

**Senate Substitute for  
Substitute HOUSE BILL No. 2161**

By Committee on Assessment and Taxation

3-15

1 AN ACT concerning taxation; relating to earned income tax credit;  
2 homestead property tax refunds; amending K.S.A. 2011 Supp. 79-  
3 32,205, 79-4501, 79-4502, 79-4508, 79-4509, 79-4511 and 79-4522  
4 and repealing the existing sections.  
5

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

7 Section 1. K.S.A. 2011 Supp. 79-32,205 is hereby amended to read as  
8 follows: 79-32,205. (a) There shall be allowed as a credit against the tax  
9 liability of a resident individual imposed under the Kansas income tax act  
10 an amount equal to 18% for tax years 2010 through 2012, and an amount  
11 equal to 17% for tax year 2013, and all tax years thereafter, of the amount  
12 of the earned income credit allowed against such taxpayer's federal income  
13 tax liability pursuant to section 32 of the federal internal revenue code for  
14 the taxable year in which such credit was claimed against the taxpayer's  
15 federal income tax liability.

16 (b) ~~¶ Commencing in tax year 2012, and all tax years thereafter, the~~  
17 amount of the credit allowed by subsection (a) ~~exceeds shall not exceed~~  
18 the taxpayer's income tax liability imposed under the Kansas income tax  
19 act, ~~such excess amount shall be refunded to the taxpayer reduced by the~~  
20 ~~sum of any other credits allowable against the tax liability of the taxpayer~~  
21 ~~pursuant to law.~~

22 Sec. 2. K.S.A. 2011 Supp. 79-4501 is hereby amended to read as  
23 follows: 79-4501. The title of this act shall be the homestead property tax  
24 refund act. The purpose of this act shall be to provide *ad valorem* tax  
25 refunds to: (a) Certain persons who are of qualifying age who own ~~or rent~~  
26 their homestead; (b) certain persons who have a disability, who own ~~or~~  
27 ~~rent~~ their homestead; and (c) certain persons other than persons included  
28 under the provisions of (a) or (b) who have low incomes and dependent  
29 children and own ~~or rent~~ their homestead.

30 Sec. 3. K.S.A. 2011 Supp. 79-4502 is hereby amended to read as  
31 follows: 79-4502. As used in this act, unless the context clearly indicates  
32 otherwise:

33 (a) "Income" means the sum of adjusted gross income under the  
34 Kansas income tax act, maintenance, support money, cash public  
35 assistance and relief, not including any refund granted under this act, the

1 gross amount of any pension or annuity, including all monetary retirement  
2 benefits from whatever source derived, including but not limited to, all  
3 payments received under the railroad retirement act, except disability  
4 payments, payments received under the federal social security act, except  
5 that for determination of what constitutes income such amount shall not  
6 exceed 50% of any such social security payments and shall not include any  
7 social security payments to a claimant who prior to attaining full  
8 retirement age had been receiving disability payments under the federal  
9 social security act in an amount not to exceed the amount of such disability  
10 payments or 50% of any such social security payments, whichever is  
11 greater, all dividends and interest from whatever source derived not  
12 included in adjusted gross income, workers compensation and the gross  
13 amount of "loss of time" insurance. Income does not include gifts from  
14 nongovernmental sources or surplus food or other relief in kind supplied  
15 by a governmental agency, nor shall net operating losses and net capital  
16 losses be considered in the determination of income. Income does not  
17 include veterans disability pensions. Income does not include disability  
18 payments received under the federal social security act.

19 (b) "Household" means a claimant, a claimant and spouse who  
20 occupy the homestead or a claimant and one or more individuals not  
21 related as husband and wife who together occupy a homestead.

22 (c) "Household income" means all income received by all persons of  
23 a household in a calendar year while members of such household.

24 (d) "Homestead" means the dwelling, or any part thereof, ~~whether~~  
25 ~~owned or rented, which is~~ and occupied as a residence by the household  
26 and so much of the land surrounding it, as defined as a home site for *ad*  
27 *valorem* tax purposes, and may consist of a part of a multi-dwelling or  
28 multi-purpose building and a part of the land upon which it is built or a  
29 manufactured home or mobile home and the land upon which it is situated.  
30 "Owned" includes a vendee in possession under a land contract, a life  
31 tenant, a beneficiary under a trust and one or more joint tenants or tenants  
32 in common.

33 (e) "Claimant" means a person who has filed a claim under the  
34 provisions of this act and was, during the entire calendar year preceding  
35 the year in which such claim was filed for refund under this act, except as  
36 provided in K.S.A. 79-4503, and amendments thereto, both domiciled in  
37 this state and was: (1) A person having a disability; (2) a person who is 55  
38 years of age or older; (3) a disabled veteran; (4) the surviving spouse of  
39 active duty military personnel who died in the line of duty; or (5) a person  
40 other than a person included under (1), (2), (3) or (4) having one or more  
41 dependent children under 18 years of age residing at the person's  
42 homestead during the calendar year immediately preceding the year in  
43 which a claim is filed under this act. The surviving spouse of a disabled

1 veteran who was receiving benefits pursuant to subsection (e)(3) of this  
2 section at the time of the veterans' death, shall be eligible to continue to  
3 receive benefits until such time the surviving spouse remarries.

4 When a homestead is occupied by two or more individuals and more  
5 than one of the individuals is able to qualify as a claimant, the individuals  
6 may determine between them as to whom the claimant will be. If they are  
7 unable to agree, the matter shall be referred to the secretary of revenue  
8 whose decision shall be final.

9 (f) "Property taxes accrued" means property taxes, exclusive of  
10 special assessments, delinquent interest and charges for service, levied on  
11 a claimant's homestead in 1979 or any calendar year thereafter by the state  
12 of Kansas and the political and taxing subdivisions of the state. When a  
13 homestead is owned by two or more persons or entities as joint tenants or  
14 tenants in common and one or more of the persons or entities is not a  
15 member of claimant's household, "property taxes accrued" is that part of  
16 property taxes levied on the homestead that reflects the ownership  
17 percentage of the claimant's household. For purposes of this act, property  
18 taxes are "levied" when the tax roll is delivered to the local treasurer with  
19 the treasurer's warrant for collection. When a claimant and household own  
20 their homestead part of a calendar year, "property taxes accrued" means  
21 only taxes levied on the homestead when both owned and occupied as a  
22 homestead by the claimant's household at the time of the levy, multiplied  
23 by the percentage of 12 months that the property was owned and occupied  
24 by the household as its homestead in the year. When a household owns and  
25 occupies two or more different homesteads in the same calendar year,  
26 property taxes accrued shall be the sum of the taxes allocable to those  
27 several properties while occupied by the household as its homestead  
28 during the year. Whenever a homestead is an integral part of a larger unit  
29 such as a multi-purpose or multi-dwelling building, property taxes accrued  
30 shall be that percentage of the total property taxes accrued as the value of  
31 the homestead is of the total value. For the purpose of this act, the word  
32 "unit" refers to that parcel of property covered by a single tax statement of  
33 which the homestead is a part.

34 (g) "Disability" means:

35 (1) Inability to engage in any substantial gainful activity by reason of  
36 any medically determinable physical or mental impairment which can be  
37 expected to result in death or has lasted or can be expected to last for a  
38 continuous period of not less than 12 months, and an individual shall be  
39 determined to be under a disability only if the physical or mental  
40 impairment or impairments are of such severity that the individual is not  
41 only unable to do the individual's previous work but cannot, considering  
42 age, education and work experience, engage in any other kind of  
43 substantial gainful work which exists in the national economy, regardless

1 of whether such work exists in the immediate area in which the individual  
2 lives or whether a specific job vacancy exists for the individual, or whether  
3 the individual would be hired if application was made for work. For  
4 purposes of the preceding sentence (with respect to any individual), "work  
5 which exists in the national economy" means work which exists in  
6 significant numbers either in the region where the individual lives or in  
7 several regions of the country; for purposes of this subsection, a "physical  
8 or mental impairment" is an impairment that results from anatomical,  
9 physiological or psychological abnormalities which are demonstrable by  
10 medically acceptable clinical and laboratory diagnostic techniques; or

11 (2) blindness and inability by reason of blindness to engage in  
12 substantial gainful activity requiring skills or abilities comparable to those  
13 of any gainful activity in which the individual has previously engaged with  
14 some regularity and over a substantial period of time.

15 (h) "Blindness" means central visual acuity of  $^{20}/_{200}$  or less in the  
16 better eye with the use of a correcting lens. An eye which is accompanied  
17 by a limitation in the fields of vision such that the widest diameter of the  
18 visual field subtends an angle no greater than 20 degrees shall be  
19 considered for the purpose of this paragraph as having a central visual  
20 acuity of  $^{20}/_{200}$  or less.

21 (i) ~~"Rent constituting property taxes accrued" means 15% of the gross~~  
22 ~~rent actually paid in cash or its equivalent in 2007 or any taxable year~~  
23 ~~thereafter by a claimant and claimant's household solely for the right of~~  
24 ~~occupancy of a Kansas homestead on which ad valorem property taxes~~  
25 ~~were levied in full for that year. When a household occupies two or more~~  
26 ~~different homesteads in the same calendar year, rent constituting property~~  
27 ~~taxes accrued shall be computed by adding the rent constituting property~~  
28 ~~taxes accrued for each property rented by the household while occupied by~~  
29 ~~the household as its homestead during the year.~~

30 (j) ~~"Gross rent" means the rental paid at arm's length solely for the~~  
31 ~~right of occupancy of a homestead or space rental paid to a landlord for the~~  
32 ~~parking of a mobile home, exclusive of charges for any utilities, services,~~  
33 ~~furniture and furnishings or personal property appliances furnished by the~~  
34 ~~landlord as a part of the rental agreement, whether or not expressly set out~~  
35 ~~in the rental agreement. Whenever the director of taxation finds that the~~  
36 ~~landlord and tenant have not dealt with each other at arms length and that~~  
37 ~~the gross rent charge was excessive, the director may adjust the gross rent~~  
38 ~~to a reasonable amount for the purposes of the claim.~~

39 (k) ~~"Disabled veteran" means a person who is a resident of Kansas~~  
40 ~~and has been honorably discharged from active service in any branch of~~  
41 ~~the armed forces of the United States or Kansas national guard and who~~  
42 ~~has been certified by the United States department of veterans affairs or its~~  
43 ~~successor to have a 50% permanent disability sustained through military~~

1 action or accident or resulting from disease contracted while in such active  
 2 service.

3 Sec. 4. K.S.A. 2011 Supp. 79-4508 is hereby amended to read as  
 4 follows: 79-4508. (a) Commencing in the tax year beginning after  
 5 December 31, ~~2005~~ 2011, the amount of any claim pursuant to this act  
 6 shall be computed by deducting the amount computed under column (2)  
 7 from the amount of claimant's property tax accrued ~~and/or rent constituting~~  
 8 ~~property tax accrued.~~

| (1)                           |                             | (2)                                                                                                              |
|-------------------------------|-----------------------------|------------------------------------------------------------------------------------------------------------------|
| Claimants household<br>income |                             | Deduction from property tax<br>accrued <del>and/or rent</del><br><del>constituting</del><br>property tax accrued |
| At least                      | But not<br>more than        |                                                                                                                  |
| \$0                           | <del>\$6,000</del> \$10,000 | \$0                                                                                                              |
| <del>6,001</del> \$10,001     | <del>7,000</del> \$11,000   | 4%                                                                                                               |
| <del>7,001</del> \$11,001     | <del>16,000</del> \$33,000  | 4% plus 4% of every \$1,000, or<br>fraction thereof, of income in<br>excess of <del>\$7,001</del> \$11,001       |
| 16,001                        | 27,000                      | 40% plus 5% of every \$1,000,<br>or fraction thereof, of income in<br>excess of \$16,001                         |
| <del>27,001</del> \$33,001    | <del>27,600</del> \$34,200  | 95% 96%                                                                                                          |

23 (b) The director of taxation shall prepare a table under which claims  
 24 under this act shall be determined. The amount of claim for each bracket  
 25 shall be computed only to the nearest \$1.

26 (c) The claimant may elect not to record the amount claimed on the  
 27 claim. The claim allowable to persons making this election shall be  
 28 computed by the department which shall notify the claimant by mail of the  
 29 amount of the allowable claim.

30 (d) In the case of all tax years commencing after December 31, ~~2004~~  
 31 2011, the ~~upper limit~~ threshold ~~amount~~ amounts prescribed in this section,  
 32 shall be increased by an amount equal to such threshold amount multiplied  
 33 by the cost-of-living adjustment determined under section 1(f)(3) of the  
 34 federal internal revenue code for the calendar year in which the taxable  
 35 year commences.

36 Sec. 5. K.S.A. 2011 Supp. 79-4509 is hereby amended to read as  
 37 follows: 79-4509. In the event property taxes accrued; ~~rent constituting~~  
 38 ~~property taxes accrued or their sum~~ exceeds \$700 \$1,200 for a household  
 39 in any one year, the amount thereof shall, for purposes of this act, be  
 40 deemed to have been \$700 \$1,200.

41 Sec. 6. K.S.A. 2011 Supp. 79-4511 is hereby amended to read as  
 42 follows: 79-4511. (a) Every claimant under this act shall supply to the  
 43 division, in support of a claim, reasonable proof of age or disability, and

1 changes of homestead, household membership, household income, and  
2 size and nature of property claimed as the homestead. A claim alleging  
3 disability shall be supported by a report of the examining physician of the  
4 claimant with a statement or certificate that the applicant has a disability  
5 within the meaning of subsection (g) of K.S.A. 79-4502, and amendments  
6 thereto.

7 (b) Every claimant who is a homestead owner, or whose claim is  
8 based wholly or partly upon homestead ownership at some time during the  
9 calendar year, shall supply to the division, in support of a claim, the  
10 amount of property taxes levied upon the property claimed as a homestead  
11 and a statement that the property taxes accrued used for purposes of this  
12 act have been or will be paid by the claimant. Upon request by the  
13 division, such claimant shall provide a copy of the statement of property  
14 taxes levied upon the property claimed as a homestead. The amount of  
15 personal property taxes levied on a manufactured home or mobile home  
16 shall be set out on the personal property tax statement showing the amount  
17 of such tax as a separate item.

18 ~~(c) Every claimant who is a homestead renter, or whose claim is~~  
19 ~~based wholly or partly upon homestead rental at some time during the~~  
20 ~~calendar year, shall supply to the division, in support of a claim, a~~  
21 ~~statement prescribed by the director certifying the amount of gross rent~~  
22 ~~paid and that ad valorem property taxes were levied in full for that year on~~  
23 ~~the property, all or a part of which was rented by the claimant. When such~~  
24 ~~claimant reports household income that is 150% or less of the homestead~~  
25 ~~rental amount and such claimant has failed to provide any documentation~~  
26 ~~or information requested by the division to verify such household income~~  
27 ~~in support of a claim as required pursuant to subsection (a), within 30 days~~  
28 ~~of such request, such homestead property tax refund claim shall be denied.~~

29 ~~(d)~~—The information required to be furnished under ~~subsections (b) or~~  
30 ~~(e)~~ subsection (b) shall be in addition to that required under subsection (a).

31 Sec. 7. K.S.A. 2011 Supp. 79-4522 is hereby amended to read as  
32 follows: 79-4522. A person owning or occupying a homestead ~~that is not~~  
33 ~~rental property and~~ for which the appraised valuation for property tax  
34 purposes exceeds \$350,000 in any year shall not be entitled to claim a  
35 refund of property taxes under the homestead property tax refund act for  
36 any such year. The provisions of this section shall be part of and  
37 supplemental to the homestead property tax refund act.

38 Sec. 8. K.S.A. 2011 Supp. 79-32,205, 79-4501, 79-4502, 79-4508,  
39 79-4509, 79-4511 and 79-4522 are hereby repealed.

40 Sec. 9. This act shall take effect and be in force from and after its  
41 publication in the statute book.