

STATE OF KANSAS

HOUSE OF REPRESENTATIVES

MR. CHAIRMAN:

I move to amend **House Substitute for SB 177**, on page 1, in line 15, by striking "2%" and inserting "3%"; in line 19, by striking "2%" and inserting "3%";

On page 2, in line 27, by striking "102%" and inserting "103%";

On page 3, by striking all in lines 14 through 43;

On page 4, by striking all in lines 1 through 18;

On page 10, by striking all in lines 13 through 34; in line 35, by striking "(xx)" and inserting "(xix)"; in line 36, by striking "(b)(xix) or"; in line 40, by striking "(xxi)" and inserting "(xx)"; in line 41, by striking "(b)(xix) or";

On page 11, in line 3, by striking "(xxii)" and inserting "(xxi)"; in line 4, by striking "(b)(xix) or"; in line 8, by striking "(xxiii)"; and inserting "(xxii)"; in line 9, by striking "(b)(xix) or";

On page 16, in line 10, after "(b)(xxi)" by striking the comma and inserting "and"; also in line 10, by striking "and (b) (xxiii)";

On page 17, by striking all in lines 21 through 43;

By striking all on pages 18 and 19;

On page 20, by striking all in lines 1 through 26; by striking all in line 43;

By striking all on pages 21 through 28;

On page 29, by striking all in lines 1 through 40;

On page 32, in line 39, by striking "250" and inserting "100";

On page 36, after line 29, by inserting the following:

"Sec. 15. K.S.A. 2011 Supp. 79-32,143a is hereby amended to read as follows: 79-32,143a (a)

For taxable years beginning after December 31, 2011, a taxpayer may elect to take an expense deduction from Kansas net income before expensing or recapture allocated or apportioned to this state for the cost of the following property placed in service in this state during the taxable year: (1) Tangible property eligible for depreciation under the modified accelerated cost recovery system in section 168 of the internal revenue code, as amended, but not including residential rental property, nonresidential real property, any railroad grading or tunnel bore or any other property with an applicable recovery period in excess of 25 years as defined under section 168(c) or (g) of the internal revenue code, as amended; and (2) computer software as defined in section 197(e)(3)(B) of the internal revenue code, as amended, and as described in section 197(e)(3)(A)(i) of the internal revenue code, as amended, to which section 167 of the internal revenue code, as amended, applies. If such election is made, the amount of expense deduction for such cost shall equal the difference between the depreciable cost of such property for federal income tax purposes and the amount of bonus depreciation being claimed for such property pursuant to section 168(k) of the internal revenue code, as amended, for federal income tax purposes in such tax year, but without regard to any expense deduction being claimed for such property under section 179 of the internal revenue code, as amended, multiplied by the applicable factor, determined by using, the table provided in subsection (f), based on the method of depreciation selected pursuant to section 168(b)(1), (2), or (3) or (g) of the internal revenue code, as amended, and the applicable recovery period for such property as defined under section 168(c) or (g) of the internal revenue code, as amended. This election shall be made by the due date of the original return, including any extensions, and may be made only for the taxable year in which the property is placed in service, and once made, shall be irrevocable. If the section 179 expense deduction election has been made for federal income tax purposes for any asset, the applicable factor to be utilized is in the IRC § 168 (b)(1) column of the table provided in subsection (f) for the applicable recovery period of the respective assets.

(b) If the amount of expense deduction calculated pursuant to subsection (a) exceeds the

taxpayer's Kansas net income before expensing or recapture allocated or apportioned to this state, such excess amount shall be treated as a Kansas net operating loss as provided in K.S.A. 79-32,143, and amendments thereto.

(c) If the property for which an expense deduction is taken pursuant to subsection (a) is subsequently sold during the applicable recovery period for such property as defined under section 168(c) of the internal revenue code, as amended, and in a manner that would cause recapture of any previously taken expense or depreciation deductions for federal income tax purposes, or if the situs of such property is otherwise changed such that the property is relocated outside the state of Kansas during such applicable recovery period, then the expense deduction determined pursuant to subsection (a) shall be subject to recapture and treated as Kansas taxable income allocated to this state. The amount of recapture shall be the Kansas expense deduction determined pursuant to subsection (a) multiplied by a fraction, the numerator of which is the number of years remaining in the applicable recovery period for such property as defined under section 168(c) or (g) of the internal revenue code, as amended, after such property is sold or removed from the state including the year of such disposition, and the denominator of which is the total number of years in such applicable recovery period.

(d) The situs of tangible property for purposes of claiming and recapture of the expense deduction shall be the physical location of such property. If such property is mobile, the situs shall be the physical location of the business operations from where such property is used or based. The situs of computer software shall be apportioned to Kansas based on the fraction, the numerator of which is the number of the taxpayer's users located in Kansas of licenses for such computer software used in the active conduct of the taxpayer's business operations, and the denominator of which is the total number of the taxpayer's users of the licenses for such computer software used in the active conduct of the taxpayer's business operations everywhere.

(e) Any member of a unitary group filing a combined report may elect to take an expense

deduction pursuant to subsection (a) for an investment in property made by any member of the combined group, provided that the amount calculated pursuant to subsection (a) may only be deducted from the Kansas net income before expensing or recapture allocated to or apportioned to this state by such member making the election.

(f) The following table shall be used in determining the expense deduction calculated pursuant to subsection (a):

IRC§168 Recover Period (year)	IRC§168(b)(1) Depreciation Method	Factors	
		IRC§168(b)(2) Depreciation Method	IRC§168(b)(3) or (g) Depreciation Method
2.5	*	.077	.092
3	.075	.091	.106
3.5	*	.102	.116
4	*	.114	.129
5	.116	.135	.150
6	*	.154	.170
6.5	*	.163	.179
7	.151	.173	.190
7.5	*	.181	.199
8	*	.191	.208
8.5	*	.199	.217
9	*	.208	.226
9.5	*	.216	.235
10	.198	.224	.244
10.5	*	.232	.252
11	*	.240	.261
11.5	*	.248	.269
12	*	.256	.277
12.5	*	.263	.285
13	*	.271	.293
13.5	*	.278	.300
14	*	.285	.308
15	*	.299	.323
16	*	.313	.337
16.5	*	.319	.344
17	*	.326	.351
18	*	.339	.365
19	*	.351	.378
20	*	.363	.391
22	*	.386	.415
24	*	.408	.438
25	*	.419	.449

*Not Applicable

(g) If a taxpayer elects to expense any investment pursuant to subsection (a), such taxpayer shall not be eligible for any tax credit, accelerated depreciation, or deduction for such investment allowed

pursuant to K.S.A. 2011 Supp. 79-32,160a(e), 79-32,182b, 79-32,201, 79-32,204, 79-32,211, 79-32,218, 79-32,221, 79-32,222, 79-32,224, 79-32,227, 79-32,229, 79-32,232, 79-32,234, 79-32,237, 79-32,239, 79-32,246, 79-32,249, 79-32,252, 79-32,255, 79-32,256 and 79-32,258, and amendments thereto.

(h) This deduction shall not be available to any taxpayer making a modification under subsection (c)(xxi) of K.S.A. 79-32,117, and amendments thereto.

Sec. 16. K.S.A. 2011 Supp. 79-32,266 is hereby amended to read as follows: 79-32,266. (a) For taxable years commencing after December 31, 2010, there shall be allowed as a credit against the tax liability of a resident individual taxpayer an amount equal to 95% of the resident individual's income tax liability under the provisions of the Kansas income tax act for Kansas source income received from a qualified company that is business income attributable to business activities conducted at the business facility, office, department or other operation relocated to Kansas when the taxpayer owns such qualified company and materially participates in such business activities conducted at such relocated business facility, office, department or other operation of such qualified company which qualified for benefits under the provisions of subsection (a)(1) of K.S.A. 74-50,212, and amendments thereto. A taxpayer shall be treated as materially participating in such qualified company's business activities conducted at such business facility, office, department or other operation relocated to Kansas only if the taxpayer is involved in such business activities of such qualified company on a basis which is regular, continuous and substantial. A taxpayer may claim the credit authorized by this section during any tax year in which the qualified company owned by the taxpayer qualifies for benefits under provisions of K.S.A. 74-50,212, and amendments thereto.

(b) Business income attributable to the business activities conducted at the business facility, office, department or other operation relocated to Kansas of a qualified company which qualified for benefits under the provisions of subsection (a)(1) of K.S.A. 74-50,212, and amendments thereto, shall

be determined by multiplying the business income of the company apportioned to this state by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three. For purposes of this subsection, the property factor is a fraction, the numerator of which is the average value of the company's real and tangible personal property owned or rented and used during the tax period at such relocated facility, office, department or other relocated operation in Kansas, and the denominator of which is the average value of the company's real and tangible personal property owned or rented and used within this state during the tax period. The payroll factor is a fraction, the numerator of which is the total amount paid during the tax period by the company for compensation at such relocated facility, office, department or other relocated operation in Kansas, and the denominator of which is the total compensation paid by the company in this state during the tax period. The sales factor is a fraction, the numerator of which is the total sales of the relocated facility, office, department or other relocated operation in this state during the tax period, and the denominator of which is the total sales of the company in this state during the tax period.

(c) This credit shall not be available to any taxpayer making a modification under (c)(xxi) of K.S.A. 79-32,117, and amendments thereto.

(d) The secretary of revenue shall adopt rules and regulations regarding the filing of documents that support the qualifications of the taxpayer for the credit claimed pursuant to this section.";

And by renumbering sections accordingly;

Also on page 36, in line 30, by striking "and 79-32,176"; also in line 30, by striking "40-"; in line 31, by striking "2246,"; in line 32, by striking "79-32,143, 79-32,197" and inserting "79-32,143a"; also in line 32, by striking "79-32,210, 79-3620,"; in line 33, by striking "79-3635, 79-3710" and inserting "79-32,266";

On page 1, in the title, in line 3, by striking all before "severance"; in line 4, by striking "and

79-32,176"; in line 5, by striking "40-2246,"; in line 6, by striking "79-32,143, 79-"; in line 7, by striking "32-197" and inserting "79-32,143a"; also in line 7, by striking "79-32,210, 79-3620, 79-3635, 79-3710" and inserting "79-32,266"

_____ District.