.S.A. 2011 Supp. 65-34,102 is hereby amended to read as  
8 follows: 65-34,102. As used in the Kansas storage tank act:

9 (a) "Aboveground storage tank" means:

10 (1) Any storage tank in which greater than 90% of the tank volume,  
11 including volume of the piping, is not below the surface of the ground; or

12 (2) any storage tank situated in an underground area, such as a  
13 basement, cellar, mine working, drift, shaft or tunnel, if the storage tank is  
14 situated upon or above the surface of the floor.

15 (b) "Aboveground fund" means the aboveground petroleum storage  
16 tank release trust fund.

17 (c) "Department" means the Kansas department of health and  
18 environment.

19 (d) "Facility" means all contiguous land, structures and other  
20 appurtenances and improvements on the land used in connection with one  
21 or more storage tanks.

22 (e) "Federal act" means the solid waste disposal act, 42 U.S.C.  
23 sections §§ 3152 *et seq.*, as amended, ~~particularly by the hazardous and~~  
24 ~~solid waste amendments of 1984, P.L. 98-616, 42 U.S.C. sections § 6991~~  
25 ~~*et seq.*, as amended by P.L. 99-499, 1986,~~ and rules and regulations  
26 adopted pursuant to such federal laws and in effect on the effective date of  
27 this act.

28 (f) "Financial responsibility" means insurance, guarantee, surety  
29 bond, letter of credit, qualification as a self-insurer or any other method  
30 satisfactory to the secretary to provide for taking corrective action,  
31 including cleanup and restoration of any damage to the land, air or waters  
32 of the state, and compensating third parties for cleanup, bodily injury or  
33 property damage resulting from a sudden or nonsudden release of a  
34 regulated substance arising from the construction, relining, ownership or  
35 operation of an underground storage tank and in the amount specified in  
36 the federal act.

1 (g) "Guarantor" means any person, other than an owner or operator,  
2 who provides evidence of financial responsibility for an owner or operator.

3 (h) "Operator" means any person in control of or having  
4 responsibility for the daily operation of a storage tank, but such term shall  
5 not include a person whose only responsibility regarding such storage tank  
6 is filling such tank with a regulated substance and who does not dispense  
7 or have control of the dispensing of regulated substances from the storage  
8 tank.

9 (i) "Own" means to hold title to or possess an interest in a storage  
10 tank or the regulated substance in a storage tank.

11 (j) (1) "Owner" means any person who: (A) Is or was the owner of  
12 any underground storage tank which was in use on November 8, 1984, or  
13 brought into use subsequent to that date; (B) in the case of an underground  
14 storage tank in use prior to November 8, 1984, owned such tank  
15 immediately prior to the discontinuation of its use; (C) is or was the owner  
16 of any aboveground storage tank which was in use on July 1, 1992, or  
17 brought into use subsequent to that date; or (D) in the case of an  
18 aboveground storage tank in use prior to July 1, 1992, owned such tank  
19 immediately prior to the discontinuation of its use.

20 (2) Owner does not include: (A) A person who holds an interest in a  
21 petroleum storage tank solely for financial security, unless through  
22 foreclosure or other related actions the holder of a security interest has  
23 taken possession of the storage tank; and (B) any city or county which  
24 obtains a storage tank or regulated substance as a result of tax foreclosure  
25 proceedings.

26 (k) "Person" means an individual, trust, firm, joint venture,  
27 consortium, joint-stock company, corporation, partnership, association,  
28 state, interstate body, municipality, commission, political subdivision or  
29 any agency, board, department or bureau of this state or of any other state  
30 or of the United States government.

31 (l) "Petroleum" means petroleum, including crude oil or any fraction  
32 thereof, which is liquid at standard conditions of temperature and pressure  
33 (, 60 degrees Fahrenheit and 14.7 pound per square inch absolute),  
34 including but not limited to, gasoline, gasohol, diesel fuel, fuel oils,  
35 kerosene and biofuels.

36 (m) "Petroleum product" means petroleum other than crude oil.

37 (n) "Petroleum storage tank" means any storage tank used to contain  
38 an accumulation of petroleum.

39 (o) "Regulated substance" means petroleum or any element,  
40 compound, mixture, solution or substance defined in section 101(14) of  
41 the comprehensive environmental response, compensation and liability act  
42 of 1980 of the United States as in effect on January 1, 1989, but not if  
43 regulated as a hazardous waste under the resource conservation and

1 recovery act of 1976 (, 42 U.S.C. Sees: §§ 6921 through 6939b), as in  
2 effect on January 1, 1989.

3 (p) "Release" means any spilling, leaking, emitting, discharging,  
4 escaping, leaching or disposing from a storage tank into groundwater,  
5 surface water or soils.

6 (q) "Removal" means the process of removing or disposing of a  
7 storage tank, no longer in service, and also shall mean the process of  
8 abandoning such tank, in place.

9 (r) "Repair" means modification or correction of a storage tank  
10 through such means as relining, replacement of piping, valves, fillpipes,  
11 vents and liquid level monitoring systems, and the maintenance and  
12 inspection of the efficacy of cathodic protection devices, but the term does  
13 not include the process of conducting a tightness test to establish the  
14 integrity of a tank.

15 (s) "Secretary" means the secretary of health and environment.

16 (t) "Storage tank" means any one or combination of tanks used to  
17 contain an accumulation of regulated substances, the associated piping and  
18 ancillary equipment and the containment system.

19 (u) "Tank" means a stationary device designed to contain an  
20 accumulation of substances and constructed of non-earthen materials such  
21 as concrete, steel or plastic, that provide structural support.

22 (v) "Terminal" means a bulk storage facility for storing petroleum  
23 supplied by pipeline or marine vessel.

24 (w) "Trade secret" has the same meaning as provided in K.S.A. 60-  
25 3320, and amendments thereto.

26 (x) "Underground storage tank" means any storage tank in which  
27 10% or more of the tank volume, including volume of the piping, is below  
28 the surface of the ground. Underground storage tank does not include any  
29 storage tank situated in an underground area, such as a basement, cellar,  
30 mine working, drift, shaft or tunnel, if the storage tank is situated upon or  
31 above the surface of the floor.

32 (y) "Underground storage tank contractor" or "contractor" means a  
33 business which holds itself out as being qualified to install, repair or  
34 remove underground storage tanks.

35 (z) "Underground fund" means the underground petroleum storage  
36 tank release trust fund.

37 (aa) "Underground storage tank installer" or "installer" means an  
38 individual who has an ownership interest or exercises a management or  
39 supervisory position with an underground storage tank contractor. The  
40 term shall include the crew chief, expediter, engineer, supervisor, leadman  
41 or foreman in charge of a tank installation project.

42 (bb) ~~"Bulk plant" means an aboveground storage tank facility, not~~  
43 ~~located at a pipeline terminal or located on a federal facility, with a storage~~

1 capacity of 1,320 gallons or more, but less than 1,000,000 gallons, used to  
2 dispense petroleum to tanker trucks for transportation and sale at another  
3 location;

4 ~~(ee) "fuels supply fund" means the Kansas essential fuels supply trust~~  
5 ~~"UST redevelopment fund" means the Kansas UST property redevelopment~~  
6 ~~trust fund.~~

7 (cc) *"Abandoned underground storage tank" means an underground*  
8 *storage tank that exhibits one or more of the following conditions:*

9 (1) *Is not in use for more than three months;*

10 (2) *does not have a current tank permit issued by the department; or*

11 (3) *has been temporarily closed, in accordance with department*  
12 *guidelines, for more than 12 months.*

13 (dd) *"Property owner" means for the purposes of the underground*  
14 *storage tank property redevelopment trust fund, a person who owns real*  
15 *property on which an abandoned underground storage tank is located.*

16 Sec. 2. K.S.A. 2011 Supp. 65-34,110 is hereby amended to read as  
17 follows: 65-34,110. (a) It shall be unlawful for any person to practice, or  
18 hold oneself out as authorized to practice, as an underground storage tank  
19 installer or underground storage tank contractor or use other words or  
20 letters to indicate such person is a licensed installer or contractor unless  
21 the person is licensed in accordance with this section.

22 (b) The secretary shall:

23 (1) Develop and administer a written examination to candidates for  
24 licensing under the terms of this section. Questions used in the  
25 examination shall be derived from standard instructions and recommended  
26 practices published by such authorities as the petroleum equipment  
27 institute, American petroleum institute, steel tank institute, national  
28 association of corrosion engineers, Fiberglass tank and pipe manufacturers  
29 institute, national fire protection association, western fire chiefs  
30 association and underwriters laboratories. Additional questions shall be  
31 derived from state and federal regulations applicable to storage tanks. The  
32 secretary shall make available sample questions and related material to  
33 qualified candidates to be used as a study guide in preparation for the  
34 examination.

35 (2) Conduct at least one on-site inspection annually, observing  
36 procedures used by each licensed underground storage tank contractor for  
37 installing, repairing or removing an underground storage tank.

38 (c) Any person who willfully violates any provision of subsection (a)  
39 shall be guilty of a class C misdemeanor and, upon conviction thereof,  
40 shall be punished as provided by law.

41 (d) Prior to 12 months after the effective date of this act, the  
42 department shall conduct written examinations, at such times and locations  
43 within the state as the department may designate, for the purpose of

1 identifying installers as being qualified to receive an underground tank  
2 installer's license. Each underground tank installer's license shall be issued  
3 for a period of two years and shall be subject to periodic renewal thereafter  
4 under procedures prescribed by the department.

5 (e) Beginning 18 months after the effective date of this act, no  
6 contractor shall engage in the installation, repair or removal of an  
7 underground storage tank unless such contractor has been issued a  
8 contractor license. Each contractor license shall be issued for a period of  
9 two years and shall be subject to periodic renewal thereafter under  
10 procedures prescribed by the department.

11 (f) A contractor must meet the following requirements to qualify for a  
12 contractor license:

13 (1) At least one active officer or executive of the business must  
14 possess a valid underground storage tank installer's license.

15 (2) Any person who manufactures an underground ~~fuel~~ storage tank  
16 for use in Kansas, or piping for such tank, or who installs or repairs such  
17 tanks or piping, shall maintain evidence of financial responsibility in an  
18 amount equal to or greater than \$1,000,000 per occurrence and \$2,000,000  
19 annual aggregate for the costs of corrective action directly related to  
20 releases caused by improper manufacture, installation or repair of such  
21 tank or piping.

22 (3) The requirement in paragraph (2) shall not apply to the  
23 installation or repair of a fuel tank or piping performed by the owner or  
24 operator of such ~~fuel~~ tank or piping.

25 (4) Evidence of financial responsibility shall be presented with an  
26 application for a contractor license and subsequent renewals of contractor  
27 license to the department.

28 (5) The contractor must state in its license application and agree that  
29 at all times on any and all jobs involving the installation, repair or removal  
30 of an underground storage tank, an individual who possesses a valid  
31 underground storage tank installer's license will be present at the job site  
32 not less than 75% of the time during the progress of the work, and that  
33 such installer shall exercise responsible supervisory control over the work.

34 (6) The secretary may promulgate rules and regulations to implement  
35 the provisions of this subsection.

36 (g) The secretary may elect to establish reciprocal arrangements with  
37 states having similar licensing requirements and to provide for the  
38 licensing in this state of persons who have successfully completed  
39 examinations and otherwise qualified for licensure in another state.

40 (h) A valid interim contractor license or an unexpired contractor  
41 license shall be valid in all counties and municipalities throughout the  
42 state, and the issuance of either license to a contractor shall serve as  
43 authority for the contractor to engage in the installation, repair and

1 removal of underground storage tanks in any jurisdiction within the state  
2 without requirement for obtaining additional county or local licenses.  
3 However, local jurisdictions may impose more stringent requirements for  
4 installation, repair or removal of such tanks than are imposed by state  
5 regulations, in which case a contractor shall be required to conduct its  
6 operations in the local jurisdiction in conformity with the local  
7 requirements.

8 Sec. 3. K.S.A. 2011 Supp. 65-34,117 is hereby amended to read as  
9 follows: 65-34,117. (a) There is hereby established on and after July 1,  
10 1992, an environmental assurance fee of \$.01 on each gallon of petroleum  
11 product, other than aviation fuel, manufactured in or imported into this  
12 state. The environmental assurance fee shall be paid by the manufacturer,  
13 importer or distributor first selling, offering for sale, using or delivering  
14 petroleum products within this state. The environmental assurance fee  
15 shall be paid to the department of revenue at the same time and in the same  
16 manner as the inspection fee established pursuant to K.S.A. 55-426, and  
17 amendments thereto, is paid. The secretary of revenue shall remit the  
18 environmental assurance fees paid hereunder to the state treasurer in  
19 accordance with the provisions of K.S.A. 75-4215, and amendments  
20 thereto. Upon receipt of each such remittance, the state treasurer shall  
21 deposit the entire amount in the state treasury to the credit of either the  
22 aboveground fund or underground fund, as provided by subsection (b).  
23 Exchanges of petroleum products on a gallon-for-gallon basis within a  
24 terminal and petroleum product which is subsequently exported from this  
25 state shall be exempt from this fee.

26 (b) Moneys collected from the environmental assurance fee imposed  
27 by this section shall be credited as follows:

28 (1) At any time when the unobligated principal balance of the  
29 underground fund is equal to \$2,000,000 or less, the moneys shall be  
30 credited to the underground fund until the unobligated principal balance of  
31 underground fund equals or exceeds \$5,000,000.

32 (2) At any time when the unobligated principal balance of the  
33 aboveground fund is equal to \$500,000 or less and the moneys are not  
34 required to be credited to the underground fund under subsection (b)(1),  
35 such moneys shall be credited to the aboveground fund until the  
36 unobligated principal balance of the aboveground fund equals or exceeds  
37 \$1,500,000 or until subsection (b)(1) requires moneys to be credited to the  
38 underground fund, whichever occurs first. At any time when the  
39 unobligated principal balance of the aboveground fund exceeds  
40 \$1,500,000, the excess shall be transferred to the underground fund.

41 (3) At any time when the moneys cease to be credited to aboveground  
42 fund before the unobligated principal balance of the aboveground fund  
43 equals or exceeds \$1,500,000, such moneys shall again be credited to the

1 aboveground fund when the unobligated principal balance of the  
2 underground fund equals or exceeds \$5,000,000. Such moneys shall  
3 continue to be credited to the aboveground fund until the unobligated  
4 principal balance of the aboveground fund equals or exceeds \$1,500,000  
5 or until subsection (b)(1) requires moneys to be credited to the  
6 underground fund, whichever occurs first.

7 (4) At any time when subsections (b)(1), (b)(2) and (b)(3) do not  
8 require moneys to be credited to either the underground fund or the  
9 aboveground fund, the excess shall be transferred to the ~~Kansas essential~~  
10 ~~fuels supply trust~~ *UST redevelopment* fund. If the unobligated principal  
11 balance of the ~~Kansas essential fuels supply trust~~ *UST redevelopment* fund  
12 is equal to \$2,000,000 or less, the moneys shall be credited to the ~~Kansas~~  
13 ~~essential fuels supply trust~~ *UST redevelopment* fund until the unobligated  
14 principal balance of the ~~Kansas essential fuels supply trust~~ *UST*  
15 *redevelopment* fund equals or exceeds \$5,000,000 or until subsections (b)  
16 (1), (b)(2) or (b)(3) require money.

17 (c) At any time when subsections (b)(1), (b)(2), (b)(3) and (b)(4) do  
18 not require moneys to be credited to either the underground fund or the  
19 aboveground fund, no environmental assurance fees shall be levied unless  
20 and until such time as the unobligated principal balance in the  
21 underground fund is less than or equal to \$2,000,000 or the unobligated  
22 principal balance in the aboveground fund is less than or equal to  
23 \$500,000, in which case the collection of the environmental assurance fee  
24 will resume within 90 days following the end of the month in which such  
25 unobligated balance occurs. If no environmental assurance fees are being  
26 levied, the director of accounts and reports shall notify the secretary of  
27 revenue whenever the unobligated principal balance in the underground  
28 fund is \$2,000,000 or the unobligated principal balance in the  
29 aboveground fund is \$500,000, and the secretary of revenue shall then give  
30 notice to each person subject to the environmental assurance fee as to the  
31 imposition of the fee and the duration thereof.

32 The director of accounts and reports shall cause to be published each  
33 month, in the second issue of the Kansas register published in such month,  
34 the amount of the unobligated principal balances in the underground fund  
35 and the aboveground fund on the last day of the preceding calendar month.

36 (d) Every manufacturer, importer or distributor of any petroleum  
37 product liable for the payment of environmental assurance fees as  
38 provided in this act, shall report in full and detail before the 25<sup>th</sup> day of  
39 every month to the secretary of revenue, on forms prepared and furnished  
40 by the secretary of revenue, and at the time of forwarding such report,  
41 shall compute and pay to the secretary of revenue the amount of fees due  
42 on all petroleum products subject to such fee during the preceding month.

43 (e) All fees imposed under the provisions of this section and not paid

1 on or before the 25<sup>th</sup> day of the month succeeding the calendar month in  
2 which such petroleum products were subject to such fee shall be deemed  
3 delinquent and shall bear interest at the rate of 1% per month, or fraction  
4 thereof, from such due date until paid. In addition thereto, there is hereby  
5 imposed upon all amounts of such fees remaining due and unpaid after  
6 such due date a penalty in the amount of 5% thereof. Such penalty shall be  
7 added to and collected as a part of such fees by the secretary of revenue.

8 (f) The secretary of revenue is hereby authorized to adopt such rules  
9 and regulations as may be necessary to carry out the responsibilities of the  
10 secretary of revenue under this section.

11 Sec. 4. K.S.A. 65-34,123 is hereby amended to read as follows: 65-  
12 34,123. The underground fund and the aboveground fund shall be and are  
13 hereby abolished on July 1, 2014 2024.

14 Sec. 5. K.S.A. 2011 Supp. 65-34,131 is hereby amended to read as  
15 follows: 65-34,131. (a) There is hereby established as a segregated fund in  
16 the state treasury the Kansas essential fuels supply trust fund. *The Kansas*  
17 *essential fuels supply trust fund is hereby redesignated as the UST*  
18 *redevelopment fund.* The ~~fuels-supply~~ UST redevelopment fund shall be  
19 administered by the secretary. Revenue from the following sources shall be  
20 deposited in the state treasury and credited to the ~~fuels-supply~~ UST  
21 redevelopment fund:

22 (1) The applicable proceeds of the environmental assurance fee  
23 imposed by K.S.A. 65-34,117, and amendments thereto; and

24 (2) interest attributable to investment of moneys in the ~~fuels-supply~~  
25 UST redevelopment fund.

26 (b) The ~~fuels-supply fund shall be used for the following funds~~  
27 ~~credited to the UST redevelopment fund may be expended to:~~

28 (1) ~~To~~ Reimburse an eligible *property* owner ~~of an aboveground~~  
29 ~~storage tank or bulk plant~~ in accordance with the provisions of K.S.A.  
30 2011 Supp. 65-34,132, and amendments thereto, for allowable expenses  
31 for ~~an upgrade or~~ permanent closure of an ~~aboveground~~ *abandoned*  
32 *underground storage tank or bulk plant; and;*

33 (2) *permit the secretary to conduct activities to permanently close an*  
34 *abandoned underground storage tank, if the underground storage tank*  
35 *owner or operator has not been identified or is unable or unwilling to*  
36 *perform permanent closure of the underground storage tank; and*

37 (3) ~~payment of~~ pay the administrative technical and legal costs  
38 incurred by the secretary in carrying out the provisions of K.S.A. 2011  
39 Supp. 65-34,131 and 65-34,132, and amendments thereto, including the  
40 cost of any additional employees or increased general operating costs of  
41 the department attributable thereto, which costs shall not be payable from  
42 any moneys other than those credited to the ~~fuels-supply trust~~ UST  
43 redevelopment fund.



1 (c) On or before the 10<sup>th</sup> of each month, the director of accounts and  
2 reports shall transfer from the state general fund to the above ~~Kansas-~~  
3 ~~essential fuels supply trust~~ *UST redevelopment* fund interest earnings  
4 based on:

5 (1) The average daily balance of moneys in the ~~above Kansas-~~  
6 ~~essential fuels supply trust~~ *UST redevelopment* fund for the preceding  
7 month; and

8 (2) the net earnings rate of the pooled money investment portfolio for  
9 the preceding month.

10 (d) All expenditures from the above ~~Kansas essential fuels supply~~  
11 ~~trust~~ *UST redevelopment* fund shall be made in accordance with  
12 appropriation acts upon warrants of the director of accounts and reports  
13 issued pursuant to vouchers approved by the secretary for the purposes set  
14 forth in this section.

15 (e) This section shall be part of and supplemental to the Kansas  
16 storage tank act.

17 Sec. 6. K.S.A. 2011 Supp. 65-34,132 is hereby amended to read as  
18 follows: 65-34,132. (a) The secretary may provide for the reimbursement  
19 to eligible *property owners of aboveground storage tanks or bulk plants* in  
20 accordance with the provisions of this section and subject to the  
21 availability of moneys in the ~~Kansas essential fuels supply trust~~ *UST*  
22 *redevelopment* fund. ~~An aboveground storage tank or bulk plant~~ *A*  
23 *property owner* shall be eligible for reimbursement under this section, if  
24 ~~such aboveground storage tank or bulk plant is used for the storage of~~  
25 ~~petroleum products for resale.~~ *property owner has been approved by the*  
26 *secretary and:*

27 (1) *The property owner has never placed petroleum in the*  
28 *underground storage tank or withdrawn petroleum from the underground*  
29 *storage tank;*

30 (2) *the property owner is not the United States government or any of*  
31 *its agencies;*

32 (3) *the property owner is in substantial compliance with the Kansas*  
33 *storage tank act;*

34 (4) *the property owner provides 30-day notice and access to the*  
35 *department to perform an environmental assessment of the site during the*  
36 *underground storage tank removal; and*

37 (5) *if petroleum contamination is discovered during the*  
38 *environmental assessment of this site, the property owner applies to the*  
39 *underground fund to perform corrective action to address the*  
40 *contamination.*

41 (b) *A property owner shall not be eligible for reimbursement unless*  
42 *the underground storage tank owner or operator is unable or unwilling to*  
43 *perform corrective action or cannot be found. In such case the secretary*

1 *may recover all reimbursement paid and any related administrative and*  
2 *legal expenses, from the underground storage tank owner or operator.*

3 *(c) Reimbursement pursuant to subsection (a) is subject to the*  
4 *following:*

5 *(1) The property owner must submit an application for*  
6 *reimbursement on forms supplied by the department and receive approval*  
7 *from the secretary of the proposed underground storage tank removal*  
8 *plan;*

9 *(2) upon approval of such plan, the property owner shall obtain and*  
10 *submit to the secretary at least three bids from persons qualified to*  
11 *perform the underground storage tank removal except that, the secretary*  
12 *may waive this requirement upon a showing that the property owner has*  
13 *made a good faith effort, but has not been able to obtain three bids from*  
14 *qualified bidders.*

15 *(3) The secretary may reimburse the property owner of an*  
16 *aboveground storage tank facility or bulk plant for upgrade expenses or*  
17 *for permanent closure expenses, in the amount specified in subsection (e)*  
18 *(e), if all of the following criteria are met:*

19 *(1) The aboveground underground storage tank facility was registered*  
20 *with the department on or after November 22, 1993 May 1, 1981; and*

21 *(2) the aboveground underground storage tank contains contained*  
22 *petroleum products;*

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

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

30 *(A) Secondary containment;*

31 *(B) integrity testing;*

32 *(C) corrosion protection;*

33 *(D) loss prevention;*

34 *(E) engineering costs;*

35 *(F) security;*

36 *(G) drainage; and*

37 *(H) removal of noncompliant tanks;*

38 *(5) expenses for permanent closure activities, must be incurred after*  
39 *August 1, 2001, and not later than July 1, 2009.*

40 *(e) Only expenses for activities reasonable and necessary to*  
41 *permanently close an aboveground underground storage tank facility are*  
42 *eligible for reimbursement. Reasonable and necessary activities eligible*  
43 *for reimbursement include, but are not limited to, the following:*

- 1 (A) Removal of the tank and piping system;  
2 (B) ~~removal of tank support and confinement systems;~~  
3 ~~(C) removal of security systems;~~  
4 ~~(D) cleaning of tanks; and~~  
5 ~~(E) (C) disposal of waste petroleum and other waste material~~  
6 including concrete.

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

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

26 ~~(e) Owners of aboveground storage tanks or bulk plant may enter into~~  
27 ~~an agreement with the department to perform upgrades or permanent~~  
28 ~~closures after the deadline and receive reimbursement if they comply with~~  
29 ~~the following criteria:~~

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

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

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

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

38 Sec. 7. K.S.A. 2011 Supp. 65-34,133 is hereby amended to read as  
39 follows: 65-34,133. (a) There is hereby established the ~~Kansas essential~~  
40 ~~fuel[s] supply trust~~ *UST redevelopment* fund compensation advisory board  
41 composed of five members, including the state fire marshal or the state fire  
42 marshal's designee, the director of the division of environment of the  
43 department or designee, two representatives from the petroleum industry,

1 at least one of which shall be a petroleum marketer and one representative  
2 from the petroleum equipment installation industry. The governor shall  
3 appoint the appointive members of the board, and the members so  
4 appointed shall serve for terms of the duration of ~~fuels supply~~ *UST*  
5 *redevelopment* fund. The governor also shall designate a member of the  
6 board as its chair, to serve in such capacity at the pleasure of the governor.  
7 The secretary shall provide staff to support the activities of the board.

8 (b) Appointed members of the board attending meetings of such  
9 board, or attending a subcommittee meeting thereof, when authorized by  
10 such board, shall receive the amounts provided in subsection (e) of K.S.A.  
11 75-3223, and amendments thereto.

12 (c) The board shall provide advice and counsel and make  
13 recommendations to the secretary regarding disputes over the  
14 disbursement of moneys from the ~~Kansas essential fuel[s] supply trust~~  
15 *UST redevelopment* fund.

16 Sec. 8. K.S.A. 2011 Supp. 65-34,134 is hereby amended to read as  
17 follows: 65-34,134. The ~~Kansas essential fuels supply trust~~ *UST*  
18 *redevelopment* fund compensation advisory board and the ~~Kansas essential~~  
19 ~~fuels supply trust~~ *UST redevelopment* fund shall be and are hereby  
20 abolished on July 1, ~~2012~~ 2024. At the time of such abolishment remaining  
21 funds shall be deposited in the underground fund.

22 Sec. 9. K.S.A. 65-34,123 and K.S.A. 2011 Supp. 65-34,102, 65-  
23 34,110, 65-34,117, 65-34,131, 65-34,132, 65-34,133 and 65-34,134 are  
24 hereby repealed.

25 Sec. 10. This act shall take effect and be in force from and after its  
26 publication in the statute book.