Session of 2023

SENATE BILL No. 56

By Committee on Assessment and Taxation

1-18

1 AN ACT concerning income taxation; relating to the determination of 2 Kansas adjusted gross income; increasing the income limit to qualify 3 for a subtraction modification for social security income; amending 4 K.S.A. 2022 Supp. 79-32,117 and repealing the existing section.

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

Section 1. K.S.A. 2022 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.

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

12 Interest income less any related expenses directly incurred in the (i) 13 purchase of state or political subdivision obligations, to the extent that the same is not included in federal adjusted gross income, on obligations of 14 any state or political subdivision thereof, but to the extent that interest 15 16 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 17 18 laws of this state authorizing the issuance of such obligations, it shall be 19 excluded from computation of Kansas adjusted gross income whether or 20 not included in federal adjusted gross income. Interest income on 21 obligations of this state or a political subdivision thereof issued after 22 December 31, 1987, shall be excluded from computation of Kansas 23 adjusted gross income whether or not included in federal adjusted gross 24 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, except that the federal
 net operating loss deduction shall not be added to an individual's federal
 adjusted gross income for tax years beginning after December 31, 2016.

(iv) Federal income tax refunds received by the taxpayer if thededuction of the taxes being refunded resulted in a tax benefit for Kansas

1 income tax purposes during a prior taxable year. Such refunds shall be 2 included in income in the year actually received regardless of the method 3 of accounting used by the taxpayer. For purposes hereof, a tax benefit shall 4 be deemed to have resulted if the amount of the tax had been deducted in 5 determining income subject to a Kansas income tax for a prior year 6 regardless of the rate of taxation applied in such prior year to the Kansas 7 taxable income, but only that portion of the refund shall be included as 8 bears the same proportion to the total refund received as the federal taxes 9 deducted in the year to which such refund is attributable bears to the total 10 federal income taxes paid for such year. For purposes of the foregoing sentence, federal taxes shall be considered to have been deducted only to 11 12 the extent such deduction does not reduce Kansas taxable income below 13 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 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. 7932,196, 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. 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. 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 K.S.A. 7932,117(c)(xv), and amendments thereto, or if such amounts are not already
included in the federal adjusted gross income.

41 (xi) The amount of any contribution made to the same extent the 42 same is claimed as the basis for the credit allowed pursuant to K.S.A. 74-43 50,154, and amendments thereto. 1 (xii) For taxable years commencing after December 31, 2004, 2 amounts received as withdrawals not in accordance with the provisions of 3 K.S.A. 74-50,204, and amendments thereto, if, at the time of contribution 4 to an individual development account, such amounts were subtracted from 5 the federal adjusted gross income pursuant to subsection (c)(xiii), or if 6 such amounts are not already included in the federal adjusted gross 7 income.

8 (xiii) The amount of any expenditures claimed for deduction in 9 determining federal adjusted gross income, to the extent the same is 10 claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,217 11 through 79-32,220 or 79-32,222, and amendments thereto.

12 (xiv) The amount of any amortization deduction claimed in 13 determining federal adjusted gross income to the extent the same is 14 claimed for deduction pursuant to K.S.A. 79-32,221, and amendments 15 thereto.

16 (xv) The amount of any expenditures claimed for deduction in 17 determining federal adjusted gross income, to the extent the same is 18 claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,223 19 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233 through 79-20 32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-32,248 or 79-21 32,251 through 79-32,254, and amendments thereto.

(xvi) 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. 79-32,227, 79-32,232, 7932,237, 79-32,249, 79-32,250 or 79-32,255, and amendments thereto.

26 (xvii) The amount of any amortization deduction claimed in 27 determining federal adjusted gross income to the extent the same is 28 claimed for deduction pursuant to K.S.A. 79-32,256, and amendments 29 thereto.

30 (xviii) For taxable years commencing after December 31, 2006, the 31 amount of any ad valorem or property taxes and assessments paid to a state 32 other than Kansas or local government located in a state other than Kansas 33 by a taxpayer who resides in a state other than Kansas, when the law of 34 such state does not allow a resident of Kansas who earns income in such 35 other state to claim a deduction for ad valorem or property taxes or 36 assessments paid to a political subdivision of the state of Kansas in 37 determining taxable income for income tax purposes in such other state, to 38 the extent that such taxes and assessments are claimed as an itemized 39 deduction for federal income tax purposes.

40 (xix) For taxable years beginning after December 31, 2012, and
41 ending before January 1, 2017, the amount of any: (1) Loss from business
42 as determined under the federal internal revenue code and reported from
43 schedule C and on line 12 of the taxpayer's form 1040 federal individual

1 income tax return; (2) loss from rental real estate, royalties, partnerships, S

2 corporations, except those with wholly owned subsidiaries subject to the 3 Kansas privilege tax, estates, trusts, residual interest in real estate 4 mortgage investment conduits and net farm rental as determined under the 5 federal internal revenue code and reported from schedule E and on line 17 6 of the taxpayer's form 1040 federal individual income tax return; and (3) 7 farm loss as determined under the federal internal revenue code and 8 reported from schedule F and on line 18 of the taxpayer's form 1040 9 federal income tax return; all to the extent deducted or subtracted in 10 determining the taxpayer's federal adjusted gross income. For purposes of this subsection, references to the federal form 1040 and federal schedule 11 12 C, schedule E, and schedule F, shall be to such form and schedules as they 13 existed for tax year 2011, and as revised thereafter by the internal revenue 14 service

15 (xx) For taxable years beginning after December 31, 2012, and 16 ending before January 1, 2017, the amount of any deduction for self-17 employment taxes under section 164(f) of the federal internal revenue 18 code as in effect on January 1, 2012, and amendments thereto, in 19 determining the federal adjusted gross income of an individual taxpaver, to 20 the extent the deduction is attributable to income reported on schedule C, 21 E or F and on line 12, 17 or 18 of the taxpayer's form 1040 federal income 22 tax return.

(xxi) For taxable years beginning after December 31, 2012, and
ending before January 1, 2017, the amount of any deduction for pension,
profit sharing, and annuity plans of self-employed individuals under
section 62(a)(6) of the federal internal revenue code as in effect on January
1, 2012, and amendments thereto, in determining the federal adjusted gross
income of an individual taxpayer.

(xxii) For taxable years beginning after December 31, 2012, and
ending before January 1, 2017, the amount of any deduction for health
insurance under section 162(1) of the federal internal revenue code as in
effect on January 1, 2012, and amendments thereto, in determining the
federal adjusted gross income of an individual taxpayer.

(xxiii) For taxable years beginning after December 31, 2012, and
ending before January 1, 2017, the amount of any deduction for domestic
production activities under section 199 of the federal internal revenue code
as in effect on January 1, 2012, and amendments thereto, in determining
the federal adjusted gross income of an individual taxpayer.

39 (xxiv) For taxable years commencing after December 31, 2013, that 40 portion of the amount of any expenditure deduction claimed in 41 determining federal adjusted gross income for expenses paid for medical 42 care of the taxpayer or the taxpayer's spouse or dependents when such 43 expenses were paid or incurred for an abortion, or for a health benefit plan, as defined in K.S.A. 65-6731, and amendments thereto, for the purchase of
 an optional rider for coverage of abortion in accordance with K.S.A. 40 2,190, and amendments thereto, to the extent that such taxes and
 assessments are claimed as an itemized deduction for federal income tax
 purposes.

6 (xxv) For taxable years commencing after December 31, 2013, that 7 portion of the amount of any expenditure deduction claimed in 8 determining federal adjusted gross income for expenses paid by a taxpayer 9 for health care when such expenses were paid or incurred for abortion 10 coverage, a health benefit plan, as defined in K.S.A. 65-6731, and amendments thereto, when such expenses were paid or incurred for 11 12 abortion coverage or amounts contributed to health savings accounts for such taxpayer's employees for the purchase of an optional rider for 13 coverage of abortion in accordance with K.S.A. 40-2,190, and 14 15 amendments thereto, to the extent that such taxes and assessments are 16 claimed as a deduction for federal income tax purposes.

17 (xxvi) For all taxable years beginning after December 31, 2016, the 18 amount of any charitable contribution made to the extent the same is 19 claimed as the basis for the credit allowed pursuant to K.S.A. 72-4357, and 20 amendments thereto, and is also claimed as an itemized deduction for 21 federal income tax purposes.

(xxvii) For all taxable years commencing after December 31, 2020,
the amount deducted by reason of a carryforward of disallowed business
interest pursuant to section 163(j) of the federal internal revenue code of
1986, as in effect on January 1, 2018.

26 (xxviii) For all taxable years beginning after December 31, 2021, the 27 amount of any contributions to, or earnings from, a first-time home buyer 28 savings account if distributions from the account were not used to pay for 29 expenses or transactions authorized pursuant to K.S.A. 2022 Supp. 58-30 4904, and amendments thereto, or were not held for the minimum length 31 of time required pursuant to K.S.A. 2022 Supp. 58-4904, and amendments 32 thereto. Contributions to, or earnings from, such account shall also include 33 any amount resulting from the account holder not designating a surviving 34 transfer on death beneficiary pursuant to K.S.A. 2022 Supp. 58-4904(e), 35 and amendments thereto.

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(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.

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(ii) Any amounts received which are included in federal adjusted

1 gross income but which are specifically exempt from Kansas income 2 taxation under the laws of the state of Kansas.

3 (iii) The portion of any gain or loss from the sale or other disposition 4 of property having a higher adjusted basis for Kansas income tax purposes 5 than for federal income tax purposes on the date such property was sold or 6 disposed of in a transaction in which gain or loss was recognized for 7 purposes of federal income tax that does not exceed such difference in 8 basis, but if a gain is considered a long-term capital gain for federal 9 income tax purposes, the modification shall be limited to that portion of 10 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.

30 (viii) Amounts received by retired railroad employees as a 31 supplemental annuity under the provisions of 45 U.S.C. §§ 228b(a) and 32 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. § 280C. 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. § 280C.

43 (xi) For taxable years beginning after December 31, 1986, dividend

1 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.

6 (xiii) For taxable years beginning after December 31, 2004, amounts 7 contributed to and the amount of income earned on contributions deposited 8 to an individual development account under K.S.A. 74-50,201 et seq., and 9 amendments thereto.

10 (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 11 12 any other state, a national banking association organized under the laws of 13 the United States, an association organized under the savings and loan code of this state or any other state, or a federal savings association 14 organized under the laws of the United States, for which an election as an 15 16 S corporation under subchapter S of the federal internal revenue code is in 17 effect, which accrues to the taxpayer who is a stockholder of such 18 corporation and which is not distributed to the stockholders as dividends of the corporation. For taxable years beginning after December 31, 2012, and 19 ending before January 1, 2017, the amount of modification under this 20 21 subsection shall exclude the portion of income or loss reported on schedule 22 E and included on line 17 of the taxpayer's form 1040 federal individual 23 income tax return.

24 (xv) For all taxable years beginning after December 31, 2017, the 25 cumulative amounts not exceeding \$3,000, or \$6,000 for a married couple 26 filing a joint return, for each designated beneficiary that are contributed to: 27 (1) A family postsecondary education savings account established under 28 the Kansas postsecondary education savings program or a qualified tuition 29 program established and maintained by another state or agency or 30 instrumentality thereof pursuant to section 529 of the internal revenue 31 code of 1986, as amended, for the purpose of paying the qualified higher 32 education expenses of a designated beneficiary; or (2) an achieving a 33 better life experience (ABLE) account established under the Kansas ABLE 34 savings program or a qualified ABLE program established and maintained 35 by another state or agency or instrumentality thereof pursuant to section 36 529A of the internal revenue code of 1986, as amended, for the purpose of 37 saving private funds to support an individual with a disability. The terms 38 and phrases used in this paragraph shall have the meaning respectively 39 ascribed thereto by the provisions of K.S.A. 75-643 and 75-652, and 40 amendments thereto, and the provisions of such sections are hereby 41 incorporated by reference for all purposes thereof.

42 (xvi) For all taxable years beginning after December 31, 2004,43 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 1 2 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 3 4 of the United States, including service in the Kansas army and air national 5 guard, and amounts received for repayment of educational or student loans 6 incurred by or obligated to such taxpayer and received by such taxpayer as 7 a result of such taxpayer's service in the armed forces of the United States, 8 including service in the Kansas army and air national guard.

9 (xvii) 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, to the extent that such death benefits are included in federal adjusted gross income of the taxpayer.

16 (xviii) For the taxable year beginning after December 31, 2006, 17 amounts received as benefits under the federal social security act which are included in federal adjusted gross income of a taxpayer with federal 18 19 adjusted gross income of \$50,000 or less, whether such taxpaver's filing 20 status is single, head of household, married filing separate or married filing 21 jointly; and (A) For all taxable years beginning after December 31, 22 2007, amounts received as benefits under the federal social security act 23 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 24 25 filing status is single, head of household, married filing separate or married 26 filing jointly.

(B) For all taxable years beginning after December 31, 2022, a portion of amounts received as benefits under the federal social security act that are included in federal adjusted gross income of a taxpayer with federal adjusted gross income greater than \$75,000 and less than \$100,000, whether that taxpayer's filing status is single, head of household, married filing separate or married filing jointly, calculated as follows:

34 (1) Subtract an amount equal to the federal adjusted gross income of
35 that taxpayer from 100,000 (the result must be greater than zero);

36 (2) divide the result of subparagraph (B)(1) by 25,000; and

37 (3) multiply the result of subparagraph (B)(2) by the amount in 38 dollars received as benefits under the federal social security act that are 39 included in federal adjusted gross income of that taxpayer to determine 40 the modification pursuant to this subparagraph.

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

43 (xx) For taxable years beginning after December 31, 2012, and

ending before January 1, 2017, the amount of any: (1) Net profit from 1 2 business as determined under the federal internal revenue code and 3 reported from schedule C and on line 12 of the taxpayer's form 1040 4 federal individual income tax return; (2) net income, not including 5 guaranteed payments as defined in section 707(c) of the federal internal 6 revenue code and as reported to the taxpayer from federal schedule K-1, 7 (form 1065-B), in box 9, code F or as reported to the taxpayer from federal 8 schedule K-1, (form 1065) in box 4, from rental real estate, royalties, 9 partnerships, S corporations, estates, trusts, residual interest in real estate 10 mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 11 12 of the taxpayer's form 1040 federal individual income tax return; and (3) 13 net farm profit as determined under the federal internal revenue code and 14 reported from schedule F and on line 18 of the taxpayer's form 1040 15 federal income tax return; all to the extent included in the taxpayer's 16 federal adjusted gross income. For purposes of this subsection, references 17 to the federal form 1040 and federal schedule C, schedule E, and schedule F, shall be to such form and schedules as they existed for tax year 2011 18 19 and as revised thereafter by the internal revenue service.

20 (xxi) For all taxable years beginning after December 31, 2013, 21 amounts equal to the unreimbursed travel, lodging and medical 22 expenditures directly incurred by a taxpayer while living, or a dependent 23 of the taxpayer while living, for the donation of one or more human organs 24 of the taxpayer, or a dependent of the taxpayer, to another person for 25 human organ transplantation. The expenses may be claimed as a 26 subtraction modification provided for in this section to the extent the 27 expenses are not already subtracted from the taxpayer's federal adjusted 28 gross income. In no circumstances shall the subtraction modification 29 provided for in this section for any individual, or a dependent, exceed 30 \$5,000. As used in this section, "human organ" means all or part of a liver, 31 pancreas, kidney, intestine, lung or bone marrow. The provisions of this paragraph shall take effect on the day the secretary of revenue certifies to 32 33 the director of the budget that the cost for the department of revenue of 34 modifications to the automated tax system for the purpose of 35 implementing this paragraph will not exceed \$20,000.

36 (xxii) For taxable years beginning after December 31, 2012, and 37 ending before January 1, 2017, the amount of net gain from the sale of: (1) 38 Cattle and horses, regardless of age, held by the taxpayer for draft, 39 breeding, dairy or sporting purposes, and held by such taxpayer for 24 40 months or more from the date of acquisition; and (2) other livestock, 41 regardless of age, held by the taxpayer for draft, breeding, dairy or 42 sporting purposes, and held by such taxpayer for 12 months or more from 43 the date of acquisition. The subtraction from federal adjusted gross income shall be limited to the amount of the additions recognized under the
 provisions of subsection (b)(xix) attributable to the business in which the
 livestock sold had been used. As used in this paragraph, the term
 "livestock" shall not include poultry.

5 (xxiii) For all taxable years beginning after December 31, 2012, 6 amounts received under either the Overland Park, Kansas police 7 department retirement plan or the Overland Park, Kansas fire department 8 retirement plan, both as established by the city of Overland Park, pursuant 9 to the city's home rule authority.

10 (xxiv) For taxable years beginning after December 31, 2013, and 11 ending before January 1, 2017, the net gain from the sale from Christmas 12 trees grown in Kansas and held by the taxpayer for six years or more.

(xxv) For all taxable years commencing after December 31, 2020,
 100% of global intangible low-taxed income under section 951A of the
 federal internal revenue code of 1986, before any deductions allowed
 under section 250(a)(1)(B) of such code.

(xxvi) For all taxable years commencing after December 31, 2020,
the amount disallowed as a deduction pursuant to section 163(j) of the
federal internal revenue code of 1986, as in effect on January 1, 2018.

(xxvii) For taxable years commencing after December 31, 2020, the
amount disallowed as a deduction pursuant to section 274 of the federal
internal revenue code of 1986 for meal expenditures shall be allowed to
the extent such expense was deductible for determining federal income tax
and was allowed and in effect on December 31, 2017.

(xxviii) For all taxable years beginning after December 31, 2021: (1)
The amount contributed to a first-time home buyer savings account
pursuant to K.S.A. 2022 Supp. 58-4903, and amendments thereto, in an
amount not to exceed \$3,000 for an individual or \$6,000 for a married
couple filing a joint return; or (2) amounts received as income earned from
assets in a first-time home buyer savings account.

(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.

40 (f) No taxpayer shall be assessed penalties and interest from the 41 underpayment of taxes due to changes to this section that became law on
 42 July 1, 2017, so long as such underpayment is rectified on or before April
 43 17, 2018.

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- Sec. 2. K.S.A. 2022 Supp. 79-32,117 is hereby repealed.Sec. 3. This act shall take effect and be in force from and after its 2
- 3 publication in the statute book.