

CHAPTER 173

SENATE Substitute for HOUSE BILL No. 2375
(Amends Chapter 112)

AN ACT concerning taxation; amending K.S.A. 8-2411, 10-306, 79-332a, 79-1427a, 79-1439, 79-1459, 79-3458, 79-4216 and 79-5205 and K.S.A. 2003 Supp. 12-187, 12-198, 12-1770a, as amended by section 25 of 2004 House Bill No. 2647, 79-201b, 79-201c, 79-412, 79-2005, 79-3408, 79-3651 and 79-4217 and repealing the existing sections.

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

Section 1. On and after July 1, 2004, K.S.A. 8-2411 is hereby amended to read as follows: 8-2411. (a) When any licensee is found to be allegedly violating any of the applicable provisions of this act, or any order or rule and regulation adopted pursuant thereto, the director upon the director's own motion or upon complaint may commence a hearing against the licensee, which hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(b) Any person who is found to have violated any applicable provisions of this act, any rule and regulation adopted pursuant thereto or any applicable order of the director shall be subject to a civil penalty of not less than \$50 nor more than \$1,000 for each violation or such person's license may be suspended or revoked or both civil penalty and license suspension or revocation, *except that in addition to any civil penalty imposed pursuant to this subsection, the director shall suspend or revoke the license of any person who is found to have violated the provisions of K.S.A. 79-3601 et seq., and amendments thereto, by the failure to file returns and remit sales tax as required pursuant to K.S.A. 79-3607, and amendments thereto, or the provisions of K.S.A. 79-3294 et seq., and amendments thereto, by the failure to file returns and remit withholding tax as required pursuant to K.S.A. 79-3298, and amendments thereto, for three consecutive months.*

Sec. 2. On and after July 1, 2004, K.S.A. 10-306 is hereby amended to read as follows: 10-306. Except as provided in K.S.A. 10-307, and amendments thereto, and in any other statute which specifically exempts bonds from the statutory limitations on bonded indebtedness, the limitation on bonded indebtedness of counties shall be governed by the following provisions: ~~(a) The~~ *(a) Except as provided in subsection (b), the* authorized and outstanding bonded indebtedness of any county ~~to which the provisions of subsection (b) does not apply~~ shall not exceed 3% of the assessed value of all tangible taxable property within such county, as certified to the county clerk on the preceding August 25.

~~(b) The authorized and outstanding bonded indebtedness of Wyandotte county shall not exceed 30% of the assessed value of all tangible taxable property within such county, as certified to the county clerk on the preceding August 25.~~

(b) The authorized and outstanding bonded indebtedness of Wyandotte county shall not exceed 30% of the assessed value of all tangible taxable property within such county, as certified to the county clerk on the preceding August 25 and the authorized and outstanding bonded indebtedness of Franklin county shall not exceed 30% of the assessed value of all tangible taxable property within such county, as certified to the county clerk on the preceding August 25.

Sec. 3. On and after July 1, 2004, K.S.A. 2003 Supp. 12-187 is hereby amended to read as follows: 12-187. (a) (1) No city shall impose a retailers' sales tax under the provisions of this act without the governing body of such city having first submitted such proposition to and having received the approval of a majority of the electors of the city voting thereon at an election called and held therefor. The governing body of any city may submit the question of imposing a retailers' sales tax and the governing body shall be required to submit the question upon submission of a petition signed by electors of such city equal in number to not less than 10% of the electors of such city.

(2) The governing body of any class B city located in any county which does not impose a countywide retailers' sales tax pursuant to paragraph (5) of subsection (b) may submit the question of imposing a retailers' sales tax at the rate of .25%, .5%, .75% or 1% and pledging the revenue received therefrom for the purpose of financing the provision of health care services, as enumerated in the question, to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall

be deemed to be in addition to the rate limitations prescribed in K.S.A. 12-189, and amendments thereto. As used in this paragraph, health care services shall include but not be limited to the following: Local health departments, city, county or district hospitals, city or county nursing homes, preventive health care services including immunizations, prenatal care and the postponement of entry into nursing homes by home health care services, mental health services, indigent health care, physician or health care worker recruitment, health education, emergency medical services, rural health clinics, integration of health care services, home health services and rural health networks.

(b) (1) The board of county commissioners of any county may submit the question of imposing a countywide retailers' sales tax to the electors at an election called and held thereon, and any such board shall be required to submit the question upon submission of a petition signed by electors of such county equal in number to not less than 10% of the electors of such county who voted at the last preceding general election for the office of secretary of state, or upon receiving resolutions requesting such an election passed by not less than $\frac{2}{3}$ of the membership of the governing body of each of one or more cities within such county which contains a population of not less than 25% of the entire population of the county, or upon receiving resolutions requesting such an election passed by $\frac{2}{3}$ of the membership of the governing body of each of one or more taxing subdivisions within such county which levy not less than 25% of the property taxes levied by all taxing subdivisions within the county.

(2) The board of county commissioners of Anderson, Atchison, Barton, Butler, Chase, Cowley, Cherokee, Crawford, Ford, Jefferson, Lyon, Montgomery, Neosho, Osage, Ottawa, Riley, Saline, Seward, Sumner, Wabaunsee, Wilson and Wyandotte counties may submit the question of imposing a countywide retailers' sales tax and pledging the revenue received therefrom for the purpose of financing the construction or remodeling of a courthouse, jail, law enforcement center facility or other county administrative facility, to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire when sales tax sufficient to pay all of the costs incurred in the financing of such facility has been collected by retailers as determined by the secretary of revenue. Nothing in this paragraph shall be construed to allow the rate of tax imposed by Butler, Chase, Cowley, Lyon, Montgomery, Neosho, Riley, Sumner or Wilson county pursuant to this paragraph to exceed or be imposed at any rate other than the rates prescribed in K.S.A. 12-189, and amendments thereto.

(3) (A) Except as otherwise provided in this paragraph, the result of the election held on November 8, 1988, on the question submitted by the board of county commissioners of Jackson county for the purpose of increasing its countywide retailers' sales tax by 1% is hereby declared valid, and the revenue received therefrom by the county shall be expended solely for the purpose of financing the Banner Creek reservoir project. The tax imposed pursuant to this paragraph shall take effect on the effective date of this act and shall expire not later than five years after such date.

(B) The result of the election held on November 8, 1994, on the question submitted by the board of county commissioners of Ottawa county for the purpose of increasing its countywide retailers' sales tax by 1% is hereby declared valid, and the revenue received therefrom by the county shall be expended solely for the purpose of financing the erection, construction and furnishing of a law enforcement center and jail facility.

(4) The board of county commissioners of Finney and Ford counties may submit the question of imposing a countywide retailers' sales tax at the rate of .25% and pledging the revenue received therefrom for the purpose of financing all or any portion of the cost to be paid by Finney or Ford county for construction of highway projects identified as system enhancements under the provisions of paragraph (5) of subsection (b) of K.S.A. 68-2314, and amendments thereto, to the electors at an election called and held thereon. Such election shall be called and held in the manner provided by the general bond law. The tax imposed pursuant to this paragraph shall expire upon the payment of all costs authorized pursuant to this paragraph in the financing of such highway projects. Nothing in this paragraph shall be construed to allow the rate of tax imposed by Finney or Ford county pursuant to this paragraph to exceed the maximum rate prescribed in K.S.A. 12-189, and amendments thereto. If any funds

remain upon the payment of all costs authorized pursuant to this paragraph in the financing of such highway projects in Finney county, the state treasurer shall remit such funds to the treasurer of Finney county and upon receipt of such moneys shall be deposited to the credit of the county road and bridge fund. If any funds remain upon the payment of all costs authorized pursuant to this paragraph in the financing of such highway projects in Ford county, the state treasurer shall remit such funds to the treasurer of Ford county and upon receipt of such moneys shall be deposited to the credit of the county road and bridge fund.

(5) The board of county commissioners of any county may submit the question of imposing a retailers' sales tax at the rate of .25%, .5%, .75% or 1% and pledging the revenue received therefrom for the purpose of financing the provision of health care services, as enumerated in the question, to the electors at an election called and held thereon. Whenever any county imposes a tax pursuant to this paragraph, any tax imposed pursuant to paragraph (2) of subsection (a) by any city located in such county shall expire upon the effective date of the imposition of the countywide tax, and thereafter the state treasurer shall remit to each such city that portion of the countywide tax revenue collected by retailers within such city as certified by the director of taxation. The tax imposed pursuant to this paragraph shall be deemed to be in addition to the rate limitations prescribed in K.S.A. 12-189, and amendments thereto. As used in this paragraph, health care services shall include but not be limited to the following: Local health departments, city or county hospitals, city or county nursing homes, preventive health care services including immunizations, prenatal care and the postponement of entry into nursing homes by home care services, mental health services, indigent health care, physician or health care worker recruitment, health education, emergency medical services, rural health clinics, integration of health care services, home health services and rural health networks.

(6) The board of county commissioners of Allen county may submit the question of imposing a countywide retailers' sales tax at the rate of .5% and pledging the revenue received therefrom for the purpose of financing the costs of operation and construction of a solid waste disposal area or the modification of an existing landfill to comply with federal regulations to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon the payment of all costs incurred in the financing of the project undertaken. Nothing in this paragraph shall be construed to allow the rate of tax imposed by Allen county pursuant to this paragraph to exceed or be imposed at any rate other than the rates prescribed in K.S.A. 12-189 and amendments thereto.

(7) The board of county commissioners of Clay, Dickinson and Miami county may submit the question of imposing a countywide retailers' sales tax at the rate of .50% in the case of Clay and Dickinson county and at a rate of up to 1% in the case of Miami county, and pledging the revenue received therefrom for the purpose of financing the costs of roadway construction and improvement to the electors at an election called and held thereon. *Except as otherwise provided*, the tax imposed pursuant to this paragraph shall expire after five years from the date such tax is first collected. *The countywide retailers' sales tax imposed pursuant to this subsection in Clay county may be extended or reenacted for additional five-year periods upon the board of county commissioners of Clay county submitting such question to the electors at an election called and held thereon for each additional five-year period as provided by law.*

(8) The board of county commissioners of Sherman county may submit the question of imposing a countywide retailers' sales tax at the rate of .25%, .5% or .75% and pledging the revenue therefrom for the purpose of financing the costs of the county roads 64 and 65 construction and improvement project. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized pursuant to this paragraph in the financing of such project.

(9) The board of county commissioners of Cowley, Russell and Woodson county may submit the question of imposing a countywide retailers' sales tax at the rate of .5% in the case of Russell and Woodson county and at a rate of up to .25%, in the case of Cowley county and pledging the revenue received therefrom for the purpose of financing economic development initiatives or public infrastructure projects. The tax imposed pursuant to this paragraph shall expire after five years from

the date such tax is first collected.

(10) The board of county commissioners of Franklin county may submit the question of imposing a countywide retailers' sales tax at the rate of .25% and pledging the revenue received therefrom for the purpose of financing recreational facilities. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized in financing such facilities.

(11) The board of county commissioners of Douglas county may submit to the question of imposing a countywide retailers' sales tax at the rate of .25% and pledging the revenue received therefrom for the purposes of preservation, access and management of open space, and for industrial and business park related economic development.

(12) The board of county commissioners of Shawnee county may submit the question of imposing a countywide retailers' sales tax at the rate of .25% and pledging the revenue received therefrom to the city of Topeka for the purpose of financing the costs of rebuilding the Topeka boulevard bridge and other public infrastructure improvements associated with such project to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized in financing such project.

(13) The board of county commissioners of Jackson county may submit the question of imposing a countywide retailers' sales tax at a rate of .4% and pledging the revenue received therefrom as follows: 50% of such revenues for the purpose of financing for economic development initiatives; and 50% of such revenues for the purpose of financing public infrastructure projects to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire after seven years from the date such tax is first collected.

(c) The boards of county commissioners of any two or more contiguous counties, upon adoption of a joint resolution by such boards, may submit the question of imposing a retailers' sales tax within such counties to the electors of such counties at an election called and held thereon and such boards of any two or more contiguous counties shall be required to submit such question upon submission of a petition in each of such counties, signed by a number of electors of each of such counties where submitted equal in number to not less than 10% of the electors of each of such counties who voted at the last preceding general election for the office of secretary of state, or upon receiving resolutions requesting such an election passed by not less than $\frac{2}{3}$ of the membership of the governing body of each of one or more cities within each of such counties which contains a population of not less than 25% of the entire population of each of such counties, or upon receiving resolutions requesting such an election passed by $\frac{2}{3}$ of the membership of the governing body of each of one or more taxing subdivisions within each of such counties which levy not less than 25% of the property taxes levied by all taxing subdivisions within each of such counties.

(d) Any city retailers' sales tax in the amount of .5% being levied by a city on July 1, 1990, shall continue in effect until repealed in the manner provided herein for the adoption and approval of such tax or until repealed by the adoption of an ordinance so providing. In addition to any city retailers' sales tax being levied by a city on July 1, 1990, any such city may adopt an additional city retailers' sales tax in the amount of .25% or .5%, provided that such additional tax is adopted and approved in the manner provided for the adoption and approval of a city retailers' sales tax. Any countywide retailers' sales tax in the amount of .5% or 1% in effect on July 1, 1990, shall continue in effect until repealed in the manner provided herein for the adoption and approval of such tax.

(e) A class D city shall have the same power to levy and collect a city retailers' sales tax that a class A city is authorized to levy and collect and in addition, the governing body of any class D city may submit the question of imposing an additional city retailers' sales tax in the amount of .125%, .25%, .5% or .75% and pledging the revenue received therefrom for economic development initiatives, strategic planning initiatives or for public infrastructure projects including buildings to the electors at an election called and held thereon. Any additional sales tax imposed pursuant to this paragraph shall expire no later than five years from the date of imposition thereof, except that any such tax imposed by any class D city after the effective date of this act shall expire no later than 10 years from the date of imposition thereof.

(f) Any city or county proposing to adopt a retailers' sales tax shall give notice of its intention to submit such proposition for approval by the electors in the manner required by K.S.A. 10-120, and amendments thereto. The notices shall state the time of the election and the rate and effective date of the proposed tax. If a majority of the electors voting thereon at such election fail to approve the proposition, such proposition may be resubmitted under the conditions and in the manner provided in this act for submission of the proposition. If a majority of the electors voting thereon at such election shall approve the levying of such tax, the governing body of any such city or county shall provide by ordinance or resolution, as the case may be, for the levy of the tax. Any repeal of such tax or any reduction or increase in the rate thereof, within the limits prescribed by K.S.A. 12-189, and amendments thereto, shall be accomplished in the manner provided herein for the adoption and approval of such tax except that the repeal of any such city retailers' sales tax may be accomplished by the adoption of an ordinance so providing.

(g) The sufficiency of the number of signers of any petition filed under this section shall be determined by the county election officer. Every election held under this act shall be conducted by the county election officer.

(h) The governing body of the city or county proposing to levy any retailers' sales tax shall specify the purpose or purposes for which the revenue would be used, and a statement generally describing such purpose or purposes shall be included as a part of the ballot proposition.

Sec. 4. K.S.A. 2003 Supp. 12-198 is hereby amended to read as follows: 12-198. (a) A compensating use tax for the privilege of using or storing within a city or county any tangible personal property or any vehicle which is required to be registered under the provisions of article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, or any vessel, as defined by K.S.A. 82a-802, and amendments thereto, is hereby imposed by every city, county or municipal university imposing a retailers' sales tax. The rate of any such tax shall be fixed at the same rate as such city's, county's or university's retailers' sales tax. Any city, county or municipal university imposing a compensating use tax is prohibited from administering or collecting such tax locally, but shall utilize the services of the state department of revenue to administer, enforce and collect such tax. Such tax shall be identical in its application and exemptions therefrom to the Kansas compensating tax, and all laws and rules and regulations of the state department of revenue relating to the Kansas compensating tax shall apply to such local compensating use tax insofar as the same may be made applicable. *If any contractor has entered into a written, binding contract prior to July 1, 2003, for the construction, reconstruction, restoration, replacement, repair, equipment or improvement of a bridge or highway, street, road, alley, sewer, sewage system, water line, water system or other related improvement, and such contract includes the furnishing to or by the contractor of tangible personal property which is to become part of the completed improvement subject to the tax imposed by this section, and which would have been exempt from taxation pursuant to this section prior to its enactment effective on July 1, 2003, such furnishing of tangible personal property shall continue to be exempt from taxation pursuant to this section, if the contractor gives notice and proof of such contract to the director of taxation on or before July 10, 2004. Such notice and proof shall be in such form and of such sufficiency as the director prescribes.*

(b) The secretary of revenue is authorized to administer, enforce and collect a city's, county's or municipal university's compensating use tax and to adopt such rules and regulations necessary for the efficient and effective administration, enforcement and collection thereof. The state director of taxation shall cause such taxes to be collected within the boundaries of such taxing subdivision at the same time and in the same manner provided for the collection of the state compensating use tax. All moneys collected by the director of taxation pursuant to the provisions of this section shall be credited to the city and county compensating use tax fund or to the municipal university compensating use tax fund, which funds are hereby established in the state treasury. Any refund due on any city's, county's municipal university's compensating use tax collected pursuant to this section shall be paid out of the sales tax refund fund and reimbursement to such fund shall be made by the director of taxation from collections of local compensating use tax revenue. All moneys col-

lected pursuant to this section for a city or county shall be remitted at least quarterly by the state treasurer to the treasurer of such city, county or university.

(c) All revenue received by any county treasurer from a countywide compensating use tax shall be apportioned among the county and each city located in such county in the same manner as provided in K.S.A. 12-192, and amendments thereto, for the apportionment of revenue received from a countywide retailers' sales tax.

Sec. 5. On and after July 1, 2004, K.S.A. 2003 Supp. 12-1770a, as amended by section 25 of 2004 House Bill No. 2647, is hereby amended to read as follows: 12-1770a. As used in the bioscience development act, and amendments thereto, the following words and phrases shall have the following meanings unless a different meaning clearly appears from the content:

(a) "Auto race track facility" means: (1) An auto race track facility and facilities directly related and necessary to the operation of an auto race track facility, including, but not limited to, grandstands, suites and viewing areas, concessions, souvenir facilities, catering facilities, visitor and retail centers, signage and temporary hospitality facilities, but excluding (2) hotels, motels, restaurants and retail facilities, not directly related to or necessary to the operation of such facility.

(b) "Base year assessed valuation" means the assessed valuation of all real property within the boundaries of a redevelopment district on the date the redevelopment district was established.

(c) "Blighted area" means an area which:

(1) Because of the presence of a majority of the following factors, substantially impairs or arrests the development and growth of the municipality or constitutes an economic or social liability or is a menace to the public health, safety, morals or welfare in its present condition and use:

- (A) A substantial number of deteriorated or deteriorating structures;
- (B) predominance of defective or inadequate street layout;
- (C) unsanitary or unsafe conditions;
- (D) deterioration of site improvements;
- (E) tax or special assessment delinquency exceeding the fair market value of the real property;

(F) defective or unusual conditions of title including but not limited to cloudy or defective titles, multiple or unknown ownership interests to the property;

(G) improper subdivision or obsolete platting or land uses;

(H) the existence of conditions which endanger life or property by fire or other causes; or

(I) conditions which create economic obsolescence; or

(2) has been identified by any state or federal environmental agency as being environmentally contaminated to an extent that requires a remedial investigation; feasibility study and remediation or other similar state or federal action; or

(3) previously was found by resolution of the governing body to be a slum or a blighted area under K.S.A. 17-4742 *et seq.*, and amendments thereto.

(d) "Conservation area" means any improved area comprising 15% or less of the land area within the corporate limits of a city in which 50% or more of the structures in the area have an age of 35 years or more, which area is not yet blighted, but may become a blighted area due to the existence of a combination of two or more of the following factors:

(1) Dilapidation, obsolescence or deterioration of the structures;

(2) illegal use of individual structures;

(3) the presence of structures below minimum code standards;

(4) building abandonment;

(5) excessive vacancies;

(6) overcrowding of structures and community facilities; or

(7) inadequate utilities and infrastructure.

(e) "De minimus" means an amount less than 15% of the land area within a redevelopment district.

(f) "Developer" means any person, firm, corporation, partnership or limited liability company, other than a city and other than an agency, political subdivision or instrumentality of the state or a county when relating to a bioscience development district.

(g) "Eligible area" means a blighted area, conservation area, enter-

prise zone, historic theater, major tourism area or a major commercial entertainment and tourism area or bioscience development area as determined by the secretary.

(h) "Enterprise zone" means an area within a city that was designated as an enterprise zone prior to July 1, 1992, pursuant to K.S.A. 12-17,107 through 12-17,113, and amendments thereto, prior to its repeal and the conservation, development or redevelopment of the area is necessary to promote the general and economic welfare of such city.

(i) "Environmental increment" means the increment determined pursuant to subsection (b) of K.S.A. 12-1771a, and amendments thereto.

(j) "Environmentally contaminated area" means an area of land having contaminated groundwater or soil which is deemed environmentally contaminated by the department of health and environment or the United States environmental protection agency.

(k) "Feasibility study" means a study which shows whether a redevelopment project's, special bond project's or bioscience development project's benefits and tax increment revenue and other available revenues under K.S.A. 12-1774 (a)(1), and amendments thereto, are expected to exceed or be sufficient to pay for the redevelopment or special bond or bioscience development project costs and the effect, if any, the redevelopment project costs or special bond project will have on any outstanding special obligation bonds as authorized pursuant to subsection (a)(1)(D) of K.S.A. 12-1774, and amendments thereto.

(l) "Historic theater" means a building constructed prior to 1940 which was constructed for the purpose of staging entertainment, including motion pictures, vaudeville shows or operas, that is operated by a nonprofit corporation and is designated by the state historic preservation officer as eligible to be on the Kansas register of historic places or is a member of the Kansas historic theatre association.

(m) "Historic theater sales tax increment" means the amount of state and local sales tax revenue imposed pursuant to K.S.A. 12-187 *et seq.*, 79-3601 *et seq.* and 79-3701 *et seq.*, and amendments thereto, collected from taxpayers doing business within the historic theater that is in excess of the amount of such taxes collected prior to the designation of the building as a historic theater for purposes of this act.

(n) "Major tourism area" means an area for which the secretary has made a finding the capital improvements costing not less than \$100,000,000 will be built in the state to construct an auto race track facility.

(o) "Real property taxes" means all taxes levied on an ad valorem basis upon land and improvements thereon, except that when relating to a bioscience development district, as defined in this section, "real property taxes" does not include property taxes levied for schools, pursuant to K.S.A. 72-6431, and amendments thereto.

(p) "Redevelopment project area" or "project area" means an area designated by a city within a redevelopment district.

(q) "Redevelopment project costs" means those costs necessary to implement a redevelopment plan or a bioscience development project plan, including, but not limited to costs incurred for:

- (1) Acquisition of property within the redevelopment project area;
- (2) payment of relocation assistance;
- (3) site preparation including utility relocations;
- (4) sanitary and storm sewers and lift stations;
- (5) drainage conduits, channels, levees and river walk canal facilities;
- (6) street grading, paving, graveling, macadamizing, curbing, guttering and surfacing;
- (7) street light fixtures, connection and facilities;
- (8) underground gas, water, heating and electrical services and connections located within the public right-of-way;
- (9) sidewalks and pedestrian underpasses or overpasses;
- (10) drives and driveway approaches located within the public right-of-way;
- (11) water mains and extensions;
- (12) plazas and arcades;
- (13) parking facilities;
- (14) landscaping and plantings, fountains, shelters, benches, sculptures, lighting, decorations and similar amenities; and
- (15) all related expenses to redevelop and finance the redevelopment project.

Redevelopment project costs shall not include costs incurred in connection with the construction of buildings or other structures to be owned by or leased to a developer, however, the “redevelopment project costs” shall include costs incurred in connection with the construction of buildings or other structures to be owned or leased to a developer which includes an auto race track facility or is in a redevelopment district including some or all of the land and buildings comprising a state mental institution closed pursuant to section 2 of chapter 219 of the 1995 Session Laws of Kansas.

(r) “Redevelopment district” means the specific area declared to be an eligible area in which the city may develop one or more redevelopment projects.

(s) “Redevelopment district plan” or “district plan” means the preliminary plan that identifies all of the proposed redevelopment project areas and identifies in a general manner all of the buildings, facilities and improvements in each that are proposed to be constructed or improved in each redevelopment project area.

(t) “Redevelopment project” means the approved project to implement a project plan for the development of the established redevelopment district.

(u) “Redevelopment project plan” or “project plan” means the plan adopted by a municipality for the development of a redevelopment project or projects which conforms with K.S.A. 12-1772, and amendments thereto, in a redevelopment district.

(v) “Secretary” means the secretary of commerce.

(w) “Substantial change” means, as applicable, a change wherein the proposed plan or plans differ substantially from the intended purpose for which the district plan or project plan was approved.

(x) “Tax increment” means that amount of real property taxes collected from real property located within the redevelopment district that is in excess of the amount of real property taxes which is collected from the base year assessed valuation.

(y) “Taxing subdivision” means the county, city, unified school district and any other taxing subdivision levying real property taxes, the territory or jurisdiction of which includes any currently existing or subsequently created redevelopment district including a bioscience development district.

(z) “Special bond project” means a redevelopment project with at least a \$50,000,000 capital investment and \$50,000,000 in projected gross annual sales revenues or for areas outside of metropolitan statistical areas, as defined by the federal office of management and budget the secretary finds the project meets the requirements of subsection (g) and would be of regional or statewide importance, but a “special bond project” shall not include a project for a gambling casino.

(aa) “Marketing study” means a study conducted to examine the impact of the redevelopment project or special bond project upon similar businesses in the projected market area.

(bb) “Projected market area” means any area within the state in which the redevelopment project or special bond project is projected to have a substantial fiscal or market impact upon businesses in such area.

(cc) “River walk canal facilities” means a canal and related water features located adjacent to a river which flows through a major commercial entertainment and tourism area and facilities related or contiguous thereto, including, but not limited to pedestrian walkways and promenades, landscaping and parking facilities.

(dd) “Commence work” means the manifest commencement of actual operations on the development site, such as, erecting a building, excavating the ground to lay a foundation or a basement or work of like description which a person with reasonable diligence can see and recognize as being done with the intention and purpose to continue work until the project is completed.

(ee) “Major commercial entertainment and tourism area” may include, but not be limited to, a major multi-sport athletic complex.

(ff) “Major multi-sport athletic complex” means an athletic complex that is utilized for the training of athletes, the practice of athletic teams, the playing of athletic games or the hosting of events. Such project may include playing fields, parking lots and other developments.

(gg) “Bioscience” means the use of compositions, methods and organisms in cellular and molecular research, development and manufac-

turing processes for such diverse areas as pharmaceuticals, medical therapeutics, medical diagnostics, medical devices, medical instruments, biochemistry, microbiology, veterinary medicine, plant biology, agriculture, industrial environmental and homeland security applications of bioscience and future developments in the biosciences. Bioscience includes biotechnology and life sciences.

(hh) "Bioscience development area" means an area that:

(1) Is or shall be owned, operated, or leased by, or otherwise under the control of the Kansas bioscience authority;

(2) is or shall be used and maintained by a bioscience company; or

(3) includes a bioscience facility.

(ii) "Bioscience development district" means the specific area, created under K.S.A. 12-1771, and amendments thereto, where one or more bioscience development projects may be undertaken.

(jj) "Bioscience development project" means an approved project to implement a project plan in a bioscience development district.

(kk) "Bioscience development project plan" or "project plan" means the plan adopted by the authority for a bioscience development project pursuant to K.S.A. 12-1772, and amendments thereto, in a bioscience development district.

(ll) "Bioscience facility" means real property and all improvements thereof used to conduct bioscience research, including, without limitation, laboratory space, incubator space, office space and any and all facilities directly related and necessary to the operation of a bioscience facility.

(mm) "Bioscience project area" or "project area" means an area designated by the authority within a bioscience development district.

(nn) "Biotechnology" means those fields focusing on technological developments in such area as molecular biology, genetic engineering, genomics, proteomics, physiomics, nanotechnology, biodefense, biocomputing, bioinformatics and future developments associated with biotechnology.

(oo) "Board" means the board of directors of the Kansas bioscience authority.

(pp) "Life sciences" means the areas of medical sciences, pharmaceutical sciences, biological sciences, zoology, botany, horticulture, ecology, toxicology, organic chemistry, physical chemistry, physiology and any future advances associated with life sciences.

(qq) "Revenue increase" means that amount of real property taxes collected from real property located within the bioscience development district that is in excess of the amount of real property taxes which is collected from the base year assessed valuation.

(rr) "Taxpayer" means a person, corporation, limited liability company, S corporation, partnership, registered limited liability partnership, foundation, association, nonprofit entity, sole proprietorship, business trust, group or other entity that is subject to the Kansas income tax act, K.S.A. 79-3201 *et seq.*, and amendments thereto.

(ss) "*Flood-plain increment*" means the increment determined pursuant to subsection (b) of section 20, and amendments thereto.

(tt) "*100-year flood-plain area*" means an area of land existing in a 100-year flood-plain as determined by either an engineering study of a Kansas certified engineer or by the United States federal emergency management agency.

Sec. 6. On and after July 1, 2004, K.S.A. 2003 Supp. 79-201b is hereby amended to read as follows: 79-201b. The following described property, to the extent herein specified, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

First. All real property, and tangible personal property, actually and regularly used exclusively for hospital purposes by a hospital as the same is defined by K.S.A. 65-425, and amendments thereto, or a psychiatric hospital as the same was defined by K.S.A. 59-2902, and amendments thereto, as in effect on January 1, 1976, which hospital or psychiatric hospital is operated by a corporation organized not for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign, not-for-profit corporation, or a public hospital authority; and all intangible property including moneys, notes and other evidences of debt, and the income therefrom, belonging exclusively to

such a corporation and used exclusively for hospital, psychiatric hospital or public hospital authority purposes. This exemption shall not be deemed inapplicable to property which would otherwise be exempt pursuant to this paragraph because any such hospital, psychiatric hospital or public hospital authority: (a) Uses such property for a nonexempt purpose which is minimal in scope and insubstantial in nature if such use is incidental to the exempt purpose enumerated in this paragraph; or (b) is reimbursed for the actual expense of using such property for the exempt purposes enumerated in this paragraph or paragraph second of K.S.A. 79-201, and amendments thereto; or (c) permits the use of such property for the exempt purposes enumerated in this paragraph or paragraph second of K.S.A. 79-201, and amendments thereto, by more than one agency or organization for one or more of such purposes.

Second. All real property, and tangible personal property, actually and regularly used exclusively for adult care home purposes by an adult care home as the same is defined by K.S.A. 39-923, and amendments thereto, which is operated by a corporation organized not for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign, not-for-profit corporation, charges to residents for services of which produce an amount which in the aggregate is less than the actual cost of operation of the home or the services of which are provided to residents at the lowest feasible cost, taking into consideration such items as reasonable depreciation, interest on indebtedness, acquisition costs, interest and other expenses of financing acquisition costs, lease expenses and costs of services provided by a parent corporation at its costs and contributions to which are deductible under the Kansas income tax act; and all intangible property including moneys, notes and other evidences of debt, and the income therefrom, belonging exclusively to such corporation and used exclusively for adult care home purposes. For purposes of this paragraph and for all taxable years commencing after December 31, 1976, an adult care home which uses its property in a manner which is consistent with the federal internal revenue service ruling 72-124 issued pursuant to section 501(c)(3) of the federal internal revenue code, shall be deemed to be operating at the lowest feasible cost. The fact that real property or real or tangible personal property may be leased from a not-for-profit corporation, which is exempt from federal income taxation pursuant to section 501(c)(3) of the internal revenue code of 1986, and amendments thereto, and which is the parent corporation to the not-for-profit operator of an adult care home, shall not be grounds to deny exemption or deny that such property is actually and regularly used exclusively for adult care home purposes by an adult care home, nor shall the terms of any such lease be grounds for any such denial. For all taxable years commencing after December 31, 1995, such property shall be deemed to be used exclusively for adult care home purposes when used as a not-for-profit day care center for children which is licensed pursuant to K.S.A. 65-501 *et seq.*, and amendments thereto.

Third. All real property, and tangible personal property, actually and regularly used exclusively for private children's home purposes by a private children's home as the same is defined by K.S.A. 75-3329, and amendments thereto, which is operated by a corporation organized not for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign, not-for-profit corporation, charges to residents for services of which produce an amount which in the aggregate is less than the actual cost of operation of the home or the services of which are provided to residents at the lowest feasible cost, taking into consideration such items as reasonable depreciation and interest on indebtedness, and contributions to which are deductible under the Kansas income tax act; and all intangible property including moneys, notes and other evidences of debt, and the income therefrom, belonging exclusively to such a corporation and used exclusively for children's home purposes.

Fourth. All real property and tangible personal property, actually and regularly used exclusively for housing for elderly and handicapped persons having a limited or lower income, or used exclusively for cooperative housing for persons having a limited or low income, assistance for the financing of which was received under 12 U.S.C.A. 1701 *et seq.*, or under 42 U.S.C.A. 1437 *et seq.*, which is operated by a corporation organized

not for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign, not-for-profit corporation; and all intangible property including moneys, notes and other evidences of debt, and the income therefrom, belonging exclusively to such a corporation and used exclusively for the purposes of such housing. For the purposes of this subsection, cooperative housing ~~shall mean~~ *means* those not-for-profit cooperative housing projects operating *or established* pursuant to sections 236 or 221(d)(3), or both, of the national housing act and which have been approved as a cooperative housing project pursuant to applicable federal housing administration and U.S. Department of Housing and Urban Development statutes, and rules and regulations, during such time as the use of such properties are: (1) Restricted pursuant to such act, ~~statutes~~ *or rules and regulations thereof*; or (2) *subject to affordability financing standards established pursuant to the national housing act during such time that such not-for-profit corporation has adopted articles of incorporation or by-laws, or both, requiring such corporation to continue to operate in compliance with the United States department of housing and urban development affordability income guidelines established pursuant to sections 236 or 221(d)(3) of the national housing act or rules and regulations thereof.*

Fifth. All real property and tangible personal property, actually and regularly used exclusively for housing for elderly persons, which is operated by a corporation organized not for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign, not-for-profit corporation, in which charges to residents produce an amount which in the aggregate is less than the actual cost of operation of the housing facility or the services of which are provided to residents at the lowest feasible cost, taking into consideration such items as reasonable depreciation and interest on indebtedness and contributions to which are deductible under the Kansas income tax act; and all intangible property including moneys, notes and other evidences of debt, and the income therefrom, belonging exclusively to such corporation and used exclusively for the purpose of such housing. For purposes of this paragraph and for all taxable years commencing after December 31, 1976, an adult care home which uses its property in a manner which is consistent with the federal internal revenue service ruling 72-124 issued pursuant to section 501(c)(3) of the federal internal revenue code, shall be deemed to be operating at the lowest feasible cost. For all taxable years commencing after December 31, 1995, such property shall be deemed to be used exclusively for housing for elderly persons purposes when used as a not-for-profit day care center for children which is licensed pursuant to K.S.A. 65-501 *et seq.*, and amendments thereto.

Sixth. All real property and tangible personal property actually and regularly used exclusively for the purpose of group housing of mentally ill or retarded and other handicapped persons which is operated by a corporation organized not for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign, not-for-profit corporation, in which charges to residents produce an amount which in the aggregate is less than the actual cost of operation of the housing facility or the services of which are provided to residents at the lowest feasible cost, taking into consideration such items as reasonable depreciation and interest on indebtedness and contributions to which are deductible under the Kansas income tax act, and which is licensed as a facility for the housing of mentally ill or retarded and other handicapped persons under the provisions of K.S.A. 75-3307b, and amendments thereto, or as a rooming or boarding house used as a facility for the housing of mentally retarded and other handicapped persons which is licensed as a lodging establishment under the provisions of K.S.A. 36-501 *et seq.*, and amendments thereto.

The provisions of this section, except as otherwise specifically provided, shall apply to all taxable years commencing after December 31, 1998.

Sec. 7. On and after July 1, 2004, K.S.A. 2003 Supp. 79-201c is hereby amended to read as follows: 79-201c. The following described property, to the extent herein specified, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

First. The wearing apparel of every person.

Second. All household goods and personal effects not used for the production of income. The terms household goods and personal effects when used in this act, except as otherwise specifically provided, shall include all items of furniture, cooking utensils, refrigerators, deep freezers, washing and drying machines, dishwashers, stoves, ranges, ironers, vacuum cleaners, sewing machines, radios, record players, television sets, shop and hobby equipment used in or about the home, fishing equipment (not including boats), bicycles, yard and garden equipment, firearms, golf clubs, photographic equipment, jewelry, luggage, musical instruments, air conditioners if not a part of the central heating and air conditioning system, sailboards and pick-up truck shells. For the purposes of this paragraph, household goods and personal effects shall not be deemed to be used for the production of income when used in the home for day care home purposes if such home has been registered or licensed pursuant to K.S.A. 65-501 *et seq.*, and amendments thereto, *or when used in the home for bed and breakfast home purposes as defined in K.S.A. 79-1439, and amendments thereto.*

Third. All lands used exclusively as graveyards.

The provisions of this section shall apply to all taxable years commencing after December 31, ~~1998~~ 2003.

Sec. 8. K.S.A. 79-332a is hereby amended to read as follows: 79-332a. (a) Any person, corporation or association owning oil and gas leases or engaged in operating for oil or gas who fails to make and file a statement of assessment on or before April 1 shall be subject to a penalty as follows:

(1) The appraiser shall, after having ascertained the assessed value of the property of such taxpayer, add 5% thereto as a penalty for late filing if the failure is not for more than one month, with an additional 5% for each additional month or fraction thereof during which such failure continues, not exceeding 25% in the aggregate.

(2) If the statement of assessment is filed more than one year from April 1, the appraiser shall, after having ascertained the assessed value of the property of such taxpayer, add 50% thereto as a penalty for late filing. *The county treasurer may not distribute any taxes assessed under this section and paid under protest by the taxpayer pursuant to K.S.A. 79-2005, and amendments thereto, until such time as the appeal is final.*

(b) For good cause shown the county appraiser may extend the time in which to make and file such statement. Such request for extension of time shall be in writing and shall be received by the county appraiser prior to the due date of the statement of assessment.

(c) Whenever any person, corporation or association owning oil and gas leases or engaged in operating for oil or gas shall fail to make and deliver to the county appraiser of every county wherein the property to be assessed is located, a full and complete statement of assessment relative to such property as required by blank forms prepared or approved for the purpose by the director of property valuation to elicit the information necessary to fix the valuation of the property, the appraiser shall ascertain the assessed value of the property of such taxpayer, and shall add 50% thereto as a penalty for failing to file such statement.

(d) The board of tax appeals shall have the authority to abate any penalty imposed under the provisions of this section and order the refund of the abated penalty, whenever excusable neglect on the part of the person, corporation or association required to make and file the statement of assessment is shown, or whenever the property for which a statement of assessment was not filed as required by law is repossessed, judicially or otherwise, by a secured creditor and such secured creditor pays the taxes and interest due.

Sec. 9. On and after July 1, 2004, K.S.A. 2003 Supp. 79-412 is hereby amended to read as follows: 79-412. It shall be the duty of the county or district appraiser to value the land and improvements, ~~but~~. The value of the land and improvements shall be entered on the assessment roll in a single aggregate, except as hereinafter provided. Improvements owned by entities other than the owner of the land shall be assessed to the owners of such improvements, if the lease agreement has been recorded or filed in the office of the register of deeds. *The words "building on leased ground" shall appear on the first page of the lease agreement. It shall be the responsibility of the person recording or filing the lease agreement to include such words as provided in this section. Failure to include such*

words as provided in this section may result in such improvements being assessed to the owner of the land. As used in this section, the term "person" means any individual, business, domestic or foreign corporation, partnership or association. Delinquent taxes imposed on such improvements may be collected by levy and sale of the interests of such owners the same as in cases of the collection of taxes on personal property.

Sec. 10. K.S.A. 79-1427a is hereby amended to read as follows: 79-1427a. (a) If, the county appraiser discovers, after the tax roll has been certified to the county clerk, that any tangible personal property subject to taxation has been omitted from the tax rolls, the county clerk shall place such property on the tax roll as an added tax, or if, after one year from the date prescribed by K.S.A. 79-306, and amendments thereto, for the listing of tangible personal property, the county appraiser discovers that any tangible personal property which was subject to taxation in any year or years within two years next preceding January 1 of the calendar year in which it was discovered has not been listed or has been underreported for whatever reason, such property shall be deemed to have escaped taxation. In the case of property which has not been listed, it shall be the duty of the county appraiser to list and appraise such property and, for an added tax, add penalties as prescribed in K.S.A. 79-1422, and amendments thereto, and which shall be designated on the appraisal roll as an added appraisal for that year. In the case of property which has escaped taxation, it shall be the duty of the county appraiser to list and appraise such property and add 50% thereto as a penalty for escaping taxation for each such year during which such property was not listed, and it shall be designated on the appraisal roll as "escaped appraisal" for each such preceding year or years. In the case of property which has been listed but underreported, it shall be the duty of the county appraiser to list and appraise the underreported portion of such property and add 50% thereto as a penalty for escaping taxation for each such year during which such property was underreported, and it shall be designated on the appraisal roll as "escaped appraisal" for each such preceding year or years. The county clerk, upon receipt of the valuation for such property in either of the aforementioned cases, shall place such property on the tax rolls and compute the amount of tax due based upon the mill levy for the year or years in which such tax should have been levied, and shall certify such amount to the county treasurer as an added or escaped appraisal. The amount of such tax shall be due immediately and payable within 45 days after the issuance of an additional or escaped property tax bill by the county treasurer. *The county treasurer may not distribute any taxes assessed under this section and paid under protest by the taxpayer pursuant to K.S.A. 79-2005, and amendments thereto, until such time as the appeal is final.* No interest shall be imposed unless the tax remains unpaid after such 45 day period. Taxes levied pursuant to this section which remain unpaid after such 45 day period shall be deemed delinquent and the county treasurer shall collect and distribute such tax in the same manner as prescribed by law for the collection and distribution of other taxes levied upon property which are delinquent. If the owner of such property is deceased, taxes charged as herein provided shall be levied against the estate of such deceased person for only two calendar years preceding death and shall be paid by the legal representative or representatives of such estate. In the event that such escaped appraisal is due to any willful or clerical error of the county appraiser, such property shall be appraised at its fair market value and no penalty shall be added.

(b) A taxpayer with a grievance as to any penalty applied pursuant to the provisions of this section, may appeal to the state board of tax appeals on forms prepared by the state board of tax appeals and provided by the county appraiser. The state board of tax appeals shall have the authority to abate any penalty imposed under the provisions of this section and order the refund of the abated penalty, whenever excusable neglect on the part of the person required to make and file the statement listing property for assessment and taxation purposes is shown, or whenever the property which has been deemed to have escaped taxation is repossessed, judicially or otherwise, by a secured creditor and such creditor pays the taxes and interest due. No interest shall be assessed during the pendency of this appeal.

(c) The provisions of this section shall apply to any tangible personal property discovered during the calendar years 1982, 1983, 1984 and any year thereafter to have escaped appraisal and taxation during any such

year or any year within two years next preceding any such year.

Sec. 11. On and after July 1, 2004, K.S.A. 79-1439 is hereby amended to read as follows: 79-1439. (a) All real and tangible personal property which is subject to general ad valorem taxation shall be appraised uniformly and equally as to class and, unless otherwise specified herein, shall be appraised at its fair market value, as defined in K.S.A. 79-503a, and amendments thereto.

(b) Property shall be classified into the following classes and assessed at the percentage of value prescribed therefor:

(1) Real property shall be assessed as to subclass at the following percentages of value:

(A) Real property used for residential purposes including multi-family residential real property, real property necessary to accommodate a residential community of mobile or manufactured homes including the real property upon which such homes are located ~~and~~, residential real property used partially for day care home purposes if such home has been registered or licensed pursuant to K.S.A. 65-501 *et seq.*, and amendments thereto, *and residential real property used partially for bed and breakfast home purposes at 11.5%. As used in this paragraph "bed and breakfast home" means a residence with five or fewer bedrooms available for overnight guests who stay for not more than 28 consecutive days for which there is compliance with all zoning or other applicable ordinances or laws which pertain to facilities which lodge and feed guests;*

(B) land devoted to agricultural use valued pursuant to K.S.A. 79-1476, and amendments thereto, at 30%;

(C) vacant lots at 12%;

(D) real property which is owned and operated by a not-for-profit organization not subject to federal income taxation pursuant to section 501 of the federal internal revenue code and included herein pursuant to K.S.A. 79-1439a, and amendments thereto, at 12%;

(E) public utility real property, except railroad property which shall be assessed at the average rate all other commercial and industrial property is assessed, at 33%. As used in this paragraph, "public utility" shall have the meaning ascribed thereto by K.S.A. 79-5a01, and amendments thereto;

(F) real property used for commercial and industrial purposes and buildings and other improvements located upon land devoted to agricultural use at 25%; and

(G) all other urban and rural real property not otherwise specifically subclassed at 30%.

(2) Personal property shall be classified into the following classes and assessed at the percentage of value prescribed therefor:

(A) Mobile homes used for residential purposes at 11.5%;

(B) mineral leasehold interests, except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests, the average daily production from which is 100 mcf or less, which shall be assessed at 25%, at 30%;

(C) public utility tangible personal property including inventories thereof, except railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed, at 33%. As used in this paragraph, "public utility" shall have the meaning ascribed thereto by K.S.A. 79-5a01, and amendments thereto;

(D) all categories of motor vehicles listed and taxed pursuant to K.S.A. 79-306d, and amendments thereto, and over-the-road motor vehicles defined pursuant to K.S.A. 79-6a01, and amendments thereto, at 30%;

(E) commercial and industrial machinery and equipment, including rolling equipment defined pursuant to K.S.A. 79-6a01, and amendments thereto, which, if its economic life is seven years or more, shall be valued at its retail cost when new less seven-year straight-line depreciation, or which, if its economic life is less than seven years, shall be valued at its retail cost when new less straight-line depreciation over its economic life, except that, the value so obtained for such property as long as it is being used shall not be less than 20% of the retail cost when new of such property at 25%; and

(F) all other tangible personal property not otherwise specifically classified at 30%.

Sec. 12. On and after July 1, 2004, K.S.A. 79-1459 is hereby

amended to read as follows: 79-1459. The county appraiser shall:

(a) Prepare an accurate appraisal map or maps of all real estate located within the county showing: (1) All property or lot lines; (2) the names of all subdivisions; (3) block and lot numbers in urban areas; (4) township, range and government lot numbers in rural areas; (5) street names; (6) rights-of-way; (7) recorded easements; and (8) any other information which may be deemed useful to the county appraiser or may be prescribed by the director of property valuation. Such map or maps shall be kept current.

(b) Utilizing the format prescribed or approved by the director of property valuation, prepare an appraisal record for each improvement or group of buildings which constitute an improvement showing: (1) Name and address of the property owner, the property classification and subclassification, taxing unit number and the city or township in which the property is located; (2) a description of the parcel of real estate adequate to locate it upon the appraisal map; (3) a sketch of the improvements showing dimensions and, if found advisable, a photograph thereof; (4) the building classification category as provided for by law; (5) the major building specifications of each improvement; (6) the exact or approximate date of construction of each building; (7) the value indicators of the improvements; (8) the appraised valuation of the improvements and of the land and of their total; and (9) any other information which may be deemed useful to the county appraiser or may be prescribed by the director of property valuation. If the appraisal record is contained on a card, the card shall have enough columns to show changes and appraised value of five or more successive years.

(c) Utilizing the format prescribed or approved by the director of property valuation, prepare an appraisal record for each parcel of land showing: (1) The name and address of the property owner, the property classification and subclassification, taxing unit number and city or township in which the property is located; (2) a description of the parcel of land adequate to locate it upon the appraisal map; (3) a sketch of the dimension of the land and the total number of acres; (4) the general classification of land as provided for by law and, if agricultural, the number of acres in each capability classification; (5) the value indicators of the appraised land; (6) the appraisal of the land and of the improvements and of their total; and (7) any other information which may be deemed useful to the county appraiser or may be prescribed by the director of property valuation. If the appraisal record is contained on a card, the card shall have enough columns to show changes and appraised value of five or more successive years.

(d) If it is found advisable, combine the land appraisal record and the improvements appraisal record provided for in subsections (b) and (c) showing all information required therein.

(e) Annually, as of January 1, classify all taxable and exempt real and personal property into one of the following classifications:

Residential. Residential property shall include all land and improvements utilized or intended to be utilized as a dwelling or home ~~and all personal property listed on residential personal property statements, including all land and improvements whether or not contiguous to the land accommodating a dwelling or home used to store household goods and personal effects not used for the production of income.~~

Commercial. Commercial property shall include all land and improvements utilized or intended to be utilized as a business or income producing enterprise and all personal property subject to ad valorem taxation listed on commercial personal property statements.

Agricultural. Agricultural property shall include all land and improvements utilized or intended to be utilized for the production of livestock or crops and all personal property listed on agricultural personal property statements.

State Appraised. State appraised property shall include all property designated by statute to be appraised by the director of the division of property valuation.

Public Service. Public service property shall include all land and improvements utilized for benevolent, charitable, religious or governmental purposes and all personal property listed on public service personal property statements.

The county appraiser shall, annually, as of January 1, subclassify each major classification of all taxable and exempt, real and personal property

in a manner prescribed by the director of the division of property valuation.

Sec. 13. K.S.A. 2003 Supp. 79-2005 is hereby amended to read as follows: 79-2005. (a) Any taxpayer, before protesting the payment of such taxpayer's taxes, shall be required, either at the time of paying such taxes, or, if the whole or part of the taxes are paid prior to December 20, no later than December 20, or, with respect to taxes paid in whole on or before December 20 by an escrow or tax service agent, no later than January 31 of the next year, to file a written statement with the county treasurer, on forms approved by the state board of tax appeals and provided by the county treasurer, clearly stating the grounds on which the whole or any part of such taxes are protested and citing any law, statute or facts on which such taxpayer relies in protesting the whole or any part of such taxes. *When the grounds of such protest is an assessment of taxes made pursuant to K.S.A. 79-332a and 79-1427a, and amendments thereto, the county treasurer may not distribute the taxes paid under protest until such time as the appeal is final.* When the grounds of such protest is that the valuation or assessment of the property upon which the taxes are levied is illegal or void, the county treasurer shall forward a copy of the written statement of protest to the county appraiser who shall within 15 days of the receipt thereof, schedule an informal meeting with the taxpayer or such taxpayer's agent or attorney with reference to the property in question. The county appraiser shall review the appraisal of the taxpayer's property with the taxpayer or such taxpayer's agent or attorney and may change the valuation of the taxpayer's property, if in the county appraiser's opinion a change in the valuation of the taxpayer's property is required to assure that the taxpayer's property is valued according to law, and shall, within 15 business days thereof, notify the taxpayer in the event the valuation of the taxpayer's property is changed, in writing of the results of the meeting. In the event the valuation of the taxpayer's property is changed and such change requires a refund of taxes and interest thereon, the county treasurer shall process the refund in the manner provided by subsection (l).

(b) No protest appealing the valuation or assessment of property shall be filed pertaining to any year's valuation or assessment when an appeal of such valuation or assessment was commenced pursuant to K.S.A. 79-1448, and amendments thereto, nor shall the second half payment of taxes be protested when the first half payment of taxes has been protested. Notwithstanding the foregoing, this provision shall not prevent any subsequent owner from protesting taxes levied for the year in which such property was acquired, nor shall it prevent any taxpayer from protesting taxes when the valuation or assessment of such taxpayer's property has been changed pursuant to an order of the director of property valuation.

(c) A protest shall not be necessary to protect the right to a refund of taxes in the event a refund is required because the final resolution of an appeal commenced pursuant to K.S.A. 79-1448, and amendments thereto, occurs after the final date prescribed for the protest of taxes.

(d) If the grounds of such protest shall be that the valuation or assessment of the property upon which the taxes so protested are levied is illegal or void, such statement shall further state the exact amount of valuation or assessment which the taxpayer admits to be valid and the exact portion of such taxes which is being protested.

(e) If the grounds of such protest shall be that any tax levy, or any part thereof, is illegal, such statement shall further state the exact portion of such tax which is being protested.

(f) Upon the filing of a written statement of protest, the grounds of which shall be that any tax levied, or any part thereof, is illegal, the county treasurer shall mail a copy of such written statement of protest to the state board of tax appeals and the governing body of the taxing district making the levy being protested.

(g) Within 30 days after notification of the results of the informal meeting with the county appraiser pursuant to subsection (a), the protesting taxpayer may, if aggrieved by the results of the informal meeting with the county appraiser, appeal such results to the state board of tax appeals.

(h) After examination of the copy of the written statement of protest and a copy of the written notification of the results of the informal meeting with the county appraiser in cases where the grounds of such protest is that the valuation or assessment of the property upon which the taxes

are levied is illegal or void, the board shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act, unless waived by the interested parties in writing. If the grounds of such protest is that the valuation or assessment of the property is illegal or void the board shall notify the county appraiser thereof.

(i) In the event of a hearing, the same shall be originally set not later than 90 days after the filing of the copy of the written statement of protest and a copy, when applicable, of the written notification of the results of the informal meeting with the county appraiser with the board. With regard to any matter properly submitted to the board relating to the determination of valuation of residential property or real property used for commercial and industrial purposes for taxation purposes, it shall be the duty of the county appraiser to initiate the production of evidence to demonstrate, by a preponderance of the evidence, the validity and correctness of such determination except that no such duty shall accrue to the county or district appraiser with regard to leased commercial and industrial property unless the property owner has furnished to the county or district appraiser a complete income and expense statement for the property for the three years next preceding the year of appeal. No presumption shall exist in favor of the county appraiser with respect to the validity and correctness of such determination. In all instances where the board sets a request for hearing and requires the representation of the county by its attorney or counselor at such hearing, the county shall be represented by its county attorney or counselor.

(j) When a determination is made as to the merits of the tax protest, the board shall render and serve its order thereon. The county treasurer shall notify all affected taxing districts of the amount by which tax revenues will be reduced as a result of a refund.

(k) If a protesting taxpayer fails to file a copy of the written statement of protest and a copy, when applicable, of the written notification of the results of the informal meeting with the county appraiser with the board within the time limit prescribed, such protest shall become null and void and of no effect whatsoever.

(l) (1) In the event the board orders that a refund be made pursuant to this section or the provisions of K.S.A. 79-1609, and amendments thereto, or a court of competent jurisdiction orders that a refund be made, and no appeal is taken from such order, or in the event a change in valuation which results in a refund pursuant to subsection (a), the county treasurer shall, as soon thereafter as reasonably practicable, refund to the taxpayer such protested taxes and, with respect to protests or appeals commenced after the effective date of this act, interest computed at the rate prescribed by K.S.A. 79-2968, and amendments thereto, minus two percentage points, per annum from the date of payment of such taxes from tax moneys collected but not distributed. Upon making such refund, the county treasurer shall charge the fund or funds having received such protested taxes, except that, with respect to that portion of any such refund attributable to interest the county treasurer shall charge the county general fund. In the event that the board or court finds that any time delay in making its decision is unreasonable and is attributable to the taxpayer, it may order that no interest or only a portion thereof be added to such refund of taxes.

(2) No interest shall be allowed pursuant to paragraph (1) in any case where the tax paid under protest was inclusive of delinquent taxes.

(m) Whenever, by reason of the refund of taxes previously received or the reduction of taxes levied but not received as a result of decreases in assessed valuation, it will be impossible to pay for imperative functions for the current budget year, the governing body of the taxing district affected may issue no-fund warrants in the amount necessary. Such warrants shall conform to the requirements prescribed by K.S.A. 79-2940, and amendments thereto, except they shall not bear the notation required by such section and may be issued without the approval of the state board of tax appeals. The governing body of such taxing district shall make a tax levy at the time fixed for the certification of tax levies to the county clerk next following the issuance of such warrants sufficient to pay such warrants and the interest thereon. All such tax levies shall be in addition to all other levies authorized by law.

(n) The county treasurer shall disburse to the proper funds all portions of taxes paid under protest and shall maintain a record of all portions of such taxes which are so protested and shall notify the governing body

of the taxing district levying such taxes thereof and the director of accounts and reports if any tax protested was levied by the state.

(o) This statute shall not apply to the valuation and assessment of property assessed by the director of property valuation and it shall not be necessary for any owner of state assessed property, who has an appeal pending before the board of tax appeals, to protest the payment of taxes under this statute solely for the purpose of protecting the right to a refund of taxes paid under protest should that owner be successful in that appeal.

Sec. 14. On and after July 1, 2004, K.S.A. 2003 Supp. 79-3408 is hereby amended to read as follows: 79-3408. (a) A tax per gallon or fraction thereof, at the rate computed as prescribed in K.S.A. 79-34,141, and amendments thereto, is hereby imposed on the use, sale or delivery of all motor vehicle fuels or special fuels which are used, sold or delivered in this state for any purpose whatsoever.

(b) Every retail pump for motor-vehicle fuels shall be conspicuously labeled to show the content and percentage of any ethyl alcohol or other alcohol combined or alone in excess of 1% by volume.

(c) Unless otherwise specified in K.S.A. 79-3408c, and amendments thereto, the incidence of this tax is imposed on the distributor of the first receipt of the motor fuel and such taxes shall be paid but once. Such tax shall be computed on all motor-vehicle fuels or special fuels received by each distributor, manufacturer or importer in this state and paid in the manner provided for herein, except that an allowance of 2.5% shall be made and deducted by the distributor to cover all ordinary losses which may have resulted from physical loss while handling such motor-vehicle fuels or special fuels. No such allowance shall be made on any motor-vehicle fuel or special fuel exported from the state or sold to the United States of America or any of its agencies or instrumentalities as are now or hereinafter exempt by law from liability to state taxation. No such allowance shall be made for any motor-vehicle fuel or special fuel sold or disposed of to a consumer in tank car, transport or pipeline lots.

(d) No tax is hereby imposed upon or with respect to the following transactions:

(1) The sale or delivery of motor-vehicle fuel or special fuel for export from the state of Kansas to any other state or territory or to any foreign country.

(2) The sale or delivery of motor-vehicle fuel or special fuel to the United States of America and such of its agencies as are now or hereafter exempt by law from liability to state taxation.

(3) The sale or delivery of motor-vehicle fuel or special fuel to a contractor for use in performing work for the United States or those agencies of the United States above mentioned, provided such contractor has in effect with the United States or any such agency a cost-plus-a-fixed-fee contract covering the work.

(4) The sale or delivery of motor-vehicle fuel or special fuel which is aviation fuel.

(5) The first sale or delivery of motor-vehicle fuel or special fuel from a refinery, pipeline terminal, pipeline tank farm or other place to a duly licensed distributor who in turn resells to another duly licensed distributor.

(6) The sale or delivery of special fuel which is indelibly dyed in accordance with regulations prescribed pursuant to 26 U.S.C. 4082 and such special fuel is only used for nonhighway purposes.

(7) *The sale of kerosene used as a fuel only to power antique steam motor vehicles first manufactured prior to 1940.*

(e) Each distributor, manufacturer, importer, exporter or retailer shall make full reports and furnish such further information as the director may require with reference to all transactions upon which no tax is to be paid.

Sec. 15. On and after July 1, 2004, K.S.A. 79-3458 is hereby amended to read as follows: 79-3458. After purchasing or acquiring for use motor-vehicle fuel or special fuel upon which refund of the tax may be due, a purchaser and claimant may file with the director a claim on a form furnished by the director. Such claim for refund must be filed within one year after the date of purchase of the motor-vehicle fuels or special fuels on which a tax refund is claimed. The claim shall show or include the following:

(1) The name, post office address and the refund permit number of the claimant;

(2) the total number of gallons of motor-vehicle fuel or special fuel purchased as ~~represented supported~~ by original invoices or automated invoices or self-generated lists which shall be attached, and which invoices shall be approved by the director that show that the claimant has paid the distributor or retailer delivering price of such motor-vehicle fuel or special fuel in full, including the motor-vehicle fuel or special fuel tax. If an original invoice shall be is lost or destroyed, a statement to that effect shall accompany the claim for refund and such statement shall also set forth the date of delivery, the serial number of the invoice, number of gallons of motor-vehicle fuel or special fuel purchased and the name of the distributor or retailer from whom purchased; and if the director finds that the invoice was originally properly issued and that the claim is otherwise regular, the director shall allow such claim for refund;

(3) the amount of the claim; and

(4) if motor-vehicle fuel or special fuel for motor vehicles using the public highways is generally purchased for delivery directly to the fuel tank of such vehicles, the name of the dealer from whom the greater portion of such purchases are made.

All applications for refunds furnished by the director shall contain a printed warning clause. Every such application for refund if made by an individual shall be signed by the claimant and if the claimant is a corporation or association it shall be signed by one of the principal officers of the corporation or association and in the case of a partnership, by one of the partners.

Sec. 16. On and after January 1, 2005, K.S.A. 2003 Supp. 79-3651 is hereby amended to read as follows: 79-3651. (a) For the purpose of the proper administration of the Kansas retailers' sales tax act and to prevent evasion of the tax imposed thereunder, it shall be presumed that all gross receipts from the sale of tangible personal property or enumerated services are subject to tax until the contrary is established. The burden of proving that a sale is not subject to tax is upon the seller unless the seller takes from the purchaser an exemption certificate to the effect that the property or service purchased is not subject to tax.

(b) An exemption certificate shall relieve the seller from collecting and remitting tax if the seller has obtained the required identifying information as determined by the director, from the purchaser and the reason for claiming the exemption at the time of purchase and has maintained proper records of exempt transactions pursuant to subsection (a) of K.S.A. 79-3609, and amendments thereto and provided them to the director when requested, except that a seller who fraudulently fails to collect the tax or solicits purchasers to participate in the unlawful claim of an exemption shall not be relieved from such liability. The seller shall obtain the same information for proof of a claimed exemption regardless of the medium in which the transaction occurred. The purchaser improperly claiming an exemption shall remain liable for the nonpayment of tax.

(c) The exemption certificate shall be substantially in such form as the director may prescribe. The seller shall use the standard form for claiming an exemption electronically as adopted by the director. A seller may require a purchaser to provide a copy of the purchaser's sales tax registration certificate with a resale certificate as a condition for honoring the purchaser's resale exemption claim. A purchaser is not required to provide a signature to claim an exemption from tax unless a paper exemption certificate is used.

(d) To lawfully present a resale exemption certificate the purchaser must be engaged in the business of selling property or services of the same kind that is purchased, hold a registration certificate, and at the time of purchase, either intend to resell the property in the regular course of business or be unable to ascertain whether the property will be resold or used for some other purpose.

(e) Any person who issues a resale certificate or other exemption certificate in order to unlawfully avoid payment of tax for business or personal gain shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$1,000 or imprisonment for not more than one year, or by both. In addition, if the director determines that a person issued a resale certificate in order to unlawfully avoid payment of tax for business or personal gain, the director shall increase any penalty that is due from the person under K.S.A. 79-3615, and amendments thereto, by \$250 or 10 times the tax due, whichever is greater, on

each transaction where the misuse of a resale certificate occurred.

(f) Exemption certificates issued by ~~a nonprofit~~ an entity claiming a specific exemption under K.S.A. 79-3606, and amendments thereto, *based on the status of the entity* shall bear the name ~~and~~, address of the entity *and identification number issued to the entity pursuant to section 21, and amendments thereto*, and indicate the subsection under which the exemption is being claimed. Such certificate shall be signed by an officer, office manager or other administrator of the nonprofit entity, if in paper form, and contain the driver's license number of the signer. The certificate shall be substantially in such form as the director may prescribe. Payments made on an exempt entity's check, warrant, voucher or is charged to the entity's account shall relieve the seller from collecting and remitting the tax if it is taken in good faith.

(g) It shall be the duty of every person who purchases tangible personal property or services that are taxable under this act to pay the full amount of tax that is lawfully due to the retailer making the sale. Any person who willfully and intentionally refuses to pay such tax to the retailer shall be guilty of a misdemeanor and upon conviction shall be punished and fined as provided by subsection (g) of K.S.A. 79-3615, and amendments thereto.

Sec. 17. On and after July 1, 2004, K.S.A. 79-4216 is hereby amended to read as follows: 79-4216. As used in this act, unless the context clearly requires otherwise, the following words and phrases shall have the meanings ascribed to them herein:

(a) "Barrel" for oil measurement means a barrel of 42 U.S. gallons of 231 cubic inches per gallon, computed at a temperature of 60 degrees Fahrenheit.

(b) "Director" means the director of taxation.

(c) "Gas" means natural gas taken from below the surface of the earth or water in this state, regardless of whether from a gas well or from a well also productive of oil or any other product.

(d) "Gross value" means the sale price of oil or gas at the time of removal of the oil or gas from the lease or production unit and if oil or gas is exchanged for something other than cash, or if no sale occurs at the time of removal or if the director determines that the relationship between the buyer and the seller is such that the consideration paid, if any, is not indicative of the true value or market price, then the director shall determine the value of the oil or gas subject to tax based on the cash price paid to one or more producers for the oil or gas or based on the cash price paid to producers for like quality oil or gas in the vicinity of the lease or production unit at the time of the removal of the oil or gas from the lease or production unit.

(e) "*Lease number*" means the number assigned by the director of taxation to identify each well, lease or combination of wells within a lease.

(f) "Oil" means petroleum, or other crude oil, condensate, casinghead gasoline, or other mineral oil which is severed or withdrawn from below the surface of the soil or water in this state.

~~(g)~~ (g) "Operator" means the person primarily responsible for the management and operation of coal, oil or gas productions from a lease, production unit or mine.

~~(g)~~ (h) "Person" means any natural person, firm, copartnership, joint venture, association, corporation, estate, trust or any other group or combination acting as a unit, and the plural as well as the singular number.

~~(h)~~ (i) "Producer" means any person owning, controlling, managing or leasing any coal, oil or gas property or oil or gas well or coal or salt mine, and any person who serves in any manner any coal, oil or gas in this state, and shall include any person owning any direct and beneficial interest in any coal, oil or gas produced, whether severed by such person or some other person on their behalf, either by lease, contract or otherwise, including a royalty owner.

~~(i)~~ (j) "Remove" or "removal" means the physical transportation of coal, oil or gas off of the lease or production unit or from the mine where severed; and if the manufacture or conversion of crude oil or natural gas into refined products occurs on the premises where severed, oil or gas shall be deemed to have been removed on the date such manufacture or conversion begins.

~~(j)~~ (k) "Secretary" means the secretary of revenue.

~~(k)~~ (l) "Severed" or "severing" means: (1) The production of oil through extraction or withdrawal of the same from below the surface of

the soil or water, whether such extraction or withdrawal shall be by natural flow, mechanical flow, forced flow, pumping or any other means employed to get the oil from below the surface of the soil or water and shall include the withdrawal by any means whatsoever of oil upon which the tax has not been paid, from any surface reservoir, natural or artificial, or from a water surface; (2) the production of gas through the extraction or withdrawal of the same by any means whatsoever, from below the surface of the earth or water; and (3) the physical removal of coal from the earth.

~~(m)~~ (m) "Taxpayer" means any person liable for the taxes imposed by this act.

~~(n)~~ (n) "Disruption of production" means, in the case of oil, a continuous 24-hour period during which a well is not producing. Circulating and missed production days shall be considered production days if the operator can demonstrate that any lost production is subsequently recovered during a later production day. In the case of gas, a continuous one-hour period during which a well is not open to the pipeline shall be deemed to be a disruption of production. Missed production hours shall be considered production hours if the operator can demonstrate that any lost production is subsequently recovered during later production hours.

Sec. 18. On and after July 1, 2004, K.S.A. 2003 Supp. 79-4217 is hereby amended to read as follows: 79-4217. (a) There is hereby imposed an excise tax upon the severance and production of coal, oil or gas from the earth or water in this state for sale, transport, storage, profit or commercial use, subject to the following provisions of this section. Such tax shall be borne ratably by all persons within the term "producer" as such term is defined in K.S.A. 79-4216, and amendments thereto, in proportion to their respective beneficial interest in the coal, oil or gas severed. Such tax shall be applied equally to all portions of the gross value of each barrel of oil severed and subject to such tax and to the gross value of the gas severed and subject to such tax. The rate of such tax shall be 8% of the gross value of all oil or gas severed from the earth or water in this state and subject to the tax imposed under this act. The rate of such tax with respect to coal shall be \$1 per ton. For the purposes of the tax imposed hereunder the amount of oil or gas produced shall be measured or determined: (1) In the case of oil, by tank tables compiled to show 100% of the full capacity of tanks without deduction for overage or losses in handling; allowance for any reasonable and bona fide deduction for basic sediment and water, and for correction of temperature to 60 degrees Fahrenheit will be allowed; and if the amount of oil severed has been measured or determined by tank tables compiled to show less than 100% of the full capacity of tanks, such amount shall be raised to a basis of 100% for the purpose of the tax imposed by this act; and (2) in the case of gas, by meter readings showing 100% of the full volume expressed in cubic feet at a standard base and flowing temperature of 60 degrees Fahrenheit, and at the absolute pressure at which the gas is sold and purchased; correction to be made for pressure according to Boyle's law, and used for specific gravity according to the gravity at which the gas is sold and purchased, or if not so specified, according to the test made by the balance method.

(b) The following shall be exempt from the tax imposed under this section:

(1) The severance and production of gas which is: (A) Injected into the earth for the purpose of lifting oil, recycling or repressuring; (B) used for fuel in connection with the operation and development for, or production of, oil or gas in the lease or production unit where severed; (C) lawfully vented or flared; (D) severed from a well having an average daily production during a calendar month having a gross value of not more than \$87 per day, which well has not been significantly curtailed by reason of mechanical failure or other disruption of production; in the event that the production of gas from more than one well is gauged by a common meter, eligibility for exemption hereunder shall be determined by computing the gross value of the average daily combined production from all such wells and dividing the same by the number of wells gauged by such meter; (E) inadvertently lost on the lease or production unit by reason of leaks, blowouts or other accidental losses; (F) used or consumed for domestic or agricultural purposes on the lease or production unit from which it is severed; or (G) placed in underground storage for recovery at a later date and which was either originally severed outside of the state of Kansas, or as to which the tax levied pursuant to this act has been paid;

(2) the severance and production of oil which is: (A) From a lease or production unit whose average daily production is five barrels or less per producing well, which well or wells have not been significantly curtailed by reason of mechanical failure or other disruption of production; (B) from a lease or production unit, the producing well or wells upon which have a completion depth of 2,000 feet or more, and whose average daily production is six barrels or less per producing well or, if the price of oil as determined pursuant to subsection (d) is \$16 or less, whose average daily production is seven barrels or less per producing well, or, if the price of oil as determined pursuant to subsection (d) is \$15 or less, whose average daily production is eight barrels or less per producing well, or, if the price of oil as determined pursuant to subsection (d) is \$14 or less, whose average daily production is nine barrels or less per producing well, or, if the price of oil as determined pursuant to subsection (d) is \$13 or less, whose average daily production is 10 barrels or less per producing well, which well or wells have not been significantly curtailed by reason of mechanical failure or other disruption of production; (C) from a lease or production unit, whose production results from a tertiary recovery process. "Tertiary recovery process" means the process or processes described in subparagraphs (1) through (9) of 10 C.F.R. 212.78(c) as in effect on June 1, 1979; (D) from a lease or production unit, the producing well or wells upon which have a completion depth of less than 2,000 feet and whose average daily production resulting from a water flood process, is six barrels or less per producing well, which well or wells have not been significantly curtailed by reason of mechanical failure or other disruption of production; (E) from a lease or production unit, the producing well or wells upon which have a completion depth of 2,000 feet or more, and whose average daily production resulting from a water flood process, is seven barrels or less per producing well or, if the price of oil as determined pursuant to subsection (d) is \$16 or less, whose average daily production is eight barrels or less per producing well, or, if the price of oil as determined pursuant to subsection (d) is \$15 or less, whose average daily production is nine barrels or less per producing well, or, if the price of oil as determined pursuant to subsection (d) is \$14 or less, whose average daily production is 10 barrels or less per producing well, which well or wells have not been significantly curtailed by reason of mechanical failure or other disruption of production; (F) test, frac or swab oil which is sold or exchanged for value; or (G) inadvertently lost on the lease or production unit by reason of leaks or other accidental means;

(3) (A) any taxpayer applying for an exemption pursuant to subsection (b)(2)(A) and (B) shall make application ~~annually~~ *biennially* to the director of taxation therefor. Exemptions granted pursuant to subsection (b)(2)(A) and (B) shall be valid for a period of ~~one year~~ *two years* following the date of certification thereof by the director of taxation; (B) any taxpayer applying for an exemption pursuant to subsection (b)(2)(D) or (E) shall make application ~~annually~~ *biennially* to the director of taxation therefor. Such application shall be accompanied by proof of the approval of an application for the utilization of a water flood process therefor by the corporation commission pursuant to rules and regulations adopted under the authority of K.S.A. 55-152 and amendments thereto and proof that the oil produced therefrom is kept in a separate tank battery and that separate books and records are maintained therefor. Such exemption shall be valid for a period of ~~one year~~ *two years* following the date of certification thereof by the director of taxation; ~~and~~ (C) *any exemption granted pursuant to subsections (b)(2)(A), (B), (D) or (E) with an odd lease number and an exemption termination date between June 1, 2004, and May 31, 2005, inclusive, shall be valid for a period of one year following the date of certification; and* (D) notwithstanding the provisions of paragraph (A) or (B), any exemption in effect on the effective date of this act affected by the amendments to subsection (b)(2) by this act shall be redetermined in accordance with such amendments. Any such exemption, and any new exemption established by such amendments and applied for after the effective date of this shall be valid for a period commencing with May 1, 1998, and ending on April 30, 1999.

(4) the severance and production of gas or oil from any pool from which oil or gas was first produced on or after April 1, 1983, as determined by the state corporation commission and certified to the director of taxation, and continuing for a period of 24 months from the month in which oil or gas was first produced from such pool as evidenced by an affidavit

of completion of a well, filed with the state corporation commission and certified to the director of taxation. Exemptions granted for production from any well pursuant to this paragraph shall be valid for a period of 24 months following the month in which oil or gas was first produced from such pool. The term "pool" means an underground accumulation of oil or gas in a single and separate natural reservoir characterized by a single pressure system so that production from one part of the pool affects the reservoir pressure throughout its extent;

(5) the severance and production of oil or gas from a three-year inactive well, as determined by the state corporation commission and certified to the director of taxation, for a period of 10 years after the date of receipt of such certification. As used in this paragraph, "three-year inactive well" means any well that has not produced oil or gas in more than one month in the three years prior to the date of application to the state corporation commission for certification as a three-year inactive well. An application for certification as a three-year inactive well shall be in such form and contain such information as required by the state corporation commission, and shall be made prior to July 1, 1996. The commission may revoke a certification if information indicates that a certified well was not a three-year inactive well or if other lease production is credited to the certified well. Upon notice to the operator that the certification for a well has been revoked, the exemption shall not be applied to the production from that well from the date of revocation;

(6) (A) The incremental severance and production of oil or gas which results from a production enhancement project begun on or after July 1, 1998, shall be exempt for a period of seven years from the startup date of such project. As used in this paragraph (6):

(1) "Incremental severance and production" means the amount of oil or natural gas which is produced as the result of a production enhancement project which is in excess of the base production of oil or natural gas, and is determined by subtracting the base production from the total monthly production after the production enhancement ~~projects~~ *project* is completed.

(2) "Base production" means the average monthly amount of production for the twelve-month period immediately prior to the production enhancement project beginning date, minus the monthly rate of production decline for the well or project for each month beginning 180 days prior to the project beginning date. The monthly rate of production decline shall be equal to the average extrapolated monthly decline rate for the well or project for the twelve-month period immediately prior to the production enhancement project beginning date, except that the monthly rate of production decline shall be equal to zero in the case where the well or project has experienced no monthly decline during the twelve-month period immediately prior to the production enhancement project beginning date. Such monthly rate of production decline shall be continued as the decline that would have occurred except for the enhancement project. Any well or project which may have produced during the twelve-month period immediately prior to the production enhancement project beginning date but is not capable of production on the project beginning date shall have a base production equal to zero. The calculation of the base production amount shall be evidenced by an affidavit and supporting documentation filed by the applying taxpayer with the state corporation commission.

(3) "Workover" means any downhole operation in an existing oil or gas well that is designed to sustain, restore or increase the production rate or ultimate recovery of oil or gas, including but not limited to acidizing, reperforation, fracture treatment, sand/paraffin/scale removal or other wellbore cleanouts, casing repair, squeeze cementing, initial installation, or enhancement of artificial lifts including plunger lifts, rods, pumps, submersible pumps and coiled tubing velocity strings, downsizing existing tubing to reduce well loading, downhole commingling, bacteria treatments, polymer treatments, upgrading the size of pumping unit equipment, setting bridge plugs to isolate water production zones, or any combination of the aforementioned operations; "workover" shall not mean the routine maintenance, routine repair, or like-for-like replacement of downhole equipment such as rods, pumps, tubing packers or other mechanical device.

(4) "Production enhancement project" means performing or causing to be performed the following:

- (i) Workover;
- (ii) recompletion to a different producing zone in the same well bore, except recompletions in formations and zones subject to a state corporation commission proration order;
- (iii) secondary recovery projects;
- (iv) addition of mechanical devices to dewater a gas or oil well;
- (v) replacement or enhancement of surface equipment;
- (vi) installation or enhancement of compression equipment, line looping or other techniques or equipment which increases production from a well or a group of wells in a project;
- (vii) new discoveries of oil or gas which are discovered as a result of the use of new technology, including, but not limited to, three dimensional seismic studies.

(B) The state corporation commission shall adopt rules and regulations necessary to efficiently and properly administer the provisions of this paragraph (6) including rules and regulations for the qualification of production enhancement projects, the procedures for determining the monthly rate of production decline, criteria for determining the share of incremental production attributable to each well when a production enhancement project includes a group of wells, criteria for determining the start up date for any project for which an exemption is claimed, and determining new qualifying technologies for the purposes of paragraph (6)(A)(4)(vii).

(C) Any taxpayer applying for an exemption pursuant to this paragraph (6) shall make application to the director of taxation. Such application shall be accompanied by a state corporation commission certification that the production for which an exemption is sought results from a qualified production enhancement project and certification of the base production for the enhanced wells or group of wells, and the rate of decline to be applied to that base production. The secretary of revenue shall provide credit for any taxes paid between the project startup date and the certification of qualifications by the commission.

(D) The exemptions provided for in this paragraph (6) shall not apply for 12 months beginning July 1 of the year subsequent to any calendar year during which: (1) In the case of oil, the secretary of revenue determines that the weighted average price of Kansas oil at the wellhead has exceeded \$20.00 per barrel; or (2) in the case of natural gas the secretary of revenue determines that the weighted average price of Kansas gas at the wellhead has exceeded \$2.50 per Mcf.

(E) The provisions of this paragraph (6) shall not affect any other exemption allowable pursuant to this section; and

(7) for the calendar year 1988, and any year thereafter, the severance or production of the first 350,000 tons of coal from any mine as certified by the state geological survey.

(c) No exemption shall be granted pursuant to subsection (b)(3) or (4) to any person who does not have a valid operator's license issued by the state corporation commission, and no refund of tax shall be made to any taxpayer attributable to any production in a period when such taxpayer did not hold a valid operator's license issued by the state corporation commission.

(d) On April 15, 1988, and on April 15 of each year thereafter, the secretary of revenue shall determine from statistics compiled and provided by the United States department of energy, the average price per barrel paid by the first purchaser of crude oil in this state for the six-month period ending on December 31 of the preceding year. Such price shall be used for the purpose of determining exemptions allowed by subsection (b)(2)(B) or (E) for the twelve-month period commencing on May 1 of such year and ending on April 30 of the next succeeding year.

Sec. 19. On and after July 1, 2004, K.S.A. 79-5205 is hereby amended to read as follows: 79-5205. (a) At such time as the director of taxation shall determine that a dealer has not paid the tax as provided by K.S.A. 79-5204, and amendments thereto, the director may immediately assess a tax based on personal knowledge or information available to the director of taxation; mail to the taxpayer at the taxpayer's last known address or serve in person, a written notice of the amount of tax, penalties and interest; and demand its immediate payment. If payment is not immediately made, because collection of every assessment made hereunder is presumed to be in jeopardy due to the nature of the commodity being taxed, the director may immediately collect the tax, penalties and interest

in any manner provided by K.S.A. 79-5212, and amendments thereto.

(b) ~~The taxpayer may appeal the assessment within 15 days from the date of mailing of the notice or the date of personal service of the notice given pursuant to subsection (a), by requesting in writing a hearing by the director on the correctness of the assessment. The hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act. An appeal of the assessment shall not stay the collection of the assessment but shall stay the sale of real or personal property seized pursuant to K.S.A. 79-5212 until the director rules on the correctness of the assessment.~~

~~(c)~~ The tax, penalties and interest assessed by the director of taxation are presumed to be valid and correctly determined and assessed. The burden is upon the taxpayer to show their incorrectness or invalidity. Any statement filed by the director of taxation with the court or any other certificate by the director of taxation of the amount of tax, penalties and interest determined or assessed is admissible in evidence and is prima facie evidence of the facts it contains.

~~(d)~~ (c) In making an assessment pursuant to subsection (a), the director of taxation may consider but shall not be bound by a plea agreement or judicial determination made in any criminal case.

(d) *Within 15 days after the mailing or personal service of such notice of assessment pursuant to subsection (a), the taxpayer may request an informal conference with the secretary of revenue or the secretary's designee relating to the tax, penalties and interest assessed by filing a written request with the secretary or the secretary's designee. Such written request shall set forth the taxpayer's objections to the assessment. The purpose of such conference shall be to review and reconsider all facts and issues that underlie the assessment. The informal conference shall not constitute an adjudicative proceeding under the Kansas administrative procedure act and the rules of evidence shall not apply. No record of the informal conference shall be made except at the request and expense of the taxpayer. The taxpayer may be represented at the informal conference by an attorney licensed in the state of Kansas. The taxpayer may also present written or verbal information from other persons. The secretary or the secretary's designee may confer at any time with any employee of the department of revenue who has factual information relating to the assessment under reconsideration. The secretary or the secretary's designee shall issue a written final determination within 270 days of the date of the request for informal conference unless the parties agree in writing to extend the time for issuing such final determination. A final determination issued within or after 270 days, with or without extension, constitutes final agency action subject to administrative review by the state board of tax appeals pursuant to K.S.A. 74-2438, and amendments thereto. In the event that a written final determination is not rendered within 270 days or within an agreed extension, the taxpayer may appeal the assessment to the state board of tax appeals within 30 days after the expiration date of the 270 days or agreed extension. A taxpayer's request for an informal conference shall not stay the collection of the assessment but shall stay the sale of real or personal property seized pursuant to K.S.A. 79-5212, and amendments thereto, until the final determination is made by the secretary or the secretary's designee. A taxpayer's appeal to the state board of tax appeals shall not stay the collection of the assessment but shall stay the sale of real or personal property seized pursuant to K.S.A. 79-5212, and amendments thereto, until a decision is rendered by the state board of tax appeals.*

New Sec. 20. (a) The governing body of a city may establish an increment in ad valorem taxes using the procedure set forth in subsection (b) for projects that are initiated upon a finding that the area is a blighted area as defined under K.S.A. 12-1770a, and amendments thereto, when the following conditions exist:

(1) The proposed district has been identified by a Kansas certified engineer or the United States federal emergency management agency as a majority of property existing in the 100-year flood-plain; and

(2) the city intends to establish a redevelopment district pursuant to K.S.A. 12-1771, and amendments thereto, to wholly finance or partially finance the investigation and remediation of a flood-plain within such a district.

(b) A flood-plain increment, established after a city has found that the conditions described in subsection (c) of K.S.A. 12-1770a, and amend-

ments thereto, exist, shall be set on a yearly basis. For purposes of this section, a yearly basis shall be a calendar year. Each year's increment shall be an amount sufficient to pay the direct cost of investigation and remediation of the flood-plain condition anticipated to be incurred that year including principal and interest due on any special obligation bonds or full faith and credit tax increment bonds issued to finance in whole or in part the remediation and investigation, costs relating to remediation investigation and feasibility studies, operation and maintenance expenses and other expenses relating directly to the investigation of flooding. Each year's flood-plain increment shall not exceed 20% of the amount of taxes that are produced by all taxing subdivisions within any currently existing or subsequently created redevelopment district area in the year the redevelopment district is first established, notwithstanding that such subdivision was not required to receive notice of the establishment of the district.

(c) The budget that established the yearly flood-plain increment shall be certified by the city to the county clerk and county treasurer no later than August 15th, preceding the calendar year for which the budget is being set. Funds derived from a flood-plain increment established by this section and interest on all funds derived from a flood-plain increment established by this section may be used only for projects involving the investigation and remediation of the flood-plain in the district.

(d) The real property taxes produced by the flood-plain increment established under subsection (b) from a redevelopment district established under the provisions of K.S.A. 12-1771, and amendments thereto, and this section shall be allocated and paid by the county treasurer to the treasurer of the city and deposited in a special separate fund of the city to pay the direct cost of investigation and remediation of flooding in the redevelopment district.

(e) A redevelopment district created under the provisions of this section shall constitute a separate taxing district. If all costs for such investigation and remediation of flooding in the redevelopment district have been paid and moneys remain in the special fund, such moneys shall be remitted to each taxing subdivision which paid moneys into the special fund on the basis of the proportion which the total amount of moneys paid by such taxing subdivision into the special fund bears to the total amount of all moneys paid by all taxing subdivisions into the fund.

(f) Nothing in this section shall prevent any city from establishing a redevelopment district for other purposes pursuant to K.S.A. 12-1770 *et seq.*, and amendments thereto, which may include part or all of the real property included in the district established under this section.

(g) Redevelopment projects relating to flooding investigation and remediation under this section, shall be completed within 20 years.

(h) Nothing in this section shall be construed to affect the obligations of the county to annually review the fair market value of property in accordance with procedures set by law or to affect the right of any taxpayer to protest and appeal the appraised or reappraised value of their property in accordance with procedures set forth by law.

(i) For the purposes of this act, the governing body of a city may pledge increments receivable in future years to pay costs directly relating to the investigation and remediation of flood-plain areas. The provisions in such contracts pertaining to pledging increments in future years shall not be subject to K.S.A. 10-1101 *et seq.* or 79-2925 *et seq.*, and amendments thereto.

(j) The provisions of this section shall be effective on and after July 1, 2004.

New Sec. 21. On and after January 1, 2005, any entity or organization claiming an exemption from sales tax on its purchases of tangible personal property or services based on the status of the entity or organization, under the specific exemptions, including but not limited to those listed in this section, shall prior to claiming any such exemption, apply to and obtain from the secretary of revenue an exempt organization identification number. Such exemptions are subsections (b), (c), (s), (z), (hh), (ii), (jj), (ll), (oo), (qq), (ss), (tt), (uu), (vv), (ww), (xx), (yy), (zz), (aaa), (ccc) and (ggg) of K.S.A. 79-3606, and amendments thereto. The secretary shall prescribe the application form for such number, and such entity or organization shall provide with the application information sufficient to establish that such entity or organization qualifies for the sales tax exemption. Such entity shall enter the issued identification number on any

exemption certificate presented to any retailer when claiming the sales tax exemption on any purchases.

Sec. 22. K.S.A. 79-332a and 79-1427a and K.S.A. 2003 Supp. 12-198 and 79-2005 are hereby repealed.

Sec. 23. On and after July 1, 2004, K.S.A. 8-2411, 10-306, 79-1439, 79-1459, 79-3458, 79-4216 and 79-5205 and K.S.A. 2003 Supp. 12-187, 12-1770a, as amended by section 25 of 2004 House Bill No. 2647, 79-201b, 79-201c, 79-412, 79-3408 and 79-4217 are hereby repealed.

Sec. 24. On and after January 1, 2005, K.S.A. 2003 Supp. 79-3651 is hereby repealed.

Sec. 25. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved May 20, 2004.

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