

*[As Amended by Senate Committee of the Whole]*

*As Amended by Senate Committee*

Session of 2007

**SENATE BILL No. 342**

By Committee on Commerce

2-8

12 AN ACT concerning taxation; relating to credits; enacting the Kansas  
13 investment credit act and the Kansas jobs credit act; relating to qual-  
14 ifications and procedures; eliminating certain existing credits related  
15 thereto; amending K.S.A. 40-253a and 74-8945 and K.S.A. 2006 Supp.  
16 **74-50,131, 74-50,132**, 79-32,111, 79-32,243 and 79-3606 and re-  
17 pealing the existing sections; also repealing K.S.A. 74-50,113, 74-  
18 50,116, 74-50,117, 74-50,118, 74-50,119, 74-50,135, 74-50,135a, 79-  
19 32,155, 79-32,156, 79-32,157, 79-32,158, 79-32,159, 79-32,159a,  
20 79-32,159b, 79-32,159c, 79-32,160, 79-32,160b and 79-32,160c and  
21 K.S.A. 2006 Supp. 74-50,114, 74-50,115, ~~74-50,131, 74-50,132, 74-~~  
22 ~~50,133~~, 74-50,134, 79-3269, 79-32,153, 79-32,154 and 79-32,160a.

23

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

25 New Section 1. The provisions of sections 1 through 8, and amend-  
26 ments thereto, shall be known and may be cited as the Kansas investment  
27 credit act.

28 New Sec. 2. As used in the Kansas investment credit act, unless oth-  
29 erwise provided: (a) “Act” means the Kansas investment credit act;

30 (b) “ancillary support operation” means a Kansas business facility at  
31 which the business activities are ancillary processing functions and from  
32 which no or de minimis primary business activities occur. Ancillary proc-  
33 essing functions shall support and improve operating efficiencies of the  
34 primary focus of the business, but are not of themselves, integral and  
35 necessary to performing the primary business activities;

36 (c) “eligible taxpayer” means a for-profit business establishment sub-  
37 ject to the Kansas income tax act, the premium tax or privilege fees im-  
38 posed pursuant to K.S.A. 40-252, and amendments thereto, the privilege  
39 tax as measured by the net income of financial institutions imposed pur-  
40 suant to chapter 79, article 11 of the Kansas Statutes Annotated, sales or  
41 property taxes and that meets the eligibility criteria in section 3, and  
42 amendments thereto and is current in payment of Kansas taxes;

43 (d) “headquarters” means a Kansas business facility where principal

1 officers of the business are housed and from which direction, manage-  
2 ment, or administrative support of transactions is provided for a business  
3 or division of a business and from which no more than de minimis rev-  
4 enues are generated from primary business activities.

5 (e) “Kansas business facility” means any factory, mill, plant, refinery,  
6 warehouse, feedlot, building or complex of buildings that operate as a  
7 single unit on a contiguous piece of property, located within the state,  
8 including the land on which such facility is located and all machinery,  
9 equipment and other real and tangible personal property located at or  
10 within such facility used in connection with the operation of such facility.  
11 The term “Kansas business facility” includes only structures within which  
12 individuals are customarily employed or which are customarily used to  
13 house machinery, equipment or other property and that are not designed  
14 with the capability of being transported, moved or relocated. Such Kansas  
15 business facility shall satisfy the following requirements: (1) Such facility  
16 must be employed by the eligible taxpayer in the operation of a revenue  
17 producing enterprise. Such facility shall not be considered a Kansas busi-  
18 ness facility in the hands of the taxpayer if the taxpayer’s only activity with  
19 respect to such facility is to lease it to another person or persons. If the  
20 taxpayer employs only a portion of such facility in the operation of a  
21 revenue producing enterprise, and leases another portion of such facility  
22 to another person or persons or does not otherwise use such other por-  
23 tions in the operation of a revenue producing enterprise, the portion  
24 employed by the taxpayer in the operation of a revenue producing en-  
25 terprise shall be considered a Kansas business facility, if the requirements  
26 of subsection (e)(2) are satisfied; and

27 (2) if such facility was acquired by the taxpayer from another person  
28 or persons, such facility was not employed, immediately prior to the trans-  
29 fer of title to such facility to the taxpayer, or to the commencement of  
30 the term of the lease of such facility to the taxpayer, by any other person  
31 or persons in the operation of a revenue producing enterprise and the  
32 taxpayer continues the operation of the same or substantially identical  
33 revenue producing enterprise at such facility;

34 (f) “opportunity zone” ~~shall be~~ **means a zone** established by the sec-  
35 retary of commerce through rules and regulations. ~~In addition to other~~  
36 ~~opportunity zone designation criteria established by the secretary, such~~  
37 ~~criteria shall include: (1) An opportunity zone, which shall be~~ **which**  
38 **shall: (1) Be** comprised of at least one county; (2) ~~shall~~ be economically  
39 disadvantaged; ~~and~~ (3) ~~shall~~ not include any counties in a metropolitan  
40 statistical area or micropolitan statistical area; **and (4) meet any other**  
41 **criteria established by the secretary through rules and regulations;**

42 (g) “qualified investment” means the value of the real and tangible  
43 personal property permanently and physically located at the Kansas busi-

1   ness facility, except that “qualified investment” does not include inven-  
2   tory, construction in progress, or property held for sale to customers in  
3   the ordinary course of the taxpayer’s business, which constitutes the Kan-  
4   sas business facility, or which is used by the taxpayer in the operation of  
5   the Kansas business facility, during the taxable year for which the credit  
6   is claimed. The value of such property during such taxable year shall be:  
7   (1) The original cost of such property, if owned by the eligible taxpayer;  
8   or (2) eight times the net annual rental rate, if leased by the eligible  
9   taxpayer. Original cost is deemed to be the basis of the property for fed-  
10   eral income tax purposes, prior to any federal adjustments, at the time of  
11   acquisition by the taxpayer and adjusted by subsequent capital additions  
12   or improvements thereto and partial disposition thereof, by reason of sale,  
13   exchange or abandonment. The net annual rental rate shall be the annual  
14   rental rate paid by the taxpayer less any annual rental rate received by  
15   the taxpayer from subrentals. “Qualified investment” shall be determined  
16   by calculating the value of the qualified investment that has been newly  
17   placed into service at the eligible taxpayer’s Kansas business facility during  
18   the taxpayer’s tax year. In order to remain eligible the investment must  
19   continue to be used during the tax year and remain in service on the last  
20   business day of the taxpayer’s tax year for which the credit is claimed. For  
21   plans that show a project shall extend beyond one tax period in which the  
22   minimum investment is not met at the end of the first tax period that the  
23   qualified investment is placed in service, the qualified investment can be  
24   accumulated into the next consecutive tax period for computation of the  
25   investment credit until the minimum investment has been met as long as  
26   the qualified investment remains in service and is identified as part of the  
27   same project. Once the minimum investment has been initially met on a  
28   project, subsequent qualified investment may be claimed in the tax period  
29   that it is placed in service;

30   (h) “revenue producing enterprise” means: (1) The assembly, fabri-  
31   cation, manufacture or processing of any agricultural, mineral or manu-  
32   factured product;

33   (2) the storage, warehousing, distribution or sale of any products of  
34   agriculture, aquaculture, mining or manufacturing;

35   (3) the feeding of livestock at a feedlot;

36   (4) the operation of laboratories or other facilities for scientific, ag-  
37   ricultural, aquacultural, animal husbandry or industrial research, devel-  
38   opment or testing;

39   (5) the performance of services of any type;

40   (6) the feeding of aquatic plants and animals at an aquaculture  
41   operation;

42   (7) the administrative management of any of the foregoing activities;

43   or

- 1 (8) any combination of any of the foregoing activities.
- 2 “Revenue producing enterprise” shall not mean a swine production  
3 facility as defined in K.S.A. 17-5903, and amendments thereto; and
- 4 (i) “same or substantially identical revenue producing enterprise”  
5 means a revenue producing enterprise in which the products produced  
6 or sold, services performed or activities conducted are the same in char-  
7 acter and use, are produced, sold, performed or conducted in the same  
8 manner and to or for the same type of customers as the products, services  
9 or activities produced, sold, performed or conducted in another revenue  
10 producing enterprise.
- 11 New Sec. 3. (a) An eligible taxpayer may qualify for the investment  
12 credit if all of the following criteria are met: (1) The taxpayer’s Kansas  
13 business facility must be:
- 14 (A) Identified under the North American industry classification sys-  
15 tem (NAICS) subsector of 221, 311-425, 481-624, ~~812-813, or 922-928,~~  
16 **923, 924, 927 or 928**, as assigned by the secretary of the department of  
17 labor; or
- 18 (B) identified as a headquarters or ancillary support operation by the  
19 secretary of commerce for purposes of this act, regardless of NAICS  
20 classification;
- 21 (2) the qualified investment for the project must equal or exceed  
22 ~~\$100,000~~ **\$50,000** for those Kansas business facilities that are located in  
23 an opportunity zone and ~~\$1,000,000~~ **\$150,000** for those Kansas business  
24 facilities that are not located in an opportunity zone;
- 25 (3) the taxpayer shall satisfy payment of a higher-than-average wage  
26 within a wage region at the Kansas business facility at which qualified  
27 investment occurs by performing one of the options described below: (A)  
28 The taxpayer’s Kansas business facility with 500 or fewer full-time equiv-  
29 alent employees will provide an average wage that is above the average  
30 wage paid by all Kansas business facilities that share the same assigned  
31 NAICS category used to develop wage thresholds and that have reported  
32 500 or fewer employees to the Kansas department of labor on the quar-  
33 terly wage reports;
- 34 (B) the taxpayer’s Kansas business facility with 500 or fewer full-time  
35 equivalent employees is the sole facility within its assigned NAICS cate-  
36 gory that has reported wages for 500 or fewer employees to the Kansas  
37 department of labor on the quarterly wage reports;
- 38 (C) the taxpayer’s Kansas business facility with more than 500 full-  
39 time equivalent employees will provide an average wage that is above the  
40 average wage paid by all Kansas business facilities that share the same  
41 assigned NAICS category used to develop wage thresholds and that have  
42 reported more than 500 employees to the Kansas department of labor on  
43 the quarterly wage reports;

1 (D) the taxpayer's Kansas business facility with more than 500 full-  
2 time equivalent employees is the sole facility within its assigned NAICS  
3 category that has reported wages for more than 500 employees to the  
4 Kansas department of labor on the quarterly wage reports, in which event  
5 it shall either provide an average wage that is above the average wage  
6 paid by all Kansas business facilities that share the same assigned NAICS  
7 category and that have reported wages for 500 or fewer employees to the  
8 Kansas department of labor on the quarterly wage reports, or be the sole  
9 Kansas business facility within its assigned NAICS category that has re-  
10 ported wages to the Kansas department of labor on the quarterly wage  
11 reports;

12 (E) the number of NAICS digits to use in developing each set of  
13 wage thresholds for comparison purposes shall be determined by the  
14 secretary of commerce; or

15 (F) the composition of wage regions used in connection with each set  
16 of wage thresholds shall be determined by the secretary of commerce;  
17 ~~and~~

18 (4) as an alternative to the requirements of subsection (a)(3), a tax-  
19 payer having met the requirements of subsections (a)(1) and (2) may  
20 wage-qualify its Kansas business facility if, after excluding the headcount  
21 and wages reported on the quarterly wage reports to the Kansas depart-  
22 ment of labor for employees at that Kansas business facility who own five  
23 percent or more equity in the taxpayer, the average wage calculated for  
24 the taxpayer's Kansas business facility is greater than or equal to 1.5 times  
25 the aggregate state-wide average wage paid by industries covered by the  
26 employment security law based on data maintained by the secretary of  
27 labor; *and*

28 **(5) for taxpayers not covered by the Kansas employment secu-**  
29 **rity law pursuant to K.S.A. 44-703(i)(4)(B), the wage data required**  
30 **to compute the average wage calculated for the taxpayer's Kansas**  
31 **business facility will be based upon the taxpayer's wage level doc-**  
32 **umentation approved by the secretary of commerce.**

33 (b) For the purposes of this section, the number of full-time equiv-  
34 alent employees shall be determined by dividing the number of hours  
35 worked by part-time employees during the pertinent measurement inter-  
36 val by an amount equal to the corresponding multiple of a 40-hour  
37 work week and adding the quotient to the average number of full-time  
38 employees.

39 New Sec. 4. (a) For taxable years commencing after December 31,  
40 ~~2006~~ **2007**, an eligible taxpayer that makes a qualified investment in a  
41 Kansas business facility shall be entitled to a credit in an amount equal  
42 to 10% of the qualified investment. Qualified investment must be iden-  
43 tified and submitted to the secretary of commerce prior to making a

1 commitment to invest. The credit allowed by this subsection shall be a  
2 one-time credit. The credit shall be allowed against the tax imposed by  
3 the Kansas income tax act, the premium tax or privilege fees imposed  
4 pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax  
5 as measured by the net income of financial institutions imposed pursuant  
6 to article 11 of chapter 79 of the Kansas Statutes Annotated, for the  
7 taxable year during which the qualified investment is placed into service.

8 (b) The eligible taxpayer shall claim the credit on the original return  
9 **or on an amended return** for the tax year in which the qualified invest-  
10 ment is placed into service **as long as the amended return filed is**  
11 **within the statute of limitations.**

12 (c) If the tax credit amount thereof exceeds the tax imposed, the tax  
13 credit amount thereof which exceeds the eligible taxpayer's tax liability  
14 may be carried forward for credit in the succeeding taxable year or years  
15 until the total amount of the tax credit is used, except that no such tax  
16 credit shall be carried forward for deduction after the tenth taxable year  
17 succeeding the taxable year in which such credit initially was claimed and  
18 no carry forward shall be allowed for deduction in any succeeding taxable  
19 year unless the taxpayer continues to satisfy the eligibility criteria in sec-  
20 tion 3, and amendments thereto, for such succeeding taxable year.

21 (d) A qualified investment, of at least ~~\$1,000,000~~ **\$150,000**, made by  
22 the eligible taxpayer in a Kansas business facility that is not located in a  
23 designated opportunity zone, may qualify for the investment credit.

24 (e) A qualified investment, of at least ~~\$100,000~~ **\$50,000**, made by  
25 the eligible taxpayer in a Kansas business facility that is located in a des-  
26 ignated opportunity zone, may qualify for the investment credit.

27 (f) If the eligible taxpayer is a corporation having an election in effect  
28 under subchapter S of the federal internal revenue code, a partnership  
29 or limited liability company, the credit provided by this section shall be  
30 claimed by the shareholders of such corporation, the partners of such  
31 partnership or the members of such limited liability company in the same  
32 manner as such shareholders, partners, or members account for their  
33 proportionate shares of income or loss of the corporation, partnership or  
34 limited liability company.

35 New Sec. 5. (a) The secretary of revenue and the secretary of com-  
36 merce shall work together to coordinate a set of procedures to implement  
37 the provisions of this act.

38 (b) Any taxpayer claiming credits pursuant to this act, as a condition  
39 for claiming and qualifying for such credits, shall provide information  
40 pursuant to K.S.A. 2006 Supp. 79-32,243, and amendments thereto, as  
41 part of the tax return in which such credits are claimed. Such credits shall  
42 not be denied solely on the basis of the contents of the information pro-  
43 vided by the taxpayer pursuant to K.S.A. 2006 Supp. 79-32,243, and

1 amendments thereto.

2 (c) The secretary of revenue shall submit an annual report to the  
3 legislature regarding utilization of the credits claimed pursuant to this act,  
4 for purposes of evaluation. Such report shall be due during the legislative  
5 session, commencing with the ~~2009~~ **2010** legislative session.

6 New Sec. 6. The secretary of revenue and secretary of commerce  
7 may adopt such rules and regulations as necessary to carry out the pur-  
8 poses of this act.

9 New Sec. 7. (a) Except as otherwise provided, for tax years com-  
10 mencing on or after December 31, ~~2006~~ **2007**, no additional credits may  
11 be earned through the Kansas enterprise zone act, K.S.A. 79-32,160a; or  
12 the job expansion and investment tax credit act, K.S.A. 79-32,153. Any  
13 carry forward credit that has been earned through the Kansas enterprise  
14 zone act, K.S.A. 79-32,160a and is remaining after December 31, ~~2006~~  
15 **2007**, may be carried forward to succeeding taxable years as long as all  
16 requirements continue to be met. Any credit that has been earned  
17 through the job expansion and investment tax credit act, K.S.A. 79-32,153,  
18 with years left in recomputing the credit after December 31, ~~2006~~ **2007**,  
19 may continue for the remainder of the 10-year period as long as all  
20 requirements continue to be met.

21 (b) Except as otherwise provided, for tax years commencing on or  
22 after December 31, ~~2006~~ **2007**, no additional credits may be earned  
23 through the high performance incentive act, K.S.A. 74-50,115, K.S.A. 74-  
24 50,132, and subsection (e) of K.S.A. 79-32,160a. Any carry forward credit  
25 that has been earned through the high performance incentive act, sub-  
26 section (e) of K.S.A. 79-32,160a and is remaining after December 31,  
27 ~~2006~~ **2007**, may be carried forward to succeeding taxable years, providing  
28 all requirements continue to be met and subject to the applicable carry-  
29 forward limitations. Any taxpayer who has filed an application to be cer-  
30 tified under K.S.A. 74-50,131, prior to July 1, ~~2007~~ **2008**, may claim  
31 credits under the high performance incentive act, subsection (e) of K.S.A.  
32 79-32,160a; **and** K.S.A. 74-50,131 ~~and K.S.A. 74-50,132~~ during the cer-  
33 tification period in tax years ~~2007 and 2008~~ **2008 and 2009**, which credits  
34 may be carried forward until used or for a maximum of ten years, as long  
35 as such taxpayer does not claim any credits for the same investment under  
36 the Kansas investment credit act. To accommodate unusual timing situ-  
37 ations during the ~~2007~~ **2008** transition period, timing modifications may  
38 be authorized at the discretion of the secretary of commerce and the  
39 secretary of revenue.

40 New Sec. 8. The provisions of this act shall be applicable to all tax-  
41 able years commencing after December 31, ~~2006~~ **2007**, and prior to  
42 January 1, ~~2012~~ **2013**.

43 New Sec. 9. The provisions of sections 9 through 14 may be cited

1 and shall be known as the Kansas jobs credit act.

2 New Sec. 10. As used in the Kansas jobs credit act, unless otherwise  
3 provided: (a) “Act” means the Kansas jobs credit act;

4 (b) “employed” means that an employer-employee relationship ex-  
5 ists. A person who performs services for the taxpayer shall be considered  
6 as an employee if the taxpayer has the right to direct and control when,  
7 where, and how work will be done. In addition the taxpayer shall pay for  
8 the employee’s wages directly, or indirectly through inter-company trans-  
9 fers. Independent contractors shall not be considered as employed for  
10 purposes of the Kansas jobs credit;

11 (c) “Kansas job credit taxpayer” means any business entity authorized  
12 to do business in the state of Kansas which is subject to the state income  
13 tax imposed by the provisions of the Kansas income tax act, any national  
14 banking association, state bank, trust company or savings and loan asso-  
15 ciation paying an annual tax on its net income pursuant to article 11 of  
16 chapter 79 of the Kansas Statutes Annotated, or any insurance company  
17 paying the premium tax and privilege fees imposed pursuant to K.S.A.  
18 40-252, and amendments thereto, is current in payment of Kansas taxes,  
19 and has a Kansas business facility as defined in the investment credit act:  
20 (1) Identified under the North American industry classification system  
21 (NAICS) subsector of 221, ~~[236-238,]~~ 311-425, 481-624, ~~812-813, or~~  
22 ~~922-928, 923, 924, 927 or 928~~, as assigned by the secretary of the de-  
23 partment of labor; or  
24 (2) identified as a headquarters or ancillary support operation, re-  
25 gardless of NAICS classification;

26 (d) “new employee” means a person newly employed by the taxpayer  
27 in the taxpayer’s business operating in Kansas during the taxable year for  
28 which the credit allowed by section (11), and amendments thereto, is  
29 claimed. A person shall be deemed to be so engaged if such person per-  
30 forms duties in Kansas in connection with the operation of the Kansas  
31 business on: (A) A regular, full-time basis; (B) a part-time basis, provided  
32 such person is customarily performing such duties at least 20 hours per  
33 week throughout the taxable year; or (C) a seasonal basis, provided such  
34 person performs such duties for substantially all of the season customary  
35 for the position in which such person is employed. For a Kansas business  
36 that becomes operational during the current tax year, new employees shall  
37 be the number of employees employed at the taxpayer’s Kansas business  
38 on the last business day of the taxpayer’s tax year. In the case of employees  
39 hired, in which the Kansas business existed and was operated by the  
40 taxpayer prior to such hiring, the number of new employees employed in  
41 the operation of the Kansas business shall be reduced by the number of  
42 employees employed at such Kansas business on the last business day of  
43 the taxpayer’s previous tax year. Employees acquired through an acqui-



1 sition or merger of a business operating in Kansas shall not be considered  
2 as new employees;

3 (e) “opportunity zone” ~~shall be~~ **means a zone** established by the sec-  
4 retary of commerce through rules and regulations. ~~In addition to other~~  
5 ~~criteria established by the secretary, such criteria shall include: (1) An~~  
6 ~~opportunity zone which shall be~~ **which shall: (1) Be** comprised of at  
7 least one county;

8 (2) ~~shall~~ be economically disadvantaged; ~~and~~

9 (3) ~~shall~~ not include any counties in a metropolitan statistical area or  
10 micropolitan statistical area; **and**

11 **(4) meet any other criteria established by the secretary of com-**  
12 **merce through rules and regulations;**

13 (f) “opportunity zone job credit taxpayer” means any business entity  
14 with a Kansas business facility as defined in the Kansas investment credit  
15 act authorized to do business in the state of Kansas which is subject to  
16 the state income tax imposed by the provisions of the Kansas income tax  
17 act, any national banking association, state bank, trust company or savings  
18 and loan association paying an annual tax on its net income pursuant to  
19 article 11 of chapter 79 of the Kansas Statutes Annotated, or any insurance  
20 company paying the premium tax and privilege fees imposed pursuant to  
21 K.S.A. 40-252, and amendments thereto, and that is current in payment  
22 of Kansas taxes; ~~and~~

23 (g) “related taxpayer” means: (1) A corporation, partnership, trust or  
24 association controlled by the taxpayer; (2) an individual, corporation, part-  
25 nership, trust or association in control of the taxpayer; or (3) a corporation,  
26 partnership, trust or association controlled by an individual, corporation,  
27 partnership, trust or association in control of the taxpayer. “Control of a  
28 corporation” means ownership, directly or indirectly, of stock possessing  
29 at least 80% of the total combined voting power of all classes of stock  
30 entitled to vote and at least 80% of all other classes of stock of the cor-  
31 poration. “Control of a partnership or association” means ownership of  
32 at least 80% of the capital or profits interest in such partnership or as-  
33 sociation. “Control of a trust” means ownership, directly or indirectly, of  
34 at least 80% of the beneficial interest in the principal or income of such  
35 trust; **and**

36 **(h) “secretary” means the secretary of the department of**  
37 **commerce.**

38 New Sec. 11. (a) For taxable years commencing after December 31,  
39 ~~2006~~ **2007**, any opportunity zone job credit taxpayer who engages in new  
40 employment at least ~~five~~ **two** new employees in the taxpayer’s business  
41 operating in a designated opportunity zone in Kansas shall be allowed a  
42 credit of \$3,500 per new employee, against the tax imposed by the Kansas  
43 income tax act, the premium tax or privilege fees imposed pursuant to

1 K.S.A. 40-252, and amendments thereto, or the privilege tax as measured  
2 by the net income of financial institutions imposed pursuant to article 11  
3 of chapter 79 of the Kansas Statutes Annotated, for the taxable year dur-  
4 ing which the employees were hired. To be considered employed in an  
5 opportunity zone, the employee must perform the majority of the services  
6 for the opportunity zone job credit taxpayer in the opportunity zone. **(b)**  
7 Any Kansas job credit taxpayer, **as defined in subsection (c)(1) of sec-**  
8 **tion 10, and amendments thereto**, located in the state of Kansas who  
9 engages in new employment at least ~~20~~ **five** new employees in the tax-  
10 payer's business operating in Kansas shall be allowed a credit of \$1,500  
11 per new employee, against the tax imposed by the Kansas income tax act,  
12 the premium tax or privilege fees imposed pursuant to K.S.A. 40-252,  
13 and amendments thereto, or the privilege tax as measured by the net  
14 income of financial institutions imposed pursuant to article 11 of chapter  
15 79 of the Kansas Statutes Annotated, for the taxable year during which  
16 the employees were hired.

17 **(c) Any Kansas job credit taxpayer, as defined in subsection**  
18 **(c)(2) of section 10, and amendments thereto, located in the state of**  
19 **Kansas who engages in new employment at least 20 new employees**  
20 **in the taxpayer's business operating in Kansas shall be allowed a**  
21 **credit of \$1,500 per new employee, against the tax imposed by the**  
22 **Kansas income tax act, the premium tax or privilege fees imposed**  
23 **pursuant to K.S.A. 40-252, and amendments thereto, or the privilege**  
24 **tax as measured by the new income of financial institutions imposed**  
25 **pursuant to article 11 of chapter 79 of the Kansas Statutes Anno-**  
26 **tated for the taxable year during which the employees were hired.**

27 ~~(b)~~ **(d)** The taxpayer shall claim any credits pursuant to this act on  
28 the original return **or an amended return** for the tax year in which the  
29 employees were hired **as long as the amended return filed is within**  
30 **the statute of limitations.**

31 ~~(c)~~ **(e)** If the amount of the tax credit exceeds the tax imposed, the  
32 amount thereof which exceeds such tax liability may be carried forward  
33 for credit in the succeeding taxable year or years until the total amount  
34 of the tax credit is used. In the event the taxpayer does not continue to  
35 employ the required minimum number of employees, any credit remain-  
36 ing will be forfeited and no longer available for carry forward.

37 ~~(d)~~ **(f)** If the taxpayer is a corporation having an election in effect  
38 under subchapter S of the federal internal revenue code, a partnership  
39 or limited liability company, the credit provided by this section shall be  
40 claimed by the shareholders of such corporation, the partners of such  
41 partnership or the members of such limited liability company in the same  
42 manner as such shareholders, partners, or members account for their  
43 proportionate shares of income or loss of the corporation, partnership or

1 limited liability company.

2 ~~(e)~~ **(g)** A taxpayer that qualifies for the opportunity zone job credit  
3 for an employee may not also qualify for the Kansas job credit for the  
4 same employee.

5 ~~(f)~~ **(h)** Only one taxpayer may claim a specific employee for purposes  
6 of the opportunity zone job credit or the Kansas job credit. Employees  
7 transferred or reassigned within Kansas between related taxpayers will  
8 not qualify for the credit.

9 New Sec. 12. (a) Any taxpayer claiming credits pursuant to this act,  
10 as a condition for claiming and qualifying for such credits, shall provide  
11 information pursuant to K.S.A. 2006 Supp. 79-32,243, and amendments  
12 thereto, as part of the tax return in which such credits are claimed. Such  
13 credits shall not be denied solely on the basis of the contents of the  
14 information provided by the taxpayer pursuant to K.S.A. 2006 Supp. 79-  
15 32,243, and amendments thereto.

16 (b) The secretary of revenue shall submit an annual report to the  
17 legislature regarding utilization of the credits claimed pursuant to this act,  
18 for purposes of evaluation. Such report shall be due during the legislative  
19 session, commencing with the ~~2009~~ **2010** legislative session.

20 New Sec. 13. The secretary of revenue may adopt such rules and  
21 regulations as necessary to carry out the purposes of this act.

22 New Sec. 14. The provisions of this act shall be applicable to all tax-  
23 able years commencing after December 31, ~~2006~~ **2007** and prior to Jan-  
24 uary 1, ~~2012~~ **2013**.

25 **Sec. 15. K.S.A. 2006 Supp. 74-50,131 is hereby amended to**  
26 **read as follows: 74-50,132. Commencing after December 31, 1999:**

27 **(a) As used in this act: K.S.A. 74-50,132 and 74-50,133, and amendments**  
28 **thereto: (1) “Qualified firm” means a for-profit business establish-**  
29 **ment, subject to state income, sales or property taxes, identified**  
30 **under the standard industrial classification (SIC) codes as in effect**  
31 **July 1, 1993, major groups 20 through 39, major groups 40 through**  
32 **51, and major groups 60 through 89; identified under the North**  
33 **American industry classification system (NAICS) as in effect on Oc-**  
34 **tober 1, 2000, or is identified as a corporate or regional headquar-**  
35 **ters or back-office operation of a national or multi-national cor-**  
36 **poration regardless of SIC code or NAICS designation. The**  
37 **secretary of commerce shall determine eligibility when a difference**  
38 **exists between a firm’s SIC code and NAICS designation. A business**  
39 **establishment may be assigned a standard industrial classification**  
40 **code or NAICS designation according to the primary business ac-**  
41 **tivity at a single physical location in the state.**

42 **(2) “Metropolitan county” means the county of Douglas, Johnson,**  
43 **Leavenworth, Sedgwick, Shawnee or Wyandotte.**

- 1     **(b)** In the case of firms in major groups 40 through 51, and major  
2 groups 60 through 89 or the appropriate NAICS designation the business  
3 establishment must also demonstrate the following:
- 4     ~~(1)~~ More than ½ of its gross revenues are a result of sales to com-  
5 mercial or governmental customers outside the state of Kansas; or  
6     ~~(2)~~ more than ½ of its gross revenues are a result of sales to Kansas  
7 manufacturing firms within major groups 20 through 39 or the appropri-  
8 ate NAICS designation; or  
9     ~~(3)~~ more than ½ of its gross revenues are a result of a combination  
10 of sales described in ~~(1)~~ and ~~(2)~~.
- 11     ~~(c)~~ *For purposes of determining whether one of the average*  
12 *wage options described in subsection ~~(d)~~ (c) below is satisfied, busi-*  
13 *ness establishments located within a metropolitan county, as defined*  
14 *in K.S.A. 74-50,114, and amendments thereto, will be compared only*  
15 *to other businesses within that metropolitan county, and business*  
16 *establishments located outside of a metropolitan county will be*  
17 *compared to businesses within an aggregation of counties repre-*  
18 *senting the business establishment's region of the state, which re-*  
19 *gional aggregation will exclude metropolitan counties. Such aggre-*  
20 *gation shall be determined by the department of commerce.*
- 21     ~~(c)~~ *Additionally, a business establishment having met the cri-*  
22 *teria as established in subsection (a) ~~or (b)~~, and using the compar-*  
23 *ison method described in subsection ~~(c)~~ (b), must meet one of the*  
24 *following criteria:*
- 25     **(1)** *The establishment with 500 or fewer full-time equivalent*  
26 *employees will provide an average wage that is above the average*  
27 *wage paid by all firms with 500 or fewer full-time equivalent em-*  
28 *ployees which share the same two-digit standard industrial classi-*  
29 *fication code or appropriate NAICS designation.*
- 30     **(2)** *The establishment with 500 or fewer full-time equivalent*  
31 *employees is the sole firm within its two-digit standard industrial*  
32 *classification code or appropriate NAICS designation which has*  
33 *500 or fewer full-time equivalent employees.*
- 34     **(3)** *The establishment with more than 500 full-time equivalent*  
35 *employees will provide an average wage that is above the average*  
36 *wage paid by firms with more than 500 full-time equivalent em-*  
37 *ployees which share the same two-digit standard industrial classi-*  
38 *fication code or appropriate NAICS designation.*
- 39     **(4)** *The establishment with more than 500 full-time equivalent*  
40 *employees is the sole firm within its two-digit standard industrial*  
41 *classification code or appropriate NAICS designation which has*  
42 *500 or more full-time equivalent employees, in which event it shall*  
43 *either provide an average wage that is above the average wage paid*

1 *by all firms with 500 or fewer full-time equivalent employees which*  
 2 *share the same two-digit standard industrial classification code or*  
 3 *appropriate NAICS designation, or be the sole firm within its two-*  
 4 *digit standard industrial classification code or appropriate NAICS*  
 5 *designation.*

6 ~~(c)~~ *(d) As an alternative to the requirements of subsections ~~(c)~~*  
 7 ~~and ~~(d)~~ (b) and (c), a firm having met the requirements of subsections~~  
 8 ~~(a) or (b) subsection (a), may qualify, if excluding taxable disburse-~~  
 9 ~~ments to company owners, the business establishment's annual av-~~  
 10 ~~erage wage must be greater than or equal to 1.5 times the aggregate~~  
 11 ~~average wage paid by industries covered by the employment secu-~~  
 12 ~~rity law based on data maintained by the secretary of labor.~~

13 ~~(f)~~ *(e) For the purposes of this section, the number of full-time*  
 14 *equivalent employees shall be determined by dividing the number*  
 15 *of hours worked by part-time employees during the pertinent meas-*  
 16 *urement interval by an amount equal to the corresponding multiple*  
 17 *of a 40-hour work week and adding the quotient to the number of*  
 18 *full-time employees.*

19 ~~(g)~~ *(f) The secretary of commerce shall certify annually to the*  
 20 *secretary of revenue that a firm meets the criteria for a qualified*  
 21 *firm and that the firm is eligible for the benefits and assistance*  
 22 *provided under this act K.S.A. 74-50,132 and 74-50,133, and amend-*  
 23 *ments thereto. The secretary of commerce is hereby authorized to*  
 24 *obtain any and all information necessary to determine such eligi-*  
 25 *bility. Information obtained under this section shall not be subject*  
 26 *to disclosure pursuant to K.S.A. 45-215 et seq., and amendments*  
 27 *thereto, but shall upon request be made available to the legislative*  
 28 *post audit division. The secretary of commerce shall publish rules*  
 29 *and regulations for the implementation of this act. Such rules and*  
 30 *regulations shall include, but not be limited to:*

31 *(1) A definition of "training and education" for purposes of*  
 32 *K.S.A. 74-50,132 and amendments thereto.*

33 *(2) Establishment of eligibility requirements and application*  
 34 *procedures for expenditures from the high performance incentive*  
 35 *fund created in K.S.A. 74-50,133 and amendments thereto.*

36 *(3) Establishment of approval guidelines for private consultants*  
 37 *authorized pursuant to K.S.A. 74-50,133 and amendments thereto.*

38 *(4) Establishment of guidelines for prioritizing business assis-*  
 39 *tance programs pursuant to K.S.A. 74-50,133 and amendments*  
 40 *thereto.*

41 *(5) A definition of "commercial customer" for the purpose of*  
 42 *K.S.A. 74-50,133 and amendments thereto.*

43 *(6) A definition of "headquarters" for the purpose of K.S.A. 74-*

1 **50,133 and amendments thereto.**

2 (7) *Establishment of guidelines concerning the use and disclo-*  
 3 *sure of any information obtained to determine the eligibility of a*  
 4 *firm for the assistance and benefits provided for by this act* K.S.A.  
 5 *74-50,132 and 74-50,133, and amendments thereto.*

6 **Sec. 16.** K.S.A. 2006 Supp. 74-50,132 is hereby amended to  
 7 read as follows: 74-50,132. (a) *For taxable years commencing after*  
 8 *December 31, 1997, a qualified firm shall be entitled to a credit*  
 9 *against the tax imposed by the Kansas income tax act, the premium*  
 10 *tax or privilege fee imposed pursuant to K.S.A. 40-252, and amend-*  
 11 *ments thereto or the privilege tax as measured by net income of*  
 12 *financial institutions imposed pursuant to chapter 79, article 11 of*  
 13 *the Kansas Statutes Annotated in an amount equal to the portion of*  
 14 *the qualified business facility cash investment in the training and*  
 15 *education of the firm's employees that exceeds 2% of the firm's total*  
 16 *payroll costs. The maximum amount of the credit that may be*  
 17 *claimed by a single corporate taxpayer in any single tax year under*  
 18 *this section shall not exceed \$50,000. Tax credits earned by a qual-*  
 19 *ified business under this section must be claimed in their entirety*  
 20 *in the tax year eligible.*

21 (b) *For tax years commencing after December 31, 2005, any*  
 22 *taxpayer claiming credits pursuant to this section, as a condition*  
 23 *for claiming and qualifying for such credits, shall provide infor-*  
 24 *mation pursuant to K.S.A. 2006 Supp. 79-32,243, and amendments*  
 25 *thereto, as part of the tax return in which such credits are claimed.*  
 26 *Such credits shall not be denied solely on the basis of the contents*  
 27 *of the information provided by the taxpayer pursuant to K.S.A. 2006*  
 28 *Supp. 79-32,243, and amendments thereto.*

29 (c) *For purposes of this section, training and education shall include*  
 30 *verifiable computer-based training.*

31 ~~Sec. 15.~~ **17.** K.S.A. 40-253a is hereby amended to read as follows:  
 32 40-253a. *For purposes of calculating any tax due under K.S.A. 40-253,*  
 33 *and amendments thereto, from a taxpayer not organized under the laws*  
 34 *of this state, the credits allowed pursuant to K.S.A. 40-2813, ~~74-50,132,~~*  
 35 *~~79-32,153, 79-32,160~~ 74-50,132 and 79-32,196, and the Kansas invest-*  
 36 *ment credit act and the Kansas jobs credit act, and amendments thereto,*  
 37 *shall be treated as tax paid under K.S.A. 40-252, and amendments thereto.*

38 ~~Sec. 16.~~ **18.** K.S.A. 74-8945 is hereby amended to read as follows:  
 39 74-8945. *The establishment shall not be allowed credits pursuant to*  
 40 *K.S.A. ~~79-32,160~~ the Kansas investment credit act, and amendments*  
 41 *thereto, for any amount of investment related to or computed on the*  
 42 *basis of any investment of the proceeds of obligations issued pursuant to*  
 43 *this act.*

1     Sec. ~~17.~~ **19.** K.S.A. 2006 Supp. 79-32,111 is hereby amended to read  
2 as follows: 79-32,111. ~~(a)~~ The amount of income tax paid to another state  
3 by a resident individual, resident estate or resident trust on income de-  
4 rived from sources in another state shall be allowed as a credit against  
5 the tax computed under the provisions of this act. Such credit shall not  
6 be greater in proportion to the tax computed under this act than the  
7 adjusted gross income for such year derived in another state while such  
8 taxpayer is a resident of this state is to the total Kansas adjusted gross  
9 income of the taxpayer. As used in this subsection, state shall have the  
10 meaning ascribed thereto by subsection (h) of K.S.A. 79-3271, and  
11 amendments thereto. The credit allowable hereunder for income tax paid  
12 to a foreign country or political subdivision thereof shall not exceed the  
13 difference of such income tax paid less the credit allowable for such in-  
14 come tax paid by the federal internal revenue code. No redetermination  
15 of income tax paid for the purposes of determining the credit allowed by  
16 this subsection shall be required for the taxable year for which an income  
17 tax refund payment pursuant to the provisions of section 18 of article 10  
18 of the Missouri constitution is made, but the income tax paid allowable  
19 for credit in the next following taxable year shall be reduced by the  
20 amount of such refund amount, except that, for tax year 1998, the income  
21 tax paid allowable for credit shall be reduced by the amount of such  
22 refunds made for all taxable years prior to tax year 1998.

23     ~~(b) There shall be allowed as a credit against the tax computed under~~  
24 ~~the provisions of the Kansas income tax act, and acts amendatory thereof~~  
25 ~~and supplemental thereto, on the Kansas taxable income of an individual,~~  
26 ~~corporation or fiduciary the amount determined under the provisions of~~  
27 ~~K.S.A. 79-32,153 to 79-32,158, and amendments thereto.~~

28     Sec. ~~18.~~ **20.** K.S.A. 2006 Supp. 79-32,243 is hereby amended to read  
29 as follows: 79-32,243. (a) For tax years commencing after December 31,  
30 2005, any taxpayer claiming credits pursuant to K.S.A. 74-50,132, 79-  
31 32,153 or 79-32,160a, and amendments thereto, *and the Kansas invest-*  
32 *ment credit act and the Kansas jobs credit act, and amendments thereto,*  
33 as a condition for claiming and qualifying for such credits, shall provide  
34 the following information as part of the tax return, in which such credits  
35 are claimed, which shall be used by the department of revenue in eval-  
36 uating the effectiveness of such tax credit programs, pursuant to K.S.A.  
37 2006 Supp. 74-99b35, and amendments thereto:

38     (1) Actual jobs created as a direct result of the expenditures on which  
39 such credit claim is based, if the taxpayer has previously submitted an  
40 estimate of such number of actual jobs created to the department of  
41 commerce as a part of applying for certification for such program  
42 participation;

43     (2) additional payroll generated as a direct result of the expenditures

1 on which such credit claim is based, if the taxpayer has previously sub-  
2 mitted an estimate of such amount of additional payroll generated to the  
3 department of commerce as a part of applying for certification for such  
4 program participation;

5 (3) actual jobs retained as a direct result of the expenditures on which  
6 such credit claim is based, if the taxpayer has previously submitted an  
7 estimate of actual jobs retained to the department of commerce as a part  
8 of applying for certification for such program participation;

9 (4) additional revenue generated as a direct result of the expenditures  
10 on which such credit claim is based, if the taxpayer has previously sub-  
11 mitted an estimate of such amount of additional revenue generated to  
12 the department of commerce as a part of applying for certification for  
13 such program participation;

14 (5) additional sales generated as a direct result of the expenditures  
15 on which such credit claim is based, if the taxpayer has previously sub-  
16 mitted an estimate of additional sales generated to the department of  
17 commerce as a part of applying for certification for program participation;  
18 and

19 (6) total employment and payroll at the end of the tax year in which  
20 the credits are claimed.

21 (b) Such credits specified in subsection (a) shall not be denied solely  
22 on the basis of the information provided by the taxpayer pursuant to  
23 subsections (a)(1) through (a)(6).

24 ~~Sec. 19-21.~~ K.S.A. 2006 Supp. 79-3606 is hereby amended to read  
25 as follows: 79-3606. The following shall be exempt from the tax imposed  
26 by this act:

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

39 (b) all sales of tangible personal property or service, including the  
40 renting and leasing of tangible personal property, purchased directly by  
41 the state of Kansas, a political subdivision thereof, other than a school or  
42 educational institution, or purchased by a public or private nonprofit hos-  
43 pital or public hospital authority or nonprofit blood, tissue or organ bank



1 and used exclusively for state, political subdivision, hospital or public hos-  
2 pital authority or nonprofit blood, tissue or organ bank purposes, except  
3 when: (1) Such state, hospital or public hospital authority is engaged or  
4 proposes to engage in any business specifically taxable under the provi-  
5 sions of this act and such items of tangible personal property or service  
6 are used or proposed to be used in such business, or (2) such political  
7 subdivision is engaged or proposes to engage in the business of furnishing  
8 gas, electricity or heat to others and such items of personal property or  
9 service are used or proposed to be used in such business;

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

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

1 donor. When any political subdivision of the state, district described in  
2 subsection (s), public or private nonprofit hospital or public hospital au-  
3 thority, public or private elementary or secondary school or public or  
4 private nonprofit educational institution shall contract for the purpose of  
5 constructing, equipping, reconstructing, maintaining, repairing, enlarg-  
6 ing, furnishing or remodeling facilities, it shall obtain from the state and  
7 furnish to the contractor an exemption certificate for the project involved,  
8 and the contractor may purchase materials for incorporation in such pro-  
9 ject. The contractor shall furnish the number of such certificate to all  
10 suppliers from whom such purchases are made, and such suppliers shall  
11 execute invoices covering the same bearing the number of such certifi-  
12 cate. Upon completion of the project the contractor shall furnish to the  
13 political subdivision, district described in subsection (s), hospital or public  
14 hospital authority, school or educational institution concerned a sworn  
15 statement, on a form to be provided by the director of taxation, that all  
16 purchases so made were entitled to exemption under this subsection. As  
17 an alternative to the foregoing procedure, any such contracting entity may  
18 apply to the secretary of revenue for agent status for the sole purpose of  
19 issuing and furnishing project exemption certificates to contractors pur-  
20 suant to rules and regulations adopted by the secretary establishing con-  
21 ditions and standards for the granting and maintaining of such status. All  
22 invoices shall be held by the contractor for a period of five years and shall  
23 be subject to audit by the director of taxation. If any materials purchased  
24 under such a certificate are found not to have been incorporated in the  
25 building or other project or not to have been returned for credit or the  
26 sales or compensating tax otherwise imposed upon such materials which  
27 will not be so incorporated in the building or other project reported and  
28 paid by such contractor to the director of taxation not later than the 20th  
29 day of the month following the close of the month in which it shall be  
30 determined that such materials will not be used for the purpose for which  
31 such certificate was issued, the political subdivision, district described in  
32 subsection (s), hospital or public hospital authority, school or educational  
33 institution concerned shall be liable for tax on all materials purchased for  
34 the project, and upon payment thereof it may recover the same from the  
35 contractor together with reasonable attorney fees. Any contractor or any  
36 agent, employee or subcontractor thereof, who shall use or otherwise  
37 dispose of any materials purchased under such a certificate for any pur-  
38 pose other than that for which such a certificate is issued without the  
39 payment of the sales or compensating tax otherwise imposed upon such  
40 materials, shall be guilty of a misdemeanor and, upon conviction therefor,  
41 shall be subject to the penalties provided for in subsection (g) of K.S.A.  
42 79-3615, and amendments thereto;

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

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

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

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

43 (h) all rentals of nonsectarian textbooks by public or private elemen-

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

1 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-  
2 1626, and amendments thereto. As used in this subsection, “drug” means  
3 a compound, substance or preparation and any component of a com-  
4 pound, substance or preparation, other than food and food ingredients,  
5 dietary supplements or alcoholic beverages, recognized in the official  
6 United States pharmacopoeia, official homeopathic pharmacopoeia of the  
7 United States or official national formulary, and supplement to any of  
8 them, intended for use in the diagnosis, cure, mitigation, treatment or  
9 prevention of disease or intended to affect the structure or any function  
10 of the body;

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

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

33 (s) except as provided in K.S.A. 2006 Supp. 82a-2101, and amend-  
34 ments thereto, all sales of tangible personal property or services pur-  
35 chased directly or indirectly by a groundwater management district or-  
36 ganized or operating under the authority of K.S.A. 82a-1020 et seq. and  
37 amendments thereto, by a rural water district organized or operating un-  
38 der the authority of K.S.A. 82a-612, and amendments thereto, or by a  
39 water supply district organized or operating under the authority of K.S.A.  
40 19-3501 et seq., 19-3522 et seq. or 19-3545, and amendments thereto,  
41 which property or services are used in the construction activities, opera-  
42 tion or maintenance of the district;

43 (t) all sales of farm machinery and equipment or aquaculture ma-

1 chinery and equipment, repair and replacement parts therefor and serv-  
2 ices performed in the repair and maintenance of such machinery and  
3 equipment. For the purposes of this subsection the term “farm machinery  
4 and equipment or aquaculture machinery and equipment” shall include  
5 a work-site utility vehicle, as defined in K.S.A. 8-126, and amendments  
6 thereto, and is equipped with a bed or cargo box for hauling materials,  
7 and shall also include machinery and equipment used in the operation of  
8 Christmas tree farming but shall not include any passenger vehicle, truck,  
9 truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer,  
10 as such terms are defined by K.S.A. 8-126 and amendments thereto. Each  
11 purchaser of farm machinery and equipment or aquaculture machinery  
12 and equipment exempted herein must certify in writing on the copy of  
13 the invoice or sales ticket to be retained by the seller that the farm ma-  
14 chinery and equipment or aquaculture machinery and equipment pur-  
15 chased will be used only in farming, ranching or aquaculture production.  
16 Farming or ranching shall include the operation of a feedlot and farm  
17 and ranch work for hire and the operation of a nursery;

18 (u) all leases or rentals of tangible personal property used as a dwell-  
19 ing if such tangible personal property is leased or rented for a period of  
20 more than 28 consecutive days;

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

34 (w) all sales of natural gas, electricity, heat and water delivered  
35 through mains, lines or pipes: (1) To residential premises for noncom-  
36 mercial use by the occupant of such premises; (2) for agricultural use and  
37 also, for such use, all sales of propane gas; (3) for use in the severing of  
38 oil; and (4) to any property which is exempt from property taxation pur-  
39 suant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph,  
40 “severing” shall have the meaning ascribed thereto by subsection (k) of  
41 K.S.A. 79-4216, and amendments thereto. For all sales of natural gas,  
42 electricity and heat delivered through mains, lines or pipes pursuant to  
43 the provisions of subsection (w)(1) and (w)(2), the provisions of this sub-

1 section shall expire on December 31, 2005;

2 (x) all sales of propane gas, LP-gas, coal, wood and other fuel sources  
3 for the production of heat or lighting for noncommercial use of an oc-  
4 cupant of residential premises occurring prior to January 1, 2006;

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

9 (z) all sales of tangible personal property and services purchased di-  
10 rectly by a port authority or by a contractor therefor as provided by the  
11 provisions of K.S.A. 12-3418 and amendments thereto;

12 (aa) all sales of materials and services applied to equipment which is  
13 transported into the state from without the state for repair, service, al-  
14 teration, maintenance, remanufacture or modification and which is sub-  
15 sequently transported outside the state for use in the transmission of  
16 liquids or natural gas by means of pipeline in interstate or foreign com-  
17 merce under authority of the laws of the United States;

18 (bb) all sales of used mobile homes or manufactured homes. As used  
19 in this subsection: (1) “Mobile homes” and “manufactured homes” shall  
20 have the meanings ascribed thereto by K.S.A. 58-4202 and amendments  
21 thereto; and (2) “sales of used mobile homes or manufactured homes”  
22 means sales other than the original retail sale thereof;

23 (cc) all sales of tangible personal property or services purchased for  
24 the purpose of and in conjunction with constructing, reconstructing, en-  
25 larging or remodeling a ~~business or retail business which meets the~~  
26 ~~requirements established in K.S.A. 74-50,115 and amendments thereto~~  
27 *Kansas business facility*, and the sale and installation of machinery and  
28 equipment purchased for installation at any such ~~business or retail busi-~~  
29 ~~ness~~ *Kansas business facility*. When a ~~person shall contract~~ *Kansas jobs*  
30 *or opportunity zone credit taxpayer, as defined in section 10, and amend-*  
31 *ments thereto, or an eligible taxpayer, as defined in section 2, and amend-*  
32 *ments thereto, purchases machinery and equipment or contracts for the*  
33 *construction, reconstruction, enlargement or remodeling of any such*  
34 ~~business or retail business~~ *Kansas business facility, such person taxpayer*  
35 shall obtain from the state and furnish to the contractor an exemption  
36 certificate for the project involved, and the contractor may purchase ma-  
37 terials, machinery and equipment for incorporation in such project. *Such*  
38 *exemption certificate shall not extend beyond two years from the date of*  
39 *the application for the exemption certificate. Extensions may be granted*  
40 *under proper circumstances.* The contractor shall furnish the number of  
41 such certificates to all suppliers from whom such purchases are made,  
42 and such suppliers shall execute invoices covering the same bearing the  
43 number of such certificate. Upon completion of the project the contractor

1 shall furnish to the ~~owner of the business or retail business~~ taxpayer a  
2 sworn statement, on a form to be provided by the director of taxation,  
3 that all purchases so made were entitled to exemption under this subsec-  
4 tion. All invoices shall be held by the contractor for a period of five years  
5 and shall be subject to audit by the director of taxation. Any contractor  
6 or any agent, employee or subcontractor thereof, who shall use or oth-  
7 erwise dispose of any materials, machinery or equipment purchased un-  
8 der such a certificate for any purpose other than that for which such a  
9 certificate is issued without the payment of the sales or compensating tax  
10 otherwise imposed thereon, shall be guilty of a misdemeanor and, upon  
11 conviction therefor, shall be subject to the penalties provided for in sub-  
12 section (g) of K.S.A. 79-3615 and amendments thereto. ~~As used in this~~  
13 ~~subsection, “business” and “retail business” have the meanings respec-~~  
14 ~~tively ascribed thereto by K.S.A. 74-50,114 and amendments thereto~~ Any  
15 *person constructing, reconstructing, remodeling or enlarging a facility*  
16 *which will be leased in whole or in part for a period of five years or more,*  
17 *to a Kansas jobs or opportunity zone credit taxpayer as defined in section*  
18 *10, and amendments thereto, or an eligible taxpayer as defined in section*  
19 *2, and amendments thereto, that would be eligible for a sales tax exemp-*  
20 *tion under the provisions of this subsection, if such taxpayer had con-*  
21 *structed, reconstructed, enlarged or remodeled such facility or portion*  
22 *thereof itself shall be entitled to the sales tax exemption under the provi-*  
23 *sions of this subsection. When such person leases less than the total facility*  
24 *to such taxpayer, a project exemption certificate may be granted on: (1)*  
25 *The total cost of constructing, reconstructing, remodeling or enlarging,*  
26 *the facility multiplied by a fraction given by dividing the number of leased*  
27 *square feet eligible for the sales tax exemption by the total square feet*  
28 *being constructed, reconstructed, remodeled or enlarged; or (2) the actual*  
29 *cost of constructing, reconstructing, remodeling or enlarging that portion*  
30 *of the facility to be occupied by such taxpayer, as the person may elect;*  
31 (dd) all sales of tangible personal property purchased with food  
32 stamps issued by the United States department of agriculture;  
33 (ee) all sales of lottery tickets and shares made as part of a lottery  
34 operated by the state of Kansas;  
35 (ff) on and after July 1, 1988, all sales of new mobile homes or man-  
36 ufactured homes to the extent of 40% of the gross receipts, determined  
37 without regard to any trade-in allowance, received from such sale. As used  
38 in this subsection, “mobile homes” and “manufactured homes” shall have  
39 the meanings ascribed thereto by K.S.A. 58-4202 and amendments  
40 thereto;  
41 (gg) all sales of tangible personal property purchased in accordance  
42 with vouchers issued pursuant to the federal special supplemental food  
43 program for women, infants and children;



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

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

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

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

36 (B) all sales of installation, repair and maintenance services per-  
37 formed on such machinery and equipment; and

38 (C) all sales of repair and replacement parts and accessories pur-  
39 chased for such machinery and equipment.

40 (2) For purposes of this subsection:

41 (A) “Integrated production operation” means an integrated series of  
42 operations engaged in at a manufacturing or processing plant or facility  
43 to process, transform or convert tangible personal property by physical,

1 chemical or other means into a different form, composition or character  
2 from that in which it originally existed. Integrated production operations  
3 shall include: (i) Production line operations, including packaging opera-  
4 tions; (ii) preproduction operations to handle, store and treat raw mate-  
5 rials; (iii) post production handling, storage, warehousing and distribution  
6 operations; and (iv) waste, pollution and environmental control opera-  
7 tions, if any;

8 (B) “production line” means the assemblage of machinery and equip-  
9 ment at a manufacturing or processing plant or facility where the actual  
10 transformation or processing of tangible personal property occurs;

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

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

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

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

20 (F) “primary” or “primarily” mean more than 50% of the time.

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

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

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

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

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

34 (E) to test or measure raw materials, the property undergoing man-  
35 ufacturing or processing or the finished product, as a necessary part of  
36 the manufacturer’s integrated production operations;

37 (F) to plan, manage, control or record the receipt and flow of inven-  
38 tories of raw materials, consumables and component parts, the flow of  
39 the property undergoing manufacturing or processing and the manage-  
40 ment of inventories of the finished product;

41 (G) to produce energy for, lubricate, control the operating of or oth-  
42 erwise enable the functioning of other production machinery and equip-  
43 ment and the continuation of production operations;

- 1 (H) to package the property being manufactured or processed in a  
2 container or wrapping in which such property is normally sold or  
3 transported;
- 4 (I) to transmit or transport electricity, coke, gas, water, steam or sim-  
5 ilar substances used in production operations from the point of genera-  
6 tion, if produced by the manufacturer or processor at the plant site, to  
7 that manufacturer's production operation; or, if purchased or delivered  
8 from offsite, from the point where the substance enters the site of the  
9 plant or facility to that manufacturer's production operations;
- 10 (J) to cool, heat, filter, refine or otherwise treat water, steam, acid,  
11 oil, solvents or other substances that are used in production operations;
- 12 (K) to provide and control an environment required to maintain cer-  
13 tain levels of air quality, humidity or temperature in special and limited  
14 areas of the plant or facility, where such regulation of temperature or  
15 humidity is part of and essential to the production process;
- 16 (L) to treat, transport or store waste or other byproducts of produc-  
17 tion operations at the plant or facility; or
- 18 (M) to control pollution at the plant or facility where the pollution is  
19 produced by the manufacturing or processing operation.
- 20 (4) The following machinery, equipment and materials shall be  
21 deemed to be exempt even though it may not otherwise qualify as ma-  
22 chinery and equipment used as an integral or essential part of an inte-  
23 grated production operation: (A) Computers and related peripheral  
24 equipment that are utilized by a manufacturing or processing business  
25 for engineering of the finished product or for research and development  
26 or product design; (B) machinery and equipment that is utilized by a  
27 manufacturing or processing business to manufacture or rebuild tangible  
28 personal property that is used in manufacturing or processing operations,  
29 including tools, dies, molds, forms and other parts of qualifying machinery  
30 and equipment; (C) portable plants for aggregate concrete, bulk cement  
31 and asphalt including cement mixing drums to be attached to a motor  
32 vehicle; (D) industrial fixtures, devices, support facilities and special foun-  
33 dations necessary for manufacturing and production operations, and ma-  
34 terials and other tangible personal property sold for the purpose of fab-  
35 ricating such fixtures, devices, facilities and foundations. An exemption  
36 certificate for such purchases shall be signed by the manufacturer or  
37 processor. If the fabricator purchases such material, the fabricator shall  
38 also sign the exemption certificate; and (E) a manufacturing or processing  
39 business' laboratory equipment that is not located at the plant or facility,  
40 but that would otherwise qualify for exemption under subsection (3)(E).
- 41 (5) "Machinery and equipment used as an integral or essential part  
42 of an integrated production operation" shall not include:
- 43 (A) Machinery and equipment used for nonproduction purposes, in-

- 1 cluding, but not limited to, machinery and equipment used for plant se-  
2 curity, fire prevention, first aid, accounting, administration, record keep-  
3 ing, advertising, marketing, sales or other related activities, plant cleaning,  
4 plant communications, and employee work scheduling;
- 5 (B) machinery, equipment and tools used primarily in maintaining  
6 and repairing any type of machinery and equipment or the building and  
7 plant;
- 8 (C) transportation, transmission and distribution equipment not pri-  
9 marily used in a production, warehousing or material handling operation  
10 at the plant or facility, including the means of conveyance of natural gas,  
11 electricity, oil or water, and equipment related thereto, located outside  
12 the plant or facility;
- 13 (D) office machines and equipment including computers and related  
14 peripheral equipment not used directly and primarily to control or mea-  
15 sure the manufacturing process;
- 16 (E) furniture and other furnishings;
- 17 (F) buildings, other than exempt machinery and equipment that is  
18 permanently affixed to or becomes a physical part of the building, and  
19 any other part of real estate that is not otherwise exempt;
- 20 (G) building fixtures that are not integral to the manufacturing op-  
21 eration, such as utility systems for heating, ventilation, air conditioning,  
22 communications, plumbing or electrical;
- 23 (H) machinery and equipment used for general plant heating, cooling  
24 and lighting;
- 25 (I) motor vehicles that are registered for operation on public high-  
26 ways; or
- 27 (J) employee apparel, except safety and protective apparel that is pur-  
28 chased by an employer and furnished gratuitously to employees who are  
29 involved in production or research activities.
- 30 (6) Subsections (3) and (5) shall not be construed as exclusive listings  
31 of the machinery and equipment that qualify or do not qualify as an  
32 integral or essential part of an integrated production operation. When  
33 machinery or equipment is used as an integral or essential part of pro-  
34 duction operations part of the time and for nonproduction purpose at  
35 other times, the primary use of the machinery or equipment shall deter-  
36 mine whether or not such machinery or equipment qualifies for  
37 exemption.
- 38 (7) The secretary of revenue shall adopt rules and regulations nec-  
39 essary to administer the provisions of this subsection;
- 40 (ll) all sales of educational materials purchased for distribution to the  
41 public at no charge by a nonprofit corporation organized for the purpose  
42 of encouraging, fostering and conducting programs for the improvement  
43 of public health;

- 1 (mm) all sales of seeds and tree seedlings; fertilizers, insecticides,  
2 herbicides, germicides, pesticides and fungicides; and services, purchased  
3 and used for the purpose of producing plants in order to prevent soil  
4 erosion on land devoted to agricultural use;
- 5 (nn) except as otherwise provided in this act, all sales of services ren-  
6 dered by an advertising agency or licensed broadcast station or any mem-  
7 ber, agent or employee thereof;
- 8 (oo) all sales of tangible personal property purchased by a community  
9 action group or agency for the exclusive purpose of repairing or weath-  
10 erizing housing occupied by low income individuals;
- 11 (pp) all sales of drill bits and explosives actually utilized in the explo-  
12 ration and production of oil or gas;
- 13 (qq) all sales of tangible personal property and services purchased by  
14 a nonprofit museum or historical society or any combination thereof, in-  
15 cluding a nonprofit organization which is organized for the purpose of  
16 stimulating public interest in the exploration of space by providing edu-  
17 cational information, exhibits and experiences, which is exempt from fed-  
18 eral income taxation pursuant to section 501(c)(3) of the federal internal  
19 revenue code of 1986;
- 20 (rr) all sales of tangible personal property which will admit the pur-  
21 chaser thereof to any annual event sponsored by a nonprofit organization  
22 which is exempt from federal income taxation pursuant to section  
23 501(c)(3) of the federal internal revenue code of 1986;
- 24 (ss) all sales of tangible personal property and services purchased by  
25 a public broadcasting station licensed by the federal communications  
26 commission as a noncommercial educational television or radio station;
- 27 (tt) all sales of tangible personal property and services purchased by  
28 or on behalf of a not-for-profit corporation which is exempt from federal  
29 income taxation pursuant to section 501(c)(3) of the federal internal rev-  
30 enue code of 1986, for the sole purpose of constructing a Kansas Korean  
31 War memorial;
- 32 (uu) all sales of tangible personal property and services purchased by  
33 or on behalf of any rural volunteer fire-fighting organization for use ex-  
34 clusively in the performance of its duties and functions;
- 35 (vv) all sales of tangible personal property purchased by any of the  
36 following organizations which are exempt from federal income taxation  
37 pursuant to section 501 (c)(3) of the federal internal revenue code of  
38 1986, for the following purposes, and all sales of any such property by or  
39 on behalf of any such organization for any such purpose:
- 40 (1) The American Heart Association, Kansas Affiliate, Inc. for the  
41 purposes of providing education, training, certification in emergency car-  
42 diac care, research and other related services to reduce disability and  
43 death from cardiovascular diseases and stroke;

- 1 (2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of  
2 advocacy for persons with mental illness and to education, research and  
3 support for their families;
- 4 (3) the Kansas Mental Illness Awareness Council for the purposes of  
5 advocacy for persons who are mentally ill and to education, research and  
6 support for them and their families;
- 7 (4) the American Diabetes Association Kansas Affiliate, Inc. for the  
8 purpose of eliminating diabetes through medical research, public edu-  
9 cation focusing on disease prevention and education, patient education  
10 including information on coping with diabetes, and professional education  
11 and training;
- 12 (5) the American Lung Association of Kansas, Inc. for the purpose of  
13 eliminating all lung diseases through medical research, public education  
14 including information on coping with lung diseases, professional educa-  
15 tion and training related to lung disease and other related services to  
16 reduce the incidence of disability and death due to lung disease;
- 17 (6) the Kansas chapters of the Alzheimer’s Disease and Related Dis-  
18 orders Association, Inc. for the purpose of providing assistance and sup-  
19 port to persons in Kansas with Alzheimer’s disease, and their families and  
20 caregivers;
- 21 (7) the Kansas chapters of the Parkinson’s disease association for the  
22 purpose of eliminating Parkinson’s disease through medical research and  
23 public and professional education related to such disease;
- 24 (8) the National Kidney Foundation of Kansas and Western Missouri  
25 for the purpose of eliminating kidney disease through medical research  
26 and public and private education related to such disease;
- 27 (9) the heartstrings community foundation for the purpose of provid-  
28 ing training, employment and activities for adults with developmental  
29 disabilities;
- 30 (10) the Cystic Fibrosis Foundation, Heart of America Chapter, for  
31 the purposes of assuring the development of the means to cure and con-  
32 trol cystic fibrosis and improving the quality of life for those with the  
33 disease;
- 34 (11) the spina bifida association of Kansas for the purpose of provid-  
35 ing financial, educational and practical aid to families and individuals with  
36 spina bifida. Such aid includes, but is not limited to, funding for medical  
37 devices, counseling and medical educational opportunities;
- 38 (12) the CHWC, Inc., for the purpose of rebuilding urban core neigh-  
39 borhoods through the construction of new homes, acquiring and reno-  
40 vating existing homes and other related activities, and promoting eco-  
41 nomic development in such neighborhoods;
- 42 (13) the cross-lines cooperative council for the purpose of providing  
43 social services to low income individuals and families;

- 1 (14) the Dreams Work, Inc., for the purpose of providing young adult  
2 day services to individuals with developmental disabilities and assisting  
3 families in avoiding institutional or nursing home care for a developmen-  
4 tally disabled member of their family;
- 5 (15) the KSDS, Inc., for the purpose of promoting the independence  
6 and inclusion of people with disabilities as fully participating and contrib-  
7 uting members of their communities and society through the training and  
8 providing of guide and service dogs to people with disabilities, and pro-  
9 viding disability education and awareness to the general public; and
- 10 (16) the lyme association of greater Kansas City, Inc., for the purpose  
11 of providing support to persons with lyme disease and public education  
12 relating to the prevention, treatment and cure of lyme disease;
- 13 (ww) all sales of tangible personal property purchased by the Habitat  
14 for Humanity for the exclusive use of being incorporated within a housing  
15 project constructed by such organization;
- 16 (xx) all sales of tangible personal property and services purchased by  
17 a nonprofit zoo which is exempt from federal income taxation pursuant  
18 to section 501(c)(3) of the federal internal revenue code of 1986, or on  
19 behalf of such zoo by an entity itself exempt from federal income taxation  
20 pursuant to section 501(c)(3) of the federal internal revenue code of 1986  
21 contracted with to operate such zoo and all sales of tangible personal  
22 property or services purchased by a contractor for the purpose of con-  
23 structing, equipping, reconstructing, maintaining, repairing, enlarging,  
24 furnishing or remodeling facilities for any nonprofit zoo which would be  
25 exempt from taxation under the provisions of this section if purchased  
26 directly by such nonprofit zoo or the entity operating such zoo. Nothing  
27 in this subsection shall be deemed to exempt the purchase of any con-  
28 struction machinery, equipment or tools used in the constructing, equip-  
29 ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-  
30 modeling facilities for any nonprofit zoo. When any nonprofit zoo shall  
31 contract for the purpose of constructing, equipping, reconstructing, main-  
32 taining, repairing, enlarging, furnishing or remodeling facilities, it shall  
33 obtain from the state and furnish to the contractor an exemption certifi-  
34 cate for the project involved, and the contractor may purchase materials  
35 for incorporation in such project. The contractor shall furnish the number  
36 of such certificate to all suppliers from whom such purchases are made,  
37 and such suppliers shall execute invoices covering the same bearing the  
38 number of such certificate. Upon completion of the project the contractor  
39 shall furnish to the nonprofit zoo concerned a sworn statement, on a form  
40 to be provided by the director of taxation, that all purchases so made were  
41 entitled to exemption under this subsection. All invoices shall be held by  
42 the contractor for a period of five years and shall be subject to audit by  
43 the director of taxation. If any materials purchased under such a certifi-



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

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

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

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

1 constructing, equipping, reconstructing, maintaining, repairing, enlarg-  
2 ing, furnishing or remodeling facilities, it shall obtain from the state and  
3 furnish to the contractor an exemption certificate for the project involved,  
4 and the contractor may purchase materials for incorporation in such pro-  
5 ject. The contractor shall furnish the number of such certificate to all  
6 suppliers from whom such purchases are made, and such suppliers shall  
7 execute invoices covering the same bearing the number of such certifi-  
8 cate. Upon completion of the project the contractor shall furnish to such  
9 organization concerned a sworn statement, on a form to be provided by  
10 the director of taxation, that all purchases so made were entitled to ex-  
11 emption under this subsection. All invoices shall be held by the contractor  
12 for a period of five years and shall be subject to audit by the director of  
13 taxation. If any materials purchased under such a certificate are found  
14 not to have been incorporated in the building or other project or not to  
15 have been returned for credit or the sales or compensating tax otherwise  
16 imposed upon such materials which will not be so incorporated in the  
17 building or other project reported and paid by such contractor to the  
18 director of taxation not later than the 20th day of the month following  
19 the close of the month in which it shall be determined that such materials  
20 will not be used for the purpose for which such certificate was issued,  
21 such organization concerned shall be liable for tax on all materials pur-  
22 chased for the project, and upon payment thereof it may recover the same  
23 from the contractor together with reasonable attorney fees. Any contrac-  
24 tor or any agent, employee or subcontractor thereof, who shall use or  
25 otherwise dispose of any materials purchased under such a certificate for  
26 any purpose other than that for which such a certificate is issued without  
27 the payment of the sales or compensating tax otherwise imposed upon  
28 such materials, shall be guilty of a misdemeanor and, upon conviction  
29 therefor, shall be subject to the penalties provided for in subsection (g)  
30 of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after  
31 July 1, 1998, but prior to the effective date of this act upon the gross  
32 receipts received from any sale exempted by the amendatory provisions  
33 of this subsection shall be refunded. Each claim for a sales tax refund  
34 shall be verified and submitted to the director of taxation upon forms  
35 furnished by the director and shall be accompanied by any additional  
36 documentation required by the director. The director shall review each  
37 claim and shall refund that amount of sales tax paid as determined under  
38 the provisions of this subsection. All refunds shall be paid from the sales  
39 tax refund fund upon warrants of the director of accounts and reports  
40 pursuant to vouchers approved by the director or the director's designee;  
41 (bbb) all sales of food for human consumption by an organization  
42 which is exempt from federal income taxation pursuant to section 501  
43 (c)(3) of the federal internal revenue code of 1986, pursuant to a food

1 distribution program which offers such food at a price below cost in  
2 exchange for the performance of community service by the purchaser  
3 thereof;

4 (ccc) on and after July 1, 1999, all sales of tangible personal property  
5 and services purchased by a primary care clinic or health center the pri-  
6 mary purpose of which is to provide services to medically underserved  
7 individuals and families, and which is exempt from federal income taxa-  
8 tion pursuant to section 501 (c)(3) of the federal internal revenue code,  
9 and all sales of tangible personal property or services purchased by a  
10 contractor for the purpose of constructing, equipping, reconstructing,  
11 maintaining, repairing, enlarging, furnishing or remodeling facilities for  
12 any such clinic or center which would be exempt from taxation under the  
13 provisions of this section if purchased directly by such clinic or center.  
14 Nothing in this subsection shall be deemed to exempt the purchase of  
15 any construction machinery, equipment or tools used in the constructing,  
16 equipping, reconstructing, maintaining, repairing, enlarging, furnishing  
17 or remodeling facilities for any such clinic or center. When any such clinic  
18 or center shall contract for the purpose of constructing, equipping, re-  
19 constructing, maintaining, repairing, enlarging, furnishing or remodeling  
20 facilities, it shall obtain from the state and furnish to the contractor an  
21 exemption certificate for the project involved, and the contractor may  
22 purchase materials for incorporation in such project. The contractor shall  
23 furnish the number of such certificate to all suppliers from whom such  
24 purchases are made, and such suppliers shall execute invoices covering  
25 the same bearing the number of such certificate. Upon completion of the  
26 project the contractor shall furnish to such clinic or center concerned a  
27 sworn statement, on a form to be provided by the director of taxation,  
28 that all purchases so made were entitled to exemption under this subsec-  
29 tion. All invoices shall be held by the contractor for a period of five years  
30 and shall be subject to audit by the director of taxation. If any materials  
31 purchased under such a certificate are found not to have been incorpo-  
32 rated in the building or other project or not to have been returned for  
33 credit or the sales or compensating tax otherwise imposed upon such  
34 materials which will not be so incorporated in the building or other pro-  
35 ject reported and paid by such contractor to the director of taxation not  
36 later than the 20th day of the month following the close of the month in  
37 which it shall be determined that such materials will not be used for the  
38 purpose for which such certificate was issued, such clinic or center con-  
39 cerned shall be liable for tax on all materials purchased for the project,  
40 and upon payment thereof it may recover the same from the contractor  
41 together with reasonable attorney fees. Any contractor or any agent, em-  
42 ployee or subcontractor thereof, who shall use or otherwise dispose of  
43 any materials purchased under such a certificate for any purpose other

1 than that for which such a certificate is issued without the payment of  
2 the sales or compensating tax otherwise imposed upon such materials,  
3 shall be guilty of a misdemeanor and, upon conviction therefor, shall be  
4 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,  
5 and amendments thereto;

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

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

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

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

42 (hhh) all sales of tangible personal property and services purchased  
43 by or on behalf of all domestic violence shelters that are member agencies

1 of the Kansas coalition against sexual and domestic violence;

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

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

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

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

42 (mmm) all sales of tangible personal property purchased by or on  
43 behalf of the Marillac Center, Inc., which is exempt from federal income

1 taxation pursuant to section 501(c)(3) of the federal internal revenue  
2 code, for the purpose of providing psycho-social-biological and special  
3 education services to children, and all sales of any such property by or on  
4 behalf of such organization for such purpose;

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

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

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

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

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

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

32 (sss) all sales of tangible personal property and services purchased by  
33 catholic charities or youthville, hereinafter referred to as charitable family  
34 providers, which is exempt from federal income taxation pursuant to sec-  
35 tion 501(c)(3) of the federal internal revenue code of 1986, and which  
36 such property and services are used for the purpose of providing emer-  
37 gency shelter and treatment for abused and neglected children as well as  
38 meeting additional critical needs for children, juveniles and family, and  
39 all sales of any such property by or on behalf of charitable family providers  
40 for any such purpose; and all sales of tangible personal property or serv-  
41 ices purchased by a contractor for the purpose of constructing, maintain-  
42 ing, repairing, enlarging, furnishing or remodeling facilities for the op-  
43 eration of services for charitable family providers for any such purpose



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

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

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

40 (uuu) all sales of tangible personal property and services purchased  
41 by Kansas children's service league, hereinafter referred to as KCSL,  
42 which is exempt from federal income taxation pursuant to section  
43 501(c)(3) of the federal internal revenue code of 1986, and which such

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

43 Sec. ~~20~~. **22.** K.S.A. 40-253a, 74-50,113, 74-50,116, 74-50,117, 74-

1 50,118, 74-50,119, 74-50,135, 74-50,135a, 74-8945, 79-32,155, 79-32,156,  
2 79-32,157, 79-32,158, 79-32,159, 79-32,159a, 79-32,159b, 79-32,159c, 79-  
3 32,160, 79-32,160b and 79-32,160c and K.S.A. 2006 Supp. 74-50,114, 74-  
4 50,115, 74-50,131, 74-50,132, ~~74-50,133~~, 74-50,134, 79-3269, 79-32,111,  
5 79-32,153, 79-32,154, 79-32,160a, 79-32,243 and 79-3606 are hereby  
6 repealed.

7 Sec. ~~21~~ **23**. This act shall take effect and be in force from and after  
8 its publication in the statute book.