

Substitute for SENATE BILL No. 488

By Committee on Assessment and Taxation

5-3

10 AN ACT concerning ~~property~~ taxation; relating to *[property tax]* ex-
11 emptions; *[and]* credits; property tax reduction, sales tax authority of
12 counties; certain payments to counties; *[basis for property tax levies*
13 *of public libraries;]* *[income tax credits;]* amending K.S.A. *[75-*
14 *2551,]* 79-210 *[and 79-2930]* and K.S.A. 2005 Supp. *[74-50,131,]*
15 79-201w, 79-213 ~~and,~~ 79-2959, as amended by section 160 of 2006
16 Senate Bill No. 480, *[and 79-32,160a]* and repealing the existing
17 sections.

18

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

20 New Section 1. (a) It is the purpose of this section to promote, stim-
21 ulate, foster and encourage new investments in commercial and industrial
22 machinery and equipment in the state of Kansas, to contribute to the
23 economic recovery of the state, to enhance business opportunities in the
24 state, to encourage the location of new businesses and industries in the
25 state as well as the retention and expansion of existing businesses and
26 industries and to promote the economic stability of the state by main-
27 taining and providing employment opportunities, thereby contributing to
28 the general welfare of the citizens of the state, by exempting from prop-
29 erty taxation all newly purchased or leased commercial and industrial
30 machinery and equipment, including machinery and equipment trans-
31 ferred into this state for the purpose of expanding an existing business or
32 for the creation of a new business.

33 (b) The following described property, to the extent specified by this
34 section, shall be and is hereby exempt ~~to the extent provided herein~~ from
35 all property or ad valorem taxes levied under the laws of the state of
36 Kansas:

37 ~~First. Eighty percent of the retail cost when new of commercial~~ *[Com-*
38 *mercial]* and industrial machinery and equipment acquired by qualified
39 purchase or lease made or entered into after June 30, 2006, as the result
40 of a bona fide transaction not consummated for the purpose of avoiding
41 taxation.

42 ~~Second. Eighty percent of the retail cost when new of commercial~~
43 *[Commercial]* and industrial machinery and equipment transported into

1 this state after June 30, 2006, for the purpose of expanding an existing
2 business or creation of a new business.

3 (c) Any purchase, lease or transportation of commercial and industrial
4 machinery and equipment consummated for the purpose of avoiding tax-
5 ation shall subject the property to the penalty provisions of K.S.A. 79-
6 1422 and 79-1427a, and amendments thereto.

7 (d) As used in this section:

8 (1) “Acquired” shall not include the transfer of property pursuant to
9 an exchange for stock securities, or the transfer of assets from one going
10 concern to another due to a merger, reorganization or other consolidation;

11 (2) “commercial and industrial machinery and equipment” means
12 property classified for property tax purposes within subclass (5) of class
13 2 of section 1 of article 11 of the constitution of the state of Kansas;

14 (3) “qualified lease” means a lease of commercial and industrial ma-
15 chinery and equipment for not less than 30 days for fair and valuable
16 consideration where such machinery and equipment is physically trans-
17 ferred to the lessee to be used in the lessee’s business or trade; and

18 (4) “qualified purchase” means a purchase of commercial and indus-
19 trial machinery and equipment for fair and valuable consideration where
20 such machinery and equipment is physically transferred to the purchaser
21 to be used in the purchaser’s business or trade.

22 (e) The secretary of revenue is hereby authorized to adopt rules and
23 regulations to administer the provisions of this section.

24 New Sec. 2. (a) It is the purpose of this section to promote, stimulate,
25 foster and encourage new investments in telecommunications machinery
26 and equipment and railroad machinery and equipment in the state of
27 Kansas, to recognize the dramatic changes within the telecommunications
28 industry, to contribute to the economic recovery of the state, to enhance
29 business opportunities in the state, to encourage the location of new busi-
30 nesses and industries in the state as well as the retention and expansion
31 of existing businesses and industries and to promote the economic sta-
32 bility of the state by maintaining and providing employment opportuni-
33 ties, thereby contributing to the general welfare of the citizens of the
34 state, by exempting from property taxation certain newly purchased or
35 leased telecommunications machinery and equipment and railroad ma-
36 chinery and equipment, including all such machinery and equipment
37 transferred into this state for the purpose of expanding an existing busi-
38 ness or for the creation of a new business.

39 (b) The following described property, to the extent specified by this
40 section, shall be and is hereby exempt ~~to the extent provided herein~~ from
41 all property or ad valorem taxes levied under the laws of the state of
42 Kansas:

43 *First.* Eighty percent of value as determined under the laws of the state

1 ~~of Kansas of telecommunications~~ [**Telecommunications**] machinery and
2 equipment and railroad machinery and equipment acquired by qualified
3 purchase or lease made or entered into after June 30, 2006, as the result
4 of a bona fide transaction not consummated for the purpose of avoiding
5 taxation.

6 *Second.* ~~Eighty percent of value as determined under the laws of the~~
7 ~~state of Kansas of telecommunications~~ [**Telecommunications**] machin-
8 ery and equipment and railroad machinery and equipment transported
9 into this state after June 30, 2006, for the purpose of expanding an existing
10 business or creation of a new business.

11 (c) As used in this section:

12 (1) “Acquired” shall not include the transfer of property pursuant to
13 an exchange for stock securities, or the transfer of assets from one going
14 concern to another due to a merger, reorganization or other consolidation;

15 (2) “qualified lease” means a lease of telecommunications machinery
16 and equipment or railroad machinery and equipment for not less than 30
17 days for fair and valuable consideration where such machinery and equip-
18 ment is physically transferred to the lessee to be used in the lessee’s
19 business or trade;

20 (3) “qualified purchase” means a purchase of telecommunications
21 machinery and equipment or railroad machinery and equipment for fair
22 and valuable consideration where such machinery and equipment is phys-
23 ically transferred to the purchaser to be used in the purchaser’s business
24 or trade;

25 (4) “railroad machinery and equipment” means railroad machinery
26 and equipment classified for property tax purposes within subclass (3) of
27 class 2 of section 1 of article 11 of the constitution of the state of Kansas;
28 and

29 (5) “telecommunications machinery and equipment” means network
30 administrative assets; central office equipment; information, station and
31 customer equipment; and outside plant equipment of a telecommunica-
32 tion company.

33 (d) The secretary of revenue is hereby authorized to adopt rules and
34 regulations to administer the provisions of this section.

35 New Sec. 3. (a) Television broadcasters shall receive a credit from
36 the county treasurer of the county in which digital television equipment
37 is located, to apply only towards payment of the broadcaster’s personal
38 property taxes, in an amount equal to the broadcaster’s personal property
39 taxes on digital television equipment acquired prior to July 1, 2006, mul-
40 tiplied by one minus the digital television fraction. The digital television
41 fraction shall be a fraction the numerator of which is the total number of
42 digital television sets in the United States and the denominator of which
43 is an amount representing the total television sets in the United States as

1 of the assessment date. The digital television fraction will be determined
2 on an annual basis based upon sales data reported by the consumer elec-
3 tronics association or other national organization acceptable to the de-
4 partment of revenue. The Kansas association of broadcasters shall pro-
5 vide, by July 1 of each year, to the department an estimate of the digital
6 television fraction as of the preceding January 1. The department shall
7 communicate such estimate to each county appraiser. The credit shall not
8 be applicable to years after the federal communications commission has
9 ended the broadcast of analog television signals by all full power com-
10 mercial television stations in Kansas.

11 (b) As used in this section, “digital television equipment” means all
12 items of tangible personal property that are used directly or indirectly in
13 broadcasting television shows or commercials through the use of digital
14 technology including studio broadcast equipment, transmitter and an-
15 tenna equipment and broadcast towers.

16 New Sec. 4. (a) Radio broadcasters shall receive a credit from the
17 county treasurer of the county in which digital radio equipment is located,
18 to apply only towards payment of the radio broadcaster’s personal prop-
19 erty taxes in an amount equal to the personal property taxes on the radio
20 broadcaster’s digital radio equipment acquired prior to July 1, 2006, mul-
21 tiplied by one minus the digital radio fraction. The digital radio fraction
22 shall be a fraction, the numerator of which is the total number of digital
23 radio sets in the United State and the denominator of which is an amount
24 representing the total radio sets in the United States as of the assessment
25 date. The digital radio fraction shall be determined on an annual basis
26 based upon sales data reported by the consumer electronics association
27 or other national organization acceptable to the department of revenue.
28 The Kansas association of broadcasters shall provide, by July 1 of each
29 year, to the department an estimate of the digital radio fraction as of the
30 preceding January 1. The department shall communicate such estimate
31 to each county appraiser. The credit shall not be applicable to years after
32 December 31, 2013, or until more than 50% of the radio sets in the
33 United States are capable of receiving the digital radio signal, whichever
34 comes first.

35 (b) As used in this section, “digital radio equipment” means all items
36 of tangible personal property that are used directly or indirectly in broad-
37 casting radio shows or commercials through the use of digital technology
38 including studio broadcast equipment, transmitter and antenna equip-
39 ment and broadcast towers.

40 New Sec. 5. (a) Commencing February 1, 2007, and ending Decem-
41 ber 31, 2011, the board of county commissioners of any county which
42 meets the requirements prescribed in subsection (b) may adopt a reso-
43 lution imposing a countywide retailers’ sales tax at the rate of .1%, .2%,

1 .3%, .4% or .5% and pledging the revenue received therefrom for the
2 purpose of ad valorem property tax reduction. A county may impose such
3 sales tax only one time regardless of whether such county meets the
4 requirements of subsection (b) in more than one year. Such resolution
5 shall be published once each week for two consecutive weeks in the of-
6 ficial county newspaper. If within 30 days of the final publication of a
7 resolution adopted pursuant to this section, a petition signed by a number
8 of electors of the county equal to not less than 5% of the number of
9 qualified electors of the county shall be filed in the office of the county
10 election officer demanding that such resolution be submitted to a vote of
11 the electors, it shall not take effect until submitted to a referendum and
12 approved by the electors. An election if called, shall be called within 30
13 days and held within 45 days after the filing of the petition. The board,
14 by resolution, shall call the election and fix the date. Such resolution shall
15 be published once each week for two consecutive weeks in the official
16 county newspaper, and the election shall be conducted in the same man-
17 ner as are elections for officers of such county. Such election may be
18 conducted in accordance with the provisions of the mail ballot election
19 act. The proposition shall be: “Shall _____ County be authorized to
20 impose a countywide retailers’ sales tax at the rate of ___% in such county
21 for purposes of eliminating ___ mills of ad valorem property taxes now
22 levied by the county and other taxing subdivisions of the county except
23 school districts?” The tax imposed pursuant to this section shall expire
24 after five years from the date such tax is first collected.

25 (b) The secretary of revenue shall adopt a policy using the most cur-
26 rent information that is available, and that is determined to be practicable
27 by the secretary for this purpose and shall calculate the following:

28 (1) On January 31, 2007, the secretary shall calculate for each county
29 an amount equal to the difference in total ad valorem taxes levied by the
30 county for all taxing subdivisions within the county imposing ad valorem
31 taxes on commercial and industrial machinery and equipment for tax year
32 2005, and the total of such ad valorem taxes levied for tax year 2006. The
33 secretary shall calculate and express any such difference as a percentage
34 change as compared to tax year 2005 for each county. Any county for
35 which the percentage change determined by the secretary pursuant to
36 this subsection is equal to or exceeds a negative 5% shall be granted the
37 authority to impose a countywide retailers’ sales tax as prescribed pur-
38 suant to subsection (a).

39 (2) On January 31, 2008, the secretary shall calculate for each county
40 an amount equal to the difference in total ad valorem taxes levied by the
41 county for all taxing subdivisions within the county imposing ad valorem
42 taxes on commercial and industrial machinery and equipment for tax year
43 2005, and the total of such ad valorem taxes levied for tax year 2007. The

1 secretary shall calculate and express any such difference as a percentage
2 change as compared to tax year 2005 for each county. Any county for
3 which the percentage change determined by the secretary pursuant to
4 this subsection is equal to or exceeds a negative 10% shall be granted the
5 authority to impose a countywide retailers' sales tax as prescribed pur-
6 suant to subsection (a).

7 (3) On January 31, 2009, the secretary shall calculate for each county
8 an amount equal to the difference in total ad valorem taxes levied by the
9 county for all taxing subdivisions within the county imposing ad valorem
10 taxes on commercial and industrial machinery and equipment for tax year
11 2005, and the total of such ad valorem taxes levied for tax year 2008. The
12 secretary shall calculate and express any such difference as a percentage
13 change as compared to tax year 2005 for each county. Any county for
14 which the percentage change determined by the secretary pursuant to
15 this subsection is equal to or exceeds a negative 15% shall be granted the
16 authority to impose a countywide retailers' sales tax as prescribed pur-
17 suant to subsection (a).

18 (4) On January 31, 2010, the secretary shall calculate for each county
19 an amount equal to the difference in total ad valorem taxes levied by the
20 county for all taxing subdivisions within the county imposing ad valorem
21 taxes on commercial and industrial machinery and equipment for tax year
22 2005, and the total of such ad valorem taxes levied for tax year 2009. The
23 secretary shall calculate and express any such difference as a percentage
24 change as compared to tax year 2005 for each county. Any county for
25 which the percentage change determined by the secretary pursuant to
26 this subsection is equal to or exceeds a negative 20% shall be granted the
27 authority to impose a countywide retailers' sales tax as prescribed pur-
28 suant to subsection (a).

29 (5) On January 31, 2011, the secretary shall calculate for each county
30 an amount equal to the difference in total ad valorem taxes levied by the
31 county for all taxing subdivisions within the county imposing ad valorem
32 taxes on commercial and industrial machinery and equipment for tax year
33 2005, and the total of such ad valorem taxes levied for tax year 2010. The
34 secretary shall calculate and express any such difference as a percentage
35 change as compared to tax year 2005 for each county. Any county for
36 which the percentage change determined by the secretary pursuant to
37 this subsection is equal to or exceeds a negative 25% shall be granted the
38 authority to impose a countywide retailers' sales tax as prescribed pur-
39 suant to subsection (a).

40 (c) All revenue received by the director of taxation from a countywide
41 retailers' sales tax imposed pursuant to this section shall be apportioned
42 among the county and all other taxing subdivisions except school districts
43 as prescribed pursuant to the provisions of K.S.A. 79-2961, and amend-

1 ments thereto.

2 (d) Except as otherwise specifically provided, the provisions of the
3 Kansas retailers' sales tax act shall be applicable to the provisions of this
4 section, and to such end the provisions of this section shall be part of and
5 supplemental to the Kansas retailers' sales tax act.

6 Sec. 6. K.S.A. 2005 Supp. 79-201w is hereby amended to read as
7 follows: 79-201w. The following described property, to the extent speci-
8 fied by this section, shall be exempt from all property or ad valorem taxes
9 levied under the laws of the state of Kansas:

10 Any item of machinery, equipment, materials and supplies which, ex-
11 cept for the operation of the provisions of this section, would be required
12 to be listed for the purpose of taxation pursuant to K.S.A. 79-306, and
13 amendments thereto, and which is used or to be used in the conduct of
14 the owner's business, or in the conduct of activities by an entity not sub-
15 ject to Kansas income taxation pursuant to K.S.A. 79-32,113, and amend-
16 ments thereto, whose original retail cost when new is ~~\$250 or less for tax~~
17 ~~year 2002, and \$400 or less for tax year 2003~~ *\$400 or less for tax years*
18 *2005 and 2006, and ~~\$1,000~~ [**\$1,500**] or less for tax year 2007*, and all tax
19 years thereafter.

20 Sec. 7. K.S.A. 79-210 is hereby amended to read as follows: 79-210.
21 The owner or owners of all property which is exempt from the payment
22 of property taxes under the laws of the state of Kansas for a specified
23 period of years, other than property exempt under K.S.A. 79-201d and
24 79-201g and ~~79-201d Second~~, and amendments thereto, shall in each year
25 after approval thereof by the board of tax appeals claim such exemption
26 on or before March 1 of each year in which such exemption is claimed
27 in the manner hereinafter provided. All claims for exemption from the
28 payment of property taxes shall be made upon forms prescribed by the
29 director of property valuation and shall identify the property sought to
30 be exempt, state the basis for the exemption claimed and shall be filed
31 in the office of the assessing officer of the county in which such property
32 is located. The assessing officers of the several counties shall list and value
33 for assessment, all property located within the county for which no claim
34 for exemption has been filed in the manner hereinbefore provided. The
35 secretary of revenue shall adopt rules and regulations necessary to ad-
36 minister the provisions of this section. The provisions of this section shall
37 apply to property exempted pursuant to the provisions of section 13 of
38 article 11 of the Kansas constitution. The claim for exemption annually
39 filed by the owner of such property with the assessing officer shall include
40 a written statement, signed by the clerk of the city or county granting the
41 exemption, that the property continues to meet all the terms and condi-
42 tions established as a condition of granting the exemption.

43 Sec. 8. K.S.A. 2005 Supp. 79-213 is hereby amended to read as fol-

1 lows: 79-213. (a) Any property owner requesting an exemption from the
2 payment of ad valorem property taxes assessed, or to be assessed, against
3 their property shall be required to file an initial request for exemption,
4 on forms approved by the board of tax appeals and provided by the county
5 appraiser.

6 (b) The initial exemption request shall identify the property for which
7 the exemption is requested and state, in detail, the legal and factual basis
8 for the exemption claimed.

9 (c) The request for exemption shall be filed with the county appraiser
10 of the county where such property is principally located.

11 (d) After a review of the exemption request, and after a preliminary
12 examination of the facts as alleged, the county appraiser shall recommend
13 that the exemption request either be granted or denied, and, if necessary,
14 that a hearing be held. If a denial is recommended, a statement of the
15 controlling facts and law relied upon shall be included on the form.

16 (e) The county appraiser, after making such written recommenda-
17 tion, shall file the request for exemption and the recommendations of the
18 county appraiser with the board of tax appeals.

19 (f) Upon receipt of the request for exemption, the board shall docket
20 the same and notify the applicant and the county appraiser of such fact.

21 (g) After examination of the request for exemption, and the county
22 appraiser's recommendation related thereto, the board may fix a time and
23 place for hearing, and shall notify the applicant and the county appraiser
24 of the time and place so fixed. A request for exemption pursuant to: (1)
25 Section 13 of article 11 of the Kansas constitution; or (2) K.S.A. 79-201a
26 *Second*, and amendments thereto, for property constructed or purchased,
27 in whole or in part, with the proceeds of revenue bonds under the au-
28 thority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto,
29 prepared in accordance with instructions and assistance which shall be
30 provided by the department of commerce, shall be deemed approved
31 unless scheduled for hearing within 30 days after the date of receipt of
32 all required information and data relating to the request for exemption,
33 and such hearing shall be conducted within 90 days after such date. Such
34 time periods shall be determined without regard to any extension or con-
35 tinuance allowed to either party to such request. In any case where a
36 party to such request for exemption requests a hearing thereon, the same
37 shall be granted. Hearings shall be conducted in accordance with the
38 provisions of the Kansas administrative procedure act. In all instances
39 where the board sets a request for exemption for hearing, the county shall
40 be represented by its county attorney or county counselor.

41 (h) Except as otherwise provided by subsection (g), in the event of a
42 hearing, the same shall be originally set not later than 90 days after the
43 filing of the request for exemption with the board.

1 (i) During the pendency of a request for exemption, no person, firm,
2 unincorporated association, company or corporation charged with real
3 estate or personal property taxes pursuant to K.S.A. 79-2004 and 79-
4 2004a, and amendments thereto, on the tax books in the hands of the
5 county treasurer shall be required to pay the tax from the date the request
6 is filed with the county appraiser until the expiration of 30 days after the
7 board issued its order thereon and the same becomes a final order. In
8 the event that taxes have been assessed against the subject property, no
9 interest shall accrue on any unpaid tax for the year or years in question
10 nor shall the unpaid tax be considered delinquent from the date the re-
11 quest is filed with the county appraiser until the expiration of 30 days
12 after the board issued its order thereon. In the event the board deter-
13 mines an application for exemption is without merit and filed in bad faith
14 to delay the due date of the tax, the tax shall be considered delinquent
15 as of the date the tax would have been due pursuant to K.S.A. 79-2004
16 and 79-2004a, and amendments thereto, and interest shall accrue as pre-
17 scribed therein.

18 (j) In the event the board grants the initial request for exemption,
19 the same shall be effective beginning with the date of first exempt use
20 except that, with respect to property the construction of which com-
21 menced not to exceed 24 months prior to the date of first exempt use,
22 the same shall be effective beginning with the date of commencement of
23 construction.

24 (k) In conjunction with its authority to grant exemptions, the board
25 shall have the authority to abate all unpaid taxes that have accrued from
26 and since the effective date of the exemption. In the event that taxes have
27 been paid during the period where the subject property has been deter-
28 mined to be exempt, the board shall have the authority to order a refund
29 of taxes for the year immediately preceding the year in which the ex-
30 emption application is filed in accordance with subsection (a).

31 (l) The provisions of this section shall not apply to: (1) Farm machin-
32 ery and equipment exempted from ad valorem taxation by K.S.A. 79-201j,
33 and amendments thereto; (2) personal property exempted from ad valo-
34 rem taxation by K.S.A. 79-215, and amendments thereto; (3) wearing
35 apparel, household goods and personal effects exempted from ad valorem
36 taxation by K.S.A. 79-201c, and amendments thereto; (4) livestock; (5)
37 ~~hay and silage~~ *all property* exempted from ad valorem taxation by K.S.A.
38 79-201d, and amendments thereto; (6) merchants' and manufacturers'
39 inventories exempted from ad valorem taxation by K.S.A. 79-201m and
40 amendments thereto; (7) grain exempted from ad valorem taxation by
41 K.S.A. 79-201n, and amendments thereto; (8) property exempted from
42 ad valorem taxation by K.S.A. 79-201a *Seventeenth* and amendments
43 thereto, including all property previously acquired by the secretary of

1 transportation or a predecessor in interest, which is used in the admin-
2 istration, construction, maintenance or operation of the state system of
3 highways. The secretary of transportation shall at the time of acquisition
4 of property notify the county appraiser in the county in which the prop-
5 erty is located that the acquisition occurred and provide a legal description
6 of the property acquired; (9) property exempted from ad valorem taxation
7 by K.S.A. 79-201a *Ninth*, and amendments thereto, including all property
8 previously acquired by the Kansas turnpike authority which is used in the
9 administration, construction, maintenance or operation of the Kansas
10 turnpike. The Kansas turnpike authority shall at the time of acquisition
11 of property notify the county appraiser in the county in which the prop-
12 erty is located that the acquisition occurred and provide a legal description
13 of the property acquired; (10) aquaculture machinery and equipment ex-
14 empted from ad valorem taxation by K.S.A. 79-201j, and amendments
15 thereto. As used in this section, “aquaculture” has the same meaning
16 ascribed thereto by K.S.A. 47-1901, and amendments thereto; (11)
17 Christmas tree machinery and equipment exempted from ad valorem
18 taxation by K.S.A. 79-201j, and amendments thereto; (12) property used
19 exclusively by the state or any municipality or political subdivision of the
20 state for right-of-way purposes. The state agency or the governing body
21 of the municipality or political subdivision shall at the time of acquisition
22 of property for right-of-way purposes notify the county appraiser in the
23 county in which the property is located that the acquisition occurred and
24 provide a legal description of the property acquired; (13) machinery,
25 equipment, materials and supplies exempted from ad valorem taxation by
26 K.S.A. 79-201w, and amendments thereto; (14) vehicles owned by the
27 state or by any political or taxing subdivision thereof and used exclusively
28 for governmental purposes; (15) property used for residential purposes
29 which is exempted pursuant to K.S.A. 79-201x from the property tax lev-
30 ied pursuant to K.S.A. 72-6431, and amendments thereto; (16) from and
31 after July 1, 1998, vehicles which are owned by an organization having as
32 one of its purposes the assistance by the provision of transit services to
33 the elderly and to disabled persons and which are exempted pursuant to
34 K.S.A. 79-201 *Ninth*; ~~and~~ (17) from and after July 1, 1998, motor vehicles
35 exempted from taxation by subsection (e) of K.S.A. 79-5107, and amend-
36 ments thereto; (18) *commercial and industrial machinery and equipment*
37 *exempted from property or ad valorem taxation by section 1, and amend-*
38 *ments thereto; and (19) telecommunications machinery and equipment*
39 *and railroad machinery and equipment exempted from property or ad*
40 *valorem taxation by section 2, and amendments thereto.*

41 (m) The provisions of this section shall apply to property exempt pur-
42 suant to the provisions of section 13 of article 11 of the Kansas
43 constitution.

1 (n) The provisions of subsection (k) as amended by this act shall be
2 applicable to all exemption applications filed in accordance with subsec-
3 tion (a) after December 31, 2001.

4 Sec. 9. K.S.A. 2005 Supp. 79-2959, as amended by section 160 of
5 2006 Senate Bill No. 480, is hereby amended to read as follows: 79-2959.

6 (a) There is hereby created the local ad valorem tax reduction fund. All
7 moneys transferred or credited to such fund under the provisions of this
8 act or any other law shall be apportioned and distributed in the manner
9 provided herein.

10 (b) On January 15 and on July 15 of each year, the director of ac-
11 counts and reports shall make transfers in equal amounts which in the
12 aggregate equal 3.63% of the total retail sales and compensating taxes
13 credited to the state general fund pursuant to articles 36 and 37 of chapter
14 79 of Kansas Statutes Annotated and acts amendatory thereof and sup-
15 plemental thereto during the preceding calendar year from the state gen-
16 eral fund to the local ad valorem tax reduction fund, except that no mon-
17 eys shall be transferred from the state general fund to the local ad valorem
18 tax reduction fund during state fiscal years 2007 and 2008, *and the amount*
19 *of the transfer on each such date shall be \$6,750,000 during the fiscal*
20 *year 2009, \$13,500,000 during fiscal year 2010, \$20,250,000 during fiscal*
21 *year 2011, and \$27,000,000 during fiscal year 2012 and all fiscal years*
22 *thereafter. All such transfers are subject to reduction under K.S.A. 75-*
23 *6704 and amendments thereto. All transfers made in accordance with the*
24 *provisions of this section shall be considered to be demand transfers from*
25 *the state general fund.*

26 (c) The state treasurer shall apportion and pay the amounts trans-
27 ferred under subsection (b) to the several county treasurers on January
28 15 and on July 15 in each year as follows: (1) Sixty-five percent of the
29 amount to be distributed shall be apportioned on the basis of the popu-
30 lation figures of the counties certified to the secretary of state pursuant
31 to K.S.A. 11-201 and amendments thereto on July 1 of the preceding
32 year; and (2) thirty-five percent of such amount shall be apportioned on
33 the basis of the equalized assessed tangible valuations on the tax rolls of
34 the counties on November 1 of the preceding year as certified by the
35 director of property valuation.

36 ***[Sec. 10. K.S.A. 75-2551 is hereby amended to read as follows:***
37 ***75-2551. Federal funds for public library service made available to***
38 ***the state which are administered by the state librarian or state com-***
39 ***mission may be used in support of any one or more regional system***
40 ***of cooperating libraries within the provisions of such federal leg-***
41 ***islation. The use of funds of any regional system of cooperating***
42 ***libraries shall be established by the system board by contracts with***
43 ***boards of participating libraries, or otherwise.***

1 *[Participating boards shall have the power and are hereby au-*
2 *thorized to pay for services purchased from the system board.*
3 *[Any funds appropriated by the legislature and administered by*
4 *the state librarian for the promotion of library services may be used*
5 *to pay all or part of the expenses and equipment of any regional*
6 *system of cooperating libraries.*
7 *[The system board shall be subject to the cash basis and budget*
8 *laws of the state. The budget of the system board shall be prepared,*
9 *adopted and published as provided by law and hearing shall be held*
10 *thereon in the first week of the month of August of each year. The*
11 *tax levy made pursuant to the budget shall be based upon the certified*
12 *preliminary abstract of property values submitted to the director of prop-*
13 *erty valuation pursuant to K.S.A. 79-1604, and amendments thereto, and*
14 *shall be certified to the county clerks of each county in the territory*
15 *of the regional system of cooperating libraries.*
16 *[Each system board is hereby authorized to levy not in excess of*
17 *¾ mill of tax to be used for library purposes on all of the taxable*
18 *property within the boundaries of the regional system of cooper-*
19 *ating libraries that is not within a district supporting a library with*
20 *funds of the district.*
21 *[Sec. 11. K.S.A. 79-2930 is hereby amended to read as follows:*
22 *79-2930. (a) Two copies of the budget certificate giving the amount*
23 *of ad valorem tax to be levied and the total amount of the adopted*
24 *budget of expenditures by fund, along with itemized budget forms*
25 *for each and every fund and proof of publication of the notice of*
26 *budget hearing containing the budget summary shall be presented*
27 *to the county clerk within the time prescribed by K.S.A. 79-1801 as*
28 *amended and amendments thereto. Where action has been taken under*
29 *any statute to increase the amount of tax to be levied authorized by*
30 *law, a statement showing the increased amount or tax levy rate*
31 *voted, or a copy of the charter resolution or ordinance making the*
32 *change, shall be attached to the budget each year the change is in*
33 *effect.*
34 *[(b) The county clerk shall make any reductions to the ad va-*
35 *lorem tax to be levied, compute the tax levy rates based on the final*
36 *equalized assessed valuation, and enter such on the budget certifi-*
37 *cate before attesting the budget, except that with regard to levies made*
38 *under K.S.A. 75-2551, and amendments thereto, such levies shall be based*
39 *upon the certified preliminary abstract of property values submitted to*
40 *the director of property valuation pursuant to K.S.A. 79-1604, and*
41 *amendments thereto. A copy of all budgets for taxing subdivisions of*
42 *the county, properly attested, shall be filed with the director of*
43 *accounts and reports, along with a copy of the tax levy rate sum-*

1 *mary required of the county treasurer by K.S.A. 79-2002, and*
2 *amendments thereto.*

3 *[(c) Each fund of the adopted budget certified to the county*
4 *clerk in no event shall exceed the amount of ad valorem tax to be*
5 *levied and the proposed expenditures of such fund in the proposed*
6 *budget as originally published. The governing body of each taxing*
7 *subdivision shall not certify an amount of ad valorem taxes to be*
8 *levied that is in excess of any tax levy rate or amount limitations or*
9 *any aggregate tax levy limitations. The governing bodies, in fixing*
10 *the amount may take into consideration and make allowance for the*
11 *taxes which may not be paid, such allowance, however, shall not*
12 *exceed by more than 5% the percentage of delinquency for the pre-*
13 *ceding tax year.]*

14 *[Sec. 12. K.S.A. 2005 Supp. 74-50,131 is hereby amended to*
15 *read as follows: 74-50,131. Commencing after December 31, ~~1999~~*
16 *2005: (a) As used in this act: “Qualified firm” means a for-profit*
17 *business establishment, subject to state income, sales or property*
18 *taxes, identified under the standard industrial classification (SIC)*
19 *codes as in effect July 1, 1993, major groups 20 through 39, major*
20 *groups 40 through 51, and major groups 60 through 89 and for the*
21 *purposes of subsection (e) of K.S.A. 79-32,160a, and amendments thereto,*
22 *“qualified firm” means a for-profit business establishment, subject to state*
23 *income, sales or property taxes, identified under the standard industrial*
24 *classification (SIC) codes as in effect on July 1, 1993, major groups 1*
25 *through 17, major groups 20 through 39, major groups 40 through 51,*
26 *major groups 52 through 59 and major groups 60 through 89; identified*
27 *under the North American industry classification system (NAICS)*
28 *as in effect on October 1, 2000, or is identified as a corporate or*
29 *regional headquarters or back-office operation of a national or*
30 *multi-national corporation regardless of SIC code or NAICS des-*
31 *ignation. The secretary of commerce shall determine eligibility*
32 *when a difference exists between a firm’s SIC code and NAICS des-*
33 *ignation. A business establishment may be assigned a standard in-*
34 *dustrial classification code or NAICS designation according to the*
35 *primary business activity at a single physical location in the state.*

36 *[(b) In the case of firms in major groups 40 through 51, and*
37 *major groups 60 through 89 or the appropriate NAICS designation*
38 *the business establishment must also demonstrate the following:*

39 *[(1) More than ½ of its gross revenues are a result of sales to*
40 *commercial or governmental customers outside the state of Kansas;*
41 *or*

42 *[(2) more than ½ of its gross revenues are a result of sales to*
43 *Kansas manufacturing firms within major groups 20 through 39 or*

1 *the appropriate NAICS designation; or*
2 *[(3) more than 1/2 of its gross revenues are a result of a combi-*
3 *nation of sales described in (1) and (2).]*
4 *[(c) For purposes of determining whether one of the average*
5 *wage options described in subsection (d) below is satisfied, business*
6 *establishments located within a metropolitan county, as defined in*
7 *K.S.A. 74-50,114, and amendments thereto, will be compared only*
8 *to other businesses within that metropolitan county, and business*
9 *establishments located outside of a metropolitan county will be*
10 *compared to businesses within an aggregation of counties repre-*
11 *senting the business establishment's region of the state, which re-*
12 *gional aggregation will exclude metropolitan counties. Such aggre-*
13 *gation shall be determined by the department of commerce.*
14 *[(d) Additionally, a business establishment having met the cri-*
15 *teria as established in subsection (a) or (b), and using the compar-*
16 *ison method described in subsection (c), must meet one of the fol-*
17 *lowing criteria:*
18 *[(1) The establishment with 500 or fewer full-time equivalent*
19 *employees will provide an average wage that is above the average*
20 *wage paid by all firms with 500 or fewer full-time equivalent em-*
21 *ployees which share the same two-digit standard industrial classi-*
22 *fication code or appropriate NAICS designation.*
23 *[(2) The establishment with 500 or fewer full-time equivalent*
24 *employees is the sole firm within its two-digit standard industrial*
25 *classification code or appropriate NAICS designation which has*
26 *500 or fewer full-time equivalent employees.*
27 *[(3) The establishment with more than 500 full-time equivalent*
28 *employees will provide an average wage that is above the average*
29 *wage paid by firms with more than 500 full-time equivalent em-*
30 *ployees which share the same two-digit standard industrial classi-*
31 *fication code or appropriate NAICS designation.*
32 *[(4) The establishment with more than 500 full-time equivalent*
33 *employees is the sole firm within its two-digit standard industrial*
34 *classification code or appropriate NAICS designation which has*
35 *500 or more full-time equivalent employees, in which event it shall*
36 *either provide an average wage that is above the average wage paid*
37 *by all firms with 500 or fewer full-time equivalent employees which*
38 *share the same two-digit standard industrial classification code or*
39 *appropriate NAICS designation, or be the sole firm within its two-*
40 *digit standard industrial classification code or appropriate NAICS*
41 *designation.*
42 *[(e) As an alternative to the requirements of subsections (c) and*
43 *(d), a firm having met the requirements of subsections (a) or (b),*

1 *may qualify, if excluding taxable disbursements to company own-*
2 *ers, the business establishment's annual average wage must be*
3 *greater than or equal to 1.5 times the aggregate average wage paid*
4 *by industries covered by the employment security law based on*
5 *data maintained by the secretary of labor.*

6 *[(f) For the purposes of this section, the number of full-time*
7 *equivalent employees shall be determined by dividing the number*
8 *of hours worked by part-time employees during the pertinent meas-*
9 *urement interval by an amount equal to the corresponding multiple*
10 *of a 40-hour work week and adding the quotient to the number of*
11 *full-time employees.*

12 *[(g) The secretary of commerce shall certify annually to the sec-*
13 *retary of revenue that a firm meets the criteria for a qualified firm*
14 *and that the firm is eligible for the benefits and assistance provided*
15 *under this act. For the purposes of subsection (e) of K.S.A. 79-32,160a,*
16 *and amendments thereto, the secretary of commerce shall certify annually*
17 *to the secretary of revenue that a firm meets the criteria for a qualified*
18 *firm pursuant to subsection (a), and that the firm is eligible for the credit*
19 *provided in subsection (e) of K.S.A. 79-32,160a, and amendments thereto.*
20 *The secretary of commerce is hereby authorized to obtain any and*
21 *all information necessary to determine such eligibility. Information*
22 *obtained under this section shall not be subject to disclosure pur-*
23 *suant to K.S.A. 45-215 et seq., and amendments thereto, but shall*
24 *upon request be made available to the legislative post audit divi-*
25 *sion. The secretary of commerce shall publish rules and regulations*
26 *for the implementation of this act. Such rules and regulations shall*
27 *include, but not be limited to:*

28 *[(1) A definition of "training and education" for purposes of*
29 *K.S.A. 74-50,132 and amendments thereto.*

30 *[(2) Establishment of eligibility requirements and application*
31 *procedures for expenditures from the high performance incentive*
32 *fund created in K.S.A. 74-50,133 and amendments thereto.*

33 *[(3) Establishment of approval guidelines for private consult-*
34 *ants authorized pursuant to K.S.A. 74-50,133 and amendments*
35 *thereto.*

36 *[(4) Establishment of guidelines for prioritizing business assis-*
37 *tance programs pursuant to K.S.A. 74-50,133 and amendments*
38 *thereto.*

39 *[(5) A definition of "commercial customer" for the purpose of*
40 *K.S.A. 74-50,133 and amendments thereto.*

41 *[(6) A definition of "headquarters" for the purpose of K.S.A. 74-*
42 *50,133 and amendments thereto.*

43 *[(7) Establishment of guidelines concerning the use and disclo-*

1 *sure of any information obtained to determine the eligibility of a*
2 *firm for the assistance and benefits provided for by this act.*
3 *[Sec. 13. K.S.A. 2005 Supp. 79-32,160a is hereby amended to*
4 *read as follows: 79-32,160a. (a) For taxable years commencing after*
5 *December 31, 1999, any taxpayer who shall invest in a qualified*
6 *business facility, as defined in subsection (b) of K.S.A. 79-32,154,*
7 *and amendments thereto, and also meets the definition of a business*
8 *in subsection (b) of K.S.A. 74-50,114, and amendments thereto, shall*
9 *be allowed a credit for such investment, in an amount determined*
10 *under subsection (b) or (c), as the case requires, against the tax*
11 *imposed by the Kansas income tax act or where the qualified busi-*
12 *ness facility is the principal place from which the trade or business*
13 *of the taxpayer is directed or managed and the facility has facili-*
14 *tated the creation of at least 20 new full-time positions, against the*
15 *premium tax or privilege fees imposed pursuant to K.S.A. 40-252,*
16 *and amendments thereto, or as measured by the net income of fi-*
17 *nancial institutions imposed pursuant to chapter 79, article 11 of*
18 *the Kansas Statutes Annotated, for the taxable year during which*
19 *commencement of commercial operations, as defined in subsection*
20 *(f) of K.S.A. 79-32,154, and amendments thereto, occurs at such*
21 *qualified business facility. In the case of a taxpayer who meets the*
22 *definition of a manufacturing business in subsection (d) of K.S.A.*
23 *74-50,114, and amendments thereto, no credit shall be allowed un-*
24 *der this section unless the number of qualified business facility em-*
25 *ployees, as determined under subsection (d) of K.S.A. 79-32,154,*
26 *and amendments thereto, engaged or maintained in employment at*
27 *the qualified business facility as a direct result of the investment by*
28 *the taxpayer for the taxable year for which the credit is claimed*
29 *equals or exceeds two. In the case of a taxpayer who meets the def-*
30 *inition of a nonmanufacturing business in subsection (f) of K.S.A.*
31 *74-50,114, and amendments thereto, no credit shall be allowed un-*
32 *der this section unless the number of qualified business facility em-*
33 *ployees, as determined under subsection (d) of K.S.A. 79-32,154,*
34 *and amendments thereto, engaged or maintained in employment at*
35 *the qualified business facility as a direct result of the investment by*
36 *the taxpayer for the taxable year for which the credit is claimed*
37 *equals or exceeds five. Where an employee performs services for the*
38 *taxpayer outside the qualified business facility, the employee shall*
39 *be considered engaged or maintained in employment at the quali-*
40 *fied business facility if (1) the employee's service performed outside*
41 *the qualified business facility is incidental to the employee's service*
42 *inside the qualified business facility, or (2) the base of operations*
43 *or, the place from which the service is directed or controlled, is at*

1 *the qualified business facility.*
2 *[(b) The credit allowed by subsection (a) for any taxpayer who*
3 *invests in a qualified business facility which is located in a desig-*
4 *ated nonmetropolitan region established under K.S.A. 74-50,116,*
5 *and amendments thereto, on or after the effective date of this act,*
6 *shall be a portion of the income tax imposed by the Kansas income*
7 *tax act on the taxpayer's Kansas taxable income, the premium tax*
8 *or privilege fees imposed pursuant to K.S.A. 40-252, and amend-*
9 *ments thereto, or the privilege tax as measured by the net income*
10 *of financial institutions imposed pursuant to chapter 79, article 11*
11 *of the Kansas Statutes Annotated, for the taxable year for which*
12 *such credit is allowed, but in the case where the qualified business*
13 *facility investment was made prior to January 1, 1996, not in excess*
14 *of 50% of such tax. Such portion shall be an amount equal to the*
15 *sum of the following:*
16 *[(1) Two thousand five hundred dollars for each qualified busi-*
17 *ness facility employee determined under K.S.A. 79-32,154, and*
18 *amendments thereto; plus*
19 *[(2) one thousand dollars for each \$100,000, or major fraction*
20 *thereof, which shall be deemed to be 51% or more, in qualified*
21 *business facility investment, as determined under K.S.A. 79-32,154,*
22 *and amendments thereto.*
23 *[(c) The credit allowed by subsection (a) for any taxpayer who*
24 *invests in a qualified business facility, which is not located in a*
25 *nonmetropolitan region established under K.S.A. 74-50,116, and*
26 *amendments thereto, and which also meets the definition of business*
27 *in subsection (b) of K.S.A. 74-50,114, and amendments thereto, on*
28 *or after the effective date of this act, shall be a portion of the income*
29 *tax imposed by the Kansas income tax act on the taxpayer's Kansas*
30 *taxable income, the premium tax or privilege fees imposed pursuant*
31 *to K.S.A. 40-252, and amendments thereto, or the privilege tax as*
32 *measured by the net income of financial institutions imposed pur-*
33 *suant to chapter 79, article 11 of the Kansas Statutes Annotated, for*
34 *the taxable year for which such credit is allowed, but in the case*
35 *where the qualified business facility investment was made prior to*
36 *January 1, 1996, not in excess of 50% of such tax. Such portion shall*
37 *be an amount equal to the sum of the following:*
38 *[(1) One thousand five hundred dollars for each qualified busi-*
39 *ness facility employee as determined under K.S.A. 79-32,154, and*
40 *amendments thereto; and*
41 *[(2) one thousand dollars for each \$100,000, or major fraction*
42 *thereof, which shall be deemed to be 51% or more, in qualified*
43 *business facility investment as determined under K.S.A. 79-32,154,*

1 *and amendments thereto.*

2 *[(d) The credit allowed by subsection (a) for each qualified*
3 *business facility employee and for qualified business facility in-*
4 *vestment shall be a one-time credit. If the amount of the credit al-*
5 *lowed under subsection (a) exceeds the tax imposed by the Kansas*
6 *income tax act on the taxpayer's Kansas taxable income, the pre-*
7 *mium tax and privilege fees imposed pursuant to K.S.A. 40-252, and*
8 *amendments thereto, or the privilege tax as measured by the net*
9 *income of financial institutions imposed pursuant to chapter 79,*
10 *article 11 of the Kansas Statutes Annotated for the taxable year, or*
11 *in the case where the qualified business facility investment was*
12 *made prior to January 1, 1996, 50% of such tax imposed upon the*
13 *amount which exceeds such tax liability or such portion thereof may*
14 *be carried over for credit in the same manner in the succeeding*
15 *taxable years until the total amount of such credit is used. Except*
16 *that, before the credit is allowed, a taxpayer, who meets the defi-*
17 *nition of a manufacturing business in subsection (d) of K.S.A. 74-*
18 *50,114, and amendments thereto, shall recertify annually that the*
19 *net increase of a minimum of two qualified business facility em-*
20 *ployees has continued to be maintained and a taxpayer, who meets*
21 *the definition of a nonmanufacturing business in subsection (f) of*
22 *K.S.A. 74-50,114, and amendments thereto, shall recertify annually*
23 *that the net increase of a minimum of five qualified business em-*
24 *ployees has continued to be maintained.*

25 *[(e) Notwithstanding the foregoing provisions of this section,*
26 *commencing after December 31, 2005, any taxpayer qualified and cer-*
27 *tified under the provisions of K.S.A. 74-50,131, and amendments*
28 *thereto, which, prior to making a commitment to invest in a qualified*
29 *Kansas business, has filed a certificate of intent to invest in a qualified*
30 *business facility in a form satisfactory to the secretary of commerce, and*
31 *that has received written approval from the secretary of commerce for*
32 *participation and has participated, during the tax year for which the ex-*
33 *emption is claimed, in the Kansas industrial training, Kansas industrial*
34 *retraining or the state of Kansas investments in lifelong learning program*
35 *or is eligible for the tax credit established in K.S.A. 74-50,132, and amend-*
36 *ments thereto, shall be entitled to a credit in an amount equal to*
37 *10% of that portion of the such taxpayer's qualified business facility*
38 *investment which exceeds \$50,000 in lieu of the credit provided in*
39 *subsection (b)(2) or (c)(2) without regard to the number of qualified*
40 *business facility employees engaged or maintained in employment*
41 *at the qualified business facility or without regard to the provisions of*
42 *subsection (b) of K.S.A. 74-50,131, and amendments thereto. The credit*
43 *allowed by this subsection shall be a one-time credit. If the amount*

1 *thereof exceeds the tax imposed by the Kansas income tax act on the*
2 *taxpayer's Kansas taxable income or the premium tax or privilege*
3 *fees imposed pursuant to K.S.A. 40-252, and amendments thereto,*
4 *or the privilege tax as measured by net income of financial insti-*
5 *tutions imposed pursuant to chapter 79, article 11 of the Kansas*
6 *Statutes Annotated for the taxable year, the amount thereof which*
7 *exceeds such tax liability may be carried forward for credit in the*
8 *succeeding taxable year or years until the total amount of the tax*
9 *credit is used,* except that no such tax credit shall be carried forward for
10 deduction after the 10th taxable year succeeding the taxable year in which
11 such credit initially was claimed and no carry forward shall be allowed for
12 deduction in any succeeding taxable year unless the taxpayer continued
13 to be qualified and was recertified for such succeeding taxable year pur-
14 suant to K.S.A. 74-50,131, and amendments thereto.

15 *[(f) This section and K.S.A. 79-32,160b, and amendments*
16 *thereto, shall be part of and supplemental to the job expansion and*
17 *investment credit act of 1976 and acts amendatory thereof and sup-*
18 *plemental thereto.]*

19 Sec. ~~14.~~ *[14.]* K.S.A. *[75-2551,]* 79-210 *[and 79-2930]* and K.S.A.
20 2005 Supp. *[74-50,131,]* 79-201w, 79-213 ~~and,~~ *[79-2959,* as amended
21 by section 160 of 2006 Senate Bill No. 480, *[and 79-32,160a]* are hereby
22 repealed.

23 Sec. ~~15.~~ *[15.]* This act shall take effect and be in force from and
24 after its publication in the statute book.