

**SENATE Substitute for
HOUSE BILL No. 2573**

By Committee on Assessment and Taxation

5-2

11 AN ACT concerning income taxation; relating to checkoffs for breast
12 cancer research and military emergency relief; deductions, qualified
13 tuition programs; net operating loss; credits, adoption; reporting
14 requirements; amending K.S.A. 74-50,132 and 79-32,202 and K.S.A.
15 2005 Supp. 79-32,117, 79-32,143, 79-32,153 and 79-32,160a and re-
16 pealing the existing sections.
17

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

19 New Section 1. (a) For all tax years commencing after December 31,
20 2005, each Kansas state individual income tax return form shall contain
21 a designation as follows:

22 Kansas Military Emergency Relief Fund. Check if you wish to donate,
23 in addition to your tax liability, or designate from your refund, _____\$1,
24 _____\$5, _____\$10 or \$ _____.

25 (b) The director of taxation of the department of revenue shall de-
26 termine annually the total amount designated for contribution to the Kan-
27 sas military emergency relief fund pursuant to subsection (a) and shall
28 report such amount to the state treasurer who shall credit the entire
29 amount thereof to the Kansas military emergency relief fund which fund
30 is hereby established in the state treasury. All moneys deposited in such
31 fund shall be used for the purpose of helping military families defray the
32 costs of food, housing, utilities and medical services incurred while a
33 member of the family is on active military duty or for other services
34 associated with support of Kansas military personnel and military families.
35 In the case where donations are made pursuant to subsection (a), the
36 director shall remit the entire amount thereof to the state treasurer who
37 shall credit the same to such fund. All expenditures from such fund shall
38 be made in accordance with appropriation acts upon warrants of the di-
39 rector of accounts and reports issued pursuant to vouchers approved by
40 the adjutant general's office.

41 New Sec. 2. (a) For all tax years commencing after December 31,
42 2005, each Kansas individual income tax return form shall contain a des-
43 ignation as follows:

1 Kansas Breast Cancer Research Fund. Check if you wish to donate, in
2 addition to your tax liability, or designate from your refund, _____\$1,
3 _____\$5, _____\$10 or \$_____.

4 (b) The director of taxation of the department of revenue shall de-
5 termine annually the total amount designated for contribution to the Kan-
6 sas breast cancer research fund pursuant to subsection (a) and shall report
7 such amount to the state treasurer who shall credit the entire amount
8 thereof to the Kansas breast cancer research fund. Such fund is hereby
9 established in the state treasury and shall be administered by the univer-
10 sity of Kansas cancer center. In the case where donations are made pur-
11 suant to subsection (a), the director shall remit the entire amount thereof
12 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,
13 and amendments thereto. Upon receipt of such remittance the state trea-
14 surer shall deposit the entire amount in the state treasury to the credit
15 of such fund. All expenditures from such fund shall be for the university
16 of Kansas cancer center.

17 (c) The instructions accompanying the individual income tax return
18 shall include a description of the Kansas breast cancer research fund, the
19 purpose for which the fund was created and a statement specifying that
20 such moneys shall be used to conduct research relating to the prevention,
21 treatment and cure of breast cancer. Such description and statement shall
22 be approved by the university of Kansas cancer center.

23 (d) All moneys deposited in such fund shall be used by the university
24 of Kansas cancer center to conduct research relating to the prevention,
25 treatment and cure of breast cancer. Moneys in such fund shall not be
26 used for the funding of administrative personnel or positions. Moneys
27 deposited in such fund shall be used in collaboration with other research
28 institutions including, but not limited to, members of the midwest cancer
29 alliance and faculty at state educational institutions. Contributions to the
30 Kansas breast cancer research fund shall be deemed in addition and sup-
31 plemental to any funding that would otherwise be appropriated to the
32 university of Kansas cancer center for the purposes specified in this act.

33 (e) On or before February 1 of each year, the university of Kansas
34 cancer center shall submit a report to the committee on assessment and
35 taxation and committee on ways and means of the senate of the state of
36 Kansas and the committee on taxation and committee on appropriations
37 of the house of representatives of the state of Kansas reviewing and eval-
38 uating all expended moneys expended from the Kansas breast cancer
39 research fund to conduct research relating to the purposes specified in
40 this act. Representatives of the cancer center shall appear before the
41 committees specified in this section if so requested.

42 New Sec. 3. (a) For tax years commencing after December 31, 2005,
43 any taxpayer claiming credits pursuant to K.S.A. 74-50,132, 79-32,153 or

1 79-32,160a, and amendments thereto, as a condition for claiming and
2 qualifying for such credits, shall provide the following information as part
3 of the tax return, in which such credits are claimed, which shall be used
4 by the department of revenue in evaluating the effectiveness of such tax
5 credit programs, pursuant to K.S.A. 74-99b35, and amendments thereto:

6 (1) Actual jobs created as a direct result of the expenditures on which
7 such credit claim is based, if the taxpayer has previously submitted an
8 estimate of such number of actual jobs created to the department of
9 commerce as a part of applying for certification for such program
10 participation;

11 (2) additional payroll generated as a direct result of the expenditures
12 on which such credit claim is based, if the taxpayer has previously sub-
13 mitted an estimate of such amount of additional payroll generated to the
14 department of commerce as a part of applying for certification for such
15 program participation;

16 (3) actual jobs retained as a direct result of the expenditures on which
17 such credit claim is based, if the taxpayer has previously submitted an
18 estimate of actual jobs retained to the department of commerce as a part
19 of applying for certification for such program participation;

20 (4) additional revenue generated as a direct result of the expenditures
21 on which such credit claim is based, if the taxpayer has previously sub-
22 mitted an estimate of such amount of additional revenue generated to
23 the department of commerce as a part of applying for certification for
24 such program participation;

25 (5) additional sales generated as a direct result of the expenditures
26 on which such credit claim is based, if the taxpayer has previously sub-
27 mitted an estimate of additional sales generated to the department of
28 commerce as a part of applying for certification for program participation;
29 and

30 (6) total employment and payroll at the end of the tax year in which
31 the credits are claimed.

32 (b) Such credits specified in subsection (a) shall not be denied solely
33 on the basis of the information provided by the taxpayer pursuant to
34 subsections (a)(1) through (a)(6).

35 Sec. 4. K.S.A. 74-50,132 is hereby amended to read as follows: 74-
36 50,132. (a) For taxable years commencing after December 31, 1997, a
37 qualified firm shall be entitled to a credit against the tax imposed by the
38 Kansas income tax act, the premium tax or privilege fee imposed pursuant
39 to K.S.A. 40-252, and amendments thereto or the privilege tax as meas-
40 ured by net income of financial institutions imposed pursuant to chapter
41 79, article 11 of the Kansas Statutes Annotated in an amount equal to the
42 portion of the qualified business facility cash investment in the training
43 and education of the firm's employees that exceeds 2% of the firm's total

1 payroll costs. The maximum amount of the credit that may be claimed
2 by a single corporate taxpayer in any single tax year under this section
3 shall not exceed \$50,000. Tax credits earned by a qualified business under
4 this section must be claimed in their entirety in the tax year eligible.

5 *(b) For tax years commencing after December 31, 2005, any taxpayer*
6 *claiming credits pursuant to this section, as a condition for claiming and*
7 *qualifying for such credits, shall provide information pursuant to section*
8 *3, and amendments thereto, as part of the tax return in which such credits*
9 *are claimed. Such credits shall not be denied solely on the basis of the*
10 *contents of the information provided by the taxpayer pursuant to section*
11 *3, and amendments thereto.*

12 Sec. 5. K.S.A. 2005 Supp. 79-32,117 is hereby amended to read as
13 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual
14 means such individual's federal adjusted gross income for the taxable year,
15 with the modifications specified in this section.

16 (b) There shall be added to federal adjusted gross income:

17 (i) Interest income less any related expenses directly incurred in the
18 purchase of state or political subdivision obligations, to the extent that
19 the same is not included in federal adjusted gross income, on obligations
20 of any state or political subdivision thereof, but to the extent that interest
21 income on obligations of this state or a political subdivision thereof issued
22 prior to January 1, 1988, is specifically exempt from income tax under the
23 laws of this state authorizing the issuance of such obligations, it shall be
24 excluded from computation of Kansas adjusted gross income whether or
25 not included in federal adjusted gross income. Interest income on obli-
26 gations of this state or a political subdivision thereof issued after Decem-
27 ber 31, 1987, shall be excluded from computation of Kansas adjusted
28 gross income whether or not included in federal adjusted gross income.

29 (ii) Taxes on or measured by income or fees or payments in lieu of
30 income taxes imposed by this state or any other taxing jurisdiction to the
31 extent deductible in determining federal adjusted gross income and not
32 credited against federal income tax. This paragraph shall not apply to taxes
33 imposed under the provisions of K.S.A. 79-1107 or 79-1108, and amend-
34 ments thereto, for privilege tax year 1995, and all such years thereafter.

35 (iii) The federal net operating loss deduction.

36 (iv) Federal income tax refunds received by the taxpayer if the de-
37 duction of the taxes being refunded resulted in a tax benefit for Kansas
38 income tax purposes during a prior taxable year. Such refunds shall be
39 included in income in the year actually received regardless of the method
40 of accounting used by the taxpayer. For purposes hereof, a tax benefit
41 shall be deemed to have resulted if the amount of the tax had been de-
42 ducted in determining income subject to a Kansas income tax for a prior
43 year regardless of the rate of taxation applied in such prior year to the

- 1 Kansas taxable income, but only that portion of the refund shall be in-
2 cluded as bears the same proportion to the total refund received as the
3 federal taxes deducted in the year to which such refund is attributable
4 bears to the total federal income taxes paid for such year. For purposes
5 of the foregoing sentence, federal taxes shall be considered to have been
6 deducted only to the extent such deduction does not reduce Kansas tax-
7 able income below zero.
- 8 (v) The amount of any depreciation deduction or business expense
9 deduction claimed on the taxpayer's federal income tax return for any
10 capital expenditure in making any building or facility accessible to the
11 handicapped, for which expenditure the taxpayer claimed the credit al-
12 lowed by K.S.A. 79-32,177, and amendments thereto.
- 13 (vi) Any amount of designated employee contributions picked up by
14 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,
15 and amendments to such sections.
- 16 (vii) The amount of any charitable contribution made to the extent
17 the same is claimed as the basis for the credit allowed pursuant to K.S.A.
18 79-32,196, and amendments thereto.
- 19 (viii) The amount of any costs incurred for improvements to a swine
20 facility, claimed for deduction in determining federal adjusted gross in-
21 come, to the extent the same is claimed as the basis for any credit allowed
22 pursuant to K.S.A. 2005 Supp. 79-32,204 and amendments thereto.
- 23 (ix) The amount of any ad valorem taxes and assessments paid and
24 the amount of any costs incurred for habitat management or construction
25 and maintenance of improvements on real property, claimed for deduc-
26 tion in determining federal adjusted gross income, to the extent the same
27 is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203
28 and amendments thereto.
- 29 (x) Amounts received as nonqualified withdrawals, as defined by
30 K.S.A. 2005 Supp. 75-643, and amendments thereto, if, at the time of
31 contribution to a family postsecondary education savings account, such
32 amounts were subtracted from the federal adjusted gross income pur-
33 suant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and
34 amendments thereto, or if such amounts are not already included in the
35 federal adjusted gross income.
- 36 (xi) The amount of any contribution made to the same extent the
37 same is claimed as the basis for the credit allowed pursuant to K.S.A.
38 2005 Supp. 74-50,154, and amendments thereto.
- 39 (xii) For taxable years commencing after December 31, 2004,
40 amounts received as withdrawals not in accordance with the provisions
41 of K.S.A. 2005 Supp. 74-50,204, and amendments thereto, if, at the time
42 of contribution to an individual development account, such amounts were
43 subtracted from the federal adjusted gross income pursuant to paragraph

- 1 (xiii) of subsection (c), or if such amounts are not already included in the
2 federal adjusted gross income.
- 3 (c) There shall be subtracted from federal adjusted gross income:
- 4 (i) Interest or dividend income on obligations or securities of any
5 authority, commission or instrumentality of the United States and its pos-
6 sessions less any related expenses directly incurred in the purchase of
7 such obligations or securities, to the extent included in federal adjusted
8 gross income but exempt from state income taxes under the laws of the
9 United States.
- 10 (ii) Any amounts received which are included in federal adjusted
11 gross income but which are specifically exempt from Kansas income tax-
12 ation under the laws of the state of Kansas.
- 13 (iii) The portion of any gain or loss from the sale or other disposition
14 of property having a higher adjusted basis for Kansas income tax purposes
15 than for federal income tax purposes on the date such property was sold
16 or disposed of in a transaction in which gain or loss was recognized for
17 purposes of federal income tax that does not exceed such difference in
18 basis, but if a gain is considered a long-term capital gain for federal in-
19 come tax purposes, the modification shall be limited to that portion of
20 such gain which is included in federal adjusted gross income.
- 21 (iv) The amount necessary to prevent the taxation under this act of
22 any annuity or other amount of income or gain which was properly in-
23 cluded in income or gain and was taxed under the laws of this state for a
24 taxable year prior to the effective date of this act, as amended, to the
25 taxpayer, or to a decedent by reason of whose death the taxpayer acquired
26 the right to receive the income or gain, or to a trust or estate from which
27 the taxpayer received the income or gain.
- 28 (v) The amount of any refund or credit for overpayment of taxes on
29 or measured by income or fees or payments in lieu of income taxes im-
30 posed by this state, or any taxing jurisdiction, to the extent included in
31 gross income for federal income tax purposes.
- 32 (vi) Accumulation distributions received by a taxpayer as a beneficiary
33 of a trust to the extent that the same are included in federal adjusted
34 gross income.
- 35 (vii) Amounts received as annuities under the federal civil service
36 retirement system from the civil service retirement and disability fund
37 and other amounts received as retirement benefits in whatever form
38 which were earned for being employed by the federal government or for
39 service in the armed forces of the United States.
- 40 (viii) Amounts received by retired railroad employees as a supple-
41 mental annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1)
42 et seq.
- 43 (ix) Amounts received by retired employees of a city and by retired

1 employees of any board of such city as retirement allowances pursuant to
2 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter
3 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and
4 amendments thereto.

5 (x) For taxable years beginning after December 31, 1976, the amount
6 of the federal tentative jobs tax credit disallowance under the provisions
7 of 26 U.S.C. 280 C. For taxable years ending after December 31, 1978,
8 the amount of the targeted jobs tax credit and work incentive credit dis-
9 allowances under 26 U.S.C. 280 C.

10 (xi) For taxable years beginning after December 31, 1986, dividend
11 income on stock issued by Kansas Venture Capital, Inc.

12 (xii) For taxable years beginning after December 31, 1989, amounts
13 received by retired employees of a board of public utilities as pension and
14 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249
15 and amendments thereto.

16 (xiii) For taxable years beginning after December 31, 2004, amounts
17 contributed to and the amount of income earned on contributions de-
18 posited to an individual development account under K.S.A. 2005 Supp.
19 74-50,201, et seq., and amendments thereto.

20 (xiv) For all taxable years commencing after December 31, 1996, that
21 portion of any income of a bank organized under the laws of this state or
22 any other state, a national banking association organized under the laws
23 of the United States, an association organized under the savings and loan
24 code of this state or any other state, or a federal savings association or-
25 ganized under the laws of the United States, for which an election as an
26 S corporation under subchapter S of the federal internal revenue code is
27 in effect, which accrues to the taxpayer who is a stockholder of such
28 corporation and which is not distributed to the stockholders as dividends
29 of the corporation.

30 (xv) For all taxable years beginning after December 31, ~~1999~~ 2004,
31 amounts not exceeding ~~\$2,000, or \$4,000~~ \$3,000, or \$6,000 for a married
32 couple filing a joint return, for each designated beneficiary which are
33 contributed to a family postsecondary education savings account estab-
34 lished under the Kansas postsecondary education savings program for the
35 purpose of paying the qualified higher education expenses of a designated
36 beneficiary at an institution of postsecondary education. For all taxable
37 years beginning after December 31, ~~2004~~ 2006, amounts not exceeding
38 \$3,000, or \$6,000 for a married couple filing a joint return, for each des-
39 ignated beneficiary which are contributed to a ~~family postsecondary ed-~~
40 ~~ucation savings account established under the Kansas postsecondary ed-~~
41 ~~ucation savings program~~ *a qualified tuition program established and*
42 *maintained by another state or agency or instrumentality thereof pursu-*
43 *ant to section 529 of the internal revenue code of 1986, as amended, for*

1 the purpose of paying the qualified higher education expenses of a des-
2 ignated beneficiary at an institution of postsecondary education. The
3 terms and phrases used in this paragraph shall have the meaning respec-
4 tively ascribed thereto by the provisions of K.S.A. 2005 Supp. 75-643, and
5 amendments thereto, and the provisions of such section are hereby in-
6 corporated by reference for all purposes thereof.

7 (xvi) For the tax year beginning after December 31, 2004, an amount
8 not exceeding \$500; for the tax year beginning after December 31, 2005,
9 an amount not exceeding \$600; for the tax year beginning after December
10 31, 2006, an amount not exceeding \$700; for the tax year beginning after
11 December 31, 2007, an amount not exceeding \$800; for the tax year
12 beginning December 31, 2008, an amount not exceeding \$900; and for
13 all taxable years commencing after December 31, 2009, an amount not
14 exceeding \$1,000 of the premium costs for qualified long-term care in-
15 surance contracts, as defined by subsection (b) of section 7702B of public
16 law 104-191.

17 (xvii) For all taxable years beginning after December 31, 2004,
18 amounts received by taxpayers who are or were members of the armed
19 forces of the United States, including service in the Kansas army and air
20 national guard, as a recruitment, sign up or retention bonus received by
21 such taxpayer as an incentive to join, enlist or remain in the armed services
22 of the United States, including service in the Kansas army and air national
23 guard, and amounts received for repayment of educational or student
24 loans incurred by or obligated to such taxpayer and received by such
25 taxpayer as a result of such taxpayer's service in the armed forces of the
26 United States, including service in the Kansas army and air national guard.

27 (xviii) For all taxable years beginning after December 31, 2004,
28 amounts received by taxpayers who are eligible members of the Kansas
29 army and air national guard as a reimbursement pursuant to K.S.A. 48-
30 281, and amendments thereto, and amounts received for death benefits
31 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to sec-
32 tion 1 or section 2 of chapter 207 of the 2005 session laws of Kansas, and
33 amendments thereto, to the extent that such death benefits are included
34 in federal adjusted gross income of the taxpayer.

35 (d) There shall be added to or subtracted from federal adjusted gross
36 income the taxpayer's share, as beneficiary of an estate or trust, of the
37 Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and
38 amendments thereto.

39 (e) The amount of modifications required to be made under this sec-
40 tion by a partner which relates to items of income, gain, loss, deduction
41 or credit of a partnership shall be determined under K.S.A. 79-32,131,
42 and amendments thereto, to the extent that such items affect federal
43 adjusted gross income of the partner.

1 Sec. 6. K.S.A. 2005 Supp. 79-32,143 is hereby amended to read as
2 follows: 79-32,143. (a) For net operating losses incurred in taxable years
3 beginning after December 31, 1987, a net operating loss deduction shall
4 be allowed in the same manner that it is allowed under the federal internal
5 revenue code except that such net operating loss may only be carried
6 forward to each of the 10 taxable years following the taxable year of the
7 net operating loss. For net operating farm losses, as defined by subsection
8 (i) of section 172 of the federal internal revenue code, incurred in taxable
9 years beginning after December 31, 1999, a net operating loss deduction
10 shall be allowed in the same manner that it is allowed under the federal
11 internal revenue code except that such net operating loss may be carried
12 forward to each of the 10 taxable years following the taxable year of the
13 net operating loss. The amount of the net operating loss that may be
14 carried back or forward for Kansas income tax purposes shall be that
15 portion of the federal net operating loss allocated to Kansas under this
16 act in the taxable year that the net operating loss is sustained.

17 (b) The amount of the loss to be carried back or forward will be the
18 federal net operating loss after (1) all modifications required under this
19 act applicable to the net loss in the year the loss was incurred; and (2)
20 after apportionment as to source in the case of corporations, nonresident
21 individuals for losses incurred in taxable years beginning prior to January
22 1, 1978, and nonresident estates and trusts in the same manner that in-
23 come for such corporations, nonresident individuals, estates and trusts is
24 required to be apportioned.

25 (c) If a net operating loss was incurred in a taxable year beginning
26 prior to January 1, 1988, the amount of the net operating loss that may
27 be carried back and carried forward and the period for which it may be
28 carried back and carried forward shall be determined under the provisions
29 of the Kansas income tax laws which were in effect during the year that
30 such net operating loss was incurred.

31 (d) If any portion of a net operating loss described in subsections (a)
32 and (b) is not utilized prior to the final year of the carryforward period
33 provided in subsection (a), a refund shall be allowable in such final year
34 in an amount equal to the refund which would have been allowable in
35 the taxable year the loss was incurred by utilizing the three year carryback
36 provided under K.S.A. 79-32,143, as in effect on December 31, 1987,
37 multiplied by a fraction, the numerator of which is the unused portion of
38 such net operating loss in the final year, and the denominator of which
39 is the amount of such net operating loss which could have been carried
40 back to the three years immediately preceding the year in which the loss
41 was incurred. In no event may such fraction exceed 1.

42 (e) Notwithstanding any other provisions of the Kansas income tax
43 act, the net operating loss as computed under subsections (a), (b) and (c)

1 of this section shall be allowed in full in determining Kansas taxable in-
2 come or at the option of the taxpayer allowed in full in determining Kansas
3 adjusted gross income.

4 (f) No refund of income tax which results from a net operating *farm*
5 loss carry back shall be allowed in an amount exceeding \$1,500 in any
6 year. ~~Any excess amount may be carried back or forward to any other~~
7 ~~year or years as provided by this section~~ *Any overpayment in excess of*
8 *\$1,500 may be carried forward to any year or years after the year of the*
9 *loss and may be claimed as a credit against the tax. The refundable portion*
10 *of such credit shall not exceed \$1,500 in any year.*

11 Sec. 7. K.S.A. 2005 Supp. 79-32,153 is hereby amended to read as
12 follows: 79-32,153. (a) For taxable years commencing after December 31,
13 1997, any taxpayer who shall invest in a qualified business facility, as
14 defined in subsection (b) of K.S.A. 79-32,154, and amendments thereto,
15 shall be allowed a credit for such investment, in an amount determined
16 under subsection (b) against the tax imposed by the Kansas income tax
17 act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-
18 252, and amendments thereto or the privilege tax as measured by net
19 income of financial institutions imposed pursuant to chapter 79, article
20 11 of the Kansas Statutes Annotated for the taxable year during which
21 commencement of commercial operations, as defined in subsection (f) of
22 K.S.A. 79-32,154, and amendments thereto, occurs at such qualified busi-
23 ness facility, and for each of the nine succeeding taxable years. No credit
24 shall be allowed under this section unless the number of qualified busi-
25 ness facility employees, as determined under subsection (d) of K.S.A. 79-
26 32,154, and amendments thereto, engaged or maintained in employment
27 at the qualified business facility as a direct result of the investment by the
28 taxpayer for the taxable year for which the credit is claimed equals or
29 exceeds two. Where an employee performs services for the taxpayer out-
30 side the qualified business facility, the employee shall be considered en-
31 gaged or maintained in employment at the qualified business facility if
32 (1) the employee's service performed outside the qualified business fa-
33 cility is incidental to the employee's service inside the qualified business
34 facility, or (2) the base of operations or, the place from which the service
35 is directed or controlled, is at the qualified business facility.

36 (b) The credit allowed by subsection (a) for any taxpayer who invests
37 in a qualified business facility shall be a portion of the tax, but not in
38 excess of 50% of such tax, otherwise imposed on or measured by the
39 taxpayer's qualified business facility income, as defined in subsection (g)
40 of K.S.A. 79-32,154, and amendments thereto, for the taxable year for
41 which such credit is allowed. Such portion shall be an amount equal to
42 the sum of the following:

43 (1) One hundred dollars for each qualified business facility employee

1 determined under K.S.A. 79-32,154, and amendments thereto; plus
2 (2) one hundred dollars for each \$100,000, or major fraction thereof
3 (which shall be deemed to be 51% or more), in qualified business facility
4 investment as determined under K.S.A. 79-32,154, and amendments
5 thereto.

6 (c) *For tax years commencing after December 31, 2005, any taxpayer*
7 *claiming credits pursuant to this section, as a condition for claiming and*
8 *qualifying for such credits, shall provide information pursuant to section*
9 *3, and amendments thereto, as part of the tax return in which such credits*
10 *are claimed. Such credits shall not be denied solely on the basis of the*
11 *contents of the information provided by the taxpayer pursuant to section*
12 *3, and amendments thereto.*

13 ~~(c)~~ (d) No credit shall be allowed under this section for investment
14 in a public utility, as such term is defined in K.S.A. 66-104, and amend-
15 ments thereto.

16 Sec. 8. K.S.A. 2005 Supp. 79-32,160a is hereby amended to read as
17 follows: 79-32,160a. (a) For taxable years commencing after December
18 31, 1999, any taxpayer who shall invest in a qualified business facility, as
19 defined in subsection (b) of K.S.A. 79-32,154, and amendments thereto,
20 and also meets the definition of a business in subsection (b) of K.S.A. 74-
21 50,114, and amendments thereto, shall be allowed a credit for such in-
22 vestment, in an amount determined under subsection (b) or (c), as the
23 case requires, against the tax imposed by the Kansas income tax act or
24 where the qualified business facility is the principal place from which the
25 trade or business of the taxpayer is directed or managed and the facility
26 has facilitated the creation of at least 20 new full-time positions, against
27 the premium tax or privilege fees imposed pursuant to K.S.A. 40-252,
28 and amendments thereto, or as measured by the net income of financial
29 institutions imposed pursuant to chapter 79, article 11 of the Kansas Stat-
30 utes Annotated, for the taxable year during which commencement of
31 commercial operations, as defined in subsection (f) of K.S.A. 79-32,154,
32 and amendments thereto, occurs at such qualified business facility. In the
33 case of a taxpayer who meets the definition of a manufacturing business
34 in subsection (d) of K.S.A. 74-50,114, and amendments thereto, no credit
35 shall be allowed under this section unless the number of qualified busi-
36 ness facility employees, as determined under subsection (d) of K.S.A. 79-
37 32,154, and amendments thereto, engaged or maintained in employment
38 at the qualified business facility as a direct result of the investment by the
39 taxpayer for the taxable year for which the credit is claimed equals or
40 exceeds two. In the case of a taxpayer who meets the definition of a
41 nonmanufacturing business in subsection (f) of K.S.A. 74-50,114, and
42 amendments thereto, no credit shall be allowed under this section unless
43 the number of qualified business facility employees, as determined under

1 subsection (d) of K.S.A. 79-32,154, and amendments thereto, engaged or
2 maintained in employment at the qualified business facility as a direct
3 result of the investment by the taxpayer for the taxable year for which the
4 credit is claimed equals or exceeds five. Where an employee performs
5 services for the taxpayer outside the qualified business facility, the em-
6 ployee shall be considered engaged or maintained in employment at the
7 qualified business facility if (1) the employee's service performed outside
8 the qualified business facility is incidental to the employee's service inside
9 the qualified business facility, or (2) the base of operations or, the place
10 from which the service is directed or controlled, is at the qualified busi-
11 ness facility.

12 (b) The credit allowed by subsection (a) for any taxpayer who invests
13 in a qualified business facility which is located in a designated nonmetro-
14 politan region established under K.S.A. 74-50,116, and amendments
15 thereto, on or after the effective date of this act, shall be a portion of the
16 income tax imposed by the Kansas income tax act on the taxpayer's Kansas
17 taxable income, the premium tax or privilege fees imposed pursuant to
18 K.S.A. 40-252, and amendments thereto, or the privilege tax as measured
19 by the net income of financial institutions imposed pursuant to chapter
20 79, article 11 of the Kansas Statutes Annotated, for the taxable year for
21 which such credit is allowed, but in the case where the qualified business
22 facility investment was made prior to January 1, 1996, not in excess of
23 50% of such tax. Such portion shall be an amount equal to the sum of
24 the following:

25 (1) Two thousand five hundred dollars for each qualified business
26 facility employee determined under K.S.A. 79-32,154, and amendments
27 thereto; plus

28 (2) one thousand dollars for each \$100,000, or major fraction thereof,
29 which shall be deemed to be 51% or more, in qualified business facility
30 investment, as determined under K.S.A. 79-32,154, and amendments
31 thereto.

32 (c) The credit allowed by subsection (a) for any taxpayer who invests
33 in a qualified business facility, which is not located in a nonmetropolitan
34 region established under K.S.A. 74-50,116, and amendments thereto, and
35 which also meets the definition of business in subsection (b) of K.S.A.
36 74-50,114, and amendments thereto, on or after the effective date of this
37 act, shall be a portion of the income tax imposed by the Kansas income
38 tax act on the taxpayer's Kansas taxable income, the premium tax or priv-
39 ilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto,
40 or the privilege tax as measured by the net income of financial institutions
41 imposed pursuant to chapter 79, article 11 of the Kansas Statutes An-
42 notated, for the taxable year for which such credit is allowed, but in the
43 case where the qualified business facility investment was made prior to

1 January 1, 1996, not in excess of 50% of such tax. Such portion shall be
2 an amount equal to the sum of the following:

3 (1) One thousand five hundred dollars for each qualified business
4 facility employee as determined under K.S.A. 79-32,154, and amend-
5 ments thereto; and

6 (2) one thousand dollars for each \$100,000, or major fraction thereof,
7 which shall be deemed to be 51% or more, in qualified business facility
8 investment as determined under K.S.A. 79-32,154, and amendments
9 thereto.

10 (d) The credit allowed by subsection (a) for each qualified business
11 facility employee and for qualified business facility investment shall be a
12 one-time credit. If the amount of the credit allowed under subsection (a)
13 exceeds the tax imposed by the Kansas income tax act on the taxpayer's
14 Kansas taxable income, the premium tax and privilege fees imposed pur-
15 suant to K.S.A. 40-252, and amendments thereto, or the privilege tax as
16 measured by the net income of financial institutions imposed pursuant to
17 chapter 79, article 11 of the Kansas Statutes Annotated for the taxable
18 year, or in the case where the qualified business facility investment was
19 made prior to January 1, 1996, 50% of such tax imposed upon the amount
20 which exceeds such tax liability or such portion thereof may be carried
21 over for credit in the same manner in the succeeding taxable years until
22 the total amount of such credit is used. Except that, before the credit is
23 allowed, a taxpayer, who meets the definition of a manufacturing business
24 in subsection (d) of K.S.A. 74-50,114, and amendments thereto, shall
25 recertify annually that the net increase of a minimum of two qualified
26 business facility employees has continued to be maintained and a tax-
27 payer, who meets the definition of a nonmanufacturing business in sub-
28 section (f) of K.S.A. 74-50,114, and amendments thereto, shall recertify
29 annually that the net increase of a minimum of five qualified business
30 employees has continued to be maintained.

31 (e) Notwithstanding the foregoing provisions of this section, any tax-
32 payer qualified and certified under the provisions of K.S.A. 74-50,131,
33 and amendments thereto; which, prior to making a commitment to invest
34 in a qualified Kansas business, has filed a certificate of intent to invest in
35 a qualified business facility in a form satisfactory to the secretary of com-
36 merce; and that has received written approval from the secretary of com-
37 merce for participation and has participated, during the tax year for which
38 the exemption is claimed, in the Kansas industrial training, Kansas in-
39 dustrial retraining or the state of Kansas investments in lifelong learning
40 program or is eligible for the tax credit established in K.S.A. 74-50,132,
41 and amendments thereto, shall be entitled to a credit in an amount equal
42 to 10% of that portion of the qualified business facility investment which
43 exceeds \$50,000 in lieu of the credit provided in subsection (b)(2) or (c)(2)

1 without regard to the number of qualified business facility employees
2 engaged or maintained in employment at the qualified business facility.
3 The credit allowed by this subsection shall be a one-time credit. If the
4 amount thereof exceeds the tax imposed by the Kansas income tax act on
5 the taxpayer's Kansas taxable income or the premium tax or privilege fees
6 imposed pursuant to K.S.A. 40-252, and amendments thereto, or the priv-
7 ilege tax as measured by net income of financial institutions imposed
8 pursuant to chapter 79, article 11 of the Kansas Statutes Annotated for
9 the taxable year, the amount thereof which exceeds such tax liability may
10 be carried forward for credit in the succeeding taxable year or years until
11 the total amount of the tax credit is used, except that no such tax credit
12 shall be carried forward for deduction after the 10th taxable year suc-
13 ceeding the taxable year in which such credit initially was claimed and no
14 carry forward shall be allowed for deduction in any succeeding taxable
15 year unless the taxpayer continued to be qualified and was recertified for
16 such succeeding taxable year pursuant to K.S.A. 74-50,131, and amend-
17 ments thereto.

18 *(f) For tax years commencing after December 31, 2005, any taxpayer*
19 *claiming credits pursuant to this section, as a condition for claiming and*
20 *qualifying for such credits, shall provide information pursuant to section*
21 *3, and amendments thereto, as part of the tax return in which such credits*
22 *are claimed. Such credits shall not be denied solely on the basis of the*
23 *contents of the information provided by the taxpayer pursuant to section*
24 *3, and amendments thereto.*

25 ~~(g)~~ (g) This section and K.S.A. 79-32,160b, and amendments thereto,
26 shall be part of and supplemental to the job expansion and investment
27 credit act of 1976 and acts amendatory thereof and supplemental thereto.

28 Sec. 9. K.S.A. 79-32,202 is hereby amended to read as follows: 79-
29 32,202. (a) For all taxable years commencing after December 31, ~~1996~~
30 ~~2005~~, and in addition to the credit provided in subsection (b), there shall
31 be allowed as a credit against the tax liability of a resident individual
32 imposed under the Kansas income tax act an amount equal to: (1) 25%
33 of the amount of the credit allowed against such taxpayer's federal income
34 tax liability pursuant to section 23 determined without regard to subsec-
35 tion (c) thereof of the federal internal revenue code; (2) in addition to
36 subsection (a)(1), 25% of the amount of such federal income tax credit, if
37 the child adopted by the taxpayer was a resident of Kansas prior to such
38 lawful adoption; and (3) and in addition to subsections (a)(1) and (a)(2),
39 25% of the amount of such federal income tax credit, if the child adopted
40 by the taxpayer is a child with special needs, as defined in section 23 of
41 the federal internal revenue code, and the child was a resident of Kansas
42 prior to such lawful adoption, for the taxable year in which such credit
43 was claimed against the taxpayer's federal income tax liability.

1 (b) For all taxable years commencing after December 31, 1996, there
2 shall be allowed as a credit against the tax liability of a resident individual
3 imposed under the Kansas income tax act an amount equal to \$1,500 for
4 the taxable year in which occurs the lawful adoption of a child in the
5 custody of the secretary of social and rehabilitation services or a child
6 with special needs, whether or not such individual is reimbursed for all
7 or part of qualified adoption expenses or has received a public or private
8 grant therefor. As used in this subsection, terms and phrases shall have
9 the meanings ascribed thereto by the provisions of section 23 of the fed-
10 eral internal revenue code. No credit shall be allowed under subsection
11 (a) for any qualified adoption expenses incurred in the adoption of a child
12 described by this subsection.

13 (c) The credit allowed by subsections (a) and (b) shall not exceed the
14 amount of the tax imposed by K.S.A. 79-32,110, and amendments thereto,
15 reduced by the sum of any other credits allowable pursuant to law. If the
16 amount of such tax credit exceeds the taxpayer's income tax liability for
17 such taxable year, the amount thereof which exceeds such tax liability may
18 be carried over for deduction from the taxpayer's income tax liability in
19 the next succeeding taxable year or years until the total amount of the tax
20 credits has been deducted from tax liability, ~~except that no such tax credit~~
21 ~~shall be carried over for deduction after the fifth taxable year succeeding~~
22 ~~the taxable year in which the credit was claimed.~~

23 Sec. 10. K.S.A. 74-50,132 and 79-32,202 and K.S.A. 2005 Supp. 79-
24 32,117, 79-32,143, 79-32,153 and 79-32,160a are hereby repealed.

25 Sec. 11. This act shall take effect and be in force from and after its
26 publication in the statute book.