

As Amended by Senate Committee

Session of 2007

SENATE BILL No. 314

By Committee on Commerce

2-6

12 AN ACT concerning *[taxation; relating to]* the Kansas angel investor
13 tax credit act; *[qualified business facility credits;]* *[earned income*
14 *credit;]* amending K.S.A. 2006 Supp. *[74-50,131,]* 74-8132, 74-8133,
15 74-8134 ~~and,~~ 74-8135 *[and 79-32,117] [and 79-32,160a] [and*
16 *79-32,205]* and repealing the existing sections; *also repealing*
17 *K.S.A. 2006 Supp. 79-32,117].*

18

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

20 Section 1. K.S.A. 2006 Supp. 74-8132 is hereby amended to read as
21 follows: 74-8132. As used in this act:

22 (a) “Angel investor” and “investor” mean an accredited ~~individual~~
23 investor *who is a natural person or an owner of a permitted entity inves-*
24 *tor, who is of high net worth, as defined in 17 C.F.R. 230.501(a) as in*
25 *effect on the effective date of this act, and who seeks high returns through*
26 *private investments in start-up companies and may seek active involve-*
27 *ment in business, such as consulting and mentoring the entrepreneur.*
28 *For the purposes of this act, a person who serves as an executive, officer,*
29 *employee, vendor or independent contractor of the business in which an*
30 *otherwise qualified cash investment is made is not an angel investor and*
31 *such person shall not qualify for the issuance of tax credits for such*
32 *investment;*

33 (b) “Bioscience business” means *what is reflected in K.S.A. 2006*
34 *Supp. 74-99b83, and amendments thereto;*

35 ~~(b)~~ (c) “cash investment” means money or money equivalent in con-
36 sideration for qualified securities;

37 ~~(c)~~ (d) “KTEC” means the Kansas technology enterprise corporation,
38 a public instrumentality created pursuant to K.S.A. 74-8101, and amend-
39 ments thereto;

40 ~~(d)~~ (e) “Kansas business” means any business owned by an individual,
41 any partnership, association or corporation domiciled in Kansas, or any
42 corporation, even if a wholly owned subsidiary of a foreign corporation,
43 that does business primarily in Kansas or does substantially all of such

1 businesses' production in Kansas;

2 (f) "owner" means any natural person who is, directly or indirectly,
3 a partner, stockholder or member in a permitted entity investor;

4 (g) "permitted entity investor" means (A) any general partnership,
5 limited partnership, corporation that has in effect a valid election to be
6 taxed as an S corporation under the United States internal revenue code,
7 or a limited liability company that has elected to be taxed as a partnership
8 under the United States internal revenue code and (B) that was estab-
9 lished and is operated for the sole purpose of making investments in other
10 entities;

11 ~~(h)~~ (h) "qualified Kansas business" means the Kansas businesses that
12 are approved and certified as qualified Kansas businesses as provided in
13 K.S.A. 2006 Supp. 74-8134, and amendments thereto; and

14 ~~(i)~~ (i) "qualified securities" means a cash investment through any one
15 or more forms of financial assistance as provided in this subsection that
16 have been approved in form and substance by KTEC. Such forms of
17 financial assistance are: (1) Any form of equity, such as: (A) A general or
18 limited, partnership interest; (B) common stock; (C) preferred stock, with
19 or without voting rights, without regard to seniority position, and whether
20 or not convertible into common stock; or (D) any form of subordinate or
21 convertible debt, or both, with warrants or other means of equity con-
22 version attached; or

23 (2) a debt instrument, such as a note or debenture that is secured or
24 unsecured, subordinated to the general creditors of the debtor and re-
25 quires no payments of principal, other than principal payments required
26 to be made out of any future profits of the debtor, for at least a seven-
27 year period after commencement of such debt instrument's term.

28 Sec. 2. K.S.A. 2006 Supp. 74-8133 is hereby amended to read as
29 follows: 74-8133. (a) A credit against the tax imposed by article 32 of
30 chapter 79 of the Kansas Statutes Annotated on the Kansas taxable in-
31 come of an angel investor and against the tax imposed by K.S.A. 40-252,
32 and amendments thereto, shall be allowed for a cash investment in the
33 qualified securities of a qualified Kansas business. The credit shall be in
34 a total amount equal to 50% of such investors' cash investment in any
35 qualified Kansas business, subject to the limitations set forth in subsection
36 (b). This tax credit may be used in its entirety in the taxable year in which
37 the cash investment is made except that no tax credit shall be allowed in
38 a year prior to January 1, 2005. If the amount by which that portion of
39 the credit allowed by this section exceeds the investors' liability in any
40 one taxable year, beginning in the year 2005, the remaining portion of
41 the credit may be carried forward until the total amount of the credit is
42 used. *If the investor is a permitted entity investor, the credit provided by*
43 *this section shall be claimed by the owners of the permitted entity investor*

1 *in proportion to their ownership share of the permitted entity investor.*
2 (b) The secretary of revenue shall not allow tax credits ~~that are at-~~
3 ~~tributable to an individual investor of more than \$50,000 of cash invest-~~
4 ~~ments in the qualified securities of a single Kansas business or for cash~~
5 ~~investments in the qualified securities of more than five Kansas businesses~~
6 ~~each year of more than \$50,000 for a single Kansas business or a total of~~
7 ~~\$250,000 in tax credits for a single year per investor who is a natural~~
8 ~~person or owner of a permitted entity investor.~~ No tax credits authorized
9 by this act shall be allowed for any cash investments in qualified securities
10 for any year after the year 2016. ~~The cumulative aggregate amount of the~~
11 ~~tax credits allowed by the secretary of revenue, pursuant to this act, shall~~
12 ~~not exceed \$20,000,000.~~ The total amount of tax credits which may be
13 allowed under this section shall not exceed ~~\$2,000,000~~ **\$8,000,000 per tax**
14 **year \$4,000,000 during tax year 2007 and \$6,000,000 for tax year**
15 **2008 and each tax year thereafter.** The balance of unissued tax credits
16 may be carried over for issuance in future years until 2016.
17 (c) A cash investment in a qualified security shall be deemed to have
18 been made on the date of acquisition of the qualified security, as such
19 date is determined in accordance with the provisions of the internal rev-
20 enue code.
21 (d) No investor shall claim a credit under this section for cash invest-
22 ments in Kansas venture capital, inc. No Kansas venture capital com-
23 pany shall qualify for the tax credit for an investment in a fund created
24 by articles 81, 82, 83 or 84 of chapter 74 of the Kansas Statutes Annotated.
25 (e) Any investor ~~that is not subject to taxation~~ *who has not owed any*
26 *Kansas income tax* under the provisions of article 32, chapter 79 of the
27 *Kansas Statutes Annotated and that for the immediate past three taxable*
28 *years, who does not reasonably believe that it will owe any such tax for*
29 *the current taxable year and who* makes a cash investment in a qualified
30 security of a qualified Kansas business shall be deemed to acquire an
31 interest in the nature of a transferable credit limited to an amount equal
32 to 50% of this cash investment. This interest may be transferred to ~~an~~
33 ~~investor~~ *any natural person of net worth, as defined in 17 C.F.R.*
34 *230.501(a) as in effect on the effective date of this act whether or not such*
35 *person is then an investor* and be claimed by ~~this investor~~ *the transferee*
36 *as a credit against the investor's transferee's* Kansas income tax liability
37 beginning in the year provided in subsection (a). No person shall be en-
38 titled to a refund for the interest created under this section. Only the full
39 credit for any one investment may be transferred and this interest may
40 only be transferred one time. A credit acquired by transfer shall be subject
41 to the limitations prescribed in this section. Documentation of any credit
42 acquired by transfer shall be provided by the investor in the manner
43 required by the director of taxation.

1 (f) The reasonable costs of the administration of this act, the review
2 of applications for certification as qualified Kansas businesses and the
3 issuance of tax credits authorized by this act shall be reimbursed through
4 fees paid by the qualified Kansas businesses and the investors or the
5 transferees of investors, according to a reasonable fee schedule adopted
6 by the corporation.

7 Sec. 3. K.S.A. 2006 Supp. 74-8134 is hereby amended to read as
8 follows: 74-8134. (a) Before an angel investor may be entitled to receive
9 tax credits, as authorized by this act, such investor must have made a cash
10 investment in a qualified security of a qualified Kansas business. This
11 business must have been approved by KTEC as a qualified Kansas busi-
12 ness prior to the date on which the cash investment was made. To be
13 designated as a qualified Kansas business, a business must make appli-
14 cation to KTEC in accordance with the provisions of this section.

15 (b) Such application to KTEC shall be in form and substance as re-
16 quired by KTEC, but shall include at least the following:

17 (1) The name of the business and certified copies of the organiza-
18 tional documents of the business;

19 (2) a business plan, including a description of the business and the
20 management, product, market and financial plan of business;

21 (3) a statement of the business innovative and proprietary technology,
22 product or service;

23 (4) a statement of the potential economic impact of the enterprise,
24 including the number, location and types of jobs expected to be created;

25 (5) a description of the qualified securities to be issued, the consid-
26 eration to be paid for the qualified securities, the amount of any tax credits
27 requested and the earliest year in which the tax credits may be redeemed;

28 (6) a statement of the amount, timing and projected use of the pro-
29 ceeds to be raised from the proposed sale of qualified securities; and

30 (7) such other information as KTEC may request, such as the names,
31 addresses and taxpayer identification numbers of all investors who may
32 qualify for the tax credit. Such list of investors who may qualify for the
33 tax credits shall be amended as new qualified securities are sold or as any
34 information on the list shall change.

35 (c) No business shall be designated as a qualified Kansas business
36 unless such business meets all of the following criteria:

37 (1) The business must not have had annual gross revenues of more
38 than \$5,000,000 in the most recent tax year of the business;

39 (2) ~~the business~~ *businesses that are not bioscience businesses* must
40 have been in operation for less than five years; *bioscience businesses must*
41 *have been in operation for less than 10 years;*

42 (3) *all else equal, first consideration will be given to animal health*
43 *companies.*

1 ~~(3)~~ (4) the business must not have ownership interests including, but
2 not limited to, common or preferred shares of stock that can be traded
3 by the public via a stock exchange, electronic exchange, bulletin board or
4 other public market place on or before the date that a qualifying invest-
5 ment is made;

6 ~~(4)~~ (5) the business must not be engaged primarily in any one or more
7 of the following enterprises: (A) Any service provider set forth in K.S.A.
8 17-2707, and amendments thereto; (B) the business of banking, savings
9 and loan or lending institutions, credit or finance, or financial brokerage
10 or investments; (C) the provision of professional services, such as legal,
11 accounting or engineering services; (D) governmental, charitable, relig-
12 ious or trade organizations; (E) the ownership, development, brokerage,
13 sales or leasing of real estate; (F) insurance; (G) construction or construc-
14 tion management or contracting; (H) business consulting or brokerage;
15 (I) any business engaged primarily as a passive business, having irregular
16 or noncontinuous operations, or deriving substantially all of the income
17 of the business from passive investments that generate interest, dividends,
18 royalties, or capital gains, or any business arrangements the effect of
19 which is to immunize an investor from risk of loss; (J) any Kansas certified
20 capital formation company; ~~and~~ (K) any activity that is in violation of the
21 law; and (L) *any business raising money primarily to purchase real estate,*
22 *land or fixtures; and*

23 ~~(5)~~ (6) the business must satisfy all other requirements of this act.

24 (d) Notwithstanding the requirements of subsection (c), a business
25 may be considered as a qualified Kansas business under the provisions of
26 this act if such business falls within a standard industrial classification
27 code.

28 (e) The portions of documents and other materials submitted to
29 KTEC that contain trade secrets shall be kept confidential and shall be
30 maintained in a secured environment by the president of KTEC. For the
31 purposes of this act, such portions of documents and other materials
32 means any customer lists, any formula, compound, production data or
33 compilation of information certain individuals within a commercial con-
34 cern using such portions of documents and other material means to fab-
35 ricate, produce or compound an article of trade, or, any service having
36 commercial value, which gives the user an opportunity to obtain a busi-
37 ness advantage over competitors who do not know or use such service.

38 (f) A qualified Kansas business shall have the burden of proof to dem-
39 onstrate to KTEC the qualifications of the business under this section
40 and shall have the obligation to notify KTEC in a timely manner of any
41 changes in the qualifications of the business or in the eligibility of inves-
42 tors to claim a tax credit for cash investment in a qualified security.

43 Sec. 4. K.S.A. 2006 Supp. 74-8135 is hereby amended to read as

1 follows: 74-8135. **(a)** The designation of a business as a qualified Kansas
2 business shall be made by KTEC, and such designation must be renewed
3 annually. A business shall be so designated if KTEC determines, based
4 upon the application submitted by the business and any additional inves-
5 tigation the staff of KTEC shall make, that the following criteria have
6 been or shall be satisfied:

- 7 (1) The business has a reasonable chance of success;
- 8 (2) ~~the ability of investors in the business to receive tax credits for~~
9 ~~cash investments in qualified securities of the business is necessary, be-~~
10 ~~cause funding otherwise available for the business is not available on com-~~
11 ~~mercially reasonable terms;~~
- 12 ~~(3)~~ (3) the business has the reasonable potential to create measurable
13 employment within the state;
- 14 ~~(4)~~ (3) the business has an innovative and proprietary technology,
15 product and service;
- 16 ~~(5)~~ (4) the existing owners of the business and other founders have
17 made or are committed to make a substantial financial and time com-
18 mitment to the business;
- 19 ~~(6)~~ (5) the securities to be issued and purchased are qualified secu-
20 rities; and
- 21 ~~(7)~~ (6) binding commitments have been made by the business to
22 KTEC for adequate reporting of financial data, including a requirement
23 for an annual report, or, if required by the board of directors of KTEC,
24 an annual audit of the financial and operational records of the business,
25 the right of access to the financial records of the business and the right
26 of KTEC to record and publish normal and customary data and infor-
27 mation related to the issuance of tax credits that are not otherwise de-
28 termined to be trade or business secrets.

29 **(b)** *In addition to reports by the businesses to KTEC and its*
30 *board of directors, KTEC will also provide an annual report, on or*
31 *before February 1, to the governor, to the senate committee on com-*
32 *merce, the house committee on economic development and tourism*
33 *and the joint committee on economic development and any succes-*
34 *sor committees thereto, on the marketing and use of the angel in-*
35 *vestor tax credits. This report will include the following: The*
36 *amount of tax credits used in the previous fiscal year including what*
37 *percentage was claimed by individuals and what percentage was*
38 *claimed by investment firms; the types of businesses that benefited*
39 *from the tax credits; and any aggregate job creation or capital in-*
40 *vestment in Kansas that resulted from the use of the tax credits for*
41 *a period of five years beginning from the date on which the tax*
42 *credits were awarded. In addition, the annual report will provide*
43 *information regarding what businesses which derived benefit from*

1 *the tax credits remained in Kansas and what businesses ceased busi-*
2 *ness, what businesses were purchased and what businesses may*
3 *have moved out-of-state and why.*

4 *[Sec. 5. K.S.A. 2006 Supp. 74-50,131 is hereby amended to read*
5 *as follows: 74-50,131. Commencing after December 31, ~~1999~~ 2006:*

6 *(a) As used in this act: “Qualified firm” means a for-profit business*
7 *establishment, subject to state income, sales or property taxes, iden-*
8 *tified under the standard industrial classification (SIC) codes as in*
9 *effect July 1, 1993, major groups 20 through 39, major groups 40*
10 *through 51, and major groups 60 through 89 and for the purposes of*
11 *subsection (e) of K.S.A. 79-32,160a, and amendments thereto, “qualified*
12 *firm” means a for-profit business establishment, subject to state income,*
13 *sales or property taxes, identified under the standard industrial classifi-*
14 *cation (SIC) codes as in effect on July 1, 1993, major groups 1 through*
15 *17, major groups 20 through 39, major groups 40 through 51, major*
16 *groups 52 through 59 and major groups 60 through 89; identified under*
17 *the North American industry classification system (NAICS) as in*
18 *effect on October 1, 2000, or is identified as a corporate or regional*
19 *headquarters or back-office operation of a national or multi-na-*
20 *tional corporation regardless of SIC code or NAICS designation.*
21 *The secretary of commerce shall determine eligibility when a dif-*
22 *ference exists between a firm’s SIC code and NAICS designation. A*
23 *business establishment may be assigned a standard industrial clas-*
24 *sification code or NAICS designation according to the primary busi-*
25 *ness activity at a single physical location in the state.*

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

29 *[(1) More than 1/2 of its gross revenues are a result of sales to*
30 *commercial or governmental customers outside the state of Kansas;*
31 *or*

32 *[(2) more than 1/2 of its gross revenues are a result of sales to*
33 *Kansas manufacturing firms within major groups 20 through 39 or*
34 *the appropriate NAICS designation; or*

35 *[(3) more than 1/2 of its gross revenues are a result of a combi-*
36 *nation of sales described in (1) and (2).*

37 *[(c) For purposes of determining whether one of the average*
38 *wage options described in subsection (d) below is satisfied, business*
39 *establishments located within a metropolitan county, as defined in*
40 *K.S.A. 74-50,114, and amendments thereto, will be compared only*
41 *to other businesses within that metropolitan county, and business*
42 *establishments located outside of a metropolitan county will be*
43 *compared to businesses within an aggregation of counties repre-*

- 1 *senting the business establishment's region of the state, which re-*
2 *gional aggregation will exclude metropolitan counties. Such aggre-*
3 *gation shall be determined by the department of commerce.*
- 4 *[(d) Additionally, a business establishment having met the cri-*
5 *teria as established in subsection (a) or (b), and using the compar-*
6 *ison method described in subsection (c), must meet one of the fol-*
7 *lowing criteria:*
- 8 *[(1) The establishment with 500 or fewer full-time equivalent*
9 *employees will provide an average wage that is above the average*
10 *wage paid by all firms with 500 or fewer full-time equivalent em-*
11 *ployees which share the same two-digit standard industrial classi-*
12 *fication code or appropriate NAICS designation.*
- 13 *[(2) The establishment with 500 or fewer full-time equivalent*
14 *employees is the sole firm within its two-digit standard industrial*
15 *classification code or appropriate NAICS designation which has*
16 *500 or fewer full-time equivalent employees.*
- 17 *[(3) The establishment with more than 500 full-time equivalent*
18 *employees will provide an average wage that is above the average*
19 *wage paid by firms with more than 500 full-time equivalent em-*
20 *ployees which share the same two-digit standard industrial classi-*
21 *fication code or appropriate NAICS designation.*
- 22 *[(4) The establishment with more than 500 full-time equivalent*
23 *employees is the sole firm within its two-digit standard industrial*
24 *classification code or appropriate NAICS designation which has*
25 *500 or more full-time equivalent employees, in which event it shall*
26 *either provide an average wage that is above the average wage paid*
27 *by all firms with 500 or fewer full-time equivalent employees which*
28 *share the same two-digit standard industrial classification code or*
29 *appropriate NAICS designation, or be the sole firm within its two-*
30 *digit standard industrial classification code or appropriate NAICS*
31 *designation.*
- 32 *[(e) As an alternative to the requirements of subsections (c) and*
33 *(d), a firm having met the requirements of subsections (a) or (b),*
34 *may qualify, if excluding taxable disbursements to company own-*
35 *ers, the business establishment's annual average wage must be*
36 *greater than or equal to 1.5 times the aggregate average wage paid*
37 *by industries covered by the employment security law based on*
38 *data maintained by the secretary of labor.*
- 39 *[(f) For the purposes of this section, the number of full-time*
40 *equivalent employees shall be determined by dividing the number*
41 *of hours worked by part-time employees during the pertinent meas-*
42 *urement interval by an amount equal to the corresponding multiple*
43 *of a 40-hour work week and adding the quotient to the number of*

1 *full-time employees.*

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

18 *[(1) A definition of “training and education” for purposes of*
19 *K.S.A. 74-50,132 and amendments thereto.*

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

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

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

29 *[(5) A definition of “commercial customer” for the purpose of*
30 *K.S.A. 74-50,133 and amendments thereto.*

31 *[(6) A definition of “headquarters” for the purpose of K.S.A. 74-*
32 *50,133 and amendments thereto.*

33 *[(7) Establishment of guidelines concerning the use and disclo-*
34 *sure of any information obtained to determine the eligibility of a*
35 *firm for the assistance and benefits provided for by this act.*

36 *[Sec. 6. K.S.A. 2006 Supp. 79-32,160a is hereby amended to*
37 *read as follows: 79-32,160a. (a) For taxable years commencing after*
38 *December 31, 1999, any taxpayer who shall invest in a qualified*
39 *business facility, as defined in subsection (b) of K.S.A. 79-32,154,*
40 *and amendments thereto, and also meets the definition of a business*
41 *in subsection (b) of K.S.A. 74-50,114, and amendments thereto, shall*
42 *be allowed a credit for such investment, in an amount determined*
43 *under subsection (b) or (c), as the case requires, against the tax*

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

35 *[(b) The credit allowed by subsection (a) for any taxpayer who*
36 *invests in a qualified business facility which is located in a desig-*
37 *nated nonmetropolitan region established under K.S.A. 74-50,116,*
38 *and amendments thereto, on or after the effective date of this act,*
39 *shall be a portion of the income tax imposed by the Kansas income*
40 *tax act on the taxpayer's Kansas taxable income, the premium tax*
41 *or privilege fees imposed pursuant to K.S.A. 40-252, and amend-*
42 *ments thereto, or the privilege tax as measured by the net income*
43 *of financial institutions imposed pursuant to chapter 79, article 11*

1 *of the Kansas Statutes Annotated, for the taxable year for which*
2 *such credit is allowed, but in the case where the qualified business*
3 *facility investment was made prior to January 1, 1996, not in excess*
4 *of 50% of such tax. Such portion shall be an amount equal to the*
5 *sum of the following:*

6 *[(1) Two thousand five hundred dollars for each qualified busi-*
7 *ness facility employee determined under K.S.A. 79-32,154, and*
8 *amendments thereto; plus*

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

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

28 *[(1) One thousand five hundred dollars for each qualified busi-*
29 *ness facility employee as determined under K.S.A. 79-32,154, and*
30 *amendments thereto; and*

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

35 *[(d) The credit allowed by subsection (a) for each qualified*
36 *business facility employee and for qualified business facility in-*
37 *vestment shall be a one-time credit. If the amount of the credit al-*
38 *lowed under subsection (a) exceeds the tax imposed by the Kansas*
39 *income tax act on the taxpayer's Kansas taxable income, the pre-*
40 *mium tax and privilege fees imposed pursuant to K.S.A. 40-252, and*
41 *amendments thereto, or the privilege tax as measured by the net*
42 *income of financial institutions imposed pursuant to chapter 79,*
43 *article 11 of the Kansas Statutes Annotated for the taxable year, or*

1 *in the case where the qualified business facility investment was*
2 *made prior to January 1, 1996, 50% of such tax imposed upon the*
3 *amount which exceeds such tax liability or such portion thereof may*
4 *be carried over for credit in the same manner in the succeeding*
5 *taxable years until the total amount of such credit is used. Except*
6 *that, before the credit is allowed, a taxpayer, who meets the defi-*
7 *inition of a manufacturing business in subsection (d) of K.S.A. 74-*
8 *50,114, and amendments thereto, shall recertify annually that the*
9 *net increase of a minimum of two qualified business facility em-*
10 *ployees has continued to be maintained and a taxpayer, who meets*
11 *the definition of a nonmanufacturing business in subsection (f) of*
12 *K.S.A. 74-50,114, and amendments thereto, shall recertify annually*
13 *that the net increase of a minimum of five qualified business em-*
14 *ployees has continued to be maintained.*

15 *[(e) Notwithstanding the foregoing provisions of this section,*
16 *commencing after December 31, 2006, any taxpayer qualified and cer-*
17 *tified as provided under the provisions of subsection (g) of K.S.A. 74-*
18 *50,131, and amendments thereto, which, prior to making a commit-*
19 *ment to invest in a qualified Kansas business, has filed a certificate of*
20 *intent to invest in a qualified business facility in a form satisfactory to the*
21 *secretary of commerce, and that has received written approval from the*
22 *secretary of commerce for participation and has participated, during the*
23 *tax year for which the exemption is claimed, in the Kansas industrial*
24 *training, Kansas industrial retraining or the state of Kansas investments*
25 *in lifelong learning program or is eligible for the tax credit established in*
26 *K.S.A. 74-50,132, and amendments thereto, shall be entitled to a credit*
27 *in an amount equal to 10% of that portion of the such taxpayer's qual-*
28 *ified business facility investment which exceeds \$50,000 in lieu of the*
29 *credit provided in subsection (b)(2) or (c)(2) without regard to the*
30 *number of qualified business facility employees engaged or main-*
31 *tained in employment at the qualified business facility or without*
32 *regard to the provisions of subsections (b), (c), (d) or (e) of K.S.A. 74-*
33 *50,131, and amendments thereto. The credit allowed by this subsec-*
34 *tion shall be a one-time credit. If the amount thereof exceeds the*
35 *tax imposed by the Kansas income tax act on the taxpayer's Kansas*
36 *taxable income or the premium tax or privilege fees imposed pur-*
37 *suant to K.S.A. 40-252, and amendments thereto, or the privilege*
38 *tax as measured by net income of financial institutions imposed pur-*
39 *suant to chapter 79, article 11 of the Kansas Statutes Annotated for*
40 *the taxable year, the amount thereof which exceeds such tax liability*
41 *may be carried forward for credit in the succeeding taxable year or*
42 *years until the total amount of the tax credit is used, except that no*
43 *such tax credit shall be carried forward for deduction after the 10th tax-*

1 able year succeeding the taxable year in which such credit initially was
2 claimed and no carry forward shall be allowed for deduction in any suc-
3 ceeding taxable year unless the taxpayer continued to be qualified and
4 was recertified for such succeeding taxable year pursuant to K.S.A. 74-
5 50,131, and amendments thereto.

6 *[(f) For tax years commencing after December 31, 2005, any*
7 *taxpayer claiming credits pursuant to this section, as a condition*
8 *for claiming and qualifying for such credits, shall provide infor-*
9 *mation pursuant to K.S.A. 2006 Supp. 79-32,243, and amendments*
10 *thereto, as part of the tax return in which such credits are claimed.*
11 *Such credits shall not be denied solely on the basis of the contents*
12 *of the information provided by the taxpayer pursuant to K.S.A. 2006*
13 *Supp. 79-32,243, and amendments thereto.*

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

18 *[Sec. 7. K.S.A. 2006 Supp. 79-32,205 is hereby amended to read*
19 *as follows: 79-32,205. (a) There shall be allowed as a credit against*
20 *the tax liability of a resident individual imposed under the Kansas*
21 *income tax act an amount equal to 15% 20% for tax year 2002 2007,*
22 *and all tax years thereafter, of the amount of the earned income*
23 *credit allowed against such taxpayer's federal income tax liability*
24 *pursuant to section 32 of the federal internal revenue code for the*
25 *taxable year in which such credit was claimed against the taxpayer's*
26 *federal income tax liability.*

27 *[(b) If the amount of the credit allowed by subsection (a) ex-*
28 *ceeds the taxpayer's income tax liability imposed under the Kansas*
29 *income tax act, such excess amount shall be refunded to the*
30 *taxpayer.]*

31 *[Sec. 8. K.S.A. 2006 Supp. 79-32,117 is hereby amended to read*
32 *as follows: 79-32,117. (a) The Kansas adjusted gross income of an*
33 *individual means such individual's federal adjusted gross income*
34 *for the taxable year, with the modifications specified in this section.*

35 *[(b) There shall be added to federal adjusted gross income:*

36 *[(i) Interest income less any related expenses directly incurred*
37 *in the purchase of state or political subdivision obligations, to the*
38 *extent that the same is not included in federal adjusted gross in-*
39 *come, on obligations of any state or political subdivision thereof,*
40 *but to the extent that interest income on obligations of this state or*
41 *a political subdivision thereof issued prior to January 1, 1988, is*
42 *specifically exempt from income tax under the laws of this state*
43 *authorizing the issuance of such obligations, it shall be excluded*

1 *from computation of Kansas adjusted gross income whether or not*
2 *included in federal adjusted gross income. Interest income on ob-*
3 *ligations of this state or a political subdivision thereof issued after*
4 *December 31, 1987, shall be excluded from computation of Kansas*
5 *adjusted gross income whether or not included in federal adjusted*
6 *gross income.*

7 *[(ii) Taxes on or measured by income or fees or payments in lieu*
8 *of income taxes imposed by this state or any other taxing jurisdic-*
9 *tion to the extent deductible in determining federal adjusted gross*
10 *income and not credited against federal income tax. This paragraph*
11 *shall not apply to taxes imposed under the provisions of K.S.A. 79-*
12 *1107 or 79-1108, and amendments thereto, for privilege tax year*
13 *1995, and all such years thereafter.*

14 *[(iii) The federal net operating loss deduction.*

15 *[(iv) Federal income tax refunds received by the taxpayer if the*
16 *deduction of the taxes being refunded resulted in a tax benefit for*
17 *Kansas income tax purposes during a prior taxable year. Such re-*
18 *funds shall be included in income in the year actually received re-*
19 *gardless of the method of accounting used by the taxpayer. For pur-*
20 *poses hereof, a tax benefit shall be deemed to have resulted if the*
21 *amount of the tax had been deducted in determining income subject*
22 *to a Kansas income tax for a prior year regardless of the rate of*
23 *taxation applied in such prior year to the Kansas taxable income,*
24 *but only that portion of the refund shall be included as bears the*
25 *same proportion to the total refund received as the federal taxes*
26 *deducted in the year to which such refund is attributable bears to*
27 *the total federal income taxes paid for such year. For purposes of*
28 *the foregoing sentence, federal taxes shall be considered to have*
29 *been deducted only to the extent such deduction does not reduce*
30 *Kansas taxable income below zero.*

31 *[(v) The amount of any depreciation deduction or business ex-*
32 *penditure deduction claimed on the taxpayer's federal income tax return*
33 *for any capital expenditure in making any building or facility ac-*
34 *cessible to the handicapped, for which expenditure the taxpayer*
35 *claimed the credit allowed by K.S.A. 79-32,177, and amendments*
36 *thereto.*

37 *[(vi) Any amount of designated employee contributions picked*
38 *up by an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919*
39 *and 74-4965, and amendments to such sections.*

40 *[(vii) The amount of any charitable contribution made to the*
41 *extent the same is claimed as the basis for the credit allowed pur-*
42 *suant to K.S.A. 79-32,196, and amendments thereto.*

43 *[(viii) The amount of any costs incurred for improvements to a*

1 *swine facility, claimed for deduction in determining federal ad-*
2 *justed gross income, to the extent the same is claimed as the basis*
3 *for any credit allowed pursuant to K.S.A. 2006 Supp. 79-32,204 and*
4 *amendments thereto.*

5 *[(ix) The amount of any ad valorem taxes and assessments paid*
6 *and the amount of any costs incurred for habitat management or*
7 *construction and maintenance of improvements on real property,*
8 *claimed for deduction in determining federal adjusted gross income,*
9 *to the extent the same is claimed as the basis for any credit allowed*
10 *pursuant to K.S.A. 79-32,203 and amendments thereto.*

11 *[(x) Amounts received as nonqualified withdrawals, as defined*
12 *by K.S.A. 2006 Supp. 75-643, and amendments thereto, if, at the*
13 *time of contribution to a family postsecondary education savings*
14 *account, such amounts were subtracted from the federal adjusted*
15 *gross income pursuant to paragraph (xv) of subsection (c) of K.S.A.*
16 *79-32,117, and amendments thereto, or if such amounts are not al-*
17 *ready included in the federal adjusted gross income.*

18 *[(xi) The amount of any contribution made to the same extent*
19 *the same is claimed as the basis for the credit allowed pursuant to*
20 *K.S.A. 2006 Supp. 74-50,154, and amendments thereto.*

21 *[(xii) For taxable years commencing after December 31, 2004,*
22 *amounts received as withdrawals not in accordance with the pro-*
23 *visions of K.S.A. 2006 Supp. 74-50,204, and amendments thereto,*
24 *if, at the time of contribution to an individual development account,*
25 *such amounts were subtracted from the federal adjusted gross in-*
26 *come pursuant to paragraph (xiii) of subsection (c), or if such*
27 *amounts are not already included in the federal adjusted gross*
28 *income.*

29 *[(xiii) The amount of any expenditures claimed for deduction in*
30 *determining federal adjusted gross income, to the extent the same*
31 *is claimed as the basis for any credit allowed pursuant to K.S.A.*
32 *2006 Supp. 79-32,217 through 79-32,220 or 79-32,222, and amend-*
33 *ments thereto.*

34 *[(xiv) The amount of any amortization deduction claimed in de-*
35 *termining federal adjusted gross income to the extent the same is*
36 *claimed for deduction pursuant to K.S.A. 2006 Supp. 79-32,221, and*
37 *amendments thereto.*

38 *[(xv) The amount of any expenditures claimed for deduction in*
39 *determining federal adjusted gross income, to the extent the same*
40 *is claimed as the basis for any credit allowed pursuant to K.S.A.*
41 *2006 Supp. 79-32,223 through 79-32,226, and amendments thereto.*

42 *[(xvi) The amount of any amortization deduction claimed in de-*
43 *termining federal adjusted gross income to the extent the same is*

1 *claimed for deduction pursuant to K.S.A. 2006 Supp. 79-32,227, and*
2 *amendments thereto.*

3 *[(xvii) The amount of any expenditures claimed for deduction*
4 *in determining federal adjusted gross income, to the extent the same*
5 *is claimed as the basis for any credit allowed pursuant to K.S.A.*
6 *2006 Supp. 79-32,228 through 79-32,231, and amendments thereto.*

7 *[(xviii) The amount of any amortization deduction claimed in*
8 *determining federal adjusted gross income to the extent the same is*
9 *claimed for deduction pursuant to K.S.A. 2006 Supp. 79-32,232, and*
10 *amendments thereto.*

11 *[(xix) The amount of any expenditures claimed for deduction in*
12 *determining federal adjusted gross income, to the extent the same*
13 *is claimed as the basis for any credit allowed pursuant to K.S.A.*
14 *2006 Supp. 79-32,233 through 79-32,236, and amendments thereto.*

15 *[(xx) The amount of any amortization deduction claimed in de-*
16 *termining federal adjusted gross income to the extent the same is*
17 *claimed for deduction pursuant to K.S.A. 2006 Supp. 79-32,237, and*
18 *amendments thereto.*

19 *[(xxi) The amount of any expenditures claimed for deduction in*
20 *determining federal adjusted gross income, to the extent the same*
21 *is claimed as the basis for any credit allowed pursuant to K.S.A.*
22 *2006 Supp. 79-32,238 through 79-32,241, and amendments thereto.*

23 *[(c) There shall be subtracted from federal adjusted gross*
24 *income:*

25 *[(i) Interest or dividend income on obligations or securities of*
26 *any authority, commission or instrumentality of the United States*
27 *and its possessions less any related expenses directly incurred in the*
28 *purchase of such obligations or securities, to the extent included in*
29 *federal adjusted gross income but exempt from state income taxes*
30 *under the laws of the United States.*

31 *[(ii) Any amounts received which are included in federal ad-*
32 *justed gross income but which are specifically exempt from Kansas*
33 *income taxation under the laws of the state of Kansas.*

34 *[(iii) The portion of any gain or loss from the sale or other dis-*
35 *position of property having a higher adjusted basis for Kansas in-*
36 *come tax purposes than for federal income tax purposes on the date*
37 *such property was sold or disposed of in a transaction in which gain*
38 *or loss was recognized for purposes of federal income tax that does*
39 *not exceed such difference in basis, but if a gain is considered a*
40 *long-term capital gain for federal income tax purposes, the modifi-*
41 *cation shall be limited to that portion of such gain which is included*
42 *in federal adjusted gross income.*

43 *[(iv) The amount necessary to prevent the taxation under this*

- 1 *act of any annuity or other amount of income or gain which was*
2 *properly included in income or gain and was taxed under the laws*
3 *of this state for a taxable year prior to the effective date of this act,*
4 *as amended, to the taxpayer, or to a decedent by reason of whose*
5 *death the taxpayer acquired the right to receive the income or gain,*
6 *or to a trust or estate from which the taxpayer received the income*
7 *or gain.*
- 8 *[(v) The amount of any refund or credit for overpayment of*
9 *taxes on or measured by income or fees or payments in lieu of in-*
10 *come taxes imposed by this state, or any taxing jurisdiction, to the*
11 *extent included in gross income for federal income tax purposes.*
- 12 *[(vi) Accumulation distributions received by a taxpayer as a*
13 *beneficiary of a trust to the extent that the same are included in*
14 *federal adjusted gross income.*
- 15 *[(vii) Amounts received as annuities under the federal civil serv-*
16 *ice retirement system from the civil service retirement and disabil-*
17 *ity fund and other amounts received as retirement benefits in what-*
18 *ever form which were earned for being employed by the federal*
19 *government or for service in the armed forces of the United States.*
- 20 *[(viii) Amounts received by retired railroad employees as a sup-*
21 *plemental annuity under the provisions of 45 U.S.C. 228b (a) and*
22 *228c (a)(1) et seq.*
- 23 *[(ix) Amounts received by retired employees of a city and by*
24 *retired employees of any board of such city as retirement allow-*
25 *ances pursuant to K.S.A. 13-14,106, and amendments thereto, or*
26 *pursuant to any charter ordinance exempting a city from the pro-*
27 *visions of K.S.A. 13-14,106, and amendments thereto.*
- 28 *[(x) For taxable years beginning after December 31, 1976, the*
29 *amount of the federal tentative jobs tax credit disallowance under*
30 *the provisions of 26 U.S.C. 280 C. For taxable years ending after*
31 *December 31, 1978, the amount of the targeted jobs tax credit and*
32 *work incentive credit disallowances under 26 U.S.C. 280 C.*
- 33 *[(xi) For taxable years beginning after December 31, 1986, div-*
34 *idend income on stock issued by Kansas Venture Capital, Inc.*
- 35 *[(xii) For taxable years beginning after December 31, 1989,*
36 *amounts received by retired employees of a board of public utilities*
37 *as pension and retirement benefits pursuant to K.S.A. 13-1246, 13-*
38 *1246a and 13-1249 and amendments thereto.*
- 39 *[(xiii) For taxable years beginning after December 31, 2004,*
40 *amounts contributed to and the amount of income earned on con-*
41 *tributions deposited to an individual development account under*
42 *K.S.A. 2006 Supp. 74-50,201, et seq., and amendments thereto.*
- 43 *[(xiv) For all taxable years commencing after December 31,*

1 *1996, that portion of any income of a bank organized under the*
2 *laws of this state or any other state, a national banking association*
3 *organized under the laws of the United States, an association or-*
4 *ganized under the savings and loan code of this state or any other*
5 *state, or a federal savings association organized under the laws of*
6 *the United States, for which an election as an S corporation under*
7 *subchapter S of the federal internal revenue code is in effect, which*
8 *accrues to the taxpayer who is a stockholder of such corporation*
9 *and which is not distributed to the stockholders as dividends of the*
10 *corporation.*

11 ~~[(xv) For all taxable years beginning after December 31, 1999,~~
12 ~~amounts not exceeding \$2,000, or \$4,000 for a married couple filing a~~
13 ~~joint return, for each designated beneficiary which are contributed to a~~
14 ~~family postsecondary education savings account established under the~~
15 ~~Kansas postsecondary education savings program for the purpose of pay-~~
16 ~~ing the qualified higher education expenses of a designated beneficiary~~
17 ~~at an institution of postsecondary education. For all taxable years be-~~
18 ~~ginning after December 31, 2004 2006, amounts not exceeding~~
19 ~~\$3,000, or \$6,000 for a married couple filing a joint return, for each~~
20 ~~designated beneficiary which are contributed to a family postse-~~
21 ~~condary education savings account established under the Kansas~~
22 ~~postsecondary education savings program or a qualified tuition pro-~~
23 ~~gram established and maintained by another state or agency or instru-~~
24 ~~mentality thereof pursuant to section 529 of the internal revenue code of~~
25 ~~1986, as amended, for the purpose of paying the qualified higher~~
26 ~~education expenses of a designated beneficiary at an institution of~~
27 ~~postsecondary education. The terms and phrases used in this par-~~
28 ~~agraph shall have the meaning respectively ascribed thereto by the~~
29 ~~provisions of K.S.A. 2006 Supp. 75-643, and amendments thereto,~~
30 ~~and the provisions of such section are hereby incorporated by refer-~~
31 ~~ence for all purposes thereof.~~

32 [(xvi) For the tax year beginning after December 31, 2004, an
33 amount not exceeding \$500; for the tax year beginning after Decem-
34 ber 31, 2005, an amount not exceeding \$600; for the tax year be-
35 ginning after December 31, 2006, an amount not exceeding \$700;
36 for the tax year beginning after December 31, 2007, an amount not
37 exceeding \$800; for the tax year beginning December 31, 2008, an
38 amount not exceeding \$900; and for all taxable years commencing
39 after December 31, 2009, an amount not exceeding \$1,000 of the
40 premium costs for qualified long-term care insurance contracts, as
41 defined by subsection (b) of section 7702B of public law 104-191.

42 [(xvii) For all taxable years beginning after December 31, 2004,
43 amounts received by taxpayers who are or were members of the

1 *armed forces of the United States, including service in the Kansas*
2 *army and air national guard, as a recruitment, sign up or retention*
3 *bonus received by such taxpayer as an incentive to join, enlist or*
4 *remain in the armed services of the United States, including service*
5 *in the Kansas army and air national guard, and amounts received*
6 *for repayment of educational or student loans incurred by or obli-*
7 *gated to such taxpayer and received by such taxpayer as a result of*
8 *such taxpayer's service in the armed forces of the United States,*
9 *including service in the Kansas army and air national guard.*

10 *[(xviii) For all taxable years beginning after December 31,*
11 *2004, amounts received by taxpayers who are eligible members of*
12 *the Kansas army and air national guard as a reimbursement pur-*
13 *suant to K.S.A. 48-281, and amendments thereto, and amounts re-*
14 *ceived for death benefits pursuant to K.S.A. 48-282, and amend-*
15 *ments thereto, or pursuant to section 1 or section 2 of chapter 207*
16 *of the 2005 session laws of Kansas, and amendments thereto, to the*
17 *extent that such death benefits are included in federal adjusted*
18 *gross income of the taxpayer.*

19 *[(xix) For all taxable years beginning after December 31, 2006,*
20 *amounts received as income by the spouse of an individual serving in the*
21 *armed forces of the United States in an area designated by the president*
22 *of the United States by executive order as a combat zone as defined under*
23 *26 U.S.C. 112 at any time during the period designated by the president*
24 *by executive order as the period of combatant activities in such zone for*
25 *the purposes of such section, during the period of time the individual is*
26 *serving in such combat, to the extent that such income of the spouse is*
27 *included in federal adjusted gross income.*

28 *[(d) There shall be added to or subtracted from federal adjusted*
29 *gross income the taxpayer's share, as beneficiary of an estate or*
30 *trust, of the Kansas fiduciary adjustment determined under K.S.A.*
31 *79-32,135, and amendments thereto.*

32 *[(e) The amount of modifications required to be made under this*
33 *section by a partner which relates to items of income, gain, loss,*
34 *deduction or credit of a partnership shall be determined under*
35 *K.S.A. 79-32,131, and amendments thereto, to the extent that such*
36 *items affect federal adjusted gross income of the partner.]*

37 *Sec. ~~5~~ [9.] K.S.A. 2006 Supp. [74-50,131,] 74-8132, 74-8133, 74-*
38 *8134 ~~and,~~] 74-8135[, 79-32,117 and 79-32,117l] [and 79-32,205]*
39 *[and 79-32,160a] are hereby repealed.*

40 *Sec. ~~6~~ [10.] This act shall take effect and be in force from and after*
41 *its publication in the statute book.*