

SENATE BILL No. 406

By Committee on Natural Resources

2-8

Proposed Amendment for SB 406
Committee on Natural Resources
February 16, 2012
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Office of Revisor of Statutes

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, ~~partially 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, refining, 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 \pm 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. Secs. §§ 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, flanges,
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~~ *LST redevlopment* fund. If the unobligated principal
11 balance of the ~~Kansas essential fuels supply trust~~ *LST redevlopment* fund
12 is equal to \$2,000,000 or less, the moneys shall be credited to the ~~Kansas
13 essential fuels supply trust~~ *LST redevlopment* fund until the unobligated
14 principal balance of the ~~Kansas essential fuels supply trust~~ *LST
15 redevlopment* 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 25th 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 25th 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 10th 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~~ LUST redevelopment fund interest earnings
4 based on:
5 (1) The average daily balance of moneys in the ~~above Kansas~~
6 ~~essential fuels supply trust~~ LUST 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~~ LUST 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 LUST
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:

The secretary may, in the secretary's discretion, determine those costs which are allowable as underground storage tank removal costs.

(d)

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

- 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.~~

and disposal

7 ~~(f) (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.~~

UST redevelopment

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 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-fuels~~ ~~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.