

SENATE BILL No. 386

By Committee on Assessment and Taxation

2-7

1 AN ACT concerning income taxation; relating to credits; business and job
2 development; amending K.S.A. 2011 Supp. 79-32,153 and repealing
3 the existing section.
4

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

6 Section 1. K.S.A. 2011 Supp. 79-32,153 is hereby amended to read as
7 follows: 79-32,153.(a) For taxable years commencing after December 31,
8 1997, and before January 1, 2012, any taxpayer who shall invest in a
9 qualified business facility, as defined in subsection (b) of K.S.A. 79-
10 32,154, and amendments thereto, and effective for tax years commencing
11 after December 31, 2010, and before January 1, 2012, located in an area
12 other than a metropolitan county as defined in either K.S.A. 2011 Supp.
13 74-50,114 or 74-50,211, and amendments thereto, shall be allowed a credit
14 for such investment, in an amount determined under subsection (b) against
15 the tax imposed by the Kansas income tax act, the premium tax or
16 privilege fees imposed pursuant to K.S.A. 40-252, and amendments
17 thereto, or the privilege tax as measured by net income of financial
18 institutions imposed pursuant to chapter 79, article 11 of the Kansas
19 Statutes Annotated for the taxable year during which commencement of
20 commercial operations, as defined in subsection (f) of K.S.A. 79-32,154,
21 and amendments thereto, occurs at such qualified business facility, and for
22 each of the nine succeeding taxable years. No credit shall be allowed under
23 this section unless the number of qualified business facility employees, as
24 determined under subsection (d) of K.S.A. 79-32,154, and amendments
25 thereto, engaged or maintained in employment at the qualified business
26 facility as a direct result of the investment by the taxpayer for the taxable
27 year for which the credit is claimed equals or exceeds two. Where an
28 employee performs services for the taxpayer outside the qualified business
29 facility, the employee shall be considered engaged or maintained in
30 employment at the qualified business facility if: (1) The employee's
31 service performed outside the qualified business facility is incidental to the
32 employee's service inside the qualified business facility; or (2) the base of
33 operations or, the place from which the service is directed or controlled, is
34 at the qualified business facility.

35 (b) The credit allowed by subsection (a) for any taxpayer who invests
36 in a qualified business facility shall be a portion of the tax, but not in

1 excess of 50% of such tax, otherwise imposed on or measured by the
2 taxpayer's qualified business facility income, as defined in subsection (g)
3 of K.S.A. 79-32,154, and amendments thereto, for the taxable year for
4 which such credit is allowed. Such portion shall be an amount equal to the
5 sum of the following:

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

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

12 (c) For tax years commencing after December 31, 2005, any taxpayer
13 claiming credits pursuant to this section, as a condition for claiming and
14 qualifying for such credits, shall provide information pursuant to K.S.A.
15 2011 Supp. 79-32,243, and amendments thereto, as part of the tax return in
16 which such credits are claimed. Such credits shall not be denied solely on
17 the basis of the contents of the information provided by the taxpayer
18 pursuant to K.S.A. 2011 Supp. 79-32,243, and amendments thereto.

19 (d) No credit shall be allowed under this section for investment in a
20 public utility, as such term is defined in K.S.A. 66-104, and amendments
21 thereto.

22 Sec. 2. K.S.A. 2011 Supp. 79-32,153 is hereby repealed.

23 Sec. 3. This act shall take effect and be in force from and after its
24 publication in the Kansas register.