

## SENATE BILL No. 391

By Committee on Agriculture  
(By request of Select Joint Committee on Energy)

1-18

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10 AN ACT relating to income taxation; concerning tax credit alternative-  
11 fuel fueling stations; amending K.S.A. 2005 Supp. 79-32,201 and re-  
12 pealing the existing section.  
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14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2005 Supp. 79-32,201 is hereby amended to read  
16 as follows: 79-32,201. (a) Any taxpayer who makes expenditures for a  
17 qualified alternative-fueled motor vehicle or alternative-fuel fueling sta-  
18 tion shall be allowed a credit against the income tax imposed by article  
19 32 of chapter 79 of the Kansas Statutes Annotated, as follows:

20 (1) For any qualified alternative-fueled motor vehicle placed in serv-  
21 ice on or after January 1, 1996, and before January 1, 2005, an amount  
22 equal to 50% of the incremental cost or conversion cost for each qualified  
23 alternative-fueled motor vehicle but not to exceed \$3,000 for each such  
24 motor vehicle with a gross vehicle weight of less than 10,000 lbs.; \$5,000  
25 for a heavy duty motor vehicle with a gross vehicle weight of greater than  
26 10,000 lbs. but less than 26,000 lbs.; and \$50,000 for motor vehicles hav-  
27 ing a gross vehicle weight of greater than 26,000 lbs.;

28 (2) for any qualified alternative-fueled motor vehicle placed in service  
29 on or after January 1, 2005, an amount equal to 40% of the incremental  
30 cost or conversion cost for each qualified alternative-fueled motor vehicle,  
31 but not to exceed \$2,400 for each such motor vehicle with a gross vehicle  
32 weight of less than 10,000 lbs.; \$4,000 for a heavy duty motor vehicle with  
33 a gross vehicle weight of greater than 10,000 lbs. but less than 26,000  
34 lbs.; and \$40,000 for motor vehicles having a gross vehicle weight of  
35 greater than 26,000 lbs.;

36 (3) for any qualified alternative-fuel fueling station placed in service  
37 on or after January 1, 1996, and before January 1, 2005, an amount equal  
38 to 50% of the total amount expended for each qualified alternative-fuel  
39 fueling station but not to exceed \$200,000 for each fueling station;

40 (4) for any qualified alternative-fuel fueling station placed in service  
41 on or after January 1, 2005, an amount equal to 40% of the total amount  
42 expended for each qualified alternative-fuel fueling station, but not to  
43 exceed \$160,000 for each fueling station.

1 (b) If no credit has been claimed pursuant to subsection (a), a credit  
2 in an amount not exceeding the lesser of 5% of the cost of the vehicle or  
3 \$750 shall be allowed to a taxpayer who purchases a motor vehicle  
4 equipped by the vehicle manufacturer with an alternative fuel system and  
5 who is unable or elects not to determine the exact basis attributable to  
6 such property. The credit under this subsection shall be allowed only to  
7 the first individual to take title to such motor vehicle, other than for resale.  
8 The credit under this subsection for motor vehicles which are capable of  
9 operating on a blend of 85% ethanol and 15% gasoline shall be allowed  
10 for taxable years commencing after December 31, 1999, only if the in-  
11 dividual claiming the credit furnishes evidence of the purchase, during  
12 the period of time beginning with the date of purchase of such vehicle  
13 and ending on December 31 of the next succeeding calendar year, of 500  
14 gallons of such ethanol and gasoline blend as may be required or is sat-  
15 isfactory to the secretary of revenue.

16 (c) The tax credit under subsection (a) or (b) shall be deducted from  
17 the taxpayer's income tax liability for the taxable year in which the ex-  
18 penditures are made by the taxpayer. If the amount of the tax credit  
19 exceeds the taxpayer's income tax liability for the taxable year, the amount  
20 which exceeds the tax liability may be carried over for deduction from  
21 the taxpayer's income tax liability in the next succeeding taxable year or  
22 years until the total amount of the tax credit has been deducted from tax  
23 liability, except that no such tax credit shall be carried over for deduction  
24 after the third taxable year succeeding the taxable year in which the ex-  
25 penditures are made.

26 (d) *Any person, hereinafter designated the assignor, may sell, assign,*  
27 *convey or otherwise transfer tax credits allowed and earned pursuant to*  
28 *paragraph (3) or (4) of subsection (a). The taxpayer acquiring credits,*  
29 *hereinafter designated the assignee, may use the amount of the acquired*  
30 *credits to offset up to 100% of its income, privilege or premiums tax lia-*  
31 *bility for the taxable year in which such acquisition was made. Unused*  
32 *credit amounts claimed by the assignee may be carried forward for up to*  
33 *five years, except that all such amounts shall be claimed within 10 years*  
34 *following the tax year in which the qualified credits were allowed. The*  
35 *assignor shall enter into a written agreement with the assignee establish-*  
36 *ing the terms and conditions of the agreement and shall perfect such*  
37 *transfer by notifying the department of revenue in writing within 90 cal-*  
38 *endar days following the effective date of the transfer and shall provide*  
39 *any information as may be required by the department of revenue and*  
40 *carry out the provisions of this section. The amount received by the as-*  
41 *signor of such tax credit shall be taxable as income of the assignor, and*  
42 *the excess of the value of such credit over the amount paid by the assignee*  
43 *for such credit shall be taxable as income of the assignee.*

1     ~~(d)~~ (e) As used in this section:

2     (1) “Alternative fuel” has the meaning provided by 42 U.S.C. 13211.

3     (2) “Qualified alternative-fueled motor vehicle” means a motor ve-  
4 hicle that operates on an alternative fuel, meets or exceeds the clean fuel  
5 vehicle standards in the federal clean air act amendments of 1990, Title  
6 II and meets one of the following categories:

7     (A) Bi-fuel motor vehicle: A motor vehicle with two separate fuel  
8 systems designed to run on either an alternative fuel or conventional fuel,  
9 using only one fuel at a time;

10    (B) dedicated motor vehicle: A motor vehicle with an engine de-  
11 signed to operate on a single alternative fuel only; or

12    (C) flexible fuel motor vehicle: A motor vehicle that may operate on  
13 a blend of an alternative fuel with a conventional fuel, such as E-85 (85%  
14 ethanol and 15% gasoline) or M-85 (85% methanol and 15% gasoline),  
15 as long as such motor vehicle is capable of operating on at least an 85%  
16 alternative fuel blend.

17    (3) “Qualified alternative-fuel fueling station” means the property  
18 which is directly related to the delivery of alternative fuel into the fuel  
19 tank of a motor vehicle propelled by such fuel, including the compression  
20 equipment, storage vessels and dispensers for such fuel at the point where  
21 such fuel is delivered but only if such property is primarily used to deliver  
22 such fuel for use in a qualified alternative-fueled motor vehicle.

23    (4) “Incremental cost” means the cost that results from subtracting  
24 the manufacturer’s list price of the motor vehicle operating on conven-  
25 tional gasoline or diesel fuel from the manufacturer’s list price of the same  
26 model motor vehicle designed to operate on an alternative fuel.

27    (5) “Conversion cost” means the cost that results from modifying a  
28 motor vehicle which is propelled by gasoline or diesel to be propelled by  
29 an alternative fuel.

30    (6) “Taxpayer” means any person who owns and operates a qualified  
31 alternative-fueled vehicle licensed in the state of Kansas or who makes  
32 an expenditure for a qualified alternative-fuel fueling station.

33    (7) “Person” means every natural person, association, partnership,  
34 limited liability company, limited partnership or corporation.

35    ~~(e)~~ (f) Except as otherwise more specifically provided, the provisions  
36 of this section shall apply to all taxable years commencing after December  
37 31, 1995.

38    Sec. 2. K.S.A. 2005 Supp. 79-32,201 is hereby repealed.

39    Sec. 3. This act shall take effect and be in force from and after its  
40 publication in the statute book.