AN ACT concerning income taxation; relating to capital gains; amending K.S.A. 2010 Supp. 79-32,117 and 79-32,138 and repealing the existing sections.

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

Section 1. K.S.A. 2010 Supp. 79-32,117 is hereby amended to read as follows: 79-32,117. (a) The Kansas adjusted gross income of an individual means such individual's federal adjusted gross income for the taxable year, with the modifications specified in this section.

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

(i) Interest income less any related expenses directly incurred in the purchase of state or political subdivision obligations, to the extent that the same is not included in federal adjusted gross income, on obligations of any state or political subdivision thereof, but to the extent that interest income on obligations of this state or a political subdivision thereof issued prior to January 1, 1988, is specifically exempt from income tax under the laws of this state authorizing the issuance of such obligations, it shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income. Interest income on obligations of this state or a political subdivision thereof issued after December 31, 1987, shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income.

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

(iii) The federal net operating loss deduction.

(iv) Federal income tax refunds received by the taxpayer if the deduction of the taxes being refunded resulted in a tax benefit for Kansas income tax purposes during a prior taxable year. Such refunds shall be included in income in the year actually received regardless of the method of accounting used by the taxpayer. For purposes hereof, a tax benefit
shall be deemed to have resulted if the amount of the tax had been
deducted in determining income subject to a Kansas income tax for a
prior year regardless of the rate of taxation applied in such prior year to
the Kansas taxable income, but only that portion of the refund shall be
included as bears the same proportion to the total refund received as the
federal taxes deducted in the year to which such refund is attributable
to the total federal income taxes paid for such year. For purposes of
the foregoing sentence, federal taxes shall be considered to have been
deducted only to the extent such deduction does not reduce Kansas
taxable income below zero.

(v) The amount of any depreciation deduction or business expense
deduction claimed on the taxpayer's federal income tax return for any
capital expenditure in making any building or facility accessible to the
handicapped, for which expenditure the taxpayer claimed the credit
allowed by K.S.A. 79-32,177, and amendments thereto.

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

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

(viii) The amount of any costs incurred for improvements to a swine
facility, claimed for deduction in determining federal adjusted gross
income, to the extent the same is claimed as the basis for any credit
allowed pursuant to K.S.A. 2010 Supp. 79-32,204 and amendments
thereto.

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

(x) Amounts received as nonqualified withdrawals, as defined by
K.S.A. 2010 Supp. 75-643, and amendments thereto, if, at the time of
contribution to a family postsecondary education savings account, such
amounts were subtracted from the federal adjusted gross income pursuant
to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amendments
thereto, or if such amounts are not already included in the federal
adjusted gross income.

(xi) The amount of any contribution made to the same extent the
same is claimed as the basis for the credit allowed pursuant to K.S.A.
2010 Supp. 74-50,154, and amendments thereto.

(xii) For taxable years commencing after December 31, 2004,
amounts received as withdrawals not in accordance with the provisions of K.S.A. 2010 Supp. 74-50,204, and amendments thereto, if, at the time of contribution to an individual development account, such amounts were subtracted from the federal adjusted gross income pursuant to paragraph (xiii) of subsection (c), or if such amounts are not already included in the federal adjusted gross income.

(xiii) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2010 Supp. 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

(xiv) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2010 Supp. 79-32,221, and amendments thereto.


(xvii) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2010 Supp. 79-32,256, and amendments thereto.

(xviii) For taxable years commencing after December 31, 2006, the amount of any ad valorem or property taxes and assessments paid to a state other than Kansas or local government located in a state other than Kansas by a taxpayer who resides in a state other than Kansas, when the law of such state does not allow a resident of Kansas who earns income in such other state to claim a deduction for ad valorem or property taxes or assessments paid to a political subdivision of the state of Kansas in determining taxable income for income tax purposes in such other state, to the extent that such taxes and assessments are claimed as an itemized deduction for federal income tax purposes.

(c) There shall be subtracted from federal adjusted gross income:

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

(ii) Any amounts received which are included in federal adjusted
gross income but which are specifically exempt from Kansas income
taxation under the laws of the state of Kansas.

(iii) The portion of any gain or loss from the sale or other disposition
of property having a higher adjusted basis for Kansas income tax
purposes than for federal income tax purposes on the date such property
was sold or disposed of in a transaction in which gain or loss was
recognized for purposes of federal income tax that does not exceed such
difference in basis, but if a gain is considered a long-term capital gain for
federal income tax purposes, the modification shall be limited to that
portion of such gain which is included in federal adjusted gross income.

(iv) The amount necessary to prevent the taxation under this act of
any annuity or other amount of income or gain which was properly
included in income or gain and was taxed under the laws of this state for
a taxable year prior to the effective date of this act, as amended, to the
taxpayer, or to a decedent by reason of whose death the taxpayer acquired
the right to receive the income or gain, or to a trust or estate from which
the taxpayer received the income or gain.

(v) The amount of any refund or credit for overpayment of taxes on
or measured by income or fees or payments in lieu of income taxes
imposed by this state, or any taxing jurisdiction, to the extent included in
gross income for federal income tax purposes.

(vi) Accumulation distributions received by a taxpayer as a
beneficiary of a trust to the extent that the same are included in federal
adjusted gross income.

(vii) Amounts received as annuities under the federal civil service
retirement system from the civil service retirement and disability fund
and other amounts received as retirement benefits in whatever form
which were earned for being employed by the federal government or for
service in the armed forces of the United States.

(viii) Amounts received by retired railroad employees as a
supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and
228c (a)(1) et seq.

(ix) Amounts received by retired employees of a city and by retired
employees of any board of such city as retirement allowances pursuant to
K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter
ordinance exempting a city from the provisions of K.S.A. 13-14,106, and
amendments thereto.

(x) For taxable years beginning after December 31, 1976, the
amount of the federal tentative jobs tax credit disallowance under the
provisions of 26 U.S.C. § 280 C. For taxable years ending after December 31, 1978, the amount of the targeted jobs tax credit and work incentive credit disallowances under 26 U.S.C. § 280 C.

(xi) For taxable years beginning after December 31, 1986, dividend income on stock issued by Kansas Venture Capital, Inc.

(xii) For taxable years beginning after December 31, 1989, amounts received by retired employees of a board of public utilities as pension and retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249, and amendments thereto.

(xiii) For taxable years beginning after December 31, 2004, amounts contributed to and the amount of income earned on contributions deposited to an individual development account under K.S.A. 2010 Supp. 74-50,201, et seq., and amendments thereto.

(xiv) For all taxable years commencing after December 31, 1996, that portion of any income of a bank organized under the laws of this state or any other state, a national banking association organized under the laws of the United States, an association organized under the savings and loan code of this state or any other state, or a federal savings association organized under the laws of the United States, for which an election as an S corporation under subchapter S of the federal internal revenue code is in effect, which accrues to the taxpayer who is a stockholder of such corporation and which is not distributed to the stockholders as dividends of the corporation.

(xv) For all taxable years beginning after December 31, 2006, amounts not exceeding $3,000, or $6,000 for a married couple filing a joint return, for each designated beneficiary which are contributed to a family postsecondary education savings account established under the Kansas postsecondary education savings program or a qualified tuition program established and maintained by another state or agency or instrumentality thereof pursuant to section 529 of the internal revenue code of 1986, as amended, for the purpose of paying the qualified higher education expenses of a designated beneficiary at an institution of postsecondary education. The terms and phrases used in this paragraph shall have the meaning respectively ascribed thereto by the provisions of K.S.A. 2010 Supp. 75-643, and amendments thereto, and the provisions of such section are hereby incorporated by reference for all purposes thereof.

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

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

(xviii) For all taxable years beginning after December 31, 2004, amounts received by taxpayers who are eligible members of the Kansas army and air national guard as a reimbursement pursuant to K.S.A. 48-281, and amendments thereto, and amounts received for death benefits pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to section 1 or section 2 of chapter 207 of the 2005 session laws of Kansas, and amendments thereto, to the extent that such death benefits are included in federal adjusted gross income of the taxpayer.

(xix) For the taxable year beginning after December 31, 2006, amounts received as benefits under the federal social security act which are included in federal adjusted gross income of a taxpayer with federal adjusted gross income of $50,000 or less, whether such taxpayer's filing status is single, head of household, married filing separate or married filing jointly; and for all taxable years beginning after December 31, 2007, amounts received as benefits under the federal social security act which are included in federal adjusted gross income of a taxpayer with federal adjusted gross income of $75,000 or less, whether such taxpayer's filing status is single, head of household, married filing separate or married filing jointly.

(xx) Amounts received by retired employees of Washburn university as retirement and pension benefits under the university's retirement plan.

(xxii) For the tax year commencing after December 31, 2010, 20% of the amount included in federal taxable income attributable to capital gains.

(xxii) For the tax year commencing after December 31, 2011, 40% of the amount included in federal taxable income attributable to capital gains.

(xxiii) For the tax year commencing after December 31, 2012, 60%
of the amount included in federal taxable income attributable to capital gains.

(xxiv) For the tax year commencing after December 31, 2013, 80% of the amount included in federal taxable income attributable to capital gains.

(xxv) For all taxable years commencing after December 31, 2014, 100% of the amount included in federal taxable income attributable to capital gains.

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

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

Sec. 2. K.S.A. 2010 Supp. 79-32,138 is hereby amended to read as follows: 79-32,138. (a) Kansas taxable income of a corporation taxable under this act shall be the corporation's federal taxable income for the taxable year with the modifications specified in this section.

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


(iii) The amount of any charitable contribution deduction claimed for any contribution or gift to or for the use of any racially segregated educational institution.

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

(ii) The federal income tax liability for any taxable year commencing prior to December 31, 1971, for which a Kansas return was filed after reduction for all credits thereon, except credits for payments on estimates of federal income tax, credits for gasoline and lubricating oil tax, and for foreign tax credits if, on the Kansas income tax return for such prior year, the federal income tax deduction was computed on the basis of the federal income tax paid in such prior year, rather than as accrued. Notwithstanding the foregoing, the deduction for federal income tax liability for any year shall not exceed that portion of the total federal
income tax liability for such year which bears the same ratio to the total
federal income tax liability for such year as the Kansas taxable income, as
computed before any deductions for federal income taxes and after
application of subsections (d) and (e) of this section as existing for such
year, bears to the federal taxable income for the same year.

(iii) An amount for the amortization deduction allowed pursuant to

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

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

(vi) For the tax year commencing after December 31, 2010, 20% of
the amount included in federal taxable income attributable to capital
gains.

(vii) For the tax year commencing after December 31, 2011, 40% of
the amount included in federal taxable income attributable to capital
gains.

(viii) For the tax year commencing after December 31, 2012, 60% of
the amount included in federal taxable income attributable to capital
gains.

(ix) For the tax year commencing after December 31, 2013, 80% of
the amount included in federal taxable income attributable to capital
gains.

(x) For all taxable years commencing after December 31, 2014,
100% of the amount included in federal taxable income attributable to
capital gains.

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

(e) A corporation may make an election with respect to its first
taxable year commencing after December 31, 1982, whereby no addition
modifications as provided for in subsection (b)(ii) of K.S.A. 79-32,138 and subtraction modifications as provided for in subsection (c)(iii) of K.S.A. 79-32,138, as those subsections existed prior to their amendment by this act, shall be required to be made for such taxable year.

Sec. 3. K.S.A. 2010 Supp. 79-32,117 and 79-32,138 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.