

House Substitute for SENATE BILL No. 196

By Committee on Taxation

3-15

1 AN ACT concerning taxation; relating to IMPACT program; income tax
2 deductions, expensing of investment expenditures; promoting
3 employment across Kansas act, qualifications for benefits; income tax
4 credits; sales tax exemptions; creating job creation program fund,
5 administration and expenditures; amending K.S.A. 2010 Supp. 74-
6 50,104, 74-50,106, 74-50,107, 74-50,109, 74-50,110, 74-50,111, 74-
7 50,210, 74-50,211, 74-50,212, 74-50,213, 79-32,160a, 79-32,206 and
8 79-3606 and repealing the existing sections; also repealing K.S.A. 2010
9 Supp. 74-50,151 and 74-50,152.

10

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

12 New Section 1. (a) There is hereby created in the state treasury the
13 job creation program fund. The secretary of commerce, in consultation
14 with the secretary of revenue and the governor, shall administer the fund.
15 All expenditures from the fund shall be for the purpose of promoting job
16 creation and economic development by funding projects related to: (1)
17 Major expansion of an existing Kansas commercial enterprise;

18 (2) potential location in Kansas of the operations of a major
19 employer;

20 (3) award of a significant federal or private sector grant which has a
21 financial matching requirement;

22 (4) potential departure from Kansas or the substantial reduction of the
23 operations of a major Kansas employer;

24 (5) training or retraining activities for employees in Kansas
25 companies;

26 (6) potential closure or substantial reduction of the operations of a
27 major state or federal institution;

28 (7) projects in counties with at least a 10% population decline during
29 the period from 2000 to 2010; or

30 (8) other unique economic development opportunities.

31 (b) All expenditures from the fund shall be for the purposes described
32 in subsection (a) and shall be made in accordance with appropriation acts
33 upon warrants of the director of accounts and reports issued pursuant to
34 vouchers approved by the secretary of commerce or the secretary's
35 designee.

36 New Sec. 2. (a) For taxable years beginning after December 31, 2011,

1 a taxpayer may elect to take an expense deduction from Kansas net income
2 before expensing or recapture allocated or apportioned to this state for the
3 cost of the following property placed in service in this state during the
4 taxable year: (1) Tangible property eligible for depreciation under the
5 modified accelerated cost recovery system in section 168 of the internal
6 revenue code, as amended, but not including residential rental property,
7 nonresidential real property, any railroad grading or tunnel bore or any
8 other property with an applicable recovery period in excess of 25 years as
9 defined under section 168(c) or (g) of the internal revenue code, as
10 amended; and (2) computer software as defined in section 197(e)(3)(B)
11 of the internal revenue code, as amended, and as described in section 197(e)
12 (3)(A)(i) of the internal revenue code, as amended, to which section 167 of
13 the internal revenue code, as amended, applies. If such election is made,
14 the amount of expense deduction for such cost shall equal the difference
15 between the depreciable cost of such property for federal income tax
16 purposes and the amount of bonus depreciation being claimed for such
17 property pursuant to section 168(k) of the internal revenue code, as
18 amended, for federal income tax purposes in such tax year, but without
19 regard to any expense deduction being claimed for such property under
20 section 179 of the internal revenue code, as amended, multiplied by the
21 applicable factor, determined by using, the table provided in subsection (f),
22 based on the method of depreciation selected pursuant to section 168(b)
23 (1), (2), or (3) or (g) of the internal revenue code, as amended, and the
24 applicable recovery period for such property as defined under section
25 168(c) or (g) of the internal revenue code, as amended. This election shall
26 be made by the due date of the original return, including any extensions,
27 and may be made only for the taxable year in which the property is placed
28 in service, and once made, shall be irrevocable. If the section 179 expense
29 deduction election has been made for federal income tax purposes for any
30 asset, the applicable factor to be utilized is in the IRC § 168 (b)(1) column
31 of the table provided in subsection (f) for the applicable recovery period of
32 the respective assets.

33 (b) If the amount of expense deduction calculated pursuant to
34 subsection (a) exceeds the taxpayer's Kansas net income before expensing
35 or recapture allocated or apportioned to this state, such excess amount
36 shall be treated as a Kansas net operating loss as provided in K.S.A. 79-
37 32,143, and amendments thereto.

38 (c) If the property for which an expense deduction is taken pursuant
39 to subsection (a) is subsequently sold during the applicable recovery
40 period for such property as defined under section 168(c) of the internal
41 revenue code, as amended, and in a manner that would cause recapture of
42 any previously taken expense or depreciation deductions for federal
43 income tax purposes, or if the situs of such property is otherwise changed

1 such that the property is relocated outside the state of Kansas during such
 2 applicable recovery period, then the expense deduction determined
 3 pursuant to subsection (a) shall be subject to recapture and treated as
 4 Kansas taxable income allocated to this state. The amount of recapture
 5 shall be the Kansas expense deduction determined pursuant to subsection
 6 (a) multiplied by a fraction, the numerator of which is the number of years
 7 remaining in the applicable recovery period for such property as defined
 8 under section 168(c) or (g) of the internal revenue code, as amended, after
 9 such property is sold or removed from the state including the year of such
 10 disposition, and the denominator of which is the total number of years in
 11 such applicable recovery period.

12 (d) The situs of tangible property for purposes of claiming and
 13 recapture of the expense deduction shall be the physical location of such
 14 property. If such property is mobile, the situs shall be the physical location
 15 of the business operations from where such property is used or based. The
 16 situs of computer software shall be apportioned to Kansas based on the
 17 fraction, the numerator of which is the number of the taxpayer’s users
 18 located in Kansas of licenses for such computer software used in the active
 19 conduct of the taxpayer’s business operations, and the denominator of
 20 which is the total number of the taxpayer’s users of the licenses for such
 21 computer software used in the active conduct of the taxpayer’s business
 22 operations everywhere.

23 (e) Any member of a unitary group filing a combined report may
 24 elect to take an expense deduction pursuant to subsection (a) for an
 25 investment in property made by any member of the combined group,
 26 provided that the amount calculated pursuant to subsection (a) may only be
 27 deducted from the Kansas net income before expensing or recapture
 28 allocated to or apportioned to this state by such member making the
 29 election.

30 (f) The following table shall be used in determining the expense
 31 deduction calculated pursuant to subsection (a):

32 Factors

| 33 RC§168 | IRC§168(b)(1) | IRC§168(b)(2) | IRC§168(b)(3) or (g) |
|-------------------|---------------------|---------------------|----------------------|
| 34 Recover Period | Depreciation Method | Depreciation Method | Depreciation Method |
| 35 (year) | | | |
| 36 2.5 | * | .077 | .092 |
| 37 3 | .075 | .091 | .106 |
| 38 3.5 | * | .102 | .116 |
| 39 4 | * | .114 | .129 |
| 40 5 | .116 | .135 | .150 |
| 41 6 | * | .154 | .170 |
| 42 6.5 | * | .163 | .179 |
| 43 7 | .151 | .173 | .190 |

| | | | | |
|----|------|------|------|------|
| 1 | 7.5 | * | .181 | .199 |
| 2 | 8 | * | .191 | .208 |
| 3 | 8.5 | * | .199 | .217 |
| 4 | 9 | * | .208 | .226 |
| 5 | 9.5 | * | .216 | .235 |
| 6 | 10 | .198 | .224 | .244 |
| 7 | 10.5 | * | .232 | .252 |
| 8 | 11 | * | .240 | .261 |
| 9 | 11.5 | * | .248 | .269 |
| 10 | 12 | * | .256 | .277 |
| 11 | 12.5 | * | .263 | .285 |
| 12 | 13 | * | .271 | .293 |
| 13 | 13.5 | * | .278 | .300 |
| 14 | 14 | * | .285 | .308 |
| 15 | 15 | * | .299 | .323 |
| 16 | 16 | * | .313 | .337 |
| 17 | 16.5 | * | .319 | .344 |
| 18 | 17 | * | .326 | .351 |
| 19 | 18 | * | .339 | .365 |
| 20 | 19 | * | .351 | .378 |
| 21 | 20 | * | .363 | .391 |
| 22 | 22 | * | .386 | .415 |
| 23 | 24 | * | .408 | .438 |
| 24 | 25 | * | .419 | .449 |

25 * Not Applicable.

26 (g) If a taxpayer elects to expense any investment pursuant to
 27 subsection (a), such taxpayer shall not be eligible for any tax credit,
 28 accelerated depreciation, or deduction for such investment allowed
 29 pursuant to K.S.A. 2010 Supp. 79-32,160a(e), 79-32,182b, 79-32,201, 79-
 30 32,204, 79-32,211, 79-32,218, 79-32,221, 79-32,222, 79-32,224, 79-
 31 32,227, 79-32,229, 79-32,232, 79-32,234, 79-32,237, 79-32,239, 79-
 32 32,246, 79-32,249, 79-32,252, 79-32,255, 79-32,256 and 79-32,258, and
 33 amendments thereto.

34 New Sec. 3. Except as otherwise provided, for taxable years
 35 commencing after December 31, 2011, no credits may be earned through
 36 the Kansas enterprise zone act, K.S.A. 79-32,160a; or the job expansion
 37 and investment tax credit act, K.S.A. 79-32,153. Any carry forward credit
 38 that has been earned through the Kansas enterprise zone act, K.S.A. 79-
 39 32,160a, and is remaining after December 31, 2011, may be carried
 40 forward to succeeding taxable years as long as all requirements continue to
 41 be met. Any credit that has been earned through the job expansion and
 42 investment tax credit act, K.S.A. 79-32,153, with years left in recomputing
 43 the credit after December 31, 2011, may continue for the remainder of the

1 nine-year period as long as all requirements continue to be met.

2 Sec. 4. K.S.A. 2010 Supp. 74-50,104 is hereby amended to read as
3 follows: 74-50,104. (a) The secretary shall administer the provisions of
4 this act and the IMPACT program established thereunder. The secretary
5 shall encourage Kansas basic enterprises with similar training needs to
6 cooperate in establishing SKILL projects. The secretary shall coordinate
7 the SKILL program with other job training programs administered by the
8 department of commerce. The secretary shall provide opportunities for
9 coordination and cooperation of SKILL projects with other job training
10 activities in Kansas. Subject to the limitation in K.S.A. 74-50,103, *and*
11 *amendments thereto*, the secretary shall be authorized to make direct
12 investments in educational and related workforce development institutions,
13 for the purpose of promoting improvements in workforce development,
14 human capital, training expertise, infrastructure and job retention.

15 (b) The secretary shall adopt rules and regulations as follows: (1)
16 Prescribing review standards and priorities for approval of proposed
17 agreements under this act, including appropriate incentives for cooperation
18 among projects, in order to maximize the number of new jobs created or
19 retained with respect to individual Kansas basic enterprises, which will
20 remain in Kansas, and (2) prescribing limits on program costs and on
21 project and program size in relation to the number of new jobs created and
22 wages of new or retained jobs. No agreement shall be approved which
23 provides for program costs of a project under the agreement of more than
24 95% of the amount equal to the estimated rate of withholding tax applied
25 to the estimated amount of gross wages of all the new or retained jobs
26 under the project over a ten-year period, *except that this provision shall*
27 *not apply to any project funded from the job creation program fund.*

28 (c) Notice of the approval of a project or program and an annual
29 report of the number of jobs created or retained under the IMPACT act
30 shall be provided to the chairpersons of the senate committee on
31 commerce and the committee on economic development of the house of
32 representatives.

33 (d) The secretary may adopt such other rules and regulations as may
34 be required for the implementation and administration of this act.

35 Sec. 5. K.S.A. 2010 Supp. 74-50,106 is hereby amended to read as
36 follows: 74-50,106. (a) The secretary of commerce shall review
37 applications for proposed agreements submitted by employers in
38 accordance with the standards and guidelines prescribed by this act and by
39 rules and regulations adopted under K.S.A. 74-50,104, and amendments
40 thereto. Each application for approval of a proposed agreement shall be
41 accompanied by information about the number and wages of the new or
42 retained jobs created by the employer, documentation of existing training
43 activities of the employer and such other information as may be required

1 by the secretary of commerce.

2 (b) The secretary of commerce may pool the funding requirements of
3 projects which are the subject of proposed agreements to determine the
4 funding requirements of the IMPACT projects under consideration to
5 facilitate the issuance of bonds by the Kansas development finance
6 authority.

7 (c) The secretary of commerce is hereby authorized to expend funds
8 raised pursuant to this act on major project investments. The secretary
9 shall adopt guidelines consistent with this act concerning firm eligibility
10 for major project investments and shall otherwise administer the major
11 project investment portion of the IMPACT act.

12 (d) In order for an employer to be eligible for a major project
13 investment, the employer must:

14 (1) Annually make an investment in training and education of the
15 employer's employees that exceeds 2% of the employer's total annual
16 payroll costs; or

17 (2) agree that a portion of any funds available under the agreement be
18 spent directly on employee education and training.

19 (e) An employer not creating new jobs shall be eligible to participate
20 in the IMPACT program if the employer meets the following criteria: (1)
21 Maintains a minimum of 250 retained jobs if located in a metropolitan
22 statistical area or a minimum of 100 retained jobs if located in a
23 nonmetropolitan statistical area; and (2) the secretary of commerce finds
24 that the program or project will be a major factor in the Kansas basic
25 enterprise remaining in Kansas, *except that this subsection shall not apply*
26 *to any project funded from the job creation program fund.*

27 Sec. 6. K.S.A. 2010 Supp. 74-50,107 is hereby amended to read as
28 follows: 74-50,107. ~~(a) The secretary shall determine and from time to~~
29 ~~time shall redetermine the rate at which moneys shall be credited to the~~
30 ~~IMPACT program repayment fund in order to satisfy all bond repayment~~
31 ~~obligations which have been incurred to finance program costs for~~
32 ~~IMPACT programs, which shall be referred to as the debt service rate, and~~
33 ~~the rate at which moneys shall be credited to the IMPACT program~~
34 ~~services fund in order to finance program costs that are not financed by~~
35 ~~bonds, which shall be referred to as the direct funding rate. The total of the~~
36 ~~debt service rate and the direct funding rate shall be the combined rate.~~
37 ~~Each rate so determined shall be certified to the secretary of revenue. The~~
38 ~~combined rate determined under this subsection shall not exceed 2%.~~

39 ~~(b) Upon receipt of the rates determined and certified under~~
40 ~~subsection (a), the secretary of revenue shall apply daily the combined rate~~
41 ~~to that portion of the moneys withheld from the wages of individuals and~~
42 ~~collected under the Kansas withholding and declaration of estimated tax~~
43 ~~act K.S.A. 79-3294 et seq., and amendments thereto. The amount so~~

1 ~~determined shall be credited as follows: (1) The portion attributable to the~~
2 ~~debt service rate shall be credited to the IMPACT program repayment~~
3 ~~fund, and (2) the remaining portion shall be credited to the IMPACT~~
4 ~~program services fund.~~

5 ~~The aggregate of all amounts credited to the IMPACT program~~
6 ~~repayment fund under this section during any fiscal year to pay bond~~
7 ~~repayment obligations on bonds to finance major project investments shall~~
8 ~~not exceed the amount which results when the rate of 2% is applied to all~~
9 ~~money withheld from the wages of individuals and received under the~~
10 ~~Kansas withholding and declaration of estimated tax act.~~*(a) Commencing*
11 *July 1, 2011, the secretary of revenue shall apply a rate of 2% to that*
12 *portion of moneys withheld from the wages of individuals and collected*
13 *under the Kansas withholding and declaration of estimated tax act, K.S.A.*
14 *79-3294 et seq., and amendments thereto. The amount so determined shall*
15 *be credited as follows: (1) An amount necessary to meet obligations of the*
16 *debt services for the IMPACT program repayment fund; and (2) an amount*
17 *to the IMPACT program services fund as needed for program*
18 *administration; and (3) any remaining amounts to the job creation*
19 *program fund created pursuant to section 1, and amendments thereto.*

20 *(b) Commencing July 1, 2012, and on an annual basis thereafter, the*
21 *secretary of revenue shall estimate the amount equal to the amount of net*
22 *savings realized from the elimination, modification or limitation of any*
23 *credit, deduction or program pursuant to the provisions of this act as*
24 *compared to the expense deduction provided for in section 2, and*
25 *amendments thereto. Whereupon such amount of savings in accordance*
26 *with appropriation acts shall be remitted to the state treasurer in*
27 *accordance with the provisions of K.S.A. 75-4215, and amendments*
28 *thereto. Upon receipt of each such remittance, the state treasurer shall*
29 *deposit the entire amount to the credit of the job creation program fund*
30 *created pursuant to section 1, and amendments thereto. In addition, such*
31 *other amount or amounts of money may be transferred from the state*
32 *general fund or any other fund or funds in the state treasury to the job*
33 *creation program fund in accordance with appropriation acts.*

34 Sec. 7. K.S.A. 2010 Supp. 74-50,109 is hereby amended to read as
35 follows: 74-50,109. (a) There is hereby created in the state treasury the
36 IMPACT program repayment fund. The secretary of commerce shall
37 administer the IMPACT program repayment fund. Except as provided in
38 subsection (c), all moneys credited to the IMPACT program repayment
39 fund shall be to make payments to the Kansas development finance
40 authority for payment of costs relating to the retirement of bonds issued to
41 finance projects approved by the secretary of commerce under this act,
42 including but not limited to the principal of and interest on such bonds and
43 the expenses of issuance. All expenditures from the IMPACT program

1 repayment fund shall be made in accordance with appropriations acts upon
2 warrants of the director of accounts and reports issued pursuant to
3 vouchers approved by the secretary of commerce or the secretary's
4 designee.

5 (b) Upon request of the secretary of commerce, the director of
6 accounts and reports shall establish one or more reserve accounts in the
7 IMPACT program repayment fund to secure one or more issues of bonds
8 issued by the Kansas development finance authority for the purposes of
9 this act.

10 (c) On June 30 of each year, any unencumbered balance in the
11 IMPACT program repayment fund which is not required for payment of
12 such expenses during the ensuing fiscal year, including any such expenses
13 associated with proposed ~~investments~~ *investment* agreements and bond
14 issues under consideration for such fiscal year, and which is not credited to
15 any reserve account in the fund, as certified by the secretary of commerce
16 to the director of accounts and reports, shall be transferred by the director
17 of accounts and reports from the IMPACT program repayment fund to the
18 IMPACT program services fund *or the job creation program fund*.

19 Sec. 8. K.S.A. 2010 Supp. 74-50,110 is hereby amended to read as
20 follows: 74-50,110. *Except as otherwise provided*, the activities of the
21 secretary of commerce in administering and performing the powers, duties
22 and functions prescribed by the provisions of this act and providing
23 moneys for IMPACT programs from the proceeds of bonds issued by the
24 Kansas development finance authority are hereby approved for the
25 purposes of subsection (b) of K.S.A. 74-8905 and amendments thereto and
26 the authorization of the issuance of such bonds by the Kansas development
27 finance authority in accordance with that statute. The provisions of
28 subsection (a) of K.S.A. 74-8905 and amendments thereto shall not
29 prohibit the issuance of bonds for such purposes when so authorized and
30 any such issuance of bonds is exempt from the provisions of subsection (a)
31 of K.S.A. 74-8905 and amendments thereto. *No bonds shall be issued for*
32 *IMPACT projects after December 31, 2011.*

33 Sec. 9. K.S.A. 2010 Supp. 74-50,111 is hereby amended to read as
34 follows: 74-50,111. The secretary of commerce shall annually report on
35 activities under the IMPACT act, pursuant to K.S.A. 74-5049, and
36 amendments thereto. Each report shall contain information regarding the
37 number and characteristics of the new jobs created or jobs retained in
38 Kansas for which SKILL projects or major project investments have been
39 financed under this act, including a report on any such new or retained
40 jobs which do not continue to exist and the circumstances and effect of any
41 such discontinuances, *and activities of the department related to*
42 *administration of the job creation program fund and the funding of*
43 *projects thereunder.*

1 Sec. 10. K.S.A. 2010 Supp. 74-50,210 is hereby amended to read as
2 follows: 74-50,210. (a) The provisions of K.S.A. 2010 Supp. 74-50,210
3 through ~~74-50,216~~ 74-50,219, and amendments thereto, shall be known
4 and may be cited as the promoting employment across Kansas act.

5 (b) It shall be the intent of this act to foster economic development
6 and the creation of new jobs and opportunities for the citizens of Kansas
7 and to incentivize the location of business facilities, other operations and
8 jobs in Kansas. The primary objective of this legislation is economic
9 development for Kansas.

10 Sec. 11. K.S.A. 2010 Supp. 74-50,211 is hereby amended to read as
11 follows: 74-50,211. As used in this act, unless the context otherwise
12 requires:

13 (a) "Act" means the provisions of K.S.A. 2010 Supp. 74-50,210
14 through ~~74-50,216~~ 74-50,219, and amendments thereto.

15 (b) "County median wage" means the median wage paid to
16 employees located in the county where the qualified company intends to
17 employ new employees as reported by the department of labor in its
18 annual report for the previous year.

19 (c) "Department" means the department of commerce.

20 (d) "Expanding business" means the expansion of an existing
21 business facility, office, department or other operation located in the state
22 of Kansas and locating in Kansas the jobs directly related to such business
23 facility, office, department or other operation.

24 (e) "High-impact project" means a business development project for
25 which the qualified company shall meet the requirements of subsection (c)
26 of K.S.A. 2010 Supp. 74-50,212, and amendments thereto.

27 (f) "Metropolitan county" means the county of Douglas, Johnson,
28 Leavenworth, Sedgwick, Shawnee or Wyandotte.

29 (g) "NAICS" means the North American industry classification
30 system.

31 (h) "NAICS code industry average wage" means the average wage
32 paid to employees of companies classified in the same NAICS code as the
33 qualified company for the region in which the qualified company intends
34 to employ new employees as reported by the department of labor in its
35 annual report for the previous year.

36 (i) "New business" means a facility, plant, division, office,
37 department, production line, production shift or other business operations
38 of a company that was not doing business in Kansas prior to the
39 submission of an application for benefits under this act and that provides
40 documentation of such to the satisfaction of the secretary.

41 (j) "New employee" means a person newly employed by the qualified
42 company in the qualified company's business operating in Kansas during
43 the taxable year for which benefits are sought under K.S.A. 2010 Supp.

1 74-50,212, and amendments thereto. A person shall be deemed to be so
2 engaged if such person performs duties in Kansas in connection with the
3 operation of the Kansas business on: (1) A regular, full-time basis; or (2) a
4 part-time basis, provided such person is customarily performing such
5 duties at least 20 hours per week throughout the taxable year. Employees
6 performing functions directly related to a relocating, expanding, or new
7 business facility, office, department or other operation shall be considered
8 new employees.

9 (k) "Non-metropolitan county" means any county that is not a
10 metropolitan county.

11 (l) (1) (A) "Qualified company" means any for-profit corporation,
12 partnership or other entity making available to its full-time employees
13 adequate health insurance coverage and paying at least 50% of the
14 premium for such health insurance, which meets the requirements of
15 K.S.A. 2010 Supp. 74-50,212, and amendments thereto, and submits an
16 application for benefits meeting requirements established by the secretary.

17 (B) *"Qualified company" also includes any not-for-profit corporation*
18 *which locates within the state of Kansas a regional, national or*
19 *international headquarters and which meets the requirements of*
20 *subparagraph (A).*

21 (2) "Qualified company" shall not include any corporation,
22 partnership or other entity: (A) Which is identified by any of the following
23 NAICS code groups, sectors or subsectors:

24 (i) Industry group 7132 or 8131;

25 (ii) sectors 44, 45, 61, 92 or 221 (including water and sewer services);

26 or

27 (iii) subsector 722;

28 (B) which is a bioscience company, as defined in K.S.A. 2010 Supp.
29 74-99b33, and amendments thereto;

30 (C) which is delinquent in the payment of any nonprotested taxes or
31 any other amounts due to the federal government, the state of Kansas or
32 any other political taxing subdivision; or

33 (D) which has filed for or has publicly announced its intention to file
34 for bankruptcy protection.

35 (3) Notwithstanding any provision of this subsection, except for
36 paragraphs (2)(B), (C) and (D), a company may be deemed a qualified
37 company if such company's headquarters or administrative offices located
38 in this state serve an international or multi-state territory and such
39 company meets the requirements of K.S.A. 2010 Supp. 74-50,212, and
40 amendments thereto.

41 (m) *"Retained job" means an existing job which will be lost without*
42 *participation by the employer under the provisions of the promoting*
43 *employment across Kansas act.*

1 (n) "Secretary" means the secretary of the department of commerce.

2 (o) "Small business" means a qualified company located in Kansas
3 that has fewer than 100 employees.

4 Sec. 12. K.S.A. 2010 Supp. 74-50,212 is hereby amended to read as
5 follows: 74-50,212. (a) In order to qualify for benefits under this act a
6 qualified company shall:

7 (1) Relocate to Kansas an existing business facility, office,
8 department or other operation doing business outside the state of Kansas
9 and locate the jobs directly related to such relocated business facility,
10 office, department or other operation in Kansas; or

11 (2) locate a new business facility, office, department or other
12 operation in Kansas and locate the jobs directly related to such business
13 facility, office, department or other operation in Kansas; or

14 (3) expand ~~a~~ *an existing* business facility, office, department or other
15 operation located in the state of Kansas and locate the jobs directly related
16 to such business facility, office, department or other operation in Kansas;
17 ~~except that no payroll withholding taxes shall be retained prior to January~~
18 ~~1, 2012.~~

19 A qualified company may *utilize or* contract with ~~an unrelated~~ a third-
20 party *employer* to perform services whereby the third-party *employer*
21 serves as the legal employer of the new employees providing services to
22 the qualified company and such services are performed in Kansas and the
23 third-party *employer* and the new employees are subject to *the* Kansas
24 *state withholding and declaration of estimated tax act.*

25 (b) Any qualified company, approved by the secretary for benefits
26 pursuant to paragraph (a), that locates its business operation in a
27 metropolitan county and will hire at least 10 new employees within two
28 years from the date the qualified company enters into an agreement with
29 the secretary pursuant to K.S.A. 2010 Supp. 74-50,213, and amendments
30 thereto, or any qualified company, approved by the secretary for benefits
31 pursuant to paragraph (a), that locates its business operation in a non-
32 metropolitan county and will hire at least five new employees within two
33 years from the date the qualified company enters into an agreement with
34 the secretary pursuant to K.S.A. 2010 Supp. 74-50,213, and amendments
35 thereto, shall: (1) Be eligible to retain 95% of the qualified company's
36 Kansas payroll withholding taxes for ~~such~~ *all* new employees ~~being paid~~
37 ~~the county median wage or higher~~ for a period of up to:

38 (A) Five years if the median *or average* wage paid to the new
39 employees is equal to at least 100% of the county median wage;

40 (B) six years if the median *or average* wage paid to the new
41 employees is equal to at least 110% of the county median wage;

42 (C) seven years if the median *or average* wage paid to the new
43 employees is equal to at least 120% of the county median wage; or

1 (2) be eligible to retain 95% of the qualified company's Kansas
2 payroll withholding taxes for ~~such all new employees being paid the~~
3 ~~county median wage or higher~~ for a period of up to five years if the
4 median *or average* wage paid to the new employees is equal to at least
5 100% of the NAICS code industry average wage.

6 (c) Any qualified company, approved by the secretary for benefits
7 pursuant to paragraph (a), that engages in a high-impact project whereby
8 the qualified company will hire at least 100 new employees within two
9 years from the date the qualified company enters into an agreement with
10 the secretary pursuant to K.S.A. 2010 Supp. 74-50,213, and amendments
11 thereto, shall be eligible to retain 95% of the qualified company's Kansas
12 payroll withholding taxes for ~~such all new employees being paid the~~
13 ~~county median wage or higher~~ for a period of up to:

14 (1) Seven years if the median *or average* wage paid to the new
15 employees is equal to at least 100% of the county median wage;

16 (2) eight years if the median *or average* wage paid to the new
17 employees is equal to at least 110% of the county median wage;

18 (3) nine years if the median *or average* wage paid to the new
19 employees is equal to at least 120% of the county median wage; or

20 (4) ten years if the median *or average* wage paid to the new
21 employees is equal to at least 140% of the county median wage.

22 (d) In the event that a qualified company contracts with a third party
23 as described in subsection (a), the third party shall remit payments equal to
24 the amount of Kansas payroll withholding taxes the qualified company is
25 eligible to retain under this section to the qualified company, and report
26 such amount to the department of revenue as required pursuant to
27 subsection (a) of K.S.A. 2010 Supp. 74-50,214, and amendments thereto.

28 (e) *Effective January 1, 2012, any company, which meets the criteria*
29 *provided pursuant to the provisions of K.S.A. 74-50,211, and amendments*
30 *thereto, that retains the employees of an existing business unit located in*
31 *Kansas and enters into an agreement with the secretary pursuant to K.S.A.*
32 *2010 Supp. 74-50,213, and amendments thereto, shall be eligible to retain*
33 *95% of the qualified company's Kansas payroll withholding taxes for such*
34 *employees for a period of up to five years.*

35 (f) (1) *Effective January 1, 2012, pursuant to the provisions of*
36 *subsection (e), the secretary of commerce, in the secretary's sole*
37 *determination, may provide the benefits of the promoting employment*
38 *across Kansas act for situations where it is deemed necessary by the*
39 *secretary that the state of Kansas provide incentives for a company or its*
40 *operations currently located in Kansas to remain in Kansas so as to keep*
41 *its retained jobs. The secretary shall establish and verify that a prospective*
42 *company has competitive alternatives that it is seriously considering and*
43 *that a company's relocation may be imminent. Furthermore, the secretary*

1 *shall assess:*

2 (A) *Whether the retention of the company or its operations is*
3 *important to the economic vitality of the state;*

4 (B) *the area where such company or operations is located; or*

5 (C) *whether the retention of the company or its operations is*
6 *important to a particular industry in the state due to any number of factors*
7 *including, but not limited to, the quantity, quality or wages of the retained*
8 *jobs involved.*

9 (2) *Effective January 1, 2012, the secretary may use the promoting*
10 *employment across Kansas act in conjunction with other economic*
11 *development programs to develop a retention package.*

12 (g) *A small business, which meets the criteria provided pursuant to*
13 *the provisions of K.S.A. 74-50,211, and amendments thereto, and which is*
14 *approved by the secretary for benefits shall be eligible to retain 95% of the*
15 *Kansas small business' payroll withholding taxes for a period up to five*
16 *years for each additional employee, if that employee represents an*
17 *increase in the Kansas small business' statewide employment over its*
18 *highest level of employment for the previous ten-year period. Any*
19 *reduction in employment by a Kansas small business utilizing the benefit*
20 *under this subsection shall result in a corresponding reduction of such*
21 *benefit allowed.*

22 (h) *The provisions of this act as in effect prior to the effective date of*
23 *this act shall apply to employers who have entered into agreements with*
24 *the secretary prior to July 1, 2011. The provisions of this act shall apply to*
25 *employers who enter into agreements with the secretary on and after July*
26 *1, 2011.*

27 Sec. 13. K.S.A. 2010 Supp. 74-50,213 is hereby amended to read as
28 follows: 74-50,213. (a) Any qualified company meeting the requirements
29 of K.S.A. 2010 Supp. 74-50,212, and amendments thereto, may apply to
30 the secretary for benefits under this act. The application shall be submitted
31 on a form and in a manner prescribed by the secretary, and shall include:
32 (1) Evidence that the applicant is a qualified company; and (2) evidence
33 that the applicant meets the requirements of K.S.A. 2010 Supp. 74-50,212,
34 and amendments thereto.

35 (b) The secretary may either approve or disapprove the application.
36 Any qualified company whose application is approved shall be eligible to
37 receive benefits under this act as of the date such qualified company enters
38 into an agreement with the secretary in accordance with this section.

39 (c) Upon approval of an application for benefits under this act, the
40 secretary may enter into an agreement with the qualified company for
41 benefits under this act. If necessary, the secretary may also enter into an
42 agreement with any third party described in subsection (a) of K.S.A. 2010
43 Supp. 74-50,212, and amendments thereto, or such third party may be a

1 party to the agreement between the qualified company and the secretary.
2 The agreement shall commit the secretary to certify to the secretary of
3 revenue: (1) That the qualified company is eligible to receive benefits
4 under this act; (2) the number of new employees hired by the qualified
5 company; and (3) the amount of gross wages being paid to each new
6 employee.

7 (d) The agreement between the qualified company and the secretary
8 shall be entered into before any benefits may be provided under this act,
9 and shall specify that should the qualified company fail to comply with the
10 terms and conditions set forth in the agreement, or fails to comply with the
11 provisions set forth in this act, the secretary may terminate the agreement,
12 and the qualified company shall not be entitled to any further benefits
13 provided under this act and shall be required to remit to the state an
14 amount equal to the aggregate Kansas payroll withholding taxes retained
15 by the qualified company, or remitted to the qualified company by a third
16 party, pursuant to this act as of the date the agreement is terminated.

17 (e) A qualified company that is already receiving benefits pursuant to
18 this act may apply to the secretary for additional benefits if the qualified
19 company meets the requirements of K.S.A. 2010 Supp. 74-50,212, and
20 amendments thereto.

21 (f) A qualified company seeking benefits shall be allowed to
22 participate in the IMPACT program pursuant to K.S.A. 74-50,102 et seq.,
23 and amendments thereto, but shall not be allowed to participate in any
24 other program in which any portion of such qualified company's Kansas
25 payroll withholding taxes have been pledged to finance indebtedness or
26 transferred to or for the benefit of such company. A qualified company
27 shall not be allowed to claim any credits under K.S.A. 79-32,153, 79-
28 32,160a or 79-32,182b, and amendments thereto, if such credits would
29 otherwise be earned for the hiring of new employees and the qualified
30 company has retained any Kansas payroll withholding taxes from wages of
31 such employees. A qualified company shall not be eligible to receive
32 benefits under K.S.A. 2010 Supp. 74-50,212, and amendments thereto, and
33 under K.S.A. 74-50,102 et seq., and amendments thereto, for the same new
34 employees.

35 ~~(g) Under no circumstances shall the total amount of benefits~~
36 ~~authorized or granted to the aggregate of all expanding businesses, as such~~
37 ~~term is defined in K.S.A. 2010 Supp. 74-50,211, and amendments thereto,~~
38 ~~under this act exceed \$4,800,000 in any fiscal year commencing on or~~
39 ~~after July 1, 2011.~~

40 ~~(h)~~ (g) The secretary shall adopt rules and regulations necessary to
41 implement and administer the provisions of this act.

42 New Sec. 14. (a) For taxable years commencing after December 31,
43 2010, there shall be allowed as a credit against the tax liability of a

1 resident individual taxpayer an amount equal to the resident individual's
2 income tax liability under the provisions of the Kansas income tax act for
3 Kansas source income received from a qualified company that is business
4 income attributable to business activities conducted at the business facility,
5 office, department or other operation relocated to Kansas when the
6 taxpayer owns such qualified company and materially participates in such
7 business activities conducted at such relocated business facility, office,
8 department or other operation of such qualified company which qualified
9 for benefits under the provisions of subsection (a)(1) of K.S.A. 74-50,212,
10 and amendments thereto. A taxpayer shall be treated as materially
11 participating in such qualified company's business activities conducted at
12 such business facility, office department or other operation relocated to
13 Kansas only if the taxpayer is involved in such business activities of such
14 qualified company on a basis which is regular, continuous and substantial.
15 A taxpayer may claim the credit authorized by this section during any tax
16 year in which the qualified company owned by the taxpayer qualifies for
17 benefits under provisions of K.S.A. 74-50,212, and amendments thereto.

18 (b) Business income attributable to the business activities conducted
19 at the business facility, office, department or other operation relocated to
20 Kansas of a qualified company which qualified for benefits under the
21 provisions of subsection (a)(1) of K.S.A. 74-50,212, and amendments
22 thereto, shall be determined by multiplying the business income of the
23 company apportioned to this state by a fraction, the numerator of which is
24 the property factor plus the payroll factor plus the sales factor, and the
25 denominator of which is three. For purposes of this subsection, the
26 property factor is a fraction, the numerator of which is the average value of
27 the company's real and tangible personal property owned or rented and
28 used during the tax period at such relocated facility, office, department or
29 other relocated operation in Kansas, and the denominator of which is the
30 average value of the company's real and tangible personal property owned
31 or rented and used within this state during the tax period. The payroll
32 factor is a fraction, the numerator of which is the total amount paid during
33 the tax period by the company for compensation at such relocated facility,
34 office, department or other relocated operation in Kansas, and the
35 denominator of which is the total compensation paid by the company in
36 this state during the tax period. The sales factor is a fraction, the numerator
37 of which is the total sales of the relocated facility, office, department or
38 other relocated operation in this state during the tax period, and the
39 denominator of which is the total sales of the company in this state during
40 the tax period.

41 (c) The secretary of revenue shall adopt rules and regulations
42 regarding the filing of documents that support the qualifications of the
43 taxpayer for the credit claimed pursuant to this section.

1 Sec. 15. K.S.A. 2010 Supp. 79-32,160a is hereby amended to read as
2 follows: 79-32,160a. (a) For taxable years commencing after December
3 31, 1999, *and before January 1, 2012*, any taxpayer who shall invest in a
4 qualified business facility, as defined in subsection (b) of K.S.A. 79-
5 32,154, and amendments thereto, and effective for tax years commencing
6 after December 31, 2010, *and before January 1, 2012*, located in an area
7 other than a metropolitan county as defined in either K.S.A. 2010 Supp.
8 74-50,114 or 74-50,211, and amendments thereto, and also meets the
9 definition of a business in subsection (b) of K.S.A. 74-50,114, and
10 amendments thereto, shall be allowed a credit for such investment, in an
11 amount determined under subsection (b) or (c), as the case requires,
12 against the tax imposed by the Kansas income tax act or where the
13 qualified business facility is the principal place from which the trade or
14 business of the taxpayer is directed or managed and the facility has
15 facilitated the creation of at least 20 new full-time positions, against the
16 premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and
17 amendments thereto, or as measured by the net income of financial
18 institutions imposed pursuant to chapter 79, article 11 of the Kansas
19 Statutes Annotated, *and amendments thereto*, for the taxable year during
20 which commencement of commercial operations, as defined in subsection
21 (f) of K.S.A. 79-32,154, and amendments thereto, occurs at such qualified
22 business facility. In the case of a taxpayer who meets the definition of a
23 manufacturing business in subsection (d) of K.S.A. 74-50,114, and
24 amendments thereto, no credit shall be allowed under this section unless
25 the number of qualified business facility employees, as determined under
26 subsection (d) of K.S.A. 79-32,154, and amendments thereto, engaged or
27 maintained in employment at the qualified business facility as a direct
28 result of the investment by the taxpayer for the taxable year for which the
29 credit is claimed equals or exceeds two. In the case of a taxpayer who
30 meets the definition of a nonmanufacturing business in subsection (f) of
31 K.S.A. 74-50,114, and amendments thereto, no credit shall be allowed
32 under this section unless the number of qualified business facility
33 employees, as determined under subsection (d) of K.S.A. 79-32,154, and
34 amendments thereto, engaged or maintained in employment at the
35 qualified business facility as a direct result of the investment by the
36 taxpayer for the taxable year for which the credit is claimed equals or
37 exceeds five. Where an employee performs services for the taxpayer
38 outside the qualified business facility, the employee shall be considered
39 engaged or maintained in employment at the qualified business facility if
40 (1) the employee's service performed outside the qualified business facility
41 is incidental to the employee's service inside the qualified business facility,
42 or (2) the base of operations or, the place from which the service is
43 directed or controlled, is at the qualified business facility.

1 (b) The credit allowed by subsection (a) for any taxpayer who invests
2 in a qualified business facility which is located in a designated
3 nonmetropolitan region established under K.S.A. 74-50,116, and
4 amendments thereto, on or after the effective date of this act, shall be a
5 portion of the income tax imposed by the Kansas income tax act on the
6 taxpayer's Kansas taxable income, the premium tax or privilege fees
7 imposed pursuant to K.S.A. 40-252, and amendments thereto, or the
8 privilege tax as measured by the net income of financial institutions
9 imposed pursuant to chapter 79, article 11 of the Kansas Statutes
10 Annotated, *and amendments thereto*, for the taxable year for which such
11 credit is allowed, but in the case where the qualified business facility
12 investment was made prior to January 1, 1996, not in excess of 50% of
13 such tax. Such portion shall be an amount equal to the sum of the
14 following:

15 (1) Two thousand five hundred dollars for each qualified business
16 facility employee determined under K.S.A. 79-32,154, and amendments
17 thereto; plus

18 (2) one thousand dollars for each \$100,000, or major fraction thereof,
19 which shall be deemed to be 51% or more, in qualified business facility
20 investment, as determined under K.S.A. 79-32,154, and amendments
21 thereto.

22 (c) The credit allowed by subsection (a) for any taxpayer who invests
23 in a qualified business facility, which is not located in a nonmetropolitan
24 region established under K.S.A. 74-50,116, and amendments thereto, and
25 effective for tax years commencing after December 31, 2010, *and before*
26 *January 1, 2012*, located in an area other than a metropolitan county as
27 defined in either K.S.A. 2010 Supp. 74-50,114 or 74-50,211, and
28 amendments thereto, and which also meets the definition of business in
29 subsection (b) of K.S.A. 74-50,114, and amendments thereto, on or after
30 the effective date of this act, shall be a portion of the income tax imposed
31 by the Kansas income tax act on the taxpayer's Kansas taxable income, the
32 premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and
33 amendments thereto, or the privilege tax as measured by the net income of
34 financial institutions imposed pursuant to chapter 79, article 11 of the
35 Kansas Statutes Annotated, *and amendments thereto*, for the taxable year
36 for which such credit is allowed, but in the case where the qualified
37 business facility investment was made prior to January 1, 1996, not in
38 excess of 50% of such tax. Such portion shall be an amount equal to the
39 sum of the following:

40 (1) One thousand five hundred dollars for each qualified business
41 facility employee as determined under K.S.A. 79-32,154, and amendments
42 thereto; and

43 (2) one thousand dollars for each \$100,000, or major fraction thereof,

1 which shall be deemed to be 51% or more, in qualified business facility
2 investment as determined under K.S.A. 79-32,154, and amendments
3 thereto.

4 (d) The credit allowed by subsection (a) for each qualified business
5 facility employee and for qualified business facility investment shall be a
6 one-time credit. If the amount of the credit allowed under subsection (a)
7 exceeds the tax imposed by the Kansas income tax act on the taxpayer's
8 Kansas taxable income, the premium tax and privilege fees imposed
9 pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as
10 measured by the net income of financial institutions imposed pursuant to
11 chapter 79, article 11 of the Kansas Statutes Annotated, *and amendments*
12 *thereto*, for the taxable year, or in the case where the qualified business
13 facility investment was made prior to January 1, 1996, 50% of such tax
14 imposed upon the amount which exceeds such tax liability or such portion
15 thereof may be carried over for credit in the same manner in the
16 succeeding taxable years until the total amount of such credit is used.
17 Except that, before the credit is allowed, a taxpayer, who meets the
18 definition of a manufacturing business in subsection (d) of K.S.A. 74-
19 50,114, and amendments thereto, shall recertify annually that the net
20 increase of a minimum of two qualified business facility employees has
21 continued to be maintained and a taxpayer, who meets the definition of a
22 nonmanufacturing business in subsection (f) of K.S.A. 74-50,114, and
23 amendments thereto, shall recertify annually that the net increase of a
24 minimum of five qualified business employees has continued to be
25 maintained.

26 (e) Notwithstanding the foregoing provisions of this section, *and*
27 *except as otherwise provided in this subsection*, any taxpayer qualified and
28 certified under the provisions of K.S.A. 74-50,131, and amendments
29 thereto; which, prior to making a commitment to invest in a qualified
30 Kansas business, has filed a certificate of intent to invest in a qualified
31 business facility in a form satisfactory to the secretary of commerce; and
32 that has received written approval from the secretary of commerce for
33 participation and has participated, during the tax year for which the
34 exemption is claimed, in the Kansas industrial training, Kansas industrial
35 retraining or the state of Kansas investments in lifelong learning program
36 or is eligible for the tax credit established in K.S.A. 74-50,132, and
37 amendments thereto, shall be entitled to a credit in an amount equal to
38 10% of that portion of the qualified business facility investment which
39 exceeds \$50,000 in lieu of the credit provided in subsection (b)(2) or (c)(2)
40 without regard to the number of qualified business facility employees
41 engaged or maintained in employment at the qualified business facility.
42 *For tax years beginning on or after January 1, 2012, for a qualified*
43 *business facility investment in Douglas, Johnson, Leavenworth, Sedgwick,*

1 *Shawnee or Wyandotte counties, such credit shall be in an amount equal*
2 *to 10% of that portion of the qualified business facility investment which*
3 *exceeds \$1,000,000. Any taxpayer who has filed a certificate of intent to*
4 *invest in a qualified business facility pursuant to this subsection in*
5 *Douglas, Johnson, Leavenworth, Sedgwick, Shawnee or Wyandotte county*
6 *prior to December 31, 2011, and commences investments in a qualified*
7 *business facility prior to December 31, 2013, may claim credits under*
8 *K.S.A. 74-50,131, 74-50,132 and subsection (e) of 79-32,160a, and*
9 *amendments thereto, in an amount equal to 10% of that portion of the*
10 *qualified business facility investment which exceeds \$50,000. Timing*
11 *modifications may be authorized at the discretion of the secretary of*
12 *commerce and the secretary of revenue during the transition period. The*
13 *credit allowed by this subsection shall be a one-time credit. If the amount*
14 *thereof exceeds the tax imposed by the Kansas income tax act on the*
15 *taxpayer's Kansas taxable income or the premium tax or privilege fees*
16 *imposed pursuant to K.S.A. 40-252, and amendments thereto, or the*
17 *privilege tax as measured by net income of financial institutions imposed*
18 *pursuant to chapter 79, article 11 of the Kansas Statutes Annotated, and*
19 *amendments thereto, for the taxable year, the amount thereof which*
20 *exceeds such tax liability may be carried forward for credit in the*
21 *succeeding taxable year or years until the total amount of the tax credit is*
22 *used, except that no such tax credit shall be carried forward for deduction*
23 *after the 10th taxable year succeeding the taxable year in which such credit*
24 *initially was claimed and no carry forward shall be allowed for deduction*
25 *in any succeeding taxable year unless the taxpayer continued to be*
26 *qualified and was recertified for such succeeding taxable year pursuant to*
27 *K.S.A. 74-50,131, and amendments thereto.*

28 (f) For tax years commencing after December 31, 2005, any taxpayer
29 claiming credits pursuant to this section, as a condition for claiming and
30 qualifying for such credits, shall provide information pursuant to K.S.A.
31 2010 Supp. 79-32,243, and amendments thereto, as part of the tax return in
32 which such credits are claimed. Such credits shall not be denied solely on
33 the basis of the contents of the information provided by the taxpayer
34 pursuant to K.S.A. 2010 Supp. 79-32,243, and amendments thereto.

35 (g) This section and K.S.A. 79-32,160b, and amendments thereto,
36 shall be part of and supplemental to the job expansion and investment
37 credit act of 1976 and ~~acts amendatory thereof and supplemental~~
38 ~~amendments~~ thereto.

39 Sec. 16. K.S.A. 2010 Supp. 79-32,206 is hereby amended to read as
40 follows: 79-32,206. For all taxable years commencing after December 31,
41 2001, *and before January 1, 2012*, there shall be allowed as a credit
42 against the tax liability of a taxpayer imposed under the Kansas income tax
43 act, the premiums tax upon insurance companies imposed pursuant to

1 K.S.A. 40-252, and amendments thereto, and the privilege tax as measured
2 by net income of financial institutions imposed pursuant to article 11 of
3 chapter 79 of the Kansas Statutes Annotated, *and amendments thereto*, an
4 amount equal to 15% of the property tax levied for property tax years
5 2002, 2003 and 2004, 20% of the property tax levied for property tax years
6 2005 and 2006, and 25% of the property tax levied for property tax year
7 2007, and all such years thereafter, actually and timely paid during an
8 income or privilege taxable year upon commercial and industrial
9 machinery and equipment classified for property taxation purposes
10 pursuant to section 1 of article 11 of the Kansas constitution in subclass (5)
11 or (6) of class 2, machinery and equipment classified for such purposes in
12 subclass (2) of class 2. For all taxable years commencing after December
13 31, 2004, *and before January 1, 2012*, there shall be allowed as a credit
14 against the tax liability of a taxpayer imposed under the Kansas income tax
15 act an amount equal to 20% of the property tax levied for property tax
16 years 2005 and 2006, and 25% of the property tax levied for property tax
17 year 2007 and all such years thereafter, actually and timely paid during an
18 income taxable year upon railroad machinery and equipment classified for
19 property tax purposes pursuant to section 1 of article 11 of the Kansas
20 constitution in subclass (3) of class 2. If the amount of such tax credit
21 exceeds the taxpayer's income tax liability for the taxable year, the amount
22 thereof which exceeds such tax liability shall be refunded to the taxpayer.
23 If the taxpayer is a corporation having an election in effect under
24 subchapter S of the federal internal revenue code, a partnership or a
25 limited liability company, the credit provided by this section shall be
26 claimed by the shareholders of such corporation, the partners of such
27 partnership or the members of such limited liability company in the same
28 manner as such shareholders, partners or members account for their
29 proportionate shares of the income or loss of the corporation, partnership
30 or limited liability company. The secretary of revenue shall adopt rules and
31 regulations regarding the filing of documents that support the amount of
32 credit claimed pursuant to this section.

33 Sec. 17. K.S.A. 2010 Supp. 79-3606 is hereby amended to read as
34 follows: 79-3606. The following shall be exempt from the tax imposed by
35 this act:

36 (a) All sales of motor-vehicle fuel or other articles upon which a sales
37 or excise tax has been paid, not subject to refund, under the laws of this
38 state except cigarettes as defined by K.S.A. 79-3301 and amendments
39 thereto, cereal malt beverages and malt products as defined by K.S.A. 79-
40 3817 and amendments thereto, including wort, liquid malt, malt syrup and
41 malt extract, which is not subject to taxation under the provisions of
42 K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant
43 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to K.S.A.

1 65-3424d, and amendments thereto, drycleaning and laundry services
2 taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and gross
3 receipts from regulated sports contests taxed pursuant to the Kansas
4 professional regulated sports act, and amendments thereto;

5 (b) all sales of tangible personal property or service, including the
6 renting and leasing of tangible personal property, purchased directly by the
7 state of Kansas, a political subdivision thereof, other than a school or
8 educational institution, or purchased by a public or private nonprofit
9 hospital or public hospital authority or nonprofit blood, tissue or organ
10 bank and used exclusively for state, political subdivision, hospital or
11 public hospital authority or nonprofit blood, tissue or organ bank purposes,
12 except when: (1) Such state, hospital or public hospital authority is
13 engaged or proposes to engage in any business specifically taxable under
14 the provisions of this act and such items of tangible personal property or
15 service are used or proposed to be used in such business, or (2) such
16 political subdivision is engaged or proposes to engage in the business of
17 furnishing gas, electricity or heat to others and such items of personal
18 property or service are used or proposed to be used in such business;

19 (c) all sales of tangible personal property or services, including the
20 renting and leasing of tangible personal property, purchased directly by a
21 public or private elementary or secondary school or public or private
22 nonprofit educational institution and used primarily by such school or
23 institution for nonsectarian programs and activities provided or sponsored
24 by such school or institution or in the erection, repair or enlargement of
25 buildings to be used for such purposes. The exemption herein provided
26 shall not apply to erection, construction, repair, enlargement or equipment
27 of buildings used primarily for human habitation;

28 (d) all sales of tangible personal property or services purchased by a
29 contractor for the purpose of constructing, equipping, reconstructing,
30 maintaining, repairing, enlarging, furnishing or remodeling facilities for
31 any public or private nonprofit hospital or public hospital authority, public
32 or private elementary or secondary school, a public or private nonprofit
33 educational institution, state correctional institution including a privately
34 constructed correctional institution contracted for state use and ownership,
35 which would be exempt from taxation under the provisions of this act if
36 purchased directly by such hospital or public hospital authority, school,
37 educational institution or a state correctional institution; and all sales of
38 tangible personal property or services purchased by a contractor for the
39 purpose of constructing, equipping, reconstructing, maintaining, repairing,
40 enlarging, furnishing or remodeling facilities for any political subdivision
41 of the state or district described in subsection (s), the total cost of which is
42 paid from funds of such political subdivision or district and which would
43 be exempt from taxation under the provisions of this act if purchased

1 directly by such political subdivision or district. Nothing in this subsection
2 or in the provisions of K.S.A. 12-3418 and amendments thereto, shall be
3 deemed to exempt the purchase of any construction machinery, equipment
4 or tools used in the constructing, equipping, reconstructing, maintaining,
5 repairing, enlarging, furnishing or remodeling facilities for any political
6 subdivision of the state or any such district. As used in this subsection,
7 K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a
8 political subdivision" shall mean general tax revenues, the proceeds of any
9 bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the
10 purpose of constructing, equipping, reconstructing, repairing, enlarging,
11 furnishing or remodeling facilities which are to be leased to the donor.
12 When any political subdivision of the state, district described in subsection
13 (s), public or private nonprofit hospital or public hospital authority, public
14 or private elementary or secondary school, public or private nonprofit
15 educational institution, state correctional institution including a privately
16 constructed correctional institution contracted for state use and ownership
17 shall contract for the purpose of constructing, equipping, reconstructing,
18 maintaining, repairing, enlarging, furnishing or remodeling facilities, it
19 shall obtain from the state and furnish to the contractor an exemption
20 certificate for the project involved, and the contractor may purchase
21 materials for incorporation in such project. The contractor shall furnish the
22 number of such certificate to all suppliers from whom such purchases are
23 made, and such suppliers shall execute invoices covering the same bearing
24 the number of such certificate. Upon completion of the project the
25 contractor shall furnish to the political subdivision, district described in
26 subsection (s), hospital or public hospital authority, school, educational
27 institution or department of corrections concerned a sworn statement, on a
28 form to be provided by the director of taxation, that all purchases so made
29 were entitled to exemption under this subsection. As an alternative to the
30 foregoing procedure, any such contracting entity may apply to the
31 secretary of revenue for agent status for the sole purpose of issuing and
32 furnishing project exemption certificates to contractors pursuant to rules
33 and regulations adopted by the secretary establishing conditions and
34 standards for the granting and maintaining of such status. All invoices
35 shall be held by the contractor for a period of five years and shall be
36 subject to audit by the director of taxation. If any materials purchased
37 under such a certificate are found not to have been incorporated in the
38 building or other project or not to have been returned for credit or the sales
39 or compensating tax otherwise imposed upon such materials which will
40 not be so incorporated in the building or other project reported and paid by
41 such contractor to the director of taxation not later than the 20th day of the
42 month following the close of the month in which it shall be determined
43 that such materials will not be used for the purpose for which such

1 certificate was issued, the political subdivision, district described in
2 subsection (s), hospital or public hospital authority, school, educational
3 institution or the contractor contracting with the department of corrections
4 for a correctional institution concerned shall be liable for tax on all
5 materials purchased for the project, and upon payment thereof it may
6 recover the same from the contractor together with reasonable attorney
7 fees. Any contractor or any agent, employee or subcontractor thereof, who
8 shall use or otherwise dispose of any materials purchased under such a
9 certificate for any purpose other than that for which such a certificate is
10 issued without the payment of the sales or compensating tax otherwise
11 imposed upon such materials, shall be guilty of a misdemeanor and, upon
12 conviction therefor, shall be subject to the penalties provided for in
13 subsection (g) of K.S.A. 79-3615, and amendments thereto;

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

1 and amendments thereto;

2 (f) tangible personal property purchased by a railroad or public utility
3 for consumption or movement directly and immediately in interstate
4 commerce;

5 (g) sales of aircraft including remanufactured and modified aircraft
6 sold to persons using directly or through an authorized agent such aircraft
7 as certified or licensed carriers of persons or property in interstate or
8 foreign commerce under authority of the laws of the United States or any
9 foreign government or sold to any foreign government or agency or
10 instrumentality of such foreign government and all sales of aircraft for use
11 outside of the United States and sales of aircraft repair, modification and
12 replacement parts and sales of services employed in the remanufacture,
13 modification and repair of aircraft;

14 (h) all rentals of nonsectarian textbooks by public or private
15 elementary or secondary schools;

16 (i) the lease or rental of all films, records, tapes, or any type of sound
17 or picture transcriptions used by motion picture exhibitors;

18 (j) meals served without charge or food used in the preparation of
19 such meals to employees of any restaurant, eating house, dining car, hotel,
20 drugstore or other place where meals or drinks are regularly sold to the
21 public if such employees' duties are related to the furnishing or sale of
22 such meals or drinks;

23 (k) any motor vehicle, semitrailer or pole trailer, as such terms are
24 defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and
25 delivered in this state to a bona fide resident of another state, which motor
26 vehicle, semitrailer, pole trailer or aircraft is not to be registered or based
27 in this state and which vehicle, semitrailer, pole trailer or aircraft will not
28 remain in this state more than 10 days;

29 (l) all isolated or occasional sales of tangible personal property,
30 services, substances or things, except isolated or occasional sale of motor
31 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.
32 79-3603 and amendments thereto;

33 (m) all sales of tangible personal property which become an
34 ingredient or component part of tangible personal property or services
35 produced, manufactured or compounded for ultimate sale at retail within
36 or without the state of Kansas; and any such producer, manufacturer or
37 compounder may obtain from the director of taxation and furnish to the
38 supplier an exemption certificate number for tangible personal property for
39 use as an ingredient or component part of the property or services
40 produced, manufactured or compounded;

41 (n) all sales of tangible personal property which is consumed in the
42 production, manufacture, processing, mining, drilling, refining or
43 compounding of tangible personal property, the treating of by-products or

1 wastes derived from any such production process, the providing of
2 services or the irrigation of crops for ultimate sale at retail within or
3 without the state of Kansas; and any purchaser of such property may
4 obtain from the director of taxation and furnish to the supplier an
5 exemption certificate number for tangible personal property for
6 consumption in such production, manufacture, processing, mining,
7 drilling, refining, compounding, treating, irrigation and in providing such
8 services;

9 (o) all sales of animals, fowl and aquatic plants and animals, the
10 primary purpose of which is use in agriculture or aquaculture, as defined in
11 K.S.A. 47-1901, and amendments thereto, the production of food for
12 human consumption, the production of animal, dairy, poultry or aquatic
13 plant and animal products, fiber or fur, or the production of offspring for
14 use for any such purpose or purposes;

15 (p) all sales of drugs dispensed pursuant to a prescription order by a
16 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-
17 1626, and amendments thereto. As used in this subsection, "drug" means a
18 compound, substance or preparation and any component of a compound,
19 substance or preparation, other than food and food ingredients, dietary
20 supplements or alcoholic beverages, recognized in the official United
21 States pharmacopoeia, official homeopathic pharmacopoeia of the United
22 States or official national formulary, and supplement to any of them,
23 intended for use in the diagnosis, cure, mitigation, treatment or prevention
24 of disease or intended to affect the structure or any function of the body;

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

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

1 "prosthetic device" means a replacement, corrective or supportive device
2 including repair and replacement parts for same worn on or in the body to
3 artificially replace a missing portion of the body, prevent or correct
4 physical deformity or malfunction or support a weak or deformed portion
5 of the body;

6 (s) except as provided in K.S.A. 2010 Supp. 82a-2101, and
7 amendments thereto, all sales of tangible personal property or services
8 purchased directly or indirectly by a groundwater management district
9 organized or operating under the authority of K.S.A. 82a-1020 et seq. and
10 amendments thereto, by a rural water district organized or operating under
11 the authority of K.S.A. 82a-612, and amendments thereto, or by a water
12 supply district organized or operating under the authority of K.S.A. 19-
13 3501 et seq., 19-3522 et seq. or 19-3545, and amendments thereto, which
14 property or services are used in the construction activities, operation or
15 maintenance of the district;

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

42 (u) all leases or rentals of tangible personal property used as a
43 dwelling if such tangible personal property is leased or rented for a period

1 of more than 28 consecutive days;

2 (v) all sales of tangible personal property to any contractor for use in
3 preparing meals for delivery to homebound elderly persons over 60 years
4 of age and to homebound disabled persons or to be served at a group-
5 sitting at a location outside of the home to otherwise homebound elderly
6 persons over 60 years of age and to otherwise homebound disabled
7 persons, as all or part of any food service project funded in whole or in
8 part by government or as part of a private nonprofit food service project
9 available to all such elderly or disabled persons residing within an area of
10 service designated by the private nonprofit organization, and all sales of
11 tangible personal property for use in preparing meals for consumption by
12 indigent or homeless individuals whether or not such meals are consumed
13 at a place designated for such purpose, and all sales of food products by or
14 on behalf of any such contractor or organization for any such purpose;

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

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

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

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

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

42 (bb) all sales of used mobile homes or manufactured homes. As used
43 in this subsection: (1) "Mobile homes" and "manufactured homes" shall

1 have the meanings ascribed thereto by K.S.A. 58-4202 and amendments
2 thereto; and (2) "sales of used mobile homes or manufactured homes"
3 means sales other than the original retail sale thereof;

4 (cc) all sales of tangible personal property or services purchased
5 *prior to January 1, 2012, except as otherwise provided*, for the purpose of
6 and in conjunction with constructing, reconstructing, enlarging or
7 remodeling a business or retail business which meets the requirements
8 established in K.S.A. 74-50,115 and amendments thereto, and the sale and
9 installation of machinery and equipment purchased for installation at any
10 such business or retail business, *and all sales of tangible personal*
11 *property or services purchased on or after January 1, 2012, for the*
12 *purpose of and in conjunction with constructing, reconstructing, enlarging*
13 *or remodeling a business which meets the requirements established in*
14 *K.S.A. 74-50,115(e), and amendments thereto, and the sale and*
15 *installation of machinery and equipment purchased for installation at any*
16 *such business. When a person shall contract for the construction,*
17 *reconstruction, enlargement or remodeling of any such business or retail*
18 *business, such person shall obtain from the state and furnish to the*
19 *contractor an exemption certificate for the project involved, and the*
20 *contractor may purchase materials, machinery and equipment for*
21 *incorporation in such project. The contractor shall furnish the number of*
22 *such certificates to all suppliers from whom such purchases are made, and*
23 *such suppliers shall execute invoices covering the same bearing the*
24 *number of such certificate. Upon completion of the project the contractor*
25 *shall furnish to the owner of the business or retail business a sworn*
26 *statement, on a form to be provided by the director of taxation, that all*
27 *purchases so made were entitled to exemption under this subsection. All*
28 *invoices shall be held by the contractor for a period of five years and shall*
29 *be subject to audit by the director of taxation. Any contractor or any agent,*
30 *employee or subcontractor thereof, who shall use or otherwise dispose of*
31 *any materials, machinery or equipment purchased under such a certificate*
32 *for any purpose other than that for which such a certificate is issued*
33 *without the payment of the sales or compensating tax otherwise imposed*
34 *thereon, shall be guilty of a misdemeanor and, upon conviction therefor,*
35 *shall be subject to the penalties provided for in subsection (g) of K.S.A.*
36 *79-3615 and amendments thereto. As used in this subsection, "business"*
37 *and "retail business" have the meanings respectively ascribed thereto by*
38 *K.S.A. 74-50,114 and amendments thereto. Project exemption certificates*
39 *that have been previously issued under this subsection by the department*
40 *of revenue pursuant to K.S.A. 74-50,115, and amendments thereto, but not*
41 *including K.S.A. 74-50,115(c), and amendments thereto, prior to January*
42 *1, 2012, and have not expired will be effective for the term of the project*
43 *or two years from the effective date of the certificate, whichever occurs*

1 *earlier. Project exemption certificates that are submitted to the department*
2 *of revenue prior to January 1, 2012, and are found to qualify will be*
3 *issued a project exemption certificate that will be effective for a two-year*
4 *period or for the term of the project, whichever occurs earlier;*

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

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

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

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

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

30 (ii) all sales of tangible personal property purchased directly by a
31 nonprofit organization for nonsectarian comprehensive multidiscipline
32 youth development programs and activities provided or sponsored by such
33 organization, and all sales of tangible personal property by or on behalf of
34 any such organization. This exemption shall not apply to tangible personal
35 property customarily used for human habitation purposes;

36 (jj) all sales of tangible personal property or services, including the
37 renting and leasing of tangible personal property, purchased directly on
38 behalf of a community-based mental retardation facility or mental health
39 center organized pursuant to K.S.A. 19-4001 et seq., and amendments
40 thereto, and licensed in accordance with the provisions of K.S.A. 75-
41 3307b and amendments thereto and all sales of tangible personal property
42 or services purchased by contractors during the time period from July,
43 2003, through June, 2006, for the purpose of constructing, equipping,

1 maintaining or furnishing a new facility for a community-based mental
2 retardation facility or mental health center located in Riverton, Cherokee
3 County, Kansas, which would have been eligible for sales tax exemption
4 pursuant to this subsection if purchased directly by such facility or center.
5 This exemption shall not apply to tangible personal property customarily
6 used for human habitation purposes;

7 (kk) (1) (A) all sales of machinery and equipment which are used in
8 this state as an integral or essential part of an integrated production
9 operation by a manufacturing or processing plant or facility;

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

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

14 (2) For purposes of this subsection:

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

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

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

39 (D) "manufacturing or processing business" means a business that
40 utilizes an integrated production operation to manufacture, process,
41 fabricate, finish, or assemble items for wholesale and retail distribution as
42 part of what is commonly regarded by the general public as an industrial
43 manufacturing or processing operation or an agricultural commodity

1 processing operation. (i) Industrial manufacturing or processing operations
2 include, by way of illustration but not of limitation, the fabrication of
3 automobiles, airplanes, machinery or transportation equipment, the
4 fabrication of metal, plastic, wood, or paper products, electricity power
5 generation, water treatment, petroleum refining, chemical production,
6 wholesale bottling, newspaper printing, ready mixed concrete production,
7 and the remanufacturing of used parts for wholesale or retail sale. Such
8 processing operations shall include operations at an oil well, gas well,
9 mine or other excavation site where the oil, gas, minerals, coal, clay, stone,
10 sand or gravel that has been extracted from the earth is cleaned, separated,
11 crushed, ground, milled, screened, washed, or otherwise treated or
12 prepared before its transmission to a refinery or before any other wholesale
13 or retail distribution. (ii) Agricultural commodity processing operations
14 include, by way of illustration but not of limitation, meat packing, poultry
15 slaughtering and dressing, processing and packaging farm and dairy
16 products in sealed containers for wholesale and retail distribution, feed
17 grinding, grain milling, frozen food processing, and grain handling,
18 cleaning, blending, fumigation, drying and aeration operations engaged in
19 by grain elevators or other grain storage facilities. (iii) Manufacturing or
20 processing businesses do not include, by way of illustration but not of
21 limitation, nonindustrial businesses whose operations are primarily retail
22 and that produce or process tangible personal property as an incidental part
23 of conducting the retail business, such as retailers who bake, cook or
24 prepare food products in the regular course of their retail trade, grocery
25 stores, meat lockers and meat markets that butcher or dress livestock or
26 poultry in the regular course of their retail trade, contractors who alter,
27 service, repair or improve real property, and retail businesses that clean,
28 service or refurbish and repair tangible personal property for its owner;

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

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

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

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

43 (B) to transport, convey, handle or store the property undergoing

1 manufacturing or processing at any point from the beginning of the
2 production line through any warehousing or distribution operation of the
3 final product that occurs at the plant or facility;

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

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

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

11 (F) to plan, manage, control or record the receipt and flow of
12 inventories of raw materials, consumables and component parts, the flow
13 of the property undergoing manufacturing or processing and the
14 management of inventories of the finished product;

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

18 (H) to package the property being manufactured or processed in a
19 container or wrapping in which such property is normally sold or
20 transported;

21 (I) to transmit or transport electricity, coke, gas, water, steam or
22 similar substances used in production operations from the point of
23 generation, if produced by the manufacturer or processor at the plant site,
24 to that manufacturer's production operation; or, if purchased or delivered
25 from offsite, from the point where the substance enters the site of the plant
26 or facility to that manufacturer's production operations;

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

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

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

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

37 (4) The following machinery, equipment and materials shall be
38 deemed to be exempt even though it may not otherwise qualify as
39 machinery and equipment used as an integral or essential part of an
40 integrated production operation: (A) Computers and related peripheral
41 equipment that are utilized by a manufacturing or processing business for
42 engineering of the finished product or for research and development or
43 product design; (B) machinery and equipment that is utilized by a

1 manufacturing or processing business to manufacture or rebuild tangible
2 personal property that is used in manufacturing or processing operations,
3 including tools, dies, molds, forms and other parts of qualifying machinery
4 and equipment; (C) portable plants for aggregate concrete, bulk cement
5 and asphalt including cement mixing drums to be attached to a motor
6 vehicle; (D) industrial fixtures, devices, support facilities and special
7 foundations necessary for manufacturing and production operations, and
8 materials and other tangible personal property sold for the purpose of
9 fabricating such fixtures, devices, facilities and foundations. An exemption
10 certificate for such purchases shall be signed by the manufacturer or
11 processor. If the fabricator purchases such material, the fabricator shall
12 also sign the exemption certificate; and (E) a manufacturing or processing
13 business' laboratory equipment that is not located at the plant or facility,
14 but that would otherwise qualify for exemption under subsection (3)(E).

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

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

22 (B) machinery, equipment and tools used primarily in maintaining
23 and repairing any type of machinery and equipment or the building and
24 plant;

25 (C) transportation, transmission and distribution equipment not
26 primarily used in a production, warehousing or material handling
27 operation at the plant or facility, including the means of conveyance of
28 natural gas, electricity, oil or water, and equipment related thereto, located
29 outside the plant or facility;

30 (D) office machines and equipment including computers and related
31 peripheral equipment not used directly and primarily to control or measure
32 the manufacturing process;

33 (E) furniture and other furnishings;

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

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

40 (H) machinery and equipment used for general plant heating, cooling
41 and lighting;

42 (I) motor vehicles that are registered for operation on public
43 highways; or

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

4 (6) Subsections (3) and (5) shall not be construed as exclusive listings
5 of the machinery and equipment that qualify or do not qualify as an
6 integral or essential part of an integrated production operation. When
7 machinery or equipment is used as an integral or essential part of
8 production operations part of the time and for nonproduction purpose at
9 other times, the primary use of the machinery or equipment shall
10 determine whether or not such machinery or equipment qualifies for
11 exemption.

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

14 (ll) all sales of educational materials purchased for distribution to the
15 public at no charge by a nonprofit corporation organized for the purpose of
16 encouraging, fostering and conducting programs for the improvement of
17 public health;

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

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

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

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

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

37 (rr) all sales of tangible personal property which will admit the
38 purchaser thereof to any annual event sponsored by a nonprofit
39 organization which is exempt from federal income taxation pursuant to
40 section 501(c)(3) of the federal internal revenue code of 1986;

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;

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

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

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

36 (ggg) all sales of tangible personal property and services purchased
37 by or on behalf of the Kansas Academy of Science which is exempt from
38 federal income taxation pursuant to section 501(c)(3) of the federal
39 internal revenue code of 1986, and used solely by such academy for the
40 preparation, publication and dissemination of education materials;

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

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

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

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

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

41 (mmm) all sales of tangible personal property purchased by or on
42 behalf of the Marillac Center, Inc., which is exempt from federal income
43 taxation pursuant to section 501(c)(3) of the federal internal revenue code,

1 for the purpose of providing psycho-social-biological and special
2 education services to children, and all sales of any such property by or on
3 behalf of such organization for such purpose;

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

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

13 (ppp) all sales of tangible personal property and services purchased
14 by or on behalf of a homeless shelter which is exempt from federal income
15 taxation pursuant to section 501(c)(3) of the federal income tax code of
16 1986, and used by any such homeless shelter to provide emergency and
17 transitional housing for individuals and families experiencing
18 homelessness, and all sales of any such property by or on behalf of any
19 such homeless shelter for any such purpose;

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

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

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

30 (sss) all sales of tangible personal property and services purchased by
31 catholic charities or youthville, hereinafter referred to as charitable family
32 providers, which is exempt from federal income taxation pursuant to
33 section 501(c)(3) of the federal internal revenue code of 1986, and which
34 such property and services are used for the purpose of providing
35 emergency shelter and treatment for abused and neglected children as well
36 as meeting additional critical needs for children, juveniles and family, and
37 all sales of any such property by or on behalf of charitable family
38 providers for any such purpose; and all sales of tangible personal property
39 or services purchased by a contractor for the purpose of constructing,
40 maintaining, repairing, enlarging, furnishing or remodeling facilities for
41 the operation of services for charitable family providers for any such
42 purpose which would be exempt from taxation under the provisions of this
43 section if purchased directly by charitable family providers. Nothing in

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

35 (ttt) all sales of tangible personal property or services purchased by a
36 contractor for a project for the purpose of restoring, constructing,
37 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
38 remodeling a home or facility owned by a nonprofit museum which has
39 been granted an exemption pursuant to subsection (qq), which such home
40 or facility is located in a city which has been designated as a qualified
41 hometown pursuant to the provisions of K.S.A. 75-5071 et seq., and
42 amendments thereto, and which such project is related to the purposes of
43 K.S.A. 75-5071 et seq., and amendments thereto, and which would be

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

38 (uuu) all sales of tangible personal property and services purchased
39 by Kansas children's service league, hereinafter referred to as KCSL,
40 which is exempt from federal income taxation pursuant to section 501(c)
41 (3) of the federal internal revenue code of 1986, and which such property
42 and services are used for the purpose of providing for the prevention and
43 treatment of child abuse and maltreatment as well as meeting additional

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

40 (vvv) all sales of tangible personal property or services, including the
41 renting and leasing of tangible personal property or services, purchased by
42 Jazz in the Woods, Inc., a Kansas corporation which is exempt from
43 federal income taxation pursuant to section 501(c)(3) of the federal

1 internal revenue code, for the purpose of providing Jazz in the Woods, an
2 event benefiting children-in-need and other nonprofit charities assisting
3 such children, and all sales of any such property by or on behalf of such
4 organization for such purpose;

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

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

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

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

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

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

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

38 (bbbb) all sales of entry or participation fees, charges or tickets by
39 Guadalupe health foundation, which is exempt from federal income
40 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
41 for such organization's annual fundraising event which purpose is to
42 provide health care services for uninsured workers;

43 (cccc) all sales of tangible personal property or services purchased by

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

9 (dddd) all sales of tangible personal property or services purchased
10 by or on behalf of Goodwill Industries or Easter Seals of Kansas, Inc.,
11 both of which are exempt from federal income taxation pursuant to section
12 501(c)(3) of the federal internal revenue code, for the purpose of providing
13 education, training and employment opportunities for people with
14 disabilities and other barriers to employment;

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

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

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

25 New Sec. 18. Prior to January 1, 2017, the standing committee on
26 assessment and taxation of the senate and the standing committee on
27 taxation of the house of representatives shall review the income tax credit
28 cost effectiveness report prepared by the department of revenue as required
29 pursuant to K.S.A. 74-99b35, and amendments thereto, and other relevant
30 information to determine whether the credits provided in K.S.A. 74-50,132
31 and subsection (e) of K.S.A. 79-32,160a, and amendments thereto, and the
32 exemption provided in subsection (cc) of K.S.A. 79-3606, and
33 amendments thereto, shall continue in effect or be repealed.

34 Sec. 19. K.S.A. 2010 Supp. 74-50,104, 74-50,106, 74-50,107, 74-
35 50,109, 74-50,110, 74-50,111, 74-50,210, 74-50,211, 74-50,212, 74-
36 50,213, 79-32,160a, 79-32,206 and 79-3606 are hereby repealed.

37 Sec. 20. On January 1, 2012, K.S.A. 2010 Supp. 74-50,151 and 74-
38 50,152 are hereby repealed.

39 Sec. 21. This act shall take effect and be in force from and after its
40 publication in the statute book.

41