

As Amended by House Committee

Session of 2013

HOUSE BILL No. 2253

By Committee on Federal and State Affairs

2-6

1 AN ACT concerning abortion; relating to the funding of abortion services;
2 **relating to prenatally and postnatally diagnosed conditions;**
3 relating to restrictions on late-term abortions; relating to the woman's-
4 right-to-know act; amending K.S.A. 2012 Supp. 40-2246, 65-6701, 65-
5 6703, 65-6709, 65-6710, 76-3308, 79-32,117, 79-32,138, 79-32,182b,
6 79-32,195, 79-32,261 and 79-3606 and repealing the existing sections.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 New Section 1. As used in sections 1 through 8, and amendments
10 thereto:

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

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

18 (c) "Health care entity" means an individual physician or other health
19 care professional, a hospital, a provider-sponsored organization, a health
20 maintenance organization or any other health care facility or organization.

21 (d) "School district" means any public school district organized under
22 the laws of this state.

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

25 New Sec. 2. (a) The legislature hereby finds and declares the
26 following:

27 (1) The life of each human being begins at fertilization;

28 (2) unborn children have interests in life, health and well-being that
29 should be protected; and

30 (3) the parents of unborn children have protectable interests in the
31 life, health and well-being of the unborn children of such parents.

32 (b) On and after July 1, 2013, the laws of this state shall be
33 interpreted and construed to acknowledge on behalf of the unborn child at
34 every stage of development, all the rights, privileges and immunities
35 available to other persons, citizens and residents of this state, subject only
36 to the constitution of the United States, and decisional interpretations

1 thereof by the United States supreme court and specific provisions to the
2 contrary in the Kansas constitution and the Kansas Statutes Annotated.

3 (c) As used in this section:

4 (1) "Fertilization" means the fusion of a human spermatozoon with a
5 human ovum.

6 (2) "Unborn children" or "unborn child" shall include all unborn
7 children or the offspring of human beings from the moment of fertilization
8 until birth at every stage of biological development.

9 (d) Nothing in this section shall be construed as creating a cause of
10 action against a woman for indirectly harming her unborn child by failing
11 to properly care for herself or by failing to follow any particular program
12 of prenatal care.

13 New Sec. 3. Except to the extent required by federal law:

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

16 (b) no tax credit shall be allowed against any income tax, premium or
17 privilege tax liability and no exemption shall be granted from sales or
18 compensating use tax for that portion of such amounts paid or incurred for
19 an abortion, or that portion of such amounts paid or incurred for a health
20 benefit plan, including premium assistance, for the purchase of an optional
21 rider for coverage of abortion in accordance with K.S.A. 2012 Supp. 40-
22 2,190, and amendments thereto;

23 (c) in the case of any tax-preferred trust or account, the purpose of
24 which is to pay medical expenses of the account beneficiary, any amount
25 paid or distributed from such an account for an abortion shall be included
26 in the gross income of such beneficiary; and

27 (d) no health care services provided by any state agency, or any
28 employee of a state agency while acting within the scope of such
29 employee's employment, shall include abortion, nor shall money
30 appropriated from the state general fund or from any special revenue fund
31 be used to pay for the lease or operation of any facility in which abortions
32 are performed.

33 New Sec. 4. No school district, employee or ~~volunteer~~ **agent** thereof,
34 or educational service provider contracting with such school district shall
35 provide abortion services. No school district shall permit any person or
36 entity to offer, sponsor or otherwise furnish in any manner any course
37 materials or instruction relating to human sexuality or sexually transmitted
38 diseases if such person or entity is an abortion services provider, or an
39 employee, **agent** or volunteer of an abortion services provider.

40 New Sec. 5. Nothing in sections 1 through 8, and amendments
41 thereto, shall repeal, amend or have any effect on any other state law to the
42 extent such law imposes any limitation on the use of funds for abortion,
43 more restrictive than the limitations set forth in sections 1 through 8, and

1 amendments thereto.

2 New Sec. 6. Nothing in sections 1 through 8, and amendments
3 thereto, shall be construed:

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

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

7 New Sec. 7. No state agency shall discriminate against any individual
8 or institutional health care entity on the basis that such health care entity
9 does not provide, pay for or refer for abortions.

10 Sec. 8. The limitations set forth in sections 1 through 8, and
11 amendments thereto, shall not apply to an abortion which is necessary to
12 preserve the life of the pregnant woman.

13 **New Sec. 9. (a) The secretary of the department of health and
14 environment may authorize and oversee certain activities, including
15 the awarding of grants, contracts or cooperative agreements to eligible
16 entities to:**

17 **(1) Collect, synthesize and disseminate current evidence-based
18 information relating to Down syndrome or other prenatally or
19 postnatally diagnosed conditions; and**

20 **(2) coordinate the provision of, and access to, new or existing
21 supportive services for women and the spouses of such women who
22 receive a positive diagnosis of Down syndrome or other prenatally or
23 postnatally diagnosed conditions for their child, including, but not
24 limited to:**

25 **(A) The establishment of a resource telephone hotline or website
26 accessible to women and the spouses of such women who receive a
27 positive diagnosis of Down syndrome or other prenatally or
28 postnatally diagnosed conditions for their child;**

29 **(B) the development of outreach programs to new and expecting
30 parents to provide them with up-to-date information on the range of
31 outcomes for individuals living with the diagnosed condition,
32 including physical, developmental, educational and psychosocial
33 outcomes;**

34 **(C) the development of local peer support programs to effectively
35 serve women and the spouses of such women who receive a positive
36 diagnosis of Down syndrome or other prenatally or postnatally
37 diagnosed conditions for their child;**

38 **(D) the establishment of a network of local registries of families
39 willing to adopt newborns with Down syndrome or other prenatally or
40 postnatally diagnosed conditions, and links to adoption agencies
41 willing to place babies with Down syndrome or other prenatally or
42 postnatally diagnosed conditions with families willing to adopt; and**

43 **(E) the establishment of awareness and education programs for**

1 health care providers who provide, interpret or inform parents of the
2 results of prenatal tests for Down syndrome or other prenatally or
3 postnatally diagnosed conditions to patients.

4 (b) A grantee under this section shall make the following
5 available to health care providers of parents who receive a prenatal or
6 postnatal diagnosis for their child:

7 (1) Up-to-date, evidence-based, written information concerning
8 the range of outcomes for individuals living with the diagnosed
9 condition, including physical, developmental, educational and
10 psychosocial outcomes;

11 (2) contact information regarding support services, including
12 information hotlines and websites specific to Down syndrome or other
13 prenatally or postnatally diagnosed conditions, resource centers or
14 clearinghouses, local peer support groups and other education and
15 support programs.

16 (c) Information provided under this subsection shall be culturally
17 and linguistically appropriate as needed by women and the spouses of
18 such women who receive a positive diagnosis for Down syndrome or
19 other prenatally or postnatally diagnosed conditions for their child,
20 and approved by the secretary.

21 (d) In distributing funds under this section, the secretary shall
22 place an emphasis on funding partnerships between health care
23 professional groups and disability advocacy organizations.

24 (e) On or before January 12, 2015, the secretary shall prepare
25 and submit a report to the governor and the legislature on the grants,
26 contracts and cooperative agreements made under this section and the
27 effectiveness of the programs supported by such grants, contracts and
28 cooperative agreements.

29 (f) As used in this section:

30 (1) "Down syndrome" means a chromosomal disorder caused by
31 an error in cell division that results in the presence of an extra whole
32 or partial copy of chromosome 21.

33 (2) "Eligible entity" means the state, or any political subdivision
34 thereof, or any other entity with appropriate expertise in prenatally
35 and postnatally diagnosed conditions, as determined by the secretary.

36 (3) "Health care provider" shall have the same meaning as that
37 term is defined in K.S.A. 40-3401, and amendments thereto.

38 (4) "Postnatally diagnosed condition" means any health condition
39 identified during the 12-month period beginning at birth.

40 (5) "Prenatally diagnosed condition" means any fetal health
41 condition identified by prenatal genetic testing or prenatal screening
42 procedures.

43 (6) "Prenatal test" means diagnostic or screening tests offered to

1 **pregnant women seeking routine prenatal care that are administered**
2 **on a required or recommended basis by a health care provider based**
3 **on medical history, family background, ethnic background, previous**
4 **test results or other risk factors.**

5 **(7) "Secretary" means the secretary of the department of health**
6 **and environment.**

7 ~~Sec. 9-~~ **10.** K.S.A. 2012 Supp. 40-2246 is hereby amended to read as
8 follows: 40-2246. (a) A credit against the taxes otherwise due under the
9 Kansas income tax act shall be allowed to an employer for amounts paid
10 during the taxable year for purposes of this act on behalf of an eligible
11 employee as defined in K.S.A. 40-2239, and amendments thereto, to
12 provide health insurance or care and amounts contributed to health savings
13 accounts of eligible covered employees, *except that for taxable years*
14 *commencing after December 31, 2013, no credit shall be allowed pursuant*
15 *to this section for that portion of any amounts paid by an employer for*
16 *healthcare, a health benefit plan, as defined in section 1, and amendments*
17 *thereto, or amounts contributed to health savings accounts for the*
18 *purchase of an optional rider for coverage of abortion in accordance with*
19 *K.S.A. 40-2,190, and amendments thereto.*

20 (b) (1) For employers that have established a small employer health
21 benefit plan after December 31, 1999, but prior to January 1, 2005, the
22 amount of the credit allowed by subsection (a) shall be \$35 per month per
23 eligible covered employee or 50% of the total amount paid by the
24 employer during the taxable year, whichever is less, for the first two years
25 of participation. In the third year, the credit shall be equal to 75% of the
26 lesser of \$35 per month per employee or 50% of the total amount paid by
27 the employer during the taxable year. In the fourth year, the credit shall be
28 equal to 50% of the lesser of \$35 per month per employee or 50% of the
29 total amount paid by the employer during the taxable year. In the fifth year,
30 the credit shall be equal to 25% of the lesser of \$35 per month per
31 employee or 50% of the total amount paid by the employer during the
32 taxable year. For the sixth and subsequent years, no credit shall be
33 allowed.

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

42 (c) If the credit allowed by this section is claimed, the amount of any
43 deduction allowable under the Kansas income tax act for expenses

1 described in this section shall be reduced by the dollar amount of the
2 credit. The election to claim the credit shall be made at the time of filing
3 the tax return in accordance with law. If the credit allowed by this section
4 exceeds the taxes imposed under the Kansas income tax act for the taxable
5 year, that portion of the credit which exceeds those taxes shall be refunded
6 to the taxpayer.

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

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

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

16 (g) For tax year 2013 and all tax years thereafter, the income tax
17 credit provided by this section shall only be available to taxpayers subject
18 to the income tax on corporations imposed pursuant to subsection (c) of
19 K.S.A. 79-32,110, and amendments thereto, and shall be applied only
20 against such taxpayer's corporate income tax liability.

21 ~~Sec. 11.~~ K.S.A. 2012 Supp. 65-6701 is hereby amended to read as
22 follows: 65-6701. As used in ~~this act~~ *K.S.A. 65-6701 through 65-6721, and*
23 *amendments thereto:*

24 (a) "Abortion" means the use or prescription of any instrument,
25 medicine, drug or any other substance or device to terminate the
26 pregnancy of a woman known to be pregnant with an intention other than
27 to increase the probability of a live birth, to preserve the life or health of
28 the child after live birth, or to remove a dead unborn child who died as the
29 result of natural causes in utero, accidental trauma or a criminal assault on
30 the pregnant woman or her unborn child, and which causes the premature
31 termination of the pregnancy.

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

34 (c) "Counselor" means a person who is: (1) Licensed to practice
35 medicine and surgery; ~~(2) licensed to practice psychology; (3) licensed to~~
36 ~~practice professional or practical nursing; (4) registered to practice~~
37 ~~professional counseling; (5) licensed as a social worker; (6) the holder of a~~
38 ~~master's or doctor's degree from an accredited graduate school of social~~
39 ~~work; (7) registered to practice marriage and family therapy; (8) licensed~~
40 *to practice professional or practical nursing; (3) the following persons*
41 *licensed to practice behavioral sciences: Licensed psychologists, licensed*
42 *master's level psychologists, licensed clinical psychotherapists, licensed*
43 *social workers, licensed specialist clinical social workers, licensed*

1 *marriage and family therapists, licensed clinical marriage and family*
2 *therapists, licensed professional counselors, licensed clinical professional*
3 *counselors; (4) a licensed physician assistant; or—(9) (5) a currently*
4 *ordained member of the clergy or religious authority of any religious*
5 *denomination or society. Counselor does not include the physician who*
6 *performs or induces the abortion or a physician or other person who assists*
7 *in performing or inducing the abortion.*

8 ~~(e)~~ (d) "Department" means the department of health and
9 environment.

10 (e) "Fertilization" means the fusion of a human spermatozoon with a
11 human ovum.

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

14 ~~(e)~~ (g) "Medical emergency" means ~~that a condition which, on the~~
15 ~~basis of the physician's good faith clinical judgment, that, in reasonable~~
16 *medical judgment, so complicates the medical condition of a the pregnant*
17 *woman as to necessitate the immediate abortion of her pregnancy without*
18 *first determining gestational age to avert her the death of the woman or for*
19 *which a delay necessary to determine gestational age will create serious*
20 *risk of substantial and irreversible physical impairment of a major bodily*
21 *function. No condition shall be deemed a medical emergency if based on a*
22 *claim or diagnosis that the woman will engage in conduct which would*
23 *result in her death or in substantial and irreversible physical impairment*
24 *of a major bodily function.*

25 ~~(f)~~ (h) "Minor" means a person less than 18 years of age.

26 ~~(g)~~ (i) "Physician" means a person licensed to practice medicine and
27 surgery in this state.

28 ~~(h)~~ (j) "Pregnant" or "pregnancy" means that female reproductive
29 condition of having an unborn child in the mother's body.

30 ~~(i)~~ (k) "Qualified person" means an agent of the physician who is a
31 psychologist, licensed social worker, ~~registered~~ *licensed professional*
32 *counselor, licensed marriage and family therapist, licensed master's level*
33 *psychologist, licensed clinical psychotherapist, registered nurse or*
34 *physician.*

35 ~~(j)~~ (l) "Unemancipated minor" means any minor who has never been:
36 (1) Married; or (2) freed, by court order or otherwise, from the care,
37 custody and control of the minor's parents.

38 ~~(k)~~ (m) "Viable" means that stage of fetal development when it is the
39 physician's judgment according to accepted obstetrical or neonatal
40 standards of care and practice applied by physicians in the same or similar
41 circumstances that there is a reasonable probability that the life of the child
42 can be continued indefinitely outside the mother's womb with natural or
43 artificial life-supportive measures.

1 Sec. ~~4~~ 12. K.S.A. 2012 Supp. 65-6703 is hereby amended to read as
2 follows: 65-6703. (a) No person shall perform or induce, *or attempt to*
3 *perform or induce* an abortion when the unborn child is viable unless such
4 person is a physician and has a documented referral from another
5 physician not legally or financially affiliated with the physician
6 performing or inducing, *or attempting to perform or induce* the abortion
7 and both physicians provide a written determination, based upon a medical
8 judgment arrived at using and exercising that degree of care, skill and
9 proficiency commonly exercised by the ordinary skillful, careful and
10 prudent physician in the same or similar circumstances and that would be
11 made by a reasonably prudent physician, knowledgeable in the field, and
12 knowledgeable about the case and the treatment possibilities with respect
13 to the conditions involved, that: (1) The abortion is necessary to preserve
14 the life of the pregnant woman; or (2) a continuation of the pregnancy will
15 cause a substantial and irreversible *physical* impairment of a major bodily
16 function of the pregnant woman. *No condition shall be deemed to exist if it*
17 *is based on a claim or diagnosis that the woman will engage in conduct*
18 *that would result in her death or in substantial and irreversible physical*
19 *impairment of a major bodily function.*

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

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

31 (2) if the abortion is necessary to preserve the life of the pregnant
32 woman and the medical basis of such determination, including the specific
33 medical condition the physician believes would cause the death of the
34 pregnant woman; or

35 (3) if a continuation of the pregnancy will cause a substantial and
36 irreversible *physical* impairment of a major bodily function of the pregnant
37 woman and the medical basis of such determination, including the specific
38 medical condition the physician believes would constitute a substantial and
39 irreversible *physical* impairment of a major bodily function of the pregnant
40 woman.

41 (c) (1) Except in the case of a medical emergency, prior to performing
42 *or inducing, or attempting to perform or induce* an abortion upon a
43 woman, the physician shall determine the gestational age of the unborn

1 child according to accepted obstetrical and neonatal practice and standards
2 applied by physicians in the same or similar circumstances. If the
3 physician determines the gestational age is less than 22 weeks, the
4 physician shall document as part of the medical records of the woman the
5 basis for the determination. The medical basis for the determination of the
6 gestational age of the unborn child shall also be reported by the physician
7 as part of the written report made by the physician to the secretary of
8 health and environment under K.S.A. 65-445, and amendments thereto.

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

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

32 (4) If the physician who is to perform the abortion determines the
33 gestational age of an unborn child is 22 or more weeks, and determines
34 that the unborn child is viable, both physicians under subsection (a)
35 determine in accordance with the provisions of subsection (a) that an
36 abortion is necessary to preserve the life of the pregnant woman or that a
37 continuation of the pregnancy will cause a substantial and irreversible
38 *physical* impairment of a major bodily function of the pregnant woman
39 and the physician performs an abortion on the woman, the physician who
40 performs the abortion shall report such determinations, the medical basis
41 and the reasons for such determinations, including the specific medical
42 diagnosis for the determination that an abortion is necessary to preserve
43 the life of the pregnant woman or that a continuation of the pregnancy will

1 cause a substantial and irreversible *physical* impairment of a major bodily
2 function of the pregnant woman and the name of the referring physician
3 required by subsection (a) in writing to the medical care facility in which
4 the abortion is performed for inclusion in the report of the medical care
5 facility to the secretary of health and environment under K.S.A. 65-445,
6 and amendments thereto, or if the abortion is not performed in a medical
7 care facility, the physician who performs the abortion shall report such
8 determinations, the medical basis and the reasons for such determinations,
9 including the specific medical diagnosis for the determination that an
10 abortion is necessary to preserve the life of the pregnant woman or that a
11 continuation of the pregnancy will cause a substantial and irreversible
12 *physical* impairment of a major bodily function of the pregnant woman
13 and the name of the referring physician required by subsection (a) in
14 writing to the secretary of health and environment as part of the written
15 report made by the physician to the secretary of health and environment
16 under K.S.A. 65-445, and amendments thereto.

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

21 (d) The secretary of health and environment shall adopt rules and
22 regulations to administer this section. Such rules and regulations shall
23 include:

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

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

28 (3) detailed specifications regarding information that must be
29 provided by a physician in order to comply with the obligation to disclose
30 the medical basis and specific medical diagnosis relied upon in
31 determining that an abortion is necessary to preserve the life of the
32 pregnant woman or that a continuation of the pregnancy will cause a
33 substantial and irreversible *physical* impairment of a major bodily function
34 of the pregnant woman.

35 (e) A woman upon whom an abortion is performed shall not be
36 prosecuted under this section for a conspiracy to violate this section
37 pursuant to K.S.A. 2012 Supp. 21-5302, and amendments thereto.

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

41 (g) (1) A woman upon whom an abortion is performed in violation of
42 this section, the father, if married to the woman at the time of the abortion,
43 and the parents or custodial guardian of the woman, if the woman has not

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

5 (2) Such relief shall include:

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

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

10 (C) reasonable attorney fees.

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

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

16 (j) If any provision of this section is held to be invalid or
17 unconstitutional, it shall be conclusively presumed that the legislature
18 would have enacted the remainder of this section without such invalid or
19 unconstitutional provision.

20 (k) Upon a first conviction of a violation of this section, a person
21 shall be guilty of a class A nonperson misdemeanor. Upon a second or
22 subsequent conviction of a violation of this section, a person shall be
23 guilty of a severity level 10, nonperson felony.

24 ~~Sec. 42.13.~~ K.S.A. 2012 Supp. 65-6709 is hereby amended to read as
25 follows: 65-6709. No abortion shall be performed or induced without the
26 voluntary and informed consent of the woman upon whom the abortion is
27 to be performed or induced. Except in the case of a medical emergency,
28 consent to an abortion is voluntary and informed only if:

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

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

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

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

39 (4) the probable gestational age of the unborn child at the time the
40 abortion is to be performed and that Kansas law requires the following:
41 "No person shall perform or induce an abortion when the unborn child is
42 viable unless such person is a physician and has a documented referral
43 from another physician not financially associated with the physician

1 performing or inducing the abortion and both physicians determine that:
2 (1) The abortion is necessary to preserve the life of the pregnant woman;
3 or (2) a continuation of the pregnancy will cause a substantial and
4 irreversible *physical* impairment of a major bodily function of the pregnant
5 woman." If the child is born alive, the attending physician has the legal
6 obligation to take all reasonable steps necessary to maintain the life and
7 health of the child;

8 (5) the probable anatomical and physiological characteristics of the
9 unborn child at the time the abortion is to be performed;

10 (6) the contact information for ~~free~~ counseling assistance for
11 medically challenging pregnancies ~~and~~, the contact information for ~~free~~
12 perinatal hospice services **and a listing of websites for national perinatal**
13 **assistance**, *including information regarding which entities provide such*
14 *services free of charge*;

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

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

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

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

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

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

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

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

41 (6) *by no later than 20 weeks from fertilization, the unborn child has*
42 *the physical structures necessary to experience pain. There is evidence*
43 *that by 20 weeks from fertilization unborn children seek to evade certain*

1 *stimuli in a manner that in an infant or an adult would be interpreted to be*
2 *a response to pain. Anesthesia is routinely administered to unborn*
3 *children who are 20 weeks from fertilization or older who undergo*
4 *prenatal surgery.*

5 (c) At least 30 minutes prior to the abortion procedure, prior to
6 physical preparation for the abortion and prior to the administration of
7 medication for the abortion, the woman shall meet privately with the
8 physician who is to perform the abortion and such person's staff to ensure
9 that she has an adequate opportunity to ask questions of and obtain
10 information from the physician concerning the abortion.

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

16 (e) The woman certifies in writing on a form provided by the
17 department, prior to the abortion, that the information required to be
18 provided under subsections (a), (b) and (d) has been provided and that she
19 has met with the physician who is to perform the abortion on an individual
20 basis as provided under subsection (c). All physicians who perform
21 abortions shall report the total number of certifications received monthly
22 to the department. *The total number of certifications shall be reported by*
23 *the physician as part of the written report made by the physician to the*
24 *secretary of health and environment under K.S.A. 65-445, and*
25 *amendments thereto.* The department shall make the number of
26 certifications received available on an annual basis.

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

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

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

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

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

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

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

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

4 If the woman accepts the offer and requests to view the ultrasound
5 image, receive a physical picture of the ultrasound image or both, her
6 request shall be granted by the physician at no additional expense to the
7 woman. The physician's certification shall be time-stamped at the time the
8 opportunity to view the ultrasound image and receive a physical picture of
9 the ultrasound image was offered.

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

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

15 (2) offers the woman the opportunity to listen to the heartbeat of her
16 unborn child;

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

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

22 If the woman accepts the offer and requests to listen to the heartbeat of
23 her unborn child, her request shall be granted by the physician at no
24 additional expense to the woman. The physician's certification shall be
25 time-stamped at the time the opportunity to listen to the heartbeat of her
26 unborn child was offered.

27 (j) The physician's certification required by subsections (h) and (i)
28 together with the pregnant woman's signed acceptance or rejection of such
29 offer shall be placed in the woman's medical file in the physician's office
30 and kept for 10 years. However, in the case of a minor, the physician shall
31 keep a copy of the certification and the signed acceptance or rejection in
32 the minor's medical file for five years past the minor's majority, but in no
33 event less than 10 years.

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

42 Notice: It is against the law for anyone, regardless of their relationship
43 to you, to force you to have an abortion. By law, we cannot perform an

1 abortion on you unless we have your freely given and voluntary consent. It
2 is against the law to perform an abortion on you against your will. You
3 have the right to contact any local or state law enforcement agency to
4 receive protection from any actual or threatened physical abuse or
5 violence. You have the right to change your mind at any time prior to the
6 actual abortion and request that the abortion procedure cease. *It is*
7 *unlawful for anyone to make you have an abortion against your will, even*
8 *if you are a minor. The father of your child must provide support for the*
9 *child, even if he has offered to pay for an abortion. If you decide not to*
10 *have an abortion, you may qualify for financial help for pregnancy,*
11 *childbirth and newborn care. If you qualify, medicaid will pay or help pay*
12 *the cost of doctor, clinic, hospital and other related medical expenses,*
13 *including childbirth delivery services and care for your newborn baby.*
14 *Many agencies are willing to provide assistance so that you may carry*
15 *your child to term, and to assist you after your child's birth.*

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

20 **(l) Any private office, freestanding surgical outpatient clinic or**
21 **other facility or clinic in which abortions are performed that has a**
22 **website shall publish an easily identifiable link on the homepage of**
23 **such website that directly links to the department of health and**
24 **environment's website that provides informed consent materials under**
25 **the woman's-right-to-know act. Such link shall read: "The Kansas**
26 **Department of Health and Environment maintains a website**
27 **containing objective, nonjudgmental, scientifically accurate**
28 **information about the development of the unborn child, as well as**
29 **video of sonogram images of the unborn child at various stages of**
30 **development. The Kansas Department of Health and Environment's**
31 **website can be reached by clicking here."**

32 **(m)** For purposes of this section:

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

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

39 ~~Sec. 14.~~ **14.** K.S.A. 2012 Supp. 65-6710 is hereby amended to read as
40 follows: 65-6710. (a) The department shall cause to be published and
41 distributed widely, within 30 days after the effective date of this act, and
42 shall update on an annual basis, the following easily comprehensible
43 informational materials:

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

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

29 (2) Printed materials that inform the pregnant woman of the probable
30 anatomical and physiological characteristics of the unborn child at two-
31 week gestational increments from fertilization to full term, including
32 pictures or drawings representing the development of an unborn child at
33 two-week gestational increments, and any relevant information on the
34 possibility of the unborn child's survival. Any such pictures or drawings
35 shall contain the dimensions of the unborn child and shall be realistic. The
36 material shall include ~~the statement~~ *the following statements: (A) That by*
37 *no later than 20 weeks from fertilization, the unborn child has the physical*
38 *structures necessary to experience pain; (B) that there is evidence that by*
39 *20 weeks from fertilization unborn children seek to evade certain stimuli*
40 *in a manner that in an infant or an adult would be interpreted to be a*
41 *response to pain; (C) that anesthesia is routinely administered to unborn*
42 *children who are 20 weeks from fertilization or older who undergo*
43 *prenatal surgery; (D) that less than 5% of all natural pregnancies end in*

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

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

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

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

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

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

43 *Many public and private agencies exist to provide counseling and*

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

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

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

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

25 *Unless otherwise noted, all prenatal ages in the rest of these materials*
26 *are referenced from the start of the last normal menstrual period. This age*
27 *is two weeks greater than the age since fertilization.*

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

39 *By 8½ weeks, the bones of the jaw and collarbone begin to harden.*
40 *Brainwaves have been measured and recorded by this point in gestation.*
41 *By nine weeks, the hands move, the neck turns and hiccups begin. Girls*
42 *also now have ovaries and boys have testes. The unborn child's heart is*
43 *nearly fully formed, and the heart rate peaks at about 170 beats per*

1 *minute and will gradually slow down until birth. Electrical recordings of*
2 *the heart at 9½ weeks are very similar to the EKG tracing of the unborn*
3 *child.*

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

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

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

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

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

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

39 *By 20 weeks, nearly all organs and structures of the unborn child have*
40 *been formed. The larynx, or voice box, moves in a way similar to*
41 *movement seen during crying after birth. The skin has developed sweat*
42 *glands and is covered by a greasy white substance called vernix, which*
43 *protects the skin from the long exposure to amniotic fluid. At 21 weeks,*

1 *breathing patterns, body movements and the heart rate begin to follow*
2 *daily cycles called circadian rhythms.*

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

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

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

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

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

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

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

43 *What about adoption? Women or couples facing an untimely pregnancy*

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

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

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

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

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

36 (4) (5) A standardized video containing all of the information
37 described in paragraphs (1) and (2). In addition, the video shall show
38 ultrasound images, using the best available ultrasound technology, of an
39 unborn child at two week gestational increments.

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

1 section shall also be published online on the department's website. All
2 materials shall be made available in both English and Spanish language
3 versions.

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

7 ~~Sec. 14.~~ **15.** K.S.A. 2012 Supp. 76-3308 is hereby amended to read as
8 follows: 76-3308. (a) The authority shall have all the powers necessary to
9 carry out the purposes and provisions of this act, including, without
10 limitation, the following powers to:

11 (1) Have the duties, privileges, immunities, rights, liabilities and
12 disabilities of a body corporate and a political instrumentality of the state;

13 (2) have perpetual existence and succession;

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

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

16 (5) make and execute contracts, guarantees or any other instruments
17 and agreements necessary or convenient for the exercise of its powers and
18 functions including, without limitation, to make and execute contracts with
19 hospitals or other health care businesses to operate and manage any or all
20 of the hospital facilities or operations and to incur liabilities and secure the
21 obligations of any entity or individual;

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

24 (7) purchase, lease, trade, exchange or otherwise acquire, maintain,
25 hold, improve, mortgage, sell, lease and dispose of personal property,
26 whether tangible or intangible, and any interest therein; and to purchase,
27 lease, trade, exchange or otherwise acquire real property or any interest
28 therein, and to maintain, hold, improve, mortgage, lease and otherwise
29 transfer such real property, so long as such transactions do not conflict
30 with the mission of the authority as specified in this act;

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

34 (9) develop policies and procedures generally applicable to the
35 procurement of goods, services and construction, based upon sound
36 business practices;

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

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

43 (12) deposit any moneys of the authority in any banking institution

1 within or without the state or in any depository authorized to receive such
2 deposits, one or more persons to act as custodians of the moneys of the
3 authority, to give surety bonds in such amounts in form and for such
4 purposes as the board requires;

5 (13) procure such insurance, participate in such insurance plans or
6 provide such self insurance or both as it deems necessary or convenient to
7 carry out the purposes and provisions of this act; the purchase of
8 insurance, participation in an insurance plan or creation of a self-insurance
9 fund by the authority shall not be deemed as a waiver or relinquishment of
10 any sovereign immunity to which the authority or its officers, directors,
11 employees or agents are otherwise entitled;

12 (14) appoint, supervise and set the salary and compensation of a
13 president of the authority who shall be appointed by and serve at the
14 pleasure of the board;

15 (15) fix, revise, charge and collect rates, rentals, fees and other
16 charges for the services or facilities furnished by or on behalf of the
17 authority, and to establish policies and procedures regarding any such
18 service rendered for the use, occupancy or operation of any such facility;
19 such charges and policies and procedures not to be subject to supervision
20 or regulation by any commission, board, bureau or agency of the State;
21 and

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

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

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

31 (d) The authority may create a nonprofit entity or entities for the
32 purpose of soliciting, accepting and administering grants, outright gifts and
33 bequests, endowment gifts and bequests and gifts and bequests in trust
34 which entity or entities shall not engage in trust business.

35 (e) In carrying out any activities authorized by this act, the authority
36 may provide appropriate assistance, including the making of loans and
37 providing time of employees, to corporations, partnerships, associations,
38 joint ventures or other entities, whether or not such corporations,
39 partnerships, associations, joint ventures or other entities are owned or
40 controlled in whole or in part, directly or indirectly, by the authority.

41 (f) Effective with the transfer date, all moneys of the authority shall
42 be deposited in one or more banks or trust companies in one or more
43 special accounts. All banks and trust companies are authorized to give

1 security for such deposits if required by the authority. The moneys in such
2 accounts shall be paid out on a warrant or other orders of the treasurer of
3 the authority or any such other person or persons as the authority may
4 authorize to execute such warrants or orders.

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

9 (h) The authority is authorized to negotiate contracts with one or
10 more qualified parties to provide collection services. The selection of a
11 collection services provider shall be based on responses to a request for
12 proposals from qualified professional firms and shall be administered in
13 accordance with policies adopted by the board.

14 (i) Notwithstanding any provision of law to the contrary, no abortion
15 shall be performed, except in the event of a medical emergency, in any
16 medical facility, hospital or clinic owned, leased or operated by the
17 authority. The provisions of this subsection are not applicable to any
18 member of the physician faculty of the university of Kansas school of
19 medicine *when such abortion is performed outside the scope of such*
20 *member's employment* on property not owned, leased or operated by the
21 authority. As used in this subsection, "medical emergency" means a
22 ~~pregnant woman's medical condition that, on the basis of a physician's~~
23 ~~good-faith clinical judgment, necessitates an immediate abortion to avert~~
24 ~~the woman's death or to avert a serious risk of substantial and irreversible~~
25 ~~impairment of a major bodily function~~ *a condition that, in reasonable*
26 *medical judgment, so complicates the medical condition of the pregnant*
27 *woman as to necessitate the immediate abortion of her pregnancy to avert*
28 *the death of the woman. No condition shall be deemed a medical*
29 *emergency if based on a claim or diagnosis that the woman will engage in*
30 *conduct which would result in her death.*

31 ~~Sec. 15.~~ **16.** K.S.A. 2012 Supp. 79-32,117 is hereby amended to read
32 as follows: 79-32,117. (a) The Kansas adjusted gross income of an
33 individual means such individual's federal adjusted gross income for the
34 taxable year, with the modifications specified in this section.

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

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

1 not included in federal adjusted gross income. Interest income on
2 obligations of this state or a political subdivision thereof issued after
3 December 31, 1987, shall be excluded from computation of Kansas
4 adjusted gross income whether or not included in federal adjusted gross
5 income.

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

13 (iii) The federal net operating loss deduction.

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

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

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

37 (vii) The amount of any charitable contribution made to the extent the
38 same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-
39 32,196, and amendments thereto.

40 (viii) The amount of any costs incurred for improvements to a swine
41 facility, claimed for deduction in determining federal adjusted gross
42 income, to the extent the same is claimed as the basis for any credit
43 allowed pursuant to K.S.A. 2012 Supp. 79-32,204, and amendments

1 thereto.

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

8 (x) Amounts received as nonqualified withdrawals, as defined by
9 K.S.A. 2012 Supp. 75-643, and amendments thereto, if, at the time of
10 contribution to a family postsecondary education savings account, such
11 amounts were subtracted from the federal adjusted gross income pursuant
12 to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amendments
13 thereto, or if such amounts are not already included in the federal adjusted
14 gross income.

15 (xi) The amount of any contribution made to the same extent the
16 same is claimed as the basis for the credit allowed pursuant to K.S.A. 2012
17 Supp. 74-50,154, and amendments thereto.

18 (xii) For taxable years commencing after December 31, 2004,
19 amounts received as withdrawals not in accordance with the provisions of
20 K.S.A. 2012 Supp. 74-50,204, and amendments thereto, if, at the time of
21 contribution to an individual development account, such amounts were
22 subtracted from the federal adjusted gross income pursuant to paragraph
23 (xiii) of subsection (c), or if such amounts are not already included in the
24 federal adjusted gross income.

25 (xiii) The amount of any expenditures claimed for deduction in
26 determining federal adjusted gross income, to the extent the same is
27 claimed as the basis for any credit allowed pursuant to K.S.A. 2012 Supp.
28 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

29 (xiv) The amount of any amortization deduction claimed in
30 determining federal adjusted gross income to the extent the same is
31 claimed for deduction pursuant to K.S.A. 2012 Supp. 79-32,221, and
32 amendments thereto.

33 (xv) The amount of any expenditures claimed for deduction in
34 determining federal adjusted gross income, to the extent the same is
35 claimed as the basis for any credit allowed pursuant to K.S.A. 2012 Supp.
36 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233
37 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-
38 32,248 or 79-32,251 through 79-32,254, and amendments thereto.

39 (xvi) The amount of any amortization deduction claimed in
40 determining federal adjusted gross income to the extent the same is
41 claimed for deduction pursuant to K.S.A. 2012 Supp. 79-32,227, 79-
42 32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments
43 thereto.

1 (xvii) The amount of any amortization deduction claimed in
2 determining federal adjusted gross income to the extent the same is
3 claimed for deduction pursuant to K.S.A. 2012 Supp. 79-32,256, and
4 amendments thereto.

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

15 (xix) For all taxable years beginning after December 31, 2012, the
16 amount of any: (1) Loss from business as determined under the federal
17 internal revenue code and reported from schedule C and on line 12 of the
18 taxpayer's form 1040 federal individual income tax return; (2) loss from
19 rental real estate, royalties, partnerships, S corporations, estates, trusts,
20 residual interest in real estate mortgage investment conduits and net farm
21 rental as determined under the federal internal revenue code and reported
22 from schedule E and on line 17 of the taxpayer's form 1040 federal
23 individual income tax return; and (3) farm loss as determined under the
24 federal internal revenue code and reported from schedule F and on line 18
25 of the taxpayer's form 1040 federal income tax return; all to the extent
26 deducted or subtracted in determining the taxpayer's federal adjusted gross
27 income. For purposes of this subsection, references to the federal form
28 1040 and federal schedule C, schedule E, and schedule F, shall be to such
29 form and schedules as they existed for tax year 2011, and as revised
30 thereafter by the internal revenue service.

31 (xx) For all taxable years beginning after December 31, 2012, the
32 amount of any deduction for self-employment taxes under section 164(f)
33 of the federal internal revenue code as in effect on January 1, 2012, and
34 amendments thereto, in determining the federal adjusted gross income of
35 an individual taxpayer.

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

41 (xxii) For all taxable years beginning after December 31, 2012, the
42 amount of any deduction for health insurance under section 162(l) of the
43 federal internal revenue code as in effect on January 1, 2012, and

1 amendments thereto, in determining the federal adjusted gross income of
2 an individual taxpayer.

3 (xxiii) For all taxable years beginning after December 31, 2012, the
4 amount of any deduction for domestic production activities under section
5 199 of the federal internal revenue code as in effect on January 1, 2012,
6 and amendments thereto, in determining the federal adjusted gross income
7 of an individual taxpayer.

8 (xxiv) *For taxable years commencing after December 31, 2013, that*
9 *portion of the amount of any expenditure deduction claimed in*
10 *determining federal adjusted gross income for expenses paid for medical*
11 *care of the taxpayer or the taxpayer's spouse or dependents when such*
12 *expenses were paid or incurred for an abortion, or for a health benefit*
13 *plan, as defined in section 1, and amendments thereto, for the purchase of*
14 *an optional rider for coverage of abortion in accordance with K.S.A. 2012*
15 *Supp. 40-2,190, and amendments thereto, to the extent that such taxes and*
16 *assessments are claimed as an itemized deduction for federal income tax*
17 *purposes.*

18 (xxv) *For taxable years commencing after December 31, 2013, that*
19 *portion of the amount of any expenditure deduction claimed in*
20 *determining federal adjusted gross income for expenses paid by a*
21 *taxpayer for health care, a health benefit plan, as defined in section 1, and*
22 *amendments thereto, or amounts contributed to health savings accounts*
23 *for such taxpayer's employees for the purchase of an optional rider for*
24 *coverage of abortion in accordance with K.S.A. 2012 Supp. 40-2,190, and*
25 *amendments thereto, to the extent that such taxes and assessments are*
26 *claimed as an itemized deduction for federal income tax purposes.*

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

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

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

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

1 such gain which is included in federal adjusted gross income.

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

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

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

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

21 (viii) Amounts received by retired railroad employees as a
22 supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and
23 228c (a)(1) et seq.

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

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

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

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

40 (xiii) For taxable years beginning after December 31, 2004, amounts
41 contributed to and the amount of income earned on contributions deposited
42 to an individual development account under K.S.A. 2012 Supp. 74-50,201
43 et seq., and amendments thereto.

1 (xiv) For all taxable years commencing after December 31, 1996, that
2 portion of any income of a bank organized under the laws of this state or
3 any other state, a national banking association organized under the laws of
4 the United States, an association organized under the savings and loan
5 code of this state or any other state, or a federal savings association
6 organized under the laws of the United States, for which an election as an
7 S corporation under subchapter S of the federal internal revenue code is in
8 effect, which accrues to the taxpayer who is a stockholder of such
9 corporation and which is not distributed to the stockholders as dividends of
10 the corporation. For all taxable years beginning after December 31, 2012,
11 the amount of modification under this subsection shall exclude the portion
12 of income or loss reported on schedule E and included on line 17 of the
13 taxpayer's form 1040 federal individual income tax return.

14 (xv) For all taxable years beginning after December 31, 2006,
15 amounts not exceeding \$3,000, or \$6,000 for a married couple filing a
16 joint return, for each designated beneficiary which are contributed to a
17 family postsecondary education savings account established under the
18 Kansas postsecondary education savings program or a qualified tuition
19 program established and maintained by another state or agency or
20 instrumentality thereof pursuant to section 529 of the internal revenue
21 code of 1986, as amended, for the purpose of paying the qualified higher
22 education expenses of a designated beneficiary at an institution of
23 postsecondary education. The terms and phrases used in this paragraph
24 shall have the meaning respectively ascribed thereto by the provisions of
25 K.S.A. 2012 Supp. 75-643, and amendments thereto, and the provisions of
26 such section are hereby incorporated by reference for all purposes thereof.

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

37 (xvii) For all taxable years beginning after December 31, 2004,
38 amounts received by taxpayers who are eligible members of the Kansas
39 army and air national guard as a reimbursement pursuant to K.S.A. 48-
40 281, and amendments thereto, and amounts received for death benefits
41 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to section
42 1 or section 2 of chapter 207 of the 2005 Session Laws of Kansas, and
43 amendments thereto, to the extent that such death benefits are included in

1 federal adjusted gross income of the taxpayer.

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

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

15 (xx) For all taxable years beginning after December 31, 2012, the
16 amount of any: (1) Net profit from business as determined under the
17 federal internal revenue code and reported from schedule C and on line 12
18 of the taxpayer's form 1040 federal individual income tax return; (2) net
19 income from rental real estate, royalties, partnerships, S corporations,
20 estates, trusts, residual interest in real estate mortgage investment conduits
21 and net farm rental as determined under the federal internal revenue code
22 and reported from schedule E and on line 17 of the taxpayer's form 1040
23 federal individual income tax return; and (3) net farm profit as determined
24 under the federal internal revenue code and reported from schedule F and
25 on line 18 of the taxpayer's form 1040 federal income tax return; all to the
26 extent included in the taxpayer's federal adjusted gross income. For
27 purposes of this subsection, references to the federal form 1040 and
28 federal schedule C, schedule E, and schedule F, shall be to such form and
29 schedules as they existed for tax year 2011 and as revised thereafter by the
30 internal revenue service.

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

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

40 ~~Sec. 16.~~ **17.** K.S.A. 2012 Supp. 79-32,138 is hereby amended to read
41 as follows: 79-32,138. (a) Kansas taxable income of a corporation taxable
42 under this act shall be the corporation's federal taxable income for the
43 taxable year with the modifications specified in this section.

1 (b) There shall be added to federal taxable income: (i) The same
2 modifications as are set forth in subsection (b) of K.S.A. 79-32,117, and
3 amendments thereto, with respect to resident individuals, except
4 subsections (b)(xix), (b)(xx), (b)(xxi), (b)(xxii) and (b)(xxiii).

5 (ii) The amount of all depreciation deductions claimed for any
6 property upon which the deduction allowed by K.S.A. 2012 Supp. 79-
7 32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-
8 32,255 or 79-32,256, and amendments thereto, is claimed.

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

12 (iv) *For taxable years commencing December 31, 2013, that portion*
13 *of the amount of any expenditure deduction claimed in determining federal*
14 *adjusted gross income for expenses paid by a taxpayer for health care, a*
15 *health benefit plan, as defined in section 1, and amendments thereto, or*
16 *amounts contributed to health savings accounts for such taxpayer's*
17 *employees for the purchase of an optional rider for coverage of abortion*
18 *in accordance with K.S.A. 2012 Supp. 40-2,190, and amendments thereto.*

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

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

37 (iii) An amount for the amortization deduction allowed pursuant to
38 K.S.A. 2012 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-
39 32,249, 79-32,250, 79-32,255 or 79-32,256, and amendments thereto.

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

43 (v) For all taxable years commencing after December 31, 1987, 80%

1 of dividends from corporations incorporated outside of the United States
2 or the District of Columbia which are included in federal taxable income.

3 (d) If any corporation derives all of its income from sources within
4 Kansas in any taxable year commencing after December 31, 1979, its
5 Kansas taxable income shall be the sum resulting after application of
6 subsections (a) through (c) hereof. Otherwise, such corporation's Kansas
7 taxable income in any such taxable year, after excluding any refunds of
8 federal income tax and before the deduction of federal income taxes
9 provided by subsection (c)(ii) shall be allocated as provided in K.S.A. 79-
10 3271 to K.S.A. 79-3293, inclusive, and amendments thereto, plus any
11 refund of federal income tax as determined under paragraph (iv) of
12 subsection (b) of K.S.A. 79-32,117, and amendments thereto, and minus
13 the deduction for federal income taxes as provided by subsection (c)(ii)
14 shall be such corporation's Kansas taxable income.

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

22 ~~Sec. 17.~~ **18.** K.S.A. 2012 Supp. 79-32,182b is hereby amended to
23 read as follows: 79-32,182b. (a) For all taxable years commencing after
24 December 31, 2000, a credit shall be allowed against the tax imposed by
25 the Kansas income tax act on the Kansas taxable income of a taxpayer for
26 expenditures in research and development activities conducted within this
27 state in an amount equal to 6¹/₂% of the amount by which the amount
28 expended for such activities in the taxable year of the taxpayer exceeds the
29 taxpayer's average of the actual expenditures for such purposes made in
30 such taxable year and the next preceding two taxable years.

31 (b) In any one taxable year, the amount of such credit allowable for
32 deduction from the taxpayer's tax liability shall not exceed 25% of the total
33 amount of such credit plus any applicable carry forward amount. The
34 amount by which that portion of the credit allowed by subsections (a) and
35 (b) to be claimed in any one taxable year exceeds the taxpayer's tax
36 liability in such year may be carried forward until the total amount of the
37 credit is used.

38 (c) As used in this section, the term "expenditures in research and
39 development activities" means expenditures made for such purposes, other
40 than expenditures of moneys made available to the taxpayer pursuant to
41 federal or state law, which are treated as expenses allowable for deduction
42 under the provisions of the federal internal revenue code of 1986, ~~and~~
43 ~~amendments thereto~~ *as amended, except that for taxable years*

1 *commencing after December 31, 2013, expenditures in research and*
2 *development activities shall not include any expenditures for the*
3 *performance of any abortion, as defined in K.S.A. 65-6701, and*
4 *amendments thereto.*

5 (d) For tax year 2013 and all tax years thereafter, the income tax
6 credit provided by this section shall only be available to taxpayers subject
7 to the income tax on corporations imposed pursuant to subsection (c) of
8 K.S.A. 79-32,110, and amendments thereto, and shall be applied only
9 against such taxpayer's corporate income tax liability.

10 Sec. 48. 19. K.S.A. 2012 Supp. 79-32,195 is hereby amended to read
11 as follows: 79-32,195. As used in this act, the following words and phrases
12 shall have the meanings ascribed to them herein: (a) "Business firm"
13 means any business entity authorized to do business in the state of Kansas
14 which is subject to the state income tax imposed by the provisions of the
15 Kansas income tax act, any individual subject to the state income tax
16 imposed by the provisions of the Kansas income tax act, any national
17 banking association, state bank, trust company or savings and loan
18 association paying an annual tax on its net income pursuant to article 11 of
19 chapter 79 of the Kansas Statutes Annotated, *and amendments thereto*, or
20 any insurance company paying the premium tax and privilege fees
21 imposed pursuant to K.S.A. 40-252, and amendments thereto;

22 (b) "Community services" means:

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

30 (2) crime prevention; and

31 (3) health care services.

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

34 (d) "Community service organization" means any organization
35 performing community services in Kansas and which:

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

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

42 (3) has been designated as a community development corporation by
43 the United States government under the provisions of title VII of the

1 economic opportunity act of 1964; or

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

3 (e) "Contributions" shall mean and include the donation of cash,
4 services or property other than used clothing in an amount or value of
5 \$250 or more. Stocks and bonds contributed shall be valued at the stock
6 market price on the date of transfer. Services contributed shall be valued at
7 the standard billing rate for not-for-profit clients. Personal property items
8 contributed shall be valued at the lesser of its fair market value or cost to
9 the donor and may be inclusive of costs incurred in making the
10 contribution, but shall not include sales tax. Contributions of real estate are
11 allowable for credit only when title thereto is in fee simple absolute and is
12 clear of any encumbrances. The amount of credit allowable shall be based
13 upon the lesser of two current independent appraisals conducted by state
14 licensed appraisers.

15 (f) "Health care services" shall include, but not be limited to, the
16 following: Services provided by local health departments, city, county or
17 district hospitals, city or county nursing homes, or other residential
18 institutions, preventive health care services offered by a community
19 service organization including immunizations, prenatal care, the
20 postponement of entry into nursing homes by home health care services,
21 and community based services for persons with a disability, mental health
22 services, indigent health care, physician or health care worker recruitment,
23 health education, emergency medical services, services provided by rural
24 health clinics, integration of health care services, home health services and
25 services provided by rural health networks, *except that for taxable years*
26 *commencing after December 31, 2013, health care services shall not*
27 *include any service involving the performance of any abortion, as defined*
28 *in K.S.A. 65-6701, and amendments thereto.*

29 (g) "Rural community" means any city having a population of fewer
30 than 15,000 located in a county that is not part of a standard metropolitan
31 statistical area as defined by the United States department of commerce or
32 its successor agency. However, any such city located in a county defined
33 as a standard metropolitan statistical area shall be deemed a rural
34 community if a substantial number of persons in such county derive their
35 income from agriculture and, in any county where there is only one city
36 within the county which has a population of more than 15,000 and which
37 classifies as a standard metropolitan statistical area, all other cities in that
38 county having a population of less than 15,000 shall be deemed a rural
39 community.

40 ~~Sec. 19.~~ **20.** K.S.A. 2012 Supp. 79-32,261 is hereby amended to read
41 as follows: 79-32,261. (a) On and after July 1, 2008, any taxpayer who
42 contributes in the manner prescribed by this section to a community
43 college located in Kansas for capital improvements, to a technical college

1 for deferred maintenance or the purchase of technology or equipment or to
2 a postsecondary educational institution located in Kansas for deferred
3 maintenance, shall be allowed a credit against the tax imposed by the
4 Kansas income tax act, the premium tax or privilege fees imposed
5 pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as
6 measured by net income of financial institutions imposed pursuant to
7 article 11 of chapter 79 of the Kansas Statutes Annotated, *and amendments*
8 *thereto*. The tax credit allowed by this section is applicable for the tax year
9 2008 for any contributions made on and after July 1, 2008, and for the tax
10 years 2009, 2010, 2011 and 2012 for any contributions made during the
11 entire tax year. The amount of the credit allowed by this section shall not
12 exceed 60% of the total amount contributed during the taxable year by the
13 taxpayer to a community college or a technical college located in Kansas
14 for such purposes. The amount of the credit allowed by this section shall
15 not exceed 50% of the total amount contributed during the taxable year by
16 the taxpayer to a postsecondary educational institution for such purposes.
17 If the amount of the credit allowed by this section for a taxpayer who
18 contributes to a community college or a technical college exceeds the
19 taxpayer's income tax liability imposed by the Kansas income tax act, such
20 excess amount shall be refunded to the taxpayer. If the amount of the tax
21 credit for a taxpayer who contributes to a postsecondary educational
22 institution exceeds the taxpayer's income tax liability for the taxable year,
23 the amount which exceeds the tax liability may be carried over for
24 deduction from the taxpayer's income tax liability in the next succeeding
25 taxable year or years until the total amount of the tax credit has been
26 deducted from tax liability, except that no such tax credit shall be carried
27 over for deduction after the third taxable year succeeding the taxable year
28 in which the contribution is made. Prior to the issuance of any tax credits
29 pursuant to this section, the structure of the process in which contributions
30 received by a community college, a technical college or a postsecondary
31 educational institution qualify as tax credits allowed and issued pursuant to
32 this section shall be developed by a community college, a technical college
33 and a postsecondary educational institution in consultation with the
34 secretary of revenue and the foundation or endowment association of any
35 such community college, technical college or postsecondary educational
36 institution in a manner that complies with requirements specified in the
37 federal internal revenue code of 1986, as amended, so that contributions
38 qualify as charitable contributions allowable as deductions from federal
39 adjusted gross income.

40 (b) (1) Upon receipt of any such contributions to a community
41 college made pursuant to the provisions of this section, the treasurer of the
42 community college shall deposit such contributions to the credit of the
43 capital outlay fund of such community college established as provided by

1 K.S.A. 71-501a, and amendments thereto. Expenditures from such fund
2 shall be made for the purposes described in subsection (a) of K.S.A. 71-
3 501, and amendments thereto, except that expenditures shall not be made
4 from such fund for new construction or the acquisition of real property for
5 use as building sites or for educational programs.

6 (2) Upon receipt of any such contributions to a technical college
7 made pursuant to the provisions of this section, such contributions shall be
8 deposited to the credit of a deferred maintenance fund or a technology and
9 equipment fund established by the technical college which received the
10 contribution. Expenditures from such fund shall be made only for the
11 purpose as provided in this subsection.

12 (3) Upon receipt of any such contributions to a postsecondary
13 educational institution made pursuant to the provisions of this section,
14 such contributions shall be deposited to the credit of the appropriate
15 deferred maintenance support fund of the postsecondary educational
16 institution which received the contribution. Expenditures from such fund
17 shall be made only for the purposes designated for such fund pursuant to
18 law.

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

25 (2) In no event shall the total of credits allowed under this section for
26 taxpayers who contribute to postsecondary educational institutions exceed
27 the following amounts: For the tax year 2008, an amount not to exceed
28 \$5,625,000; for the tax year 2009, an amount not to exceed \$11,250,000;
29 and for the tax years 2010, 2011 and 2012, an amount not to exceed
30 \$15,000,000. Except as otherwise provided, the allocation of such tax
31 credits for each individual state educational institution shall be determined
32 by the state board of regents in consultation with the secretary of revenue
33 and the university foundation or endowment association of each
34 postsecondary educational institution, and such determination shall be
35 completed prior to the issuance of any tax credits pursuant to this section.
36 Not more than 40% of the total of credits allowed under this section shall
37 be allocated to any one postsecondary educational institution unless all
38 such postsecondary educational institutions approve an allocation to any
39 one such postsecondary educational institution which exceeds 40% of the
40 total of such credits allowed under this section.

41 (d) As used in this section: (1) "Community college" means a
42 community college established under the provisions of the community
43 college act;

1 (2) "deferred maintenance" means the maintenance, repair,
2 reconstruction or rehabilitation of a building located at a technical college
3 or a postsecondary educational institution which has been deferred, any
4 utility systems relating to such building, any life-safety upgrades to such
5 building and any improvements necessary to be made to such building in
6 order to comply with the requirements of the Americans with disabilities
7 act or other federal or state law, *except that for taxable years commencing*
8 *after December 31, 2013, deferred maintenance shall not include any*
9 *maintenance, repair, reconstruction or rehabilitation of any building in*
10 *which any abortion, as defined in K.S.A. 65-6701, and amendments*
11 *thereto, is performed;*

12 (3) "postsecondary educational institution" means the university of
13 Kansas, Kansas state university of agriculture and applied science, Wichita
14 state university, Emporia state university, Pittsburg state university, Fort
15 Hays state university and Washburn university of Topeka; and

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

19 (e) Any taxpayer not subject to Kansas income, privilege or
20 premiums tax who contributes to a community college, technical college
21 or postsecondary educational institution, hereinafter designated the
22 transferor, may sell, assign, convey or otherwise transfer tax credits
23 allowed and earned pursuant to this section. The sale price of a tax credit
24 shall be at least 50% of the full value of the credit. Such credit shall be
25 deemed to be allowed and earned by any such taxpayer which is only
26 disqualified therefrom by reason of not being subject to such Kansas taxes.
27 The taxpayer acquiring earned credits, hereinafter designated the
28 transferee, may use the amount of the acquired credits to offset up to 100%
29 of the taxpayer's income, privilege or premiums tax liability for the taxable
30 year in which such acquisition was made. Such credits may be sold or
31 transferred only one time and, if sold or transferred, shall be transferred in
32 the tax year such credit is earned or the two successive tax years. A
33 transferred credit shall be claimed in the year purchased. The transferor
34 shall enter into a written agreement with the transferee establishing the
35 terms and conditions of the sale or transfer and shall perfect such transfer
36 by notifying the secretary of revenue in writing within 30 calendar days
37 following the effective date of the transfer, subject to the review and
38 approval or denial of such transfer by the secretary of revenue. The
39 transferor and transferee shall provide any information pertaining to the
40 sale or transfer as may be required by the secretary of revenue to
41 administer and carry out the provisions of this section. The amount
42 received by the transferor of such tax credit shall be taxable as income of
43 the transferor, and the excess of the value of such credit over the amount

1 paid by the transferee for such credit shall be taxable as income of the
2 transferee.

3 (f) The secretary of revenue shall submit an annual report to the
4 legislature to assist the legislature in the evaluation of the utilization of any
5 credits claimed pursuant to this act, including information specific as to
6 each community college, technical college or postsecondary educational
7 institution. Such report shall be due on or before the first day of the
8 legislative session following the tax year in which the credits were
9 claimed.

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

12 ~~Sec. 20.~~ **21.** K.S.A. 2012 Supp. 79-3606 is hereby amended to read as
13 follows: 79-3606. The following shall be exempt from the tax imposed by
14 this act:

15 (a) All sales of motor-vehicle fuel or other articles upon which a sales
16 or excise tax has been paid, not subject to refund, under the laws of this
17 state except cigarettes as defined by K.S.A. 79-3301, and amendments
18 thereto, cereal malt beverages and malt products as defined by K.S.A. 79-
19 3817, and amendments thereto, including wort, liquid malt, malt syrup and
20 malt extract, which is not subject to taxation under the provisions of
21 K.S.A. 79-41a02, and amendments thereto, motor vehicles taxed pursuant
22 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to K.S.A.
23 65-3424d, and amendments thereto, drycleaning and laundry services
24 taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and gross
25 receipts from regulated sports contests taxed pursuant to the Kansas
26 professional regulated sports act, and amendments thereto;

27 (b) all sales of tangible personal property or service, including the
28 renting and leasing of tangible personal property, purchased directly by the
29 state of Kansas, a political subdivision thereof, other than a school or
30 educational institution, or purchased by a public or private nonprofit
31 hospital or public hospital authority or nonprofit blood, tissue or organ
32 bank and used exclusively for state, political subdivision, hospital or
33 public hospital authority or nonprofit blood, tissue or organ bank purposes,
34 except when: (1) Such state, hospital or public hospital authority is
35 engaged or proposes to engage in any business specifically taxable under
36 the provisions of this act and such items of tangible personal property or
37 service are used or proposed to be used in such business; or (2) such
38 political subdivision is engaged or proposes to engage in the business of
39 furnishing gas, electricity or heat to others and such items of personal
40 property or service are used or proposed to be used in such business;

41 (c) all sales of tangible personal property or services, including the
42 renting and leasing of tangible personal property, purchased directly by a
43 public or private elementary or secondary school or public or private

1 nonprofit educational institution and used primarily by such school or
2 institution for nonsectarian programs and activities provided or sponsored
3 by such school or institution or in the erection, repair or enlargement of
4 buildings to be used for such purposes. The exemption herein provided
5 shall not apply to erection, construction, repair, enlargement or equipment
6 of buildings used primarily for human habitation;

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

1 number of such certificate to all suppliers from whom such purchases are
2 made, and such suppliers shall execute invoices covering the same bearing
3 the number of such certificate. Upon completion of the project the
4 contractor shall furnish to the political subdivision, district described in
5 subsection (s), hospital or public hospital authority, school, educational
6 institution or department of corrections concerned a sworn statement, on a
7 form to be provided by the director of taxation, that all purchases so made
8 were entitled to exemption under this subsection. As an alternative to the
9 foregoing procedure, any such contracting entity may apply to the
10 secretary of revenue for agent status for the sole purpose of issuing and
11 furnishing project exemption certificates to contractors pursuant to rules
12 and regulations adopted by the secretary establishing conditions and
13 standards for the granting and maintaining of such status. All invoices
14 shall be held by the contractor for a period of five years and shall be
15 subject to audit by the director of taxation. If any materials purchased
16 under such a certificate are found not to have been incorporated in the
17 building or other project or not to have been returned for credit or the sales
18 or compensating tax otherwise imposed upon such materials which will
19 not be so incorporated in the building or other project reported and paid by
20 such contractor to the director of taxation not later than the 20th day of the
21 month following the close of the month in which it shall be determined
22 that such materials will not be used for the purpose for which such
23 certificate was issued, the political subdivision, district described in
24 subsection (s), hospital or public hospital authority, school, educational
25 institution or the contractor contracting with the department of corrections
26 for a correctional institution concerned shall be liable for tax on all
27 materials purchased for the project, and upon payment thereof it may
28 recover the same from the contractor together with reasonable attorney
29 fees. Any contractor or any agent, employee or subcontractor thereof, who
30 shall use or otherwise dispose of any materials purchased under such a
31 certificate for any purpose other than that for which such a certificate is
32 issued without the payment of the sales or compensating tax otherwise
33 imposed upon such materials, shall be guilty of a misdemeanor and, upon
34 conviction therefor, shall be subject to the penalties provided for in
35 subsection (g) of K.S.A. 79-3615, and amendments thereto;

36 (e) all sales of tangible personal property or services purchased by a
37 contractor for the erection, repair or enlargement of buildings or other
38 projects for the government of the United States, its agencies or
39 instrumentalities, which would be exempt from taxation if purchased
40 directly by the government of the United States, its agencies or
41 instrumentalities. When the government of the United States, its agencies
42 or instrumentalities shall contract for the erection, repair, or enlargement
43 of any building or other project, it shall obtain from the state and furnish to

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

24 (f) tangible personal property purchased by a railroad or public utility
25 for consumption or movement directly and immediately in interstate
26 commerce;

27 (g) sales of aircraft including remanufactured and modified aircraft
28 sold to persons using directly or through an authorized agent such aircraft
29 as certified or licensed carriers of persons or property in interstate or
30 foreign commerce under authority of the laws of the United States or any
31 foreign government or sold to any foreign government or agency or
32 instrumentality of such foreign government and all sales of aircraft for use
33 outside of the United States and sales of aircraft repair, modification and
34 replacement parts and sales of services employed in the remanufacture,
35 modification and repair of aircraft;

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

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

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

1 such meals or drinks;

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

8 (l) all isolated or occasional sales of tangible personal property,
9 services, substances or things, except isolated or occasional sale of motor
10 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.
11 79-3603, and amendments thereto;

12 (m) all sales of tangible personal property which become an
13 ingredient or component part of tangible personal property or services
14 produced, manufactured or compounded for ultimate sale at retail within
15 or without the state of Kansas; and any such producer, manufacturer or
16 compounder may obtain from the director of taxation and furnish to the
17 supplier an exemption certificate number for tangible personal property for
18 use as an ingredient or component part of the property or services
19 produced, manufactured or compounded;

20 (n) all sales of tangible personal property which is consumed in the
21 production, manufacture, processing, mining, drilling, refining or
22 compounding of tangible personal property, the treating of by-products or
23 wastes derived from any such production process, the providing of
24 services or the irrigation of crops for ultimate sale at retail within or
25 without the state of Kansas; and any purchaser of such property may
26 obtain from the director of taxation and furnish to the supplier an
27 exemption certificate number for tangible personal property for
28 consumption in such production, manufacture, processing, mining,
29 drilling, refining, compounding, treating, irrigation and in providing such
30 services;

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

37 (p) all sales of drugs dispensed pursuant to a prescription order by a
38 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-
39 1626, and amendments thereto. As used in this subsection, "drug" means a
40 compound, substance or preparation and any component of a compound,
41 substance or preparation, other than food and food ingredients, dietary
42 supplements or alcoholic beverages, recognized in the official United
43 States pharmacopoeia, official homeopathic pharmacopoeia of the United

1 States or official national formulary, and supplement to any of them,
2 intended for use in the diagnosis, cure, mitigation, treatment or prevention
3 of disease or intended to affect the structure or any function of the body,
4 *except that for taxable years commencing after December 31, 2013, this*
5 *subsection shall not apply to any sales of drugs used in the performance*
6 *or induction of an abortion, as defined in K.S.A. 65-6701, and*
7 *amendments thereto;*

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

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

32 (s) except as provided in K.S.A. 2012 Supp. 82a-2101, and
33 amendments thereto, all sales of tangible personal property or services
34 purchased directly or indirectly by a groundwater management district
35 organized or operating under the authority of K.S.A. 82a-1020 et seq., and
36 amendments thereto, by a rural water district organized or operating under
37 the authority of K.S.A. 82a-612, and amendments thereto, or by a water
38 supply district organized or operating under the authority of K.S.A. 19-
39 3501 et seq., 19-3522 et seq., or 19-3545, and amendments thereto, which
40 property or services are used in the construction activities, operation or
41 maintenance of the district;

42 (t) all sales of farm machinery and equipment or aquaculture
43 machinery and equipment, repair and replacement parts therefor and

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

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

28 (v) all sales of tangible personal property to any contractor for use in
29 preparing meals for delivery to homebound elderly persons over 60 years
30 of age and to homebound disabled persons or to be served at a group-
31 sitting at a location outside of the home to otherwise homebound elderly
32 persons over 60 years of age and to otherwise homebound disabled
33 persons, as all or part of any food service project funded in whole or in
34 part by government or as part of a private nonprofit food service project
35 available to all such elderly or disabled persons residing within an area of
36 service designated by the private nonprofit organization, and all sales of
37 tangible personal property for use in preparing meals for consumption by
38 indigent or homeless individuals whether or not such meals are consumed
39 at a place designated for such purpose, and all sales of food products by or
40 on behalf of any such contractor or organization for any such purpose;

41 (w) all sales of natural gas, electricity, heat and water delivered
42 through mains, lines or pipes: (1) To residential premises for
43 noncommercial use by the occupant of such premises; (2) for agricultural

1 use and also, for such use, all sales of propane gas; (3) for use in the
2 severing of oil; and (4) to any property which is exempt from property
3 taxation pursuant to K.S.A. 79-201b, *Second* through *Sixth*. As used in this
4 paragraph, "severing" shall have the meaning ascribed thereto by
5 subsection (k) of K.S.A. 79-4216, and amendments thereto. For all sales of
6 natural gas, electricity and heat delivered through mains, lines or pipes
7 pursuant to the provisions of subsection (w)(1) and (w)(2), the provisions
8 of this subsection shall expire on December 31, 2005;

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

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

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

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

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

30 (cc) all sales of tangible personal property or services purchased prior
31 to January 1, 2012, except as otherwise provided, for the purpose of and in
32 conjunction with constructing, reconstructing, enlarging or remodeling a
33 business or retail business which meets the requirements established in
34 K.S.A. 74-50,115, and amendments thereto, and the sale and installation of
35 machinery and equipment purchased for installation at any such business
36 or retail business, and all sales of tangible personal property or services
37 purchased on or after January 1, 2012, for the purpose of and in
38 conjunction with constructing, reconstructing, enlarging or remodeling a
39 business which meets the requirements established in K.S.A. 74-50,115(e),
40 and amendments thereto, and the sale and installation of machinery and
41 equipment purchased for installation at any such business. When a person
42 shall contract for the construction, reconstruction, enlargement or
43 remodeling of any such business or retail business, such person shall

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

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

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

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

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

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

14 (ii) all sales of tangible personal property purchased directly by a
15 nonprofit organization for nonsectarian comprehensive multidiscipline
16 youth development programs and activities provided or sponsored by such
17 organization, and all sales of tangible personal property by or on behalf of
18 any such organization. This exemption shall not apply to tangible personal
19 property customarily used for human habitation purposes;

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

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

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

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

42 (2) For purposes of this subsection:

43 (A) "Integrated production operation" means an integrated series of

1 operations engaged in at a manufacturing or processing plant or facility to
2 process, transform or convert tangible personal property by physical,
3 chemical or other means into a different form, composition or character
4 from that in which it originally existed. Integrated production operations
5 shall include: (i) Production line operations, including packaging
6 operations; (ii) preproduction operations to handle, store and treat raw
7 materials; (iii) post production handling, storage, warehousing and
8 distribution operations; and (iv) waste, pollution and environmental
9 control operations, if any;

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

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

24 (D) "manufacturing or processing business" means a business that
25 utilizes an integrated production operation to manufacture, process,
26 fabricate, finish, or assemble items for wholesale and retail distribution as
27 part of what is commonly regarded by the general public as an industrial
28 manufacturing or processing operation or an agricultural commodity
29 processing operation. (i) Industrial manufacturing or processing operations
30 include, by way of illustration but not of limitation, the fabrication of
31 automobiles, airplanes, machinery or transportation equipment, the
32 fabrication of metal, plastic, wood, or paper products, electricity power
33 generation, water treatment, petroleum refining, chemical production,
34 wholesale bottling, newspaper printing, ready mixed concrete production,
35 and the remanufacturing of used parts for wholesale or retail sale. Such
36 processing operations shall include operations at an oil well, gas well,
37 mine or other excavation site where the oil, gas, minerals, coal, clay, stone,
38 sand or gravel that has been extracted from the earth is cleaned, separated,
39 crushed, ground, milled, screened, washed, or otherwise treated or
40 prepared before its transmission to a refinery or before any other wholesale
41 or retail distribution. (ii) Agricultural commodity processing operations
42 include, by way of illustration but not of limitation, meat packing, poultry
43 slaughtering and dressing, processing and packaging farm and dairy

1 products in sealed containers for wholesale and retail distribution, feed
2 grinding, grain milling, frozen food processing, and grain handling,
3 cleaning, blending, fumigation, drying and aeration operations engaged in
4 by grain elevators or other grain storage facilities. (iii) Manufacturing or
5 processing businesses do not include, by way of illustration but not of
6 limitation, nonindustrial businesses whose operations are primarily retail
7 and that produce or process tangible personal property as an incidental part
8 of conducting the retail business, such as retailers who bake, cook or
9 prepare food products in the regular course of their retail trade, grocery
10 stores, meat lockers and meat markets that butcher or dress livestock or
11 poultry in the regular course of their retail trade, contractors who alter,
12 service, repair or improve real property, and retail businesses that clean,
13 service or refurbish and repair tangible personal property for its owner;

14 (E) "repair and replacement parts and accessories" means all parts
15 and accessories for exempt machinery and equipment, including, but not
16 limited to, dies, jigs, molds, patterns and safety devices that are attached to
17 exempt machinery or that are otherwise used in production, and parts and
18 accessories that require periodic replacement such as belts, drill bits,
19 grinding wheels, grinding balls, cutting bars, saws, refractory brick and
20 other refractory items for exempt kiln equipment used in production
21 operations;

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

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

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

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

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

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

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

39 (F) to plan, manage, control or record the receipt and flow of
40 inventories of raw materials, consumables and component parts, the flow
41 of the property undergoing manufacturing or processing and the
42 management of inventories of the finished product;

43 (G) to produce energy for, lubricate, control the operating of or

1 otherwise enable the functioning of other production machinery and
2 equipment and the continuation of production operations;

3 (H) to package the property being manufactured or processed in a
4 container or wrapping in which such property is normally sold or
5 transported;

6 (I) to transmit or transport electricity, coke, gas, water, steam or
7 similar substances used in production operations from the point of
8 generation, if produced by the manufacturer or processor at the plant site,
9 to that manufacturer's production operation; or, if purchased or delivered
10 from off-site, from the point where the substance enters the site of the
11 plant or facility to that manufacturer's production operations;

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

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

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

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

22 (4) The following machinery, equipment and materials shall be
23 deemed to be exempt even though it may not otherwise qualify as
24 machinery and equipment used as an integral or essential part of an
25 integrated production operation: (A) Computers and related peripheral
26 equipment that are utilized by a manufacturing or processing business for
27 engineering of the finished product or for research and development or
28 product design; (B) machinery and equipment that is utilized by a
29 manufacturing or processing business to manufacture or rebuild tangible
30 personal property that is used in manufacturing or processing operations,
31 including tools, dies, molds, forms and other parts of qualifying machinery
32 and equipment; (C) portable plants for aggregate concrete, bulk cement
33 and asphalt including cement mixing drums to be attached to a motor
34 vehicle; (D) industrial fixtures, devices, support facilities and special
35 foundations necessary for manufacturing and production operations, and
36 materials and other tangible personal property sold for the purpose of
37 fabricating such fixtures, devices, facilities and foundations. An exemption
38 certificate for such purchases shall be signed by the manufacturer or
39 processor. If the fabricator purchases such material, the fabricator shall
40 also sign the exemption certificate; and (E) a manufacturing or processing
41 business' laboratory equipment that is not located at the plant or facility,
42 but that would otherwise qualify for exemption under subsection (3)(E).

43 (5) "Machinery and equipment used as an integral or essential part of

1 an integrated production operation" shall not include:

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

7 (B) machinery, equipment and tools used primarily in maintaining
8 and repairing any type of machinery and equipment or the building and
9 plant;

10 (C) transportation, transmission and distribution equipment not
11 primarily used in a production, warehousing or material handling
12 operation at the plant or facility, including the means of conveyance of
13 natural gas, electricity, oil or water, and equipment related thereto, located
14 outside the plant or facility;

15 (D) office machines and equipment including computers and related
16 peripheral equipment not used directly and primarily to control or measure
17 the manufacturing process;

18 (E) furniture and other furnishings;

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

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

25 (H) machinery and equipment used for general plant heating, cooling
26 and lighting;

27 (I) motor vehicles that are registered for operation on public
28 highways; or

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

32 (6) Subsections (3) and (5) shall not be construed as exclusive listings
33 of the machinery and equipment that qualify or do not qualify as an
34 integral or essential part of an integrated production operation. When
35 machinery or equipment is used as an integral or essential part of
36 production operations part of the time and for nonproduction purpose at
37 other times, the primary use of the machinery or equipment shall
38 determine whether or not such machinery or equipment qualifies for
39 exemption.

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

42 (II) all sales of educational materials purchased for distribution to the
43 public at no charge by a nonprofit corporation organized for the purpose of

1 encouraging, fostering and conducting programs for the improvement of
2 public health, *except that for taxable years commencing after December*
3 *31, 2013, this subsection shall not apply to any sales of such materials*
4 *purchased by a nonprofit corporation which performs any abortion, as*
5 *defined in K.S.A. 65-6701, and amendments thereto;*

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

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

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

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

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

25 (rr) all sales of tangible personal property which will admit the
26 purchaser thereof to any annual event sponsored by a nonprofit
27 organization which is exempt from federal income taxation pursuant to
28 section 501(c)(3) of the federal internal revenue code of 1986, *except that*
29 *for taxable years commencing after December 31, 2013, this subsection*
30 *shall not apply to any sales of such tangible personal property purchased*
31 *by a nonprofit organization which performs any abortion, as defined in*
32 *K.S.A. 65-6701, and amendments thereto;*

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

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

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

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

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

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

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

16 (4) the American Diabetes Association Kansas Affiliate, Inc. for the
17 purpose of eliminating diabetes through medical research, public education
18 focusing on disease prevention and education, patient education including
19 information on coping with diabetes, and professional education and
20 training;

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

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

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

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

36 (9) the heartstrings community foundation for the purpose of
37 providing training, employment and activities for adults with
38 developmental disabilities;

39 (10) the Cystic Fibrosis Foundation, Heart of America Chapter, for
40 the purposes of assuring the development of the means to cure and control
41 cystic fibrosis and improving the quality of life for those with the disease;

42 (11) the spina bifida association of Kansas for the purpose of
43 providing financial, educational and practical aid to families and

1 individuals with spina bifida. Such aid includes, but is not limited to,
2 funding for medical devices, counseling and medical educational
3 opportunities;

4 (12) the CHWC, Inc., for the purpose of rebuilding urban core
5 neighborhoods through the construction of new homes, acquiring and
6 renovating existing homes and other related activities, and promoting
7 economic development in such neighborhoods;

8 (13) the cross-lines cooperative council for the purpose of providing
9 social services to low income individuals and families;

10 (14) the Dreams Work, Inc., for the purpose of providing young adult
11 day services to individuals with developmental disabilities and assisting
12 families in avoiding institutional or nursing home care for a
13 developmentally disabled member of their family;

14 (15) the KSDS, Inc., for the purpose of promoting the independence
15 and inclusion of people with disabilities as fully participating and
16 contributing members of their communities and society through the
17 training and providing of guide and service dogs to people with
18 disabilities, and providing disability education and awareness to the
19 general public;

20 (16) the lyme association of greater Kansas City, Inc., for the purpose
21 of providing support to persons with lyme disease and public education
22 relating to the prevention, treatment and cure of lyme disease;

23 (17) the Dream Factory, Inc., for the purpose of granting the dreams
24 of children with critical and chronic illnesses;

25 (18) the Ottawa Suzuki Strings, Inc., for the purpose of providing
26 students and families with education and resources necessary to enable
27 each child to develop fine character and musical ability to the fullest
28 potential;

29 (19) the International Association of Lions Clubs for the purpose of
30 creating and fostering a spirit of understanding among all people for
31 humanitarian needs by providing voluntary services through community
32 involvement and international cooperation;

33 (20) the Johnson county young matrons, inc., for the purpose of
34 promoting a positive future for members of the community through
35 volunteerism, financial support and education through the efforts of an all
36 volunteer organization;

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

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

43 (23) the angel babies association, for the purpose of providing

1 assistance, support and items of necessity to teenage mothers and their
2 babies; and

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

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

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

1 for the project, and upon payment thereof it may recover the same from
2 the contractor together with reasonable attorney fees. Any contractor or
3 any agent, employee or subcontractor thereof, who shall use or otherwise
4 dispose of any materials purchased under such a certificate for any purpose
5 other than that for which such a certificate is issued without the payment
6 of the sales or compensating tax otherwise imposed upon such materials,
7 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
8 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
9 and amendments thereto;

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

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

22 (aaa) all sales of tangible personal property and services purchased by
23 a religious organization which is exempt from federal income taxation
24 pursuant to section 501(c)(3) of the federal internal revenue code, and used
25 exclusively for religious purposes, and all sales of tangible personal
26 property or services purchased by a contractor for the purpose of
27 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
28 furnishing or remodeling facilities for any such organization which would
29 be exempt from taxation under the provisions of this section if purchased
30 directly by such organization. Nothing in this subsection shall be deemed
31 to exempt the purchase of any construction machinery, equipment or tools
32 used in the constructing, equipping, reconstructing, maintaining, repairing,
33 enlarging, furnishing or remodeling facilities for any such organization.
34 When any such organization shall contract for the purpose of constructing,
35 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
36 remodeling facilities, it shall obtain from the state and furnish to the
37 contractor an exemption certificate for the project involved, and the
38 contractor may purchase materials for incorporation in such project. The
39 contractor shall furnish the number of such certificate to all suppliers from
40 whom such purchases are made, and such suppliers shall execute invoices
41 covering the same bearing the number of such certificate. Upon
42 completion of the project the contractor shall furnish to such organization
43 concerned a sworn statement, on a form to be provided by the director of

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

32 (bbb) all sales of food for human consumption by an organization
33 which is exempt from federal income taxation pursuant to section 501(c)
34 (3) of the federal internal revenue code of 1986, pursuant to a food
35 distribution program which offers such food at a price below cost in
36 exchange for the performance of community service by the purchaser
37 thereof;

38 (ccc) on and after July 1, 1999, all sales of tangible personal property
39 and services purchased by a primary care clinic or health center the
40 primary purpose of which is to provide services to medically underserved
41 individuals and families, and which is exempt from federal income
42 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
43 and all sales of tangible personal property or services purchased by a

1 contractor for the purpose of constructing, equipping, reconstructing,
2 maintaining, repairing, enlarging, furnishing or remodeling facilities for
3 any such clinic or center which would be exempt from taxation under the
4 provisions of this section if purchased directly by such clinic or center,
5 *except that for taxable years commencing after December 31, 2013, this*
6 *subsection shall not apply to any sales of such tangible personal property*
7 *and services purchased by a primary care clinic or health center which*
8 *performs any abortion, as defined in K.S.A. 65-6701, and amendments*
9 *thereto.* Nothing in this subsection shall be deemed to exempt the purchase
10 of any construction machinery, equipment or tools used in the
11 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
12 furnishing or remodeling facilities for any such clinic or center. When any
13 such clinic or center shall contract for the purpose of constructing,
14 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
15 remodeling facilities, it shall obtain from the state and furnish to the
16 contractor an exemption certificate for the project involved, and the
17 contractor may purchase materials for incorporation in such project. The
18 contractor shall furnish the number of such certificate to all suppliers from
19 whom such purchases are made, and such suppliers shall execute invoices
20 covering the same bearing the number of such certificate. Upon
21 completion of the project the contractor shall furnish to such clinic or
22 center concerned a sworn statement, on a form to be provided by the
23 director of taxation, that all purchases so made were entitled to exemption
24 under this subsection. All invoices shall be held by the contractor for a
25 period of five years and shall be subject to audit by the director of taxation.
26 If any materials purchased under such a certificate are found not to have
27 been incorporated in the building or other project or not to have been
28 returned for credit or the sales or compensating tax otherwise imposed
29 upon such materials which will not be so incorporated in the building or
30 other project reported and paid by such contractor to the director of
31 taxation not later than the 20th day of the month following the close of the
32 month in which it shall be determined that such materials will not be used
33 for the purpose for which such certificate was issued, such clinic or center
34 concerned shall be liable for tax on all materials purchased for the project,
35 and upon payment thereof it may recover the same from the contractor
36 together with reasonable attorney fees. Any contractor or any agent,
37 employee or subcontractor thereof, who shall use or otherwise dispose of
38 any materials purchased under such a certificate for any purpose other than
39 that for which such a certificate is issued without the payment of the sales
40 or compensating tax otherwise imposed upon such materials, shall be
41 guilty of a misdemeanor and, upon conviction therefor, shall be subject to
42 the penalties provided for in subsection (g) of K.S.A. 79-3615, and
43 amendments thereto;

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

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

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

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

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

40 (iii) all sales of personal property and services purchased by an
41 organization which is exempt from federal income taxation pursuant to
42 section 501(c)(3) of the federal internal revenue code of 1986, and which
43 such personal property and services are used by any such organization in

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

1 in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax
2 paid on and after July 1, 2005, but prior to the effective date of this act
3 upon the gross receipts received from any sale exempted by the
4 amendatory provisions of this subsection shall be refunded. Each claim for
5 a sales tax refund shall be verified and submitted to the director of taxation
6 upon forms furnished by the director and shall be accompanied by any
7 additional documentation required by the director. The director shall
8 review each claim and shall refund that amount of sales tax paid as
9 determined under the provisions of this subsection. All refunds shall be
10 paid from the sales tax refund fund upon warrants of the director of
11 accounts and reports pursuant to vouchers approved by the director or the
12 director's designee;

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

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

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

43 (nnn) all sales of tangible personal property and services purchased

1 by the West Sedgwick County-Sunrise Rotary Club and Sunrise Charitable
2 Fund for the purpose of constructing a boundless playground which is an
3 integrated, barrier free and developmentally advantageous play
4 environment for children of all abilities and disabilities;

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

9 (ppp) all sales of tangible personal property and services purchased
10 by or on behalf of a homeless shelter which is exempt from federal income
11 taxation pursuant to section 501(c)(3) of the federal income tax code of
12 1986, and used by any such homeless shelter to provide emergency and
13 transitional housing for individuals and families experiencing
14 homelessness, and all sales of any such property by or on behalf of any
15 such homeless shelter for any such purpose;

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

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

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

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

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

31 (ttt) all sales of tangible personal property or services purchased by a
32 contractor for a project for the purpose of restoring, constructing,
33 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
34 remodeling a home or facility owned by a nonprofit museum which has
35 been granted an exemption pursuant to subsection (qq), which such home
36 or facility is located in a city which has been designated as a qualified
37 hometown pursuant to the provisions of K.S.A. 75-5071 et seq., and
38 amendments thereto, and which such project is related to the purposes of
39 K.S.A. 75-5071 et seq., and amendments thereto, and which would be
40 exempt from taxation under the provisions of this section if purchased
41 directly by such nonprofit museum. Nothing in this subsection shall be
42 deemed to exempt the purchase of any construction machinery, equipment
43 or tools used in the restoring, constructing, equipping, reconstructing,

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

34 (uuu) all sales of tangible personal property and services purchased
35 by Kansas children's service league, hereinafter referred to as KCSL,
36 which is exempt from federal income taxation pursuant to section 501(c)
37 (3) of the federal internal revenue code of 1986, and which such property
38 and services are used for the purpose of providing for the prevention and
39 treatment of child abuse and maltreatment as well as meeting additional
40 critical needs for children, juveniles and family, and all sales of any such
41 property by or on behalf of KCSL for any such purpose; and all sales of
42 tangible personal property or services purchased by a contractor for the
43 purpose of constructing, maintaining, repairing, enlarging, furnishing or

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

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

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

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

1 the contractor together with reasonable attorney fees. Any contractor or
2 any agent, employee or subcontractor thereof, who shall use or otherwise
3 dispose of any materials purchased under such a certificate for any purpose
4 other than that for which such a certificate is issued without the payment
5 of the sales or compensating tax otherwise imposed upon such materials,
6 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
7 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
8 and amendments thereto. Sales tax paid on and after January 1, 2007, but
9 prior to the effective date of this act upon the gross receipts received from
10 any sale which would have been exempted by the provisions of this
11 subsection had such sale occurred after the effective date of this act shall
12 be refunded. Each claim for a sales tax refund shall be verified and
13 submitted to the director of taxation upon forms furnished by the director
14 and shall be accompanied by any additional documentation required by the
15 director. The director shall review each claim and shall refund that amount
16 of sales tax paid as determined under the provisions of this subsection. All
17 refunds shall be paid from the sales tax refund fund upon warrants of the
18 director of accounts and reports pursuant to vouchers approved by the
19 director or the director's designee;

20 (yyy) all sales of tangible personal property and services purchased
21 by TLC charities foundation, inc., hereinafter referred to as TLC charities,
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 encouraging private philanthropy
25 to further the vision, values, and goals of TLC for children and families,
26 inc.; and all sales of such property and services by or on behalf of TLC
27 charities for any such purpose and all sales of tangible personal property or
28 services purchased by a contractor for the purpose of constructing,
29 maintaining, repairing, enlarging, furnishing or remodeling facilities for
30 the operation of services for TLC charities for any such purpose which
31 would be exempt from taxation under the provisions of this section if
32 purchased directly by TLC charities. 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 charities. When TLC
36 charities contracts for the purpose of constructing, maintaining, repairing,
37 enlarging, furnishing or remodeling such facilities, it shall obtain from the
38 state and furnish to the contractor an exemption certificate for the project
39 involved, and the contractor may purchase materials for incorporation in
40 such project. The contractor shall furnish the number of such certificate to
41 all suppliers from whom such purchases are made, and such suppliers shall
42 execute invoices covering the same bearing the number of such certificate.
43 Upon completion of the project the contractor shall furnish to TLC

1 charities a sworn statement, on a form to be provided by the director of
2 taxation, that all purchases so made were entitled to exemption under this
3 subsection. All invoices shall be held by the contractor for a period of five
4 years and shall be subject to audit by the director of taxation. If any
5 materials purchased under such a certificate are found not to have been
6 incorporated in the building or other project or not to have been returned
7 for credit or the sales or compensating tax otherwise imposed upon such
8 materials which will not be incorporated into the building or other project
9 reported and paid by such contractor to the director of taxation not later
10 than the 20th day of the month following the close of the month in which it
11 shall be determined that such materials will not be used for the purpose for
12 which such certificate was issued, TLC charities shall be liable for tax on
13 all materials purchased for the project, and upon payment thereof it may
14 recover the same from the contractor together with reasonable attorney
15 fees. Any contractor or any agent, employee or subcontractor thereof, who
16 shall use or otherwise dispose of any materials purchased under such a
17 certificate for any purpose other than that for which such a certificate is
18 issued without the payment of the sales or compensating tax otherwise
19 imposed 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 (zzz) all sales of tangible personal property purchased by the rotary
23 club of shawnee foundation which is exempt from federal income taxation
24 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
25 as amended, used for the purpose of providing contributions to community
26 service organizations and scholarships;

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

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

38 (cccc) all sales of tangible personal property or services purchased by
39 or on behalf of wayside waifs, inc., which is exempt from federal income
40 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
41 for the purpose of providing such organization's annual fundraiser, an
42 event whose purpose is to support the care of homeless and abandoned
43 animals, animal adoption efforts, education programs for children and

1 efforts to reduce animal over-population and animal welfare services, and
2 all sales of any such property, including entry or participation fees or
3 charges, by or on behalf of such organization for such purpose;

4 (dddd) all sales of tangible personal property or services purchased
5 by or on behalf of Goodwill Industries or Easter Seals of Kansas, Inc.,
6 both of which are exempt from federal income taxation pursuant to section
7 501(c)(3) of the federal internal revenue code, for the purpose of providing
8 education, training and employment opportunities for people with
9 disabilities and other barriers to employment;

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

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

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

20 (gggg) all sales of game birds for which the primary purpose is use in
21 hunting.

22 ~~New Sec.-21.~~ **22.** If any provision or clause of this act or application
23 thereof to any person or circumstances is held invalid, such invalidity shall
24 not affect other provisions or applications of the act which can be given
25 effect without the invalid provision or application, and to this end the
26 provisions of this act are declared to be severable.

27 ~~Sec.-22.~~ **23.** K.S.A. 2012 Supp. 40-2246, 65-6701, 65-6703, 65-6709,
28 65-6710, 76-3308, 79-32,117, 79-32,138, 79-32,182b, 79-32,195, 79-
29 32,261 and 79-3606 are hereby repealed.

30 ~~Sec.-23.~~ **24.** This act shall take effect and be in force from and after
31 its publication in the statute book.