

SENATE Substitute for HOUSE BILL No. 2004

By Committee on Education

3-25

9 AN ACT concerning school districts; relating to school finance and the
10 sources of revenue therefor; amending K.S.A. 40-2246, 72-6405, 72-
11 6413, 72-6414, 79-32,176, 79-32,190 and 79-3705a and K.S.A. 2003
12 Supp. 41-311, 41-501, 41-2623, 58-3935, 58-3950, 72-6407, 79-3230,
13 79-32,143, 79-32,197, 79-32,206, 79-32,210, 79-3603 and 79-3609 and
14 repealing the existing sections; also repealing K.S.A. 72-6440.
15

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

17 New Section 1. (a) It is the purpose of this act to provide revenues
18 to fund facilities, programs or services authorized or required by article
19 6 of the constitution of the state of Kansas, the school district finance and
20 quality performance act and other laws enacted to fulfill the state's obli-
21 gations to (1) provide for the intellectual, educational, vocational and sci-
22 entific improvement by establishing and maintaining public schools and
23 (2) make suitable provision for the finance of the educational interests of
24 the state.

25 (b) Nothing in this section shall be construed as limiting the use of
26 revenues derived pursuant to the provisions of this act for the purposes
27 specified in subsection (a).

28 (c) The provisions of this section shall expire on June 30, 2005.

29 New Sec. 2. (a) Subject to appropriations therefor, a school district
30 audit team shall be created within the division of budget of the depart-
31 ment of administration. In order to keep parents, policymakers and in-
32 terested taxpayers informed on the performance of their schools and
33 school districts and to aid school districts in realizing greater efficiencies
34 and to identify good practices that may be shared with other districts, the
35 school district audit team shall conduct a performance review, at the
36 request of the board of education of a school district, on the operations
37 of the school district.

38 (b) The board of education of any school district may request the
39 school district audit team to review the operations of the school district.

40 New Sec. 3. (a) The special revenues weighting of each district shall
41 be determined by the state board as follows:

42 (1) Determine the full-time equivalent enrollment of the district on
43 June 20, 2004;

1 (2) multiply the amount determined under paragraph (1) by \$100;
2 (3) divide the amount determined under paragraph (2) by base state
3 aid per pupil. The quotient is the special revenues fund weighting of the
4 district.

5 (b) The provisions of this section shall expire July 1, 2005.

6 Sec. 4. K.S.A. 72-6405 is hereby amended to read as follows: 72-
7 6405. (a) K.S.A. 72-6405 through ~~72-6440~~ 72-6447, and sections 2 and 3,
8 and amendments thereto, shall be known and may be cited as the school
9 district finance and quality performance act.

10 (b) ~~The provisions of this section shall take effect and be in force~~
11 ~~from and after July 1, 1992. The provisions of this act are severable. If~~
12 ~~any provision of this act is held to be invalid or unconstitutional, it shall~~
13 ~~be presumed conclusively that the legislature would have enacted the re-~~
14 ~~mainder of this act without such invalid or unconstitutional provision.~~

15 Sec. 5. K.S.A. 2003 Supp. 72-6407 is hereby amended to read as
16 follows: 72-6407. *As used in this act:*

17 (a) (1) "Pupil" means any person (A) who is regularly enrolled in a
18 district and attending kindergarten or any of the grades one through 12
19 maintained by the district ~~or~~; (B) who is regularly enrolled in a district
20 and attending kindergarten or any of the grades one through 12 in another
21 district in accordance with an agreement entered into under authority of
22 K.S.A. 72-8233, and amendments thereto, ~~or~~; or (C) who is regularly
23 enrolled in a district and attending special education *and related* services
24 provided for preschool-aged exceptional children by the district.

25 (2) Except as otherwise provided in this subsection, a pupil in at-
26 tendance full time shall be counted as one pupil. A pupil in attendance
27 part time shall be counted as that proportion of one pupil (to the nearest
28 $\frac{1}{10}$) that the pupil's attendance bears to full-time attendance. A pupil
29 attending kindergarten shall be counted as $\frac{1}{2}$ pupil. A pupil enrolled in
30 and attending an institution of postsecondary education which is author-
31 ized under the laws of this state to award academic degrees shall be
32 counted as one pupil if the pupil's postsecondary education enrollment
33 and attendance together with the pupil's attendance in either of the
34 grades 11 or 12 is at least $\frac{5}{6}$ time, otherwise the pupil shall be counted
35 as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the total time of
36 the pupil's postsecondary education attendance and attendance in grade
37 11 or 12, as applicable, bears to full-time attendance. A pupil enrolled in
38 and attending an area vocational school, area vocational-technical school
39 or approved vocational education program shall be counted as one pupil
40 if the pupil's vocational education enrollment and attendance together
41 with the pupil's attendance in any of grades nine through 12 is at least $\frac{5}{6}$
42 time, otherwise the pupil shall be counted as that proportion of one pupil
43 (to the nearest $\frac{1}{10}$) that the total time of the pupil's vocational education

1 attendance and attendance in any of grades nine through 12 bears to full-
2 time attendance. A pupil enrolled in a district and attending special ed-
3 ucation and related services, except special education and related services
4 for preschool-aged exceptional children, provided for by the district shall
5 be counted as one pupil. A pupil enrolled in a district and attending
6 special education and related services for preschool-aged exceptional chil-
7 dren provided for by the district shall be counted as ½ pupil. A preschool-
8 aged at-risk pupil enrolled in a district and receiving services under an
9 approved at-risk pupil assistance plan maintained by the district shall be
10 counted as ½ pupil. A pupil in the custody of the secretary of social and
11 rehabilitation services and enrolled in unified school district No. 259,
12 Sedgwick county, Kansas, but housed, maintained, and receiving educa-
13 tional services at the Judge James V. Riddel Boys Ranch, shall be counted
14 as two pupils.

15 (3) A pupil residing at the Flint Hills job corps center shall not be
16 counted. A pupil confined in and receiving educational services provided
17 for by a district at a juvenile detention facility shall not be counted. A
18 pupil enrolled in a district but housed, maintained, and receiving edu-
19 cational services at a state institution shall not be counted.

20 (b) “Preschool-aged exceptional children” means exceptional chil-
21 dren, except gifted children, who have attained the age of three years but
22 are under the age of eligibility for attendance at kindergarten.

23 (c) “At-risk pupils” means pupils who are eligible for free meals un-
24 der the national school lunch act and who are enrolled in a district which
25 maintains an approved at-risk pupil assistance plan.

26 (d) “Preschool-aged at-risk pupil” means an at-risk pupil who has
27 attained the age of four years, is under the age of eligibility for attendance
28 at kindergarten, and has been selected by the state board in accordance
29 with guidelines consonant with guidelines governing the selection of pu-
30 pils for participation in head start programs. The state board shall select
31 not more than 5,500 preschool-aged at-risk pupils to be counted in any
32 school year.

33 (e) “Enrollment” means:

34 (1) For districts scheduling the school days or school hours of the school
35 term on a trimestral or quarterly basis, the number of pupils regularly
36 enrolled in the district on September 20 plus the number of pupils regu-
37 larly enrolled in the district on February 20 less the number of pupils
38 regularly enrolled on February 20 who were counted in the enrollment
39 of the district on September 20; and for districts not specified in this
40 ~~clause~~ *paragraph* (1), the number of pupils regularly enrolled in the dis-
41 trict on September 20;

42 (2) if enrollment in a district in any school year has decreased from
43 enrollment in the preceding school year, enrollment of the district in the

1 current school year means whichever is the greater of (A) enrollment in
2 the preceding school year minus enrollment in such school year of pre-
3 school-aged at-risk pupils, if any such pupils were enrolled, plus enroll-
4 ment in the current school year of preschool-aged at-risk pupils, if any
5 such pupils are enrolled, or (B) the sum of enrollment in the current
6 school year of preschool-aged at-risk pupils, if any such pupils are enrolled
7 and the average (mean) of the sum of (i) enrollment of the district in the
8 current school year minus enrollment in such school year of preschool-
9 aged at-risk pupils, if any such pupils are enrolled and (ii) enrollment in
10 the preceding school year minus enrollment in such school year of pre-
11 school-aged at-risk pupils, if any such pupils were enrolled and (iii) en-
12 rollment in the school year next preceding the preceding school year
13 minus enrollment in such school year of preschool-aged at-risk pupils, if
14 any such pupils were enrolled; or

15 (3) *for districts affected by a disaster, as defined by K.S.A. 72-6447,*
16 *and amendments thereto,* the number of pupils as determined under
17 K.S.A. 72-6447, and amendments thereto.

18 (f) “Adjusted enrollment” means enrollment adjusted by adding at-
19 risk pupil weighting, program weighting, *special revenues weighting*, low
20 enrollment weighting, if any, correlation weighting, if any, school facilities
21 weighting, if any, ancillary school facilities weighting, if any, special ed-
22 ucation and related services weighting; and transportation weighting to
23 enrollment.

24 (g) “At-risk pupil weighting” means an addend component assigned
25 to enrollment of districts on the basis of enrollment of at-risk pupils.

26 (h) “Program weighting” means an addend component assigned to
27 enrollment of districts on the basis of pupil attendance in educational
28 programs which differ in cost from regular educational programs.

29 (i) “Low enrollment weighting” means an addend component as-
30 signed to enrollment of districts having under 1,725 enrollment on the
31 basis of costs attributable to maintenance of educational programs by such
32 districts in comparison with costs attributable to maintenance of educa-
33 tional programs by districts having 1,725 or over enrollment.

34 (j) “School facilities weighting” means an addend component as-
35 signed to enrollment of districts on the basis of costs attributable to com-
36 mencing operation of new school facilities. School facilities weighting may
37 be assigned to enrollment of a district only if the district has adopted a
38 local option budget and budgeted therein the total amount authorized for
39 the school year. School facilities weighting may be assigned to enrollment
40 of the district only in the school year in which operation of a new school
41 facility is commenced and in the next succeeding school year.

42 (k) “Transportation weighting” means an addend component as-
43 signed to enrollment of districts on the basis of costs attributable to the

1 provision or furnishing of transportation.

2 (l) “Correlation weighting” means an addend component assigned to
3 enrollment of districts having 1,725 or over enrollment on the basis of
4 costs attributable to maintenance of educational programs by such dis-
5 tricts as a correlate to low enrollment weighting assigned to enrollment
6 of districts having under 1,725 enrollment.

7 (m) “Ancillary school facilities weighting” means an addend compo-
8 nent assigned to enrollment of districts to which the provisions of K.S.A.
9 72-6441, and amendments thereto, apply on the basis of costs attributable
10 to commencing operation of new school facilities. Ancillary school facil-
11 ities weighting may be assigned to enrollment of a district only if the
12 district has levied a tax under authority of K.S.A. 72-6441, and amend-
13 ments thereto, and remitted the proceeds from such tax to the state trea-
14 surer. Ancillary school facilities weighting is in addition to assignment of
15 school facilities weighting to enrollment of any district eligible for such
16 weighting.

17 (n) “Juvenile detention facility” means: (1) Any secure public or pri-
18 vate facility which is used for the lawful custody of accused or adjudicated
19 juvenile offenders and which shall not be a jail;

20 (2) any level VI treatment facility licensed by the Kansas department
21 of health and environment which is a psychiatric residential treatment
22 facility for individuals under the age of 21 which conforms with the reg-
23 ulations of the centers for medicare/medicaid services and the joint com-
24 mission on accreditation of health care organizations governing such fa-
25 cilities; and

26 (3) the Forbes Juvenile Attention Facility, the Sappa Valley Youth
27 Ranch of Oberlin, Salvation Army/Koch Center Youth Services, the Clar-
28 ence M. Kelley Youth Center, the Clarence M. Kelley Transitional Living
29 Center, Trego County Secure Care Center, St. Francis Academy at At-
30 chison, St. Francis Academy at Ellsworth, St. Francis Academy at Salina,
31 St. Francis Center at Salina, King’s Achievement Center, and Liberty
32 Juvenile Services and Treatment.

33 (o) “Special education and related services weighting” means an ad-
34 dend component assigned to enrollment of districts on the basis of costs
35 attributable to provision of special education and related services for pu-
36 pils determined to be exceptional children.

37 (p) “*Special revenues weighting*” means an addend component as-
38 signed to enrollment of districts determined pursuant to section 3, and
39 amendments thereto.

40 Sec. 6. K.S.A. 72-6413 is hereby amended to read as follows: 72-
41 6413. The program weighting of each district shall be determined by the
42 state board as follows:

43 (a) (1) ~~Compute full-time~~ Determine the full-time equivalent enroll-

- 1 ment of pupils in programs of bilingual education; and
- 2 (2) *except as provided by paragraph (3) of this subsection, multiply*
- 3 ~~the computed enrollment number determined under paragraph (1) by~~
- 4 ~~0.2; or~~
- 5 (3) *multiply the computed enrollment by .22 for school year 2004-*
- 6 *2005;*
- 7 ~~compute full-time~~ (1) *determine the full-time equivalent enroll-*
- 8 *ment in approved vocational education programs; and*
- 9 (2) ~~multiply the computed enrollment the number determined under~~
- 10 ~~paragraph (1) by 0.5;~~
- 11 (c) ~~add the products obtained under (a) and (b) subsections (a) and~~
- 12 ~~(b). The sum is the program weighting of the district.~~
- 13 ~~(d) The provisions of this section shall take effect and be in force~~
- 14 ~~from and after July 1, 1992.~~
- 15 Sec. 7. K.S.A. 72-6414 is hereby amended to read as follows: 72-
- 16 6414. (a) The at-risk pupil weighting of each district shall be determined
- 17 by the state board ~~by multiplying as follows:~~
- 18 (1) *Determine the full-time equivalent enrollment of at-risk pupils in-*
- 19 *cluded in the enrollment of the district;*
- 20 (2) *except as provided by paragraph (3), multiply the number of at-*
- 21 ~~risk pupils included in enrollment of the district determined under par-~~
- 22 ~~agraph (1) by .10; or~~
- 23 (3) *multiply the number determined under paragraph (1) by .11 for*
- 24 *school year 2004-2005.*
- 25 The product is the at-risk pupil weighting of the district.
- 26 (b) Except as provided in subsection (d), of the amount a district
- 27 receives from the at-risk pupil weighting, an amount produced by a pupil
- 28 weighting of .01 shall be used by the district for achieving mastery of
- 29 basic reading skills by completion of the third grade in accordance with
- 30 standards and outcomes of mastery identified by the state board under
- 31 K.S.A. 72-7534, and amendments thereto.
- 32 (c) A district shall include such information in its at-risk pupil assis-
- 33 tance plan as the state board may require regarding the district's reme-
- 34 diation strategies and the results thereof in achieving the third grade
- 35 reading standards and outcomes of mastery identified by the state board.
- 36 The reporting requirements shall include information documenting re-
- 37 mediation strategies and improvement made by pupils who performed
- 38 below the expected standard on the second grade diagnostic reading test
- 39 prescribed by the state board.
- 40 (d) A district whose pupils substantially achieve the state board stan-
- 41 dards and outcomes of mastery of reading skills upon completion of third
- 42 grade may be released, upon request, by the state board from the require-
- 43 ments of subsection (b).

- 1 New Sec. 8. (a) As used in this section:
2 (1) "School district" or "district" means a school district which, as of
3 January 1, 2004, provided less than \$100 each month in employer con-
4 tributions for health insurance for each employee of the district.
5 (2) "State board" means the state board of education.
6 (b) In order to assist a school district in providing health insurance
7 benefits to the employees of the district and to pay a portion of the costs
8 thereof, the district may apply for a grant pursuant to this section. Ap-
9 plications for such grants shall be submitted to the state board. The ap-
10 plication shall include:
11 (1) A written statement identifying the benefits provided by the
12 health insurance plan.
13 (2) The cost of providing the health insurance plan.
14 (3) The sources of revenue the district proposes to use to fund its
15 share of the costs of the health insurance plan.
16 (4) Any other information required by the state board.
17 (c) Any moneys received by a school district pursuant to this section
18 shall be used solely for the purpose of funding the district's share of the
19 cost of providing health insurance for employees of the district. A district
20 receiving moneys pursuant to this section may provide health insurance
21 coverage to dependents of employees under the district's health insurance
22 plan, but the cost of such coverage shall be paid by the employee.
23 (d) A school district which accepts money pursuant to this section
24 shall acquire health insurance from an insurer which is authorized to
25 transact the business of accident and health insurance in the state of
26 Kansas. The district shall enter directly into a contract with the insurer.
27 The school district shall comply with the participation requirements of
28 the insurer.
29 (e) Any health insurance plan provided by a school district shall in-
30 clude a provision which establishes a minimum deductible of \$1,000 per
31 year. The health insurance plan shall meet the requirements of a high-
32 deductible plan under federal law governing health savings accounts.
33 (f) The state board may adopt any rules and regulations necessary to
34 implement the provisions of this section.
35 (g) On or before December 31, 2006, the state board shall prepare
36 and submit to the legislature a report on the impact of any high-deduct-
37 ible plans and use of health savings accounts which may have been es-
38 tablished under health insurance plans of school districts accepting grants
39 pursuant to this section.
40 (h) (1) From August 1, 2004, through July 31, 2005 and subject to
41 appropriations therefore, a school district which contributes, or agrees to
42 contribute, 30% of 90% of the cost of all participating employees' health
43 insurance shall receive a matching state grant of 70% of 90% of the cost

1 of such insurance.

2 (2) From August 1, 2005, through July 31, 2006 and subject to ap-
3 propriations therefore, a school district which contributes, or agrees to
4 contribute, 40% of 90% of the cost of all participating employees' health
5 insurance shall receive a matching state grant of 60% of 90% of the cost
6 of such insurance.

7 (3) From August 1, 2006, through July 31, 2007 and subject to ap-
8 propriations therefore, a school district which contributes, or agrees to
9 contribute, 50% of 90% of the cost of all participating employees' health
10 insurance shall receive a matching state grant of 50% of 90% of the cost
11 of such insurance.

12 (4) From August 1, 2007, through July 31, 2008 and subject to ap-
13 propriations therefore, a school district which contributes, or agrees to
14 contribute, 60% of 90% of the cost of all participating employees' health
15 insurance shall receive a matching state grant of 40% of 90% of the cost
16 of such insurance.

17 (5) From August 1, 2008, through July 31, 2009 and subject to ap-
18 propriations therefore, a school district which contributes, or agrees to
19 contribute, 70% of 90% of the cost of all participating employees' health
20 insurance shall receive a matching state grant of 30% of 90% of the cost
21 of such insurance.

22 (i) The provisions of this section shall expire on July 31, 2009.

23 Sec. 9. K.S.A. 40-2246 is hereby amended to read as follows: 40-
24 2246. (a) A credit against the taxes otherwise due under the Kansas in-
25 come tax act shall be allowed to an employer for amounts paid during the
26 taxable year for purposes of this act on behalf of an eligible employee as
27 defined in K.S.A. 40-2239 and amendments thereto to provide health
28 insurance or care.

29 (b) The amount of the credit allowed by subsection (a) shall be \$35
30 per month per eligible covered employee or 50% of the total amount paid
31 by the employer during the taxable year, whichever is less, for the first
32 two years of participation. In the third year, the credit shall be equal to
33 75% of the lesser of \$35 per month per employee or 50% of the total
34 amount paid by the employer during the taxable year. In the fourth year,
35 the credit shall be equal to 50% of the lesser of \$35 per month per
36 employee or 50% of the total amount paid by the employer during the
37 taxable year. In the fifth year, the credit shall be equal to 25% of the
38 lesser of \$35 per month per employee or 50% of the total amount paid
39 by the employer during the taxable year. For the sixth and subsequent
40 years, no credit shall be allowed.

41 (c) If the credit allowed by this section is claimed, the amount of any
42 deduction allowable under the Kansas income tax act for expenses de-
43 scribed in this section shall be reduced by the dollar amount of the credit.

1 The election to claim the credit shall be made at the time of filing the
2 tax return in accordance with law. If the credit allowed by this section
3 exceeds the taxes imposed under the Kansas income tax act for the taxable
4 year, that portion of the credit which exceeds those taxes ~~shall be re-~~
5 ~~funded to the taxpayer~~ *may be carried over for deduction from the tax-*
6 *payer's income tax liability in the next succeeding taxable year or years*
7 *until the total amount of the tax credit has been deducted from tax liability.*

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

13 (e) This section shall apply to all taxable years commencing after De-
14 cember 31, ~~1999~~ 2003.

15 Sec. 10. K.S.A. 2003 Supp. 41-311 is hereby amended to read as
16 follows: 41-311. (a) No license of any kind shall be issued pursuant to the
17 liquor control act to a person:

18 (1) Who has not been a citizen of the United States for at least 10
19 years, except that the spouse of a deceased retail licensee may receive
20 and renew a retail license notwithstanding the provisions of this subsec-
21 tion (a)(1) if such spouse is otherwise qualified to hold a retail license and
22 is a United States citizen or becomes a United States citizen within one
23 year after the deceased licensee's death;

24 (2) who has been convicted of a felony under the laws of this state,
25 any other state or the United States;

26 (3) who has had a license revoked for cause under the provisions of
27 the liquor control act, the beer and cereal malt beverage keg registration
28 act or who has had any license issued under the cereal malt beverage laws
29 of any state revoked for cause except that a license may be issued to a
30 person whose license was revoked for the conviction of a misdemeanor
31 at any time after the lapse of 10 years following the date of the revocation;

32 (4) who has been convicted of being the keeper or is keeping a house
33 of prostitution or has forfeited bond to appear in court to answer charges
34 of being a keeper of a house of prostitution;

35 (5) who has been convicted of being a proprietor of a gambling house,
36 pandering or any other crime opposed to decency and morality or has
37 forfeited bond to appear in court to answer charges for any of those
38 crimes;

39 (6) who is not at least 21 years of age;

40 (7) who, other than as a member of the governing body of a city or
41 county, appoints or supervises any law enforcement officer, who is a law
42 enforcement official or who is an employee of the director;

43 (8) who intends to carry on the business authorized by the license as

- 1 agent of another;
- 2 (9) who at the time of application for renewal of any license issued
3 under this act would not be eligible for the license upon a first application,
4 except as provided by subsection (a)(12);
- 5 (10) who is the holder of a valid and existing license issued under
6 article 27 of chapter 41 of the Kansas Statutes Annotated unless the per-
7 son agrees to and does surrender the license to the officer issuing the
8 same upon the issuance to the person of a license under this act, except
9 that a retailer licensed pursuant to K.S.A. 41-2702, and amendments
10 thereto, shall be eligible to receive a retailer's license under the Kansas
11 liquor control act;
- 12 (11) who does not own the premises for which a license is sought, or
13 does not have a written lease thereon for at least $\frac{3}{4}$ of the period for
14 which the license is to be issued;
- 15 (12) whose spouse would be ineligible to receive a license under this
16 act for any reason other than citizenship, residence requirements or age,
17 except that this subsection (a)(12) shall not apply in determining eligibility
18 for a renewal license;
- 19 (13) whose spouse has been convicted of a felony or other crime
20 which would disqualify a person from licensure under this section and
21 such felony or other crime was committed during the time that the spouse
22 held a license under this act; ~~or~~
- 23 (14) who does not provide any data or information required by K.S.A.
24 2003 Supp. 41-311b, and amendments thereto; or
- 25 (15) *who is not current in the payment of all taxes related directly to*
26 *the business for which the license is issued and which are imposed pur-*
27 *suant to K.S.A. 41-501 et seq., 79-3294 et seq., 79-3601 et seq., 79-4101*
28 *et seq. and 79-41a01 et seq., and amendments thereto, unless such taxes*
29 *are under audit or administrative or judicial appeal or for which an agree-*
30 *ment for the payment of such taxes has been entered into by the depart-*
31 *ment of revenue and the person seeking licensure and such person is*
32 *current in the payments under such agreement. If the licensee is a cor-*
33 *poration, partnership, trust or association, the individual officers, direc-*
34 *tors, stockholders, partners, managers or other individual members shall*
35 *not be required to be current in the payment of the taxes specified by this*
36 *subsection.*
- 37 (b) No retailer's license shall be issued to:
- 38 (1) A person who is not a resident of this state;
- 39 (2) a person who has not been a resident of this state for at least four
40 years immediately preceding the date of application;
- 41 (3) a person who has beneficial interest in the manufacture, prepa-
42 ration or wholesaling of alcoholic beverages;
- 43 (4) a person who has beneficial interest in any other retail establish-

1 ment licensed under this act, except that the spouse of a licensee may
2 own and hold a retailer's license for another retail establishment;

3 (5) a copartnership, unless all of the copartners are qualified to obtain
4 a license;

5 (6) a corporation; or

6 (7) a trust, if any grantor, beneficiary or trustee would be ineligible
7 to receive a license under this act for any reason, except that the provi-
8 sions of subsection (a)(6) shall not apply in determining whether a ben-
9 efitary would be eligible for a license.

10 (c) No manufacturer's license shall be issued to:

11 (1) A corporation, if any officer or director thereof, or any stockholder
12 owning in the aggregate more than 25% of the stock of the corporation
13 would be ineligible to receive a manufacturer's license for any reason
14 other than citizenship and residence requirements;

15 (2) a copartnership, unless all of the copartners shall have been res-
16 idents of this state for at least five years immediately preceding the date
17 of application and unless all the members of the copartnership would be
18 eligible to receive a manufacturer's license under this act;

19 (3) a trust, if any grantor, beneficiary or trustee would be ineligible
20 to receive a license under this act for any reason, except that the provi-
21 sions of subsection (a)(6) shall not apply in determining whether a ben-
22 efitary would be eligible for a license;

23 (4) an individual who is not a resident of this state; or

24 (5) an individual who has not been a resident of this state for at least
25 five years immediately preceding the date of application.

26 (d) No distributor's license shall be issued to:

27 (1) A corporation, if any officer, director or stockholder of the cor-
28 poration would be ineligible to receive a distributor's license for any rea-
29 son. It shall be unlawful for any stockholder of a corporation licensed as
30 a distributor to transfer any stock in the corporation to any person who
31 would be ineligible to receive a distributor's license for any reason, and
32 any such transfer shall be null and void, except that: (A) If any stockholder
33 owning stock in the corporation dies and an heir or devisee to whom stock
34 of the corporation descends by descent and distribution or by will is in-
35 eligible to receive a distributor's license, the legal representatives of the
36 deceased stockholder's estate and the ineligible heir or devisee shall have
37 14 months from the date of the death of the stockholder within which to
38 sell the stock to a person eligible to receive a distributor's license, any
39 such sale by a legal representative to be made in accordance with the
40 provisions of the probate code; or (B) if the stock in any such corporation
41 is the subject of any trust and any trustee or beneficiary of the trust who
42 is 21 years of age or older is ineligible to receive a distributor's license,
43 the trustee, within 14 months after the effective date of the trust, shall

- 1 sell the stock to a person eligible to receive a distributor's license and
2 hold and disburse the proceeds in accordance with the terms of the trust.
3 If any legal representatives, heirs, devisees or trustees fail, refuse or ne-
4 glect to sell any stock as required by this subsection, the stock shall revert
5 to and become the property of the corporation, and the corporation shall
6 pay to the legal representatives, heirs, devisees or trustees the book value
7 of the stock. During the period of 14 months prescribed by this subsec-
8 tion, the corporation shall not be denied a distributor's license or have its
9 distributor's license revoked if the corporation meets all of the other
10 requirements necessary to have a distributor's license;
- 11 (2) a copartnership, unless all of the copartners are eligible to receive
12 a distributor's license; or
- 13 (3) a trust, if any grantor, beneficiary or trustee would be ineligible
14 to receive a license under this act for any reason, except that the provi-
15 sions of subsection (a)(6) shall not apply in determining whether a ben-
16 efiticiary would be eligible for a license.
- 17 (e) No nonbeverage user's license shall be issued to a corporation, if
18 any officer, manager or director of the corporation or any stockholder
19 owning in the aggregate more than 25% of the stock of the corporation
20 would be ineligible to receive a nonbeverage user's license for any reason
21 other than citizenship and residence requirements.
- 22 (f) No microbrewery license or farm winery license shall be issued to
23 a:
- 24 (1) Person who is not a resident of this state;
- 25 (2) person who has not been a resident of this state for at least four
26 years immediately preceding the date of application;
- 27 (3) person who has beneficial interest in the manufacture, prepara-
28 tion or wholesaling of alcoholic beverages other than that produced by
29 such brewery or winery;
- 30 (4) person, copartnership or association which has beneficial interest
31 in any retailer licensed under this act or under K.S.A. 41-2702, and
32 amendments thereto;
- 33 (5) copartnership, unless all of the copartners are qualified to obtain
34 a license;
- 35 (6) corporation, unless stockholders owning in the aggregate 50% or
36 more of the stock of the corporation would be eligible to receive such
37 license and all other stockholders would be eligible to receive such license
38 except for reason of citizenship or residency; or
- 39 (7) a trust, if any grantor, beneficiary or trustee would be ineligible
40 to receive a license under this act for any reason, except that the provi-
41 sions of subsection (a)(6) shall not apply in determining whether a ben-
42 efiticiary would be eligible for a license.
- 43 (g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3),

1 (f)(1), (f)(2) and K.S.A. 2003 Supp. 41-311b, and amendments thereto,
2 shall not apply in determining eligibility for the 10th, or a subsequent,
3 consecutive renewal of a license if the applicant has appointed a citizen
4 of the United States who is a resident of Kansas as the applicant's agent
5 and filed with the director a duly authenticated copy of a duly executed
6 power of attorney, authorizing the agent to accept service of process from
7 the director and the courts of this state and to exercise full authority,
8 control and responsibility for the conduct of all business and transactions
9 within the state relative to alcoholic liquor and the business licensed. The
10 agent must be satisfactory to and approved by the director, except that
11 the director shall not approve as an agent any person who:

12 (1) Has been convicted of a felony under the laws of this state, any
13 other state or the United States;

14 (2) has had a license issued under the alcoholic liquor or cereal malt
15 beverage laws of this or any other state revoked for cause, except that a
16 person may be appointed as an agent if the person's license was revoked
17 for the conviction of a misdemeanor and 10 years have lapsed since the
18 date of the revocation;

19 (3) has been convicted of being the keeper or is keeping a house of
20 prostitution or has forfeited bond to appear in court to answer charges of
21 being a keeper of a house of prostitution;

22 (4) has been convicted of being a proprietor of a gambling house,
23 pandering or any other crime opposed to decency and morality or has
24 forfeited bond to appear in court to answer charges for any of those
25 crimes; or

26 (5) is less than 21 years of age.

27 Sec. 11. K.S.A. 2003 Supp. 41-501 is hereby amended to read as
28 follows: 41-501. (a) As used in this section and K.S.A. 41-501a, and
29 amendments thereto:

30 (1) "Gallon" means wine gallon.

31 (2) "Federal area" means any lands or premises which are located
32 within the exterior boundaries of this state and which are held or acquired
33 by or for the use of the United States or any department, establishment
34 or agency of the United States.

35 (3) "Malt product" means malt syrup, malt extract, liquid malt or
36 wort.

37 (b) (1) For the purpose of raising revenue a tax is imposed upon the
38 manufacturing, using, selling, storing or purchasing alcoholic liquor, ce-
39 real malt beverage or malt products in this state or a federal area at a rate
40 of ~~\$.18~~ \$.42 per gallon on beer and cereal malt beverage; ~~\$.20~~ \$.468 per
41 gallon on all wort or liquid malt; ~~\$.10~~ \$.233 per pound on all malt syrup
42 or malt extract; ~~\$.30~~ \$.90 per gallon on wine containing 14% or less al-
43 cohol by volume; ~~\$.75~~ \$2.25 per gallon on wine containing more than

- 1 14% alcohol by volume; and ~~\$2.50~~ \$5.50 per gallon on alcohol and spirits.
- 2 (2) The tax imposed by this section shall be paid only once and shall
3 be paid by the person in this state or federal area who first manufactures,
4 uses, sells, stores, purchases or receives the alcoholic liquor or cereal malt
5 beverage. The tax shall be collected and paid to the director as provided
6 in this act. If the alcoholic liquor or cereal malt beverage is manufactured
7 and sold in this state or a federal area, the tax shall be paid by the man-
8 ufacturer, microbrewery or farm winery producing it. If the alcoholic
9 liquor or cereal malt beverage is imported into this state by a distributor
10 for the purpose of sale at wholesale in this state or a federal area, the tax
11 shall be paid by the distributor, and in no event shall such tax be paid by
12 the manufacturer unless the alcoholic liquor or cereal malt beverage is
13 manufactured in this state. If not to exceed one gallon, or metric equiv-
14 alent, per person of alcoholic liquor has been purchased by a private
15 citizen outside the borders of the United States and is brought into this
16 state by the private citizen in such person's personal possession for such
17 person's own personal use and not for sale or resale, such import is lawful
18 and no tax payment shall be due thereon.
- 19 (c) Manufacturers, microbreweries, farm wineries or distributors at
20 wholesale of alcoholic liquor or cereal malt beverage shall be exempt from
21 the payment of the gallonage tax imposed on alcoholic liquor and cereal
22 malt beverage, upon satisfactory proof, including bills of lading furnished
23 to the director by affidavit or otherwise as the director requires, that the
24 liquor or cereal malt beverage was manufactured in this state but was
25 shipped out of the state for sale and consumption outside the state.
- 26 (d) Wines manufactured or imported solely and exclusively for sac-
27 ramental purposes and uses shall not be subject to the tax provided for
28 by this section.
- 29 (e) The tax provided for by this section is not imposed upon:
- 30 (1) Any alcohol or wine, whether manufactured in or imported into
31 this state, when sold to a nonbeverage user licensed by the state, for use
32 in the manufacture of any of the following when they are unfit for bev-
33 erage purposes: Patent and proprietary medicines and medicinal, anti-
34 septic and toilet preparations; flavoring extracts and syrups and food prod-
35 ucts; scientific, industrial and chemical products; or scientific, chemical,
36 experimental or mechanical purposes; or
- 37 (2) the privilege of engaging in any business of interstate commerce
38 or otherwise, which business may not be made the subject of taxation by
39 this state under the constitution and statutes of the United States.
- 40 (f) The tax imposed by this section shall be in addition to all other
41 taxes imposed by the state of Kansas or by any municipal corporation or
42 political subdivision thereof.
- 43 (g) ~~Retail~~ Sales at retail of alcoholic liquor in the original package,

1 sales of beer to consumers by microbreweries and sales of wine to con-
2 sumers by farm wineries shall not be subject to the tax imposed by the
3 Kansas retailers' sales tax act but shall be subject to the enforcement tax
4 as provided ~~for in this act in K.S.A. 79-4101 et seq., and amendments~~
5 *thereto.*

6 (h) ~~Notwithstanding any ordinance to the contrary, Except as au-~~
7 ~~thorized by K.S.A. 41-310, and amendments thereto,~~ no city shall impose
8 an occupation or privilege tax on the business of any person, firm or
9 corporation licensed as a manufacturer, distributor, microbrewery, farm
10 winery, retailer or nonbeverage user under this act and doing business
11 within the boundaries of the city ~~except as specifically authorized by~~
12 ~~K.S.A. 41-310, and amendments thereto.~~

13 (i) The director shall collect the taxes imposed by this section and
14 shall account for and remit all moneys collected from the tax to the state
15 treasurer in accordance with the provisions of K.S.A. 75-4215, and
16 amendments thereto. Upon receipt of each such remittance, the state
17 treasurer shall deposit the entire amount in the state treasury and the
18 state treasurer shall credit $\frac{1}{10}$ of the moneys collected from taxes imposed
19 upon alcohol and spirits under subsection (b)(1) to the community alco-
20 holism and intoxication programs fund created by K.S.A. 41-1126, and
21 amendments thereto, and shall credit the balance of the moneys collected
22 to the state general fund.

23 (j) If any alcoholic liquor manufactured in or imported into this state
24 is sold to a licensed manufacturer or distributor of this state to be used
25 solely as an ingredient in the manufacture of any beverage for human
26 consumption, the tax imposed upon the manufacturer or distributor shall
27 be reduced by the amount of the taxes which have been paid under this
28 section as to the alcoholic liquor so used.

29 (k) The tax provided for by this section is not imposed upon alcohol
30 or wine used by any school or college for scientific, chemical, experimen-
31 tal or mechanical purposes or by hospitals, sanatoria or other institutions
32 caring for the sick. Any school, college, hospital, sanatorium or other
33 institution caring for the sick may import alcohol or wine for scientific,
34 chemical, experimental, mechanical or medicinal purposes by making ap-
35 plication to the director for a permit to import it and receiving such a
36 permit. Application for the permit shall be on a form prescribed and
37 furnished by the director, and a separate permit shall be required for
38 each purchase of alcohol or wine. A fee of \$2 shall accompany each ap-
39 plication. All permits shall be issued in triplicate to the applicant and shall
40 be under the seal of the office of the director. Two copies of the permit
41 shall be forwarded by the applicant to the microbrewery, farm winery,
42 manufacturer or distributor from which the alcohol or wine is purchased,
43 and the microbrewery, farm winery, manufacturer or distributor shall

1 return to the office of the director one copy of the permit with its shipping
2 affidavit and invoice. Within 10 days after receipt of any alcohol or wine,
3 the school, college, hospital or sanatorium ordering it shall file a report
4 in the office of the director upon forms furnished by the director, showing
5 the amount of alcohol or wine received, the place where it is to be stored,
6 from whom it was received, the purpose for which it is to be used and
7 such other information as required by the director. Any school, college,
8 hospital, sanatorium or institution caring for the sick, which complies with
9 the provisions of this subsection, shall not be required to have any other
10 license to purchase alcohol or wine from a microbrewery, farm winery,
11 manufacturer or distributor.

12 New Sec. 12. On June 1, 2004, a tax at the rate of \$.24 per gallon on
13 all beer and cereal malt beverage, \$.60 per gallon for wine containing
14 14% or less of alcohol by volume, \$1.50 per gallon for wine containing
15 more than 14% of alcohol by volume, \$3.00 per gallon on alcohol and
16 spirits, \$.268 per gallon on wort and liquid malt, and \$.133 per pound of
17 malt syrup and malt extract, is hereby imposed on the manufacture, use,
18 sale, storage or purchase of such alcoholic liquors owned at 12:01 a.m. on
19 June 1, 2004, by a licensed distributor or retail dealer as to which the tax
20 has been imposed as provided in K.S.A. 41-501, and amendments thereto.
21 Such tax shall be paid by the licensed distributor or retail dealer owning
22 such alcoholic liquors, cereal malt beverage or beer at such time and date.
23 On or before June 25, 2004, every such distributor and retail dealer shall
24 make a report to the director on a form prescribed and furnished by the
25 director showing the total number of gallons of such alcoholic liquors,
26 cereal malt beverage or beer so owned at 12:01 a.m. on June 2, 2004, and
27 such report shall be accompanied by a remittance of the tax due. The
28 license of any licensed distributor or retail dealer who fails to make such
29 report or pay such tax, within the time prescribed, shall be subject to
30 suspension or revocation as provided by K.S.A. 41-320, and amendments
31 thereto. All taxes collected by the director under this section shall be paid
32 into the state treasury and the state treasurer shall credit the same to the
33 state general fund.

34 Sec. 13. K.S.A. 2003 Supp. 41-2623 is hereby amended to read as
35 follows: 41-2623. (a) No license shall be issued under the provisions of
36 this act to:

37 (1) Any person described in subsection (a)(1), (2), (4), (5), (6), (7),
38 (8), (9), (12) ~~or~~, (13) or (15) of K.S.A. 41-311, and amendments thereto,
39 except that the provisions of subsection (a)(7) of such section shall not
40 apply to nor prohibit the issuance of a license for a class A club to an
41 officer of a post home of a congressionally chartered service or fraternal
42 organization, or a benevolent association or society thereof.

43 (2) A person who has had the person's license revoked for cause un-

1 der the provisions of this act.

2 (3) A person who has not been a resident of this state for a period of
3 at least one year immediately preceding the date of application.

4 (4) A person who has a beneficial interest in the manufacture, prep-
5 aration or wholesaling or the retail sale of alcoholic liquors or a beneficial
6 interest in any other club, drinking establishment or caterer licensed here-
7 under, except that:

8 (A) A license for premises located in a hotel may be granted to a
9 person who has a beneficial interest in one or more other clubs or drinking
10 establishments licensed hereunder if such other clubs or establishments
11 are located in hotels.

12 (B) A license for a club or drinking establishment which is a restau-
13 rant may be issued to a person who has a beneficial interest in other clubs
14 or drinking establishments which are restaurants.

15 (C) A caterer's license may be issued to a person who has a beneficial
16 interest in a club or drinking establishment and a license for a club or
17 drinking establishment may be issued to a person who has a beneficial
18 interest in a caterer.

19 (D) A license for a class A club may be granted to an organization of
20 which an officer, director or board member is a distributor or retailer
21 licensed under the liquor control act if such distributor or retailer sells
22 no alcoholic liquor to such club.

23 (E) A license for a class B club or drinking establishment may be
24 granted to a person who has a beneficial interest in a microbrewery or
25 farm winery licensed pursuant to the Kansas liquor control act.

26 (5) A copartnership, unless all of the copartners are qualified to ob-
27 tain a license.

28 (6) A corporation, if any officer, manager or director thereof, or any
29 stockholder owning in the aggregate more than 5% of the common or
30 preferred stock of such corporation would be ineligible to receive a li-
31 cense hereunder for any reason other than citizenship and residence
32 requirements.

33 (7) A corporation, if any officer, manager or director thereof, or any
34 stockholder owning in the aggregate more than 5% of the common or
35 preferred stock of such corporation, has been an officer, manager or di-
36 rector, or a stockholder owning in the aggregate more than 5% of the
37 common or preferred stock, of a corporation which:

38 (A) Has had a license revoked under the provisions of the club and
39 drinking establishment act; or

40 (B) has been convicted of a violation of the club and drinking estab-
41 lishment act or the cereal malt beverage laws of this state.

42 (8) ~~A corporation organized under the laws of any state other than~~
43 ~~this state.~~

1 —(9) A trust, if any grantor, beneficiary or trustee would be ineligible
2 to receive a license under this act for any reason, except that the provi-
3 sions of subsection (a)(6) of K.S.A. 41-311, and amendments thereto shall
4 not apply in determining whether a beneficiary would be eligible for a
5 license.

6 (b) No club or drinking establishment license shall be issued under
7 the provisions of the club and drinking establishment act to:

8 (1) A person described in subsection (a)(11) of K.S.A. 41-311, and
9 amendments thereto.

10 (2) A person who is not a resident of the county in which the premises
11 sought to be licensed are located.

12 Sec. 14. K.S.A. 2003 Supp. 58-3935 is hereby amended to read as
13 follows: 58-3935. (a) Property is presumed abandoned if it is unclaimed
14 by the apparent owner during the time set forth below for the particular
15 property:

16 (1) Traveler's check, 15 years after its issuance;

17 (2) money order, seven years after issuance;

18 (3) except as provided in K.S.A. 58-3943, and amendments thereto,
19 stock or other equity interest in a business association or financial organ-
20 ization, including a security entitlement under article 8 of the uniform
21 commercial code, five years after the earlier of:

22 (A) The date of the most recent dividend, stock split or other distri-
23 bution unclaimed by the apparent owner; or

24 (B) the date of the second mailing of a statement of account or other
25 notification or communication that was returned as undeliverable or after
26 the holder discontinued mailings, notifications or communications to the
27 apparent owner;

28 (4) debt of a business association or financial organization, other than
29 a bearer bond or an original issue discount bond, five years after the date
30 of the most recent interest payment unclaimed by the apparent owner;

31 (5) a demand, savings or time deposit, including a deposit that is
32 automatically renewable, five years after the earlier of maturity or the
33 date of the last indication by the owner of interest in the property, except
34 that a deposit that is automatically renewable is deemed matured for
35 purposes of this section upon its initial date of maturity, unless the owner
36 has consented to a renewal at or about the time of the renewal and the
37 consent is in writing or is evidenced by a memorandum or other record
38 on file with the holder;

39 (6) money or credits owed to a customer as a result of a retail business
40 transaction, five years after the obligation accrued;

41 (7) amount owed by an insurer on a life or endowment insurance
42 policy or an annuity that has matured or terminated, three years after the
43 obligation to pay arose or, in the case of a policy or annuity payable upon

- 1 proof of death, three years after the insured has attained, or would have
2 attained if living, the limiting age under the mortality table on which the
3 reserve is based;
- 4 (8) property distributable by a business association or financial or-
5 ganization in a course of dissolution, one year after the property becomes
6 distributable;
- 7 (9) property received by a court as proceeds of a class action, and not
8 distributed pursuant to the judgment, one year after the distribution date;
- 9 (10) property held by a court, state or other government, govern-
10 mental subdivision, agency or instrumentality, one year after the property
11 becomes distributable;
- 12 (11) wages or other compensation for personal services, one year after
13 the compensation becomes payable;
- 14 (12) deposit or refund owed to a subscriber by a utility, one year after
15 the deposit or refund becomes payable;
- 16 (13) property held by agents and fiduciaries in a fiduciary capacity
17 for the benefit of another person, five years after it has become payable
18 or distributable, unless the owner has increased or decreased the prin-
19 cipal, accepted payment of principal or income, communicated concern-
20 ing the property or otherwise indicated an interest as evidenced by a
21 memorandum or other record on file prepared by the fiduciary;
- 22 (14) property in an individual retirement account, defined benefit
23 plan or other account or plan that is qualified for tax deferral under the
24 income tax laws of the United States, three years after the earliest of the
25 date of the distribution or attempted distribution of the property, the
26 date of the required distribution as stated in the plan or trust agreement
27 governing the plan, or the date, if determinable by the holder, specified
28 in the income tax laws of the United States by which distribution of the
29 property must begin in order to avoid a tax penalty;
- 30 (15) *property distributable in the course of a demutualization, reha-*
31 *bilitation or related reorganization of an insurance company shall be*
32 *deemed abandoned as follows:*
- 33 (A) *Any check or draft, two years after the date of the demutualization*
34 *or reorganization, if the check or draft has not been presented for payment*
35 *and the owner has not otherwise communicated with the holder or its*
36 *agent regarding the property;*
- 37 (B) (i) *any other property, two years after the date of the demutual-*
38 *ization or reorganization if instruments or statements reflecting the dis-*
39 *tribution are either mailed to the owner and returned by the post office*
40 *as undeliverable, or not mailed to the owner because of an address on the*
41 *books and records of the holder that is known to be incorrect; and*
- 42 (ii) *the owner has not:*
- 43 (a) *Communicated in writing with the holder or its agent regarding*

- 1 *the property; or*
2 *(b) otherwise communicated with the holder or its agent regarding*
3 *the property as evidenced by a memorandum or other record on file with*
4 *the holder or its agent.*
5 *(c) For any time more than two years after the date of demutualiza-*
6 *tion or reorganization, any property which is not subject to subparagraph*
7 *(A) or (B) of this paragraph (15) shall be treated under other provisions*
8 *of this chapter for the specific type of property;*
9 *(16) all other property, five years after the owner's right to demand*
10 *the property or after the obligation to pay or distribute the property arises,*
11 *whichever first occurs; and*
12 ~~*(17) any proceeds of a sale pursuant to K.S.A. 58-817, and*~~
13 ~~*amendments thereto, which remain after satisfaction of the lien provided*~~
14 ~~*by K.S.A. 58-816, and amendments thereto, that have been unclaimed by*~~
15 ~~*the owner for one year from receipt of the proceeds of the sale and*~~
16 ~~*satisfaction of the lien.*~~
17 *(b) At the time that an interest is presumed abandoned under sub-*
18 *section (a) any other property right accrued or accruing to the owner as*
19 *a result of the interest, and not previously presumed abandoned, is also*
20 *presumed abandoned.*
21 *(c) Property is unclaimed if, for the applicable period set forth in*
22 *subsection (a), the apparent owner has not communicated in writing or*
23 *by other means reflected in a contemporaneous record prepared by or*
24 *on behalf of the holder, with the holder concerning the property or the*
25 *account in which the property is held, and has not otherwise indicated*
26 *an interest in the property. A communication with an owner by a person*
27 *other than the holder or the holder's representative who has not in writing*
28 *identified the property to the owner is not an indication of interest in the*
29 *property by the owner.*
30 *(d) An indication of an owner's interest in property includes:*
31 *(1) The presentment of a check or other instrument of payment of a*
32 *dividend or other distribution made with respect to an account or un-*
33 *derlying stock or other interest in a business association or financial or-*
34 *ganization or, in the case of a distribution made by electronic or similar*
35 *means, evidence that the distribution has been received;*
36 *(2) owner-directed activity in the account in which the property is*
37 *held, including a direction by the owner to increase, decrease or change*
38 *the amount or type of property held in the account;*
39 *(3) the making of a deposit to or withdrawal from a bank account;*
40 *and*
41 *(4) the payment of a premium with respect to a property interest in*
42 *an insurance policy, except that the application of an automatic premium*
43 *loan provision or other nonforfeiture provision contained in an insurance*

1 policy does not prevent a policy from maturing or terminating if the in-
2 sured has died or the insured or the beneficiary of the policy has otherwise
3 become entitled to the proceeds before the depletion of the cash surren-
4 der value of a policy by the application of those provisions.

5 (e) Property is payable or distributable for the purpose of this act
6 notwithstanding the owner's failure to make demand or to present any
7 instrument or document otherwise required to obtain payment.

8 (f) Any demand or savings account or matured timed deposit with a
9 financial organization shall not be presumed abandoned if regular cor-
10 respondence to an owner of the account has not been returned to the
11 sender.

12 (g) Any outstanding check, draft, credit balance, customer's overpay-
13 ment or unidentified remittance issued to a sole proprietorship or busi-
14 ness association as part of a commercial transaction in the ordinary course
15 of a holder's business shall not be presumed abandoned.

16 (h) A holder may not impose with respect to any property payable or
17 distributable for the purpose of this act, including any income or incre-
18 ment derived therefrom, any fee or charge due to dormancy or inactivity
19 or cease payment of interest unless:

20 (1) There is an enforceable written contract between the holder and
21 the owner of the property pursuant to which the holder may impose a
22 charge or cease payment of interest;

23 (2) for property in excess of \$100, the holder, no more than three
24 months before the initial imposition of those charges or cessation of in-
25 terest, has mailed written notice to the owner of the amount of those
26 charges at the last known address of the owner stating that those charges
27 will be imposed or that interest will cease, but the notice provided in this
28 section need not be given with respect to charges imposed or interest
29 ceased before the effective date of this act, or for property described in
30 K.S.A. 58-3937 and 58-3938, and amendments thereto; and

31 (3) the holder regularly imposes such charges or ceases payment of
32 interest and in no instance reverses or otherwise cancels them or retro-
33 actively credits interest with respect to the property. Charges imposed
34 because of dormancy or inactivity may be made and collected monthly,
35 quarterly or annually except that beginning with the effective date of this
36 act, such charges may only be imposed for a maximum of five calendar
37 years.

38 (i) For the purpose of this section, a person who holds property as
39 an agent for a business association is deemed to hold the property in a
40 fiduciary capacity for that business association alone unless the agreement
41 between the agent and the business association provides otherwise.

42 (j) For the purposes of this act, a person who is deemed to hold
43 property in a fiduciary capacity for a business association alone is the

1 holder of the property only insofar as the interest of the business asso-
2 ciation in the property is concerned, and the business association is the
3 holder of the property insofar as the interest of any other person in the
4 property is concerned.

5 (k) Any property held by a financial organization that would otherwise
6 be presumed abandoned under this section shall not be presumed aban-
7 doned if the apparent owner:

8 (1) Owns other property which is not presumed abandoned and if
9 the financial organization communicates in writing with the owner with
10 regard to the property that would otherwise be presumed abandoned
11 under this section at the address to which communications regarding the
12 other property regularly are sent; or

13 (2) had another relationship with the financial organization concern-
14 ing which the owner has:

15 (A) Communicated in writing with the financial organization; or

16 (B) otherwise indicated an interest as evidenced by a memorandum
17 or other record on file prepared by an employee of the financial organi-
18 zation and if the financial organization communicates in writing with the
19 owner with regard to the property that would otherwise be abandoned
20 under this section at the address to which communications regarding the
21 other relationship regularly are sent.

22 Sec. 15. K.S.A. 2003 Supp. 58-3950 is hereby amended to read as
23 follows: 58-3950. (a) Except as provided in subsection (i), a holder of
24 property presumed abandoned shall make a report to the administrator
25 concerning the property.

26 (b) The report must be verified and must contain:

27 (1) A description of the property;

28 (2) except with respect to a traveler's check or money order, the
29 name, if known, and last known address, if any, and social security number
30 or taxpayer identification number, if readily ascertainable, of the apparent
31 owner of property of the value of \$100 or more;

32 (3) an aggregated amount of items valued under \$100 each;

33 (4) in the case of an amount of \$100 or more held or owing under an
34 annuity or a life or endowment insurance policy, the full name and last
35 known address of the insured or annuitant and of the beneficiary;

36 (5) in the case of property held in a safe deposit box or other safe-
37 keeping depository, a description of the property and any amounts owing
38 to the holder;

39 (6) the date, if any, on which the property became payable, demand-
40 able or returnable and the date of the last transaction with the apparent
41 owner with respect to the property; and

42 (7) other information that the administrator prescribes by rules and
43 regulations as necessary for the administration of this act.

1 (c) If a holder of property presumed abandoned is a successor to
2 another person who previously held the property for the apparent owner
3 or the holder has changed its name while holding the property, the holder
4 shall file with the report its former names, if any, and the known names
5 and addresses of all previous holders of the property.

6 (d) The report must be filed before November 1 of each year and
7 cover the 12 months next preceding July 1 of that year, but a report with
8 respect to a life insurance company must be filed before May 1 of each
9 year for the calendar year next preceding. *The initial report of property*
10 *distributable in the course of a demutualization, rehabilitation or related*
11 *reorganization of an insurance company as of December 31, 2003, shall*
12 *be due by November 1, 2004.*

13 (e) The holder of property presumed abandoned shall send written
14 notice to the apparent owner, not more than 120 days or less than 60 days
15 before filing the report, stating that the holder is in possession of property
16 subject to this act if:

17 (1) The holder has in its records an address for the apparent owner
18 which the holder's records do not disclose to be inaccurate;

19 (2) the claim of the apparent owner is not barred by a statute of
20 limitations; and

21 (3) the value of the property is \$100 or more, or is reported under
22 K.S.A. 58-3943 or 58-3949, and amendments thereto.

23 (f) The written notice ~~shall~~ also *shall* contain the following:

24 (1) Nature and identifying number, if any, or description of the funds
25 or other property; and

26 (2) the amount appearing on the records of the holder to be due the
27 apparent owner.

28 (g) If the holder is not a life insurance company, the written notice
29 shall set forth an additional statement that the funds or other property
30 will be reported as unclaimed property to the state treasurer of Kansas
31 no later than November 1 of the current year.

32 (h) If the holder is a life insurance company, the written notice shall
33 set forth an additional statement that the funds or other property will be
34 reported as unclaimed property to the state treasurer of Kansas no later
35 than May 1 of the current year.

36 (i) The holder of property presumed abandoned does not need to file
37 a report under the provisions of this section if such holder has no indi-
38 vidual property valued over \$100 and the total value of such holder's
39 aggregated property is under \$250, unless required to do so by the pro-
40 visions of subsection (k).

41 (j) Before the date for filing the report, the holder of property pre-
42 sumed abandoned may request the administrator to extend the time for
43 filing the report. The administrator may grant the extension for good

1 cause. The holder, upon receipt of the extension, may make an interim
2 payment on the amount the holder estimates will ultimately be due which
3 terminates the accrual of additional interest on the amount paid.

4 (k) The administrator, in the administrator's discretion, may require
5 that any holder of property presumed abandoned, file a report as required
6 by this section.

7 Sec. 16. K.S.A. 2003 Supp. 79-3230 is hereby amended to read as
8 follows: 79-3230. (a) The amount of income taxes imposed by this act
9 shall be assessed within three years after the original return was filed, the
10 tax as shown to be due on the return was paid or within one year after
11 an amended return is filed, whichever is the later date, and no proceed-
12 ings in court for the collection of such taxes shall be begun after the
13 expiration of such period. For purposes of this act any return filed before
14 the 15th day of the fourth month following the close of the taxable year
15 shall be considered as being filed on the 15th day of the fourth month
16 following the close of the taxable year, and any tax shown to be due on
17 the return and paid before the 15th day of the fourth month following
18 the close of the taxable year shall be deemed to have been paid on the
19 15th day of the fourth month following the close of the taxable year.

20 (b) In the case of a false or fraudulent return with intent to evade
21 tax, the tax may be assessed, or a proceeding in court for collection of
22 such tax may be begun at any time.

23 (c) No claim shall be allowed for credit or refund of overpayment of
24 any tax imposed by this act unless filed by the taxpayer within ~~three years~~
25 *one year* from the date the original return was filed or ~~two years~~ *one year*
26 from the date the tax claimed to be refunded or against which the credit
27 is claimed was paid, whichever of such periods expires later, or if no return
28 was filed by the taxpayer, within ~~two years~~ *one year* from the date the tax
29 claimed to be refunded or against which the credit is claimed was paid.
30 Where the assessment of any income tax imposed by this act has been
31 made within the period of limitation properly applicable thereto, such tax
32 may be collected by distraint or by a proceeding in court, but only if
33 begun within one year after the period of limitation as defined in this act.

34 (d) In case a taxpayer has made claim for a refund, the taxpayer shall
35 have the right to commence a suit for the recovery of the refund at the
36 expiration of six months after the filing of the claim for refund, if no action
37 has been taken by the director of taxation.

38 (e) Before the expiration of time prescribed in this section for the
39 assessment of additional tax ~~or the filing of a claim for a refund~~, the
40 director of taxation is authorized to enter into an agreement in writing
41 with the taxpayer consenting to the extension of the periods of limitations
42 as defined in this act for the assessment of tax or for the filing of a claim
43 for refund, ~~at any time prior to the expiration of the period of limitations.~~

1 The period so agreed upon may be extended by subsequent agreements
2 in writing made before the expiration of the period previously agreed
3 upon. A copy of all such agreements and extensions thereof shall be filed
4 with the director of taxation within 30 days after their execution.

5 (f) Any taxpayer whose income has been adjusted by the federal in-
6 ternal revenue service or by the income tax collection agency of another
7 state is required to report such adjustments to the Kansas department of
8 revenue by mail within 180 days of the date the federal or other state
9 adjustments are paid, agreed to or become final, whichever is earlier.
10 Such adjustments shall be reported by filing an amended return for the
11 applicable taxable year and a copy of the federal or state revenue agent's
12 report detailing such adjustments. In the event such taxpayer is a cor-
13 poration, such report shall be by certified or registered mail.

14 Notwithstanding the provisions of subsection (a) or (c) of this section,
15 additional income taxes may be assessed and proceedings in court for
16 collection of such taxes may be commenced and any refund or credit may
17 be allowed by the director of taxation within 180 days following receipt
18 of any such report of adjustments by the Kansas department of revenue,
19 or within ~~two years~~ *one year* from the date the tax claimed to be refunded
20 or, against which the credit is claimed was paid, whichever period expires
21 later. No assessment shall be made nor any refund or credit shall be
22 allowable under the provisions of this paragraph except to the extent the
23 same is attributable to changes in the taxpayer's income due to adjust-
24 ments indicated by such report.

25 (g) In the event of failure to comply with the provisions of this section,
26 the statute of limitations shall be tolled.

27 Sec. 17. K.S.A. 2003 Supp. 79-32,143 is hereby amended to read as
28 follows: 79-32,143. (a) For net operating losses incurred in taxable years
29 beginning after December 31, 1987, a net operating loss deduction shall
30 be allowed in the same manner that it is allowed under the federal internal
31 revenue code except that such net operating loss may only be carried
32 forward to each of the 10 taxable years following the taxable year of the
33 net operating loss. For net operating farm losses, as defined by subsection
34 (i) of section 172 of the federal internal revenue code, incurred in taxable
35 years beginning after December 31, 1999, a net operating *farm* loss de-
36 duction shall be allowed in the same manner that it is allowed under the
37 federal internal revenue code except that such net operating *farm* loss
38 may be carried forward to each of the 10 taxable years following the
39 taxable year of the net operating *farm* loss. The amount of the net op-
40 erating loss that may be carried back, *if a net operating farm loss*, or
41 forward for Kansas income tax purposes shall be that portion of the fed-
42 eral net operating loss allocated to Kansas under this act in the taxable
43 year that the net operating loss is sustained.

1 (b) The amount of the loss to be carried back, *if a net operating farm*
2 *loss*, or forward will be the federal net operating loss after (1) all modi-
3 fications required under this act applicable to the net loss in the year the
4 loss was incurred; and (2) after apportionment as to source in the case of
5 corporations, nonresident individuals for losses incurred in taxable years
6 beginning prior to January 1, 1978, and nonresident estates and trusts in
7 the same manner that income for such corporations, nonresident individ-
8 uals, estates and trusts is required to be apportioned.

9 (c) If a net operating loss was incurred in a taxable year beginning
10 prior to January 1, 1988, the amount of the net operating loss that may
11 be carried back and carried forward and the period for which it may be
12 carried back and carried forward shall be determined under the provisions
13 of the Kansas income tax laws which were in effect during the year that
14 such net operating loss was incurred.

15 (d) If any portion of a net operating loss described in subsections (a)
16 and (b) is not utilized prior to the final year of the carryforward period
17 provided in subsection (a), a refund shall be allowable in such final year
18 in an amount equal to the refund which would have been allowable in
19 the taxable year the loss was incurred by utilizing the three year carryback
20 provided under K.S.A. 79-32,143, as in effect on December 31, 1987,
21 multiplied by a fraction, the numerator of which is the unused portion of
22 such net operating loss in the final year, and the denominator of which
23 is the amount of such net operating loss which could have been carried
24 back to the three years immediately preceding the year in which the loss
25 was incurred. In no event may such fraction exceed 1.

26 (e) Notwithstanding any other provisions of the Kansas income tax
27 act, the net operating loss as computed under subsections (a), (b) and (c)
28 of this section shall be allowed in full in determining Kansas taxable in-
29 come or at the option of the taxpayer allowed in full in determining Kansas
30 adjusted gross income.

31 (f) No refund of income tax which results from a net operating loss
32 carry back shall be allowed in an amount exceeding \$1,500 in any year.
33 Any excess amount may be carried back, *if a net operating farm loss*, or
34 forward to any other year or years as provided by this section.

35 Sec. 18. K.S.A. 79-32,176 is hereby amended to read as follows: 79-
36 32,176. (a) Any resident individual taxpayer who makes expenditures for
37 the purpose of making all or any portion of an existing facility accessible
38 to individuals with a disability, which facility is used as, or in connection
39 with, such taxpayer's principal dwelling or the principal dwelling of a
40 lineal ascendant or descendant, including construction of a small barrier
41 free living unit attached to such principal dwelling, shall be entitled to
42 claim a tax credit in an amount equal to the applicable percentage of such
43 expenditures or \$9,000, whichever is less, against the income tax liability

1 imposed against such taxpayer pursuant to article 32 of chapter 79 of the
 2 Kansas Statutes Annotated. Nothing in this subsection shall be deemed
 3 to prevent any such taxpayer from claiming such credit: (1) For each
 4 principal dwelling in which the taxpayer or lineal ascendant or descendant
 5 may reside, or facility used in connection therewith; or (2) more than
 6 once, but not more often than once every four-year period of time. The
 7 applicable percentage of such expenditures eligible for credit shall be as
 8 set forth in the following schedule:

9 Taxpayers	% of
10 Kansas Adjusted	expenditures
11 Gross Income	eligible for
12	credit
13 \$0 to \$25,000	100%
14 Over \$25,000 but not over \$30,000	90%
15 Over \$30,000 but not over \$35,000	80%
16 Over \$35,000 but not over \$40,000	70%
17 Over \$40,000 but not over \$45,000	60%
18 Over \$45,000 but not over \$55,000	50%
19 Over \$55,000	0

20 Such tax credit shall be deducted from the taxpayer's income tax liability
 21 for the taxable year in which the expenditures are made by the taxpayer.
 22 If the amount of such tax credit exceeds the taxpayer's income tax liability
 23 for such taxable year, the amount thereof which exceeds such tax liability
 24 may be carried over for deduction from the taxpayer's income tax liability
 25 in the next succeeding taxable year or years until the total amount of the
 26 tax credit has been deducted from tax liability, except that no such tax
 27 credit shall be carried over for deduction after the fourth taxable year
 28 succeeding the taxable year in which the expenditures are made.

29 ~~(b) Notwithstanding the provisions of subsection (a), if the amount~~
 30 ~~of the taxpayer's tax liability is less than \$2,250 in the first year in which~~
 31 ~~the credit is claimed under this section, an amount equal to the amount~~
 32 ~~by which 1/4 of the credit allowable under this section exceeds such tax~~
 33 ~~liability shall be refunded to the taxpayer and the amount by which such~~
 34 ~~credit exceeds such tax liability less the amount of such refund may be~~
 35 ~~carried over for the next three succeeding taxable years. If the amount of~~
 36 ~~the taxpayer's tax liability is less than \$2,250 in the second year in which~~
 37 ~~the credit is claimed under this section, an amount equal to the amount~~
 38 ~~by which 1/3 of the amount of the credit carried over from the first taxable~~
 39 ~~year exceeds such tax liability shall be refunded to the taxpayer and the~~
 40 ~~amount by which the amount of the credit carried over from the first~~
 41 ~~taxable year exceeds such tax liability less the amount of such refund may~~
 42 ~~be carried over for the next two succeeding taxable years. If the amount~~
 43 ~~of the taxpayer's tax liability is less than \$2,250 in the third year in which~~

1 ~~the credit is claimed under this section, an amount equal to the amount~~
2 ~~by which 1/2 of the amount carried over from the second taxable year~~
3 ~~exceeds such tax liability shall be refunded to the taxpayer and the amount~~
4 ~~by which the amount of the credit carried over from the second taxable~~
5 ~~year exceeds such tax liability less the amount of such refund may be~~
6 ~~carried over to the next succeeding taxable year. If the amount of the~~
7 ~~credit carried over from the third taxable year exceeds the taxpayer's~~
8 ~~income tax liability for such year, the amount thereof which exceeds such~~
9 ~~tax liability shall be refunded to the taxpayer. The provisions of this section~~
10 ~~shall apply to all taxable years commencing after December 31, 2003.~~

11 Sec. 19. K.S.A. 79-32,190 is hereby amended to read as follows: 79-
12 32,190. (a) Any taxpayer that pays for or provides child day care services,
13 including the provision of the service of locating such services, to its em-
14 ployees or that provides facilities and necessary equipment for child day
15 care services shall be allowed a credit against the privilege or income tax
16 imposed by articles 11 and 32 of chapter 79 of the Kansas Statutes An-
17 notated as follows:

18 (1) Thirty percent of the total amount expended in the state during
19 the taxable year by a taxpayer for child day care services purchased to
20 provide care for the dependent children of the taxpayer's employees or
21 for the provision of the service of locating such services for such children;

22 (2) (A) in the taxable year in which a facility providing child day care
23 services in the state for use primarily by the dependent children of the
24 taxpayer's employees is established, 50% of the total amount expended
25 during such year by a taxpayer in the establishment and operation of such
26 facility;

27 (B) in the taxable years other than the taxable year to which paragraph
28 (2)(A) applies, 30% of the amount equal to the total amount expended
29 during the taxable year by a taxpayer for the operation of a facility de-
30 scribed in paragraph (2)(A) less the amount of moneys received by the
31 taxpayer for use of such facility for child day care services;

32 (3) (A) in the taxable year in which a facility providing child day care
33 services in the state for use primarily by the dependent children of the
34 taxpayers' employees is established in conjunction with one or more other
35 taxpayers, 50% of the total amount expended during such year by a tax-
36 payer in the establishment and operation of such facility;

37 (B) in the taxable years other than the taxable year to which paragraph
38 (3)(A) applies, 30% of the amount equal to the total amount expended
39 during the taxable year by a taxpayer for the operation of a facility de-
40 scribed in paragraph (3)(A) less the amount of moneys received by the
41 taxpayer for use of such facility for child day care services.

42 (b) No credit shall be allowed under this section unless the child day
43 care facility or provider is licensed or registered pursuant to Kansas law.

1 (c) The credit allowed by paragraphs (1), (2)(B) and (3)(B) of sub-
2 section (a) shall not exceed \$30,000 for any taxpayer during any taxable
3 year. The credit allowed by paragraphs (2)(A) and (3)(A) of subsection
4 (a) shall not exceed \$45,000 for any taxpayer during any taxable year. *For*
5 *all taxable years commencing after December 31, 2003*, the amount of the
6 credit which exceeds the tax liability for a taxable year ~~shall be refunded~~
7 ~~to the taxpayer~~ *may be carried over for deduction from the taxpayer's*
8 *income tax liability in the next succeeding taxable year or years until the*
9 *total amount of the tax credit has been deducted from tax liability.* If the
10 taxpayer is a corporation having an election in effect under subchapter S
11 of the federal internal revenue code or a partnership, the credit provided
12 by this section shall be claimed by the shareholders of such corporation
13 or the partners of such partnership in the same manner as such share-
14 holders or partners account for their proportionate shares of the income
15 or loss of the corporation or partnership.

16 (d) The aggregate amount of credits claimed under this act for any
17 fiscal year shall not exceed \$3,000,000.

18 Sec. 20. K.S.A. 2003 Supp. 79-32,197 is hereby amended to read as
19 follows: 79-32,197. The amount of credit allowed pursuant to K.S.A. 79-
20 32,196, and amendments thereto, shall not exceed 50% of the total
21 amount contributed during the taxable year by the business firm to a
22 community service organization or governmental entity for programs ap-
23 proved pursuant to K.S.A. 79-32,198, and amendments thereto. The
24 amount of credit allowed pursuant to K.S.A. 79-32,196, and amendments
25 thereto, shall not exceed 70% of the total amount contributed during the
26 taxable year by the business firm in a rural community to a community
27 service organization or governmental entity located therein for programs
28 approved pursuant to K.S.A. 79-32,198, and amendments thereto. *For all*
29 *taxable years commencing after December 31, 2003*, if the amount of the
30 credit allowed by K.S.A. 79-32,196, and amendments thereto, exceeds
31 the taxpayer's income tax liability imposed under the Kansas income tax
32 act, such excess amount ~~shall be refunded to the taxpayer~~ *may be carried*
33 *over for deduction from the taxpayer's income tax liability in the next*
34 *succeeding taxable year or years until the total amount of the tax credit*
35 *has been deducted from tax liability.* In no event shall the total amount
36 of credits allowed under this section exceed \$4,130,000 for any one fiscal
37 year.

38 Sec. 21. K.S.A. 2003 Supp. 79-32,206 is hereby amended to read as
39 follows: 79-32,206. For all taxable years commencing after December 31,
40 2001, there shall be allowed as a credit against the tax liability of a taxpayer
41 imposed under the Kansas income tax act, the premiums tax upon insur-
42 ance companies imposed pursuant to K.S.A. 40-252, and amendments
43 thereto, and the privilege tax as measured by net income of financial

1 institutions imposed pursuant to article 11 of chapter 79 of the Kansas
2 Statutes Annotated, an amount equal to 15% of the property tax levied
3 for property tax years 2002, 2003 and 2004, 20% of the property tax levied
4 for property tax years 2005 and 2006, and 25% of the property tax levied
5 for property tax year 2007, and all such years thereafter, actually and
6 timely paid during an income or privilege taxable year upon commercial
7 and industrial machinery and equipment classified for property taxation
8 purposes pursuant to section 1 of article 11 of the Kansas constitution in
9 subclass (5) or (6) of class 2, machinery and equipment classified for such
10 purposes in subclass (2) of class 2. For all taxable years commencing after
11 December 31, 2004, there shall be allowed as a credit against the tax
12 liability of a taxpayer imposed under the Kansas income tax act an amount
13 equal to 20% of the property tax levied for property tax years 2005 and
14 2006, and 25% of the property tax levied for property tax year 2007 and
15 all such years thereafter, actually and timely paid during an income tax-
16 able year upon railroad machinery and equipment classified for property
17 tax purposes pursuant to section 1 of article 11 of the Kansas constitution
18 in subclass (3) of class 2. Prior to the 2004 legislative session, the joint
19 committee on economic development shall conduct a study of the eco-
20 nomic impact of the foregoing provision. *For all taxable years commenc-*
21 *ing after December 31, 2003, if the amount of such tax credit exceeds the*
22 *taxpayer's income tax liability for the taxable year, the amount thereof*
23 *which exceeds such tax liability shall be refunded to the taxpayer may be*
24 *carried over for deduction from the taxpayer's income tax liability in the*
25 *next succeeding taxable year or years until the total amount of the tax*
26 *credit has been deducted from tax liability.* If the taxpayer is a corporation
27 having an election in effect under subchapter S of the federal internal
28 revenue code, a partnership or a limited liability company, the credit
29 provided by this section shall be claimed by the shareholders of such
30 corporation, the partners of such partnership or the members of such
31 limited liability company in the same manner as such shareholders, part-
32 ners or members account for their proportionate shares of the income or
33 loss of the corporation, partnership or limited liability company.

34 Sec. 22. K.S.A. 2003 Supp. 79-32,210 is hereby amended to read as
35 follows: 79-32,210. (a) For all taxable years commencing after December
36 31, 2000, and with respect to property initially acquired and first placed
37 into service in this state on and after January 1, 2001, there shall be
38 allowed as a credit against the tax liability imposed by the Kansas income
39 tax act of a telecommunications company, as defined in K.S.A. 79-3271
40 and amendments thereto, an amount equal to the difference between the
41 property tax levied for property tax year 2001, and all such years there-
42 after, and actually and timely paid during the appropriate income taxable
43 year upon property assessed at the 33% assessment rate and the property

1 tax which would be levied and paid on such property if assessed at a 25%
2 assessment rate.

3 (b) *For taxable years commencing after December 31, 2003*, if the
4 amount of the tax credit determined under subsection (a) exceeds the tax
5 liability for the telecommunications company for any taxable year, the
6 amount thereof which exceeds such tax liability ~~shall be refunded to the~~
7 ~~telecommunications company~~ *may be carried over for deduction from the*
8 *taxpayer's income tax liability in the next succeeding taxable year or years*
9 *until the total amount of the tax credit has been deducted from tax liability.*
10 If the telecommunications company is a corporation having an election
11 in effect under subchapter S of the federal internal revenue code, a part-
12 nership or a limited liability company, the credit provided by this section
13 shall be claimed by the shareholders of such corporation, the partners of
14 such partnership or the members of such limited liability company in the
15 same manner as such shareholders, partners or members account for their
16 proportionate shares of income or loss of the corporation, partnership or
17 limited liability company.

18 (c) As used in this section, the term "acquired" shall not include the
19 transfer of property pursuant to an exchange for stock securities, or the
20 transfer of assets of one business entity to another due to a merger or
21 other consolidation.

22 Sec. 23. K.S.A. 2003 Supp. 79-3603 is hereby amended to read as
23 follows: 79-3603. For the privilege of engaging in the business of selling
24 tangible personal property at retail in this state or rendering or furnishing
25 any of the services taxable under this act, there is hereby levied and there
26 shall be collected and paid a tax at the rate of 5.3% on and after July 1,
27 2002, and before July 1, ~~2004~~, ~~5.2% on and after July 1, 2004, and before~~
28 ~~July 1, 2005~~ 2006, and 5% on and after July 1, ~~2005~~ 2006, and, within a
29 redevelopment district established pursuant to K.S.A. 74-8921, and
30 amendments thereto, there is hereby levied and there shall be collected
31 and paid an additional tax at the rate of 2% until the earlier of the date
32 the bonds issued to finance or refinance the redevelopment project have
33 been paid in full or the final scheduled maturity of the first series of bonds
34 issued to finance any part of the project upon:

35 (a) The gross receipts received from the sale of tangible personal
36 property at retail within this state;

37 (b) (1) the gross receipts from intrastate telephone or telegraph serv-
38 ices; (2) the gross receipts received from the sale of interstate telephone
39 or telegraph services, which (A) originate within this state and terminate
40 outside the state and are billed to a customer's telephone number or
41 account in this state; or (B) originate outside this state and terminate
42 within this state and are billed to a customer's telephone number or ac-
43 count in this state except that the sale of interstate telephone or telegraph

1 service does not include: (A) Any interstate incoming or outgoing wide
2 area telephone service or wide area transmission type service which en-
3 titles the subscriber to make or receive an unlimited number of com-
4 munications to or from persons having telephone service in a specified
5 area which is outside the state in which the station provided this service
6 is located; (B) any interstate private communications service to the per-
7 sons contracting for the receipt of that service that entitles the purchaser
8 to exclusive or priority use of a communications channel or group of
9 channels between exchanges; (C) any value-added nonvoice service in
10 which computer processing applications are used to act on the form, con-
11 tent, code or protocol of the information to be transmitted; (D) any tel-
12 ecommunication service to a provider of telecommunication services
13 which will be used to render telecommunications services, including car-
14 rier access services; or (E) any service or transaction defined in this sec-
15 tion among entities classified as members of an affiliated group as pro-
16 vided by section 1504 of the federal internal revenue code of 1986, as in
17 effect on January 1, 2001; and (3) the gross receipts from the provision
18 of services taxable under this subsection which are billed on a combined
19 basis with nontaxable services, shall be accounted for and the tax remitted
20 as follows: The taxable portion of the selling price of those combined
21 services shall include only those charges for taxable services if the selling
22 price for the taxable services can be readily distinguishable in the retailer's
23 books and records from the selling price for the nontaxable services. Oth-
24 erwise, the gross receipts from the sale of both taxable and nontaxable
25 services billed on a combined basis shall be deemed attributable to the
26 taxable services included therein. Within 90 days of billing taxable services
27 on a combined basis with nontaxable services, the retailer shall enter into
28 a written agreement with the secretary identifying the methodology to be
29 used in determining the taxable portion of the selling price of those com-
30 bined services. The burden of proving that any receipt or charge is not
31 taxable shall be upon the retailer. Upon request from the customer, the
32 retailer shall disclose to the customer the selling price for the taxable
33 services included in the selling price for the taxable and nontaxable serv-
34 ices billed on a combined basis;

35 (c) the gross receipts from the sale or furnishing of gas, water, elec-
36 tricity and heat, which sale is not otherwise exempt from taxation under
37 the provisions of this act, and whether furnished by municipally or pri-
38 vately owned utilities, except that, on and after January 1, 2006, for sales
39 of gas, electricity and heat delivered through mains, lines or pipes to
40 residential premises for noncommercial use by the occupant of such
41 premises, and for agricultural use and also, for such use, all sales of pro-
42 pane gas, the state rate shall be 0%; and for all sales of propane gas, LP
43 gas, coal, wood and other fuel sources for the production of heat or light-

1 ing for noncommercial use of an occupant of residential premises, the
2 state rate shall be 0%, but such tax shall not be levied and collected upon
3 the gross receipts from: (1) The sale of a rural water district benefit unit;
4 (2) a water system impact fee, system enhancement fee or similar fee
5 collected by a water supplier as a condition for establishing service; or (3)
6 connection or reconnection fees collected by a water supplier;

7 (d) the gross receipts from the sale of meals or drinks furnished at
8 any private club, drinking establishment, catered event, restaurant, eating
9 house, dining car, hotel, drugstore or other place where meals or drinks
10 are regularly sold to the public;

11 (e) the gross receipts from the sale of admissions to any place pro-
12 viding amusement, entertainment or recreation services including admis-
13 sions to state, county, district and local fairs, but such tax shall not be
14 levied and collected upon the gross receipts received from sales of ad-
15 missions to any cultural and historical event which occurs triennially;

16 (f) the gross receipts from the operation of any coin-operated device
17 dispensing or providing tangible personal property, amusement or other
18 services except laundry services, whether automatic or manually operated;

19 (g) the gross receipts from the service of renting of rooms by hotels,
20 as defined by K.S.A. 36-501 and amendments thereto, or by accommo-
21 dation brokers, as defined by K.S.A. 12-1692, and amendments thereto
22 but such tax shall not be levied and collected upon the gross receipts
23 received from sales of such service to the federal government and any
24 agency, officer or employee thereof in association with the performance
25 of official government duties;

26 (h) the gross receipts from the service of renting or leasing of tangible
27 personal property except such tax shall not apply to the renting or leasing
28 of machinery, equipment or other personal property owned by a city and
29 purchased from the proceeds of industrial revenue bonds issued prior to
30 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through
31 12-1749, and amendments thereto, and any city or lessee renting or leas-
32 ing such machinery, equipment or other personal property purchased
33 with the proceeds of such bonds who shall have paid a tax under the
34 provisions of this section upon sales made prior to July 1, 1973, shall be
35 entitled to a refund from the sales tax refund fund of all taxes paid
36 thereon;

37 (i) the gross receipts from the rendering of dry cleaning, pressing,
38 dyeing and laundry services except laundry services rendered through a
39 coin-operated device whether automatic or manually operated;

40 (j) the gross receipts from the rendering of the services of washing
41 and washing and waxing of vehicles;

42 (k) the gross receipts from cable, community antennae and other sub-
43 scriber radio and television services;

1 (l) (1) except as otherwise provided by paragraph (2), the gross re-
2 cepts received from the sales of tangible personal property to all con-
3 tractors, subcontractors or repairmen for use by them in erecting struc-
4 tures, or building on, or otherwise improving, altering, or repairing real
5 or personal property.

6 (2) Any such contractor, subcontractor or repairman who maintains
7 an inventory of such property both for sale at retail and for use by them
8 for the purposes described by paragraph (1) shall be deemed a retailer
9 with respect to purchases for and sales from such inventory, except that
10 the gross receipts received from any such sale, other than a sale at retail,
11 shall be equal to the total purchase price paid for such property and the
12 tax imposed thereon shall be paid by the deemed retailer;

13 (m) the gross receipts received from fees and charges by public and
14 private clubs, drinking establishments, organizations and businesses for
15 participation in sports, games and other recreational activities, but such
16 tax shall not be levied and collected upon the gross receipts received from:
17 (1) Fees and charges by any political subdivision, by any organization
18 exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-
19 201, and amendments thereto, or by any youth recreation organization
20 exclusively providing services to persons 18 years of age or younger which
21 is exempt from federal income taxation pursuant to section 501(c)(3) of
22 the federal internal revenue code of 1986, for participation in sports,
23 games and other recreational activities; and (2) entry fees and charges for
24 participation in a special event or tournament sanctioned by a national
25 sporting association to which spectators are charged an admission which
26 is taxable pursuant to subsection (e);

27 (n) the gross receipts received from dues charged by public and pri-
28 vate clubs, drinking establishments, organizations and businesses, pay-
29 ment of which entitles a member to the use of facilities for recreation or
30 entertainment, but such tax shall not be levied and collected upon the
31 gross receipts received from: (1) Dues charged by any organization ex-
32 empt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of
33 K.S.A. 79-201, and amendments thereto; and (2) sales of memberships
34 in a nonprofit organization which is exempt from federal income taxation
35 pursuant to section 501 (c)(3) of the federal internal revenue code of
36 1986, and whose purpose is to support the operation of a nonprofit zoo;

37 (o) the gross receipts received from the isolated or occasional sale of
38 motor vehicles or trailers but not including: (1) The transfer of motor
39 vehicles or trailers by a person to a corporation or limited liability com-
40 pany solely in exchange for stock securities or membership interest in
41 such corporation or limited liability company; or (2) the transfer of motor
42 vehicles or trailers by one corporation or limited liability company to
43 another when all of the assets of such corporation or limited liability

1 company are transferred to such other corporation or limited liability
2 company; or (3) the sale of motor vehicles or trailers which are subject
3 to taxation pursuant to the provisions of K.S.A. 79-5101 *et seq.*, and
4 amendments thereto, by an immediate family member to another im-
5 mediate family member. For the purposes of clause (3), immediate family
6 member means lineal ascendants or descendants, and their spouses. *The*
7 *base for computing the tax shall be the stated selling price of the motor*
8 *vehicle or trailer or the value pursuant to subsections (a), (b)(1) and (b)(2)*
9 *of K.S.A. 79-5105, and amendments thereto, whichever amount is higher.*
10 *The actual selling price shall be the base for computing the tax on the*
11 *isolated or occasional sale of wrecked or damaged vehicles.* In determining
12 the base for computing the tax on such isolated or occasional sale, the
13 fair market value of any motor vehicle or trailer traded in by the purchaser
14 to the seller may be deducted from the selling price;

15 (p) the gross receipts received for the service of installing or applying
16 tangible personal property which when installed or applied is not being
17 held for sale in the regular course of business, and whether or not such
18 tangible personal property when installed or applied remains tangible
19 personal property or becomes a part of real estate, except that no tax shall
20 be imposed upon the service of installing or applying tangible personal
21 property in connection with the original construction of a building or
22 facility, the original construction, reconstruction, restoration, remodeling,
23 renovation, repair or replacement of a residence or the construction, re-
24 construction, restoration, replacement or repair of a bridge or highway.

25 For the purposes of this subsection:

26 (1) "Original construction" shall mean the first or initial construction
27 of a new building or facility. The term "original construction" shall include
28 the addition of an entire room or floor to any existing building or facility,
29 the completion of any unfinished portion of any existing building or fa-
30 cility and the restoration, reconstruction or replacement of a building or
31 facility damaged or destroyed by fire, flood, tornado, lightning, explosion
32 or earthquake, but such term, except with regard to a residence, shall not
33 include replacement, remodeling, restoration, renovation or reconstruc-
34 tion under any other circumstances;

35 (2) "building" shall mean only those enclosures within which individ-
36 uals customarily are employed, or which are customarily used to house
37 machinery, equipment or other property, and including the land improve-
38 ments immediately surrounding such building;

39 (3) "facility" shall mean a mill, plant, refinery, oil or gas well, water
40 well, feedlot or any conveyance, transmission or distribution line of any
41 cooperative, nonprofit, membership corporation organized under or sub-
42 ject to the provisions of K.S.A. 17-4601 *et seq.*, and amendments thereto,
43 or of any municipal or quasi-municipal corporation, including the land

- 1 improvements immediately surrounding such facility; and
- 2 (4) “residence” shall mean only those enclosures within which indi-
3 viduals customarily live;
- 4 (q) the gross receipts received for the service of repairing, servicing,
5 altering or maintaining tangible personal property which when such serv-
6 ices are rendered is not being held for sale in the regular course of busi-
7 ness, and whether or not any tangible personal property is transferred in
8 connection therewith. The tax imposed by this subsection shall be appli-
9 cable to the services of repairing, servicing, altering or maintaining an
10 item of tangible personal property which has been and is fastened to,
11 connected with or built into real property;
- 12 (r) the gross receipts from fees or charges made under service or
13 maintenance agreement contracts for services, charges for the providing
14 of which are taxable under the provisions of subsection (p) or (q);
- 15 (s) the gross receipts received from the sale of computer software,
16 the sale of the service of providing computer software other than pre-
17 written computer software and the sale of the services of modifying, al-
18 tering, updating or maintaining computer software, whether the com-
19 puter software is installed or delivered electronically by tangible storage
20 media physically transferred to the purchaser or by load and leave;
- 21 (t) the gross receipts received for telephone answering services, mo-
22 bile telecommunication services, beeper services and other similar serv-
23 ices. On and after August 1, 2002, the provisions of the federal mobile
24 telecommunications sourcing act as in effect on January 1, 2002, shall be
25 applicable to all sales of mobile telecommunication services taxable pur-
26 suant to this subsection. The secretary of revenue is hereby authorized
27 and directed to perform any act deemed necessary to properly implement
28 such provisions;
- 29 (u) the gross receipts received from the sale of prepaid calling service
30 as defined in K.S.A. 2003 Supp. 79-3673, and amendments thereto; and
- 31 (v) the gross receipts received from the sales of bingo cards, bingo
32 faces and instant bingo tickets by licensees under K.S.A. 79-4701, *et seq.*,
33 and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1,
34 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before
35 July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo
36 faces and instant bingo tickets by licensees under K.S.A. 79-4701 *et seq.*,
37 and amendments thereto, shall be exempt from taxes imposed pursuant
38 to this section.
- 39 Sec. 24. K.S.A. 2003 Supp. 79-3609 is hereby amended to read as
40 follows: 79-3609. (a) Every person engaged in the business of selling tan-
41 gible personal property at retail or furnishing services taxable in this state,
42 shall keep records and books of all such sales, together with invoices, bills
43 of lading, sales records, copies of bills of sale and other pertinent papers

1 and documents. Such books and records and other papers and documents
2 shall, at all times during business hours of the day, be available for and
3 subject to inspection by the director, or the director's duly authorized
4 agents and employees, for a period of three years from the last day of the
5 calendar year or of the fiscal year of the retailer, whichever comes later,
6 to which the records pertain. Such records shall be preserved during the
7 entire period during which they are subject to inspection by the director,
8 unless the director in writing previously authorizes their disposal. Any
9 person selling tangible personal property or furnishing taxable services
10 shall be prohibited from asserting that any sales are exempt from taxation
11 unless the retailer has in the retailer's possession a properly executed
12 exemption certificate provided by the consumer claiming the exemption.
13 Any retailer asserting a claim that certain sales are exempt who does not
14 have the required exemption certificates in possession shall acquire such
15 certificates within 60 days after receiving notice from the director that
16 such certificates are required. If such certificates are not obtained within
17 the period set forth herein, the sales shall be deemed to be taxable sales
18 under this act.

19 (b) The amount of tax imposed by this act is to be assessed within
20 three years after the return is filed, and no proceedings in court for the
21 collection of such taxes shall be begun after the expiration of such period.
22 In the case of a false or fraudulent return with intent to evade tax, the
23 tax may be assessed or a proceeding in court for collection of such tax
24 may be begun at any time, within two years from the discovery of such
25 fraud. No assessment shall be made for any period preceding the date of
26 registration of the retailer by more than three years except in cases of
27 fraud. No refund or credit shall be allowed by the director after ~~three~~
28 ~~years~~ *one year* from the date of payment of the tax as provided in this act
29 unless before the expiration of such period a claim therefor is filed by the
30 taxpayer, and no suit or action to recover on any claim for refund shall
31 be commenced until after the expiration of six months from the date of
32 filing a claim therefor with the director.

33 (c) Before the expiration of time prescribed in this section for the
34 assessment of additional tax ~~or the filing of a claim for refund~~, the director
35 is hereby authorized to enter into an agreement in writing with the tax-
36 payer consenting to the extension of the periods of limitations for the
37 assessment of tax or for the filing of a claim for refund, ~~at any time prior~~
38 ~~to the expiration of the period of limitations~~. The period so agreed upon
39 may be extended by subsequent agreements in writing made before the
40 expiration of the period previously agreed upon. In consideration of such
41 agreement or agreements, interest due in excess of 48 months on any
42 additional tax shall be waived.

43 (d) For all taxable periods subject to assessment on January 1, 1998,

1 including periods subject to an agreement to extend the statute of limi-
2 tations, and for all taxable periods commencing after December 31, 1997,
3 interest at the rate prescribed by K.S.A. 79-2968, and amendments
4 thereto, shall be allowed on any overpayment of tax computed from the
5 due date of the return if it was timely filed and accompanied by the tax
6 due or, if the return was not timely filed, from the date of payment, except
7 that no interest shall be allowed on any such refund if the same is paid
8 within 60 days after the date of the return or the date of payment, as the
9 case requires.

10 (e) Notwithstanding any other provision of this section or the provi-
11 sions of the Kansas compensating tax act:

12 (1) (A) Any claim for refund of tax imposed by the Kansas retailers'
13 sales tax act or the Kansas compensating tax act based upon the provisions
14 of subsection (kk) of K.S.A. 79-3606 in existence prior to its amendment
15 by this act which is without dispute shall be allowed, but, with respect to
16 any claim exceeding \$10,000, the refund associated therewith shall not
17 be paid until after 510 days from the date such claim was filed and shall
18 not include interest from such date. As used in this subparagraph, a claim
19 for refund without dispute shall not include any claim the basis for which
20 is a judicial or quasi-judicial interpretation of such subsection occurring
21 after the effective date of this act.

22 (B) Any refund of tax resulting from a final determination or adju-
23 dication with regard to any claim submitted or to be submitted for refund
24 of tax imposed by the Kansas retailers' sales tax act or the Kansas com-
25 pensating tax act based upon the provisions of subsection (kk) of K.S.A.
26 79-3606 in existence prior to its amendment by this act not described by
27 subparagraph (A) shall, with respect to any refund exceeding \$50,000, be
28 paid in equal annual installments over 10 years commencing with the year
29 of such final determination or adjudication. Interest shall not accrue dur-
30 ing the time period of such payment.

31 (2) No claim for refund of tax imposed by the Kansas retailers' sales
32 tax act or the Kansas compensating tax act based upon the application of
33 the provisions of subsection (n) of K.S.A. 79-3606 pursuant to its inter-
34 pretation by the court of appeals of the state of Kansas in its opinion filed
35 on August 13, 1999, in the case entitled In re appeal of Water District
36 No. 1 of Johnson County shall be allowed for tax paid prior to the effective
37 date of this act. The provisions of this subsection shall not be applicable
38 to Water District No. 1 of Johnson county.

39 Sec. 25. K.S.A. 79-3705a is hereby amended to read as follows: 79-
40 3705a. The tax levied under K.S.A. 79-3703, and amendments thereto,
41 shall be paid by the consumer or user to the retailer and it shall be the
42 duty of each and every retailer to collect from the consumer or user the
43 full amount of the tax imposed by this act. Such tax shall be a debt from

1 the consumer or user to the retailer when added to the original purchase
2 price, and shall be recoverable at law in the same manner as other debts.
3 If the tax levied under K.S.A. 79-3703, and amendments thereto, is not
4 collected by the retailer, then the person using, consuming or storing
5 tangible personal property in this state shall file a return and pay the tax,
6 as required by K.S.A. 79-3706, and amendments thereto, notwithstanding
7 the foregoing provisions of this section or any other provision of the Kan-
8 sas compensating tax act. *The director shall provide a means for the in-*
9 *dividual consumer to report and remit state and local consumer's com-*
10 *pensating use tax on the Kansas individual income tax return. Reporting*
11 *and remitting state or local consumer's compensating use tax on the Kan-*
12 *sas individual income tax return shall not relieve the consumer from the*
13 *filing frequency requirements in K.S.A. 79-3706, and amendments*
14 *thereto, but may substitute as an alternative means of reporting and re-*
15 *mitting state or local consumer's compensating use tax if the consumer is*
16 *eligible to file and remit such tax on an annual filing frequency.*

17 New Sec. 26. Whenever a person seeks a partial exemption or refund
18 of sales taxes paid on purchases of gas, water or electricity whose sale is
19 metered through one meter, the person shall submit a usage study to the
20 utility provider along with the exemption certificate or claim for refund.
21 The usage study shall be on a form prescribed by the department of
22 revenue and shall be certified by a registered engineer or a person with
23 an engineering degree from an accredited college and by the owner or
24 manager of the business. The usage study shall be updated every five
25 years or as operational changes occur, such as adding equipment, chang-
26 ing hours of operation, quitting business or similar change in the usage
27 of the equipment being metered. No exemption shall be allowed for util-
28 ities furnished through one meter unless the percentage of exempt use
29 is more than 50% of the metered sales. No refund shall be paid for a
30 refund amount less than \$5 during any one reporting period.

31 New Sec. 27. (a) No refund of income, sales or use tax, and any
32 interest or penalties thereon shall be allowed if the taxpayer claiming such
33 refund has entered into any contract or arrangement with any person
34 representing such taxpayer in pursuing such refund claim, where the com-
35 pensation or other benefits paid or payable to such person representing
36 the taxpayer, is contingent upon, in whole or in part, or otherwise related
37 to, the amount of tax, interest, or penalty that may be refunded or paid
38 by the state of Kansas or that will be exempted in the future under an
39 exemption claim, as a result of such refund or exemption claim. Any
40 refund claim for tax, interest or penalties proposed or asserted, by or upon
41 the recommendation of any person that is being compensated under such
42 a contingency contract or arrangement, shall be void and unenforceable.

43 (b) For purposes of this section, "person" means an individual, firm,

1 partnership, joint venture, association, corporation, limited liability com-
2 pany, other business entity or group or combination thereof.

3 New Sec. 28. As used in sections 28 through 31, and amendments
4 thereto:

5 (a) “License” means a certificate, permit, registration or other docu-
6 ment issued by a licensing body as evidence of a licensee’s authority to
7 practice a profession in this state, and includes, but is not limited to, any
8 such license issued pursuant to K.S.A. 1-301 et seq.; K.S.A. 7-103 and
9 the rules of the supreme court concerning the registration of attorneys;
10 K.S.A. 17-1254 et seq.; K.S.A. 40-240 et seq.; K.S.A. 47-814 et seq.; K.S.A.
11 47-1701 et seq.; K.S.A. 58-3034 et seq.; K.S.A. 58-4101 et seq.; K.S.A.
12 65-1101 et seq.; K.S.A. 65-1401 et seq.; K.S.A. 65-1501 et seq.; K.S.A.
13 65-1601 et seq.; K.S.A. 65-1701 et seq.; K.S.A. 65-1808 et seq.; K.S.A.
14 65-1901 et seq.; K.S.A. 65-2001 et seq.; K.S.A. 65-2801 et seq.; K.S.A.
15 65-28a01 et seq.; K.S.A. 65-2901 et seq.; K.S.A. 65-3501 et seq.; K.S.A.
16 65-4201 et seq.; K.S.A. 65-5401 et seq.; K.S.A. 65-5501 et seq.; K.S.A.
17 65-5801 et seq.; K.S.A. 65-5901 et seq.; K.S.A. 65-6101 et seq.; K.S.A.
18 65-6301 et seq.; K.S.A. 65-6401 et seq.; K.S.A. 65-6501 et seq.; K.S.A.
19 65-6601 et seq.; K.S.A. 65-6901 et seq.; K.S.A. 65-7201 et seq.; K.S.A.
20 72-1381 et seq.; K.S.A. 74-7001 et seq.; K.S.A. 75-7b01 et seq., and
21 amendments thereto.

22 (b) “Licensing body” means an official, agency, board or other entity
23 of the state which authorizes individuals to practice a profession in this
24 state and issues a license, certificate, permit, registration or other au-
25 thorization to an individual so authorized, and includes, but is not limited
26 to, the board of accountancy, behavioral sciences regulatory board, dental
27 board, board of healing arts, insurance department, board of mortuary
28 arts, board of nursing, board of examiners in optometry, board of phar-
29 macy, real estate appraisal board, real estate commission, securities com-
30 missioner, speech-language pathology and audiology board, supreme
31 court, board of technical professions and board of veterinary examiners,
32 board of adult care home administrators, animal health department,
33 board of barbering, board of cosmetology, department of education,
34 emergency medical services board, department of health and environ-
35 ment and Kansas bureau of investigation.

36 (c) “Licensee” means an individual who is or may be authorized to
37 practice a profession in this state and has been issued a license by a
38 licensing body and includes, but is not limited to, a certified public ac-
39 countant, attorney, professional counselor, social worker, marriage and
40 family therapist, clinical marriage and family therapist, alcohol or drug
41 abuse counselor, dentist, dental hygienist, medical doctor, osteopathic
42 physician, chiropractor, podiatrist, physician’s assistant, physical therapist,
43 occupational therapist, respiratory therapist, athletic trainer, naturopathic

1 doctor, insurance agent, embalmer, funeral director, assistant funeral di-
2 rector, practical nurse, professional nurse, mental health technician, op-
3 tometrist, pharmacist, real estate appraiser, real estate salesperson, real
4 estate broker, securities broker-dealer, securities investment advisor,
5 speech-language pathologist, audiologist, engineer, architect, land sur-
6 veyor, landscape architect, geologist, veterinarian and veterinarian tech-
7 nician, adult care home administrator, animal breeder, animal distributor,
8 animal shelter or pound owner or operator, boarding or training kennel
9 owner or operator, pet shop owner or operator, retail breeder, barber,
10 cosmetologist, cosmetologist technician, esthetician, electrologist, mani-
11 curist, teacher, attendant, operator, instructor coordinator, training offi-
12 cer, dietician and private investigator.

13 (d) "Taxes" means any taxes owed to the state by the licensee, in-
14 cluding any penalties and interest.

15 New Sec. 29. All licensing bodies of this state shall have or shall
16 adopt procedures for the denial of renewal of a license if the licensing
17 body receives information showing an applicant for the renewal of an
18 existing license is not current in the payment of taxes or the filing of tax
19 returns.

20 New Sec. 30. (a) Except as specifically provided by this act, no li-
21 cense shall be renewed unless the applicant seeking renewal of a license
22 is current in the payment of all taxes owed to the state and has filed all
23 tax returns due with the state.

24 (b) The provisions of subsection (a) shall not apply to taxes which are
25 under audit or administrative or judicial appeal or for which an agreement
26 for the payment of such taxes has been entered into by the applicant for
27 licensure and the department of revenue and the applicant for licensure
28 is current in the payments under such agreement.

29 New Sec. 31. (a) Not less than 120 days prior to the renewal date for
30 any license, the licensing body shall provide to the secretary of revenue
31 a list of all licenses, subject to such renewal date, including the name,
32 address, social security number and date of renewal of each licensee. Such
33 list shall be provided electronically in the format required by the secretary
34 of revenue. Within 30 days of receipt of such list from the licensing body,
35 the secretary of revenue shall notify those licensees who are not current
36 in the payment of taxes owed to the state or who have failed to file a tax
37 return with the state, and shall further notify the licensing body of such
38 delinquent licensees and the reason for delinquency.

39 (b) If information received pursuant to subsection (a) from the sec-
40 retary of revenue shows that the licensee is not current in the payment
41 of taxes owed to the state or has failed to file a tax return with the state,
42 the licensing body shall not renew the license unless the licensing body
43 receives a tax clearance certificate from the secretary of revenue verifying

1 that the licensee has paid all taxes owed to the state and filed all tax returns
2 due to the state.

3 New Sec. 32. If a license is not renewed pursuant to this act, any
4 funds paid by the licensee for renewal shall not be refunded by the li-
5 censing body.

6 New Sec. 33. In any review of the licensing body's actions pursuant
7 to this act, conducted by the secretary of revenue at the request of the
8 licensee, the issues on such review shall be limited to the identity of the
9 licensee and the validity of the notice sent by the licensing body pursuant
10 to section 31, and amendments thereto. The licensing body shall have no
11 jurisdiction over issues related to the tax obligation of the licensee.

12 New Sec. 34. Any individual obtaining a license from a licensing
13 body shall provide the licensing body such individual's social security
14 number.

15 New Sec. 35. (a) Notwithstanding any provision of law prohibiting
16 disclosure by the department of revenue of the contents of taxpayer re-
17 cords or information and notwithstanding any confidentiality statute of
18 any state agency or licensing body, all information exchanged among or
19 disclosed by the department of revenue, the licensing body and the debtor
20 necessary to accomplish and effectuate the intent of this act is lawful.

21 (b) The information obtained by a licensing body from the depart-
22 ment of revenue in accordance with the exemption authorized by sub-
23 section (a) shall be used only for the purpose authorized by this act. Any
24 person employed by, or formerly employed by, a licensing body, and who
25 receives information subject to the provisions of K.S.A. 79-3234, and
26 amendments thereto, or other information designated by law as confi-
27 dential, shall be subject to the same duty of confidentiality with respect
28 to such confidential information imposed by law on officers and employ-
29 ees of the department of revenue and shall be subject to any civil or
30 criminal penalties imposed by law for violations of such duty of confi-
31 dentiality.

32 Sec. 36. K.S.A. 40-2246, 72-6405, 72-6413, 72-6414, 72-6440, 79-
33 32,176, 79-32,190 and 79-3705a and K.S.A. 2003 Supp. 41-311, 41-501,
34 41-2623, 58-3935, 58-3950, 72-6407, 79-3230, 79-32,143, 79-32,197, 79-
35 32,206, 79-32,210, 79-3603 and 79-3609 are hereby repealed.

36 Sec. 37. This act shall take effect and be in force from and after its
37 publication in the Kansas register.