

SENATE BILL No. 551

By Committee on Commerce

2-13

10 AN ACT concerning tax credits; relating to reporting requirements as a
11 condition of claiming certain tax credits; amending K.S.A. 74-50,132
12 and K.S.A. 2005 Supp. 79-32,153 and 79-32,160a and repealing the
13 existing sections.
14

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

16 New Section 1. (a) For tax years commencing after December 31,
17 2005, any taxpayer claiming credits pursuant to K.S.A. 74-50,132, 79-
18 32,153 or 79-32,160a, and amendments thereto, ~~shall~~, as a condition for
19 claiming and qualifying for such credits, **shall** provide the following in-
20 formation as part of the tax return, in which such credits are claimed,
21 which shall be used by the department **of revenue** in evaluating the
22 effectiveness of such tax credit programs, pursuant to K.S.A. 74-99b35,
23 and amendments thereto:

24 ~~(a)~~ (1) Actual jobs created as a direct result of the expenditures on
25 which such credit claim is based, **if the taxpayer has previously sub-**
26 **mitted an estimate of such number of actual jobs created to the**
27 **department of commerce as a part of applying for certification for**
28 **such program participation;**

29 ~~(b)~~ (2) additional payroll generated as a direct result of the expend-
30 itures on which such credit claim is based, **if the taxpayer has previ-**
31 **ously submitted an estimate of such amount of additional payroll**
32 **generated to the department of commerce as a part of applying for**
33 **certification for such program participation;**

34 ~~(c)~~ (3) actual jobs retained as a direct result of the expenditures on
35 which such credit claim is based, **if the taxpayer has previously sub-**
36 **mitted an estimate of actual jobs retained to the department of com-**
37 **merce as a part of applying for certification for such program**
38 **participation;**

39 ~~(d)~~ (4) additional revenue generated as a direct result of the expend-
40 itures on which such credit claim is based, **if the taxpayer has previ-**
41 **ously submitted an estimate of such amount of additional revenue**
42 **generated to the department of commerce as a part of applying for**
43 **certification for such program participation;**

1 ~~(e)~~ **(5)** additional sales generated as a direct result of the expenditures
2 on which such credit claim is based, **if the taxpayer has previously**
3 **submitted an estimate of additional sales generated to the depart-**
4 **ment of commerce as a part of applying for certification for program**
5 **participation**; and

6 ~~(f)~~ **(6)** total employment and payroll at the end of the tax year in
7 which the credits are claimed.

8 **(b) Such credits specified in subsection (a) shall not be denied**
9 **solely on the basis of the information provided by the taxpayer pur-**
10 **suant to subsections (a)(1) through (a)(6).**

11 Sec. 2. K.S.A. 74-50,132 is hereby amended to read as follows: 74-
12 50,132. (a) For taxable years commencing after December 31, 1997, a
13 qualified firm shall be entitled to a credit against the tax imposed by the
14 Kansas income tax act, the premium tax or privilege fee imposed pursuant
15 to K.S.A. 40-252, and amendments thereto or the privilege tax as meas-
16 ured by net income of financial institutions imposed pursuant to chapter
17 79, article 11 of the Kansas Statutes Annotated in an amount equal to the
18 portion of the qualified business facility cash investment in the training
19 and education of the firm's employees that exceeds 2% of the firm's total
20 payroll costs. The maximum amount of the credit that may be claimed
21 by a single corporate taxpayer in any single tax year under this section
22 shall not exceed \$50,000. Tax credits earned by a qualified business under
23 this section must be claimed in their entirety in the tax year eligible.

24 (b) *For tax years commencing after December 31, 2005, any taxpayer*
25 *claiming credits pursuant to this section shall, as a condition for claiming*
26 *and qualifying for such credits, shall provide information pursuant to*
27 *section 1, and amendments thereto, as part of the tax return in which*
28 *such credits are claimed. **Such credits shall not be denied solely on***
29 ***the basis of the contents of the information provided by the taxpayer***
30 ***pursuant to section 1, and amendments thereto.***

31 Sec. 3. K.S.A. 2005 Supp. 79-32,153 is hereby amended to read as
32 follows: 79-32,153. (a) For taxable years commencing after December 31,
33 1997, any taxpayer who shall invest in a qualified business facility, as
34 defined in subsection (b) of K.S.A. 79-32,154, and amendments thereto,
35 shall be allowed a credit for such investment, in an amount determined
36 under subsection (b) against the tax imposed by the Kansas income tax
37 act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-
38 252, and amendments thereto or the privilege tax as measured by net
39 income of financial institutions imposed pursuant to chapter 79, article
40 11 of the Kansas Statutes Annotated for the taxable year during which
41 commencement of commercial operations, as defined in subsection (f) of
42 K.S.A. 79-32,154, and amendments thereto, occurs at such qualified busi-
43 ness facility, and for each of the nine succeeding taxable years. No credit

1 shall be allowed under this section unless the number of qualified busi-
 2 ness facility employees, as determined under subsection (d) of K.S.A. 79-
 3 32,154, and amendments thereto, engaged or maintained in employment
 4 at the qualified business facility as a direct result of the investment by the
 5 taxpayer for the taxable year for which the credit is claimed equals or
 6 exceeds two. Where an employee performs services for the taxpayer out-
 7 side the qualified business facility, the employee shall be considered en-
 8 gaged or maintained in employment at the qualified business facility if
 9 (1) the employee's service performed outside the qualified business fa-
 10 cility is incidental to the employee's service inside the qualified business
 11 facility, or (2) the base of operations or, the place from which the service
 12 is directed or controlled, is at the qualified business facility.

13 (b) The credit allowed by subsection (a) for any taxpayer who invests
 14 in a qualified business facility shall be a portion of the tax, but not in
 15 excess of 50% of such tax, otherwise imposed on or measured by the
 16 taxpayer's qualified business facility income, as defined in subsection (g)
 17 of K.S.A. 79-32,154, and amendments thereto, for the taxable year for
 18 which such credit is allowed. Such portion shall be an amount equal to
 19 the sum of the following:

20 (1) One hundred dollars for each qualified business facility employee
 21 determined under K.S.A. 79-32,154, and amendments thereto; plus

22 (2) one hundred dollars for each \$100,000, or major fraction thereof
 23 (which shall be deemed to be 51% or more), in qualified business facility
 24 investment as determined under K.S.A. 79-32,154, and amendments
 25 thereto.

26 (c) *For tax years commencing after December 31, 2005, any taxpayer*
 27 *claiming credits pursuant to this section shall, as a condition for claiming*
 28 *and qualifying for such credits, shall provide information pursuant to*
 29 *section 1, and amendments thereto, as part of the tax return in which*
 30 *such credits are claimed. **Such credits shall not be denied solely on***
 31 ***the basis of the contents of the information provided by the taxpayer***
 32 ***pursuant to section 1, and amendments thereto.***

33 ~~(d)~~ (d) No credit shall be allowed under this section for investment
 34 in a public utility, as such term is defined in K.S.A. 66-104, and amend-
 35 ments thereto.

36 Sec. 4. K.S.A. 2005 Supp. 79-32,160a is hereby amended to read as
 37 follows: 79-32,160a. (a) For taxable years commencing after December
 38 31, 1999, any taxpayer who shall invest in a qualified business facility, as
 39 defined in subsection (b) of K.S.A. 79-32,154, and amendments thereto,
 40 and also meets the definition of a business in subsection (b) of K.S.A. 74-
 41 50,114, and amendments thereto, shall be allowed a credit for such in-
 42 vestment, in an amount determined under subsection (b) or (c), as the
 43 case requires, against the tax imposed by the Kansas income tax act or

1 where the qualified business facility is the principal place from which the
2 trade or business of the taxpayer is directed or managed and the facility
3 has facilitated the creation of at least 20 new full-time positions, against
4 the premium tax or privilege fees imposed pursuant to K.S.A. 40-252,
5 and amendments thereto, or as measured by the net income of financial
6 institutions imposed pursuant to chapter 79, article 11 of the Kansas Stat-
7 utes Annotated, for the taxable year during which commencement of
8 commercial operations, as defined in subsection (f) of K.S.A. 79-32,154,
9 and amendments thereto, occurs at such qualified business facility. In the
10 case of a taxpayer who meets the definition of a manufacturing business
11 in subsection (d) of K.S.A. 74-50,114, and amendments thereto, no credit
12 shall be allowed under this section unless the number of qualified busi-
13 ness facility employees, as determined under subsection (d) of K.S.A. 79-
14 32,154, and amendments thereto, engaged or maintained in employment
15 at the qualified business facility as a direct result of the investment by the
16 taxpayer for the taxable year for which the credit is claimed equals or
17 exceeds two. In the case of a taxpayer who meets the definition of a
18 nonmanufacturing business in subsection (f) of K.S.A. 74-50,114, and
19 amendments thereto, no credit shall be allowed under this section unless
20 the number of qualified business facility employees, as determined under
21 subsection (d) of K.S.A. 79-32,154, and amendments thereto, engaged or
22 maintained in employment at the qualified business facility as a direct
23 result of the investment by the taxpayer for the taxable year for which the
24 credit is claimed equals or exceeds five. Where an employee performs
25 services for the taxpayer outside the qualified business facility, the em-
26 ployee shall be considered engaged or maintained in employment at the
27 qualified business facility if (1) the employee's service performed outside
28 the qualified business facility is incidental to the employee's service inside
29 the qualified business facility, or (2) the base of operations or, the place
30 from which the service is directed or controlled, is at the qualified busi-
31 ness facility.

32 (b) The credit allowed by subsection (a) for any taxpayer who invests
33 in a qualified business facility which is located in a designated nonmetro-
34 politan region established under K.S.A. 74-50,116, and amendments
35 thereto, on or after the effective date of this act, shall be a portion of the
36 income tax imposed by the Kansas income tax act on the taxpayer's Kansas
37 taxable income, the premium tax or privilege fees imposed pursuant to
38 K.S.A. 40-252, and amendments thereto, or the privilege tax as measured
39 by the net income of financial institutions imposed pursuant to chapter
40 79, article 11 of the Kansas Statutes Annotated, for the taxable year for
41 which such credit is allowed, but in the case where the qualified business
42 facility investment was made prior to January 1, 1996, not in excess of
43 50% of such tax. Such portion shall be an amount equal to the sum of

1 the following:

2 (1) Two thousand five hundred dollars for each qualified business
3 facility employee determined under K.S.A. 79-32,154, and amendments
4 thereto; plus

5 (2) one thousand dollars for each \$100,000, or major fraction thereof,
6 which shall be deemed to be 51% or more, in qualified business facility
7 investment, as determined under K.S.A. 79-32,154, and amendments
8 thereto.

9 (c) The credit allowed by subsection (a) for any taxpayer who invests
10 in a qualified business facility, which is not located in a nonmetropolitan
11 region established under K.S.A. 74-50,116, and amendments thereto, and
12 which also meets the definition of business in subsection (b) of K.S.A.
13 74-50,114, and amendments thereto, on or after the effective date of this
14 act, shall be a portion of the income tax imposed by the Kansas income
15 tax act on the taxpayer's Kansas taxable income, the premium tax or priv-
16 ilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto,
17 or the privilege tax as measured by the net income of financial institutions
18 imposed pursuant to chapter 79, article 11 of the Kansas Statutes An-
19 notated, for the taxable year for which such credit is allowed, but in the
20 case where the qualified business facility investment was made prior to
21 January 1, 1996, not in excess of 50% of such tax. Such portion shall be
22 an amount equal to the sum of the following:

23 (1) One thousand five hundred dollars for each qualified business
24 facility employee as determined under K.S.A. 79-32,154, and amend-
25 ments thereto; and

26 (2) one thousand dollars for each \$100,000, or major fraction thereof,
27 which shall be deemed to be 51% or more, in qualified business facility
28 investment as determined under K.S.A. 79-32,154, and amendments
29 thereto.

30 (d) The credit allowed by subsection (a) for each qualified business
31 facility employee and for qualified business facility investment shall be a
32 one-time credit. If the amount of the credit allowed under subsection (a)
33 exceeds the tax imposed by the Kansas income tax act on the taxpayer's
34 Kansas taxable income, the premium tax and privilege fees imposed pur-
35 suant to K.S.A. 40-252, and amendments thereto, or the privilege tax as
36 measured by the net income of financial institutions imposed pursuant to
37 chapter 79, article 11 of the Kansas Statutes Annotated for the taxable
38 year, or in the case where the qualified business facility investment was
39 made prior to January 1, 1996, 50% of such tax imposed upon the amount
40 which exceeds such tax liability or such portion thereof may be carried
41 over for credit in the same manner in the succeeding taxable years until
42 the total amount of such credit is used. Except that, before the credit is
43 allowed, a taxpayer, who meets the definition of a manufacturing business

1 in subsection (d) of K.S.A. 74-50,114, and amendments thereto, shall
2 recertify annually that the net increase of a minimum of two qualified
3 business facility employees has continued to be maintained and a tax-
4 payer, who meets the definition of a nonmanufacturing business in sub-
5 section (f) of K.S.A. 74-50,114, and amendments thereto, shall recertify
6 annually that the net increase of a minimum of five qualified business
7 employees has continued to be maintained.

8 (e) Notwithstanding the foregoing provisions of this section, any tax-
9 payer qualified and certified under the provisions of K.S.A. 74-50,131,
10 and amendments thereto; which, prior to making a commitment to invest
11 in a qualified Kansas business, has filed a certificate of intent to invest in
12 a qualified business facility in a form satisfactory to the secretary of com-
13 merce; and that has received written approval from the secretary of com-
14 merce for participation and has participated, during the tax year for which
15 the exemption is claimed, in the Kansas industrial training, Kansas in-
16 dustrial retraining or the state of Kansas investments in lifelong learning
17 program or is eligible for the tax credit established in K.S.A. 74-50,132,
18 and amendments thereto, shall be entitled to a credit in an amount equal
19 to 10% of that portion of the qualified business facility investment which
20 exceeds \$50,000 in lieu of the credit provided in subsection (b)(2) or (c)(2)
21 without regard to the number of qualified business facility employees
22 engaged or maintained in employment at the qualified business facility.
23 The credit allowed by this subsection shall be a one-time credit. If the
24 amount thereof exceeds the tax imposed by the Kansas income tax act on
25 the taxpayer's Kansas taxable income or the premium tax or privilege fees
26 imposed pursuant to K.S.A. 40-252, and amendments thereto, or the priv-
27 ilege tax as measured by net income of financial institutions imposed
28 pursuant to chapter 79, article 11 of the Kansas Statutes Annotated for
29 the taxable year, the amount thereof which exceeds such tax liability may
30 be carried forward for credit in the succeeding taxable year or years until
31 the total amount of the tax credit is used, except that no such tax credit
32 shall be carried forward for deduction after the 10th taxable year suc-
33 ceeding the taxable year in which such credit initially was claimed and no
34 carry forward shall be allowed for deduction in any succeeding taxable
35 year unless the taxpayer continued to be qualified and was recertified for
36 such succeeding taxable year pursuant to K.S.A. 74-50,131, and amend-
37 ments thereto.

38 (f) *For tax years commencing after December 31, 2005, any taxpayer*
39 *claiming credits pursuant to this section shall, as a condition for claiming*
40 *and qualifying for such credits, shall provide information pursuant to*
41 *section 1, and amendments thereto, as part of the tax return in which*
42 *such credits are claimed. **Such credits shall not be denied solely on***
43 *the basis of the contents of the information provided by the taxpayer*

1 ***pursuant to section 1, and amendments thereto.***

2 ⊕ (*g*) This section and K.S.A. 79-32,160b, and amendments thereto,
3 shall be part of and supplemental to the job expansion and investment
4 credit act of 1976 and acts amendatory thereof and supplemental thereto.

5 Sec. 5. K.S.A. 74-50,132 and K.S.A. 2005 Supp. 79-32,153 and 79-
6 32,160a are hereby repealed.

7 Sec. 6. This act shall take effect and be in force from and after its
8 publication in the statute book.