

As Amended by House Committee

Session of 2012

HOUSE BILL No. 2598

By Committee on Federal and State Affairs

2-1

1 AN ACT concerning abortion; relating to restrictions on late term
2 abortions; relating to the woman's-right-to-know act; creating the no
3 taxpayer funding for abortion act; amending K.S.A. 60-1901 and
4 K.S.A. 2011 Supp. 40-2246, 65-6701, 65-6703, 65-6709, 65-6710, **76-**
5 **3308**, 79-32,117, 79-32,138, 79-32,182b, 79-32,195, 79-32,261 and 79-
6 3606 and repealing the existing sections; also repealing K.S.A. 2011
7 Supp. 79-3606g.

8
9 *Be it enacted by the Legislature of the State of Kansas:*

10 New Section 1. (a) Sections 1 through 7 **6**, and amendments thereto,
11 shall be known and may be cited as the no taxpayer funding for abortion
12 act.

13 (b) As used in this act:

14 (1) "Abortion" has the same meaning as such term is defined in
15 K.S.A. 65-6701, and amendments thereto.

16 (2) "Health benefit plan" means any hospital or medical expense
17 policy, health, hospital or medical services corporation contract, and a plan
18 provided by a municipal group-funded pool, or a health maintenance
19 organization contract offered by any employer or any certificate issued
20 under any such policy, contract or plan.

21 (3) "Health care entity" means an individual physician or other health
22 care professional, a hospital, a provider-sponsored organization, a health
23 maintenance organization or any other health care facility or organization.

24 (4) "State agency" has the same meaning as such term is defined in
25 K.S.A. 75-3701, and amendments thereto.

26 New Sec. 2. Except to the extent required by federal law:

27 (a) No moneys appropriated from the state general fund or from any
28 special revenue fund shall be expended for any abortion;

29 (b) no tax credit shall be allowed against any income tax, premium or
30 privilege tax liability and no exemption shall be granted from sales or
31 compensating use tax for that portion of such amounts paid or incurred for
32 an abortion, or that portion of such amounts paid or incurred for a health
33 benefit plan, including premium assistance, for the purchase of an optional
34 rider for coverage of abortion in accordance with K.S.A. 2011 Supp. 40-
35 2,190, and amendments thereto;

36 (c) in the case of any tax-preferred trust or account, the purpose of

1 which is to pay medical expenses of the account beneficiary, any amount
2 paid or distributed from such an account for an abortion shall be included
3 in the gross income of such beneficiary; and

4 (d) no health care services provided by any state agency, or any
5 employee of a state agency while acting within the scope of such
6 employee's employment, shall include abortion. **Nothing in this**
7 **subsection shall be construed to prevent a physician enrolled in a**
8 **residency program and employed by the university of Kansas medical**
9 **center from receiving experience with induced abortions conducted at**
10 **facilities other than those owned, leased or operated by the university**
11 **of Kansas hospital authority or any other state entity. For purposes of**
12 **this act only, such physicians shall be considered as acting outside the**
13 **scope of their official employment in such actions. This provision**
14 **regarding physicians enrolled in a residency program shall remain in**
15 **effect through June 30, 2013.**

16 New Sec. 3. Nothing in sections 1 through 7 6, and amendments
17 thereto, shall repeal, amend or have any effect on any other state law to the
18 extent such law imposes any limitation on the use of funds for abortion,
19 more restrictive than the limitations set forth in sections 1 through 7, and
20 amendments thereto.

21 New Sec. 4. Nothing in sections 1 through 7 6, and amendments
22 thereto, shall be construed:

23 (a) To require any state agency or municipality to provide or pay for
24 any abortion; or

25 (b) as creating or recognizing a right to abortion.

26 New Sec. 5. No state agency shall discriminate against any individual
27 or institutional health care entity on the basis that such health care entity
28 does not provide, pay for or refer for abortions.

29 New Sec. 6. The limitations set forth in sections 1 through 7 6, and
30 amendments thereto, shall not apply to an abortion which is necessary to
31 preserve the life of the pregnant woman.

32 ~~New Sec. 7. The provisions of sections 1 through 7 6, and~~
33 ~~amendments thereto, are declared to be severable, and if any provision, or~~
34 ~~the application thereof, to any person shall be held invalid, such invalidity~~
35 ~~shall not affect the validity of the remaining provisions of sections 1~~
36 ~~through 7, and amendments thereto.~~

37 ~~New Sec.—8. 7. (a) No person shall perform an abortion with~~
38 ~~knowledge that the pregnant woman is seeking the abortion solely on~~
39 ~~account of the sex of the unborn child.~~

40 (b) (1) A woman upon whom an abortion is performed or induced, or
41 upon whom there is an attempt to perform or induce an abortion, in
42 violation of this section, the father, if married to the woman at the time of
43 the abortion, and the parents or custodial guardian of the woman, if the

1 woman has not attained the age of 18 years at the time of the abortion,
2 may in a civil action obtain appropriate relief, unless, in a case where the
3 plaintiff is not the woman upon whom the abortion was performed, the
4 pregnancy resulted from the plaintiff's criminal conduct.

5 (2) Such relief shall include:

6 (A) Money damages for all injuries, psychological and physical,
7 occasioned by the violation of this section;

8 (B) statutory damages equal to three times the cost of the abortion;
9 and

10 (C) reasonable attorney fees.

11 (c) A woman upon whom an abortion is performed shall not be
12 prosecuted under this section for a conspiracy to violate this section
13 pursuant to K.S.A. 2011 Supp. 21-5302, and amendments thereto.

14 (d) Nothing in this section shall be construed to create a right to an
15 abortion. Notwithstanding any provision of this section, a person shall not
16 perform an abortion that is prohibited by law.

17 (e) Upon a first conviction of a violation of this section, a person
18 shall be guilty of a class A person misdemeanor. Upon a second or
19 subsequent conviction of a violation of this section, a person shall be
20 guilty of a severity level 10, person felony.

21 (f) If any provision of this section is held to be invalid or
22 unconstitutional, it shall be conclusively presumed that the legislature
23 would have enacted the remainder of this section without such invalid or
24 unconstitutional provision.

25 ~~New Sec. 8.~~ **8.** (a) No school district, employee or volunteer
26 thereof, or educational service provider contracting with such school
27 district shall provide abortion services. No school district shall permit any
28 person or entity to offer, sponsor or otherwise furnish in any manner any
29 course materials or instruction relating to human sexuality or sexually
30 transmitted diseases if such person or entity is an abortion services
31 provider.

32 (b) For the purposes of this section, the term "abortion" shall have the
33 same meaning as such term is defined in K.S.A. 65-6701, and amendments
34 thereto.

35 ~~New Sec. 9.~~ **9.** (a) No civil action may be commenced in any court
36 for a claim of wrongful life or wrongful birth, and no damages may be
37 recovered in any civil action for any physical condition of a minor that
38 existed at the time of such minor's birth if the damages sought arise out of
39 a claim that a person's action, or omission, contributed to such minor's
40 mother not obtaining an abortion.

41 (b) Nothing in this section shall be deemed to create any new cause of
42 action, nor preclude any otherwise proper cause of action based on a claim
43 that, but for a person's wrongful action, or omission, the death or injury of

1 the mother would not have occurred, or the handicap, disease or disability
2 of an individual prior to birth would have been prevented, cured or
3 ameliorated in a manner that preserved the health and life of such
4 individual.

5 (c) As used in this section:

6 (1) "Abortion" has the same meaning as such term is defined in
7 K.S.A. 65-6701, and amendments thereto.

8 (2) "Claim of wrongful birth" means a cause of action brought by a
9 parent, legal guardian or other individual legally required to provide for
10 the support of a minor, which seeks damages, whether economic or
11 noneconomic, as a result of a physical condition of such minor that existed
12 at the time of such minor's birth, and which is based on a claim that a
13 person's action, or omission, contributed to such minor's mother not
14 obtaining an abortion.

15 (3) "Claim of wrongful life" means a cause of action brought by, or
16 on behalf of, a minor, which seeks damages, whether economic or
17 noneconomic, for such minor as a result of a physical condition of such
18 minor that existed at the time of such minor's birth, and which is based on
19 a claim that a person's action, or omission, contributed to such minor's
20 mother not obtaining an abortion.

21 ~~Sec. 44.~~ **10.** K.S.A. 2011 Supp. 40-2246 is hereby amended to read as
22 follows: 40-2246. (a) A credit against the taxes otherwise due under the
23 Kansas income tax act shall be allowed to an employer for amounts paid
24 during the taxable year for purposes of this act on behalf of an eligible
25 employee as defined in K.S.A. 40-2239, and amendments thereto, to
26 provide health insurance or care and amounts contributed to health savings
27 accounts of eligible covered employees, *except that for taxable years*
28 *commencing after December 31, ~~2011~~ 2012, no credit shall be allowed*
29 *pursuant to this section for that portion of any amounts paid by an*
30 *employer for healthcare, a health benefit plan, as defined in section 1, and*
31 *amendments thereto, or amounts contributed to health savings accounts*
32 *for the purchase of an optional rider for coverage of abortion in*
33 *accordance with K.S.A. 2011 Supp. 40-2,190, and amendments thereto.*

34 (b) (1) For employers that have established a small employer health
35 benefit plan after December 31, 1999, but prior to January 1, 2005, the
36 amount of the credit allowed by subsection (a) shall be \$35 per month per
37 eligible covered employee or 50% of the total amount paid by the
38 employer during the taxable year, whichever is less, for the first two years
39 of participation. In the third year, the credit shall be equal to 75% of the
40 lesser of \$35 per month per employee or 50% of the total amount paid by
41 the employer during the taxable year. In the fourth year, the credit shall be
42 equal to 50% of the lesser of \$35 per month per employee or 50% of the
43 total amount paid by the employer during the taxable year. In the fifth year,

1 the credit shall be equal to 25% of the lesser of \$35 per month per
2 employee or 50% of the total amount paid by the employer during the
3 taxable year. For the sixth and subsequent years, no credit shall be
4 allowed.

5 (2) For employers that have established a small employer health
6 benefit plan or made contributions to a health savings account of an
7 eligible covered employee after December 31, 2004, the amount of credit
8 allowed by subsection (a) shall be \$70 per month per eligible covered
9 employee for the first 12 months of participation, \$50 per month per
10 eligible covered employee for the next 12 months of participation and \$35
11 per eligible covered employee for the next 12 months of participation.
12 After 36 months of participation, no credit shall be allowed.

13 (c) If the credit allowed by this section is claimed, the amount of any
14 deduction allowable under the Kansas income tax act for expenses
15 described in this section shall be reduced by the dollar amount of the
16 credit. The election to claim the credit shall be made at the time of filing
17 the tax return in accordance with law. If the credit allowed by this section
18 exceeds the taxes imposed under the Kansas income tax act for the taxable
19 year, that portion of the credit which exceeds those taxes shall be refunded
20 to the taxpayer.

21 (d) Any amount of expenses paid by an employer under this act shall
22 not be included as income to the employee for purposes of the Kansas
23 income tax act. If such expenses have been included in federal taxable
24 income of the employee, the amount included shall be subtracted in
25 arriving at state taxable income under the Kansas income tax act.

26 (e) The secretary of revenue shall promulgate rules and regulations to
27 carry out the provisions of this section.

28 (f) This section shall apply to all taxable years commencing after
29 December 31, 1999.

30 ~~Sec. 12.~~ **11.** K.S.A. 60-1901 is hereby amended to read as follows:
31 60-1901. (a) If the death of a person is caused by the wrongful act or
32 omission of another, an action may be maintained for the damages
33 resulting therefrom if the former might have maintained the action had ~~he~~
34 ~~or she~~ *such person* lived, in accordance with the provisions of this article,
35 against the wrongdoer, or ~~his or her~~ *such wrongdoer's* personal
36 representative if ~~he or she~~ *such wrongdoer* is deceased.

37 (b) *As used in article 19 of chapter 60 of the Kansas Statutes*
38 *Annotated, and amendments thereto, a person also means an unborn child.*

39 (c) *As used in this section, "unborn child" means a living individual*
40 *organism of the species homo sapiens, in utero, at any stage of gestation*
41 *from fertilization to birth.*

42 (d) *This section shall not apply to a wrongful death action if the*
43 *death is of an unborn child by means of:*

- 1 (1) *Any act committed by the mother of the unborn child;*
 2 (2) *any medical procedure, including abortion, performed by a*
 3 *physician or other licensed medical professional at the request of the*
 4 *pregnant woman or her legal guardian; or*
 5 (3) *the lawful dispensation or administration of lawfully prescribed*
 6 *medication.*

7 Sec. ~~13~~ **12.** K.S.A. 2011 Supp. 65-6701 is hereby amended to read as
 8 follows: 65-6701. As used in ~~this act~~ *K.S.A. 65-6701 through 65-6721 and*
 9 *section 8, and amendments thereto:*

10 (a) "Abortion" means the use or prescription of any instrument,
 11 medicine, drug or any other substance or device to terminate the
 12 pregnancy of a woman known to be pregnant with an intention other than
 13 to increase the probability of a live birth, to preserve the life or health of
 14 the child after live birth, or to remove a dead unborn child who died as the
 15 result of natural causes in utero, accidental trauma or a criminal assault on
 16 the pregnant woman or her unborn child, and which causes the premature
 17 termination of the pregnancy.

18 (b) *"Bodily function" means physical functions only. The term*
 19 *"bodily function" does not include mental or emotional functions.*

20 ~~(b)~~ (c) "Counselor" means a person who is: (1) Licensed to practice
 21 medicine and surgery; ~~(2) licensed to practice psychology; (3) licensed to~~
 22 ~~practice professional or practical nursing; (4) registered to practice~~
 23 ~~professional counseling; (5) licensed as a social worker; (6) the holder of a~~
 24 ~~master's or doctor's degree from an accredited graduate school of social~~
 25 ~~work; (7) registered to practice marriage and family therapy; (8) licensed~~
 26 **to practice professional or practical nursing; (3) the following persons**
 27 **licensed to practice behavioral sciences: Licensed psychologists,**
 28 **licensed master's level psychologists, licensed clinical**
 29 **psychotherapists, licensed social workers, licensed specialist clinical**
 30 **social workers, licensed marriage and family therapists, licensed**
 31 **clinical marriage and family therapists, licensed professional**
 32 **counselors, licensed clinical professional counselors; (4) a licensed**
 33 **physician assistant; or (9) (5) a currently ordained member of the clergy or**
 34 **religious authority of any religious denomination or society. Counselor**
 35 **does not include the physician who performs or induces the abortion or a**
 36 **physician or other person who assists in performing or inducing the**
 37 **abortion.**

38 ~~(e)~~ (d) "Department" means the department of health and
 39 environment.

40 ~~(d)~~ (e) "Gestational age" means the time that has elapsed since the
 41 first day of the woman's last menstrual period.

42 ~~(e)~~ (f) ~~"Medical emergency" means that condition which, on the basis~~
 43 ~~of the physician's good faith clinical judgment using and exercising that~~

1 ~~degree of care, skill and proficiency commonly exercised by the ordinary~~
 2 ~~skillful, careful and prudent physician in the same or similar~~
 3 ~~circumstances, so complicates the medical condition of a pregnant woman~~
 4 ~~as to necessitate the immediate abortion of her pregnancy to avert her~~
 5 ~~death or for which a delay will create serious risk of substantial and~~
 6 ~~irreversible impairment of a major bodily function. "Medical emergency"~~
 7 **means a condition that, in reasonable medical judgment, so**
 8 **complicates the medical condition of the pregnant woman as to**
 9 **necessitate the immediate abortion of her pregnancy without first**
 10 **determining gestational age to avert her death or for which a delay**
 11 **necessary to determine gestational age will create serious risk of**
 12 **substantial and irreversible physical impairment of a major bodily**
 13 **function. No condition shall be deemed a medical emergency if based on**
 14 **a claim or diagnosis that the woman will engage in conduct which would**
 15 **result in her death or in substantial and irreversible physical impairment**
 16 **of a major bodily function.**

17 (⊕) (g) "Minor" means a person less than 18 years of age.

18 (⊕) (h) "Physician" means a person licensed to practice medicine and
 19 surgery in this state.

20 (⊕) (i) "Pregnant" or "pregnancy" means that female reproductive
 21 condition of having an unborn child in the mother's body.

22 (⊕) (j) "Qualified person" means an agent of the physician who is a
 23 psychologist, licensed social worker, ~~registered~~ **licensed** professional
 24 counselor, **licensed marriage and family therapist, licensed master's**
 25 **level psychologist, licensed clinical psychotherapist,** registered nurse or
 26 physician.

27 (⊕) (k) "Unemancipated minor" means any minor who has never been:
 28 (1) Married; or (2) freed, by court order or otherwise, from the care,
 29 custody and control of the minor's parents.

30 (⊕) (l) "Viable" means that stage of fetal development when it is the
 31 physician's judgment according to accepted obstetrical or neonatal
 32 standards of care and practice applied by physicians in the same or similar
 33 circumstances that there is a reasonable probability that the life of the child
 34 can be continued indefinitely outside the mother's womb with natural or
 35 artificial life-supportive measures.

36 **Sec. 44. 13.** K.S.A. 2011 Supp. 65-6703 is hereby amended to read as
 37 follows: 65-6703. (a) No person shall perform or induce, *or attempt to*
 38 *perform or induce* an abortion when the unborn child is viable unless such
 39 person is a physician and has a documented referral from another
 40 physician not legally or financially affiliated with the physician
 41 performing or inducing, *or attempting to perform or induce* the abortion
 42 and both physicians provide a written determination, based upon a medical
 43 judgment arrived at using and exercising that degree of care, skill and

1 proficiency commonly exercised by the ordinary skillful, careful and
2 prudent physician in the same or similar circumstances and that would be
3 made by a reasonably prudent physician, knowledgeable in the field, and
4 knowledgeable about the case and the treatment possibilities with respect
5 to the conditions involved, that: (1) The abortion is necessary to preserve
6 the life of the pregnant woman; or (2) a continuation of the pregnancy will
7 cause a substantial and irreversible *physical* impairment of a major bodily
8 function of the pregnant woman. *No condition shall be deemed to exist if*
9 *it is based on a claim or diagnosis that the woman will engage in conduct*
10 *that would result in her death or in substantial and irreversible physical*
11 *impairment of a major bodily function.*

12 (b) Except in the case of a medical emergency, a copy of the written
13 documented referral and of the abortion-performing physician's written
14 determination shall be provided to the pregnant woman no less than 30
15 minutes prior to the initiation of the abortion. The written determination
16 shall be time-stamped at the time it is delivered to the pregnant woman.
17 The medical basis for the determination shall also be reported by the
18 physician as part of the written report made by the physician to the
19 secretary of health and environment under K.S.A. 65-445, and
20 amendments thereto. Such determination shall specify:

21 (1) If the unborn child was determined to be nonviable and the
22 medical basis of such determination;

23 (2) if the abortion is necessary to preserve the life of the pregnant
24 woman and the medical basis of such determination, including the specific
25 medical condition the physician believes would cause the death of the
26 pregnant woman; or

27 (3) if a continuation of the pregnancy will cause a substantial and
28 irreversible *physical* impairment of a major bodily function of the pregnant
29 woman and the medical basis of such determination, including the specific
30 medical condition the physician believes would constitute a substantial and
31 irreversible *physical* impairment of a major bodily function of the pregnant
32 woman.

33 (c) (1) Except in the case of a medical emergency, prior to performing
34 *or inducing, or attempting to perform or induce* an abortion upon a
35 woman, the physician shall determine the gestational age of the unborn
36 child according to accepted obstetrical and neonatal practice and standards
37 applied by physicians in the same or similar circumstances. If the
38 physician determines the gestational age is less than 22 weeks, the
39 physician shall document as part of the medical records of the woman the
40 basis for the determination. The medical basis for the determination of the
41 gestational age of the unborn child shall also be reported by the physician
42 as part of the written report made by the physician to the secretary of
43 health and environment under K.S.A. 65-445, and amendments thereto.

1 (2) If the physician determines the gestational age of the unborn child
2 is 22 or more weeks, prior to performing *or inducing, or attempting to*
3 *perform or induce* an abortion upon the woman the physician shall
4 determine if the unborn child is viable by using and exercising that degree
5 of care, skill and proficiency commonly exercised by the ordinary skillful,
6 careful and prudent physician in the same or similar circumstances. In
7 making this determination of viability, the physician shall perform or cause
8 to be performed such medical examinations and tests as are necessary to
9 make a finding of the gestational age of the unborn child and shall enter
10 such findings and determinations of viability in the medical record of the
11 woman.

12 (3) If the physician determines the gestational age of an unborn child
13 is 22 or more weeks, and determines that the unborn child is not viable and
14 performs an abortion on the woman, the physician shall report such
15 determinations, the medical basis and the reasons for such determinations
16 in writing to the medical care facility in which the abortion is performed
17 for inclusion in the report of the medical care facility to the secretary of
18 health and environment under K.S.A. 65-445, and amendments thereto, or
19 if the abortion is not performed in a medical care facility, the physician
20 shall report such determinations, the medical basis and the reasons for
21 such determinations in writing to the secretary of health and environment
22 as part of the written report made by the physician to the secretary of
23 health and environment under K.S.A. 65-445, and amendments thereto.

24 (4) If the physician who is to perform the abortion determines the
25 gestational age of an unborn child is 22 or more weeks, and determines
26 that the unborn child is viable, both physicians under subsection (a)
27 determine in accordance with the provisions of subsection (a) that an
28 abortion is necessary to preserve the life of the pregnant woman or that a
29 continuation of the pregnancy will cause a substantial and irreversible
30 *physical* impairment of a major bodily function of the pregnant woman
31 and the physician performs an abortion on the woman, the physician who
32 performs the abortion shall report such determinations, the medical basis
33 and the reasons for such determinations, including the specific medical
34 diagnosis for the determination that an abortion is necessary to preserve
35 the life of the pregnant woman or that a continuation of the pregnancy will
36 cause a substantial and irreversible *physical* impairment of a major bodily
37 function of the pregnant woman and the name of the referring physician
38 required by subsection (a) in writing to the medical care facility in which
39 the abortion is performed for inclusion in the report of the medical care
40 facility to the secretary of health and environment under K.S.A. 65-445,
41 and amendments thereto, or if the abortion is not performed in a medical
42 care facility, the physician who performs the abortion shall report such
43 determinations, the medical basis and the reasons for such determinations,

1 including the specific medical diagnosis for the determination that an
2 abortion is necessary to preserve the life of the pregnant woman or that a
3 continuation of the pregnancy will cause a substantial and irreversible
4 *physical* impairment of a major bodily function of the pregnant woman
5 and the name of the referring physician required by subsection (a) in
6 writing to the secretary of health and environment as part of the written
7 report made by the physician to the secretary of health and environment
8 under K.S.A. 65-445, and amendments thereto.

9 (5) The physician shall retain the medical records required to be kept
10 under paragraphs (1) and (2) of this subsection (c) for not less than 10
11 years and shall retain a copy of the written reports required under
12 paragraphs (3) and (4) of this subsection (c) for not less than 10 years.

13 (d) The secretary of health and environment shall adopt rules and
14 regulations to administer this section. Such rules and regulations shall
15 include:

16 (1) A detailed list of the information that must be kept by a physician
17 under paragraphs (1) and (2) of subsection (c);

18 (2) the contents of the written reports required under paragraphs (3)
19 and (4) of subsection (c); and

20 (3) detailed specifications regarding information that must be
21 provided by a physician in order to comply with the obligation to disclose
22 the medical basis and specific medical diagnosis relied upon in
23 determining that an abortion is necessary to preserve the life of the
24 pregnant woman or that a continuation of the pregnancy will cause a
25 substantial and irreversible **physical** impairment of a major bodily
26 function of the pregnant woman.

27 (e) A woman upon whom an abortion is performed shall not be
28 prosecuted under this section for a conspiracy to violate this section
29 pursuant to K.S.A. 2011 Supp. 21-5302, and amendments thereto.

30 (f) Nothing in this section shall be construed to create a right to an
31 abortion. Notwithstanding any provision of this section, a person shall not
32 perform an abortion that is prohibited by law.

33 (g) (1) A woman upon whom an abortion is performed in violation of
34 this section, the father, if married to the woman at the time of the abortion,
35 and the parents or custodial guardian of the woman, if the woman has not
36 attained the age of 18 years at the time of the abortion, may in a civil
37 action obtain appropriate relief, unless, in a case where the plaintiff is not
38 the woman upon whom the abortion was performed, the pregnancy
39 resulted from the plaintiff's criminal conduct.

40 (2) Such relief shall include:

41 (A) Money damages for all injuries, psychological and physical,
42 occasioned by the violation of this section;

43 (B) statutory damages equal to three times the cost of the abortion;

1 and

2 (C) reasonable attorney fees.

3 (h) The prosecution of violations of this section may be brought by
4 the attorney general or by the district attorney or county attorney for the
5 county where any violation of this section is alleged to have occurred.

6 (i) Nothing in this section shall be construed to restrict the authority
7 of the board of healing arts to engage in a disciplinary action.

8 (j) If any provision of this section is held to be invalid or
9 unconstitutional, it shall be conclusively presumed that the legislature
10 would have enacted the remainder of this section without such invalid or
11 unconstitutional provision.

12 (k) Upon a first conviction of a violation of this section, a person
13 shall be guilty of a class A nonperson misdemeanor. Upon a second or
14 subsequent conviction of a violation of this section, a person shall be
15 guilty of a severity level 10, nonperson felony.

16 ~~Sec. 15. 14.~~ K.S.A. 2011 Supp. 65-6709 is hereby amended to read as
17 follows: 65-6709. No abortion shall be performed or induced without the
18 voluntary and informed consent of the woman upon whom the abortion is
19 to be performed or induced. Except in the case of a medical emergency,
20 consent to an abortion is voluntary and informed only if:

21 (a) At least 24 hours before the abortion the physician who is to
22 perform the abortion or the referring physician has informed the woman in
23 writing of:

24 (1) The name of the physician who will perform the abortion;

25 (2) a description of the proposed abortion method;

26 (3) a description of risks related to the proposed abortion method,
27 including *risk of premature birth in future pregnancies, risk of breast*
28 *cancer and risks to the woman's reproductive health and alternatives to the*
29 *abortion that a reasonable patient would consider material to the decision*
30 *of whether or not to undergo the abortion;*

31 (4) the probable gestational age of the unborn child at the time the
32 abortion is to be performed and that Kansas law requires the following:

33 "No person shall perform or induce an abortion when the unborn child is
34 viable unless such person is a physician and has a documented referral
35 from another physician not financially associated with the physician
36 performing or inducing the abortion and both physicians determine that:

37 (1) The abortion is necessary to preserve the life of the pregnant woman;
38 or (2) a continuation of the pregnancy will cause a substantial and
39 irreversible, *physical* impairment of a major bodily function of the
40 pregnant woman." If the child is born alive, the attending physician has the
41 legal obligation to take all reasonable steps necessary to maintain the life
42 and health of the child;

43 (5) the probable anatomical and physiological characteristics of the

1 unborn child at the time the abortion is to be performed;

2 (6) the contact information for ~~free~~—counseling assistance for
3 medically challenging pregnancies and the contact information for ~~free~~
4 perinatal hospice services, *including information regarding which entities*
5 *provide such services free of charge*;

6 (7) the medical risks associated with carrying an unborn child to
7 term; and

8 (8) any need for anti-Rh immune globulin therapy, if she is Rh
9 negative, the likely consequences of refusing such therapy and the cost of
10 the therapy.

11 (b) At least 24 hours before the abortion, the physician who is to
12 perform the abortion, the referring physician or a qualified person has
13 informed the woman in writing that:

14 (1) Medical assistance benefits may be available for prenatal care,
15 childbirth and neonatal care, and that more detailed information on the
16 availability of such assistance is contained in the printed materials given to
17 her and described in K.S.A. 65-6710, and amendments thereto;

18 (2) the informational materials in K.S.A. 65-6710, and amendments
19 thereto, are available in printed form and online, and describe the unborn
20 child, list agencies which offer alternatives to abortion with a special
21 section listing adoption services and list providers of free ultrasound
22 services;

23 (3) the father of the unborn child is liable to assist in the support of
24 her child, even in instances where he has offered to pay for the abortion
25 except that in the case of rape this information may be omitted;

26 (4) the woman is free to withhold or withdraw her consent to the
27 abortion at any time prior to invasion of the uterus without affecting her
28 right to future care or treatment and without the loss of any state or
29 federally-funded benefits to which she might otherwise be entitled; ~~and~~

30 (5) the abortion will terminate the life of a whole, separate, unique,
31 living human being; *and*

32 (6) *by no later than 20 weeks from fertilization, the unborn child has*
33 *the physical structures necessary to experience pain. There is evidence*
34 *that by 20 weeks from fertilization unborn children seek to evade certain*
35 *stimuli in a manner that in an infant or an adult would be interpreted to be*
36 *a response to pain. Anesthesia is routinely administered to unborn*
37 *children who are 20 weeks from fertilization or older who undergo*
38 *prenatal surgery.*

39 (c) At least 30 minutes prior to the abortion procedure, prior to
40 physical preparation for the abortion and prior to the administration of
41 medication for the abortion, the woman shall meet privately with the
42 physician who is to perform the abortion and such person's staff to ensure
43 that she has an adequate opportunity to ask questions of and obtain

1 information from the physician concerning the abortion.

2 (d) At least 24 hours before the abortion, the woman is given a copy
3 of the informational materials described in K.S.A. 65-6710, and
4 amendments thereto. If the woman asks questions concerning any of the
5 information or materials, answers shall be provided to her in her own
6 language.

7 (e) The woman certifies in writing on a form provided by the
8 department, prior to the abortion, that the information required to be
9 provided under subsections (a), (b) and (d) has been provided and that she
10 has met with the physician who is to perform the abortion on an individual
11 basis as provided under subsection (c). All physicians who perform
12 abortions shall report the total number of certifications received monthly
13 to the department. **The total number of certifications shall be reported**
14 **by the physician as part of the written report made by the physician to**
15 **the secretary of health and environment under K.S.A. 65-445, and**
16 **amendments thereto.** The department shall make the number of
17 certifications received **and the number of women who decided not to**
18 **have an abortion after hearing the heartbeat of the unborn child**
19 available on an annual basis.

20 (f) Prior to the performance of the abortion, the physician who is to
21 perform the abortion or the physician's agent receives a copy of the written
22 certification prescribed by subsection (e) of this section.

23 (g) The woman is not required to pay any amount for the abortion
24 procedure until the 24-hour waiting period has expired.

25 (h) A physician who will use ultrasound equipment preparatory to or
26 in the performance of the abortion, at least 30 minutes prior to the
27 performance of the abortion:

28 (1) Informs the woman that she has the right to view the ultrasound
29 image of her unborn child, at no additional expense to her;

30 (2) informs the woman that she has the right to receive a physical
31 picture of the ultrasound image, at no additional expense to her;

32 (3) offers the woman the opportunity to view the ultrasound image
33 and receive a physical picture of the ultrasound image;

34 (4) certifies in writing that the woman was offered the opportunity to
35 view the ultrasound image and receive a physical picture of the ultrasound
36 image at least 30 minutes prior to the performance of the abortion; and

37 (5) obtains the woman's signed acceptance or rejection of the
38 opportunity to view the ultrasound image and receive a physical picture of
39 the ultrasound image.

40 If the woman accepts the offer and requests to view the ultrasound
41 image, receive a physical picture of the ultrasound image or both, her
42 request shall be granted by the physician at no additional expense to the
43 woman. The physician's certification shall be time-stamped at the time the

1 opportunity to view the ultrasound image and receive a physical picture of
2 the ultrasound image was offered.

3 (i) A physician who will use heart monitor equipment preparatory to
4 or in the performance of the abortion, at least 30 minutes prior to the
5 performance of the abortion:

6 (1) Informs the woman that she has the right to listen to the heartbeat
7 of her unborn child, at no additional expense to her;

8 (2) offers the woman the opportunity to listen to the heartbeat of her
9 unborn child;

10 (3) certifies in writing that the woman was offered the opportunity to
11 listen to the heartbeat of her unborn child at least 30 minutes prior to the
12 performance of the abortion; and

13 (4) obtains the woman's signed acceptance or rejection of the
14 opportunity to listen to the heartbeat of her unborn child.

15 If the woman accepts the offer and requests to listen to the heartbeat of
16 her unborn child, her request shall be granted by the physician at no
17 additional expense to the woman. The physician's certification shall be
18 time-stamped at the time the opportunity to listen to the heartbeat of her
19 unborn child was offered.

20 ~~(j) (1) Prior to a woman giving informed consent to having any part~~
21 ~~of an abortion performed or induced, if the pregnancy is at least 10 weeks~~
22 ~~from the first day of the last menstrual period, the abortion provider who~~
23 ~~is to perform or induce the abortion, a certified technician or another~~
24 ~~agent of the abortion provider shall, using a hand-held doppler fetal~~
25 ~~monitor, make the embryonic or fetal heartbeat of the unborn child audible~~
26 ~~for the pregnant woman to hear.~~

27 ~~(2) An abortion provider, a certified technician or another agent of~~
28 ~~the abortion provider shall not be in violation of this subsection if:~~

29 ~~(A) The provider, certified technician or agent has attempted,~~
30 ~~consistent with standard medical practice, to make the embryonic or fetal~~
31 ~~heartbeat of the unborn child audible for the pregnant woman to hear~~
32 ~~using a hand-held doppler fetal monitor;~~

33 ~~(B) the attempt does not result in the heartbeat being made audible;~~
34 ~~and~~

35 ~~(C) the provider offers to attempt to make the heartbeat audible at a~~
36 ~~subsequent date.~~

37 ~~(3) Nothing in this subsection shall be construed to require the~~
38 ~~pregnant woman to listen to the sounds detected by the hand-held doppler~~
39 ~~fetal monitor pursuant to paragraph (1).~~

40 ~~(j) (j)~~ (j) The physician's certification required by subsections (h) and
41 (i) together with the pregnant woman's signed acceptance or rejection of
42 such offer shall be placed in the woman's medical file in the physician's
43 office and kept for 10 years. However, in the case of a minor, the physician

1 shall keep a copy of the certification and the signed acceptance or rejection
2 in the minor's medical file for five years past the minor's majority, but in
3 no event less than 10 years.

4 ~~(k)~~ ~~(j)~~ **(k)** Any private office, freestanding surgical outpatient clinic or
5 other facility or clinic in which abortions are performed shall
6 conspicuously post a sign in a location so as to be clearly visible to
7 patients. The sign required pursuant to this subsection shall be printed with
8 lettering that is legible and shall be at least three quarters of an inch
9 boldfaced type ~~which reads~~. *The sign shall include the address for the*
10 *pregnancy resources website published and maintained by the department*
11 *of health and environment, and the following text:*

12 Notice: It is against the law for anyone, regardless of their relationship
13 to you, to force you to have an abortion. By law, we cannot perform an
14 abortion on you unless we have your freely given and voluntary consent. It
15 is against the law to perform an abortion on you against your will. You
16 have the right to contact any local or state law enforcement agency to
17 receive protection from any actual or threatened physical abuse or
18 violence. You have the right to change your mind at any time prior to the
19 actual abortion and request that the abortion procedure cease. *It is*
20 *unlawful for anyone to make you have an abortion against your will, even*
21 *if you are a minor. The father of your child must provide support for the*
22 *child, even if he has offered to pay for an abortion. If you decide not to*
23 *have an abortion you may qualify for financial help for pregnancy, child*
24 *birth and newborn care. If you qualify, medicaid will pay or help pay the*
25 *cost of doctor, clinic hospital and other related medical expenses,*
26 *including child birth delivery services and care for your newborn baby.*
27 *Many agencies are willing to provide assistance so that you may carry*
28 *your child to term, and to assist after your child's birth.*

29 The provisions of this subsection shall not apply to any private office,
30 freestanding surgical outpatient clinic or other facility or clinic which
31 performs abortions only when necessary to prevent the death of the
32 pregnant woman.

33 ~~(k)~~ ~~(m)~~ **(m)** For purposes of this section:

34 (1) The term "human being" means an individual living member of
35 the species of homo sapiens, including the unborn human being during the
36 entire embryonic and fetal ages from fertilization to full gestation.

37 (2) The term "medically challenging pregnancy" means a pregnancy
38 where the unborn child is diagnosed as having: (A) A severe anomaly; or
39 (B) an illness, disease or defect which is invariably fatal.

40 ~~Sec. 16-15.~~ **15.** K.S.A. 2011 Supp. 65-6710 is hereby amended to read as
41 follows: 65-6710. (a) The department shall cause to be published and
42 distributed widely, within 30 days after the effective date of this act, and
43 shall update on an annual basis, the following easily comprehensible

1 informational materials:

2 (1) Geographically indexed printed materials designed to inform the
3 woman of public and private agencies and services available to assist a
4 woman through pregnancy, upon childbirth and while her child is
5 dependent, including but not limited to, a list of providers of free
6 ultrasound services and adoption agencies. The materials shall include a
7 comprehensive list of the agencies, a description of the services they offer
8 and the telephone numbers and addresses of the agencies; and inform the
9 woman about available medical assistance benefits for prenatal care,
10 childbirth and neonatal care and about the support obligations of the father
11 of a child who is born alive. The department shall ensure that the materials
12 described in this section are comprehensive and do not directly or
13 indirectly promote, exclude or discourage the use of any agency or service
14 described in this section. The materials shall also contain a toll-free 24-
15 hour-a-day telephone number which may be called to obtain, orally, such a
16 list and description of agencies in the locality of the caller and of the
17 services they offer. The materials shall state that it is unlawful for any
18 individual to coerce a woman to undergo an abortion, *and* that any
19 physician who performs an abortion upon a woman without her informed
20 consent may be liable to her for damages. Kansas law permits adoptive
21 parents to pay costs of prenatal care, childbirth and neonatal care. The
22 materials shall include the following statement:

23 "Many public and private agencies exist to provide counseling and
24 information on available services. You are strongly urged to seek their
25 assistance to obtain guidance during your pregnancy. In addition, you are
26 encouraged to seek information on abortion services, alternatives to
27 abortion, including adoption, and resources available to post-partum
28 mothers. The law requires that your physician or the physician's agent
29 provide the enclosed information."

30 (2) Printed materials that inform the pregnant woman of the probable
31 anatomical and physiological characteristics of the unborn child at two-
32 week gestational increments from fertilization to full term, including
33 pictures or drawings representing the development of an unborn child at
34 two-week gestational increments, and any relevant information on the
35 possibility of the unborn child's survival. Any such pictures or drawings
36 shall contain the dimensions of the unborn child and shall be realistic. The
37 material shall include the ~~statement~~ *the following statements: (A) That by*
38 *no later than 20 weeks from fertilization, the unborn child has the physical*
39 *structures necessary to experience pain; (B) that there is evidence that by*
40 *20 weeks from fertilization unborn children seek to evade certain stimuli*
41 *in a manner that in an infant or an adult would be interpreted to be a*
42 *response to pain; (C) that anesthesia is routinely administered to unborn*
43 *children who are 20 weeks from fertilization or older who undergo*

1 prenatal surgery; (D) that less than 5% of all natural pregnancies end in
2 spontaneous miscarriage after detection of cardiac activity, and a fetal
3 heartbeat is, therefore, a key medical indicator that an unborn child is
4 likely to achieve the capacity for live birth; and (E) that abortion
5 terminates the life of a whole, separate, unique, living human being. The
6 materials shall be objective, nonjudgmental and designed to convey only
7 accurate scientific information about the unborn child at the various
8 gestational ages. The material shall also contain objective information
9 describing the methods of abortion procedures commonly employed, the
10 medical risks commonly associated with each such procedure, *including*
11 *risk of premature birth in future pregnancies, risk of breast cancer, risks to*
12 *the woman's reproductive health* and the medical risks associated with
13 carrying an unborn child to term.

14 (3) *The printed materials shall, at a minimum, contain the following*
15 *text:*

16 *Your doctor is required to tell you about the nature of the physical and*
17 *emotional risks of both the abortion procedure and carrying a child to*
18 *term. The doctor must tell you how long you have been pregnant and must*
19 *give you a chance to ask questions and discuss your decision about the*
20 *pregnancy carefully and privately in your own language.*

21 *In order to determine the gestational age of the unborn child the doctor*
22 *must use ultrasound equipment preparatory to the performance of an*
23 *abortion. You have the right to view the ultrasound image of the unborn*
24 *child at no additional expense, and you have the right to receive a picture*
25 *of the unborn child.*

26 *A directory of services is also available. By calling or visiting the*
27 *agencies and offices in the directory you can find out about alternatives to*
28 *abortion, assistance to make an adoption plan for your baby or locate*
29 *public and private agencies that offer medical and financial help during*
30 *pregnancy, during childbirth and while you are raising your child.*

31 *Furthermore, you should know that: (A) It is unlawful for any*
32 *individual to coerce you to undergo an abortion. Coercion is the use of*
33 *express or implied threats of violence or intimidation to compel a person*
34 *to act against such person's will; (B) abortion terminates the life of a*
35 *whole, separate, unique, living human being; (C) any physician who fails*
36 *to provide informed consent prior to performing an abortion may be guilty*
37 *of unprofessional conduct and liable for damages; (D) you are not*
38 *required to pay any amount for the abortion procedure until the 24-hour*
39 *waiting period has expired; (E) the father of your child is legally*
40 *responsible to assist in the support of the child, even in instances where*
41 *the father has offered to pay for an abortion; and (F) the law permits*
42 *adoptive parents to pay the costs of prenatal care, childbirth and neonatal*
43 *care.*

1 *Many public and private agencies exist to provide counseling and*
2 *information on available services. You are strongly urged to seek*
3 *assistance from such agencies in order to obtain guidance during your*
4 *pregnancy. In addition, you are encouraged to seek information on*
5 *abortion services, alternatives to abortion, including adoption, and*
6 *resources available to postpartum mothers. The law requires that your*
7 *physician, or the physician's agent, provide this information.*

8 *Pregnancy begins at conception with the union of a man's sperm and a*
9 *woman's egg to form a single-cell embryo. This brand new being contains*
10 *the original copy of a new individual's complete genetic code. Gender, eye*
11 *color and other traits are determined at conception.*

12 *Most significant developmental milestones occur long before birth*
13 *during the first eight weeks following conception when most body parts*
14 *and all body systems appear and begin to function. The main divisions of*
15 *the body, such as the head, chest, abdomen, pelvis, arms and legs are*
16 *established by about four weeks after conception. Eight weeks after*
17 *conception, except for the small size, the developing human's overall*
18 *appearance and many internal structures closely resemble the newborn.*

19 *Pregnancy is not just a time for growing all the parts of the body. It is*
20 *also a time of preparation for survival after birth. Starting more than 30*
21 *weeks before birth, many common daily activities seen in children and*
22 *adults begin in the womb. These activities include, but are not limited to,*
23 *hiccups, touching the face, breathing motions, urination, right- or left-*
24 *handedness, thumb-sucking, swallowing, yawning, jaw movement,*
25 *reflexes, REM sleep, hearing, taste and sensation.*

26 *Unless otherwise noted, all prenatal ages in the rest of this handbook*
27 *are referenced from the start of the last normal menstrual period. This age*
28 *is two weeks greater than the age since conception.*

29 *By five weeks, development of the brain, the spinal cord and the heart*
30 *is well underway. The heart begins beating at five weeks and one day, and*
31 *is visible by ultrasound almost immediately. By six weeks the heart is*
32 *pumping the unborn child's own blood to such unborn child's brain and*
33 *body. All four chambers of the heart are present, and more than one*
34 *million heartbeats have occurred. The head, chest and abdominal cavities*
35 *have formed and the beginnings of the arms and legs are easily seen. At*
36 *6½ weeks rapid brain development continues with the appearance of the*
37 *cerebral hemispheres. At 7½ weeks the unborn child reflexively turns away*
38 *in response to light touch on the face. The fingers also begin to form on*
39 *the hand.*

40 *By 8½ weeks the bones of the jaw and collarbone begin to harden.*
41 *Brainwaves have been measured and recorded by this point in gestation.*
42 *By nine weeks the hands move, the neck turns and hiccups begin. Girls*
43 *also now have ovaries and boys have testes. The unborn child's heart in*

1 *nearly fully formed, and the heart rate peaks at about 170 beats per*
2 *minute and will gradually slow down until birth. Electrical recordings of*
3 *the heart at 9½ weeks are very similar to the EKG tracing of the unborn*
4 *child.*

5 *By 10 weeks intermittent breathing motions begin, and the kidneys*
6 *begin to produce and release urine. All the fingers and toes are free and*
7 *fully formed, and several hundred muscles are now present. The hands*
8 *and feet move frequently, and most unborn children show the first signs of*
9 *right- or left-handedness. Pain receptors in the skin, the sensory nerves*
10 *connecting them to the spinal cord, and the nerve tracts in the spinal cord*
11 *that will carry pain impulses to the brain are all present by this time.*
12 *Experts estimate the 10-week unborn child possesses approximately 90%*
13 *of the 4,500 body parts found in adults. This means approximately 4,000*
14 *permanent body parts are present just eight weeks after conception.*

15 *By 11 weeks the head moves forward and back, the jaw actively opens*
16 *and closes and the unborn child periodically sighs and stretches. The face,*
17 *palms of the hands and soles of the feet are sensitive to light touch. The*
18 *unborn child begins thumb-sucking and swallowing amniotic fluid. The*
19 *uterus is now present, and girls' ovaries now contain reproductive cells*
20 *that will give rise to eggs later in life.*

21 *At 12 weeks fingerprints start forming, while fingernails and toenails*
22 *begin to grow. The bones are hardening in many locations. The heartbeat*
23 *can be detected with a hand-held doppler fetal monitor, or external heart*
24 *rate monitor. By 13 weeks the lips and nose are fully formed and the*
25 *unborn child can make complex facial expressions.*

26 *At 14 weeks taste buds are present all over the mouth and tongue. The*
27 *unborn child now produces a wide variety of hormones. Also, the arms*
28 *reach final proportion to body size. By 15 weeks the entire unborn child,*
29 *except for parts of the scalp, responds to light touch, and tooth*
30 *development is underway.*

31 *At 16 weeks a pregnant woman may begin to feel the unborn child*
32 *move. The unborn child also begins making several digestive enzymes.*
33 *Around 17 weeks blood cell formation moves to its permanent location*
34 *inside the bone marrow, and the unborn child begins storing energy in the*
35 *form of body fat.*

36 *By 18 weeks the formation of the breathing passages, called the*
37 *bronchial tree, is complete. The unborn child will release stress hormones*
38 *in response to being poked with a needle. By 19 weeks the unborn child's*
39 *heart has beaten more than 20 million times.*

40 *By 20 weeks nearly all organs and structures of the unborn child have*
41 *been formed. The larynx, or voice box, moves in a way similar to*
42 *movement seen during crying after birth. The skin has developed sweat*
43 *glands and is covered by a greasy white substance called vernix, which*

1 *protects the skin from the long exposure to amniotic fluid. At 21 weeks*
2 *breathing patterns, body movements and the heart rate begin to follow*
3 *daily cycles called circadian rhythms.*

4 *By 22 weeks the cochlea, the organ of hearing, reaches adult size, and*
5 *the unborn child begins hearing and responding to various sounds. All the*
6 *skin layers and structures are now complete. The unborn child reacts to*
7 *stimuli that would be recognized as painful if applied to an adult human.*

8 *By 22 weeks some infants can live outside the womb with specialized*
9 *medical care, and survival rates have been reported as high as 40% in*
10 *some medical centers. Between 20 and 23 weeks rapid eye movements*
11 *begin, which are similar to the REM sleep pattern seen when children and*
12 *adults have dreams.*

13 *By 24 weeks more than 30 million heartbeats have been performed.*
14 *Survival rates for infants born at 24 weeks have been reported as high as*
15 *81%. By 25 weeks breathing motions may occur up to 44 times per minute.*

16 *By 26 weeks sudden, loud noises trigger a blink-startle response in the*
17 *unborn child, and may increase body movement, the heart rate and*
18 *swallowing. The lungs begin to produce a substance necessary for*
19 *breathing after birth. The survival rate of infants born at 26 weeks has*
20 *been reported as high as 95%.*

21 *By 28 weeks the sense of smell is functioning and the eyes produce*
22 *tears. Nearly all infants born between this point and full term survive. By*
23 *29 weeks pupils of the eyes react to light. By 31 weeks the heart has beat*
24 *more than 40 million times, and wrinkles in the skin disappear as more fat*
25 *deposits are formed.*

26 *By 32 weeks breathing movements occur up to 40% of the time. By 34*
27 *weeks true alveoli, or air "pocket" cells, begin developing in the lungs. At*
28 *36 weeks scalp hair is silky and lies against the head. By 37 weeks the*
29 *unborn child has a firm hand grip, and the heart has beat more than 50*
30 *million times. The unborn child initiates labor, ideally around 40 weeks,*
31 *leading to childbirth.*

32 *By state law, no person shall perform or induce an abortion when the*
33 *unborn child is viable or pain-capable unless such person is a physician*
34 *and has a documented referral. The physician who performs or induces an*
35 *abortion when the unborn child is viable must have a documented referral*
36 *from another physician not legally or financially affiliated with the*
37 *physician performing or inducing the abortion. Both physicians must*
38 *determine that the abortion is necessary to preserve the life of the*
39 *pregnant woman or that a continuation of the pregnancy will cause a*
40 *substantial and irreversible impairment of a major physical bodily*
41 *function of the pregnant woman. If the child is born alive, the attending*
42 *physician has the legal obligation to take all reasonable steps necessary to*
43 *maintain the life and health of the child.*

1 *What about adoption? Women or couples facing an untimely pregnancy*
2 *who choose not to take on the full responsibilities of parenthood have*
3 *another option, which is adoption. Counseling and support services are a*
4 *key part of adoption and are available from a variety of adoption agencies*
5 *and parent support groups across the state. A list of adoption agencies is*
6 *available. There are several ways to make a plan for adoption, including*
7 *through a child placement agency or through a private attorney. Although*
8 *fully anonymous adoptions are available, some degree of openness in*
9 *adoption is more common, such as permitting the birth mother to choose*
10 *the adoptive parents. A father only has the right to consent to an adoption*
11 *or refuse consent and raise the child if he provides support for the mother*
12 *during the last six months of the pregnancy.*

13 *The father of a child has a legal responsibility to provide for the*
14 *support, educational, medical and other needs of the child. In Kansas that*
15 *responsibility includes child support payments to the child's mother or*
16 *legal guardian. A child has rights of inheritance from the father and may*
17 *be eligible through him for benefits such as life insurance, social security,*
18 *pension, veteran's or disability benefits. Further, the child benefits from*
19 *knowing the father's medical history and any potential health problems*
20 *that can be passed genetically. A father's and mother's rights are equal*
21 *regarding access, care and custody.*

22 *Paternity can be established in Kansas by two methods: (A) The father*
23 *and mother, at the time of birth, can sign forms provided by the hospital*
24 *acknowledging paternity and the father's name is added to the birth*
25 *certificate; or (B) a legal action can be brought in a court of law to*
26 *determine paternity and establish a child support order. Issues of paternity*
27 *affect your legal rights and the rights of the child.*

28 *The decision regarding your pregnancy is one of the most important*
29 *decisions you will ever make. There are lists of state, county and local*
30 *health and social service agencies and organizations available to assist*
31 *you. You are encouraged to contact these groups if you need more*
32 *information so you can make an informed decision.*

33 ~~(3)~~ (4) A certification form to be used by physicians or their agents
34 under subsection (e) of K.S.A. 65-6709, and amendments thereto, which
35 will list all the items of information which are to be given to women by
36 physicians or their agents under the woman's-right-to-know act.

37 ~~(4)~~ (5) A standardized video containing all of the information
38 described in paragraphs (1) and (2). In addition, the video shall show
39 ultrasound images, using the best available ultrasound technology, of an
40 unborn child at two-week gestational increments.

41 (b) The print materials required under this section shall be printed in a
42 typeface large enough to be clearly legible. The informational video ~~shall~~
43 *may be published in digital video disc format or in the latest video*

1 *technology available.* All materials required to be published under this
2 section shall also be published online on the department's website. All
3 materials shall be made available in both English and Spanish language
4 versions.

5 (c) The materials required under this section shall be available at no
6 cost from the department upon request and in appropriate number to any
7 person, facility or hospital.

8 Sec. 47. 16. K.S.A. 2011 Supp. 79-32,117 is hereby amended to read
9 as follows: 79-32,117. (a) The Kansas adjusted gross income of an
10 individual means such individual's federal adjusted gross income for the
11 taxable year, with the modifications specified in this section.

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

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

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

33 (iii) The federal net operating loss deduction.

34 (iv) Federal income tax refunds received by the taxpayer if the
35 deduction of the taxes being refunded resulted in a tax benefit for Kansas
36 income tax purposes during a prior taxable year. Such refunds shall be
37 included in income in the year actually received regardless of the method
38 of accounting used by the taxpayer. For purposes hereof, a tax benefit shall
39 be deemed to have resulted if the amount of the tax had been deducted in
40 determining income subject to a Kansas income tax for a prior year
41 regardless of the rate of taxation applied in such prior year to the Kansas
42 taxable income, but only that portion of the refund shall be included as
43 bears the same proportion to the total refund received as the federal taxes

1 deducted in the year to which such refund is attributable bears to the total
2 federal income taxes paid for such year. For purposes of the foregoing
3 sentence, federal taxes shall be considered to have been deducted only to
4 the extent such deduction does not reduce Kansas taxable income below
5 zero.

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

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

14 (vii) The amount of any charitable contribution made to the extent the
15 same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-
16 32,196, and amendments thereto.

17 (viii) The amount of any costs incurred for improvements to a swine
18 facility, claimed for deduction in determining federal adjusted gross
19 income, to the extent the same is claimed as the basis for any credit
20 allowed pursuant to K.S.A. 2011 Supp. 79-32,204, and amendments
21 thereto.

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

28 (x) Amounts received as nonqualified withdrawals, as defined by
29 K.S.A. 2011 Supp. 75-643, and amendments thereto, if, at the time of
30 contribution to a family postsecondary education savings account, such
31 amounts were subtracted from the federal adjusted gross income pursuant
32 to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amendments
33 thereto, or if such amounts are not already included in the federal adjusted
34 gross income.

35 (xi) The amount of any contribution made to the same extent the
36 same is claimed as the basis for the credit allowed pursuant to K.S.A. 2011
37 Supp. 74-50,154, and amendments thereto.

38 (xii) For taxable years commencing after December 31, 2004,
39 amounts received as withdrawals not in accordance with the provisions of
40 K.S.A. 2011 Supp. 74-50,204, and amendments thereto, if, at the time of
41 contribution to an individual development account, such amounts were
42 subtracted from the federal adjusted gross income pursuant to paragraph
43 (xiii) of subsection (c), or if such amounts are not already included in the

1 federal adjusted gross income.

2 (xiii) The amount of any expenditures claimed for deduction in
3 determining federal adjusted gross income, to the extent the same is
4 claimed as the basis for any credit allowed pursuant to K.S.A. 2011 Supp.
5 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

6 (xiv) The amount of any amortization deduction claimed in
7 determining federal adjusted gross income to the extent the same is
8 claimed for deduction pursuant to K.S.A. 2011 Supp. 79-32,221, and
9 amendments thereto.

10 (xv) The amount of any expenditures claimed for deduction in
11 determining federal adjusted gross income, to the extent the same is
12 claimed as the basis for any credit allowed pursuant to K.S.A. 2011 Supp.
13 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233
14 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-
15 32,248 or 79-32,251 through 79-32,254, and amendments thereto.

16 (xvi) The amount of any amortization deduction claimed in
17 determining federal adjusted gross income to the extent the same is
18 claimed for deduction pursuant to K.S.A. 2011 Supp. 79-32,227, 79-
19 32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments
20 thereto.

21 (xvii) The amount of any amortization deduction claimed in
22 determining federal adjusted gross income to the extent the same is
23 claimed for deduction pursuant to K.S.A. 2011 Supp. 79-32,256, and
24 amendments thereto.

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

35 (xix) *For taxable years commencing after December 31, ~~2011~~ 2012,*
36 *that portion of the amount of any expenditure deduction claimed in*
37 *determining federal adjusted gross income for expenses paid for medical*
38 *care of the taxpayer or the taxpayer's spouse or dependents when such*
39 *expenses were paid or incurred for an abortion, or for a health benefit*
40 *plan, as defined by section 1, and amendments thereto, for the purchase of*
41 *an optional rider for coverage of abortion in accordance with K.S.A. 2011*
42 *Supp. 40-2,190, and amendments thereto.*

43 (xx) *For taxable years commencing after December 31, ~~2011~~ 2012,*

1 *that portion of the amount of any expenditure deduction claimed in*
2 *determining federal adjusted gross income for expenses paid by a*
3 *taxpayer for health care, a health benefit plan, as defined by section 1,*
4 *and amendments thereto, or amounts contributed to health savings*
5 *accounts of such taxpayer's employees for the purchase of an optional*
6 *rider for coverage of abortion in accordance with K.S.A. 40-2,190, and*
7 *amendments thereto.*

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

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

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

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

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

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

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

40 (vii) Amounts received as annuities under the federal civil service
41 retirement system from the civil service retirement and disability fund and
42 other amounts received as retirement benefits in whatever form which
43 were earned for being employed by the federal government or for service

1 in the armed forces of the United States.

2 (viii) Amounts received by retired railroad employees as a
3 supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and
4 228c (a)(1) et seq.

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

10 (x) For taxable years beginning after December 31, 1976, the amount
11 of the federal tentative jobs tax credit disallowance under the provisions of
12 26 U.S.C. § 280 C. For taxable years ending after December 31, 1978, the
13 amount of the targeted jobs tax credit and work incentive credit
14 disallowances under 26 U.S.C. § 280 C.

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

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

21 (xiii) For taxable years beginning after December 31, 2004, amounts
22 contributed to and the amount of income earned on contributions deposited
23 to an individual development account under K.S.A. 2011 Supp. 74-50,201-
24 et seq., and amendments thereto.

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

35 (xv) For all taxable years beginning after December 31, 2006,
36 amounts not exceeding \$3,000, or \$6,000 for a married couple filing a
37 joint return, for each designated beneficiary which are contributed to a
38 family postsecondary education savings account established under the
39 Kansas postsecondary education savings program or a qualified tuition
40 program established and maintained by another state or agency or
41 instrumentality thereof pursuant to section 529 of the internal revenue
42 code of 1986, as amended, for the purpose of paying the qualified higher
43 education expenses of a designated beneficiary at an institution of

1 postsecondary education. The terms and phrases used in this paragraph
2 shall have the meaning respectively ascribed thereto by the provisions of
3 K.S.A. 2011 Supp. 75-643, and amendments thereto, and the provisions of
4 such section are hereby incorporated by reference for all purposes thereof.

5 (xvi) For the tax year beginning after December 31, 2004, an amount
6 not exceeding \$500; for the tax year beginning after December 31, 2005,
7 an amount not exceeding \$600; for the tax year beginning after December
8 31, 2006, an amount not exceeding \$700; for the tax year beginning after
9 December 31, 2007, an amount not exceeding \$800; for the tax year
10 beginning December 31, 2008, an amount not exceeding \$900; and for all
11 taxable years commencing after December 31, 2009, an amount not
12 exceeding \$1,000 of the premium costs for qualified long-term care
13 insurance contracts, as defined by subsection (b) of section 7702B of
14 public law 104-191.

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

25 (xviii) For all taxable years beginning after December 31, 2004,
26 amounts received by taxpayers who are eligible members of the Kansas
27 army and air national guard as a reimbursement pursuant to K.S.A. 48-
28 281, and amendments thereto, and amounts received for death benefits
29 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to section
30 1 or section 2 of chapter 207 of the 2005 session laws of Kansas, and
31 amendments thereto, to the extent that such death benefits are included in
32 federal adjusted gross income of the taxpayer.

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

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

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

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

12 ~~Sec. 17.~~ K.S.A. 2011 Supp. 79-32,138 is hereby amended to read
13 as follows: 79-32,138. (a) Kansas taxable income of a corporation taxable
14 under this act shall be the corporation's federal taxable income for the
15 taxable year with the modifications specified in this section.

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

19 (ii) The amount of all depreciation deductions claimed for any
20 property upon which the deduction allowed by K.S.A. 2011 Supp. 79-
21 32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-
22 32,255 or 79-32,256, and amendments thereto, is claimed.

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

26 (iv) *For taxable years commencing after December 31, 2011, that*
27 *portion of the amount of any expenditure deduction claimed in*
28 *determining federal adjusted gross income for expenses paid by a*
29 *taxpayer for health care, a health benefit plan, as defined by section 1,*
30 *and amendments thereto, or amounts contributed to health savings*
31 *accounts of such taxpayer's employees for the purchase of an optional*
32 *rider for coverage of abortion in accordance with K.S.A. 2011 Supp. 40-*
33 *2,190, and amendments thereto.*

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

37 (ii) The federal income tax liability for any taxable year commencing
38 prior to December 31, 1971, for which a Kansas return was filed after
39 reduction for all credits thereon, except credits for payments on estimates
40 of federal income tax, credits for gasoline and lubricating oil tax, and for
41 foreign tax credits if, on the Kansas income tax return for such prior year,
42 the federal income tax deduction was computed on the basis of the federal
43 income tax paid in such prior year, rather than as accrued. Notwithstanding

1 the foregoing, the deduction for federal income tax liability for any year
2 shall not exceed that portion of the total federal income tax liability for
3 such year which bears the same ratio to the total federal income tax
4 liability for such year as the Kansas taxable income, as computed before
5 any deductions for federal income taxes and after application of
6 subsections (d) and (e) of this section as existing for such year, bears to the
7 federal taxable income for the same year.

8 (iii) An amount for the amortization deduction allowed pursuant to
9 K.S.A. 2011 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-
10 32,249, 79-32,250, 79-32,255 or 79-32,256, and amendments thereto.

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

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

17 (d) If any corporation derives all of its income from sources within
18 Kansas in any taxable year commencing after December 31, 1979, its
19 Kansas taxable income shall be the sum resulting after application of
20 subsections (a) through (c) hereof. Otherwise, such corporation's Kansas
21 taxable income in any such taxable year, after excluding any refunds of
22 federal income tax and before the deduction of federal income taxes
23 provided by subsection (c)(ii) shall be allocated as provided in K.S.A. 79-
24 3271 to K.S.A. 79-3293, inclusive, and amendments thereto, plus any
25 refund of federal income tax as determined under paragraph (iv) of
26 subsection (b) of K.S.A. 79-32,117, and amendments thereto, and minus
27 the deduction for federal income taxes as provided by subsection (c)(ii)
28 shall be such corporation's Kansas taxable income.

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

36 ~~Sec. 49.~~ **18.** K.S.A. 2011 Supp. 79-32,182b is hereby amended to read
37 as follows: 79-32,182b. (a) For all taxable years commencing after
38 December 31, 2000, a credit shall be allowed against the tax imposed by
39 the Kansas income tax act on the Kansas taxable income of a taxpayer for
40 expenditures in research and development activities conducted within this
41 state in an amount equal to 61/2% of the amount by which the amount
42 expended for such activities in the taxable year of the taxpayer exceeds the
43 taxpayer's average of the actual expenditures for such purposes made in

1 such taxable year and the next preceding two taxable years.

2 (b) In any one taxable year, the amount of such credit allowable for
3 deduction from the taxpayer's tax liability shall not exceed 25% of the total
4 amount of such credit plus any applicable carry forward amount. The
5 amount by which that portion of the credit allowed by subsections (a) and
6 (b) to be claimed in any one taxable year exceeds the taxpayer's tax
7 liability in such year may be carried forward until the total amount of the
8 credit is used.

9 (c) As used in this section, the term "expenditures in research and
10 development activities" means expenditures made for such purposes, other
11 than expenditures of moneys made available to the taxpayer pursuant to
12 federal or state law, which are treated as expenses allowable for deduction
13 under the provisions of the federal internal revenue code of 1986, ~~and~~
14 ~~amendments thereto~~ *as amended, except that for taxable years*
15 *commencing after December 31, 2011 2012, expenditures in research and*
16 *development activities shall not include any expenditures for the*
17 *performance of any abortion, as defined in section 1, and amendments*
18 *thereto.*

19 ~~Sec. 20:~~ **19.** K.S.A. 2011 Supp. 79-32,195 is hereby amended to read
20 as follows: 79-32,195. As used in this act, the following words and phrases
21 shall have the meanings ascribed to them herein: (a) "Business firm"
22 means any business entity authorized to do business in the state of Kansas
23 which is subject to the state income tax imposed by the provisions of the
24 Kansas income tax act, any individual subject to the state income tax
25 imposed by the provisions of the Kansas income tax act, any national
26 banking association, state bank, trust company or savings and loan
27 association paying an annual tax on its net income pursuant to article 11 of
28 chapter 79 of the Kansas Statutes Annotated, or any insurance company
29 paying the premium tax and privilege fees imposed pursuant to K.S.A. 40-
30 252, and amendments thereto;

31 (b) "Community services" means:

32 (1) The conduct of activities which meet a demonstrated community
33 need and which are designed to achieve improved educational and social
34 services for Kansas children and their families, and which are coordinated
35 with communities including, but not limited to, social and human services
36 organizations that address the causes of poverty through programs and
37 services that assist low income persons in the areas of employment, food,
38 housing, emergency assistance and health care;

39 (2) crime prevention; and

40 (3) health care services.

41 (c) "Crime prevention" means any nongovernmental activity which
42 aids in the prevention of crime.

43 (d) "Community service organization" means any organization

1 performing community services in Kansas and which:

2 (1) Has obtained a ruling from the internal revenue service of the
3 United States department of the treasury that such organization is exempt
4 from income taxation under the provisions of section 501(c)(3) of the
5 federal internal revenue code; or

6 (2) is incorporated in the state of Kansas or another state as a
7 nonstock, nonprofit corporation; or

8 (3) has been designated as a community development corporation by
9 the United States government under the provisions of title VII of the
10 economic opportunity act of 1964; or

11 (4) is chartered by the United States congress.

12 (e) "Contributions" shall mean and include the donation of cash,
13 services or property other than used clothing in an amount or value of
14 \$250 or more. Stocks and bonds contributed shall be valued at the stock
15 market price on the date of transfer. Services contributed shall be valued at
16 the standard billing rate for not-for-profit clients. Personal property items
17 contributed shall be valued at the lesser of its fair market value or cost to
18 the donor and may be inclusive of costs incurred in making the
19 contribution, but shall not include sales tax. Contributions of real estate are
20 allowable for credit only when title thereto is in fee simple absolute and is
21 clear of any encumbrances. The amount of credit allowable shall be based
22 upon the lesser of two current independent appraisals conducted by state
23 licensed appraisers.

24 (f) "Health care services" shall include, but not be limited to, the
25 following: Services provided by local health departments, city, county or
26 district hospitals, city or county nursing homes, or other residential
27 institutions, preventive health care services offered by a community
28 service organization including immunizations, prenatal care, the
29 postponement of entry into nursing homes by home health care services,
30 and community-based services for persons with a disability, mental health
31 services, indigent health care, physician or health care worker recruitment,
32 health education, emergency medical services, services provided by rural
33 health clinics, integration of health care services, home health services and
34 services provided by rural health networks, *except that for taxable years*
35 *commencing after December 31, 2011, health care services shall not*
36 *include any service involving the performance of any abortion, as defined*
37 *in section 1, and amendments thereto.*

38 (g) "Rural community" means any city having a population of fewer
39 than 15,000 located in a county that is not part of a standard metropolitan
40 statistical area as defined by the United States department of commerce or
41 its successor agency. However, any such city located in a county defined
42 as a standard metropolitan statistical area shall be deemed a rural
43 community if a substantial number of persons in such county derive their

1 income from agriculture and, in any county where there is only one city
2 within the county which has a population of more than 15,000 and which
3 classifies as a standard metropolitan statistical area, all other cities in that
4 county having a population of less than 15,000 shall be deemed a rural
5 community.

6 ~~Sec. 21.~~ **20.** K.S.A. 2011 Supp. 79-32,261 is hereby amended to read
7 as follows: 79-32,261. (a) On and after July 1, 2008, any taxpayer who
8 contributes in the manner prescribed by this section to a community
9 college located in Kansas for capital improvements, to a technical college
10 for deferred maintenance or the purchase of technology or equipment or to
11 a postsecondary educational institution located in Kansas for deferred
12 maintenance, shall be allowed a credit against the tax imposed by the
13 Kansas income tax act, the premium tax or privilege fees imposed
14 pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as
15 measured by net income of financial institutions imposed pursuant to
16 article 11 of chapter 79 of the Kansas Statutes Annotated. The tax credit
17 allowed by this section is applicable for the tax year 2008 for any
18 contributions made on and after July 1, 2008, and for the tax years 2009,
19 2010, 2011 and 2012 for any contributions made during the entire tax year.
20 The amount of the credit allowed by this section shall not exceed 60% of
21 the total amount contributed during the taxable year by the taxpayer to a
22 community college or a technical college located in Kansas for such
23 purposes. The amount of the credit allowed by this section shall not exceed
24 50% of the total amount contributed during the taxable year by the
25 taxpayer to a postsecondary educational institution for such purposes. If
26 the amount of the credit allowed by this section for a taxpayer who
27 contributes to a community college or a technical college exceeds the
28 taxpayer's income tax liability imposed by the Kansas income tax act, such
29 excess amount shall be refunded to the taxpayer. If the amount of the tax
30 credit for a taxpayer who contributes to a postsecondary educational
31 institution exceeds the taxpayer's income tax liability for the taxable year,
32 the amount which exceeds the tax liability may be carried over for
33 deduction from the taxpayer's income tax liability in the next succeeding
34 taxable year or years until the total amount of the tax credit has been
35 deducted from tax liability, except that no such tax credit shall be carried
36 over for deduction after the third taxable year succeeding the taxable year
37 in which the contribution is made. Prior to the issuance of any tax credits
38 pursuant to this section, the structure of the process in which contributions
39 received by a community college, a technical college or a postsecondary
40 educational institution qualify as tax credits allowed and issued pursuant to
41 this section shall be developed by a community college, a technical college
42 and a postsecondary educational institution in consultation with the
43 secretary of revenue and the foundation or endowment association of any

1 such community college, technical college or postsecondary educational
2 institution in a manner that complies with requirements specified in the
3 federal internal revenue code of 1986, as amended, so that contributions
4 qualify as charitable contributions allowable as deductions from federal
5 adjusted gross income.

6 (b) (1) Upon receipt of any such contributions to a community
7 college made pursuant to the provisions of this section, the treasurer of the
8 community college shall deposit such contributions to the credit of the
9 capital outlay fund of such community college established as provided by
10 K.S.A. 71-501a, and amendments thereto. Expenditures from such fund
11 shall be made for the purposes described in subsection (a) of K.S.A. 71-
12 501, and amendments thereto, except that expenditures shall not be made
13 from such fund for new construction or the acquisition of real property for
14 use as building sites or for educational programs.

15 (2) Upon receipt of any such contributions to a technical college
16 made pursuant to the provisions of this section, such contributions shall be
17 deposited to the credit of a deferred maintenance fund or a technology and
18 equipment fund established by the technical college which received the
19 contribution. Expenditures from such fund shall be made only for the
20 purpose as provided in this subsection.

21 (3) Upon receipt of any such contributions to a postsecondary
22 educational institution made pursuant to the provisions of this section,
23 such contributions shall be deposited to the credit of the appropriate
24 deferred maintenance support fund of the postsecondary educational
25 institution which received the contribution. Expenditures from such fund
26 shall be made only for the purposes designated for such fund pursuant to
27 law.

28 (c) (1) In no event shall the total amount of credits allowed under this
29 section for taxpayers who contribute to any one such community college
30 or technical college exceed the following amounts: For the tax year 2008,
31 an amount not to exceed \$78,125; for the tax year 2009, an amount not to
32 exceed \$156,250; and for the tax years 2010, 2011 and 2012, an amount
33 not to exceed \$208,233.33.

34 (2) In no event shall the total of credits allowed under this section for
35 taxpayers who contribute to postsecondary educational institutions exceed
36 the following amounts: For the tax year 2008, an amount not to exceed
37 \$5,625,000; for the tax year 2009, an amount not to exceed \$11,250,000;
38 and for the tax years 2010, 2011 and 2012, an amount not to exceed
39 \$15,000,000. Except as otherwise provided, the allocation of such tax
40 credits for each individual state educational institution shall be determined
41 by the state board of regents in consultation with the secretary of revenue
42 and the university foundation or endowment association of each
43 postsecondary educational institution, and such determination shall be

1 completed prior to the issuance of any tax credits pursuant to this section.
2 Not more than 40% of the total of credits allowed under this section shall
3 be allocated to any one postsecondary educational institution unless all
4 such postsecondary educational institutions approve an allocation to any
5 one such postsecondary educational institution which exceeds 40% of the
6 total of such credits allowed under this section.

7 (d) As used in this section: (1) "Community college" means a
8 community college established under the provisions of the community
9 college act;

10 (2) "deferred maintenance" means the maintenance, repair,
11 reconstruction or rehabilitation of a building located at a technical college
12 or a postsecondary educational institution which has been deferred, any
13 utility systems relating to such building, any life-safety upgrades to such
14 building and any improvements necessary to be made to such building in
15 order to comply with the requirements of the Americans with disabilities
16 act or other federal or state law, *except that for taxable years commencing*
17 *after December 31, ~~2011~~ 2012, deferred maintenance shall not include any*
18 *maintenance, repair, reconstruction or rehabilitation of any building in*
19 *which any abortion, as defined in section 1, and amendments thereto, is*
20 *performed;*

21 (3) "postsecondary educational institution" means the university of
22 Kansas, Kansas state university of agriculture and applied science, Wichita
23 state university, Emporia state university, Pittsburg state university, Fort
24 Hays state university and Washburn university of Topeka; and

25 (4) "technical college" means a technical college as designated
26 pursuant to K.S.A. 72-4472, 72-4473, 72-4474, 72-4475 and 72-4477, and
27 amendments thereto.

28 (e) Any taxpayer not subject to Kansas income, privilege or
29 premiums tax who contributes to a community college, technical college
30 or postsecondary educational institution, hereinafter designated the
31 transferor, may sell, assign, convey or otherwise transfer tax credits
32 allowed and earned pursuant to this section. The sale price of a tax credit
33 shall be at least 50% of the full value of the credit. Such credit shall be
34 deemed to be allowed and earned by any such taxpayer which is only
35 disqualified therefrom by reason of not being subject to such Kansas taxes.
36 The taxpayer acquiring earned credits, hereinafter designated the
37 transferee, may use the amount of the acquired credits to offset up to 100%
38 of the taxpayer's income, privilege or premiums tax liability for the taxable
39 year in which such acquisition was made. Such credits may be sold or
40 transferred only one time and, if sold or transferred, shall be transferred in
41 the tax year such credit is earned or the two successive tax years. A
42 transferred credit shall be claimed in the year purchased. The transferor
43 shall enter into a written agreement with the transferee establishing the

1 terms and conditions of the sale or transfer and shall perfect such transfer
2 by notifying the secretary of revenue in writing within 30 calendar days
3 following the effective date of the transfer, subject to the review and
4 approval or denial of such transfer by the secretary of revenue. The
5 transferor and transferee shall provide any information pertaining to the
6 sale or transfer as may be required by the secretary of revenue to
7 administer and carry out the provisions of this section. The amount
8 received by the transferor of such tax credit shall be taxable as income of
9 the transferor, and the excess of the value of such credit over the amount
10 paid by the transferee for such credit shall be taxable as income of the
11 transferee.

12 (f) The secretary of revenue shall submit an annual report to the
13 legislature to assist the legislature in the evaluation of the utilization of any
14 credits claimed pursuant to this act, including information specific as to
15 each community college, technical college or postsecondary educational
16 institution. Such report shall be due on or before the first day of the
17 legislative session following the tax year in which the credits were
18 claimed.

19 (g) The secretary of revenue shall adopt rules and regulations
20 necessary to administer the provisions of this section.

21 ~~Sec. 22.~~ **21.** K.S.A. 2011 Supp. 79-3606 is hereby amended to read as
22 follows: 79-3606. The following shall be exempt from the tax imposed by
23 this act:

24 (a) All sales of motor-vehicle fuel or other articles upon which a sales
25 or excise tax has been paid, not subject to refund, under the laws of this
26 state except cigarettes as defined by K.S.A. 79-3301, and amendments
27 thereto, cereal malt beverages and malt products as defined by K.S.A. 79-
28 3817, and amendments thereto, including wort, liquid malt, malt syrup and
29 malt extract, which is not subject to taxation under the provisions of
30 K.S.A. 79-41a02, and amendments thereto, motor vehicles taxed pursuant
31 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to K.S.A.
32 65-3424d, and amendments thereto, drycleaning and laundry services
33 taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and gross
34 receipts from regulated sports contests taxed pursuant to the Kansas
35 professional regulated sports act, and amendments thereto;

36 (b) all sales of tangible personal property or service, including the
37 renting and leasing of tangible personal property, purchased directly by the
38 state of Kansas, a political subdivision thereof, other than a school or
39 educational institution, or purchased by a public or private nonprofit
40 hospital or public hospital authority or nonprofit blood, tissue or organ
41 bank and used exclusively for state, political subdivision, hospital or
42 public hospital authority or nonprofit blood, tissue or organ bank purposes,
43 except when: (1) Such state, hospital or public hospital authority is

1 engaged or proposes to engage in any business specifically taxable under
2 the provisions of this act and such items of tangible personal property or
3 service are used or proposed to be used in such business; ; or (2) such
4 political subdivision is engaged or proposes to engage in the business of
5 furnishing gas, electricity or heat to others and such items of personal
6 property or service are used or proposed to be used in such business;

7 (c) all sales of tangible personal property or services, including the
8 renting and leasing of tangible personal property, purchased directly by a
9 public or private elementary or secondary school or public or private
10 nonprofit educational institution and used primarily by such school or
11 institution for nonsectarian programs and activities provided or sponsored
12 by such school or institution or in the erection, repair or enlargement of
13 buildings to be used for such purposes. The exemption herein provided
14 shall not apply to erection, construction, repair, enlargement or equipment
15 of buildings used primarily for human habitation;

16 (d) all sales of tangible personal property or services purchased by a
17 contractor for the purpose of constructing, equipping, reconstructing,
18 maintaining, repairing, enlarging, furnishing or remodeling facilities for
19 any public or private nonprofit hospital or public hospital authority, public
20 or private elementary or secondary school, a public or private nonprofit
21 educational institution, state correctional institution including a privately
22 constructed correctional institution contracted for state use and ownership,
23 which would be exempt from taxation under the provisions of this act if
24 purchased directly by such hospital or public hospital authority, school,
25 educational institution or a state correctional institution; and all sales of
26 tangible personal property or services purchased by a contractor for the
27 purpose of constructing, equipping, reconstructing, maintaining, repairing,
28 enlarging, furnishing or remodeling facilities for any political subdivision
29 of the state or district described in subsection (s), the total cost of which is
30 paid from funds of such political subdivision or district and which would
31 be exempt from taxation under the provisions of this act if purchased
32 directly by such political subdivision or district. Nothing in this subsection
33 or in the provisions of K.S.A. 12-3418, and amendments thereto, shall be
34 deemed to exempt the purchase of any construction machinery, equipment
35 or tools used in the constructing, equipping, reconstructing, maintaining,
36 repairing, enlarging, furnishing or remodeling facilities for any political
37 subdivision of the state or any such district. As used in this subsection,
38 K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a
39 political subdivision" shall mean general tax revenues, the proceeds of any
40 bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the
41 purpose of constructing, equipping, reconstructing, repairing, enlarging,
42 furnishing or remodeling facilities which are to be leased to the donor.
43 When any political subdivision of the state, district described in subsection

1 (s), public or private nonprofit hospital or public hospital authority, public
2 or private elementary or secondary school, public or private nonprofit
3 educational institution, state correctional institution including a privately
4 constructed correctional institution contracted for state use and ownership
5 shall contract for the purpose of constructing, equipping, reconstructing,
6 maintaining, repairing, enlarging, furnishing or remodeling facilities, it
7 shall obtain from the state and furnish to the contractor an exemption
8 certificate for the project involved, and the contractor may purchase
9 materials for incorporation in such project. The contractor shall furnish the
10 number of such certificate to all suppliers from whom such purchases are
11 made, and such suppliers shall execute invoices covering the same bearing
12 the number of such certificate. Upon completion of the project the
13 contractor shall furnish to the political subdivision, district described in
14 subsection (s), hospital or public hospital authority, school, educational
15 institution or department of corrections concerned a sworn statement, on a
16 form to be provided by the director of taxation, that all purchases so made
17 were entitled to exemption under this subsection. As an alternative to the
18 foregoing procedure, any such contracting entity may apply to the
19 secretary of revenue for agent status for the sole purpose of issuing and
20 furnishing project exemption certificates to contractors pursuant to rules
21 and regulations adopted by the secretary establishing conditions and
22 standards for the granting and maintaining of such status. All invoices
23 shall be held by the contractor for a period of five years and shall be
24 subject to audit by the director of taxation. If any materials purchased
25 under such a certificate are found not to have been incorporated in the
26 building or other project or not to have been returned for credit or the sales
27 or compensating tax otherwise imposed upon such materials which will
28 not be so incorporated in the building or other project reported and paid by
29 such contractor to the director of taxation not later than the 20th day of the
30 month following the close of the month in which it shall be determined
31 that such materials will not be used for the purpose for which such
32 certificate was issued, the political subdivision, district described in
33 subsection (s), hospital or public hospital authority, school, educational
34 institution or the contractor contracting with the department of corrections
35 for a correctional institution concerned shall be liable for tax on all
36 materials purchased for the project, and upon payment thereof it may
37 recover the same from the contractor together with reasonable attorney
38 fees. Any contractor or any agent, employee or subcontractor thereof, who
39 shall use or otherwise dispose of any materials purchased under such a
40 certificate for any purpose other than that for which such a certificate is
41 issued without the payment of the sales or compensating tax otherwise
42 imposed upon such materials, shall be guilty of a misdemeanor and, upon
43 conviction therefor, shall be subject to the penalties provided for in

1 subsection (g) of K.S.A. 79-3615, and amendments thereto;

2 (e) all sales of tangible personal property or services purchased by a
3 contractor for the erection, repair or enlargement of buildings or other
4 projects for the government of the United States, its agencies or
5 instrumentalities, which would be exempt from taxation if purchased
6 directly by the government of the United States, its agencies or
7 instrumentalities. When the government of the United States, its agencies
8 or instrumentalities shall contract for the erection, repair, or enlargement
9 of any building or other project, it shall obtain from the state and furnish to
10 the contractor an exemption certificate for the project involved, and the
11 contractor may purchase materials for incorporation in such project. The
12 contractor shall furnish the number of such certificates to all suppliers
13 from whom such purchases are made, and such suppliers shall execute
14 invoices covering the same bearing the number of such certificate. Upon
15 completion of the project the contractor shall furnish to the government of
16 the United States, its agencies or instrumentalities concerned a sworn
17 statement, on a form to be provided by the director of taxation, that all
18 purchases so made were entitled to exemption under this subsection. As an
19 alternative to the foregoing procedure, any such contracting entity may
20 apply to the secretary of revenue for agent status for the sole purpose of
21 issuing and furnishing project exemption certificates to contractors
22 pursuant to rules and regulations adopted by the secretary establishing
23 conditions and standards for the granting and maintaining of such status.
24 All invoices shall be held by the contractor for a period of five years and
25 shall be subject to audit by the director of taxation. Any contractor or any
26 agent, employee or subcontractor thereof, who shall use or otherwise
27 dispose of any materials purchased under such a certificate for any purpose
28 other than that for which such a certificate is issued without the payment
29 of the sales or compensating tax otherwise imposed upon such materials,
30 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
31 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
32 and amendments thereto;

33 (f) tangible personal property purchased by a railroad or public utility
34 for consumption or movement directly and immediately in interstate
35 commerce;

36 (g) sales of aircraft including remanufactured and modified aircraft
37 sold to persons using directly or through an authorized agent such aircraft
38 as certified or licensed carriers of persons or property in interstate or
39 foreign commerce under authority of the laws of the United States or any
40 foreign government or sold to any foreign government or agency or
41 instrumentality of such foreign government and all sales of aircraft for use
42 outside of the United States and sales of aircraft repair, modification and
43 replacement parts and sales of services employed in the remanufacture,

- 1 modification and repair of aircraft;
- 2 (h) all rentals of nonsectarian textbooks by public or private
3 elementary or secondary schools;
- 4 (i) the lease or rental of all films, records, tapes, or any type of sound
5 or picture transcriptions used by motion picture exhibitors;
- 6 (j) meals served without charge or food used in the preparation of
7 such meals to employees of any restaurant, eating house, dining car, hotel,
8 drugstore or other place where meals or drinks are regularly sold to the
9 public if such employees' duties are related to the furnishing or sale of
10 such meals or drinks;
- 11 (k) any motor vehicle, semitrailer or pole trailer, as such terms are
12 defined by K.S.A. 8-126, and amendments thereto, or aircraft sold and
13 delivered in this state to a bona fide resident of another state, which motor
14 vehicle, semitrailer, pole trailer or aircraft is not to be registered or based
15 in this state and which vehicle, semitrailer, pole trailer or aircraft will not
16 remain in this state more than 10 days;
- 17 (l) all isolated or occasional sales of tangible personal property,
18 services, substances or things, except isolated or occasional sale of motor
19 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.
20 79-3603, and amendments thereto;
- 21 (m) all sales of tangible personal property which become an
22 ingredient or component part of tangible personal property or services
23 produced, manufactured or compounded for ultimate sale at retail within
24 or without the state of Kansas; and any such producer, manufacturer or
25 compounder may obtain from the director of taxation and furnish to the
26 supplier an exemption certificate number for tangible personal property for
27 use as an ingredient or component part of the property or services
28 produced, manufactured or compounded;
- 29 (n) all sales of tangible personal property which is consumed in the
30 production, manufacture, processing, mining, drilling, refining or
31 compounding of tangible personal property, the treating of by-products or
32 wastes derived from any such production process, the providing of
33 services or the irrigation of crops for ultimate sale at retail within or
34 without the state of Kansas; and any purchaser of such property may
35 obtain from the director of taxation and furnish to the supplier an
36 exemption certificate number for tangible personal property for
37 consumption in such production, manufacture, processing, mining,
38 drilling, refining, compounding, treating, irrigation and in providing such
39 services;
- 40 (o) all sales of animals, fowl and aquatic plants and animals, the
41 primary purpose of which is use in agriculture or aquaculture, as defined in
42 K.S.A. 47-1901, and amendments thereto, the production of food for
43 human consumption, the production of animal, dairy, poultry or aquatic

1 plant and animal products, fiber or fur, or the production of offspring for
2 use for any such purpose or purposes;

3 (p) all sales of drugs dispensed pursuant to a prescription order by a
4 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-
5 1626, and amendments thereto. As used in this subsection, "drug" means a
6 compound, substance or preparation and any component of a compound,
7 substance or preparation, other than food and food ingredients, dietary
8 supplements or alcoholic beverages, recognized in the official United
9 States pharmacopoeia, official homeopathic pharmacopoeia of the United
10 States or official national formulary, and supplement to any of them,
11 intended for use in the diagnosis, cure, mitigation, treatment or prevention
12 of disease or intended to affect the structure or any function of the body,
13 *except that for taxable years commencing after December 31, 2012,*
14 *this subsection shall not apply to any sales of drugs used in the*
15 *performance or induction of an abortion, as defined in section 1, and*
16 *amendments thereto;*

17 (q) all sales of insulin dispensed by a person licensed by the state
18 board of pharmacy to a person for treatment of diabetes at the direction of
19 a person licensed to practice medicine by the board of healing arts;

20 (r) all sales of oxygen delivery equipment, kidney dialysis equipment,
21 enteral feeding systems, prosthetic devices and mobility enhancing
22 equipment prescribed in writing by a person licensed to practice the
23 healing arts, dentistry or optometry, and in addition to such sales, all sales
24 of hearing aids, as defined by subsection (c) of K.S.A. 74-5807, and
25 amendments thereto, and repair and replacement parts therefor, including
26 batteries, by a person licensed in the practice of dispensing and fitting
27 hearing aids pursuant to the provisions of K.S.A. 74-5808, and
28 amendments thereto. For the purposes of this subsection: (1) "Mobility
29 enhancing equipment" means equipment including repair and replacement
30 parts to same, but does not include durable medical equipment, which is
31 primarily and customarily used to provide or increase the ability to move
32 from one place to another and which is appropriate for use either in a
33 home or a motor vehicle; is not generally used by persons with normal
34 mobility; and does not include any motor vehicle or equipment on a motor
35 vehicle normally provided by a motor vehicle manufacturer; and (2)
36 "prosthetic device" means a replacement, corrective or supportive device
37 including repair and replacement parts for same worn on or in the body to
38 artificially replace a missing portion of the body, prevent or correct
39 physical deformity or malfunction or support a weak or deformed portion
40 of the body;

41 (s) except as provided in K.S.A. 2011 Supp. 82a-2101, and
42 amendments thereto, all sales of tangible personal property or services
43 purchased directly or indirectly by a groundwater management district

1 organized or operating under the authority of K.S.A. 82a-1020 et seq., and
2 amendments thereto, by a rural water district organized or operating under
3 the authority of K.S.A. 82a-612, and amendments thereto, or by a water
4 supply district organized or operating under the authority of K.S.A. 19-
5 3501 et seq., 19-3522 et seq. or 19-3545, and amendments thereto, which
6 property or services are used in the construction activities, operation or
7 maintenance of the district;

8 (t) all sales of farm machinery and equipment or aquaculture
9 machinery and equipment, repair and replacement parts therefor and
10 services performed in the repair and maintenance of such machinery and
11 equipment. For the purposes of this subsection the term "farm machinery
12 and equipment or aquaculture machinery and equipment" shall include a
13 work-site utility vehicle, as defined in K.S.A. 8-126, and amendments
14 thereto, and is equipped with a bed or cargo box for hauling materials, and
15 shall also include machinery and equipment used in the operation of
16 Christmas tree farming but shall not include any passenger vehicle, truck,
17 truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as
18 such terms are defined by K.S.A. 8-126, and amendments thereto. "Farm
19 machinery and equipment" includes precision farming equipment that is
20 portable or is installed or purchased to be installed on farm machinery and
21 equipment. "Precision farming equipment" includes the following items
22 used only in computer-assisted farming, ranching or aquaculture
23 production operations: Soil testing sensors, yield monitors, computers,
24 monitors, software, global positioning and mapping systems, guiding
25 systems, modems, data communications equipment and any necessary
26 mounting hardware, wiring and antennas. Each purchaser of farm
27 machinery and equipment or aquaculture machinery and equipment
28 exempted herein must certify in writing on the copy of the invoice or sales
29 ticket to be retained by the seller that the farm machinery and equipment
30 or aquaculture machinery and equipment purchased will be used only in
31 farming, ranching or aquaculture production. Farming or ranching shall
32 include the operation of a feedlot and farm and ranch work for hire and the
33 operation of a nursery;

34 (u) all leases or rentals of tangible personal property used as a
35 dwelling if such tangible personal property is leased or rented for a period
36 of more than 28 consecutive days;

37 (v) all sales of tangible personal property to any contractor for use in
38 preparing meals for delivery to homebound elderly persons over 60 years
39 of age and to homebound disabled persons or to be served at a group-
40 sitting at a location outside of the home to otherwise homebound elderly
41 persons over 60 years of age and to otherwise homebound disabled
42 persons, as all or part of any food service project funded in whole or in
43 part by government or as part of a private nonprofit food service project

1 available to all such elderly or disabled persons residing within an area of
2 service designated by the private nonprofit organization, and all sales of
3 tangible personal property for use in preparing meals for consumption by
4 indigent or homeless individuals whether or not such meals are consumed
5 at a place designated for such purpose, and all sales of food products by or
6 on behalf of any such contractor or organization for any such purpose;

7 (w) all sales of natural gas, electricity, heat and water delivered
8 through mains, lines or pipes: (1) To residential premises for
9 noncommercial use by the occupant of such premises; (2) for agricultural
10 use and also, for such use, all sales of propane gas; (3) for use in the
11 severing of oil; and (4) to any property which is exempt from property
12 taxation pursuant to K.S.A. 79-201b Second through Sixth. As used in this
13 paragraph, "severing" shall have the meaning ascribed thereto by
14 subsection (k) of K.S.A. 79-4216, and amendments thereto. For all sales of
15 natural gas, electricity and heat delivered through mains, lines or pipes
16 pursuant to the provisions of subsection (w)(1) and (w)(2), the provisions
17 of this subsection shall expire on December 31, 2005;

18 (x) all sales of propane gas, LP-gas, coal, wood and other fuel sources
19 for the production of heat or lighting for noncommercial use of an
20 occupant of residential premises occurring prior to January 1, 2006;

21 (y) all sales of materials and services used in the repairing, servicing,
22 altering, maintaining, manufacturing, remanufacturing, or modification of
23 railroad rolling stock for use in interstate or foreign commerce under
24 authority of the laws of the United States;

25 (z) all sales of tangible personal property and services purchased
26 directly by a port authority or by a contractor therefor as provided by the
27 provisions of K.S.A. 12-3418, and amendments thereto;

28 (aa) all sales of materials and services applied to equipment which is
29 transported into the state from without the state for repair, service,
30 alteration, maintenance, remanufacture or modification and which is
31 subsequently transported outside the state for use in the transmission of
32 liquids or natural gas by means of pipeline in interstate or foreign
33 commerce under authority of the laws of the United States;

34 (bb) all sales of used mobile homes or manufactured homes. As used
35 in this subsection: (1) "Mobile homes" and "manufactured homes" shall
36 have the meanings ascribed thereto by K.S.A. 58-4202, and amendments
37 thereto; and (2) "sales of used mobile homes or manufactured homes"
38 means sales other than the original retail sale thereof;

39 (cc) all sales of tangible personal property or services purchased prior
40 to January 1, 2012, except as otherwise provided, for the purpose of and in
41 conjunction with constructing, reconstructing, enlarging or remodeling a
42 business or retail business which meets the requirements established in
43 K.S.A. 74-50,115, and amendments thereto, and the sale and installation of

1 machinery and equipment purchased for installation at any such business
2 or retail business, and all sales of tangible personal property or services
3 purchased on or after January 1, 2012, for the purpose of and in
4 conjunction with constructing, reconstructing, enlarging or remodeling a
5 business which meets the requirements established in K.S.A. 74-50,115(e),
6 and amendments thereto, and the sale and installation of machinery and
7 equipment purchased for installation at any such business. When a person
8 shall contract for the construction, reconstruction, enlargement or
9 remodeling of any such business or retail business, such person shall
10 obtain from the state and furnish to the contractor an exemption certificate
11 for the project involved, and the contractor may purchase materials,
12 machinery and equipment for incorporation in such project. The contractor
13 shall furnish the number of such certificates to all suppliers from whom
14 such purchases are made, and such suppliers shall execute invoices
15 covering the same bearing the number of such certificate. Upon
16 completion of the project the contractor shall furnish to the owner of the
17 business or retail business a sworn statement, on a form to be provided by
18 the director of taxation, that all purchases so made were entitled to
19 exemption under this subsection. All invoices shall be held by the
20 contractor for a period of five years and shall be subject to audit by the
21 director of taxation. Any contractor or any agent, employee or
22 subcontractor thereof, who shall use or otherwise dispose of any materials,
23 machinery or equipment purchased under such a certificate for any
24 purpose other than that for which such a certificate is issued without the
25 payment of the sales or compensating tax otherwise imposed thereon, shall
26 be guilty of a misdemeanor and, upon conviction therefor, shall be subject
27 to the penalties provided for in subsection (g) of K.S.A. 79-3615, and
28 amendments thereto. As used in this subsection, "business" and "retail
29 business" have the meanings respectively ascribed thereto by K.S.A. 74-
30 50,114, and amendments thereto. Project exemption certificates that have
31 been previously issued under this subsection by the department of revenue
32 pursuant to K.S.A. 74-50,115, and amendments thereto, but not including
33 K.S.A. 74-50,115(e), and amendments thereto, prior to January 1, 2012,
34 and have not expired will be effective for the term of the project or two
35 years from the effective date of the certificate, whichever occurs earlier.
36 Project exemption certificates that are submitted to the department of
37 revenue prior to January 1, 2012, and are found to qualify will be issued a
38 project exemption certificate that will be effective for a two-year period or
39 for the term of the project, whichever occurs earlier;

40 (dd) all sales of tangible personal property purchased with food
41 stamps issued by the United States department of agriculture;

42 (ee) all sales of lottery tickets and shares made as part of a lottery
43 operated by the state of Kansas;

1 (ff) on and after July 1, 1988, all sales of new mobile homes or
2 manufactured homes to the extent of 40% of the gross receipts, determined
3 without regard to any trade-in allowance, received from such sale. As used
4 in this subsection, "mobile homes" and "manufactured homes" shall have
5 the meanings ascribed thereto by K.S.A. 58-4202, and amendments
6 thereto;

7 (gg) all sales of tangible personal property purchased in accordance
8 with vouchers issued pursuant to the federal special supplemental food
9 program for women, infants and children;

10 (hh) all sales of medical supplies and equipment, including durable
11 medical equipment, purchased directly by a nonprofit skilled nursing home
12 or nonprofit intermediate nursing care home, as defined by K.S.A. 39-923,
13 and amendments thereto, for the purpose of providing medical services to
14 residents thereof. This exemption shall not apply to tangible personal
15 property customarily used for human habitation purposes. As used in this
16 subsection, "durable medical equipment" means equipment including
17 repair and replacement parts for such equipment, which can withstand
18 repeated use, is primarily and customarily used to serve a medical purpose,
19 generally is not useful to a person in the absence of illness or injury and is
20 not worn in or on the body, but does not include mobility enhancing
21 equipment as defined in subsection (r), oxygen delivery equipment, kidney
22 dialysis equipment or enteral feeding systems;

23 (ii) all sales of tangible personal property purchased directly by a
24 nonprofit organization for nonsectarian comprehensive multidiscipline
25 youth development programs and activities provided or sponsored by such
26 organization, and all sales of tangible personal property by or on behalf of
27 any such organization. This exemption shall not apply to tangible personal
28 property customarily used for human habitation purposes;

29 (jj) all sales of tangible personal property or services, including the
30 renting and leasing of tangible personal property, purchased directly on
31 behalf of a community-based mental retardation facility or mental health
32 center organized pursuant to K.S.A. 19-4001 et seq., and amendments
33 thereto, and licensed in accordance with the provisions of K.S.A. 75-
34 3307b, and amendments thereto, and all sales of tangible personal property
35 or services purchased by contractors during the time period from July,
36 2003, through June, 2006, for the purpose of constructing, equipping,
37 maintaining or furnishing a new facility for a community-based mental
38 retardation facility or mental health center located in Riverton, Cherokee
39 County, Kansas, which would have been eligible for sales tax exemption
40 pursuant to this subsection if purchased directly by such facility or center.
41 This exemption shall not apply to tangible personal property customarily
42 used for human habitation purposes;

43 (kk) (1) (A) all sales of machinery and equipment which are used in

1 this state as an integral or essential part of an integrated production
2 operation by a manufacturing or processing plant or facility;

3 (B) all sales of installation, repair and maintenance services
4 performed on such machinery and equipment; and

5 (C) all sales of repair and replacement parts and accessories
6 purchased for such machinery and equipment.

7 (2) For purposes of this subsection:

8 (A) "Integrated production operation" means an integrated series of
9 operations engaged in at a manufacturing or processing plant or facility to
10 process, transform or convert tangible personal property by physical,
11 chemical or other means into a different form, composition or character
12 from that in which it originally existed. Integrated production operations
13 shall include: (i) Production line operations, including packaging
14 operations; (ii) preproduction operations to handle, store and treat raw
15 materials; (iii) post production handling, storage, warehousing and
16 distribution operations; and (iv) waste, pollution and environmental
17 control operations, if any;

18 (B) "production line" means the assemblage of machinery and
19 equipment at a manufacturing or processing plant or facility where the
20 actual transformation or processing of tangible personal property occurs;

21 (C) "manufacturing or processing plant or facility" means a single,
22 fixed location owned or controlled by a manufacturing or processing
23 business that consists of one or more structures or buildings in a
24 contiguous area where integrated production operations are conducted to
25 manufacture or process tangible personal property to be ultimately sold at
26 retail. Such term shall not include any facility primarily operated for the
27 purpose of conveying or assisting in the conveyance of natural gas,
28 electricity, oil or water. A business may operate one or more manufacturing
29 or processing plants or facilities at different locations to manufacture or
30 process a single product of tangible personal property to be ultimately sold
31 at retail;

32 (D) "manufacturing or processing business" means a business that
33 utilizes an integrated production operation to manufacture, process,
34 fabricate, finish, or assemble items for wholesale and retail distribution as
35 part of what is commonly regarded by the general public as an industrial
36 manufacturing or processing operation or an agricultural commodity
37 processing operation. (i) Industrial manufacturing or processing operations
38 include, by way of illustration but not of limitation, the fabrication of
39 automobiles, airplanes, machinery or transportation equipment, the
40 fabrication of metal, plastic, wood, or paper products, electricity power
41 generation, water treatment, petroleum refining, chemical production,
42 wholesale bottling, newspaper printing, ready mixed concrete production,
43 and the remanufacturing of used parts for wholesale or retail sale. Such

1 processing operations shall include operations at an oil well, gas well,
2 mine or other excavation site where the oil, gas, minerals, coal, clay, stone,
3 sand or gravel that has been extracted from the earth is cleaned, separated,
4 crushed, ground, milled, screened, washed, or otherwise treated or
5 prepared before its transmission to a refinery or before any other wholesale
6 or retail distribution. (ii) Agricultural commodity processing operations
7 include, by way of illustration but not of limitation, meat packing, poultry
8 slaughtering and dressing, processing and packaging farm and dairy
9 products in sealed containers for wholesale and retail distribution, feed
10 grinding, grain milling, frozen food processing, and grain handling,
11 cleaning, blending, fumigation, drying and aeration operations engaged in
12 by grain elevators or other grain storage facilities. (iii) Manufacturing or
13 processing businesses do not include, by way of illustration but not of
14 limitation, nonindustrial businesses whose operations are primarily retail
15 and that produce or process tangible personal property as an incidental part
16 of conducting the retail business, such as retailers who bake, cook or
17 prepare food products in the regular course of their retail trade, grocery
18 stores, meat lockers and meat markets that butcher or dress livestock or
19 poultry in the regular course of their retail trade, contractors who alter,
20 service, repair or improve real property, and retail businesses that clean,
21 service or refurbish and repair tangible personal property for its owner;

22 (E) "repair and replacement parts and accessories" means all parts
23 and accessories for exempt machinery and equipment, including, but not
24 limited to, dies, jigs, molds, patterns and safety devices that are attached to
25 exempt machinery or that are otherwise used in production, and parts and
26 accessories that require periodic replacement such as belts, drill bits,
27 grinding wheels, grinding balls, cutting bars, saws, refractory brick and
28 other refractory items for exempt kiln equipment used in production
29 operations;

30 (F) "primary" or "primarily" mean more than 50% of the time.

31 (3) For purposes of this subsection, machinery and equipment shall
32 be deemed to be used as an integral or essential part of an integrated
33 production operation when used:

34 (A) To receive, transport, convey, handle, treat or store raw materials
35 in preparation of its placement on the production line;

36 (B) to transport, convey, handle or store the property undergoing
37 manufacturing or processing at any point from the beginning of the
38 production line through any warehousing or distribution operation of the
39 final product that occurs at the plant or facility;

40 (C) to act upon, effect, promote or otherwise facilitate a physical
41 change to the property undergoing manufacturing or processing;

42 (D) to guide, control or direct the movement of property undergoing
43 manufacturing or processing;

1 (E) to test or measure raw materials, the property undergoing
2 manufacturing or processing or the finished product, as a necessary part of
3 the manufacturer's integrated production operations;

4 (F) to plan, manage, control or record the receipt and flow of
5 inventories of raw materials, consumables and component parts, the flow
6 of the property undergoing manufacturing or processing and the
7 management of inventories of the finished product;

8 (G) to produce energy for, lubricate, control the operating of or
9 otherwise enable the functioning of other production machinery and
10 equipment and the continuation of production operations;

11 (H) to package the property being manufactured or processed in a
12 container or wrapping in which such property is normally sold or
13 transported;

14 (I) to transmit or transport electricity, coke, gas, water, steam or
15 similar substances used in production operations from the point of
16 generation, if produced by the manufacturer or processor at the plant site,
17 to that manufacturer's production operation; or, if purchased or delivered
18 from offsite, from the point where the substance enters the site of the plant
19 or facility to that manufacturer's production operations;

20 (J) to cool, heat, filter, refine or otherwise treat water, steam, acid, oil,
21 solvents or other substances that are used in production operations;

22 (K) to provide and control an environment required to maintain
23 certain levels of air quality, humidity or temperature in special and limited
24 areas of the plant or facility, where such regulation of temperature or
25 humidity is part of and essential to the production process;

26 (L) to treat, transport or store waste or other byproducts of production
27 operations at the plant or facility; or

28 (M) to control pollution at the plant or facility where the pollution is
29 produced by the manufacturing or processing operation.

30 (4) The following machinery, equipment and materials shall be
31 deemed to be exempt even though it may not otherwise qualify as
32 machinery and equipment used as an integral or essential part of an
33 integrated production operation: (A) Computers and related peripheral
34 equipment that are utilized by a manufacturing or processing business for
35 engineering of the finished product or for research and development or
36 product design; (B) machinery and equipment that is utilized by a
37 manufacturing or processing business to manufacture or rebuild tangible
38 personal property that is used in manufacturing or processing operations,
39 including tools, dies, molds, forms and other parts of qualifying machinery
40 and equipment; (C) portable plants for aggregate concrete, bulk cement
41 and asphalt including cement mixing drums to be attached to a motor
42 vehicle; (D) industrial fixtures, devices, support facilities and special
43 foundations necessary for manufacturing and production operations, and

1 materials and other tangible personal property sold for the purpose of
2 fabricating such fixtures, devices, facilities and foundations. An exemption
3 certificate for such purchases shall be signed by the manufacturer or
4 processor. If the fabricator purchases such material, the fabricator shall
5 also sign the exemption certificate; and (E) a manufacturing or processing
6 business' laboratory equipment that is not located at the plant or facility,
7 but that would otherwise qualify for exemption under subsection (3)(E).

8 (5) "Machinery and equipment used as an integral or essential part of
9 an integrated production operation" shall not include:

10 (A) Machinery and equipment used for nonproduction purposes,
11 including, but not limited to, machinery and equipment used for plant
12 security, fire prevention, first aid, accounting, administration, record
13 keeping, advertising, marketing, sales or other related activities, plant
14 cleaning, plant communications, and employee work scheduling;

15 (B) machinery, equipment and tools used primarily in maintaining
16 and repairing any type of machinery and equipment or the building and
17 plant;

18 (C) transportation, transmission and distribution equipment not
19 primarily used in a production, warehousing or material handling
20 operation at the plant or facility, including the means of conveyance of
21 natural gas, electricity, oil or water, and equipment related thereto, located
22 outside the plant or facility;

23 (D) office machines and equipment including computers and related
24 peripheral equipment not used directly and primarily to control or measure
25 the manufacturing process;

26 (E) furniture and other furnishings;

27 (F) buildings, other than exempt machinery and equipment that is
28 permanently affixed to or becomes a physical part of the building, and any
29 other part of real estate that is not otherwise exempt;

30 (G) building fixtures that are not integral to the manufacturing
31 operation, such as utility systems for heating, ventilation, air conditioning,
32 communications, plumbing or electrical;

33 (H) machinery and equipment used for general plant heating, cooling
34 and lighting;

35 (I) motor vehicles that are registered for operation on public
36 highways; or

37 (J) employee apparel, except safety and protective apparel that is
38 purchased by an employer and furnished gratuitously to employees who
39 are involved in production or research activities.

40 (6) Subsections (3) and (5) shall not be construed as exclusive listings
41 of the machinery and equipment that qualify or do not qualify as an
42 integral or essential part of an integrated production operation. When
43 machinery or equipment is used as an integral or essential part of

1 production operations part of the time and for nonproduction purpose at
2 other times, the primary use of the machinery or equipment shall
3 determine whether or not such machinery or equipment qualifies for
4 exemption.

5 (7) The secretary of revenue shall adopt rules and regulations
6 necessary to administer the provisions of this subsection;

7 (ll) all sales of educational materials purchased for distribution to the
8 public at no charge by a nonprofit corporation organized for the purpose of
9 encouraging, fostering and conducting programs for the improvement of
10 public health, *except that for taxable years commencing after December*
11 *31, 2012, this subsection shall not apply to any sales of such*
12 *materials purchased by a nonprofit corporation which performs any*
13 *abortion, as defined in section 1, and amendments thereto;*

14 (mm) all sales of seeds and tree seedlings; fertilizers, insecticides,
15 herbicides, germicides, pesticides and fungicides; and services, purchased
16 and used for the purpose of producing plants in order to prevent soil
17 erosion on land devoted to agricultural use;

18 (nn) except as otherwise provided in this act, all sales of services
19 rendered by an advertising agency or licensed broadcast station or any
20 member, agent or employee thereof;

21 (oo) all sales of tangible personal property purchased by a community
22 action group or agency for the exclusive purpose of repairing or
23 weatherizing housing occupied by low income individuals;

24 (pp) all sales of drill bits and explosives actually utilized in the
25 exploration and production of oil or gas;

26 (qq) all sales of tangible personal property and services purchased by
27 a nonprofit museum or historical society or any combination thereof,
28 including a nonprofit organization which is organized for the purpose of
29 stimulating public interest in the exploration of space by providing
30 educational information, exhibits and experiences, which is exempt from
31 federal income taxation pursuant to section 501(c)(3) of the federal
32 internal revenue code of 1986;

33 (rr) all sales of tangible personal property which will admit the
34 purchaser thereof to any annual event sponsored by a nonprofit
35 organization which is exempt from federal income taxation pursuant to
36 section 501(c)(3) of the federal internal revenue code of 1986, *except that*
37 *for taxable years commencing after December 31, 2012, this*
38 *subsection shall not apply to any sales of such tangible personal property*
39 *purchased by a nonprofit organization which performs any abortion, as*
40 *defined in section 1, and amendments thereto;*

41 (ss) all sales of tangible personal property and services purchased by
42 a public broadcasting station licensed by the federal communications
43 commission as a noncommercial educational television or radio station;

1 (tt) all sales of tangible personal property and services purchased by
2 or on behalf of a not-for-profit corporation which is exempt from federal
3 income taxation pursuant to section 501(c)(3) of the federal internal
4 revenue code of 1986, for the sole purpose of constructing a Kansas
5 Korean War memorial;

6 (uu) all sales of tangible personal property and services purchased by
7 or on behalf of any rural volunteer fire-fighting organization for use
8 exclusively in the performance of its duties and functions;

9 (vv) all sales of tangible personal property purchased by any of the
10 following organizations which are exempt from federal income taxation
11 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
12 for the following purposes, and all sales of any such property by or on
13 behalf of any such organization for any such purpose:

14 (1) The American Heart Association, Kansas Affiliate, Inc. for the
15 purposes of providing education, training, certification in emergency
16 cardiac care, research and other related services to reduce disability and
17 death from cardiovascular diseases and stroke;

18 (2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of
19 advocacy for persons with mental illness and to education, research and
20 support for their families;

21 (3) the Kansas Mental Illness Awareness Council for the purposes of
22 advocacy for persons who are mentally ill and to education, research and
23 support for them and their families;

24 (4) the American Diabetes Association Kansas Affiliate, Inc. for the
25 purpose of eliminating diabetes through medical research, public education
26 focusing on disease prevention and education, patient education including
27 information on coping with diabetes, and professional education and
28 training;

29 (5) the American Lung Association of Kansas, Inc. for the purpose of
30 eliminating all lung diseases through medical research, public education
31 including information on coping with lung diseases, professional education
32 and training related to lung disease and other related services to reduce the
33 incidence of disability and death due to lung disease;

34 (6) the Kansas chapters of the Alzheimer's Disease and Related
35 Disorders Association, Inc. for the purpose of providing assistance and
36 support to persons in Kansas with Alzheimer's disease, and their families
37 and caregivers;

38 (7) the Kansas chapters of the Parkinson's disease association for the
39 purpose of eliminating Parkinson's disease through medical research and
40 public and professional education related to such disease;

41 (8) the National Kidney Foundation of Kansas and Western Missouri
42 for the purpose of eliminating kidney disease through medical research
43 and public and private education related to such disease;

- 1 (9) the heartstrings community foundation for the purpose of
2 providing training, employment and activities for adults with
3 developmental disabilities;
- 4 (10) the Cystic Fibrosis Foundation, Heart of America Chapter, for
5 the purposes of assuring the development of the means to cure and control
6 cystic fibrosis and improving the quality of life for those with the disease;
- 7 (11) the spina bifida association of Kansas for the purpose of
8 providing financial, educational and practical aid to families and
9 individuals with spina bifida. Such aid includes, but is not limited to,
10 funding for medical devices, counseling and medical educational
11 opportunities;
- 12 (12) the CHWC, Inc., for the purpose of rebuilding urban core
13 neighborhoods through the construction of new homes, acquiring and
14 renovating existing homes and other related activities, and promoting
15 economic development in such neighborhoods;
- 16 (13) the cross-lines cooperative council for the purpose of providing
17 social services to low income individuals and families;
- 18 (14) the Dreams Work, Inc., for the purpose of providing young adult
19 day services to individuals with developmental disabilities and assisting
20 families in avoiding institutional or nursing home care for a
21 developmentally disabled member of their family;
- 22 (15) the KSDS, Inc., for the purpose of promoting the independence
23 and inclusion of people with disabilities as fully participating and
24 contributing members of their communities and society through the
25 training and providing of guide and service dogs to people with
26 disabilities, and providing disability education and awareness to the
27 general public;
- 28 (16) the lyme association of greater Kansas City, Inc., for the purpose
29 of providing support to persons with lyme disease and public education
30 relating to the prevention, treatment and cure of lyme disease;
- 31 (17) the Dream Factory, Inc., for the purpose of granting the dreams
32 of children with critical and chronic illnesses;
- 33 (18) the Ottawa Suzuki Strings, Inc., for the purpose of providing
34 students and families with education and resources necessary to enable
35 each child to develop fine character and musical ability to the fullest
36 potential;
- 37 (19) the International Association of Lions Clubs for the purpose of
38 creating and fostering a spirit of understanding among all people for
39 humanitarian needs by providing voluntary services through community
40 involvement and international cooperation;
- 41 (20) the Johnson county young matrons, inc., for the purpose of
42 promoting a positive future for members of the community through
43 volunteerism, financial support and education through the efforts of an all

1 volunteer organization;

2 (21) the American Cancer Society, Inc., for the purpose of eliminating
3 cancer as a major health problem by preventing cancer, saving lives and
4 diminishing suffering from cancer, through research, education, advocacy
5 and service;

6 (22) the community services of Shawnee, inc., for the purpose of
7 providing food and clothing to those in need;

8 (23) the angel babies association, for the purpose of providing
9 assistance, support and items of necessity to teenage mothers and their
10 babies; and

11 (24) the Kansas fairgrounds foundation for the purpose of the
12 preservation, renovation and beautification of the Kansas state fairgrounds;

13 (ww) all sales of tangible personal property purchased by the Habitat
14 for Humanity for the exclusive use of being incorporated within a housing
15 project constructed by such organization;

16 (xx) all sales of tangible personal property and services purchased by
17 a nonprofit zoo which is exempt from federal income taxation pursuant to
18 section 501(c)(3) of the federal internal revenue code of 1986, or on behalf
19 of such zoo by an entity itself exempt from federal income taxation
20 pursuant to section 501(c)(3) of the federal internal revenue code of 1986
21 contracted with to operate such zoo and all sales of tangible personal
22 property or services purchased by a contractor for the purpose of
23 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
24 furnishing or remodeling facilities for any nonprofit zoo which would be
25 exempt from taxation under the provisions of this section if purchased
26 directly by such nonprofit zoo or the entity operating such zoo. Nothing in
27 this subsection shall be deemed to exempt the purchase of any construction
28 machinery, equipment or tools used in the constructing, equipping,
29 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
30 facilities for any nonprofit zoo. When any nonprofit zoo shall contract for
31 the purpose of constructing, equipping, reconstructing, maintaining,
32 repairing, enlarging, furnishing or remodeling facilities, it shall obtain
33 from the state and furnish to the contractor an exemption certificate for the
34 project involved, and the contractor may purchase materials for
35 incorporation in such project. The contractor shall furnish the number of
36 such certificate to all suppliers from whom such purchases are made, and
37 such suppliers shall execute invoices covering the same bearing the
38 number of such certificate. Upon completion of the project the contractor
39 shall furnish to the nonprofit zoo concerned a sworn statement, on a form
40 to be provided by the director of taxation, that all purchases so made were
41 entitled to exemption under this subsection. All invoices shall be held by
42 the contractor for a period of five years and shall be subject to audit by the
43 director of taxation. If any materials purchased under such a certificate are

1 found not to have been incorporated in the building or other project or not
2 to have been returned for credit or the sales or compensating tax otherwise
3 imposed upon such materials which will not be so incorporated in the
4 building or other project reported and paid by such contractor to the
5 director of taxation not later than the 20th day of the month following the
6 close of the month in which it shall be determined that such materials will
7 not be used for the purpose for which such certificate was issued, the
8 nonprofit zoo concerned shall be liable for tax on all materials purchased
9 for the project, and upon payment thereof it may recover the same from
10 the contractor together with reasonable attorney fees. Any contractor or
11 any agent, employee or subcontractor thereof, who shall use or otherwise
12 dispose of any materials purchased under such a certificate for any purpose
13 other than that for which such a certificate is issued without the payment
14 of the sales or compensating tax otherwise imposed upon such materials,
15 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
16 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
17 and amendments thereto;

18 (yy) all sales of tangible personal property and services purchased by
19 a parent-teacher association or organization, and all sales of tangible
20 personal property by or on behalf of such association or organization;

21 (zz) all sales of machinery and equipment purchased by over-the-air,
22 free access radio or television station which is used directly and primarily
23 for the purpose of producing a broadcast signal or is such that the failure
24 of the machinery or equipment to operate would cause broadcasting to
25 cease. For purposes of this subsection, machinery and equipment shall
26 include, but not be limited to, that required by rules and regulations of the
27 federal communications commission, and all sales of electricity which are
28 essential or necessary for the purpose of producing a broadcast signal or is
29 such that the failure of the electricity would cause broadcasting to cease;

30 (aaa) all sales of tangible personal property and services purchased by
31 a religious organization which is exempt from federal income taxation
32 pursuant to section 501(c)(3) of the federal internal revenue code, and used
33 exclusively for religious purposes, and all sales of tangible personal
34 property or services purchased by a contractor for the purpose of
35 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
36 furnishing or remodeling facilities for any such organization which would
37 be exempt from taxation under the provisions of this section if purchased
38 directly by such organization. Nothing in this subsection shall be deemed
39 to exempt the purchase of any construction machinery, equipment or tools
40 used in the constructing, equipping, reconstructing, maintaining, repairing,
41 enlarging, furnishing or remodeling facilities for any such organization.
42 When any such organization shall contract for the purpose of constructing,
43 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or

1 remodeling facilities, it shall obtain from the state and furnish to the
2 contractor an exemption certificate for the project involved, and the
3 contractor may purchase materials for incorporation in such project. The
4 contractor shall furnish the number of such certificate to all suppliers from
5 whom such purchases are made, and such suppliers shall execute invoices
6 covering the same bearing the number of such certificate. Upon
7 completion of the project the contractor shall furnish to such organization
8 concerned a sworn statement, on a form to be provided by the director of
9 taxation, that all purchases so made were entitled to exemption under this
10 subsection. All invoices shall be held by the contractor for a period of five
11 years and shall be subject to audit by the director of taxation. If any
12 materials purchased under such a certificate are found not to have been
13 incorporated in the building or other project or not to have been returned
14 for credit or the sales or compensating tax otherwise imposed upon such
15 materials which will not be so incorporated in the building or other project
16 reported and paid by such contractor to the director of taxation not later
17 than the 20th day of the month following the close of the month in which it
18 shall be determined that such materials will not be used for the purpose for
19 which such certificate was issued, such organization concerned shall be
20 liable for tax on all materials purchased for the project, and upon payment
21 thereof it may recover the same from the contractor together with
22 reasonable attorney fees. Any contractor or any agent, employee or
23 subcontractor thereof, who shall use or otherwise dispose of any materials
24 purchased under such a certificate for any purpose other than that for
25 which such a certificate is issued without the payment of the sales or
26 compensating tax otherwise imposed upon such materials, shall be guilty
27 of a misdemeanor and, upon conviction therefor, shall be subject to the
28 penalties provided for in subsection (g) of K.S.A. 79-3615, and
29 amendments thereto. Sales tax paid on and after July 1, 1998, but prior to
30 the effective date of this act upon the gross receipts received from any sale
31 exempted by the amendatory provisions of this subsection shall be
32 refunded. Each claim for a sales tax refund shall be verified and submitted
33 to the director of taxation upon forms furnished by the director and shall
34 be accompanied by any additional documentation required by the director.
35 The director shall review each claim and shall refund that amount of sales
36 tax paid as determined under the provisions of this subsection. All refunds
37 shall be paid from the sales tax refund fund upon warrants of the director
38 of accounts and reports pursuant to vouchers approved by the director or
39 the director's designee;

40 (bbb) all sales of food for human consumption by an organization
41 which is exempt from federal income taxation pursuant to section 501(c)
42 (3) of the federal internal revenue code of 1986, pursuant to a food
43 distribution program which offers such food at a price below cost in

1 exchange for the performance of community service by the purchaser
2 thereof;

3 (ccc) on and after July 1, 1999, all sales of tangible personal property
4 and services purchased by a primary care clinic or health center the
5 primary purpose of which is to provide services to medically underserved
6 individuals and families, and which is exempt from federal income
7 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
8 and all sales of tangible personal property or services purchased by a
9 contractor for the purpose of constructing, equipping, reconstructing,
10 maintaining, repairing, enlarging, furnishing or remodeling facilities for
11 any such clinic or center which would be exempt from taxation under the
12 provisions of this section if purchased directly by such clinic or center.
13 Nothing in this subsection shall be deemed to exempt the purchase of any
14 construction machinery, equipment or tools used in the constructing,
15 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
16 remodeling facilities for any such clinic or center. When any such clinic or
17 center shall contract for the purpose of constructing, equipping,
18 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
19 facilities, it shall obtain from the state and furnish to the contractor an
20 exemption certificate for the project involved, and the contractor may
21 purchase materials for incorporation in such project. The contractor shall
22 furnish the number of such certificate to all suppliers from whom such
23 purchases are made, and such suppliers shall execute invoices covering the
24 same bearing the number of such certificate. Upon completion of the
25 project the contractor shall furnish to such clinic or center concerned a
26 sworn statement, on a form to be provided by the director of taxation, that
27 all purchases so made were entitled to exemption under this subsection.
28 All invoices shall be held by the contractor for a period of five years and
29 shall be subject to audit by the director of taxation. If any materials
30 purchased under such a certificate are found not to have been incorporated
31 in the building or other project or not to have been returned for credit or
32 the sales or compensating tax otherwise imposed upon such materials
33 which will not be so incorporated in the building or other project reported
34 and paid by such contractor to the director of taxation not later than the
35 20th day of the month following the close of the month in which it shall be
36 determined that such materials will not be used for the purpose for which
37 such certificate was issued, such clinic or center concerned shall be liable
38 for tax on all materials purchased for the project, and upon payment
39 thereof it may recover the same from the contractor together with
40 reasonable attorney fees. Any contractor or any agent, employee or
41 subcontractor thereof, who shall use or otherwise dispose of any materials
42 purchased under such a certificate for any purpose other than that for
43 which such a certificate is issued without the payment of the sales or

1 compensating tax otherwise imposed upon such materials, shall be guilty
2 of a misdemeanor and, upon conviction therefor, shall be subject to the
3 penalties provided for in subsection (g) of K.S.A. 79-3615, and
4 amendments thereto, *except that for taxable years commencing after*
5 *December 31, ~~2011~~ 2012, this subsection shall not apply to any sales of*
6 *such tangible personal property and services purchased by a primary care*
7 *clinic or health center which performs any abortion, as defined in section*
8 *1, and amendments thereto;*

9 (ddd) on and after January 1, 1999, and before January 1, 2000, all
10 sales of materials and services purchased by any class II or III railroad as
11 classified by the federal surface transportation board for the construction,
12 renovation, repair or replacement of class II or III railroad track and
13 facilities used directly in interstate commerce. In the event any such track
14 or facility for which materials and services were purchased sales tax
15 exempt is not operational for five years succeeding the allowance of such
16 exemption, the total amount of sales tax which would have been payable
17 except for the operation of this subsection shall be recouped in accordance
18 with rules and regulations adopted for such purpose by the secretary of
19 revenue;

20 (eee) on and after January 1, 1999, and before January 1, 2001, all
21 sales of materials and services purchased for the original construction,
22 reconstruction, repair or replacement of grain storage facilities, including
23 railroad sidings providing access thereto;

24 (fff) all sales of material handling equipment, racking systems and
25 other related machinery and equipment that is used for the handling,
26 movement or storage of tangible personal property in a warehouse or
27 distribution facility in this state; all sales of installation, repair and
28 maintenance services performed on such machinery and equipment; and
29 all sales of repair and replacement parts for such machinery and
30 equipment. For purposes of this subsection, a warehouse or distribution
31 facility means a single, fixed location that consists of buildings or
32 structures in a contiguous area where storage or distribution operations are
33 conducted that are separate and apart from the business' retail operations,
34 if any, and which do not otherwise qualify for exemption as occurring at a
35 manufacturing or processing plant or facility. Material handling and
36 storage equipment shall include aeration, dust control, cleaning, handling
37 and other such equipment that is used in a public grain warehouse or other
38 commercial grain storage facility, whether used for grain handling, grain
39 storage, grain refining or processing, or other grain treatment operation;

40 (ggg) all sales of tangible personal property and services purchased
41 by or on behalf of the Kansas Academy of Science which is exempt from
42 federal income taxation pursuant to section 501(c)(3) of the federal
43 internal revenue code of 1986, and used solely by such academy for the

1 preparation, publication and dissemination of education materials;

2 (hhh) all sales of tangible personal property and services purchased
3 by or on behalf of all domestic violence shelters that are member agencies
4 of the Kansas coalition against sexual and domestic violence;

5 (iii) all sales of personal property and services purchased by an
6 organization which is exempt from federal income taxation pursuant to
7 section 501(c)(3) of the federal internal revenue code of 1986, and which
8 such personal property and services are used by any such organization in
9 the collection, storage and distribution of food products to nonprofit
10 organizations which distribute such food products to persons pursuant to a
11 food distribution program on a charitable basis without fee or charge, and
12 all sales of tangible personal property or services purchased by a
13 contractor for the purpose of constructing, equipping, reconstructing,
14 maintaining, repairing, enlarging, furnishing or remodeling facilities used
15 for the collection and storage of such food products for any such
16 organization which is exempt from federal income taxation pursuant to
17 section 501(c)(3) of the federal internal revenue code of 1986, which
18 would be exempt from taxation under the provisions of this section if
19 purchased directly by such organization. Nothing in this subsection shall
20 be deemed to exempt the purchase of any construction machinery,
21 equipment or tools used in the constructing, equipping, reconstructing,
22 maintaining, repairing, enlarging, furnishing or remodeling facilities for
23 any such organization. When any such organization shall contract for the
24 purpose of constructing, equipping, reconstructing, maintaining, repairing,
25 enlarging, furnishing or remodeling facilities, it shall obtain from the state
26 and furnish to the contractor an exemption certificate for the project
27 involved, and the contractor may purchase materials for incorporation in
28 such project. The contractor shall furnish the number of such certificate to
29 all suppliers from whom such purchases are made, and such suppliers shall
30 execute invoices covering the same bearing the number of such certificate.
31 Upon completion of the project the contractor shall furnish to such
32 organization concerned a sworn statement, on a form to be provided by the
33 director of taxation, that all purchases so made were entitled to exemption
34 under this subsection. All invoices shall be held by the contractor for a
35 period of five years and shall be subject to audit by the director of taxation.
36 If any materials purchased under such a certificate are found not to have
37 been incorporated in such facilities or not to have been returned for credit
38 or the sales or compensating tax otherwise imposed upon such materials
39 which will not be so incorporated in such facilities reported and paid by
40 such contractor to the director of taxation not later than the 20th day of the
41 month following the close of the month in which it shall be determined
42 that such materials will not be used for the purpose for which such
43 certificate was issued, such organization concerned shall be liable for tax

1 on all materials purchased for the project, and upon payment thereof it
2 may recover the same from the contractor together with reasonable
3 attorney fees. Any contractor or any agent, employee or subcontractor
4 thereof, who shall use or otherwise dispose of any materials purchased
5 under such a certificate for any purpose other than that for which such a
6 certificate is issued without the payment of the sales or compensating tax
7 otherwise imposed upon such materials, shall be guilty of a misdemeanor
8 and, upon conviction therefor, shall be subject to the penalties provided for
9 in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax
10 paid on and after July 1, 2005, but prior to the effective date of this act
11 upon the gross receipts received from any sale exempted by the
12 amendatory provisions of this subsection shall be refunded. Each claim for
13 a sales tax refund shall be verified and submitted to the director of taxation
14 upon forms furnished by the director and shall be accompanied by any
15 additional documentation required by the director. The director shall
16 review each claim and shall refund that amount of sales tax paid as
17 determined under the provisions of this subsection. All refunds shall be
18 paid from the sales tax refund fund upon warrants of the director of
19 accounts and reports pursuant to vouchers approved by the director or the
20 director's designee;

21 (jjj) all sales of dietary supplements dispensed pursuant to a
22 prescription order by a licensed practitioner or a mid-level practitioner as
23 defined by K.S.A. 65-1626, and amendments thereto. As used in this
24 subsection, "dietary supplement" means any product, other than tobacco,
25 intended to supplement the diet that: (1) Contains one or more of the
26 following dietary ingredients: A vitamin, a mineral, an herb or other
27 botanical, an amino acid, a dietary substance for use by humans to
28 supplement the diet by increasing the total dietary intake or a concentrate,
29 metabolite, constituent, extract or combination of any such ingredient; (2)
30 is intended for ingestion in tablet, capsule, powder, softgel, gelcap or
31 liquid form, or if not intended for ingestion, in such a form, is not
32 represented as conventional food and is not represented for use as a sole
33 item of a meal or of the diet; and (3) is required to be labeled as a dietary
34 supplement, identifiable by the supplemental facts box found on the label
35 and as required pursuant to 21 C.F.R. § 101.36;

36 (lll) all sales of tangible personal property and services purchased by
37 special olympics Kansas, inc. for the purpose of providing year-round
38 sports training and athletic competition in a variety of olympic-type sports
39 for individuals with intellectual disabilities by giving them continuing
40 opportunities to develop physical fitness, demonstrate courage, experience
41 joy and participate in a sharing of gifts, skills and friendship with their
42 families, other special olympics athletes and the community, and activities
43 provided or sponsored by such organization, and all sales of tangible

1 personal property by or on behalf of any such organization;

2 (mmm) all sales of tangible personal property purchased by or on
3 behalf of the Marillac Center, Inc., which is exempt from federal income
4 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
5 for the purpose of providing psycho-social-biological and special
6 education services to children, and all sales of any such property by or on
7 behalf of such organization for such purpose;

8 (nnn) all sales of tangible personal property and services purchased
9 by the West Sedgwick County-Sunrise Rotary Club and Sunrise Charitable
10 Fund for the purpose of constructing a boundless playground which is an
11 integrated, barrier free and developmentally advantageous play
12 environment for children of all abilities and disabilities;

13 (ooo) all sales of tangible personal property by or on behalf of a
14 public library serving the general public and supported in whole or in part
15 with tax money or a not-for-profit organization whose purpose is to raise
16 funds for or provide services or other benefits to any such public library;

17 (ppp) all sales of tangible personal property and services purchased
18 by or on behalf of a homeless shelter which is exempt from federal income
19 taxation pursuant to section 501(c)(3) of the federal income tax code of
20 1986, and used by any such homeless shelter to provide emergency and
21 transitional housing for individuals and families experiencing
22 homelessness, and all sales of any such property by or on behalf of any
23 such homeless shelter for any such purpose;

24 (qqq) all sales of tangible personal property and services purchased
25 by TLC for children and families, inc., hereinafter referred to as TLC,
26 which is exempt from federal income taxation pursuant to section 501(c)
27 (3) of the federal internal revenue code of 1986, and which such property
28 and services are used for the purpose of providing emergency shelter and
29 treatment for abused and neglected children as well as meeting additional
30 critical needs for children, juveniles and family, and all sales of any such
31 property by or on behalf of TLC for any such purpose; and all sales of
32 tangible personal property or services purchased by a contractor for the
33 purpose of constructing, maintaining, repairing, enlarging, furnishing or
34 remodeling facilities for the operation of services for TLC for any such
35 purpose which would be exempt from taxation under the provisions of this
36 section if purchased directly by TLC. Nothing in this subsection shall be
37 deemed to exempt the purchase of any construction machinery, equipment
38 or tools used in the constructing, maintaining, repairing, enlarging,
39 furnishing or remodeling such facilities for TLC. When TLC contracts for
40 the purpose of constructing, maintaining, repairing, enlarging, furnishing
41 or remodeling such facilities, it shall obtain from the state and furnish to
42 the contractor an exemption certificate for the project involved, and the
43 contractor may purchase materials for incorporation in such project. The

1 contractor shall furnish the number of such certificate to all suppliers from
2 whom such purchases are made, and such suppliers shall execute invoices
3 covering the same bearing the number of such certificate. Upon
4 completion of the project the contractor shall furnish to TLC a sworn
5 statement, on a form to be provided by the director of taxation, that all
6 purchases so made were entitled to exemption under this subsection. All
7 invoices shall be held by the contractor for a period of five years and shall
8 be subject to audit by the director of taxation. If any materials purchased
9 under such a certificate are found not to have been incorporated in the
10 building or other project or not to have been returned for credit or the sales
11 or compensating tax otherwise imposed upon such materials which will
12 not be so incorporated in the building or other project reported and paid by
13 such contractor to the director of taxation not later than the 20th day of the
14 month following the close of the month in which it shall be determined
15 that such materials will not be used for the purpose for which such
16 certificate was issued, TLC shall be liable for tax on all materials
17 purchased for the project, and upon payment thereof it may recover the
18 same from the contractor together with reasonable attorney fees. Any
19 contractor or any agent, employee or subcontractor thereof, who shall use
20 or otherwise dispose of any materials purchased under such a certificate
21 for any purpose other than that for which such a certificate is issued
22 without the payment of the sales or compensating tax otherwise imposed
23 upon such materials, shall be guilty of a misdemeanor and, upon
24 conviction therefor, shall be subject to the penalties provided for in
25 subsection (g) of K.S.A. 79-3615, and amendments thereto;

26 (rrr) all sales of tangible personal property and services purchased by
27 any county law library maintained pursuant to law and sales of tangible
28 personal property and services purchased by an organization which would
29 have been exempt from taxation under the provisions of this subsection if
30 purchased directly by the county law library for the purpose of providing
31 legal resources to attorneys, judges, students and the general public, and
32 all sales of any such property by or on behalf of any such county law
33 library;

34 (sss) all sales of tangible personal property and services purchased by
35 catholic charities or youthville, hereinafter referred to as charitable family
36 providers, which is exempt from federal income taxation pursuant to
37 section 501(c)(3) of the federal internal revenue code of 1986, and which
38 such property and services are used for the purpose of providing
39 emergency shelter and treatment for abused and neglected children as well
40 as meeting additional critical needs for children, juveniles and family, and
41 all sales of any such property by or on behalf of charitable family
42 providers for any such purpose; and all sales of tangible personal property
43 or services purchased by a contractor for the purpose of constructing,

1 maintaining, repairing, enlarging, furnishing or remodeling facilities for
2 the operation of services for charitable family providers for any such
3 purpose which would be exempt from taxation under the provisions of this
4 section if purchased directly by charitable family providers. Nothing in
5 this subsection shall be deemed to exempt the purchase of any construction
6 machinery, equipment or tools used in the constructing, maintaining,
7 repairing, enlarging, furnishing or remodeling such facilities for charitable
8 family providers. When charitable family providers contracts for the
9 purpose of constructing, maintaining, repairing, enlarging, furnishing or
10 remodeling such facilities, it shall obtain from the state and furnish to the
11 contractor an exemption certificate for the project involved, and the
12 contractor may purchase materials for incorporation in such project. The
13 contractor shall furnish the number of such certificate to all suppliers from
14 whom such purchases are made, and such suppliers shall execute invoices
15 covering the same bearing the number of such certificate. Upon
16 completion of the project the contractor shall furnish to charitable family
17 providers a sworn statement, on a form to be provided by the director of
18 taxation, that all purchases so made were entitled to exemption under this
19 subsection. All invoices shall be held by the contractor for a period of five
20 years and shall be subject to audit by the director of taxation. If any
21 materials purchased under such a certificate are found not to have been
22 incorporated in the building or other project or not to have been returned
23 for credit or the sales or compensating tax otherwise imposed upon such
24 materials which will not be so incorporated in the building or other project
25 reported and paid by such contractor to the director of taxation not later
26 than the 20th day of the month following the close of the month in which it
27 shall be determined that such materials will not be used for the purpose for
28 which such certificate was issued, charitable family providers shall be
29 liable for tax on all materials purchased for the project, and upon payment
30 thereof it may recover the same from the contractor together with
31 reasonable attorney fees. Any contractor or any agent, employee or
32 subcontractor thereof, who shall use or otherwise dispose of any materials
33 purchased under such a certificate for any purpose other than that for
34 which such a certificate is issued without the payment of the sales or
35 compensating tax otherwise imposed upon such materials, shall be guilty
36 of a misdemeanor and, upon conviction therefor, shall be subject to the
37 penalties provided for in subsection (g) of K.S.A. 79-3615, and
38 amendments thereto;

39 (ttt) all sales of tangible personal property or services purchased by a
40 contractor for a project for the purpose of restoring, constructing,
41 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
42 remodeling a home or facility owned by a nonprofit museum which has
43 been granted an exemption pursuant to subsection (qq), which such home

1 or facility is located in a city which has been designated as a qualified
2 hometown pursuant to the provisions of K.S.A. 75-5071 et seq., and
3 amendments thereto, and which such project is related to the purposes of
4 K.S.A. 75-5071 et seq., and amendments thereto, and which would be
5 exempt from taxation under the provisions of this section if purchased
6 directly by such nonprofit museum. Nothing in this subsection shall be
7 deemed to exempt the purchase of any construction machinery, equipment
8 or tools used in the restoring, constructing, equipping, reconstructing,
9 maintaining, repairing, enlarging, furnishing or remodeling a home or
10 facility for any such nonprofit museum. When any such nonprofit museum
11 shall contract for the purpose of restoring, constructing, equipping,
12 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
13 a home or facility, it shall obtain from the state and furnish to the
14 contractor an exemption certificate for the project involved, and the
15 contractor may purchase materials for incorporation in such project. The
16 contractor shall furnish the number of such certificates to all suppliers
17 from whom such purchases are made, and such suppliers shall execute
18 invoices covering the same bearing the number of such certificate. Upon
19 completion of the project, the contractor shall furnish to such nonprofit
20 museum a sworn statement on a form to be provided by the director of
21 taxation that all purchases so made were entitled to exemption under this
22 subsection. All invoices shall be held by the contractor for a period of five
23 years and shall be subject to audit by the director of taxation. If any
24 materials purchased under such a certificate are found not to have been
25 incorporated in the building or other project or not to have been returned
26 for credit or the sales or compensating tax otherwise imposed upon such
27 materials which will not be so incorporated in a home or facility or other
28 project reported and paid by such contractor to the director of taxation not
29 later than the 20th day of the month following the close of the month in
30 which it shall be determined that such materials will not be used for the
31 purpose for which such certificate was issued, such nonprofit museum
32 shall be liable for tax on all materials purchased for the project, and upon
33 payment thereof it may recover the same from the contractor together with
34 reasonable attorney fees. Any contractor or any agent, employee or
35 subcontractor thereof, who shall use or otherwise dispose of any materials
36 purchased under such a certificate for any purpose other than that for
37 which such a certificate is issued without the payment of the sales or
38 compensating tax otherwise imposed upon such materials, shall be guilty
39 of a misdemeanor and, upon conviction therefor, shall be subject to the
40 penalties provided for in subsection (g) of K.S.A. 79-3615, and
41 amendments thereto;

42 (uuu) all sales of tangible personal property and services purchased
43 by Kansas children's service league, hereinafter referred to as KCSL,

1 which is exempt from federal income taxation pursuant to section 501(c)
2 (3) of the federal internal revenue code of 1986, and which such property
3 and services are used for the purpose of providing for the prevention and
4 treatment of child abuse and maltreatment as well as meeting additional
5 critical needs for children, juveniles and family, and all sales of any such
6 property by or on behalf of KCSL for any such purpose; and all sales of
7 tangible personal property or services purchased by a contractor for the
8 purpose of constructing, maintaining, repairing, enlarging, furnishing or
9 remodeling facilities for the operation of services for KCSL for any such
10 purpose which would be exempt from taxation under the provisions of this
11 section if purchased directly by KCSL. Nothing in this subsection shall be
12 deemed to exempt the purchase of any construction machinery, equipment
13 or tools used in the constructing, maintaining, repairing, enlarging,
14 furnishing or remodeling such facilities for KCSL. When KCSL contracts
15 for the purpose of constructing, maintaining, repairing, enlarging,
16 furnishing or remodeling such facilities, it shall obtain from the state and
17 furnish to the contractor an exemption certificate for the project involved,
18 and the contractor may purchase materials for incorporation in such
19 project. The contractor shall furnish the number of such certificate to all
20 suppliers from whom such purchases are made, and such suppliers shall
21 execute invoices covering the same bearing the number of such certificate.
22 Upon completion of the project the contractor shall furnish to KCSL a
23 sworn statement, on a form to be provided by the director of taxation, that
24 all purchases so made were entitled to exemption under this subsection.
25 All invoices shall be held by the contractor for a period of five years and
26 shall be subject to audit by the director of taxation. If any materials
27 purchased under such a certificate are found not to have been incorporated
28 in the building or other project or not to have been returned for credit or
29 the sales or compensating tax otherwise imposed upon such materials
30 which will not be so incorporated in the building or other project reported
31 and paid by such contractor to the director of taxation not later than the
32 20th day of the month following the close of the month in which it shall be
33 determined that such materials will not be used for the purpose for which
34 such certificate was issued, KCSL shall be liable for tax on all materials
35 purchased for the project, and upon payment thereof it may recover the
36 same from the contractor together with reasonable attorney fees. Any
37 contractor or any agent, employee or subcontractor thereof, who shall use
38 or otherwise dispose of any materials purchased under such a certificate
39 for any purpose other than that for which such a certificate is issued
40 without the payment of the sales or compensating tax otherwise imposed
41 upon such materials, shall be guilty of a misdemeanor and, upon
42 conviction therefor, shall be subject to the penalties provided for in
43 subsection (g) of K.S.A. 79-3615, and amendments thereto;

1 (vvv) all sales of tangible personal property or services, including the
2 renting and leasing of tangible personal property or services, purchased by
3 Jazz in the Woods, Inc., a Kansas corporation which is exempt from
4 federal income taxation pursuant to section 501(c)(3) of the federal
5 internal revenue code, for the purpose of providing Jazz in the Woods, an
6 event benefiting children-in-need and other nonprofit charities assisting
7 such children, and all sales of any such property by or on behalf of such
8 organization for such purpose;

9 (www) all sales of tangible personal property purchased by or on
10 behalf of the Frontenac Education Foundation, which is exempt from
11 federal income taxation pursuant to section 501(c)(3) of the federal
12 internal revenue code, for the purpose of providing education support for
13 students, and all sales of any such property by or on behalf of such
14 organization for such purpose;

15 (xxx) all sales of personal property and services purchased by the
16 booth theatre foundation, inc., an organization which is exempt from
17 federal income taxation pursuant to section 501(c)(3) of the federal
18 internal revenue code of 1986, and which such personal property and
19 services are used by any such organization in the constructing, equipping,
20 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
21 of the booth theatre, and all sales of tangible personal property or services
22 purchased by a contractor for the purpose of constructing, equipping,
23 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
24 the booth theatre for such organization, which would be exempt from
25 taxation under the provisions of this section if purchased directly by such
26 organization. Nothing in this subsection shall be deemed to exempt the
27 purchase of any construction machinery, equipment or tools used in the
28 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
29 furnishing or remodeling facilities for any such organization. When any
30 such organization shall contract for the purpose of constructing, equipping,
31 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
32 facilities, it shall obtain from the state and furnish to the contractor an
33 exemption certificate for the project involved, and the contractor may
34 purchase materials for incorporation in such project. The contractor shall
35 furnish the number of such certificate to all suppliers from whom such
36 purchases are made, and such suppliers shall execute invoices covering the
37 same bearing the number of such certificate. Upon completion of the
38 project the contractor shall furnish to such organization concerned a sworn
39 statement, on a form to be provided by the director of taxation, that all
40 purchases so made were entitled to exemption under this subsection. All
41 invoices shall be held by the contractor for a period of five years and shall
42 be subject to audit by the director of taxation. If any materials purchased
43 under such a certificate are found not to have been incorporated in such

1 facilities or not to have been returned for credit or the sales or
2 compensating tax otherwise imposed upon such materials which will not
3 be so incorporated in such facilities reported and paid by such contractor
4 to the director of taxation not later than the 20th day of the month
5 following the close of the month in which it shall be determined that such
6 materials will not be used for the purpose for which such certificate was
7 issued, such organization concerned shall be liable for tax on all materials
8 purchased for the project, and upon payment thereof it may recover the
9 same from the contractor together with reasonable attorney fees. Any
10 contractor or any agent, employee or subcontractor thereof, who shall use
11 or otherwise dispose of any materials purchased under such a certificate
12 for any purpose other than that for which such a certificate is issued
13 without the payment of the sales or compensating tax otherwise imposed
14 upon such materials, shall be guilty of a misdemeanor and, upon
15 conviction therefor, shall be subject to the penalties provided for in
16 subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid
17 on and after January 1, 2007, but prior to the effective date of this act upon
18 the gross receipts received from any sale which would have been
19 exempted by the provisions of this subsection had such sale occurred after
20 the effective date of this act shall be refunded. Each claim for a sales tax
21 refund shall be verified and submitted to the director of taxation upon
22 forms furnished by the director and shall be accompanied by any
23 additional documentation required by the director. The director shall
24 review each claim and shall refund that amount of sales tax paid as
25 determined under the provisions of this subsection. All refunds shall be
26 paid from the sales tax refund fund upon warrants of the director of
27 accounts and reports pursuant to vouchers approved by the director or the
28 director's designee;

29 (yyy) all sales of tangible personal property and services purchased
30 by TLC charities foundation, inc., hereinafter referred to as TLC charities,
31 which is exempt from federal income taxation pursuant to section 501(c)
32 (3) of the federal internal revenue code of 1986, and which such property
33 and services are used for the purpose of encouraging private philanthropy
34 to further the vision, values, and goals of TLC for children and families,
35 inc.; and all sales of such property and services by or on behalf of TLC
36 charities for any such purpose and all sales of tangible personal property or
37 services purchased by a contractor for the purpose of constructing,
38 maintaining, repairing, enlarging, furnishing or remodeling facilities for
39 the operation of services for TLC charities for any such purpose which
40 would be exempt from taxation under the provisions of this section if
41 purchased directly by TLC charities. Nothing in this subsection shall be
42 deemed to exempt the purchase of any construction machinery, equipment
43 or tools used in the constructing, maintaining, repairing, enlarging,

1 furnishing or remodeling such facilities for TLC charities. When TLC
2 charities contracts for the purpose of constructing, maintaining, repairing,
3 enlarging, furnishing or remodeling such facilities, it shall obtain from the
4 state and furnish to the contractor an exemption certificate for the project
5 involved, and the contractor may purchase materials for incorporation in
6 such project. The contractor shall furnish the number of such certificate to
7 all suppliers from whom such purchases are made, and such suppliers shall
8 execute invoices covering the same bearing the number of such certificate.
9 Upon completion of the project the contractor shall furnish to TLC
10 charities a sworn statement, on a form to be provided by the director of
11 taxation, that all purchases so made were entitled to exemption under this
12 subsection. All invoices shall be held by the contractor for a period of five
13 years and shall be subject to audit by the director of taxation. If any
14 materials purchased under such a certificate are found not to have been
15 incorporated in the building or other project or not to have been returned
16 for credit or the sales or compensating tax otherwise imposed upon such
17 materials which will not be incorporated into the building or other project
18 reported and paid by such contractor to the director of taxation not later
19 than the 20th day of the month following the close of the month in which it
20 shall be determined that such materials will not be used for the purpose for
21 which such certificate was issued, TLC charities shall be liable for tax on
22 all materials purchased for the project, and upon payment thereof it may
23 recover the same from the contractor together with reasonable attorney
24 fees. Any contractor or any agent, employee or subcontractor thereof, who
25 shall use or otherwise dispose of any materials purchased under such a
26 certificate for any purpose other than that for which such a certificate is
27 issued without the payment of the sales or compensating tax otherwise
28 imposed upon such materials, shall be guilty of a misdemeanor and, upon
29 conviction therefor, shall be subject to the penalties provided for in
30 subsection (g) of K.S.A. 79-3615, and amendments thereto;

31 (zzz) all sales of tangible personal property purchased by the rotary
32 club of shawnee foundation which is exempt from federal income taxation
33 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
34 as amended, used for the purpose of providing contributions to community
35 service organizations and scholarships;

36 (aaaa) all sales of personal property and services purchased by or on
37 behalf of victory in the valley, inc., which is exempt from federal income
38 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
39 for the purpose of providing a cancer support group and services for
40 persons with cancer, and all sales of any such property by or on behalf of
41 any such organization for any such purpose;

42 (bbbb) all sales of entry or participation fees, charges or tickets by
43 Guadalupe health foundation, which is exempt from federal income

1 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
2 for such organization's annual fundraising event which purpose is to
3 provide health care services for uninsured workers;

4 (cccc) all sales of tangible personal property or services purchased by
5 or on behalf of wayside waifs, inc., which is exempt from federal income
6 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
7 for the purpose of providing such organization's annual fundraiser, an
8 event whose purpose is to support the care of homeless and abandoned
9 animals, animal adoption efforts, education programs for children and
10 efforts to reduce animal over-population and animal welfare services, and
11 all sales of any such property, including entry or participation fees or
12 charges, by or on behalf of such organization for such purpose;

13 (dddd) all sales of tangible personal property or services purchased
14 by or on behalf of Goodwill Industries or Easter Seals of Kansas, Inc.,
15 both of which are exempt from federal income taxation pursuant to section
16 501(c)(3) of the federal internal revenue code, for the purpose of providing
17 education, training and employment opportunities for people with
18 disabilities and other barriers to employment;

19 (eeee) all sales of tangible personal property or services purchased by
20 or on behalf of All American Beef Battalion, Inc., which is exempt from
21 federal income taxation pursuant to section 501(c)(3) of the federal
22 internal revenue code, for the purpose of educating, promoting and
23 participating as a contact group through the beef cattle industry in order to
24 carry out such projects that provide support and morale to members of the
25 United States armed forces and military services; ~~and~~

26 (ffff) all sales of tangible personal property and services purchased by
27 sheltered living, inc., which is exempt from federal income taxation
28 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
29 and which such property and services are used for the purpose of
30 providing residential and day services for people with developmental
31 disabilities or mental retardation, or both, and all sales of any such
32 property by or on behalf of sheltered living, inc. for any such purpose; and
33 all sales of tangible personal property or services purchased by a
34 contractor for the purpose of rehabilitating, constructing, maintaining,
35 repairing, enlarging, furnishing or remodeling homes and facilities for
36 sheltered living, inc. for any such purpose which would be exempt from
37 taxation under the provisions of this section if purchased directly by
38 sheltered living, inc. Nothing in this subsection shall be deemed to exempt
39 the purchase of any construction machinery, equipment or tools used in the
40 constructing, maintaining, repairing, enlarging, furnishing or remodeling
41 such homes and facilities for sheltered living, inc. When sheltered living,
42 inc. contracts for the purpose of rehabilitating, constructing, maintaining,
43 repairing, enlarging, furnishing or remodeling such homes and facilities, it

1 shall obtain from the state and furnish to the contractor an exemption
2 certificate for the project involved, and the contractor may purchase
3 materials for incorporation in such project. The contractor shall furnish the
4 number of such certificate to all suppliers from whom such purchases are
5 made, and such suppliers shall execute invoices covering the same bearing
6 the number of such certificate. Upon completion of the project the
7 contractor shall furnish to sheltered living, inc. a sworn statement, on a
8 form to be provided by the director of taxation, that all purchases so made
9 were entitled to exemption under this subsection. All invoices shall be held
10 by the contractor for a period of five years and shall be subject to audit by
11 the director of taxation. If any materials purchased under such a certificate
12 are found not to have been incorporated in the building or other project or
13 not to have been returned for credit or the sales or compensating tax
14 otherwise imposed upon such materials which will not be so incorporated
15 in the building or other project reported and paid by such contractor to the
16 director of taxation not later than the 20th day of the month following the
17 close of the month in which it shall be determined that such materials will
18 not be used for the purpose for which such certificate was issued, sheltered
19 living, inc. shall be liable for tax on all materials purchased for the project,
20 and upon payment thereof it may recover the same from the contractor
21 together with reasonable attorney fees. Any contractor or any agent,
22 employee or subcontractor thereof, who shall use or otherwise dispose of
23 any materials purchased under such a certificate for any purpose other than
24 that for which such a certificate is issued without the payment of the sales
25 or compensating tax otherwise imposed upon such materials, shall be
26 guilty of a misdemeanor and, upon conviction therefor, shall be subject to
27 the penalties provided for in subsection (g) of K.S.A. 79-3615, and
28 amendments thereto; *and*

29 *(gggg) all sales of game birds for which the primary purpose is use in*
30 *hunting.*

31 **Sec. 22. K.S.A. 2011 Supp. 76-3308 is hereby amended to read as**
32 **follows: 76-3308. (a) The authority shall have all the powers necessary**
33 **to carry out the purposes and provisions of this act, including, without**
34 **limitation, the following powers to:**

35 **(1) Have the duties, privileges, immunities, rights, liabilities and**
36 **disabilities of a body corporate and a political instrumentality of the**
37 **state;**

38 **(2) have perpetual existence and succession;**

39 **(3) adopt, have and use a seal and to alter the same at its**
40 **pleasure;**

41 **(4) sue and be sued in its own name;**

42 **(5) make and execute contracts, guarantees or any other**
43 **instruments and agreements necessary or convenient for the exercise**

1 of its powers and functions including, without limitation, to make and
2 execute contracts with hospitals or other health care businesses to
3 operate and manage any or all of the hospital facilities or operations
4 and to incur liabilities and secure the obligations of any entity or
5 individual;

6 (6) borrow money and to issue bonds evidencing the same and
7 pledge all or any part of the authority's assets therefor;

8 (7) purchase, lease, trade, exchange or otherwise acquire,
9 maintain, hold, improve, mortgage, sell, lease and dispose of personal
10 property, whether tangible or intangible, and any interest therein; and
11 to purchase, lease, trade, exchange or otherwise acquire real property
12 or any interest therein, and to maintain, hold, improve, mortgage,
13 lease and otherwise transfer such real property, so long as such
14 transactions do not conflict with the mission of the authority as
15 specified in this act;

16 (8) incur or assume indebtedness to, and enter into contracts with
17 the Kansas development finance authority, which is authorized to
18 borrow money and provide financing for the authority;

19 (9) develop policies and procedures generally applicable to the
20 procurement of goods, services and construction, based upon sound
21 business practices;

22 (10) contract for and to accept any gifts, grants and loans of
23 funds, property, or any other aid in any form from the federal
24 government, the state, any state agency, or any other source, or any
25 combination thereof, and to comply with the provisions of the terms
26 and conditions thereof;

27 (11) acquire space, equipment, services, supplies and insurance
28 necessary to carry out the purposes of this act;

29 (12) deposit any moneys of the authority in any banking
30 institution within or without the state or in any depository authorized
31 to receive such deposits, one or more persons to act as custodians of
32 the moneys of the authority, to give surety bonds in such amounts in
33 form and for such purposes as the board requires;

34 (13) procure such insurance, participate in such insurance plans
35 or provide such self insurance or both as it deems necessary or
36 convenient to carry out the purposes and provisions of this act; the
37 purchase of insurance, participation in an insurance plan or creation
38 of a self-insurance fund by the authority shall not be deemed as a
39 waiver or relinquishment of any sovereign immunity to which the
40 authority or its officers, directors, employees or agents are otherwise
41 entitled;

42 (14) appoint, supervise and set the salary and compensation of a
43 president of the authority who shall be appointed by and serve at the

1 pleasure of the board;

2 (15) fix, revise, charge and collect rates, rentals, fees and other
3 charges for the services or facilities furnished by or on behalf of the
4 authority, and to establish policies and procedures regarding any such
5 service rendered for the use, occupancy or operation of any such
6 facility; such charges and policies and procedures not to be subject to
7 supervision or regulation by any commission, board, bureau or agency
8 of the State; and

9 (16) do any and all things necessary or convenient to carry out
10 the authority's purposes and exercise the powers given in this act.

11 (b) The authority may create, own in whole or in part, or
12 otherwise acquire or dispose of any entity organized for a purpose
13 related to or in support of the mission of the authority.

14 (c) The authority may participate in joint ventures with
15 individuals, corporations, governmental bodies or agencies,
16 partnerships, associations, insurers or other entities to facilitate any
17 activities or programs consistent with the public purpose and intent of
18 this act.

19 (d) The authority may create a nonprofit entity or entities for the
20 purpose of soliciting, accepting and administering grants, outright
21 gifts and bequests, endowment gifts and bequests and gifts and
22 bequests in trust which entity or entities shall not engage in trust
23 business.

24 (e) In carrying out any activities authorized by this act, the
25 authority may provide appropriate assistance, including the making of
26 loans and providing time of employees, to corporations, partnerships,
27 associations, joint ventures or other entities, whether or not such
28 corporations, partnerships, associations, joint ventures or other
29 entities are owned or controlled in whole or in part, directly or
30 indirectly, by the authority.

31 (f) Effective with the transfer date, all moneys of the authority
32 shall be deposited in one or more banks or trust companies in one or
33 more special accounts. All banks and trust companies are authorized
34 to give security for such deposits if required by the authority. The
35 moneys in such accounts shall be paid out on a warrant or other
36 orders of the treasurer of the authority or any such other person or
37 persons as the authority may authorize to execute such warrants or
38 orders.

39 (g) Notwithstanding any provision of law to the contrary, the
40 authority, effective with the transfer date, may invest the authority's
41 operating funds in any obligations or securities as authorized by the
42 board. The board shall adopt written investment guidelines.

43 (h) The authority is authorized to negotiate contracts with one or

1 more qualified parties to provide collection services. The selection of a
2 collection services provider shall be based on responses to a request
3 for proposals from qualified professional firms and shall be
4 administered in accordance with policies adopted by the board.

5 (i) Notwithstanding any provision of law to the contrary, no
6 abortion shall be performed, except in the event of a medical
7 emergency, in any medical facility, hospital or clinic owned, leased or
8 operated by the authority. The provisions of this subsection are not
9 applicable to any member of the physician faculty of the university of
10 Kansas school of medicine on property not owned, leased or operated
11 by the authority. As used in this subsection, "medical emergency"
12 means a pregnant woman's medical condition that, on the basis of a
13 physician's good-faith clinical judgment, necessitates an immediate
14 abortion to avert the woman's death or to avert a serious risk of substantial
15 and irreversible impairment of a major bodily function *has the meaning as*
16 *defined in K.S.A. 65-6701, and amendments thereto.*

17 **New Sec. 23. If any provision or clause of this act or application**
18 **thereof to any person or circumstances is held invalid, such invalidity**
19 **shall not affect other provisions or applications of the act which can be**
20 **given effect without the invalid provision or application, and to this**
21 **end the provisions of this act are declared to be severable.**

22 ~~Sec.-23-~~ **24.** K.S.A. 60-1901 and K.S.A. 2011 Supp. 40-2246, 65-
23 6701, 65-6703, 65-6709, 65-6710, **76-3308**, 79-32,117, 79-32,138, 79-
24 32,182b, 79-32,195, 79-32,261, 79-3606 and 79-3606g are hereby
25 repealed.

26 ~~Sec.-24-~~ **25.** This act shall take effect and be in force from and after
27 its publication in the statute book.

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