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MEMORANDUM

To: Chairman Holmes and members of the House Energy and Utilities Committee
From: Matt Sterling, Assistant Revisor of Statutes
Date: March 7, 2012
Subject: Senate Bill 406

SB 406 would amend K.S.A. 65-34,123 and K.S.A. 2011 Supp. 65-34,102, 65-34,110, 65-34,117, 65-34,131, 65-34,132, 65-34,133 and 65-34,134 concerning the Kansas storage tank act. The bill would redesignate the Kansas essential fuels supply trust fund as the underground storage tank reimbursement fund and the fund would be used to assist property owners where abandoned underground storage tanks (USTs) are present. The bill also would extend the sunset for the underground and above ground reimbursement funds from July 1, 2014, to July 1, 2024.

The bill would provide new definitions for "UST redevelopment fund," "abandoned underground storage tank" and "property owner."

- "UST redevelopment fund" means the Kansas UST property redevelopment trust fund.
- "Abandoned underground storage tank" means an underground storage tank that exhibits one or more of the following conditions:
 - (1) Is not in use for more than three months;
 - (2) does not have a current tank permit issued by the department; or
 - (3) has been temporarily closed, in accordance with department guidelines, for more than 12 months.
- "Property owner" means for the purposes of the UST redevelopment fund, a person who owns real property on which an abandoned underground storage tank is located.

The bill would provide an opportunity for owners of property that contain abandoned USTs to be eligible for reimbursement for expenses associated with the removal of abandoned USTs. In order for a property owner to qualify for a reimbursement, the property owner must: Have never placed petroleum in or withdrawn petroleum from the UST, not be an agency or representative of the federal government, be in substantial compliance with the storage tank act, provide 30-day notice to the department of health and environment to perform an environmental assessment of the site and apply to the UST Fund to correct any contamination discovered during an environmental assessment.

A property owner would not be eligible for reimbursement unless the UST owner or operator would not remove the abandoned UST. In these instances, the department could recover all reimbursements and any related administrative expenses from the UST owner or operator. If a property owner were eligible for reimbursement, then an application and UST removal plan would need to be submitted to and approved by the department. After approval of the UST removal plan, the property owner would be required to obtain at least three bids to perform the UST removal.

The secretary of the department would have the option to reimburse the property owner for reasonable and necessary expenses incurred in closing a UST facility depending on whether: The UST facility was registered with the department after May 1, 1981, the UST contained petroleum products, and a deed restriction had been placed on the property prohibiting the installation of USTs for 10 years following the date of the UST removal. Reasonable and necessary activities could include: Removal of the tank and piping system, cleaning and disposal of tanks and disposal of waste petroleum and other waste material.