

Approved March 31, 1992  
Date

MINUTES OF THE Senate COMMITTEE ON Economic Development

The meeting was called to order by Senator Dave Kerr at  
Chairperson

8:00 a.m./~~xxx~~ on March 26, 19<sup>92</sup> in room 123-S of the Capitol.

All members were present except:

Senator Lana Oleen (Excused)

Committee staff present:

Lynne Holt, Legislative Research Department  
Bill Edds, Revisor of Statutes' Office  
LaVonne Mumert, Committee Secretary

Conferees appearing before the committee:

Mark Burghart, Department of Revenue  
Mary Ellen Conlee, Kansas Association for Small Business

Substitute for HB 2681 - Kansas enterprise zone act, tax incentives for  
businesses, nonmetropolitan regions

Revisor Bill Edds explained the balloon prepared at Chairman Kerr's request of Sub. for HB 2681 (Attachment 1). He said that the amendments on page 2 are merely clean-up. The change on line 14 of page 3 would increase the population limit to 2,500 from 2,000. Changes at the bottom of the page are clean-up of the amendment made on the House floor to the bill. The change on page two would raise the tax credit from \$2,000 to \$2,500, and the change at the top of page six would increase the credit from \$1,000 to \$1,500.

Chairman Kerr asked Mark Burghart, Department of Revenue, to explain the results of their review of 1990 process year returns. Mr. Burghart advised that approximately 80% of the returns claiming credits under the enterprise zone incentives bump against the 50% of tax liability limit. In response to questions from Committee members, Mr. Burghart said, even though Sub. for HB 2681 has a carry-forward provision, his "gut reaction" is that increasing the credits to \$1,500 and \$2,500 would make the total cost of the program closer to the total cost of the existing program.

Mr. Edds explained that the changes in Section 8(d) are clean-up in nature. He said that changes on page 7 are designed to take care of potential problems for cities such as Roeland Park as presented to the Committee at yesterday's meeting. Mr. Edds noted that a repeal of the Job Expansion Credit Act of \$100 for each new job and \$100 for each \$100,000 investment would have a major impact on Sub. for HB 2681 because it uses many definitions from the Job Expansion Credit Act.

Mary Ellen Conlee provided an explanation of how a company having more than one facility is sometimes unable to fully utilize tax credits in situations where one facility may have added jobs and had a profit because of the formula used by the Department for allocating the total Kansas income to each facility (Attachment 2). Ms. Conlee noted that the fourth paragraph of her letter may not be completely accurate and asked the Committee to disregard it.

After discussion, Senator McClure moved that Section 3(c)(2) be amended to provide for a maximum population of 2,500. Senator Winter seconded the motion. There were comments by members of the Committee that retail business is usually the only type of business very small communities are able to attract and this provision is the only portion of the bill which is likely to benefit very small communities. The motion carried.

Senator Petty moved that Sub. for HB 2681 be further amended in Section

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Economic Development,  
room 123-S, Statehouse, at 8:00 a.m./~~xxx~~ on March 26, 19 92

4(c)(2) to read: "adopt a regional strategic plan and have such plan reviewed and filed with the secretary; and". Senator Francisco seconded the motion, and the motion carried.

Senator Petty moved that Section 8(b)(1) be amended to provide a credit of \$2,500. Senator Vidricksen seconded the motion, and the motion carried.

Senator Salisbury moved that the amendment on page 7 of the balloon of Sub. for HB 2681 to allow those communities presently utilizing enterprise zone incentives in current law to continue utilizing those benefits (Roeland Park amendment). Senator Winter seconded the motion, and the motion carried.

The meeting adjourned at 9:00. The next meeting of the Committee will be Friday, March 27, 1992.



Substitute for HOUSE BILL No. 2681

By Committee on Economic Development

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10 AN ACT enacting the Kansas enterprise zone act; concerning income  
11 and sales tax incentives for certain businesses; establishing a non-  
12 metropolitan regional business program; amending K.S.A. 12-  
13 1770, 12-1771, 79-3234 and 79-32,153 and K.S.A. 1991 Supp. 79-  
14 3606 and repealing the existing sections; also repealing K.S.A. 12-  
15 17,107 through 12-17,113 and 79-32,153a.

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

18 New Section 1. The provisions of sections 1 through 10 and  
19 amendments thereto shall be known and may be cited as the Kansas  
20 enterprise zone act.

21 New Sec. 2. As used in sections 1 through 7 and amendments  
22 thereto:

23 (a) "Business" means any manufacturing business or nonmanu-  
24 facturing business.

25 (b) "Full-time employee" means a person who is employed by a  
26 business or retail business to perform duties in connection with the  
27 operation of the business or retail business on:

28 (1) A regular, full-time basis;

29 (2) a part-time basis, provided such person is customarily per-  
30 forming such duties at least 20 hours per week throughout the taxable  
31 year; or

32 (3) a seasonal basis, provided such person performs such duties  
33 for substantially all of the season customary for the position in which  
34 such person is employed. The number of full-time employees during  
35 any taxable year shall be determined by dividing by 12 the sum of  
36 the number of full-time employees on the last business day of each  
37 month of such taxable year. If the business or retail business is in  
38 operation for less than the entire taxable year, the number of full-  
39 time employees shall be determined by dividing the sum of the  
40 number of full-time employees on the last business day of each full  
41 calendar month during the portion of such taxable year during which  
42 the business was in operation by the number of full calendar months  
43 during such period.

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1 (c) "Manufacturing business" means all commercial enterprises  
2 identified under the manufacturing standard industrial classification  
3 codes, major groups 20 through 39.

4 (d) "Metropolitan county" means the county of Douglas, Johnson,  
5 Leavenworth, Sedgwick, Shawnee or Wyandotte.

6 (e) "Nonmanufacturing business" means any commercial enter-  
7 prise other than a manufacturing business or a retail business.

8 (f) "Nonmetropolitan region" means a region established under 4  
9 section 3 and is comprised of any county or counties which are not  
10 metropolitan counties.

11 (g) "Retail business" means any commercial enterprise primarily  
12 engaged in the sale at retail of goods or services, or both.

13 (h) "Secretary" means the secretary of the Kansas department of  
14 commerce.

15 (i) "Standard industrial classification code" means a standard in-  
16 dustrial classification code published in the Standard Industrial Clas-  
17 sification manual, 1987, as prepared by the statistical policy division  
18 of the office of management and budget of the office of the president  
19 of the United States of America.

20 New Sec. 3. (a) A manufacturing business may be eligible for a  
21 sales tax exemption under the provisions of subsection (ee) of K.S.A.  
22 79-3606, and amendments thereto, if the manufacturing business  
23 complies with the following requirements:

24 (1) A manufacturing business shall provide documented evidence  
25 of job expansion involving the employment of at least two additional  
26 full-time employees; and

27 (2) a manufacturing business located within the state of Kansas  
28 that has documented evidence of job expansion as provided in par-  
29 agraph (1), which relocates in another city or county within the state  
30 of Kansas must receive approval from the secretary prior to qualifying  
31 for the sales tax exemption in subsection (ee) of K.S.A. 79-3606, and  
32 amendments thereto, except that approval by the secretary shall not  
33 be required if the manufacturing business relocates within the same  
34 city.

35 (b) A nonmanufacturing business may be eligible for a sales tax (b)  
36 exemption under the provisions of subsection (ee) of K.S.A. 79-3606,  
37 and amendments thereto, if the nonmanufacturing business complies  
38 with the following requirements:

39 (1) A nonmanufacturing business shall provide documented evi-  
40 dence of job expansion involving the employment of at least five  
41 additional full-time employees; and

42 (2) a nonmanufacturing business located within the state of Kansas  
that has documented evidence of job expansion as provided in par-

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1 agraph (1), which relocates in another city or county within the state  
2 of Kansas must receive approval from the secretary prior to qualifying  
3 for the sales tax exemption in subsection (ee) of K.S.A. 79-3606, and  
4 amendments thereto, except that approval by the secretary shall not  
5 be required if the nonmanufacturing business relocates within the  
6 same city.

7 (c) A retail business may qualify for the sales tax exemption under  
8 subsection (ee) of K.S.A. 79-3606, and amendments thereto, if the  
9 retail business complies with the following requirements:

10 (1) A retail business shall provide documented evidence of job  
11 expansion involving the employment of at least two additional full-  
12 time employees; and

13 (2) such retail business locates or expands to a city having a  
14 population of ~~2,000~~ or less, as determined by the latest United States  
15 federal census.

2,500 (Policy option)

16 (d) The secretary may adopt rules and regulations to implement  
17 and administer the provisions of this section.

18 New Sec. 4. (a) The secretary shall establish a nonmetropolitan  
19 regional business program. The secretary shall establish criteria for  
20 the establishment of nonmetropolitan regions under such program  
21 and, in addition to other criteria established by the secretary, such  
22 criteria shall include the following:

23 (1) A nonmetropolitan region, at a minimum, shall be comprised  
24 of a county;

25 (2) any city with a population of 2,000, or more, within a county  
26 proposing to establish a nonmetropolitan region must consent to  
27 participation in such nonmetropolitan region by entering into a writ-  
28 ten agreement with such county; and

29 (3) no city or cities of a county nor any portion of a county may  
30 be a part of a nonmetropolitan region if the whole county does not  
31 agree to the inclusion of such county in the region.

32 (b) The governing body of a city and the board of county com-  
33 missioners of any county making application to the secretary for the  
34 designation of a nonmetropolitan region under this section shall sub-  
35 mit, in addition to the application, a resolution requesting such area  
36 be approved as a nonmetropolitan region.

37 (c) To qualify for the establishment of a nonmetropolitan region  
38 under this section, a county or counties shall:

39 (1) ~~Establish or maintain an already established regional eco-~~  
40 ~~nomie development organization which has been approved by~~  
41 ~~the secretary~~ ~~[[Establish, endorse or maintain an already established~~  
42 ~~regional economic development organization [which has been filed~~  
43 ~~with the secretary] and [which has a membership located throughout~~

File with the secretary a statement that a  
has been established

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1 the region served by the organization with representation of the  
2 manufacturing businesses, nonmanufacturing businesses and retail  
3 businesses participating under the program;

4 (2) adopt a regional strategic plan and have such plan approved  
5 by [filed with] the secretary; and

6 (3) demonstrate a commitment to offering incentives which are  
7 regional in nature or which exact local support, such as public trans-  
8 portation, technical assistance, revitalization funding, infrastructure  
9 improvement funding and property tax abatements.

10 New Sec. 5. The secretary shall provide to the Kansas depart-  
11 ment of revenue, at least quarterly, a current list of the regions  
12 designated as nonmetropolitan regions under section 4 and amend-  
13 ments thereto.

14 New Sec. 6. (a) Each designated nonmetropolitan region ap-  
15 proved by the secretary shall submit an annual report to the sec-  
16 retary, in such form as the secretary may require, on or before  
17 February 15 of each year. Each report shall include:

18 (1) A list of local incentives for economic development available  
19 in such region during the prior year;

20 (2) the usage of the local incentives which the governing body  
21 committed to provide in such region; and

22 (3) such other information as required by the secretary.

23 (b) The secretary shall submit an annual report to the governor  
24 and the legislature by April 1 of each year detailing the information  
25 provided pursuant to subsection (a).

26 (c) The secretary of revenue shall submit an annual report to the  
27 governor and the legislature by April 1 of each year detailing by  
28 county the state fiscal note on the income tax credits claimed and  
29 used, including the amount of carry-forward credits, and sales tax  
30 exemptions allowed pursuant to this act.

31 New Sec. 7. The secretary shall adopt rules and regulations for  
32 the purpose of implementing and administering the provisions of  
33 sections 4 through 6 and amendments thereto, including the pro-  
34 cedure required for the approval of applications designating a non-  
35 metropolitan region.

36 New Sec. 8. (a) Any taxpayer who shall invest in a qualified  
37 business facility, as defined in subsection (b) of K.S.A. 79-32,154,  
38 and amendments thereto, and also meets the definition of a business  
39 in subsection (a) of section 2 and amendments thereto, shall be  
40 allowed a credit for such investment, in an amount determined under  
41 subsection (b) or (c), as the case requires, against the tax imposed  
42 by the Kansas income tax act for the taxable year during which  
43 commencement of commercial operations, as defined in subsection

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1 (f) of K.S.A. 79-32,154, and amendments thereto, occurs at such  
 2 qualified business facility. In the case of a taxpayer who meets the  
 3 definition of a manufacturing business in subsection (c) of section 2  
 4 and amendments thereto, no credit shall be allowed under this sec-  
 5 tion unless the number of qualified business facility employees, as  
 6 determined under subsection (d) of K.S.A. 79-32,154, and amend-  
 7 ments thereto, engaged or maintained in employment at the qualified  
 8 business facility as a direct result of the investment by the taxpayer  
 9 for the taxable year for which the credit is claimed equals or exceeds  
 10 two. In the case of a taxpayer who meets the definition of a non-  
 11 manufacturing business in subsection (e) of section 2 and amendments  
 12 thereto, no credit shall be allowed under this section unless the  
 13 number of qualified business facility employees, as determined under  
 14 subsection (d) of K.S.A. 79-32,154, and amendments thereto, en-  
 15 gaged or maintained in employment at the qualified business facility  
 16 as a direct result of the investment by the taxpayer for the taxable  
 17 year for which the credit is claimed equals or exceeds five.

18 (b) The credit allowed by subsection (a) for any taxpayer who  
 19 invests in a qualified business facility which is located in a designated  
 20 nonmetropolitan region established under section 4 and amendments  
 21 thereto, on or after the effective date of this act, shall be a portion  
 22 of the income tax, but not in excess of 50% of such tax, otherwise  
 23 imposed by the Kansas income tax act on the taxpayer's qualified  
 24 business facility income, as defined in subsection (g) of K.S.A. 79-  
 25 32,154, and amendments thereto, for the taxable year for which such  
 26 credit is allowed. Such portion shall be an amount equal to the sum  
 27 of the following:

28 (1) Two thousand dollars for each qualified business facility em-  
 29 ployee determined under K.S.A. 79-32,154, and amendments  
 30 thereto; plus

five hundred (Policy option)

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

35 (c) The credit allowed by subsection (a) for any taxpayer who  
 36 invests in a qualified business facility, which is not located in a  
 37 nonmetropolitan region established under section 4 and amendments  
 38 thereto and which also meets the definition of business in subsection  
 39 (a) of section 2 and amendments thereto, on or after the effective  
 40 date of this act, shall be a portion of the income tax, but not in  
 41 excess of 50% of such tax, otherwise imposed by the Kansas income  
 42 tax act on the taxpayer's qualified business facility income, as defined  
 in subsection (g) of K.S.A. 79-32,154, and amendments thereto, for



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1 the taxable year for which such credit is allowed. Such portion shall  
2 be an amount equal to the sum of the following:

3 (1) One thousand dollars for each qualified business facility em-  
4 ployee as determined under K.S.A. 79-32,154, and amendments  
5 thereto; and

five hundred

(Policy option)

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

10 (d) The credit allowed by subsection (a) for each qualified busi-  
11 ness facility employee [and for qualified business facility investment]  
12 shall be a one-time credit. If the amount of the credit allowed under  
13 subsection (a) exceeds ~~the amount~~ of the income tax liability, the

50%

on the taxpayer's qualified business facility income

14 amount thereof which exceeds such tax liability may be carried over  
15 for credit in the succeeding taxable years until the total amount of  
16 such credit is used, except that, before the credit is allowed, a  
17 taxpayer, who meets the definition of a manufacturing business in  
18 subsection (c) of section 2 and amendments thereto, shall recertify  
19 annually that the net increase of a minimum of two qualified business  
20 facility employees has continued to be maintained and a taxpayer,  
21 who meets the definition of a nonmanufacturing business in sub-  
22 section (e) of section 2 and amendments thereto, shall recertify an-  
23 nually that the net increase of a minimum of five qualified business  
24 employees has continued to be maintained.

25 (e) This section and section 9 and amendments thereto shall be  
26 part of and supplemental to the job expansion and investment credit  
27 act of 1976 and acts amendatory thereof and supplemental thereto.

28 New Sec. 9. Any taxpayer who has developed plans for the con-  
29 struction, reconstruction, enlarging or remodeling of a qualified busi-  
30 ness facility located within an enterprise zone or who has developed  
31 plans for the purchase of machinery or equipment for installation at  
32 a qualified business facility located within an enterprise zone may  
33 elect to claim the income tax credits and sales tax exemption available  
34 prior to the effective date of this act. In order to make such an  
35 election, the taxpayer shall submit to the department of revenue by  
36 certified mail, a form provided by the department, which shall iden-  
37 tify the planned project prior to January 1, 1993.

38 New Sec. 10. The provisions of this act affecting tax liability shall  
39 be applicable to all taxable years commencing after December 31,  
40 1992.

41 ~~Sec. 11. K.S.A. 12-1770 is hereby amended to read as follows:  
12-1770. It is hereby declared to be the purpose of this act to  
promote, stimulate and develop the general and economic welfare~~

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1 ~~of the state of Kansas and its communities and to assist in the~~  
 2 ~~development and redevelopment of central business district areas of~~  
 3 ~~cities, blighted areas located within cities and enterprise zones~~  
 4 ~~located within cities, thus promoting the general welfare of the~~  
 5 ~~citizens of this state, by authorizing cities to acquire certain property~~  
 6 ~~and to issue special obligation bonds and full faith and credit tax~~  
 7 ~~increment bonds for the financing of redevelopment projects. It is~~  
 8 ~~further found and declared that the powers conferred by this act~~  
 9 ~~are for public uses and purposes for which public money may be~~  
 10 ~~expended and the power of eminent domain exercised. The necessity~~  
 11 ~~in the public interest for the provisions of this act is hereby declared~~  
 12 ~~as a matter of legislative determination.~~

11

13 Sec. ~~12~~ K.S.A. 12-1771 is hereby amended to read as follows:  
 14 12-1771. (a) No city shall exercise any of the powers conferred by  
 15 K.S.A. 12-1770 *et seq.*, and amendments thereto, unless the gov-  
 16 erning body of such city has adopted a resolution finding that the  
 17 specific project area sought to be redeveloped is a blighted area ~~or~~  
 18 ~~has been designated as an enterprise zone pursuant to K.S.A.~~  
 19 ~~12-17,110, and amendments thereto,~~ and the conservation, de-  
 20 velopment or redevelopment of such area is necessary to promote  
 21 the general and economic welfare of such city. For the purpose of  
 22 this subsection, the term "blighted area" means an area which: (1)  
 23 Because of the presence of a majority of the following factors, sub-  
 24 stantially impairs or arrests the sound development and growth of  
 25 the municipality or constitutes an economic or social liability or is  
 26 a menace to the public health, safety, morals or welfare in its present  
 27 condition and use: (A) A substantial number of deteriorated or de-  
 28 teriorating structures; (B) predominance of defective or inadequate  
 29 street layout; (C) unsanitary or unsafe conditions; (D) deterioration  
 30 of site improvements; (E) diversity of ownership; (F) tax or special  
 31 assessment delinquency exceeding the fair value of the land; (G)  
 32 defective or unusual conditions of title; (H) improper subdivision or  
 33 obsolete platting or land uses; (I) the existence of conditions which  
 34 endanger life or property by fire and other causes; or (J) conditions  
 35 which create economic obsolescence; or (2) has been identified by  
 36 any state or federal environmental agency as being environmentally  
 37 contaminated to an extent that requires a remedial investigation,  
 38 feasibility study and remediation or other similar state or federal  
 39 action; or (3) previously was found by resolution of the governing  
 40 body to be a slum or a blighted area under K.S.A. 17-4742 *et seq.*,  
 41 and amendments thereto.

or was designated prior to July 1, 1992, as an  
 enterprise zone pursuant to K.S.A. 12-17,110 prior  
 to its repeal

(b) The powers conferred upon cities under the provisions of  
 K.S.A. 12-1770 *et seq.*, and amendments thereto, shall be exercised

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1 in central business district areas of cities, as determined by resolution  
2 adopted pursuant to K.S.A. 12-1772, and amendments thereto; ~~in~~  
3 ~~enterprise zones designated pursuant to K.S.A. 12-17,110, and~~  
4 ~~amendments thereto, or in blighted areas of cities, as determined~~  
5 by resolution adopted pursuant to K.S.A. 17-4742 et seq., and  
6 amendments thereto.

7 (c) Within that portion of the city described in subsection (b),  
8 the governing body of a city may establish a district to be known  
9 as a "redevelopment district". One or more redevelopment projects  
10 may be undertaken by a city within a redevelopment district after  
11 such redevelopment district has been established in the manner  
12 provided by subsection (d).

13 (d) Any city proposing to establish a redevelopment district shall  
14 adopt a resolution stating that the city is considering the establish-  
15 ment of a redevelopment district. Such resolution shall:

16 (1) Give notice that a public hearing will be held to consider the  
17 establishment of a redevelopment district and fix the date, hour and  
18 place of such public hearing;

19 (2) describe the proposed boundaries of the redevelopment  
20 district;

21 (3) describe a proposed comprehensive plan that identifies all of  
22 the proposed redevelopment project areas and that identifies in a  
23 general manner all of the buildings and facilities that are proposed  
24 to be constructed or improved in each redevelopment project area;

25 (4) state that a description and map of the proposed redevel-  
26 opment district are available for inspection at a time and place  
27 designated;

28 (5) state that the governing body will consider findings necessary  
29 for the establishment of a redevelopment district.

30 Notice shall be given as provided in subsection (c) of K.S.A. 12-  
31 1772, and amendments thereto.

32 (e) Upon the conclusion of the public hearing, the governing  
33 body may adopt a resolution to make any findings required by sub-  
34 section (a) and may establish the redevelopment district by ordi-  
35 nance. Such resolution shall contain a comprehensive plan that  
36 identifies all of the proposed redevelopment project areas and iden-  
37 tifies in a general manner all of the buildings and facilities that are  
38 proposed to be constructed or improved in each redevelopment  
39 project area. The boundaries of such district shall not include any  
40 area not designated in the notice required by subsection (d). Any  
41 addition of area to the redevelopment district or any substantial  
change to the comprehensive plan shall be subject to the same  
procedure for public notice and hearing as is required for the es-

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1 establishment of the district.

2 (f) No privately owned property subject to ad valorem taxes shall  
3 be acquired and redeveloped under the provisions of K.S.A. 12-1770  
4 *et seq.*, and amendments thereto, if the board of county commis-  
5 sioners or the board of education levying taxes on such property  
6 determines by resolution adopted within 30 days following the con-  
7 clusion of the hearing for the establishment of the redevelopment  
8 district required by subsection (d) that the proposed redevelopment  
9 district will have an adverse effect on such county or school district.

10 (g) Any redevelopment plan undertaken within the redevelop-  
11 ment district may be in separate development stages. Each plan shall  
12 be adopted according to the provisions of K.S.A. 12-1772, and  
13 amendments thereto, and shall fix a date for completion. Except as  
14 provided herein, any project shall be completed within 15 years from  
15 the date of the establishment of the redevelopment district. Projects  
16 relating to environmental investigation and remediation under sub-  
17 section (i) shall be completed within 20 years from the date a city  
18 enters into a consent decree agreement with the Kansas department  
19 of health and environment or the United States environmental pro-  
20 tection agency.

21 (h) Any increment in ad valorem property taxes resulting from  
22 a redevelopment district undertaken in accordance with the provi-  
23 sions of this act, shall be apportioned to a special fund for the  
24 payment of the cost of the redevelopment project, including the  
25 payment of principal and interest on any special obligation bonds or  
26 full faith and credit tax increment bonds issued to finance such  
27 project pursuant to this act and may be pledged to the payment of  
28 principal and interest on such bonds. The maximum maturity on  
29 bonds issued to finance projects pursuant to this act shall not exceed  
30 20 years. For the purposes of this act, "increment" means that  
31 amount of ad valorem taxes collected from real property located  
32 within the redevelopment district that is in excess of the amount  
33 which is produced from such property and attributable to the as-  
34 sessed valuation of such property prior to the date the redevelopment  
35 district was established, as determined under the provisions of K.S.A.  
36 12-1775, and amendments thereto.

37 (i) The governing body of a city, in contracts entered into with  
38 the Kansas department of health and environment or the United  
39 States environmental protection agency, may pledge increments re-  
40 ceivable in future years to pay costs directly relating to the inves-  
41 tigation and remediation of environmentally contaminated areas. The  
42 provisions in such contracts pertaining to pledging increments in  
43 future years shall not be subject to K.S.A. 10-1101 *et seq.* or K.S.A.

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1 79-2925 *et seq.*, and amendments thereto.

2 (j) Before any redevelopment project is undertaken, a compre-  
3 hensive feasibility study, which shows the benefits derived from such  
4 project will exceed the costs and that the income therefrom will be  
5 sufficient to pay for the project shall be prepared. Such feasibility  
6 study shall be an open public record.

7 Sec. ~~113~~. K.S.A. 79-32,153 is hereby amended to read as follows:

12

8 79-32,153. (a) Any taxpayer who shall invest in a qualified business  
9 facility, as defined in subsection (b) of K.S.A. 79-32,154, and amend-  
10 ments thereto, shall be allowed a credit for such investment, in an  
11 amount determined under subsection (b) ~~or (e)~~, as the ease re-  
12 quires, against the tax imposed by the Kansas income tax act for  
13 the taxable year during which commencement of commercial op-  
14 erations, as defined in subsection (f) of K.S.A. 79-32,154, and amend-  
15 ments thereto, occurs at such qualified business facility, and for each  
16 of the nine succeeding taxable years. No credit shall be allowed  
17 under this section unless the number of qualified business facility  
18 employees, as determined under subsection (d) of K.S.A. 79-32,154,  
19 and amendments thereto, engaged or maintained in employment at  
20 the qualified business facility as a direct result of the investment by  
21 the taxpayer for the taxable year for which the credit is claimed  
22 equals or exceeds two.

23 (b) The credit allowed by subsection (a) for any taxpayer who  
24 invests in a qualified business facility ~~located outside an enterprise~~  
25 ~~zone on or after the effective date of this act~~ shall be a portion  
26 of the income tax, but not in excess of 50% of such tax, otherwise  
27 imposed by the Kansas income tax act on the taxpayer's qualified  
28 business facility income, as defined in subsection (g) of K.S.A. 79-  
29 32,154, and amendments thereto, for the taxable year for which such  
30 credit is allowed. Such portion shall be an amount equal to the sum  
31 of the following:

32 (1) One hundred dollars for each qualified business facility em-  
33 ployee determined under K.S.A. 79-32,154, and amendments  
34 thereto; plus

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

39 (e) The credit allowed by subsection (a) for any taxpayer  
40 who invests in a qualified business facility ~~within an enterprise~~  
41 ~~zone on or after the effective date of this act~~ shall be a portion  
of the income tax, but not in excess of 50% of such tax, oth-  
erwise imposed by the Kansas income tax act on the taxpayer's

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1 qualified business facility income, as defined in subsection (g)  
2 of K.S.A. 79-32,154, and amendments thereto, for the taxable  
3 year for which such credit is allowed. Such portion shall be  
4 an amount equal to the sum of the following:

5 (1) Three hundred and fifty dollars for each qualified busi-  
6 ness facility employee as determined under K.S.A. 79-32,154,  
7 and amendments thereto, who resides in this state, other than  
8 a qualified business facility employee referred to in paragraph  
9 (2) of this subsection (e);

10 (2) five hundred dollars for each qualified business facility  
11 employee as determined under K.S.A. 79-32,154, and amend-  
12 ments thereto, who resides in this state and whose employment  
13 entitles the employer to a targeted jobs tax credit under sections  
14 51 and 52 of the internal revenue code in the same taxable  
15 year; plus

16 (3) three hundred fifty dollars for each \$100,000, or major  
17 fraction thereof (which shall be deemed to be 51% or more),  
18 in qualified business facility investment as determined under  
19 K.S.A. 79-32,154, and amendments thereto.

20 (d) (c) No credit shall be allowed under this section for invest-  
21 ment in a public utility, as such term is defined in K.S.A. 66-104,  
22 and amendments thereto.

23 Sec. 14 K.S.A. 1991 Supp. 79-3606 is hereby amended to read  
24 as follows: 79-3606. The following shall be exempt from the tax  
25 imposed by this act:

13

26 (a) All sales of motor-vehicle fuel or other articles upon which a  
27 sales or excise tax has been paid, not subject to refund, under the  
28 laws of this state except cigarettes as defined by K.S.A. 79-3301,  
29 and amendments thereto, cereal malt beverages and malt products  
30 as defined by K.S.A. 79-3817, and amendments thereto, including  
31 wort, liquid malt, malt syrup and malt extract, which is not subject  
32 to taxation under the provisions of K.S.A. 79-41a02, and amendments  
33 thereto, and motor vehicles as defined by K.S.A. 79-1017, and  
34 amendments thereto;

35 (b) all sales of tangible personal property or service, including  
36 the renting and leasing of tangible personal property, purchased  
37 directly by the state of Kansas, a political subdivision thereof, other  
38 than a school or educational institution, or purchased by a public or  
39 private nonprofit hospital or nonprofit blood, tissue or organ bank  
40 and used exclusively for state, political subdivision, hospital or non-  
41 profit blood, tissue or organ bank purposes, except when: (1) Such  
state or hospital is engaged or proposes to engage in any business  
specifically taxable under the provisions of this act and such items

1 of tangible personal property or service are used or proposed to be  
2 used in such business, or (2) such political subdivision is engaged  
or proposes to engage in the business of furnishing gas, water, elec-  
tricity or heat to others and such items of personal property or service  
5 are used or proposed to be used in such business;

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

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

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

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

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1 the project involved, and the contractor may purchase materials for  
2 incorporation in such project. The contractor shall furnish the num-  
3 ber of such certificates to all suppliers from whom such purchases  
4 are made, and such suppliers shall execute invoices covering the  
5 same bearing the number of such certificate. Upon completion of  
6 the project the contractor shall furnish to the government of the  
7 United States, its agencies or instrumentalities concerned a sworn  
8 statement, on a form to be provided by the director of taxation, that  
9 all purchases so made were entitled to exemption under this sub-  
10 section. All invoices shall be held by the contractor for a period of  
11 five years and shall be subject to audit by the director of taxation.  
12 Any contractor or any agent, employee or subcontractor thereof, who  
13 shall use or otherwise dispose of any materials purchased under such  
14 a certificate for any purpose other than that for which such a cer-  
15 tificate is issued without the payment of the sales or compensating  
16 tax otherwise imposed upon such materials, shall be guilty of a  
17 misdemeanor and, upon conviction therefor, shall be subject to the  
18 penalties provided for in subsection (g) of K.S.A. 79-3615, and  
19 amendments thereto;

20 (f) tangible personal property purchased by a railroad or public  
21 utility for consumption or movement directly and immediately in  
22 interstate commerce;

23 (g) sales of aircraft including remanufactured and modified air-  
24 craft, sales of aircraft repair, modification and replacement parts and  
25 sales of services employed in the remanufacture, modification and  
26 repair of aircraft sold to persons using such aircraft and aircraft repair,  
27 modification and replacement parts as certified or licensed carriers  
28 of persons or property in interstate or foreign commerce under au-  
29 thority of the laws of the United States or any foreign government  
30 or sold to any foreign government or agency or instrumentality of  
31 such foreign government and all sales of aircraft, aircraft parts, re-  
32 placement parts and services employed in the remanufacture, mod-  
33 ification and repair of aircraft for use outside of the United States;

34 (h) all rentals of nonsectarian textbooks by public or private el-  
35 ementary or secondary schools;

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

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

(k) any motor vehicle, semitrailer or pole trailer, as such terms

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

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

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

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

29 (o) all sales of animals, fowl and fish, the primary purpose of  
30 which is use in agriculture, the production of food for human con-  
31 sumption, the production of animal, dairy, poultry or fish products,  
32 fiber or fur, or the production of offspring for use for any such  
33 purpose or purposes;

34 (p) trade fixtures and equipment which are already installed and  
35 second-hand when sold by a person ceasing to do business where  
36 said fixtures or equipment is installed;

37 (q) all sales of drugs, as defined by K.S.A. 65-1626, and amend-  
38 ments thereto, dispensed pursuant to a prescription order, as defined  
39 by K.S.A. 65-1626, and amendments thereto, by a licensed  
40 practitioner;

41 (r) all sales of insulin dispensed by a person licensed by the state  
42 board of pharmacy to a person for treatment of diabetes at the  
direction of a person licensed to practice medicine by the board of

1 healing arts;

2 (s) all sales of prosthetic and orthopedic appliances prescribed in  
3 writing by a person licensed to practice the healing arts, dentistry  
4 or optometry. For the purposes of this subsection, the term pros-  
5 thetic and orthopedic appliances means any apparatus, instrument,  
6 device, or equipment used to replace or substitute for any missing  
7 part of the body; used to alleviate the malfunction of any part of  
8 the body; or used to assist any disabled person in leading a normal  
9 life by facilitating such person's mobility; but such term shall not  
10 include motor vehicles, accessories to be attached to motor vehicles  
11 or personal property which when installed becomes a fixture to real  
12 property;

13 (t) all sales of tangible personal property or services purchased  
14 directly by a groundwater management district organized or oper-  
15 ating under the authority of K.S.A. 82a-1020 *et seq.*, and amend-  
16 ments thereto, which property or services are used in the operation  
17 or maintenance of the district;

18 (u) all sales of farm machinery and equipment, repair and re-  
19 placement parts therefor and services performed in the repair and  
20 maintenance of such machinery and equipment. For the purposes  
21 of this subsection the term "farm machinery and equipment" shall  
22 not include any passenger vehicle, truck, truck tractor, trailer, semi-  
23 trailer or pole trailer, other than a farm trailer, as such terms are  
24 defined by K.S.A. 8-126 and amendments thereto. Each purchaser  
25 of farm machinery or equipment exempted herein must certify in  
26 writing on the copy of the invoice or sales ticket to be retained by  
27 the seller that the farm machinery or equipment purchased will be  
28 used only in farming or ranching. Farming or ranching shall include  
29 the operation of a feedlot and farm and ranch work for hire;

30 (v) all leases or rentals of tangible personal property used as a  
31 dwelling if such tangible personal property is leased or rented for  
32 a period of more than 28 consecutive days;

33 (w) all sales of food products to any contractor for use in preparing  
34 meals for delivery to homebound elderly persons over 60 years of  
35 age and to homebound disabled persons or to be served at a group-  
36 sitting at a location outside of the home to otherwise homebound  
37 elderly persons over 60 years of age and to otherwise homebound  
38 disabled persons, as all or part of any food service project funded  
39 in whole or in part by government or as part of a private nonprofit  
40 food service project available to all such elderly or disabled persons  
41 residing within an area of service designated by the private nonprofit  
42 organization, and all sales of food products for use in preparing meals  
43 for consumption by indigent or homeless individuals whether or not

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- 1 such meals are consumed at a place designated for such purpose;
- 2 (x) all sales of natural gas, electricity, heat and water delivered
- 3 through mains, lines or pipes to residential premises for noncom-
- 4 mercial use by the occupant of such premises and all sales of natural
- 5 gas, electricity, heat and water delivered through mains, lines or
- 6 pipes for agricultural use;
- 7 (y) all sales of propane gas, LP-gas, coal, wood and other fuel
- 8 sources for the production of heat or lighting for noncommercial use
- 9 of an occupant of residential premises;
- 10 (z) all sales of intrastate telephone and telegraph services for
- 11 noncommercial use except noncommercial intrastate long distance
- 12 telephone service;
- 13 (aa) all sales of materials and services used in the repairing,
- 14 servicing, altering, maintaining, manufacturing, remanufacturing, or
- 15 modification of railroad rolling stock for use in interstate or foreign
- 16 commerce under authority of the laws of the United States;
- 17 (bb) all sales of tangible personal property and services purchased
- 18 directly by a port authority or by a contractor therefor as provided
- 19 by the provisions of K.S.A. 12-3418, and amendments thereto;
- 20 (cc) all sales of materials and services applied to equipment which
- 21 is transported into the state from without the state for repair, service,
- 22 alteration, maintenance, remanufacture or modification and which is
- 23 subsequently transported outside the state for use in the transmission
- 24 of liquids or natural gas by means of pipeline in interstate or foreign
- 25 commerce under authority of the laws of the United States;
- 26 (dd) all sales of used mobile homes or manufactured homes. As
- 27 used in this subsection: (1) "Mobile homes" and "manufactured
- 28 homes" shall have the meanings ascribed thereto by K.S.A. 1991
- 29 Supp. 58-4202, and amendments thereto; and (2) "sales of used
- 30 mobile homes or manufactured homes" means sales other than the
- 31 original retail sale thereof;
- 32 (ee) all sales of tangible personal property or services purchased
- 33 for the purpose of and in conjunction with constructing, recon-
- 34 structing, enlarging or remodeling a **qualified business facility lo-**
- 35 **eated within an enterprise zone, which will qualify for an**
- 36 **income tax credit under K.S.A. 79-32,153 and amendments**
- 37 **thereto, or retail business which meets the requirements established**
- 38 **in section 3 and amendments thereto,** and the sale and installation
- 39 of machinery and equipment purchased for installation at *any* such
- 40 a *facility business or retail business*. When a person shall contract
- 41 for the construction, reconstruction, enlargement or remodeling of
- 42 any such *facility business or retail business*, such person shall obtain
- from the state and furnish to the contractor an exemption certificate

1 for the project involved, and the contractor may purchase materials,  
2 machinery and equipment for incorporation in such project. The  
3 contractor shall furnish the number of such certificates to all suppliers  
4 from whom such purchases are made, and such suppliers shall ex-  
5 ecute invoices covering the same bearing the number of such cer-  
6 tificate. Upon completion of the project the contractor shall furnish  
7 to the owner of the *qualified business facility or retail business* a  
8 sworn statement, on a form to be provided by the director of taxation,  
9 that all purchases so made were entitled to exemption under this  
10 subsection. All invoices shall be held by the contractor for a period  
11 of five years and shall be subject to audit by the director of taxation.  
12 Any contractor or any agent, employee or subcontractor thereof, who  
13 shall use or otherwise dispose of any materials, machinery or equip-  
14 ment purchased under such a certificate for any purpose other than  
15 that for which such a certificate is issued without the payment of  
16 the sales or compensating tax otherwise imposed thereon, shall be  
17 guilty of a misdemeanor and, upon conviction therefor, shall be  
18 subject to the penalties provided for in subsection (g) of K.S.A. 79-  
19 3615, and amendments thereto. ~~Notwithstanding the foregoing,~~  
20 ~~that portion of the sales tax paid on the sale of tangible personal~~  
21 ~~property which would have qualified for the exemption under~~  
22 ~~this subsection during calendar year 1987 except that an ex-~~  
23 ~~emption certificate for the purchase of such property was not~~  
24 ~~timely obtained shall be refunded. The claim for such refund~~  
25 ~~shall be verified and submitted to the director of taxation upon~~  
26 ~~forms furnished by the director and shall be accompanied by~~  
27 ~~any additional documentation required by the director. The~~  
28 ~~director shall review each claim and shall refund the amount~~  
29 ~~of the sales tax paid as determined under the provisions of this~~  
30 ~~subsection. All refunds shall be paid from the sales tax refund~~  
31 ~~fund upon warrants of the director of accounts and reports~~  
32 ~~pursuant to vouchers approved by the director or the director's~~  
33 ~~designee; as used in this subsection (ee), "business" and "retail~~  
34 ~~business" have the meanings respectively ascribed thereto by section~~  
35 ~~2 and amendments thereto;~~

36 (ff) all sales of tangible personal property purchased with food  
37 stamps issued by the United States department of agriculture;

38 (gg) all sales of lottery tickets and shares made as part of a lottery  
39 operated by the state of Kansas;

40 (hh) on and after July 1, 1988, all sales of new mobile homes or  
41 manufactured homes to the extent of 40% of the gross receipts,  
42 determined without regard to any trade-in allowance, received from  
such sale. As used in this subsection, "mobile homes" and "manu-

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1 factured homes" shall have the meanings ascribed thereto by K.S.A.  
1991 Supp. 58-4202, and amendments thereto;

2 (ii) all sales of tangible personal property purchased in accordance  
3 with vouchers issued pursuant to the federal special supplemental  
4 food program for women, infants and children;

5 (jj) all sales of medical supplies and equipment purchased directly  
6 by a nonprofit skilled nursing home or nonprofit intermediate nursing  
7 care home, as defined by K.S.A. 39-923, and amendments thereto,  
8 for the purpose of providing medical services to residents thereof.

9 This exemption shall not apply to tangible personal property cus-  
10 tomarily used for human habitation purposes;

11 (kk) all sales of tangible personal property purchased directly by  
12 a nonprofit organization for nonsectarian comprehensive multidiscip-  
13 line youth development programs and activities provided or spon-  
14 sored by such organization. This exemption shall not apply to tangible  
15 personal property customarily used for human habitation purposes;

16 (ll) all sales of tangible personal property or services, including  
17 the renting and leasing of tangible personal property, purchased  
18 directly on behalf of a community-based mental retardation facility  
19 or mental health center organized pursuant to K.S.A. 19-4001 *et*  
20 *seq.*, and amendments thereto, and licensed in accordance with the  
21 provisions of K.S.A. 75-3307b, and amendments thereto. This ex-  
22 emption shall not apply to tangible personal property customarily  
23 used for human habitation purposes;

24 (mm) on and after January 1, 1989, all sales of machinery and  
25 equipment used directly and primarily for the purposes of manu-  
26 facturing, assembling, processing, finishing, storing, warehousing or  
27 distributing articles of tangible personal property in this state in-  
28 tended for resale by a manufacturing or processing plant or facility  
29 or a storage, warehousing or distribution facility.

30 (1) For purposes of this subsection, machinery and equipment  
31 shall be deemed to be used directly and primarily in the manufac-  
32 ture, assemblage, processing, finishing, storing, warehousing or dis-  
33 tributing of tangible personal property where such machinery and  
34 equipment is used during a manufacturing, assembling, processing  
35 or finishing, storing, warehousing or distributing operation:

36 (A) To effect a direct and immediate physical change upon the  
37 tangible personal property;

38 (B) to guide or measure a direct and immediate physical change  
39 upon such property where such function is an integral and essential  
40 part of tuning, verifying or aligning the component parts of such  
41 property;

(C) to test or measure such property where such function is an

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- 1 integral part of the production flow or function;
- 2 (D) to transport, convey or handle such property during the
- 3 manufacturing, processing, storing, warehousing or distribution op-
- 4 eration at the plant or facility; or
- 5 (E) to place such property in the container, package or wrapping
- 6 in which such property is normally sold or transported.
- 7 (2) For purposes of this subsection "machinery and equipment
- 8 used directly and primarily" shall include, but not be limited to:
- 9 (A) Mechanical machines or major components thereof contrib-
- 10 uting to a manufacturing, assembling or finishing process;
- 11 (B) molds and dies that determine the physical characteristics of
- 12 the finished product or its packaging material;
- 13 (C) testing equipment to determine the quality of the finished
- 14 product;
- 15 (D) computers and related peripheral equipment that directly
- 16 control or measure the manufacturing process or which are utilized
- 17 for engineering of the finished product; and
- 18 (E) computers and related peripheral equipment utilized for re-
- 19 search and development and product design.
- 20 (3) "Machinery and equipment used directly and primarily" shall
- 21 not include:
- 22 (A) Hand tools;
- 23 (B) machinery, equipment and tools used in maintaining and
- 24 repairing any type of machinery and equipment;
- 25 (C) transportation equipment not used in the manufacturing, as-
- 26 sembling, processing, furnishing, storing, warehousing or distributing
- 27 process at the plant or facility;
- 28 (D) office machines and equipment including computers and re-
- 29 lated peripheral equipment not directly and primarily used in con-
- 30 trolling or measuring the manufacturing process;
- 31 (E) furniture and buildings; and
- 32 (F) machinery and equipment used in administrative, accounting,
- 33 sales or other such activities of the business;
- 34 (nn) all sales of educational materials purchased for distribution
- 35 to the public at no charge by a nonprofit corporation organized for
- 36 the purpose of encouraging, fostering and conducting programs for
- 37 the improvement of public health;
- 38 (oo) all sales of seeds and tree seedlings; fertilizers, insecticides,
- 39 herbicides, germicides, pesticides and fungicides; and services, pur-
- 40 chased and used for the purpose of producing plants in order to
- 41 prevent soil erosion on land devoted to agricultural use;
- (pp) except as otherwise provided in this act, all sales of services
- rendered by an advertising agency or licensed broadcast station or

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1 any member, agent or employee thereof;

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

5 (rr) all sales of drill bits and explosives actually utilized in the  
6 exploration and production of oil or gas;

7 (ss) all sales of tangible personal property and services purchased  
8 by a nonprofit museum or historical society or any combination  
9 thereof, including a nonprofit organization which is organized for the  
10 purpose of stimulating public interest in the exploration of space by  
11 providing educational information, exhibits and experiences, which  
12 is exempt from federal income taxation pursuant to section 501(c)(3)  
13 of the federal internal revenue code of 1986; and

14 (tt) all sales of tangible personal property which will admit the  
15 purchaser thereof to any annual event sponsored by a nonprofit  
16 organization which is exempt from federal income taxation pursuant  
17 to section 501(c)(3) of the federal internal revenue code of 1986.

18 Sec. 15. K.S.A. 79-3234 is hereby amended to read as follows:  
19 79-3234. (a) All reports and returns required by this act shall be  
20 preserved for three years and thereafter until the director orders  
21 them to be destroyed.

14

22 (b) Except in accordance with proper judicial order, or as pro-  
23 vided in subsection (c) or in K.S.A. 17-7511, subsection (g) of K.S.A.  
24 46-1106, K.S.A. 46-1114, or K.S.A. 79-32,153a, and amendments  
25 thereto, it shall be unlawful for the director, any deputy, agent,  
26 clerk or other officer, employee or former employee of the depart-  
27 ment of revenue or any other state officer or employee or former  
28 state officer or employee to divulge, or to make known in any way,  
29 the amount of income or any particulars set forth or disclosed in  
30 any report, return, federal return or federal return information re-  
31 quired under this act; and it shall be unlawful for the director, any  
32 deputy, agent, clerk or other officer or employee engaged in the  
33 administration of this act to engage in the business or profession of  
34 tax accounting or to accept employment, with or without consid-  
35 eration, from any person, firm or corporation for the purpose, directly  
36 or indirectly, of preparing tax returns or reports required by the  
37 laws of the state of Kansas, by any other state or by the United  
38 States government, or to accept any employment for the purpose of  
39 advising, preparing material or data, or the auditing of books or  
40 records to be used in an effort to defeat or cancel any tax or part  
41 thereof that has been assessed by the state of Kansas, any other  
state or by the United States government.

(c) Nothing herein shall be construed to prohibit the publication



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1 of statistics, so classified as to prevent the identification of particular  
2 reports or returns and the items thereof, or the inspection of returns  
3 by the attorney general or other legal representatives of the state.  
4 Nothing in this section shall prohibit the post auditor from access  
5 to all income tax reports or returns in accordance with and subject  
6 to the provisions of subsection (g) of K.S.A. 46-1106 or K.S.A. 46-  
7 1114, and amendments thereto. Nothing in this section shall be  
8 construed to prohibit the disclosure of the taxpayer's name, social  
9 security number, last known address and total tax liability, including  
10 penalty and interest, from income tax returns to a debt collection  
11 agency contracting with the secretary of revenue pursuant to K.S.A.  
12 75-5140 through 75-5143, and amendments thereto. *Nothing in this*  
13 *section shall be construed to prohibit the disclosure of job creation*  
14 *and investment information derived from tax schedules required to*  
15 *be filed under the Kansas income tax act to the secretary of com-*  
16 *merce.* Any person receiving any information under the provisions  
17 of this subsection shall be subject to the confidentiality provisions  
18 of subsection (b) and to the penalty provisions of subsection (d).

19 (d) Any violation of subsection (b) or (c) is a class B misdemeanor  
20 and, if the offender is an officer or employee of the state, such officer  
21 or employee shall be dismissed from office.

22 (e) Notwithstanding the provisions of this section, the secretary  
23 of revenue may permit the commissioner of internal revenue of the  
24 United States, or the proper official of any state imposing an income  
25 tax, or the authorized representative of either, to inspect the income  
26 tax returns made under this act and the secretary of revenue may  
27 make available or furnish to the taxing officials of any other state or  
28 the commissioner of internal revenue of the United States or other  
29 taxing officials of the federal government, or their authorized rep-  
30 resentatives, information contained in income tax reports or returns  
31 or any audit thereof or the report of any investigation made with  
32 respect thereto, filed pursuant to the income tax laws, as the sec-  
33 retary may consider proper, but such information shall not be used  
34 for any other purpose than that of the administration of tax laws of  
35 such state, the state of Kansas or of the United States.

36 (f) Notwithstanding the provisions of this section, the secretary  
37 of revenue may:

38 (1) Communicate to the executive director of the Kansas lottery  
39 information as to whether a person, partnership or corporation is  
40 current in the filing of all applicable tax returns and in the payment  
41 of all taxes, interest and penalties to the state of Kansas, excluding  
items under formal appeal, for the purpose of determining whether  
such person, partnership or corporation is eligible to be selected as

1 a lottery retailer; and

2 (2) communicate to the executive director of the Kansas racing  
3 commission as to whether a person, partnership or corporation has  
4 failed to meet any tax obligation to the state of Kansas for the purpose  
5 of determining whether such person, partnership or corporation is  
6 eligible for a facility owner license or facility manager license pur-  
7 suant to the Kansas parimutuel racing act.

8 Sec. 16 K.S.A. 12-1770, 12-1771, 12-17,107 through 12-17,113, 15  
9 79-3234, 79-32,153 and 79-32,153a and K.S.A. 1991 Supp. 79-3606  
10 are hereby repealed.

11 Sec. 17. This act shall take effect and be in force from and after 16  
12 its publication in the statute book.

3/26/92  
1-23



M E M O R A N D U M

To: Senate Economic Development Committee  
From: Mary Ellen Conlee  
Re: Substitute for HB 2681  
Date: March 26, 1992

\* \* \*

For several years accountants have been telling the small businesses that I represent that the job expansion income tax credit KSA 79-32,154 requiring a K-34 form was too much work for the dollars involved. I have finally sorted out why and believe that this is important information to share with you.

Yesterday Mark Burkhart explained how the \$350 per job was limited by the 50% cap. In addition, he referred to a limitation resulting from the "income attributable to the qualified business facility" language in KSA 79-32,154(g). This limitation has been carried over to Sub HB 2681 in New Section 8 on page 5, lines 23 - 27.

This limitation is not well understood by businesses or economic development professionals. I believe it is indefensible from an economic development point of view.

The language in KSA 79-32,154(g) limits "qualified business facility income" based on a formula that utilizes a payroll factor and a property value factor. For example, if a qualified business facility operated plants in Topeka and Lyons which provided equally to the business based on the formula, qualified business facility income would be 50% at each facility. This 50% limitation is then applied to the \$350 job credit reducing it to \$175 per employee. If the Lyons facility created a job under this scenario, they would only receive a \$175 income tax credit. The Department of Revenue further applies this

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methodology to each separate building, i.e. Plant A and Plant B at the same location, thereby reducing the job creation credit.

I confirmed yesterday in conversations with Jim Beebe of the Coleman Company that their tax credits have been reduced in this fashion for plants at the Wichita facility.

If it is your intent to give a \$1,000 or \$2,000 job creation income tax credit, then reference to KSA 79-32,154(g) must be deleted. A much less complicated methodology should be created to assure that the business meets the definition of a qualified business facility and creates the required jobs.