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

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

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

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

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

(d) (1) Before making a qualified investment, a taxpayer shall apply
to the secretary of commerce to enter into an agreement for a tax credit
under this act. The secretary shall prescribe the form of the application.
After receipt of such application, the secretary may enter into an
agreement with the applicant for a credit under this act if the secretary
determines that the taxpayer's proposed investment satisfies the requirements of this act. The secretary shall enter into an agreement with an applicant which is awarded a credit under this act. The agreement shall include: (A) A detailed description of the renewable electric cogeneration facility project that is the subject of the agreement, (B) the first taxable year for which the credit may be claimed, (C) the maximum amount of tax credit that will be allowed for each taxable year and (D) a requirement that the taxpayer shall maintain operation of the new renewable electric cogeneration facility for at least 10 years during the term that the tax credit is available.

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

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

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

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