



**House Committee on Taxation
Testimony in Support of House Bill 2798
Presented by Eric Stafford, VP of Government Affairs, Kansas Chamber**

Wednesday, March 6, 2024

Mister Chairman and members of the committee, my name is Eric Stafford, Vice President of Government Affairs for the Kansas Chamber. The Kansas Chamber represents small, medium and large-sized businesses across the state, advocating for policies which improve the economic climate in Kansas. We appreciate the opportunity to provide testimony in support of House Bill 2798, which would move Kansas to a single-factor apportionment state for corporate income tax purposes.

The topic of single-factor apportionment is not a new one for our membership when determining our legislative agenda. Our membership has been divided over this issue and that remains the case today. Heading into the 2021 session, our members asked for a bill that would allow taxpayers from certain industries elect single-factor apportionment. At that time, our priority was passing legislation to decouple from the tax cuts and jobs act so we were not successful in getting single-factor apportionment through. We reintroduced House Bill 2110 in 2023 which was an election between three-factor (current law) and single-factor for those select NAICS codes.

On the afternoon when this committee was scheduled to work HB 2110, we were called into a meeting with the chairman, along with representatives from the department of revenue. We were asked if we could support moving Kansas to a single-factor state. Knowing the history of this issue with our membership, our response was that we needed some time to work through this with members, so the bill did not move forward.

That led to a working group specific to this issue that met several times this summer and fall. First, let me say that ***our board adopted a position to support the change to single-factor apportionment for 2024.*** However, it's not that simple. Switching to single-factor apportionment means there will be winners and losers. Some will experience a reduction in tax liability, while others will see an increase. That division remains among our membership today, but the opposition has softened a little, not all the way. So what changed to switch out position from an election to full single-factor?

The best arguments made during our discussions were from a business located within five miles of the Missouri border. His argument was he could move their facility to Missouri, which is now a single-factor state and reduce their tax burden significantly. We had advocated for a taxpayer election because single-factor *DOES* reward those with significant capital investment in the state. The economic argument to move from three-factor to single-factor is to encourage economic development and investment in a state. If you look at page 3 of our testimony, you will see a list of states that have moved to the sales factor which now numbers over 40. Only six states, including Kansas, use the old three-factor formula of property, payroll and sales.

As stated in our testimony for HB 2796, our members asked for provisions to help offset an increased tax liability. HB 2798 includes two such provisions. Those are: 1) a buy-down of the corporate rate with any change in corporate income tax receipts caused by such change; and 2) a provision known as a deferred tax liability credit.

Additionally, our members asked if we can have a two-year election period where taxpayers can choose between single-factor and three-factor, before moving fully to single factor apportionment in the third year. Again, these requests were made to help those businesses negatively impacted prepare for the change. We have been asked if we'd support a three-year election instead of two and our answer is yes.

One piece to mention, HB 2796 does however include a provision known as "Market-based sourcing." We are supportive of this change. In 2020, the Tax Foundation conducted an analysis of the Kansas tax code and found this to be a recommendation for the state to consider. In their report they wrote:

"Kansas has an inconsistency built into its approach to apportionment of corporate income that can be resolved by shifting to market sourcing of service income. The current code taxes inbound, but not outbound, sales of tangible property, but applies the opposite treatment to services and intangible property, sourcing service income based on the location of income-producing activity. This essentially puts additional emphasis on payroll and property for outbound sales of services, while failing to tax out-of-state businesses on the basis of their sales of services into Kansas.

Many questions of tax apportionment are not easily resolved by an appeal to basic tax principles. Income should only be taxed once, which argues against the states' current patchwork approach to apportionment, but it does not necessarily follow that one particular apportionment formula is best—just that it is best that all states use the same one.

The argument for shifting to a market sourcing approach is not so much that, as a matter of principle, the corporate taxation of services should be destination-based, but rather that the state's choices should be consistent and not undercut each other. For that reason, Kansas should consider shifting to market sourcing of service income."

In conclusion, the discussions within our organization have been extensive surrounding moving to single-factor apportionment. Now that we have determined a path, we ask this committee to support House Bill 2798. Thank you for the opportunity to testify today and I'm happy to answer any questions you may have.

STATE APPORTIONMENT OF CORPORATE INCOME

(Formulas for tax year 2022 -- as of January 1, 2022)

ALABAMA *	Sales	MONTANA *	Double wtd Sales
ALASKA *	3 Factor	NEBRASKA	Sales
ARIZONA *	Sales/Double wtd Sales	NEVADA	No State Income Tax
ARKANSAS *	Sales	NEW HAMPSHIRE (3)	Double wtd Sales
CALIFORNIA *	Sales	NEW JERSEY	Sales
COLORADO *	Sales	NEW MEXICO *	3 Factor/Sales
CONNECTICUT	Sales	NEW YORK	Sales
DELAWARE	Sales	NORTH CAROLINA *	Sales
FLORIDA	Double wtd Sales	NORTH DAKOTA *	3 Factor/Sales
GEORGIA	Sales	OHIO	N/A (2)
HAWAII *	3 Factor	OKLAHOMA	3 Factor
IDAHO *	Double wtd Sales	OREGON	Sales
ILLINOIS *	Sales	PENNSYLVANIA	Sales
INDIANA	Sales	RHODE ISLAND	Sales
IOWA	Sales	SOUTH CAROLINA	Sales
KANSAS *	3 Factor	SOUTH DAKOTA	No State Income Tax
KENTUCKY *	Sales	TENNESSEE	Triple wtd Sales
LOUISIANA	Sales	TEXAS	Sales
MAINE *	Sales	UTAH	Sales
MARYLAND	Sales	VERMONT	Double wtd Sales
MASSACHUSETTS	Sales/Double wtd Sales	VIRGINIA	Double wtd Sales/Sales
MICHIGAN	Sales	WASHINGTON	No State Income Tax
MINNESOTA	Sales	WEST VIRGINIA *	Sales
MISSISSIPPI	Sales/Other (1)	WISCONSIN *	Sales
MISSOURI *	Sales	WYOMING	No State Income Tax
		DIST. OF COLUMBIA	Sales

Source: Compiled by FTA from state sources. Notes:

The formulas listed are for general manufacturing businesses. Some industries have a special formula different from the one shown.

* State has adopted substantial portions of the UDITPA (Uniform Division of Income Tax Purposes Act). Slash (/) separating two formulas indicates taxpayer option or specified by state rules.

3 Factor = sales, property, and payroll equally weighted. Double wtd Sales = 3 factors with sales double-weighted Sales = single sales factor

(1) Mississippi provides different apportionment formulas based on specific type of business. A single sales factor formula is required if no specific business formula is specified.

required if no specific business formula is specified.

(2) Ohio Tax Department publishes specific rules for situs of receipts under the CAT tax.

(3) New Hampshire will use a Single Sales Factor for tax years ending on or after 12/31/22.

HOUSE BILL No. 2798

By Committee on Taxation

Requested by Eric Stafford on behalf of the Kansas Chamber of Commerce

2-13

1 AN ACT concerning taxation; relating to income and privilege taxes;
2 providing for the apportionment of business income by the single sales
3 factor and the apportionment of financial institution income by the
4 receipts factor; establishing for deductions from income when using the
5 single sales factor and receipts factor; providing for the decrease in
6 corporate income tax rates; amending K.S.A. 79-1129 and 79-3279 and
7 K.S.A. 2023 Supp. 79-32,110 and repealing the existing sections.
8

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

10 New Section 1. (a) Commencing with fiscal year 2026, the director of
11 the budget, in consultation with the director of legislative research, shall
12 certify, at the end of each such fiscal year, the amount of actual corporate
13 income tax receipt revenues generated pursuant to K.S.A. 79-32,110(c),
14 and amendments thereto, that is in excess of the prior fiscal year's
15 corporate income tax receipts. The director of the budget shall transmit
16 such certification to the secretary of revenue. Upon receipt of such
17 certification, the secretary shall compute the reduction of the corporate
18 income tax rate pursuant to K.S.A. 79-32,110(c), and amendments thereto.
19 The certified amount shall be computed in dollars by the secretary for a
20 reduction rounded down to the nearest 0.1% in the corporate income tax
21 rate, if any, to go into effect for the next calendar year that would reduce
22 the corporate income tax rate in an amount approximately equal to the
23 amount computed by the secretary. The secretary shall reduce the normal
24 tax on corporations. Such rate reductions shall remain in effect unless
25 further reduced pursuant to law.

26 (b) The secretary shall publish by October 1, 2026, the new income
27 tax rates to take effect on January 1, 2027.

28 Sec. 2. K.S.A. 79-1129 is hereby amended to read as follows: 79-
29 1129. (a) Except as otherwise specifically provided, a financial institution
30 whose business activity is taxable both within and without this state shall
31 allocate and apportion its net income as provided in this act. All items of
32 nonbusiness income, income which is not includable in the apportionable
33 income tax base, shall be allocated pursuant to the provisions of K.S.A.
34 79-3274 through 79-3278 and amendments thereto. A financial institution
35 organized under the laws of a foreign country, the commonwealth of

1 Puerto Rico, or a territory or possession of the United States whose
2 effectively connected income, as defined under the federal internal revenue
3 code, is taxable both within this state and within another state, other than
4 the state in which it is organized, shall allocate and apportion its net
5 income as provided in this act and its apportionment factors shall include
6 the part of its property, payroll and receipts that is related to its
7 apportionable income.

8 (b) (1) *For taxable years prior to January 1, 2026, all business*
9 *income shall be apportioned as follows:*

10 (A) All business income, income which is includable in the
11 apportionable income tax base, shall be apportioned to this state by
12 multiplying such income by the apportionment percentage. The
13 apportionment percentage is determined by adding the taxpayer's receipts
14 factor, as described in K.S.A. 79-1130, *and amendments thereto*, property
15 factor, as described in K.S.A. 79-1131, *and amendments thereto*, and
16 payroll factor, as described in K.S.A. 79-1132, *and amendments thereto*,
17 together and dividing the sum by three. If one of the factors is missing, the
18 two remaining factors are added and the sum is divided by two. If two of
19 the factors are missing, the remaining factor is the apportionment
20 percentage. A factor is missing if both its numerator and denominator are
21 zero, but it is not missing merely because its numerator is zero.

22 (B) (i) *For tax years commencing December 31, 2023, and ending*
23 *before January 1, 2026, at the election of the taxpayer, all business income*
24 *that is includable in the apportionable income tax base, may be*
25 *apportioned to this state by the taxpayer's receipts factor, as described in*
26 *K.S.A. 79-1130, and amendments thereto.*

27 (ii) *An election under this subparagraph shall be made by including*
28 *a statement with the original tax return for which the election is made*
29 *indicating that the taxpayer elects to apply this apportionment method.*
30 *The election shall be effective and irrevocable for the taxable year of the*
31 *election and shall be binding on all members of a unitary group of*
32 *corporations.*

33 (2) *For tax years commencing December 31, 2025, all business*
34 *income shall be apportioned to this state by multiplying the business*
35 *income by the receipts factor.*

36 (c) Each factor shall be computed according to the method of
37 accounting, cash or accrual basis, used by the taxpayer for the taxable year.

38 (d) If the allocation and apportionment provisions of this act do not
39 fairly represent the extent of the taxpayer's business activity in this state,
40 the taxpayer may petition for or the secretary of revenue may require, in
41 respect to all or any part of the taxpayer's business activity, if reasonable:

42 (1) Separate accounting;

43 (2) the exclusion of any one or more of the factors;

1 (3) the inclusion of one or more additional factors which will fairly
2 represent the taxpayer's business activity in this state; or

3 (4) the employment of any other method to effectuate an equitable
4 allocation and apportionment of the taxpayer's income.

5 (e) In the event a combined report is utilized to determine the Kansas
6 income attributable to a unitary group of financial institutions, the
7 financial institutions in the combined group shall include only those
8 institutions which have a branch or office in Kansas.

9 (f) (1) *There shall be allowed as a deduction an amount computed in
10 accordance with this subsection.*

11 (2) *As of July 1, 2024, only publicly traded companies, including
12 affiliated corporations participating in the filing of a publicly traded
13 company's financial statements prepared in accordance with generally
14 accepted accounting principles, shall be eligible for this deduction.*

15 (3) *If the provisions of this section result in an aggregate increase in
16 the taxpayer's net deferred tax liability or an aggregate decrease in the
17 taxpayer's net deferred tax asset, or an aggregate change from a net
18 deferred tax asset to a net deferred tax liability, the taxpayer shall be
19 entitled to a deduction, as determined in this subsection.*

20 (4) *A taxpayer shall be entitled to a deferred tax impact deduction
21 from the taxpayer's entire net income equal to the amount necessary to
22 offset the increase in the net deferred tax liability or decrease in the net
23 deferred tax asset, or aggregate change from a net deferred tax asset to a
24 net deferred tax liability. Such increase in the net deferred tax liability,
25 decrease in the net deferred tax asset or the aggregate change from a net
26 deferred tax asset to a net deferred tax liability shall be computed based
27 on the change that would result from the imposition of the single sales
28 factor requirements pursuant to this section, excluding the deduction
29 provided under this paragraph, as of the end of the tax year prior to the
30 year in which the taxpayer makes an election or is required to apportion
31 by the sales factor. The amount of the deduction shall equal the annual
32 deferred tax deduction amount set forth in paragraph (5).*

33 (5) *The annual deferred tax deduction amount shall be calculated as
34 follows:*

35 (A) *The deferred tax impact determined in paragraph (4) shall be
36 divided by the income tax rate for corporations in effect for the tax year
37 pursuant to K.S.A. 79-32,110, and amendments thereto;*

38 (B) *the resulting amount shall be further divided by the Kansas
39 apportionment factor that was used by the taxpayer in the calculation of
40 the deferred tax assets and deferred tax liabilities as provided in this
41 subsection; and*

42 (C) *the result multiplied by $1/10$ shall represent the total net deferred
43 tax deduction available for the 2027 tax year and the next nine successive*

Added: For purposes of this section, the term "taxpayer" includes a unitary group of businesses that is required to file a combined report. The deferred tax impact deduction provided under this section for a unitary group of businesses that is required to file a combined report shall be calculated using unitary net deferred tax assets and liabilities and deducted against unitary group income.^f

1 tax years.

2 (6) The deduction calculated under paragraph (5) shall not be
3 adjusted as a result of any events subsequent to such calculation,
4 including, but not limited to, any disposition or abandonment of assets.
5 Such deduction shall be calculated without regard to any tax liabilities
6 under the federal internal revenue code and shall not alter the tax basis of
7 any asset. If the deduction under this section is greater than the taxpayer's
8 Kansas adjusted gross income, any excess deduction shall be carried
9 forward and applied as a deduction for future tax years until fully utilized.

10 (7) At the discretion of the taxpayer, the taxpayer may be allowed to
11 claim other available tax credits before claiming the deferred tax
12 deduction calculated under this section. Any taxpayer intending to claim a
13 deduction under this subsection shall file a statement with the secretary on
14 or before July 1 of the year after the first tax year for which a single sales
15 factor is required. Such statement shall specify the total amount of the
16 deduction that the taxpayer claims on such form and in such manner as
17 prescribed by the secretary. No deduction shall be allowed under this
18 paragraph for any tax year unless claimed on such timely filed statement
19 in accordance with this paragraph.

20 (8) For purposes of this subsection:

21 (A) "Net deferred tax liability" means deferred tax liabilities that
22 exceed the deferred tax assets of the taxpayer, as computed in accordance
23 with generally accepted accounting principles.

24 (B) "Net deferred tax asset" means that deferred tax assets exceed the
25 deferred tax liabilities of the taxpayer, as computed in accordance with
26 generally accepted accounting principles.

27 (g) Any taxpayer intending to claim a deduction under this section
28 shall file a statement with the secretary of revenue on or before July 1,
29 2026, specifying the total amount of the deduction that the taxpayer
30 claims. The statement shall be made on such form and in such manner as
31 prescribed by the secretary and shall contain such information or
32 calculations as the secretary may specify. No deduction shall be allowed
33 under this section for any taxable year except to the extent claimed in the
34 manner prescribed on or before July 1, 2026. This paragraph does not
35 limit the authority of the secretary under K.S.A. 79-3226, and amendments
36 thereto, to review or redetermine the proper amount of any deduction
37 claimed, whether on the statement required under this subsection or on a
38 tax return for any taxable year.

39 Sec. 3. K.S.A. 79-3279 is hereby amended to read as follows: 79-
40 3279. (a) ~~All business income of railroads and interstate motor carriers of~~
41 ~~persons or property for hire shall be apportioned to this state by~~
42 ~~multiplying the business income by a fraction, in the case of railroads, the~~
43 ~~numerator of which is the freight car miles in this state and the~~

Added: Any deferred tax deduction calculated under this section not claimed on a return shall be carried forward and applied as a deduction for future tax years until fully utilized. Any taxpayer

1 ~~denominator of which is the freight car miles everywhere, and, in the case~~
2 ~~of interstate motor carriers, the numerator of which is the total number of~~
3 ~~miles operated in this state and the denominator of which is the total~~
4 ~~number of miles operated everywhere.~~

5 (b) *For the tax years ending before January 1, 2026*, all business
6 income ~~of any other taxpayer~~ shall be apportioned to this state by one of
7 the following methods:

8 (1) By multiplying the business income by a fraction, the numerator
9 of which is the property factor plus the payroll factor plus the sales factor,
10 and the denominator of which is three; or

11 (2) at the election of ~~a qualifying~~ *the* taxpayer, by multiplying the
12 business income by a fraction, the numerator of which is the property
13 factor plus the sales factor, and the denominator of which is two.

14 (A) For purposes of this subsection (b)(2), a qualifying taxpayer is
15 any taxpayer whose payroll factor for a taxable year exceeds 200% of the
16 average of the property factor and the sales factor. Whenever two or more
17 corporations are engaged in a unitary business and required to file a
18 combined report, the fraction comparison provided by this subsection (b)
19 (2) shall be calculated by using the payroll factor, property factor and sales
20 factor of the combined group of unitary corporations.

21 (B) An election under this subsection (b)(2) shall be made by
22 including a statement with the original tax return indicating that the
23 taxpayer elects to apply the apportionment method under this subsection
24 (b)(2). The election shall be effective and irrevocable for the taxable year
25 of the election and the following nine taxable years. The election shall be
26 binding on all members of a unitary group of corporations.
27 Notwithstanding the above, the secretary of revenue may upon the request
28 of the taxpayer, grant permission to terminate the election under this
29 subsection (b)(2) prior to expiration of the ten-year period.

30 (3) At the election of a qualifying telecommunications company, by
31 multiplying the business income by a fraction, the numerator of which is
32 the information carrying capacity of wire and fiber optic cable available
33 for use in this state, and the denominator of which is the information
34 carrying capacity of wire and fiber optic cable available for use
35 everywhere during the tax year.

36 (A) For purposes of this subsection (b)(3), a qualifying
37 telecommunications company is a telecommunications company that is a
38 qualifying taxpayer under paragraph (A) of subsection (b)(2).

39 (B) A qualifying telecommunications company shall make the
40 election under this subsection (b)(3) in the same manner as provided under
41 paragraph (B) of subsection (b)(2).

42 (4) At the election of a distressed area taxpayer, by multiplying the
43 business income by the sales factor. The election shall be made by

1 including a statement with the original tax return indicating that the
2 taxpayer elects to apply this apportionment method. The election may be
3 made only once, it must be made on or before December 31, 1999 and it
4 shall be effective for the taxable year of the election and the following nine
5 taxable years for so long as the taxpayer maintains the payroll amount
6 prescribed by ~~subsection (j)~~ of K.S.A. 79-3271(j), and amendments
7 thereto.

8 (5) At the election of the taxpayer made at the time of filing of the
9 original return, the qualifying business income of any investment funds
10 service corporation organized as a corporation or S corporation which
11 maintains its primary headquarters and operations or is a branch facility
12 that employs at least 100 individuals on a full-time equivalent basis in this
13 state and has any investment company fund shareholders resided in this
14 state shall be apportioned to this state as provided in this subsection, as
15 follows:

16 (A) By multiplying the investment funds service corporation's
17 qualifying business income from administration, distribution and
18 management services provided to each investment company by a fraction,
19 the numerator of which shall be the average of the number of shares
20 owned by the investment company's fund shareholders resided in this
21 state at the beginning of and at the end of the investment company's
22 taxable year that ends with or within the investment funds service
23 corporation's taxable year, and the denominator of which shall be the
24 average of the number of shares owned by the investment company's fund
25 shareholders everywhere at the beginning of and at the end of the
26 investment company's taxable year that ends with or within the investment
27 funds service corporation's taxable year.

28 (B) A separate computation shall be made to determine the qualifying
29 business income from each fund of each investment company. The
30 qualifying business income from each investment company shall be
31 multiplied by the fraction calculated pursuant to paragraph (A) for each
32 fund of such investment company.

33 (C) The qualifying portion of total business income of an investment
34 funds service corporation shall be determined by multiplying such total
35 business income by a fraction, the numerator of which is the gross receipts
36 from the provision of management, distribution and administration
37 services to or on behalf of an investment company, and the denominator of
38 which is the gross receipts of the investment funds service company. To
39 the extent an investment funds service corporation has business income
40 that is not qualifying business income, such business income shall be
41 apportioned to this state pursuant to subsection (b)(1).

42 (D) For tax year 2002, the tax liability of an investment funds service
43 corporation that has elected to apportion its business income pursuant to

1 paragraph (5) shall be increased by an amount equal to 50% of the
2 difference of the amount of such tax liability if determined pursuant to
3 subsection (b)(1) less the amount of such tax liability determined with
4 regard to paragraph (5).

5 (E) When an investment funds service corporation is part of a unitary
6 group, the business income of the unitary group attributable to the
7 investment funds service corporation shall be determined by multiplying
8 the business income of the unitary group by a fraction, the numerator of
9 which is the property factor plus the payroll factor plus the sales factor,
10 and the denominator of which is three. The property factor is a fraction,
11 the numerator of which is the average value of the investment funds
12 service corporation's real and tangible personal property owned or rented
13 and used during the tax period and the denominator of which is the
14 average value of the unitary group's real and tangible personal property
15 owned or rented and used during the tax period. The payroll factor is a
16 fraction, the numerator of which is the total amount paid during the tax
17 period by the investment funds service corporation for compensation, and
18 the denominator of which is the total compensation paid by the unitary
19 group during the tax period. The sales factor is a fraction, the numerator of
20 which is the total sales of the investment funds service corporation during
21 the tax period, and the denominator of which is the total sales of the
22 unitary group during the tax period.

23 (F) A taxpayer seeking to make the election available pursuant to
24 ~~subsection (b)(5) of K.S.A. 79-3279(b)(5)~~, and amendments thereto, shall
25 only be eligible to continue to make such election if the taxpayer maintains
26 at least 95% of the Kansas employees in existence at the time the taxpayer
27 first makes such an election.

28 (6) At the election of a qualifying taxpayer, by multiplying such
29 taxpayer's business income by the sales factor. The election shall be made
30 by including a statement with the original tax return indicating that the
31 taxpayer elects to apply this apportionment method. The election may be
32 made only once and must be made on or before the last day of the taxable
33 year during which the investment described in paragraph (A) is placed in
34 service, but not later than December 31, 2009, and it shall be effective for
35 the taxable year of the election and the following nine taxable years or for
36 so long as the taxpayer maintains the wage requirements set forth in
37 paragraph (A). If the qualifying taxpayer is a member of a unitary group of
38 corporations, all other members of the unitary group doing business within
39 this state shall apportion their business income to this state pursuant to
40 subsection (b)(1).

41 (A) For purposes of this subsection, a qualifying taxpayer is any
42 taxpayer making an investment of \$100,000,000 for construction in
43 Kansas of a new business facility identified under the North American

1 industry classification system (NAICS) subsectors of 31-33, as assigned
2 by the secretary of the department of labor, employing 100 or more new
3 employees at such facility after July 1, 2007, and prior to December 31,
4 2009, and meeting the following requirements for paying such employees
5 higher-than-average wages within the wage region for such facility:

6 (i) The taxpayer's new Kansas business facility with 500 or fewer
7 full-time equivalent employees will provide an average wage that is above
8 the average wage paid by all Kansas business facilities that share the same
9 assigned NAICS category used to develop wage thresholds and that have
10 reported 500 or fewer employees to the Kansas department of labor on the
11 quarterly wage reports;

12 (ii) the taxpayer's new Kansas business facility with 500 or fewer
13 full-time equivalent employees is the sole facility within its assigned
14 NAICS category that has reported wages for 500 or fewer employees to
15 the Kansas department of labor on the quarterly wage reports;

16 (iii) the taxpayer's new Kansas business facility with more than 500
17 full-time equivalent employees will provide an average wage that is above
18 the average wage paid by all Kansas business facilities that share the same
19 assigned NAICS category used to develop wage thresholds and that have
20 reported more than 500 employees to the Kansas department of labor on
21 the quarterly wage reports;

22 (iv) the taxpayer's new Kansas business facility with more than 500
23 full-time equivalent employees is the sole facility within its assigned
24 NAICS category that has reported wages for more than 500 employees to
25 the Kansas department of labor on the quarterly wage reports, in which
26 event it shall either provide an average wage that is above the average
27 wage paid by all Kansas business facilities that share the same assigned
28 NAICS category and that have reported wages for 500 or fewer employees
29 to the Kansas department of labor on the quarterly wage reports, or be the
30 sole Kansas business facility within its assigned NAICS category that has
31 reported wages to the Kansas department of labor on the quarterly wage
32 reports;

33 (v) the number of NAICS digits to use in developing each set of wage
34 thresholds for comparison purposes shall be determined by the secretary of
35 commerce;

36 (vi) the composition of wage regions used in connection with each set
37 of wage thresholds shall be determined by the secretary of commerce; and

38 (vii) alternatively, a taxpayer may wage-qualify its new Kansas
39 business facility if, after excluding the headcount and wages reported on
40 the quarterly wage reports to the Kansas department of labor for
41 employees at that new Kansas business facility who own five percent or
42 more equity in the taxpayer, the average wage calculated for the taxpayer's
43 new Kansas business facility is greater than or equal to 1.5 times the

1 aggregate state-wide average wage paid by industries covered by the
2 employment security law based on data maintained by the secretary of
3 labor.

4 (B) For the purposes of the wage requirements in paragraph (A), the
5 number of full-time equivalent employees shall be determined by dividing
6 the number of hours worked by part-time employees during the pertinent
7 measurement interval by an amount equal to the corresponding multiple of
8 a 40-hour work week and adding the quotient to the average number of
9 full-time employees.

10 (C) When the qualifying taxpayer is part of a unitary group, the
11 business income of the unitary group attributable to the qualifying
12 taxpayer shall be determined by multiplying the business income of the
13 unitary group by a fraction, the numerator of which is the property factor
14 plus the payroll factor plus the sales factor, and the denominator of which
15 is three. The property factor is a fraction, the numerator of which is the
16 average value of the qualifying taxpayer's real and tangible personal
17 property owned or rented and used during the tax period and the
18 denominator of which is the average value of the unitary group's real and
19 tangible personal property owned or rented and used during the tax period.
20 The payroll factor is a fraction, the numerator of which is the total amount
21 paid during the tax period by the qualifying taxpayer for compensation,
22 and the denominator of which is the total compensation paid by the unitary
23 group during the tax period. The sales factor is a fraction, the numerator of
24 which is the total sales of the qualifying taxpayer during the tax period,
25 and the denominator of which is the total sales of the unitary group during
26 the tax period.

27 (D) For purposes of this subsection, the secretary of revenue, upon a
28 showing of good cause and after receiving a certification by the secretary
29 of commerce of substantial compliance with provisions of this subsection
30 (b)(6), may extend any required performance date provided in this
31 subsection (b)(6) for a period not to exceed six months.

32 (c) *For tax years commencing December 31, 2023, and ending before*
33 *January 1, 2026, at the election of the taxpayer, all business income of any*
34 *other taxpayer may be apportioned to this state by multiplying such*
35 *taxpayer's business income by the sales factor. An election under this*
36 *subsection shall be made by including a statement with the original tax*
37 *return for which the election is made indicating that the taxpayer elects to*
38 *apply this apportionment method. The election shall be effective and*
39 *irrevocable for the taxable year of the election.*

40 (d) *For tax years commencing December 31, 2025, all business*
41 *income shall be apportioned to this state by multiplying the business*
42 *income by the sales factor.*

43 (e) *Any taxpayer having previously made an election pursuant to*

1 subsection (b)(2) shall be permitted to make a new election pursuant to
2 subsection (c).

3 (f) (1) There shall be allowed as a deduction an amount computed in
4 accordance with this subsection.

5 (2) As of July 1, 2024, only publicly traded companies, including
6 affiliated corporations participating in the filing of a publicly traded
7 company's financial statements prepared in accordance with generally
8 accepted accounting principles, shall be eligible for this deduction.

9 (3) If the provisions of this section result in an aggregate increase in
10 the taxpayer's net deferred tax liability or an aggregate decrease in the
11 taxpayer's net deferred tax asset, or an aggregate change from a net
12 deferred tax asset to a net deferred tax liability, the taxpayer shall be
13 entitled to a deduction, as determined in this subsection.

14 (4) A taxpayer shall be entitled to a deferred tax impact deduction
15 from the taxpayer's entire net income equal to the amount necessary to
16 offset the increase in the net deferred tax liability or decrease in the net
17 deferred tax asset, or aggregate change from a net deferred tax asset to a
18 net deferred tax liability. Such increase in the net deferred tax liability,
19 decrease in the net deferred tax asset or the aggregate change from a net
20 deferred tax asset to a net deferred tax liability shall be computed based
21 on the change that would result from the imposition of the single sales
22 factor requirements pursuant to this section, excluding the deduction
23 provided under this paragraph, as of the end of the tax year prior to the
24 year in which the taxpayer makes an election or is required to apportion
25 by the sales factor. The amount of the deduction shall equal the annual
26 deferred tax deduction amount set forth in paragraph (5).

27 (5) The annual deferred tax deduction amount shall be calculated as
28 follows:

29 (A) The deferred tax impact determined in paragraph (4) shall be
30 divided by the income tax rate for corporations in effect for the tax year
31 pursuant to K.S.A. 79-32,110, and amendments thereto;

32 (B) the resulting amount shall be further divided by the Kansas
33 apportionment factor that was used by the taxpayer in the calculation of
34 the deferred tax assets and deferred tax liabilities as provided in this
35 subsection; and

36 (C) the result multiplied by $1/10$ shall represent the total net deferred
37 tax deduction available for the 2027 tax year and the next nine successive
38 tax years.

39 (6) The deduction calculated under paragraph (5) shall not be
40 adjusted as a result of any events subsequent to such calculation,
41 including, but not limited to, any disposition or abandonment of assets.
42 Such deduction shall be calculated without regard to any tax liabilities
43 under the federal internal revenue code and shall not alter the tax basis of

Added: For purposes of this section, the term "taxpayer" includes a unitary group of businesses that is required to file a combined report. The deferred tax impact deduction provided under this section for a unitary group of businesses that is required to file a combined report shall be calculated using unitary net deferred tax assets and liabilities and deducted against unitary group income.¶

1 any asset. If the deduction under this section is greater than the taxpayer's
2 Kansas adjusted gross income, any excess deduction shall be carried
3 forward and applied as a deduction for future tax years until fully utilized.

4 (7) At the discretion of the taxpayer, the taxpayer may be allowed to
5 claim other available tax credits before claiming the deferred tax
6 deduction calculated under this section. Any taxpayer intending to claim a
7 deduction under this subsection shall file a statement with the secretary on
8 or before July 1 of the year after the first tax year for which a single sales
9 factor is required. Such statement shall specify the total amount of the
10 deduction that the taxpayer claims on such form and in such manner as
11 prescribed by the secretary. No deduction shall be allowed under this
12 paragraph for any tax year unless claimed on such timely filed statement
13 in accordance with this paragraph.

Added: Any deferred tax deduction calculated under this section not claimed on a return shall be carried forward and applied as a deduction for future tax years until fully utilized. Any taxpayer

14 (8) For purposes of this subsection:

15 (A) "Net deferred tax liability" means deferred tax liabilities that
16 exceed the deferred tax assets of the taxpayer, as computed in accordance
17 with generally accepted accounting principles.

18 (B) "Net deferred tax asset" means that deferred tax assets exceed the
19 deferred tax liabilities of the taxpayer, as computed in accordance with
20 generally accepted accounting principles.

21 (g) The amendments made to this section by this act shall apply
22 commencing on and after December 31, 2023.

23 Sec. 4. K.S.A. 2023 Supp. 79-32,110 is hereby amended to read as
24 follows: 79-32,110. (a) *Resident Individuals*. Except as otherwise provided
25 by K.S.A. 79-3220(a), and amendments thereto, a tax is hereby imposed
26 upon the Kansas taxable income of every resident individual, which tax
27 shall be computed in accordance with the following tax schedules:

28 (1) *Married individuals filing joint returns.*

29 (A) *For tax year 2012:*

If the taxable income is:	The tax is:
30 Not over \$30,000	3.5% of Kansas taxable income
31 Over \$30,000 but not over \$60,000	\$1,050 plus 6.25% of excess
32	over \$30,000
33 Over \$60,000	\$2,925 plus 6.45% of excess
34	over \$60,000
35	

36 (B) *For tax year 2013:*

If the taxable income is:	The tax is:
37 Not over \$30,000	3.0% of Kansas taxable income
38 Over \$30,000	\$900 plus 4.9% of excess over
39	\$30,000
40	

41 (C) *For tax year 2014:*

If the taxable income is:	The tax is:
42 Not over \$30,000	2.7% of Kansas taxable income
43	

1 Over \$30,000\$810 plus 4.8% of excess over
 2 _____ \$30,000

3 (D) For tax years 2015 and 2016:

4 If the taxable income is: The tax is:
 5 Not over \$30,0002.7% of Kansas taxable income
 6 Over \$30,000\$810 plus 4.6% of excess over
 7 _____ \$30,000

8 (E) For tax year 2017:

9 If the taxable income is: The tax is:
 10 Not over \$30,0002.9% of Kansas taxable income
 11 Over \$30,000 but not over \$60,000\$870 plus 4.9% of excess over
 12 _____ \$30,000
 13 Over \$60,000\$2,340 plus 5.2% of excess over
 14 _____ \$60,000

15 (F) For tax year 2018, and all tax years thereafter:

16 If the taxable income is: The tax is:
 17 Not over \$30,0003.1% of Kansas taxable income
 18 Over \$30,000 but not over \$60,000\$930 plus 5.25% of excess
 19 over \$30,000
 20 Over \$60,000\$2,505 plus 5.7% of excess
 21 over \$60,000

22 (2) All other individuals.

23 (A) For tax year 2012:

24 If the taxable income is: The tax is:
 25 Not over \$15,0003.5% of Kansas taxable income
 26 Over \$15,000 but not over \$30,000\$525 plus 6.25% of excess
 27 over \$15,000
 28 Over \$30,000\$1,462.50 plus 6.45% of excess
 29 over \$30,000

30 (B) For tax year 2013:

31 If the taxable income is: The tax is:
 32 Not over \$15,0003.0% of Kansas taxable income
 33 Over \$15,000\$450 plus 4.9% of excess over
 34 _____ \$15,000

35 (C) For tax year 2014:

36 If the taxable income is: The tax is:
 37 Not over \$15,0002.7% of Kansas taxable income
 38 Over \$15,000\$405 plus 4.8% of excess over
 39 _____ \$15,000

40 (D) For tax years 2015 and 2016:

41 If the taxable income is: The tax is:
 42 Not over \$15,0002.7% of Kansas taxable income
 43 Over \$15,000\$405 plus 4.6% of excess over

1	_____	\$15,000
2	(E) For tax year 2017:	
3	If the taxable income is:	The tax is:
4	Not over \$15,000	2.9% of Kansas taxable income
5	Over \$15,000 but not over \$30,000	\$425 plus 4.9% of excess over
6	_____	\$15,000
7	Over \$30,000	\$1,170 plus 5.2% of excess over
8	_____	\$30,000

9	(F) For tax year 2018, and all tax years thereafter:	
10	If the taxable income is:	The tax is:
11	Not over \$15,000	3.1% of Kansas taxable income
12	Over \$15,000 but not over \$30,000	\$465 plus 5.25% of excess
13	_____	over \$15,000
14	Over \$30,000	\$1,252.50 plus 5.7% of excess
15	_____	over \$30,000

16 (b) *Nonresident Individuals.* A tax is hereby imposed upon the Kansas
 17 taxable income of every nonresident individual, which tax shall be an
 18 amount equal to the tax computed under subsection (a) as if the
 19 nonresident were a resident multiplied by the ratio of modified Kansas
 20 source income to Kansas adjusted gross income.

21 (c) *Corporations.* A tax is hereby imposed upon the Kansas taxable
 22 income of every corporation doing business within this state or deriving
 23 income from sources within this state. Such tax shall consist of a normal
 24 tax and a surtax and shall be computed as follows unless otherwise
 25 modified pursuant to K.S.A. ~~2022~~ 2023 Supp. 74-50,321 and section 1,
 26 and amendments thereto:

27 (1) The normal tax shall be in an amount equal to 4% of the Kansas
 28 taxable income of such corporation; and

29 (2) The surtax shall be in an amount equal to 3% of the Kansas
 30 taxable income of such corporation in excess of \$50,000.

31 (d) *Fiduciaries.* A tax is hereby imposed upon the Kansas taxable
 32 income of estates and trusts at the rates provided in subsection (a)(2)
 33 hereof.

34 (e) Notwithstanding the provisions of subsections (a) and (b): ~~(1) For~~
 35 ~~tax years 2016 and 2017, married individuals filing joint returns with~~
 36 ~~taxable income of \$12,500 or less, and all other individuals with taxable~~
 37 ~~income of \$5,000 or less, shall have a tax liability of zero; and (2) for tax~~
 38 ~~year 2018, and all tax years thereafter, married individuals filing joint~~
 39 ~~returns with taxable income of \$5,000 or less, and all other individuals~~
 40 ~~with taxable income of \$2,500 or less, shall have a tax liability of zero.~~

41 ~~(f) No taxpayer shall be assessed penalties and interest arising from~~
 42 ~~the underpayment of taxes due to changes to the rates in subsection (a) that~~
 43 ~~became law on July 1, 2017, so long as such underpayment is rectified on~~

1 ~~or before April 17, 2018.~~

2 Sec. 5. K.S.A. 79-1129 and 79-3279 and K.S.A. 2023 Supp. 79-
3 32,110 are hereby repealed.

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