

1 **As Amended by House Committee**

2
3 **As Amended by Senate Committee**

4 *Session of 2001*

5
6 **SENATE BILL No. 35**

7
8 By Committee on Ways and Means

9
10 1-16

11
12 AN ACT concerning ~~motor vehicle fuels; relating to tax credits; amend-~~
13 ~~ing K.S.A. 2000 Supp. 79-32,201 and repealing the existing section~~
14 **recreational districts; relating to the Blue Valley recreation sys-**
15 **tem; amending K.S.A. 2000 Supp. 12-1927, 12-1928 and 12-1935**
16 **and repealing the existing sections.**

17
18 *Be it enacted by the Legislature of the State of Kansas:*

19 ~~Section 1. K.S.A. 2000 Supp. 79-32,201 is hereby amended to read~~
20 ~~as follows: 79-32,201. (a) Any taxpayer who makes expenditures for a~~
21 ~~qualified alternative fueled motor vehicle or alternative fuel fueling sta-~~
22 ~~tion shall be allowed a credit against the income tax imposed by article~~
23 ~~32 of chapter 79 of the Kansas Statutes Annotated, as follows:~~

24 ~~— (1) For any qualified alternative fueled motor vehicle placed in serv-~~
25 ~~ice on or after January 1, 1996, and before January 1, 2005, an amount~~
26 ~~equal to 50% of the incremental cost or conversion cost for each qualified~~
27 ~~alternative fueled motor vehicle but not to exceed \$3,000 for each such~~
28 ~~motor vehicle with a gross vehicle weight of less than 10,000 lbs.; \$5,000~~
29 ~~for a heavy duty motor vehicle with a gross vehicle weight of greater than~~
30 ~~10,000 lbs. but less than 26,000 lbs.; and \$50,000 for motor vehicles hav-~~
31 ~~ing a gross vehicle weight of greater than 26,000 lbs.;~~

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

40 ~~— (3) for any qualified alternative fuel fueling station placed in service~~
41 ~~on or after January 1, 1996, and before January 1, 2005, an amount equal~~
42 ~~to 50% of the total amount expended for each qualified alternative fuel~~
43 ~~fueling station but not to exceed \$200,000 for each fueling station;~~

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

5 ~~—(b) If no credit has been claimed pursuant to subsection (a), a credit~~
6 ~~in an amount not exceeding the lesser of 5% of the cost of the vehicle or~~
7 ~~\$750 shall be allowed to a taxpayer who purchases a motor vehicle~~
8 ~~equipped by the vehicle manufacturer with an alternative fuel system and~~
9 ~~who is unable or elects not to determine the exact basis attributable to~~
10 ~~such property. The credit under this subsection shall be allowed only to~~
11 ~~the first individual to take title to such motor vehicle, other than for resale.~~
12 ~~*The credit under this subsection for motor vehicles which are capable of*~~
13 ~~*operating on a blend of 85% ethanol and 15% gasoline shall be allowed*~~
14 ~~*for taxable years commencing after December 31, 1990, only if the indi-*~~
15 ~~*vidual claiming the credit furnishes evidence of the purchase, **during the***~~
16 ~~***period of time beginning with the date of purchase of such vehicle***~~
17 ~~***and ending on December 31 of the next succeeding calendar year,***~~
18 ~~*of 500 gallons of such ethanol and gasoline blend as may be required or*~~
19 ~~*is satisfactory to the secretary of revenue.*~~

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

30 ~~—(d) As used in this section:~~

31 ~~—(1) "Alternative fuel" has the meaning provided by 42 U.S.C. 13211.~~

32 ~~—(2) "Qualified alternative fueled motor vehicle" means a motor ve-~~
33 ~~hicle that operates on an alternative fuel, meets or exceeds the clean fuel~~
34 ~~vehicle standards in the federal clean air act amendments of 1990, Title~~
35 ~~II and meets one of the following categories:~~

36 ~~—(A) Bi fuel motor vehicle: A motor vehicle with two separate fuel~~
37 ~~systems designed to run on either an alternative fuel or conventional fuel,~~
38 ~~using only one fuel at a time;~~

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

41 ~~—(C) flexible fuel motor vehicle: A motor vehicle that may operate on~~
42 ~~a blend of an alternative fuel with a conventional fuel, such as E 85 (85%~~
43 ~~ethanol and 15% gasoline) or M 85 (85% methanol and 15% gasoline),~~

1 ~~as long as such motor vehicle is capable of operating on at least an 85%~~
2 ~~alternative fuel blend.~~

3 ~~—(3) “Qualified alternative fuel fueling station” means the property~~
4 ~~which is directly related to the delivery of alternative fuel into the fuel~~
5 ~~tank of a motor vehicle propelled by such fuel, including the compression~~
6 ~~equipment, storage vessels and dispensers for such fuel at the point where~~
7 ~~such fuel is delivered but only if such property is primarily used to deliver~~
8 ~~such fuel for use in a qualified alternative fueled motor vehicle.~~

9 ~~—(4) “Incremental cost” means the cost that results from subtracting~~
10 ~~the manufacturer’s list price of the motor vehicle operating on conven-~~
11 ~~tional gasoline or diesel fuel from the manufacturer’s list price of the same~~
12 ~~model motor vehicle designed to operate on an alternative fuel.~~

13 ~~—(5) “Conversion cost” means the cost that results from modifying a~~
14 ~~motor vehicle which is propelled by gasoline or diesel to be propelled by~~
15 ~~an alternative fuel.~~

16 ~~—(6) “Taxpayer” means any person who owns and operates a qualified~~
17 ~~alternative fueled vehicle licensed in the state of Kansas or who makes~~
18 ~~an expenditure for a qualified alternative fuel fueling station.~~

19 ~~—(7) “Person” means every natural person, association, partnership,~~
20 ~~limited liability company, limited partnership or corporation.~~

21 ~~—(c) *Except as otherwise more specifically provided, the provisions of*~~
22 ~~this section shall apply to all taxable years commencing after December~~
23 ~~31, 1995.~~

24 ~~—Sec. 2. K.S.A. 2000 Supp. 79-32,201 is hereby repealed.~~

25 ~~—Sec. 3. This act shall take effect and be in force from and after its~~
26 ~~publication in the statute book.~~

27 **Section 1. K.S.A. 2000 Supp. 12-1927 is hereby amended to**
28 **read as follows: 12-1927. (a) Except as provided by subsection (b),**
29 **the recreation commission shall prepare an annual budget for the**
30 **operation of the recreation system. Prior to the certification of its**
31 **budget to the city or school district, the recreation commission**
32 **shall meet for the purpose of answering and hearing objections of**
33 **taxpayers relating to the proposed budget and for the purpose of**
34 **considering amendments to such proposed budget. The recreation**
35 **commission shall give at least 10 days’ notice of the time and place**
36 **of the meeting by publication in a weekly or daily newspaper hav-**
37 **ing a general circulation in the taxing district. Such notice shall**
38 **include the proposed budget and shall set out all essential items**
39 **in the budget except such groupings as designated by the director**
40 **of accounts and reports on a special publication form prescribed**
41 **by the director of accounts and reports and furnished with the**
42 **regular budget form. The public hearing required to be held**
43 **herein shall be held not less than 10 days prior to the date on which**

1 the recreation commission is required to certify its budget to the
2 city or school district. After such hearing the budget shall be
3 adopted or amended and adopted by the recreation commission.
4 In order to provide funds to carry out the provisions of this act
5 and to pay a portion of the principal and interest on bonds issued
6 pursuant to K.S.A. 12-1774, and amendments thereto, the recre-
7 ation commission shall annually, not later than August 1 of any
8 year, certify its budget to such city or school district which shall
9 levy a tax sufficient to raise the amount required by such budget
10 on all the taxable tangible property within the taxing district. Each
11 year a copy of the budget adopted by the recreation commission
12 shall be filed with the city clerk in the case of a city-established
13 recreation system or with the clerk of the school district in the case
14 of a school district-established recreation system or with the clerk
15 of the taxing district in the case of a jointly established recreation
16 system. A copy of such budget also shall be filed with the county
17 clerk of the county in which the recreation system is located. If the
18 recreation system is located in more than one county, a copy of the
19 budget shall be filed with the clerk of the county in which the
20 greater portion of the assessed valuation of the recreation system
21 is located. The city or school district shall not be required to levy
22 a tax in excess of the maximum tax levy set by the city or school
23 district by current resolution. In the case of a new recreation com-
24 mission established under the provisions of this act, such levy shall
25 not be required to exceed one mill. Whenever the recreation com-
26 mission determines that the tax currently being levied for the com-
27 mission, as previously established by the city or school district, is
28 insufficient to operate the recreation system and the commission
29 desires to increase the mill levy above the current levy, the com-
30 mission shall request that the city or school district authorize an
31 increase by adopting a resolution declaring it necessary to increase
32 the annual levy. The city or school district may authorize the in-
33 crease by resolution, but such increase shall not exceed one mill
34 per year. The maximum annual mill levy for the recreation com-
35 mission general fund shall not exceed a total of four mills.

36 (b) Prior to adopting the budget pursuant to subsection (a), the
37 Blue Valley recreation commission appointed by the Blue Valley
38 unified school district No. 229 shall submit its proposed budget to
39 the board of education of such school district. The school board
40 either shall approve, or modify and approve, the proposed budget.
41 The recreation commission shall adopt such budget as approved,
42 or modified and approved, by the board.

43 (c) Any resolution adopted under subsection (a) shall state the

1 total amount of the tax to be levied for the recreation system and
2 shall be published once each week for two consecutive weeks in
3 the official newspaper of the taxing district. Whereupon, such an-
4 nual levy in an amount not to exceed the amount stated in the
5 resolution may be made for the ensuing budget year and each
6 successive budget year unless a petition requesting an election
7 upon the proposition to increase the tax levy in excess of the cur-
8 rent tax levy, signed by at least 5% of the qualified voters of the
9 taxing district, is filed with the county election officer within 30
10 days following the date of the last publication of the resolution. In
11 the event a valid petition is filed, no such increased levy shall be
12 made without such proposition having been submitted to and hav-
13 ing been approved by a majority of the voters of the taxing district
14 voting at an election called and held thereon. All such elections
15 shall be called and held in the manner provided by the general
16 bond law, and the cost of the election shall be borne by the rec-
17 reation commission. Such taxes shall be levied and collected in like
18 manner as other taxes, which levy the city or school district shall
19 certify, on or before August 25 of each year, to the county clerk
20 who is hereby authorized and required to place the same on the
21 tax roll of the county to be collected by the county treasurer and
22 paid over by the county treasurer to the ex officio treasurer of the
23 recreation commission.

24 (d) The tax levy provided in this section shall not be considered
25 a levy of such city or school district under any of the statutes of
26 this state, but shall be in addition to all other levies authorized by
27 law and, with respect to any such levy made for the first time in
28 1989, shall not be subject to the provisions of K.S.A. 79-5021 *et*
29 *seq.*, and amendments thereto.

30 (e) At any time after the making of the first tax levy pursuant
31 to this act, the amount of such tax levy may be reduced by a ma-
32 jority of the voters of the taxing district voting at an election called
33 pursuant to a petition and conducted in the same manner as that
34 prescribed by subsection (c). The authority of any recreation com-
35 mission in existence on the effective date of this act or any recre-
36 ation commission established under the provisions of this act to
37 operate and conduct its activities, ~~other than the recreation commis-~~
38 ~~sion appointed by the Blue Valley unified school district No. 229,~~ may
39 be revoked in any year following the third year of its operation by
40 a majority of the voters of the taxing district voting at an election
41 called pursuant to a petition and conducted in the same manner
42 as that prescribed by subsection (c). If the petition submitted is for
43 the purpose of reducing the mill levy, it shall state the mill levy

1 **reduction desired. Upon revocation, all property and money be-**
2 **longing to the recreation commission shall become the property**
3 **of the taxing authority levying the tax for the commission, and the**
4 **recreation commission shall be dissolved.** *In the event that the rec-*
5 *reation commission appointed by the Blue Valley unified school district*
6 *No. 229 is dissolved, the existing mill levy the revenue received from which*
7 *is used and is to be used for the payment of debt or any other obligation*
8 *as authorized by such commission's latest budget shall continue to be in*
9 *force and effect until such debt or other obligation is paid in full.*

10 **(f) All financial records of the recreation commission shall be**
11 **audited as provided in K.S.A. 75-1122, and amendments thereto,**
12 **and a copy of such annual audit report shall be filed with the gov-**
13 **erning body of the city or school district, or both, in the case of a**
14 **jointly established recreation system. A copy of such audit also**
15 **shall be filed with the county clerk of the county in which the**
16 **recreation system is located. If the recreation system is located in**
17 **more than one county, a copy of the budget shall be filed with the**
18 **clerk of the county in which the greater portion of the assessed**
19 **valuation of the recreation system is located. The cost of each audit**
20 **shall be borne by the recreation commission.**

21 *(g) Revenue received from the annual general fund mill levy for the*
22 *Blue Valley recreation commission shall not be used for any purpose for*
23 *which the capital improvement fund of such commission may be used*
24 *pursuant to the provisions of K.S.A. 2000 Supp. 12-1935, and amend-*
25 *ments thereto.*

26 **Sec. 2. K.S.A. 2000 Supp. 12-1928 is hereby amended to read**
27 **as follows: 12-1928. Every recreation commission appointed pur-**
28 **suant to this act shall have the power to:**

29 **(a) Make and adopt rules and regulations for the operation of**
30 **the recreation system;**

31 **(b) conduct the activities of the recreation system on any prop-**
32 **erty under its custody and management, or, with proper consent,**
33 **on any other public property and upon private property with the**
34 **consent of the owners;**

35 **(c) receive any gift or donation from any source;**

36 **(d) receive, accept and administer any money appropriated or**
37 **granted to it by the state or federal government or any agency**
38 **thereof;**

39 **(e) purchase insurance. The city or school district to which the**
40 **recreation commission certifies its budget shall levy an annual tax**
41 **upon all taxable tangible property within the taxing district in an**
42 **amount necessary to pay for insurance purchased for those pur-**
43 **poses authorized by K.S.A. 75-6111, and amendments thereto, and**

1 to pay a portion of the principal and interest on bonds issued pur-
2 suant to K.S.A. 12-1774, and amendments thereto, except that no
3 levy shall be made under this subsection which, when coupled with
4 any levy made pursuant to subsection (j), is in excess of one mill
5 without the approval of the city or school district. Taxes levied
6 pursuant to this subsection shall be in addition to all other taxes
7 authorized or limited by K.S.A. 12-1927, and amendments thereto,
8 or any other provisions of law;

9 (f) sue and be sued;

10 (g) enter contracts;

11 (h) enter lease agreements for real and personal property. The
12 term of any such lease shall not exceed 10 years. Any such lease
13 agreement shall be subject to the approval of the city or school
14 district to which the recreation commission certifies its budget;

15 (i) employ a superintendent of recreation and any other em-
16 ployees which may be necessary for proper operation of the rec-
17 reation system;

18 (j) create and establish employee benefits contribution funds
19 for the purpose of paying the employer's share of any employee
20 benefits, exclusive of any salaries, wages or other direct payments
21 to such employees, as may be prescribed in the resolution creating
22 such funds. The recreation commission may receive and place in
23 such funds any moneys from any source whatsoever which may be
24 lawfully utilized for the purposes stated in the resolution creating
25 such funds, including the proceeds of tax levies authorized by law
26 for such purposes. The city or school district to which is certified
27 the budget of any recreation commission which has established
28 employee benefits contribution funds pursuant to this subsection
29 shall levy an annual tax upon all taxable tangible property within
30 the taxing district in an amount determined by the recreation com-
31 mission to be necessary for the purposes for which such funds were
32 created and to pay a portion of the principal and interest on bonds
33 issued pursuant to K.S.A. 12-1774, and amendments thereto, ex-
34 cept that no levy shall be made under this subsection which, when
35 coupled with any levy made pursuant to subsection (e), is in excess
36 of one mill without the approval of the city or school district. Taxes
37 levied pursuant to this subsection shall be in addition to all other
38 taxes authorized or limited by K.S.A. 12-1927, and amendments
39 thereto, or any other provisions of law. For the purposes of this
40 subsection, employee benefits shall include social security as pro-
41 vided by subsection (c) of K.S.A. 40-2305, and amendments
42 thereto, workers' compensation as provided by K.S.A. 44-505c, and
43 amendments thereto, unemployment compensation as provided by

1 **K.S.A. 44-710a, and amendments thereto, health insurance and**
2 **retirement benefits;**

3 **(k) acquire title to personal property by purchase, bequest, gift**
4 **or other donation and acquire title to real property by devise, gift**
5 **or other donation. No real property may be purchased or leased,**
6 *including any renewal thereof, for a term exceeding three years by the*
7 **recreation commission appointed by the Blue Valley unified school**
8 **district No. 229 without first obtaining the approval of the board**
9 **of education of such school district and providing publication notifi-**
10 *cation thereof once each week for three consecutive weeks in one or more*
11 *newspapers of general circulation in the Blue Valley recreation system*
12 *area. Whenever property owned by a recreation commission is*
13 **sold, the proceeds shall be used for recreation purposes; and**

14 **(l) perform any other acts necessary to carry out the provisions**
15 **of this act.**

16 **Sec. 3. K.S.A. 2000 Supp. 12-1935 is hereby amended to read**
17 **as follows: 12-1935. (a) The recreation commission appointed by**
18 **the Blue Valley unified school district No. 229 may petition the**
19 **board of education of such school district to adopt a resolution**
20 **proposing to make an annual levy not to exceed one mill upon all**
21 **taxable tangible property within the taxing district for the purpose**
22 **of creating a capital improvement fund to be used for the acqui-**
23 **sition of sites, and for the constructing, equipping, repairing, re-**
24 **modeling and furnishing of buildings for recreation system pur-**
25 **poses and to pay a portion of the principal and interest on bonds**
26 **issued under the authority of K.S.A. 12-1774, and amendments**
27 **thereto, by cities located in the taxing district. Upon receipt of such**
28 **petition, the board shall adopt a resolution imposing such levy. No**
29 **levy shall be made unless the proposal to make such levy is sub-**
30 **mitted to and approved by a majority of the qualified electors of**
31 **the taxing district voting at an election thereon. Such election shall**
32 **be called and held in the manner provided by the general bond**
33 **law. Any levy made pursuant to this section coupled with the general**
34 *fund levy shall not exceed the maximum annual mill levy allowable for*
35 *the general fund pursuant to K.S.A. 12-1927, and amendments thereto,*
36 *and shall be the sole source of revenue for the purposes for which such*
37 *levy is made.*

38 **(b) Any fund created pursuant to this section shall not be sub-**
39 **ject to the provisions of K.S.A. 79-2925 to 79-2937, inclusive, and**
40 **amendments thereto. In making the budget of the recreation sys-**
41 **tem, the amounts credited to, and the amount on hand in, the**
42 **capital improvement fund and the amount expended therefrom**
43 **shall be shown on the budget for the information of the taxpayers**

1 **of the taxing district. Moneys in such fund may be invested in ac-**
2 **cordance with the provisions of K.S.A. 10-131, and amendments**
3 **thereto, with interest thereon credited to such fund.**

4 **Sec. 4. K.S.A. 2000 Supp. 12-1927, 12-1928 and 12-1935 are**
5 **hereby repealed.**

6 **Sec. 5. This act shall take effect and be in force from and after**
7 **its publication in the Kansas register.**

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