

Approved Wednesday, March 22, 1989
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

The meeting was called to order by Senator Audrey Langworthy, Vice Chairperson at
Chairperson

11:00 a.m./~~p.m.~~ on Thursday, March 2, 1989 in room 519-s of the Capitol.

All members were present except:

Senator Dan Thiessen, Chairman (Excused)

Committee staff present:

Don Hayward, Revisor's Office
Chris Courtwright, Research Department
Tom Severn, Research Department
Marion Anzek, Committee Secretary

Conferees appearing before the committee:

Madam Chairperson called the meeting to order and said the agenda for today is SB42, SB178, SB283 and SB176. She asked the committee to turn their attention to SB42 and called on Senator Fred Kerr.

Senator Kerr said we have had quite a bit of testimony, committee discussion, and conversation on SB42; we also had Don Hayward do some suggested amendments to the bill. The problem that was brought to us was the case of large equipment that rented out on demonstration, and therefore was no longer inventory. Don Hayward has prepared a balloon to take care of that situation, narrowly drawn, so not to open up a loophole.

The Senator asked Don Hayward if he would read and explain that part to the committee.

Don Hayward said they went into the definition of "merchant" and added back the original language which was that tangible personal property has to be purchased for resale in ordinary course of business, without modification or change in form or substance, and without any intervening use. This is the language that makes an exception to the requirement "without any intervening use" except that, an incidental use, including but not limited to the rental or lease of any such property shall not be deemed to be an intervening use.

The new language that has been introduced in the bill in lines 40 and 41 has been struck, and in lines 44 to 48, we cleaned up and made certain the type of assets that were not to be included in inventory. These are capital assets that are subject to depreciation or cost recovery accounting for Federal Income Tax purposes, that are retired from regular use by it's owner and held for sale or is standby surplus equipment, and are not to be classified as inventory. He said Senator Kerr had indicated he would like to insert the word "primarily" on line 30, after the word purchases, and on line 39, insert the word "primarily" after the word "are". Att. I

Senator Kerr said the idea is not to violate the status of inventory by having the incidental use of renting or leasing allowed. Therefore the idea of this language is not to allow the regular rental business, such as video or car renting, to get the exempt status.

Don Hayward said the old law was considerably different than the language that was passed last year in SB453. (ATTACHMENT 2)

Senator Fred Kerr moved to adopt amendment in SB42, by inserting "primarily" in line 30 after "purchased, and insert "primarily" on line 39 after "are", seconded by Senator Karr. The motion carried.

Senator Fred Kerr moved to favorably pass SB42 as amended, seconded by Senator Petty. The motion carried.

Madam Chairperson turned attention to SB178, and she said this is the 2nd community college bill. It provides exemption from ad valorem taxes, which would continue after the industrial revenue bonds are paid off, if the title to the facility constructed with industrial revenue bonds remains in the name of the community college or public institution. Madam Chairperson asked Don Hayward to explain the amendments to SB178.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

room 519-S, Statehouse, at 11:00 a.m./~~p.m.~~ on Thursday, March 2, 1989.

Don Hayward explained the amendment (ATTACHMENT 3) and said instead of inserting the amendments, on line 63, they should be inserted on line 71. What the amendment does is restrict only to industrial revenue bonds, used primarily for academic or vocational education programs designed for and operated under contract with private industry, located upon land of an institution, as long as the title to the land stays with the institution, and this is defined in SB177-sub-section B.

Senator Fred Kerr moved to amend into SB178, in line 62, by striking all after "issued", and inserting a period; by striking all in lines 63 to 66, inclusive; in line 71, before the period by inserting", except that, with respect to any industrial training center used primarily for academic or vocational education programs designed for and operated under contract with private industry located upon land of an institution, as defined by K.S.A. 79-6a13, and amendments thereto, such exemption from taxation shall not terminate upon expiration of such 10-year period but shall continue in effect for so long as fee simple title to the land upon which any such property is located is vested in an institution, as defined by K.S.A. 79-6a13, and amendments thereto", in line 78, before "such" by inserting ", with respect to any industrial training center used primarily for academic or vocational education programs designed for and operated under contract with private industry located upon land of an institution, as defined by K.S.A. 79-6a-13, and amendments thereto,"; in line 81, by striking all after "in" and inserting "an institution, as defined by K.S.A. 796a-13, and amendments thereto.", seconded by Senator Petty. The motion to amend carried.

Senator Kerr moved to pass SB178 favorably as amended, Seconded by Senator Petty. The motion carried.

Madam Chairperson moved attention to SB283 and said this is the bill that would raise the threshold on those eligible for credits, for adjusting for handicapped accessibility. She passed a memorandum from the Department of Revenue showing the fiscal impact. (ATTACHMENT 4)

Senator Petty moved to adopt SB283 favorably for passage, seconded by Senator Karr. The motion carried.

Madam Chairperson turned attention to SB176. She passed out the amendments that were suggested by Wayne Sims of Wyandotte House in Kansas City, Kansas, and asked Don Hayward to review the amendments for the committee.

Don Hayward said the first change in the bill "impoverished area", was deleted and "Kansas" inserted throughout the bill, on lines 77 through 82. The approval of the proposals for neighborhood assistance programs by the local governments was deleted; on line 84. "invested" was deleted, and "contributed" was inserted. They also asked that the carried "forward be allowed until the total amount of the credit is used", and they also put in an "aggregate limit for any fiscal year for \$5M", they also asked for New Section 5 be deleted, and a new section be inserted, putting the approval of the proposal in the hands of the Director of the Division of Industrial Development of the Department of Commerce. (ATTACHMENT 5)

There was committee discussion regarding the aggregate cap, rather than limiting a contribution to \$50,000, and there were concerns about the impact on local governments.

Madam Chairperson adjourned the meeting at 12:00 noon saying we will meet tomorrow.

* On Wednesday, March 22, 1989, a member requested that the tape from the meeting be part of the minutes to be turned in to Legislative Service's at the end of the session, for permanent record.

SENATE BILL No. 42

By Senator Salisbury

1-17

Attachment 1
Senate Assessment and Taxation
Thursday, March 2, 1989

16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

AN ACT relating to property taxation; concerning the exemption of merchants' inventory; amending K.S.A. 1988 Supp. 79-201m and repealing the existing section.

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

Section 1. K.S.A. 1988 Supp. 79-201m is hereby amended to read as follows: 79-201m. To the extent herein specified, merchants' and manufacturers' inventory shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas.

As used in this section:

(a) "Merchant" means and includes every person, company or corporation who shall own or hold, subject to their control, any tangible personal property within this state which shall have been purchased for resale ~~without modification or change in form or substance, and without any intervening use~~ regardless of whether or not there is an intervening use of such property including the lease thereof;

in the ordinary course of business without modification or change in form or substance, and without any intervening use, except that, an incidental use, including but not limited to the rental or lease of any such property, shall not be deemed to be an intervening use

(b) "manufacturer" means and includes every person, company or corporation who is engaged in the business of transforming, refining or combining materials and labor to convert tangible personal property from one form to another including packaging; and

(c) "inventory" means and includes those items of tangible personal property that: (1) Are held for sale in the ordinary course of business ~~regardless of whether or not there is an intervening use of such property including the lease thereof~~ (finished goods); (2) are in process of production for such sale (work in process); or (3) are to be consumed either directly or indirectly in the production of finished goods (raw materials and supplies). Assets subject to depre-

A capital asset

45 ciation or cost recovery accounting for federal income tax purposes
46 ~~shall not be classified as inventory. A depreciable asset~~ that is retired
47 from regular use and held for sale or as standby or ~~as~~ surplus equip-
48 ment shall not be classified as inventory.

by its owner

49 The provisions of this section shall apply to all taxable years com-
50 mencing after December 31, 1988.

by such owner

51 Sec. 2. K.S.A. 79-201m is hereby repealed.

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

79-1001. Definitions. As used in this act: (a) The word "merchant" shall mean and include every person, company or corporation who shall own or hold, subject to his or her control, any personal property within this state, which shall have been purchased with a view of being sold at an advanced price or profit, or which shall have been consigned to him or her for the purpose of being so sold.

(b) The word "inventory" shall mean and include all personal property owned or held, subject to the control of a merchant, which shall have been purchased by him or her with a view of being sold at an advanced price or profit, or which shall have been consigned to him or her for the purpose of being so sold.

79-1005. Manufacturers annual personal property statement; how average amount determined. (a) Every person, company or corporation who shall hold or purchase personal property for the purpose of adding to the value thereof by any process of manufacturing, refining or by the combination of different materials, shall be held to be a manufacturer.

Senate A 4

PAS178L

Committee Report
Proposed amendment to SB 178

~~ADA~~
~~ADA~~

On page 2, in line 62, by striking all after "issued" and inserting a period; by striking all in lines 63 to 66, inclusive; in line 71, before the period by inserting ", except that, with respect to any industrial training center used primarily for academic or vocational education programs designed for and operated under contract with private industry located upon land of an institution, as defined by K.S.A. ⁷⁹79-6a13, and amendments thereto, such exemption from taxation shall not terminate upon expiration of such 10-year period but shall continue in effect for so long as fee simple title to the land upon which any such property is located is vested in an institution, as defined by K.S.A. ⁷⁹79-6a13, and amendments thereto"; in line 78, before "such" by inserting ", with respect to any industrial training center used primarily for academic or vocational education programs designed for and operated under contract with private industry located upon land of an institution, as defined by K.S.A. 79-6a13, and amendments thereto,"; in line 81, by striking all after "in" and inserting "an institution, as defined by K.S.A. 79-6a13, and amendments thereto."

Be passed as amended

MEMORANDUM

TO: Mr. Michael O'Keefe, Director
Division of Budget

DATE: February 27, 1989

FROM: Kansas Department of Revenue

RE: Senate Bill 283
As Introduced

BRIEF OF BILL:

Senate Bill 283, as introduced, amends K.S.A. 79-32,176 by providing new Kansas adjusted gross income brackets and percentages of handicapped accessibility expenditures that would be allowed as a credit against Kansas income tax. The provisions of this act would be applicable to all tax years commencing after December 31, 1988.

The effective date of this bill is July 1, 1989.

FISCAL IMPACT:

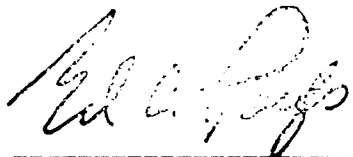
Passage of this bill could slightly reduce Fiscal Year 1990 State General Fund revenues.

In tax year 1985 only two handicapped accessibility credits totaling \$600 were claimed.

ADMINISTRATIVE IMPACT:

It is estimated that the Department of Revenue will be able to absorb any additional workload generated by this legislation with existing resources and without additional funding.

APPROVED BY:



Ed C. Rolfs
Secretary of Revenue

SENATE BILL No. 176

By Senators Langworthy and Bond

2-7

15 AN ACT relating to income taxation; authorizing credits for certain
 16 expenditures or contributions for certain community improvement
 17 programs against income tax for certain businesses and the priv-
 18 ilege tax on financial institutions; amending K.S.A. 1988 Supp. 79-
 19 32,120 and 79-32,138 and repealing the existing sections.
 20

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

22 New Section 1. This act shall be known and may be cited as
 23 the "neighborhood assistance tax credit act."

24 New Sec. 2. As used in this act, the following words and phrases
 25 shall have the meanings ascribed to them herein: (a) "Business firm"
 26 means any business entity authorized to do business in the state of
 27 Kansas which is subject to the state income tax imposed by the
 28 provisions of the Kansas income tax act, or any national banking
 29 association, state bank, trust company or savings and loan association
 30 paying an annual tax on its net income pursuant to article 11 of
 31 chapter 79 of the Kansas Statutes Annotated;

32 (b) "community services" means any type of counseling and ad-
 33 vice, emergency assistance or medical care furnished to individuals
 34 or groups in ~~an impoverished area~~ Kansas

35 (c) "crime prevention" means any activity which aids in the re-
 36 duction of crime in an impoverished area;

37 (d) "education" means any type of scholastic instruction or schol-
 38 arship assistance to an individual who resides in ~~an impoverished~~ Kansas
 39 ~~area~~ that enables such individual to prepare for better life
 40 opportunities;

41 ~~(e) "impoverished area" means any area designated by a city or~~
~~county as a "blighted area," as defined in K.S.A. 17-4760, and~~
~~amendments thereto;~~

44 (f) "job training" means any type of instruction to an individual (e)

Attachment 5
 Senate Assessment and Taxation
 Thursday, March 2, 1989

Kansas

45 who resides in ~~an impoverished area~~ that enables such individual to
46 acquire vocational skills so that such individual can become em-
47 ployable or be able to seek a higher grade of employment;

(f)

48 ~~(g)~~ "neighborhood assistance" means furnishing financial assist-
49 ance, labor, material and technical advice to aid in the physical
50 improvement of any part or all of ~~an impoverished area~~;

a neighborhood

(g)

51 ~~(h)~~ "neighborhood organization" means any organization perform-
52 ing community services in ~~an impoverished area~~ and which: (1) Has
53 obtained a ruling from the internal revenue service of the United
54 States department of the treasury that such organization is exempt
55 from income taxation under the provisions of section 501(c)(3) of the
56 federal internal revenue code; or

Kansas

57 (2) is incorporated in the state of Kansas as a non-stock, nonprofit
58 corporation; or

59 (3) has been designated as a community development corporation
60 by the United States government under the provisions of title VII
61 of the economic opportunity act of 1964.

Kansas

62 New Sec. 3. Any business firm which engages in the activities
63 of providing neighborhood assistance, job training or education for
64 individuals, community services or crime prevention in ~~an impov-~~
65 ~~erished area~~ either directly, or through contributions to a neigh-
66 borhood organization, shall be allowed a credit, as provided in section
67 4, against the tax imposed by the Kansas income tax act, or the tax
68 on net income of national banking associations, state banks, trust
69 companies or savings and loan associations imposed under article 11
70 of chapter 79 of the Kansas Statutes Annotated, if the proposal for
71 furnishing neighborhood assistance, job training, community services
72 or crime prevention is approved by the governing body of the city
73 or county in which such business firm or neighborhood organization
74 to which contributions are being made, is engaging in such activities.
75 The proposal shall set forth the program to be conducted, ~~the im-~~
76 ~~poverished area selected,~~ the estimated amount to be invested in
77 the program and the plans for implementing the program. ~~The gov-~~
78 ~~erning body of the city or county required to approve a proposal~~
79 ~~shall adopt, by resolution, regulations setting forth guidelines and~~
80 ~~standards required for the approval of proposals by business firms~~
81 ~~No proposal shall be approved until such regulations have been.~~

82 approved by the state secretary of revenue.

83 New Sec. 4. The amount of credit allowed pursuant to section
84 3 shall not exceed 50% of the total amount invested during the
85 taxable year by the business firm in programs approved pursuant to
86 section 3 or 50% of the total amount contributed to a neighborhood
87 organization for such purposes. Such tax credit shall not exceed
88 \$50,000 in any taxable year. No tax credit shall be granted to any
89 bank, bank and trust company, trust company, national bank, savings
90 and loan association or building and loan association for activities
91 that are a part of its normal course of business. Any tax credit not
92 used for the taxable year the investment or contribution was made
93 may not be carried over to any succeeding taxable year.

contributed

forward until the total amount of the credit is used

In no event shall the total amount of credits allowed under this section exceed \$5,000,000 for any one fiscal year.

94 New Sec. 5. The decision of the governing body of a city or
95 county to approve or disapprove a proposal pursuant to section 3
96 shall be in writing, and if such proposal is approved, a copy of the
97 approval of the governing body shall be transmitted to the secretary
98 of revenue.

The director of the division of industrial development of the department of commerce shall annually approve the proposal of the business firm, except that, no proposal shall be approved which does not have the endorsement of the agency of local government within the area in which the business firm is engaging in such activities which has adopted an overall community or neighborhood development plan. The proposal shall set forth the program to be conducted, the neighborhood area to be served, why the program is needed, the estimated amount to be invested in the program and the plans for implementing the program. The director is hereby authorized to promulgate rules and regulations for establishing criteria for evaluating such proposals by business firms for approval or disapproval and for establishing priorities for approval or disapproval of such proposals by business firms with the assistance and approval of the director of the department of revenue.

99 Sec. 6. K.S.A. 1988 Supp. 79-32,120 is hereby amended to read
100 as follows: 79-32,120. (a) If federal taxable income of an individual
101 is determined by itemizing deductions from such individual's federal
102 adjusted gross income, such individual may elect to deduct the Kan-
103 sas itemized deduction in lieu of the Kansas standard deduction.
104 The Kansas itemized deduction of an individual means the total
105 amount of deductions from federal adjusted gross income, other than
106 federal deductions for personal exemptions, as provided in the federal
107 internal revenue code with the modifications specified in this section.

108 (b) The total amount of deductions from federal adjusted gross
109 income shall be reduced by the total amount of income taxes imposed
110 by or paid to this state or any other taxing jurisdiction to the extent
111 that the same are deducted in determining the federal itemized
112 deductions, *by the amount of any charitable contribution made to*
113 *the extent the same is claimed as a basis for the credit allowed*
114 *pursuant to section 3 and by the amount of all depreciation deduc-*
115 *tions claimed for any real or tangible personal property upon which*
116 *the deduction allowed by K.S.A. 79-32,168, and amendments*
117 *thereto, is or has been claimed.*

118 (c) The total amount of deductions from federal adjusted gross

119 income shall be increased by the amount for the amortization de-
120 duction for a solar energy system allowed pursuant to K.S.A. 79-
121 32,168, and amendments thereto and for taxable year 1987, all un-
122 reimbursed employee business expenses allowable as a miscellaneous
123 itemized deduction pursuant to section 67 of the federal internal
124 revenue code except such expenses claimed as an itemized deduction
125 pursuant to K.S.A. 79-32,120, and amendments thereto.

26 Sec. 7. K.S.A. 1988 Supp. 79-32,138 is hereby amended to read
27 as follows: 79-32,138. (a) Kansas taxable income of a corporation
128 taxable under this act shall be the corporation's federal taxable in-
129 come for the taxable year with the modifications specified in this
130 section.

131 (b) There shall be added to federal taxable income: (i) The same
132 modifications as are set forth in subsection (b) of K.S.A. 79-32,117,
133 and amendments thereto, with respect to resident individuals.

134 (ii) The amount of all depreciation deductions claimed for any
135 real or tangible personal property upon which the deduction is al-
136 lowed by K.S.A. 79-32,161, and amendments thereto.

137 (iii) The amount of all depreciation deductions claimed for any
138 property upon which the deduction allowed by K.S.A. 79-32,168,
139 and amendments thereto, is claimed.

140 (iv) The amount of any charitable contribution deduction claimed
141 for any contribution or gift to or for the use of any racially segregated
142 educational institution.

143 (v) *The amount of any charitable contribution made to the extent*
144 *the same is claimed as a basis for the credit allowed pursuant to*
145 *section 3.*

146 (c) There shall be subtracted from federal taxable income: (i) The
147 same modifications as are set forth in subsection (c) of K.S.A. 79-
148 32,117, and amendments thereto, with respect to resident
149 individuals.

150 (ii) The federal income tax liability for any taxable year com-
151 mencing prior to December 31, 1971, for which a Kansas return
2 was filed after reduction for all credits thereon, except credits for
3 payments on estimates of federal income tax, credits for gasoline and
154 lubricating oil tax, and for foreign tax credits if, on the Kansas income
155 tax return for such prior year, the federal income tax deduction was

156 computed on the basis of the federal income tax paid in such prior
157 year, rather than as accrued. Notwithstanding the foregoing, the
158 deduction for federal income tax liability for any year shall not exceed
159 that portion of the total federal income tax liability for such year
160 which bears the same ratio to the total federal income tax liability
161 for such year as the Kansas taxable income, as computed before any
162 deductions for federal income taxes and after application of subsec-
163 tions (d) and (e) of this section as existing for such year, bears to
164 the federal taxable income for the same year.

165 (iii) An amount for amortization of the amortizable costs of a
166 certified oil production process as computed under K.S.A. 79-32,161,
167 and amendments thereto.

168 (iv) An amount for the amortization deduction for a solar energy
169 system allowed pursuant to K.S.A. 79-32,168, and amendments
170 thereto.

171 (v) For all taxable years commencing after December 31, 1987,
172 the amount included in federal taxable income pursuant to the pro-
173 visions of section 78 of the internal revenue code.

174 (vi) For all taxable years commencing after December 31, 1987,
175 80% of dividends from corporations incorporated outside of the
176 United States or the District of Columbia which are included in
177 federal taxable income.

178 (d) If any corporation derives all of its income from sources within
179 Kansas in any taxable year commencing after December 31, 1979,
180 its Kansas taxable income shall be the sum resulting after application
181 of subsections (a) through (c) hereof. Otherwise, such corporation's
182 Kansas taxable income in any such taxable year, after excluding any
183 refunds of federal income tax and before the deduction of federal
184 income taxes provided by subsection (c)(ii) shall be allocated as pro-
185 vided in K.S.A. 79-3271 to K.S.A. 79-3293, inclusive, and amend-
186 ments thereto, plus any refund of federal income tax as determined
187 under paragraph (iv) of subsection (b) of K.S.A. 79-32,117, and
188 amendments thereto, and minus the deduction for federal income
189 taxes as provided by subsection (c)(ii) shall be such corporation's
190 Kansas taxable income.

191 (e) A corporation may make an election with respect to its first
192 taxable year commencing after December 31, 1982, whereby no

193 addition modifications as provided for in subsection (b)(ii) of K.S.A.
194 79-32,138 and subtraction modifications as provided for in subsection
195 (c)(iii) of K.S.A. 79-32,138, as those subsections existed prior to their
196 amendment by this act, shall be required to be made for such taxable
197 year.

198 New Sec. 8. The provisions of this act shall be applicable to all
199 taxable years beginning after December 31, 1988.

200 Sec. 9. K.S.A. 1988 Supp. 79-32,120 and 79-32,138 are hereby
1 repealed.

202 Sec. 10. This act shall take effect and be in force from and after
203 its publication in the statute book.

204