

Substitute for HOUSE BILL No. 2640

By Committee on Taxation

2-21

9 AN ACT concerning income taxation; relating to credits; capital invest-
10 ments in businesses located in certain cities damaged by a disaster;
11 refunds.
12

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

14 Section 1. (a) Subject to limitations contained herein, for tax years
15 2007, 2008, 2009 and 2010, any taxpayer who makes a capital investment
16 in a business which is located in the city of Chanute, Coffeyville, Erie,
17 Fredonia, Greensburg, Independence, Iola, Neodesha or Osawatomie,
18 Kansas, or within one mile of the city limits of any such city as long as
19 such business is located in Kansas, when such investment is made within
20 three years of the date of the occurrence of the disaster which is the
21 subject of major disaster declaration DR 1699 or DR 1711 as the case
22 may be shall be allowed a credit not to exceed 10% of such investment
23 against the tax imposed by the Kansas income tax act, the premium tax
24 or privilege fees imposed pursuant to K.S.A. 40-252, and amendments
25 thereto, or the privilege tax as measured by the net income of financial
26 institutions imposed pursuant to article 11 of chapter 79 of the Kansas
27 Statutes Annotated, and amendments thereto. The total amount of credit
28 allowed pursuant to this section for any one taxpayer shall not exceed
29 \$100,000. The amount of credit allowed under this section shall be re-
30 duced by an amount equal to any assistance payment received by the
31 taxpayer pursuant to the provisions of K.S.A. 75-3713e, and amendments
32 thereto, or an assistance payment received by the taxpayer pursuant to
33 the southeast Kansas business restoration assistance program as approved
34 by the state finance council for the same investment as provided in this
35 section. Notwithstanding any other provision of law, no taxpayer shall
36 claim more than one credit allowed under this subsection for the same
37 investment as provided in this section. If the amount of the tax credit
38 determined under this section exceeds the income, privilege or premium
39 tax liability for the taxpayer for any taxable year in which the qualified
40 investment is made, the amount thereof which exceeds such tax liability
41 may be carried over for deduction from such taxpayer's income, privilege
42 or premium tax liability in the next succeeding year or years until the total
43 amount of the credit has been deducted from tax liability, except that no

1 such credit shall be carried over for deduction after the 10th taxable year
2 succeeding the taxable year in which the qualified investment was made.

3 (b) (1) For tax years 2007, 2008, 2009 and 2010, a taxpayer may re-
4 ceive a refund of tax liability in lieu of the credit provided in this act. The
5 refund shall be in an amount up to 50% of the credit earned by the
6 taxpayer. The amount of refund allowed under this subsection shall be
7 reduced by an amount equal to any assistance payment received by the
8 taxpayer pursuant to the provisions of K.S.A. 75-3713e, and amendments
9 thereto, or an assistance payment received by the taxpayer pursuant to
10 the southeast Kansas business restoration assistance program as approved
11 by the state finance council for the same investment as provided in this
12 section. Notwithstanding any other provision of law, no taxpayer shall
13 claim more than one credit or refund allowed under this subsection for
14 the same investment.

15 (2) A claim for refund shall be made prior to the taxpayer claiming
16 any credit on which the refund is based. Should the taxpayer elect to
17 receive the cash in lieu of the credit, the remaining portion of the tax
18 credit shall be lost. Any refund pursuant to this subsection shall be al-
19 lowed against the tax liability imposed under the Kansas income tax act,
20 the premium tax or privilege fees imposed pursuant to K.S.A. 40-252,
21 and amendments thereto, and the privilege tax as measured by net income
22 of financial institutions imposed pursuant to article 11 of chapter 79 of
23 the Kansas Statutes Annotated in the tax year the qualified investment is
24 placed into service. The amount of such refund which exceeds such tax
25 liability shall be refunded to the taxpayer.

26 (3) The secretary of revenue shall submit an annual report to the
27 legislature detailing taxpayers that have made the election to receive a
28 refund in lieu of the credit. The annual report shall provide the aggregate
29 amount of such refunds. Such report shall be due during the legislative
30 session, commencing with the 2009 legislative session.

31 (c) As used in this section, "capital investment" means an investment
32 in the construction, equipment, reconstruction, maintenance, repair, en-
33 largement, furnishing or remodeling of real property, and the purchase,
34 lease or repair of tangible personal property. A "capital investment" shall
35 not include inventory or property held for sale in the ordinary course of
36 business.

37 (d) The secretary of revenue shall adopt rules and regulations to carry
38 out the provisions of this act.

39 Sec. 2. This act shall take effect and be in force from and after its
40 publication in the Kansas register.