

As Amended by Senate Committee

Session of 2012

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, (42 U.S.C. § 3152 et seq., 42~~
26 ~~U.S.C. § 6991 et seq., as in effect on January 1, 2012)~~ and rules and
27 regulations adopted pursuant to such federal laws and in effect on ~~the~~
28 ~~effective date of this act~~ **January 1, 2012.**

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

1 the federal act.

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

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

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

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

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

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

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

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

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

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

1 regulated as a hazardous waste under the resource conservation and
2 recovery act of 1976 (, 42 U.S.C. ~~Sees:~~ §§ 6921 through 6939b), as in
3 effect on January 1, 1989.

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

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

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

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

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

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

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

25 (w) "Trade secret" has the same meaning as provided in K.S.A. 60-
26 3320, and amendments thereto.

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

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

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

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

43 (bb) ~~"Bulk plant" means an aboveground storage tank facility, not~~

1 located at a pipeline terminal or located on a federal facility, with a storage
2 capacity of 1,320 gallons or more, but less than 1,000,000 gallons, used to
3 dispense petroleum to tanker trucks for transportation and sale at another
4 location;

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

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

- 10 (1) Is not in use for more than three months;
11 (2) does not have a current tank permit issued by the department; or
12 (3) has been temporarily closed, in accordance with department
13 guidelines, for more than 12 months.

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

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

24 (b) The secretary shall:

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

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

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

43 (d) Prior to 12 months after the effective date of this act, the

1 department shall conduct written examinations, at such times and locations
2 within the state as the department may designate, for the purpose of
3 identifying installers as being qualified to receive an underground tank
4 installer's license. Each underground tank installer's license shall be issued
5 for a period of two years and shall be subject to periodic renewal thereafter
6 under procedures prescribed by the department.

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

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

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

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

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

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

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

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

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

42 (h) A valid interim contractor license or an unexpired contractor
43 license shall be valid in all counties and municipalities throughout the

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

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

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

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

34 (2) At any time when the unobligated principal balance of the
35 aboveground fund is equal to \$500,000 or less and the moneys are not
36 required to be credited to the underground fund under subsection (b)(1),
37 such moneys shall be credited to the aboveground fund until the
38 unobligated principal balance of the aboveground fund equals or exceeds
39 \$1,500,000 or until subsection (b)(1) requires moneys to be credited to the
40 underground fund, whichever occurs first. At any time when the
41 unobligated principal balance of the aboveground fund exceeds
42 \$1,500,000, the excess shall be transferred to the underground fund.

43 (3) At any time when the moneys cease to be credited to aboveground

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

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

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

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

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

1 on all petroleum products subject to such fee during the preceding month.

2 (e) All fees imposed under the provisions of this section and not paid
3 on or before the 25th day of the month succeeding the calendar month in
4 which such petroleum products were subject to such fee shall be deemed
5 delinquent and shall bear interest at the rate of 1% per month, or fraction
6 thereof, from such due date until paid. In addition thereto, there is hereby
7 imposed upon all amounts of such fees remaining due and unpaid after
8 such due date a penalty in the amount of 5% thereof. Such penalty shall be
9 added to and collected as a part of such fees by the secretary of revenue.

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

13 Sec. 4. K.S.A. 65-34,123 is hereby amended to read as follows: 65-
14 34,123. The underground fund and the aboveground fund shall be and are
15 hereby abolished on July 1, 2014 2024.

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

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

26 (2) interest attributable to investment of moneys in the ~~fuels supply~~
27 *UST redevelopment* fund.

28 (b) The ~~fuels supply fund shall be used for the following funds~~
29 *credited to the UST redevelopment fund may be expended to:*

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

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

39 (3) ~~payment of~~ *pay* the administrative technical and legal costs
40 incurred by the secretary in carrying out the provisions of K.S.A. 2011
41 Supp. 65-34,131 and 65-34,132, and amendments thereto, including the
42 cost of any additional employees or increased general operating costs of
43 the department attributable thereto, which costs shall not be payable from

1 any moneys other than those credited to the ~~fuels supply trust~~ *UST*
2 *redevelopment* fund.

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

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

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

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

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

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

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

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

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

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

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

43 (b) *A property owner shall not be eligible for reimbursement unless*

1 *the underground storage tank owner or operator is unable or unwilling to*
2 *perform corrective action or cannot be found. In such case the secretary*
3 *may recover all reimbursement paid and any related administrative and*
4 *legal expenses, from the underground storage tank owner or operator.*

5 *(c) Reimbursement pursuant to subsection (a) is subject to the*
6 *following:*

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

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

17 *(3) **The secretary may, in the secretary's discretion, determine those***
18 ***costs which are allowable as underground storage tank removal costs.***

19 *(d) The secretary may reimburse the property owner of ~~an~~*
20 *~~aboveground storage tank facility or bulk plant for upgrade expenses or~~*
21 *~~for permanent closure expenses, in the amount specified in subsection (e)~~*
22 *~~(e), if all of the following criteria are met:~~*

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

25 *(2) ~~the aboveground underground storage tank contains contained~~*
26 *~~petroleum products; and~~*

27 *(3) **A deed restriction was placed on the property prohibiting the***
28 ***installation of underground storage tanks for the 10 years following the***
29 ***date of the underground storage tank removal. As a condition for***
30 ***reimbursement, the applicant must provide a notarized copy of the***
31 ***recorded deed restriction for the property with the seal of the register of***
32 ***deeds to the department.***

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

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

40 *(A) ~~Secondary containment;~~*

41 *(B) ~~integrity testing;~~*

42 *(C) ~~corrosion protection;~~*

43 *(D) ~~loss prevention;~~*

- 1 ~~(E) engineering costs;~~
2 ~~(F) security;~~
3 ~~(G) drainage; and~~
4 ~~(H) removal of noncompliant tanks;~~
5 ~~(5) expenses for permanent closure activities, must be incurred after~~
6 ~~August 1, 2001, and not later than July 1, 2009.~~

7 ~~(e)~~ Only expenses for activities reasonable and necessary to
8 permanently close an ~~aboveground~~ *underground* storage tank facility are
9 eligible for reimbursement. Reasonable and necessary activities eligible
10 for reimbursement include, but are not limited to, the following:

- 11 ~~(A)~~ Removal of the tank and piping system;
12 ~~(B)~~ removal of tank support and confinement systems;
13 ~~(C)~~ removal of security systems;
14 ~~(D)~~ cleaning *and disposal* of tanks; and
15 ~~(E)~~ ~~(C)~~ disposal of waste petroleum and other waste material
16 including concrete.

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

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

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

- 41 ~~(1)~~ The owner has signed a contract with a vendor to perform the
42 work prior to the deadline; and
43 ~~(2)~~ the vendor indicates that they are unable to perform the work

1 ~~before the deadline.~~

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

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

6 Sec. 7. K.S.A. 2011 Supp. 65-34,133 is hereby amended to read as
7 follows: 65-34,133. (a) There is hereby established the ~~Kansas essential~~
8 ~~fuels supply trust~~ *UST redevelopment* fund compensation advisory board
9 composed of five members, including the state fire marshal or the state fire
10 marshal's designee, the director of the division of environment of the
11 department or designee, two representatives from the petroleum industry,
12 at least one of which shall be a petroleum marketer and one representative
13 from the petroleum equipment installation industry. The governor shall
14 appoint the appointive members of the board, and the members so
15 appointed shall serve for terms of the duration of ~~fuels supply~~ *UST*
16 *redevelopment* fund. The governor also shall designate a member of the
17 board as its chair, to serve in such capacity at the pleasure of the governor.
18 The secretary shall provide staff to support the activities of the board.

19 (b) Appointed members of the board attending meetings of such
20 board, or attending a subcommittee meeting thereof, when authorized by
21 such board, shall receive the amounts provided in subsection (e) of K.S.A.
22 75-3223, and amendments thereto.

23 (c) The board shall provide advice and counsel and make
24 recommendations to the secretary regarding disputes over the
25 disbursement of moneys from the ~~Kansas essential fuels supply trust~~
26 *UST redevelopment* fund.

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

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

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