

HOUSE BILL No. 2406

By Committee on Energy and Utilities

2-6

9 AN ACT concerning certain qualifying wind energy electric generation
10 facilities; providing for certain income tax credits and deductions;
11 amending K.S.A. 2006 Supp. 79-32,117, 79-32,120 and 79-32,138 and
12 repealing the existing sections; also repealing K.S.A. 2006 Supp. 79-
13 32,117L.

14
15 *Be it enacted by the Legislature of the State of Kansas:*

16 New Section 1. As used in sections 1 through 5, and amendments
17 thereto:

18 (a) "Commission" means the state corporation commission.

19 (b) "New qualifying electric generation facility" means a qualifying
20 electric generation facility, construction of which begins after December
21 31, 2007.

22 (c) "Pass-through entity" means any: (1) Corporation which is exempt
23 from income tax under section 1363 of the federal internal revenue code
24 and which complies with the requirements of K.S.A. 2006 Supp. 79-
25 32,100e, and amendments thereto; (2) limited liability company; (3) part-
26 nership; (4) limited liability partnership; (5) corporation organized under
27 the electric cooperative act; or (6) nonstock member-owned electric co-
28 operative corporation incorporated in this state.

29 (d) "Qualified investment" means expenditures made in construction
30 of a new qualifying electric generation facility, for real and tangible per-
31 sonal property incorporated in and used as part of such facility.

32 (e) "Qualifying electric generation facility" means an electric gener-
33 ation facility which:

34 (1) Is owned by an electric public utility, as defined in K.S.A. 66-
35 101a, and amendments thereto;

36 (2) has a capacity of more than 50 megawatts of electricity from wind
37 energy; and (3) is sited in conformity with the guidelines set forth in
38 section 5, and amendments thereto.

39 New Sec. 2. (a) For taxable years commencing after December 31,
40 2007, and before January 1, 2012, any taxpayer who is awarded a tax credit
41 under this act by the commission and complies with the conditions set
42 forth in this act and the agreement entered into by the commission and
43 the taxpayer under this act shall be allowed a credit against the taxpayer's

1 tax liability under the Kansas income tax act as provided in subsection
2 (b). Expenditures used to qualify for this credit shall not be used to qualify
3 for any other type of Kansas income tax credit.

4 (b) The amount of the credit to which a taxpayer is entitled shall be
5 equal to the sum of: (1) An amount equal to 10% of the taxpayer's qual-
6 ified investment for the first \$250,000,000 invested and (2) an amount
7 equal to 5% of the amount of the taxpayer's qualified investment that
8 exceeds \$250,000,000. Such credit shall be taken in 10 equal, annual
9 installments, beginning with the year in which the taxpayer places into
10 service the new qualifying electric generation facility.

11 (c) If the amount of an annual installment of a tax credit allowed
12 under this section exceeds the taxpayer's income tax liability for the tax-
13 able year in which the annual installment is allowed, the amount thereof
14 which exceeds such tax liability may be carried over for deduction from
15 the taxpayer's income tax liability in the next succeeding taxable year or
16 years until the total amount of the annual installment of the tax credit has
17 been deducted from tax liability, except that no such tax credit shall be
18 carried over for deduction after the 14th taxable year succeeding the
19 taxable year in which the first annual installment is allowed.

20 (d) (1) Before making a qualified investment, a taxpayer shall apply
21 to the commission to enter into an agreement for a tax credit under this
22 act. The commission shall prescribe the form of the application. After
23 receipt of such application, the commission may enter into an agreement
24 with the applicant for a credit under this act if the commission determines
25 that the taxpayer's proposed investment satisfies the requirements of this
26 act. The commission shall enter into an agreement with an applicant
27 which is awarded a credit under this act. The agreement shall include:
28 (A) A detailed description of the the generation facility project that is the
29 subject of the agreement, (B) the first taxable year for which the credit
30 may be claimed, (C) the maximum amount of tax credit that will be al-
31 lowed for each taxable year, (D) a requirement that the taxpayer shall
32 maintain operation of such generation facility for at least 10 years during
33 the term that the tax credit is available, and (E) a requirement that the
34 taxpayer obtain from the commission a determination that the public ne-
35 cessity and convenience require, or will require, construction of such
36 generation facility.

37 (2) A taxpayer must comply with the terms of the agreement de-
38 scribed in subsection (d)(1) to receive an annual installment of the tax
39 credit awarded under this act. The commission, in accordance with rules
40 and regulations of the commission, shall annually determine whether the
41 taxpayer is in compliance with the agreement. Such determination of
42 compliance shall include, but not be limited to, operation of the new
43 qualifying electric generation facility during the tax years when any in-

1 stallments of tax credits are claimed by the taxpayer. If the commission
2 determines that the taxpayer is in compliance, the commission shall issue
3 a certificate of compliance to the taxpayer. If the secretary determines
4 that the taxpayer is not in compliance with the agreement, the secretary
5 shall notify the taxpayer and the secretary of revenue of such determi-
6 nation of noncompliance, and any tax credits claimed pursuant to this
7 section for any tax year shall be forfeited.

8 (3) The state corporation commission may adopt rules and regula-
9 tions to administer the provisions of this subsection.

10 New Sec. 3. (a) If a qualified investment is made by or transferred
11 to a pass-through entity and the credit allowed by this act for a taxable
12 year is greater than the entity's tax liability against which the tax credit
13 may be applied, a shareholder, partner or member of the entity is entitled
14 to a tax credit equal to the tax credit determined for the entity for the
15 taxable year in excess of the entity's tax liability under the Kansas income
16 tax act for the taxable year multiplied by the percentage of the entity's
17 distributive income to which the shareholder, partner or member is
18 entitled.

19 (b) If a qualifying electric generation facility is co-owned by two or
20 more taxpayers, the amount of the credit that may be allowed to a co-
21 owner in a taxable year is equal to the tax credit determined under section
22 2, and amendments thereto, with respect to the total qualified investment
23 in such facility multiplied by the co-owner's percentage of ownership in
24 such facility.

25 (c) Such credit shall be taken in 10 equal, annual installments, begin-
26 ning with the year in which the entity places into service the new quali-
27 fying electric generation facility.

28 (d) If the amount of an annual installment of a tax credit allowed a
29 shareholder, partner, member or co-owner under this section exceeds the
30 taxpayer's income tax liability for the taxable year in which the annual
31 installment is allowed, the amount thereof which exceeds such tax liability
32 may be carried over for deduction from the taxpayer's income tax liability
33 in the next succeeding taxable year or years until the total amount of the
34 tax credit has been deducted from tax liability, except that no such tax
35 credit shall be carried over for deduction after the 14th taxable year suc-
36 ceeding the taxable year in which the first annual installment is allowed.

37 New Sec. 4. To receive the credit awarded by this act, a taxpayer
38 must claim the credit on the taxpayer's annual state income tax return or
39 returns in the manner prescribed by the director of taxation. The taxpayer
40 shall submit to the director a copy of the taxpayer's agreement for a tax
41 credit entered into with the commission pursuant to section 2, and
42 amendments thereto, and all information that the director determines
43 necessary for the calculation of the credit provided by this act.

- 1 New Sec. 5. The following are guidelines with which siting of a qual-
2 ifying electric generation facility shall comply:
- 3 (a) *Land use guidelines.* The electric public utility shall:
- 4 (1) Contact agencies, property-owners and stakeholders early in the
5 process to identify potentially sensitive land uses and issues;
- 6 (2) learn the rules that govern where and how the facility may be
7 developed in the area where the facility is to be sited;
- 8 (3) review and address land use compatibility issues before leasing
9 the land;
- 10 (4) in the spirit of interacting with all landowners in an equitable and
11 fair fashion when proposing lease and option agreements, provide access
12 or direction to objective background information that will allow the land-
13 owner to make a fully informed decision;
- 14 (5) recognize there are concerns specific to each region in the state;
15 consult with appropriate experts and research and evaluate the implica-
16 tions of local issues prior to selecting a specific site within the respective
17 region;
- 18 (6) (A) because of the rarity and high conservation value that the
19 tallgrass prairie harbors, give careful consideration to the impact of siting
20 the facility in the Flint Hills, particularly in the relatively unfragmented
21 areas of the landscape; (B) give care to avoid damage to unfragmented
22 landscapes and high quality remnants in the Sandhills, Mixed Grass, and
23 Shortgrass prairies in central and western Kansas; and (C) when feasible,
24 site the facility on already altered landscapes, such as extensively culti-
25 vated land, areas already developed, or an undeveloped buffer adjacent
26 to intact prairies; and
- 27 (7) plan for efficient use of the land, consolidate necessary infrastruc-
28 ture requirements whenever possible and carefully evaluate current trans-
29 mission and market access.
- 30 (b) *Noise management guidelines.* The electric public utility shall:
- 31 (1) When evaluating prospective sites, consider whether there are
32 adequate setbacks from residential areas and rural homes, especially
33 where the residential unit is in a relatively less windy or quieter location
34 than the facility, and recognize that residents who support the facility may
35 some day be replaced by others who will object to the noise; and
- 36 (2) where acoustic levels are critical because of nearby residences or
37 natural surroundings, investigate the possibility of using sound reduction
38 technology on appropriate turbines.
- 39 (c) *Natural and biological resources guidelines.* The electric public
40 utility shall:
- 41 (1) Consider the biological setting early in the project evaluation and
42 planning process; use biological and environmental experts to conduct
43 preliminary reconnaissance of the prospective site area; communicate

- 1 with wildlife agency and university personnel; and recognize that, if a site
2 has a large potential for biological or environmental conflicts, it may not
3 be worth the time and cost of conducting detailed wind resource evalu-
4 ation work;
- 5 (2) contact appropriate resource management agencies early in the
6 planning process to determine if there are any resources of special con-
7 cern in the area under consideration;
- 8 (3) involve local environmental and natural resources groups as soon
9 as practicable to insure they understand the facility's requirements and
10 see their concerns are being seriously addressed;
- 11 (4) because a key tool for avoiding unnecessary negative ecological
12 impacts of a facility is planning use landscape-level examinations of key
13 wildlife habitats, migration corridors, staging and concentration areas and
14 breeding and brood-rearing areas to develop general siting strategies;
- 15 (5) carefully review legally protected wildlife, such as threatened and
16 endangered species, present or potentially present at the site; recognize
17 that other seriously declining or vulnerable species that have no legal
18 protection may also be present; and research wildlife issues at each po-
19 tential site and attempt to understand how the facility might impact in-
20 dividual species of concern;
- 21 (6) because sites where native vegetation is scarce or absent will have
22 substantially fewer biological resource concerns, where possible, avoid
23 large, intact areas of native vegetation;
- 24 (7) bury power lines when feasible; in regions where grassland burn-
25 ing is practiced, build infrastructure which is able to withstand periodic
26 burning of vegetation; and minimize roads and fences;
- 27 (8) not allow perches on the nacelles of turbines; in building towers,
28 not utilize lattice-type construction or other designs that provide perches
29 for avian predators; and address potential adverse affects of turbine warn-
30 ing lights on migrating birds;
- 31 (9) situate the facility in a way that does not interfere with important
32 wildlife movement corridors and staging areas;
- 33 (10) when possible to avoid significant ecological damage in the siting
34 of the facility, consider mitigation for habitat loss; appropriate actions may
35 include ecological restoration, long-term management agreements, and
36 conservation easements to enhance or protect sites with similar or higher
37 ecological quality to that of the developed site; and
- 38 (11) consider potential cumulative regional impacts from multiple
39 generation facilities when making environmental assessments and miti-
40 gation decisions and recognize that failure to consider such multiple fa-
41 cilities will prevent analysis at a scale that could potentially yield a much
42 different picture.
- 43 (d) *Visual impact guidelines.* The electric public utility shall:

- 1 (1) Because the visual impact of the facility is an important consid-
2 eration in siting deliberations, fully evaluate the impact on the quality of
3 the surrounding landscape and viewsheds, especially in areas with high
4 aesthetic qualities and where neighbors' property may be impacted by
5 the siting and, where useful, provide accurate visual representations of
6 the potential facility (including visual simulations and viewshed analyses)
7 to landowners, the general public and other key stakeholders regarding
8 the visual impact of the facility;
- 9 (2) listen to the communities and stakeholders in all project phases;
- 10 (3) consider adapting the facility design to minimize visual exposure
11 from visually sensitive areas;
- 12 (4) plan the facility to minimize the need for developed roads or cut-
13 and-fill;
- 14 (5) consider the possibilities and benefits of using road-less facility
15 designs or designs that rely on existing roads; and
- 16 (6) identify designated scenic byways and popular vistas, and avoid
17 sites that are readily visible from those points.
- 18 (e) *Soil erosion and water quality*. The electric public utility shall:
 - 19 (1) Wherever possible, avoid sites that require construction activities
20 on steep slopes;
 - 21 (2) in considering the appropriate erosion control measures required
22 for a specific site, be aware that although some measures may require
23 greater expense initially, significant savings will occur over the life of the
24 project in reduced maintenance and replacement costs, recognizing that
25 a well-developed erosion and sediment control plan may also reduce reg-
26 ulatory delays in approving and monitoring the facility;
 - 27 (3) when feasible, conduct construction and maintenance when the
28 ground is frozen or when soils are dry and native vegetation is dormant;
 - 29 (4) keep improved roads and construction staging areas to a minimum
30 and give care to avoid sensitive habitats;
 - 31 (5) as practical, carry out ongoing operation and maintenance activi-
32 ties by use of light conveyances to minimize habitat disturbance and the
33 need for improved roads; and
 - 34 (6) use native vegetation of local ecotypes when reseeding disturbed
35 areas and consider wildlife and plant composition in determining the fre-
36 quency and timing of mowing near turbines.
- 37 (f) *Safety guidelines*. The electric public utility shall include the need
38 for safety setbacks when evaluating specific parcels for development, rec-
39 ognizing that sufficient spacing from public access ways, and particularly
40 from residential areas and structures, can mitigate many siting issues.
- 41 (g) *Cultural, archaeological and paleontological guidelines*. The elec-
42 tric public utility shall:
 - 43 (1) Avoid selecting sites with potentially sensitive cultural or historical

- 1 resources whenever possible and always involve stakeholders early on;
- 2 (2) consult with the Kansas state historical society and qualified pro-
- 3 fessional specialists familiar with cultural and fossil resources in the pro-
- 4 ject development area;
- 5 (3) respect that some sensitive resources and sites may be confiden-
- 6 tial to Native Americans and plan to work closely with tribal representa-
- 7 tives to avoid disruption of these resources;
- 8 (4) design site layouts to avoid sensitive resources if possible;
- 9 (5) provide for monitoring and mitigation for protection of sensitive
- 10 resources during construction and operation of the project; and
- 11 (6) allow adequate time in the project schedule for data and specimen
- 12 recovery, mapping analysis and reporting.
- 13 (h) *Socioeconomic, public service and infrastructure guidelines*. The
- 14 electric public utility shall:
- 15 (1) Consult with local agencies and service districts to determine if
- 16 and how the facility's requirements may affect community services, costs
- 17 and infrastructure;
- 18 (2) if possible, plan the facility's operation and construction to avoid
- 19 or minimize potential impacts on community services and infrastructure;
- 20 (3) recognize that the Kansas personal property tax exemption avail-
- 21 able to renewable energy projects affects the local community, incorpo-
- 22 rate community and goodwill initiatives into the facility's economic plan
- 23 and work to be good neighbors;
- 24 (4) not exploit the fact that some districts or counties do not yet have
- 25 an established zoning permitting process applicable to generation facili-
- 26 ties and shall work with the appropriate local officials to establish reason-
- 27 able parameters and make the process as transparent and informative to
- 28 the public as practicable;
- 29 (5) provide information related to possible future expansion of the
- 30 facility; affected stakeholders should recognize that developers may not
- 31 have precise information about future expansions, and developers should
- 32 recognize that stakeholder issues and concerns may be dependent on
- 33 facility scale, and that expansion of the facility may involve impacts not
- 34 specifically addressed during the initial facility;
- 35 (6) anticipate and make provisions for future site decommissioning
- 36 and restoration;
- 37 (7) utilize local contractors and providers for services, supplies and
- 38 equipment as much as possible during construction and operation of the
- 39 facility; and
- 40 (8) recognize that the local community may not have a specific need
- 41 for the electricity generated by the proposed facility and that there should
- 42 be substantive public benefits beyond the greater good of hosting a re-
- 43 newable energy generation facility.

1 (i) *Public interaction guidelines*. The electric public utility shall:
2 (1) Prepare and implement a public outreach program on the benefits
3 and trade-offs involved in wind generation; and
4 (2) provide access or direction to objective background resources that
5 will allow interested parties to make fully informed decisions and incor-
6 porate into the siting process public involvement through meetings and
7 public forums; decision making by developers, landowners, elected offi-
8 cials and the general public will be enhanced when accurate and com-
9 prehensive information is shared and ample opportunity for two-way
10 communication is available.

11 New Sec. 6. (a) In addition to the income tax credit allowable pur-
12 suant to sections 1 through 5, and amendments thereto, a taxpayer shall
13 be entitled to a deduction from Kansas adjusted gross income with respect
14 to the amortization of the amortizable costs of a new qualifying electric
15 generation facility based upon a period of 10 years. Such amortization
16 deduction shall be an amount equal to 55% of the amortizable costs of
17 such facility for the first taxable year in which such new plant or expansion
18 of an existing plant is in production and 5% of the amortizable costs of
19 such facility for each of the next nine taxable years.

20 (b) The election of the taxpayer to claim the deduction allowed by
21 subsection (a) shall be made by filing a statement of such election with
22 the secretary of revenue in the manner and form and within the time
23 prescribed by rules and regulations adopted by the secretary.

24 (c) The provisions of this section shall apply to all taxable years com-
25 mencing after December 31, 2007.

26 (d) The secretary of revenue shall adopt such rules and regulations
27 as deemed necessary to carry out the provisions of this section.

28 (e) As used in this section, terms have the meanings provided by
29 section 1, and amendments thereto.

30 Sec. 7. K.S.A. 2006 Supp. 79-32,117 is hereby amended to read as
31 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual
32 means such individual's federal adjusted gross income for the taxable year,
33 with the modifications specified in this section.

34 (b) There shall be added to federal adjusted gross income:

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

- 1 gations of this state or a political subdivision thereof issued after Decem-
2 ber 31, 1987, shall be excluded from computation of Kansas adjusted
3 gross income whether or not included in federal adjusted gross income.
- 4 (ii) Taxes on or measured by income or fees or payments in lieu of
5 income taxes imposed by this state or any other taxing jurisdiction to the
6 extent deductible in determining federal adjusted gross income and not
7 credited against federal income tax. This paragraph shall not apply to taxes
8 imposed under the provisions of K.S.A. 79-1107 or 79-1108, and amend-
9 ments thereto, for privilege tax year 1995, and all such years thereafter.
- 10 (iii) The federal net operating loss deduction.
- 11 (iv) Federal income tax refunds received by the taxpayer if the de-
12 duction of the taxes being refunded resulted in a tax benefit for Kansas
13 income tax purposes during a prior taxable year. Such refunds shall be
14 included in income in the year actually received regardless of the method
15 of accounting used by the taxpayer. For purposes hereof, a tax benefit
16 shall be deemed to have resulted if the amount of the tax had been de-
17 ducted in determining income subject to a Kansas income tax for a prior
18 year regardless of the rate of taxation applied in such prior year to the
19 Kansas taxable income, but only that portion of the refund shall be in-
20 cluded as bears the same proportion to the total refund received as the
21 federal taxes deducted in the year to which such refund is attributable
22 bears to the total federal income taxes paid for such year. For purposes
23 of the foregoing sentence, federal taxes shall be considered to have been
24 deducted only to the extent such deduction does not reduce Kansas tax-
25 able income below zero.
- 26 (v) The amount of any depreciation deduction or business expense
27 deduction claimed on the taxpayer's federal income tax return for any
28 capital expenditure in making any building or facility accessible to the
29 handicapped, for which expenditure the taxpayer claimed the credit al-
30 lowed by K.S.A. 79-32,177, and amendments thereto.
- 31 (vi) Any amount of designated employee contributions picked up by
32 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,
33 and amendments to such sections.
- 34 (vii) The amount of any charitable contribution made to the extent
35 the same is claimed as the basis for the credit allowed pursuant to K.S.A.
36 79-32,196, and amendments thereto.
- 37 (viii) The amount of any costs incurred for improvements to a swine
38 facility, claimed for deduction in determining federal adjusted gross in-
39 come, to the extent the same is claimed as the basis for any credit allowed
40 pursuant to K.S.A. 2006 Supp. 79-32,204 and amendments thereto.
- 41 (ix) The amount of any ad valorem taxes and assessments paid and
42 the amount of any costs incurred for habitat management or construction
43 and maintenance of improvements on real property, claimed for deduc-

1 tion in determining federal adjusted gross income, to the extent the same
2 is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203
3 and amendments thereto.

4 (x) Amounts received as nonqualified withdrawals, as defined by
5 K.S.A. 2006 Supp. 75-643, and amendments thereto, if, at the time of
6 contribution to a family postsecondary education savings account, such
7 amounts were subtracted from the federal adjusted gross income pur-
8 suant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amend-
9 ments thereto, or if such amounts are not already included in the federal
10 adjusted gross income.

11 (xi) The amount of any contribution made to the same extent the
12 same is claimed as the basis for the credit allowed pursuant to K.S.A.
13 2006 Supp. 74-50,154, and amendments thereto.

14 (xii) For taxable years commencing after December 31, 2004,
15 amounts received as withdrawals not in accordance with the provisions
16 of K.S.A. 2006 Supp. 74-50,204, and amendments thereto, if, at the time
17 of contribution to an individual development account, such amounts were
18 subtracted from the federal adjusted gross income pursuant to paragraph
19 (xiii) of subsection (c), or if such amounts are not already included in the
20 federal adjusted gross income.

21 (xiii) The amount of any expenditures claimed for deduction in deter-
22 mining federal adjusted gross income, to the extent the same is claimed
23 as the basis for any credit allowed pursuant to K.S.A. 2006 Supp. 79-
24 32,217 through 79-32,220 or 79-32,222, and amendments thereto.

25 (xiv) The amount of any amortization deduction claimed in deter-
26 mining federal adjusted gross income to the extent the same is claimed
27 for deduction pursuant to K.S.A. 2006 Supp. 79-32,221, and amendments
28 thereto.

29 (xv) The amount of any expenditures claimed for deduction in deter-
30 mining federal adjusted gross income, to the extent the same is claimed
31 as the basis for any credit allowed pursuant to K.S.A. 2006 Supp. 79-
32 32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233
33 through 79-32,236, 79-32,238 through 79-32,241 or sections 1 through 5,
34 and amendments thereto.

35 (xvi) The amount of any amortization deduction claimed in deter-
36 mining federal adjusted gross income to the extent the same is claimed
37 for deduction pursuant to K.S.A. 2006 Supp. 79-32,227, 79-32,232, 79-
38 32,237 or section 6, and amendments thereto.

39 ~~(xvii) The amount of any expenditures claimed for deduction in deter-~~
40 ~~mining federal adjusted gross income, to the extent the same is claimed~~
41 ~~as the basis for any credit allowed pursuant to K.S.A. 2006 Supp. 79-~~
42 ~~32,228 through 79-32,231, and amendments thereto.~~

43 ~~—(xviii) The amount of any amortization deduction claimed in deter-~~

- 1 ~~mining federal adjusted gross income to the extent the same is claimed~~
2 ~~for deduction pursuant to K.S.A. 2006 Supp. 79-32,232, and amendments~~
3 ~~thereto.~~
- 4 ~~—(xix) The amount of any expenditures claimed for deduction in de-~~
5 ~~termining federal adjusted gross income, to the extent the same is claimed~~
6 ~~as the basis for any credit allowed pursuant to K.S.A. 2006 Supp. 79-~~
7 ~~32,233 through 79-32,236, and amendments thereto.~~
- 8 ~~—(xx) The amount of any amortization deduction claimed in determin-~~
9 ~~ing federal adjusted gross income to the extent the same is claimed for~~
10 ~~deduction pursuant to K.S.A. 2006 Supp. 79-32,237, and amendments~~
11 ~~thereto.~~
- 12 ~~—(xxi) The amount of any expenditures claimed for deduction in de-~~
13 ~~termining federal adjusted gross income, to the extent the same is claimed~~
14 ~~as the basis for any credit allowed pursuant to K.S.A. 2006 Supp. 79-~~
15 ~~32,238 through 79-32,241, and amendments thereto.~~
- 16 (c) There shall be subtracted from federal adjusted gross income:
- 17 (i) Interest or dividend income on obligations or securities of any
18 authority, commission or instrumentality of the United States and its pos-
19 sessions less any related expenses directly incurred in the purchase of
20 such obligations or securities, to the extent included in federal adjusted
21 gross income but exempt from state income taxes under the laws of the
22 United States.
- 23 (ii) Any amounts received which are included in federal adjusted
24 gross income but which are specifically exempt from Kansas income tax-
25 ation under the laws of the state of Kansas.
- 26 (iii) The portion of any gain or loss from the sale or other disposition
27 of property having a higher adjusted basis for Kansas income tax purposes
28 than for federal income tax purposes on the date such property was sold
29 or disposed of in a transaction in which gain or loss was recognized for
30 purposes of federal income tax that does not exceed such difference in
31 basis, but if a gain is considered a long-term capital gain for federal in-
32 come tax purposes, the modification shall be limited to that portion of
33 such gain which is included in federal adjusted gross income.
- 34 (iv) The amount necessary to prevent the taxation under this act of
35 any annuity or other amount of income or gain which was properly in-
36 cluded in income or gain and was taxed under the laws of this state for a
37 taxable year prior to the effective date of this act, as amended, to the
38 taxpayer, or to a decedent by reason of whose death the taxpayer acquired
39 the right to receive the income or gain, or to a trust or estate from which
40 the taxpayer received the income or gain.
- 41 (v) The amount of any refund or credit for overpayment of taxes on
42 or measured by income or fees or payments in lieu of income taxes im-
43 posed by this state, or any taxing jurisdiction, to the extent included in

- 1 gross income for federal income tax purposes.
- 2 (vi) Accumulation distributions received by a taxpayer as a beneficiary
3 of a trust to the extent that the same are included in federal adjusted
4 gross income.
- 5 (vii) Amounts received as annuities under the federal civil service
6 retirement system from the civil service retirement and disability fund
7 and other amounts received as retirement benefits in whatever form
8 which were earned for being employed by the federal government or for
9 service in the armed forces of the United States.
- 10 (viii) Amounts received by retired railroad employees as a supple-
11 mental annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1)
12 et seq.
- 13 (ix) Amounts received by retired employees of a city and by retired
14 employees of any board of such city as retirement allowances pursuant to
15 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter
16 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and
17 amendments thereto.
- 18 (x) For taxable years beginning after December 31, 1976, the amount
19 of the federal tentative jobs tax credit disallowance under the provisions
20 of 26 U.S.C. 280 C. For taxable years ending after December 31, 1978,
21 the amount of the targeted jobs tax credit and work incentive credit dis-
22 allowances under 26 U.S.C. 280 C.
- 23 (xi) For taxable years beginning after December 31, 1986, dividend
24 income on stock issued by Kansas Venture Capital, Inc.
- 25 (xii) For taxable years beginning after December 31, 1989, amounts
26 received by retired employees of a board of public utilities as pension and
27 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249
28 and amendments thereto.
- 29 (xiii) For taxable years beginning after December 31, 2004, amounts
30 contributed to and the amount of income earned on contributions de-
31 posited to an individual development account under K.S.A. 2006 Supp.
32 74-50,201, et seq., and amendments thereto.
- 33 (xiv) For all taxable years commencing after December 31, 1996, that
34 portion of any income of a bank organized under the laws of this state or
35 any other state, a national banking association organized under the laws
36 of the United States, an association organized under the savings and loan
37 code of this state or any other state, or a federal savings association or-
38 ganized under the laws of the United States, for which an election as an
39 S corporation under subchapter S of the federal internal revenue code is
40 in effect, which accrues to the taxpayer who is a stockholder of such
41 corporation and which is not distributed to the stockholders as dividends
42 of the corporation.
- 43 (xv) For all taxable years beginning after December 31, 1999,

1 amounts not exceeding ~~\$2,000, or \$4,000~~ \$3,000 or \$6,000 for a married
2 couple filing a joint return, for each designated beneficiary which are
3 contributed to a family postsecondary education savings account estab-
4 lished under the Kansas postsecondary education savings program for the
5 purpose of paying the qualified higher education expenses of a designated
6 beneficiary at an institution of postsecondary education. For all taxable
7 years beginning after December 31, ~~2004~~ 2006, amounts not exceeding
8 \$3,000, or \$6,000 for a married couple filing a joint return, for each des-
9 ignated beneficiary which are contributed to a ~~family postsecondary ed-~~
10 ~~ucation savings account established under the Kansas postsecondary ed-~~
11 ~~ucation savings program~~ *qualified tuition program established and*
12 *maintained by another state or agency or instrumentality thereof pursu-*
13 *ant to section 529 of the internal revenue code of 1986, as amended,* for
14 the purpose of paying the qualified higher education expenses of a des-
15 ignated beneficiary at an institution of postsecondary education. The
16 terms and phrases used in this paragraph shall have the meaning respec-
17 tively ascribed thereto by the provisions of K.S.A. 2006 Supp. 75-643, and
18 amendments thereto, and the provisions of such section are hereby in-
19 corporated by reference for all purposes thereof.

20 (xvi) For the tax year beginning after December 31, 2004, an amount
21 not exceeding \$500; for the tax year beginning after December 31, 2005,
22 an amount not exceeding \$600; for the tax year beginning after December
23 31, 2006, an amount not exceeding \$700; for the tax year beginning after
24 December 31, 2007, an amount not exceeding \$800; for the tax year
25 beginning December 31, 2008, an amount not exceeding \$900; and for
26 all taxable years commencing after December 31, 2009, an amount not
27 exceeding \$1,000 of the premium costs for qualified long-term care in-
28 surance contracts, as defined by subsection (b) of section 7702B of public
29 law 104-191.

30 (xvii) For all taxable years beginning after December 31, 2004,
31 amounts received by taxpayers who are or were members of the armed
32 forces of the United States, including service in the Kansas army and air
33 national guard, as a recruitment, sign up or retention bonus received by
34 such taxpayer as an incentive to join, enlist or remain in the armed services
35 of the United States, including service in the Kansas army and air national
36 guard, and amounts received for repayment of educational or student
37 loans incurred by or obligated to such taxpayer and received by such
38 taxpayer as a result of such taxpayer's service in the armed forces of the
39 United States, including service in the Kansas army and air national guard.

40 (xviii) For all taxable years beginning after December 31, 2004,
41 amounts received by taxpayers who are eligible members of the Kansas
42 army and air national guard as a reimbursement pursuant to K.S.A. 48-
43 281, and amendments thereto, and amounts received for death benefits

1 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to sec-
2 tion 1 or section 2 of chapter 207 of the 2005 session laws of Kansas, and
3 amendments thereto, to the extent that such death benefits are included
4 in federal adjusted gross income of the taxpayer.

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

9 (e) The amount of modifications required to be made under this sec-
10 tion by a partner which relates to items of income, gain, loss, deduction
11 or credit of a partnership shall be determined under K.S.A. 79-32,131,
12 and amendments thereto, to the extent that such items affect federal
13 adjusted gross income of the partner.

14 Sec. 8. K.S.A. 2006 Supp. 79-32,120 is hereby amended to read as
15 follows: 79-32,120. (a) If federal taxable income of an individual is deter-
16 mined by itemizing deductions from such individual's federal adjusted
17 gross income, such individual may elect to deduct the Kansas itemized
18 deduction in lieu of the Kansas standard deduction. The Kansas itemized
19 deduction of an individual means the total amount of deductions from
20 federal adjusted gross income, other than federal deductions for personal
21 exemptions, as provided in the federal internal revenue code with the
22 modifications specified in this section.

23 (b) The total amount of deductions from federal adjusted gross in-
24 come shall be reduced by the total amount of income taxes imposed by
25 or paid to this state or any other taxing jurisdiction to the extent that the
26 same are deducted in determining the federal itemized deductions and
27 by the amount of all depreciation deductions claimed for any real or
28 tangible personal property upon which the deduction allowed by K.S.A.
29 2006 Supp. 79-32,221, 79-32,227, 79-32,232 ~~or~~, 79-32,237 or section 6,
30 and amendments thereto, is or has been claimed.

31 Sec. 9. K.S.A. 2006 Supp. 79-32,138 is hereby amended to read as
32 follows: 79-32,138. (a) Kansas taxable income of a corporation taxable
33 under this act shall be the corporation's federal taxable income for the
34 taxable year with the modifications specified in this section.

35 (b) There shall be added to federal taxable income: (i) The same
36 modifications as are set forth in subsection (b) of K.S.A. 79-32,117, and
37 amendments thereto, with respect to resident individuals.

38 (ii) The amount of all depreciation deductions claimed for any prop-
39 erty upon which the deduction allowed by K.S.A. 2006 Supp. 79-32,221,
40 79-32,227, 79-32,232 ~~or~~, 79-32,237 or section 8, and amendments thereto,
41 is claimed.

42 (iii) The amount of any charitable contribution deduction claimed for
43 any contribution or gift to or for the use of any racially segregated edu-

1 cational institution.

2 (c) There shall be subtracted from federal taxable income: (i) The
3 same modifications as are set forth in subsection (c) of K.S.A. 79-32,117,
4 and amendments thereto, with respect to resident individuals.

5 (ii) The federal income tax liability for any taxable year commencing
6 prior to December 31, 1971, for which a Kansas return was filed after
7 reduction for all credits thereon, except credits for payments on estimates
8 of federal income tax, credits for gasoline and lubricating oil tax, and for
9 foreign tax credits if, on the Kansas income tax return for such prior year,
10 the federal income tax deduction was computed on the basis of the federal
11 income tax paid in such prior year, rather than as accrued. Notwithstand-
12 ing the foregoing, the deduction for federal income tax liability for any
13 year shall not exceed that portion of the total federal income tax liability
14 for such year which bears the same ratio to the total federal income tax
15 liability for such year as the Kansas taxable income, as computed before
16 any deductions for federal income taxes and after application of subsec-
17 tions (d) and (e) of this section as existing for such year, bears to the
18 federal taxable income for the same year.

19 (iii) An amount for the amortization deduction allowed pursuant to
20 K.S.A. 2006 Supp. 79-32,221, 79-32,227, 79-32,232 ~~or~~, 79-32,237 *or sec-*
21 *tion 8*, and amendments thereto.

22 (iv) For all taxable years commencing after December 31, 1987, the
23 amount included in federal taxable income pursuant to the provisions of
24 section 78 of the internal revenue code.

25 (v) For all taxable years commencing after December 31, 1987, 80%
26 of dividends from corporations incorporated outside of the United States
27 or the District of Columbia which are included in federal taxable income.

28 (d) If any corporation derives all of its income from sources within
29 Kansas in any taxable year commencing after December 31, 1979, its
30 Kansas taxable income shall be the sum resulting after application of
31 subsections (a) through (c) hereof. Otherwise, such corporation's Kansas
32 taxable income in any such taxable year, after excluding any refunds of
33 federal income tax and before the deduction of federal income taxes pro-
34 vided by subsection (c)(ii) shall be allocated as provided in K.S.A. 79-3271
35 to K.S.A. 79-3293, inclusive, and amendments thereto, plus any refund
36 of federal income tax as determined under paragraph (iv) of subsection
37 (b) of K.S.A. 79-32,117, and amendments thereto, and minus the deduc-
38 tion for federal income taxes as provided by subsection (c)(ii) shall be
39 such corporation's Kansas taxable income.

40 (e) A corporation may make an election with respect to its first taxable
41 year commencing after December 31, 1982, whereby no addition modi-
42 fications as provided for in subsection (b)(ii) of K.S.A. 79-32,138 and
43 subtraction modifications as provided for in subsection (c)(iii) of K.S.A.

1 79-32,138, as those subsections existed prior to their amendment by this
2 act, shall be required to be made for such taxable year.

3 Sec. 10. K.S.A. 2006 Supp. 79-32,117, 79-32,117l, 79-32,120 and 79-
4 32,138 are hereby repealed.

5 Sec. 11. This act shall take effect and be in force from and after its
6 publication in the statute book.