

**HOUSE BILL No. 2598**

By Committee on Federal and State Affairs

2-1

Proposed Amendment on HB 2598  
Representative Gregory  
February 23, 2012  
Prepared by Mike Heim  
Office of Revisor of Statutes

1 AN ACT concerning abortion; relating to restrictions on late term  
2 abortions; relating to the woman's-right-to-know act; creating the no  
3 taxpayer funding for abortion act; amending K.S.A. 60-1901 and  
4 K.S.A. 2011 Supp. 40-2246, 65-6701, 65-6703, 65-6709, 65-6710, 79-  
5 32,117, 79-32,138, 79-32,182b, 79-32,195, 79-32,261 and 79-3606 and  
6 repealing the existing sections; also repealing K.S.A. 2011 Supp. 79-  
7 3606g.  
8

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

10 New Section 1. (a) Sections 1 through 7 and amendments thereto,  
11 shall be known and may be cited as the no taxpayer funding for abortion  
12 act.

6

13 (b) As used in this act:

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

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

21 (3) "Health care entity" means an individual physician or other health  
22 care professional, a hospital, a provider-sponsored organization, a health  
23 maintenance organization or any other health care facility or organization.

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

26 New Sec. 2. Except to the extent required by federal law:

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

29 (b) no tax credit shall be allowed against any income tax, premium or  
30 privilege tax liability and no exemption shall be granted from sales or  
31 compensating use tax for that portion of such amounts paid or incurred for  
32 an abortion, or that portion of such amounts paid or incurred for a health  
33 benefit plan, including premium assistance, for the purchase of an optional  
34 rider for coverage of abortion in accordance with K.S.A. 2011 Supp. 40-  
35 2,190, and amendments thereto;

36 (c) in the case of any tax-preferred trust or account, the purpose of

1 which is to pay medical expenses of the account beneficiary, any amount  
2 paid or distributed from such an account for an abortion shall be included  
3 in the gross income of such beneficiary; and

4 (d) no health care services provided by any state agency, or any  
5 employee of a state agency while acting within the scope of such  
6 employee's employment, shall include abortion.

7 New Sec. 3. Nothing in sections 1 through 7, and amendments 6  
8 thereto, shall repeal, amend or have any effect on any other state law to the  
9 extent such law imposes any limitation on the use of funds for abortion,  
10 more restrictive than the limitations set forth in sections 1 through 7, and  
11 amendments thereto.

12 New Sec. 4. Nothing in sections 1 through 7, and amendments 6  
13 thereto, shall be construed:

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

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

17 New Sec. 5. No state agency shall discriminate against any individual  
18 or institutional health care entity on the basis that such health care entity  
19 does not provide, pay for or refer for abortions.

20 New Sec. 6. The limitations set forth in sections 1 through 7, and 6  
21 amendments thereto, shall not apply to an abortion which is necessary to  
22 preserve the life of the pregnant woman.

23 ~~New Sec. 7. The provisions of sections 1 through 7, and amendments  
24 thereto, are declared to be severable, and if any provision, or the  
25 application thereof, to any person shall be held invalid, such invalidity  
26 shall not affect the validity of the remaining provisions of sections 1  
27 through 7, and amendments thereto.~~

28 New Sec. ~~8~~ (3) No person shall perform an abortion with 7  
29 knowledge that the pregnant woman is seeking the abortion solely on  
30 account of the sex of the unborn child.

31 (b) (1) A woman upon whom an abortion is performed or induced, or  
32 upon whom there is an attempt to perform or induce an abortion, in  
33 violation of this section, the father, if married to the woman at the time of  
34 the abortion, and the parents or custodial guardian of the woman, if the  
35 woman has not attained the age of 18 years at the time of the abortion,  
36 may in a civil action obtain appropriate relief, unless, in a case where the  
37 plaintiff is not the woman upon whom the abortion was performed, the  
38 pregnancy resulted from the plaintiff's criminal conduct.

39 (2) Such relief shall include:

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

42 (B) statutory damages equal to three times the cost of the abortion;  
43 and

And renumbering remaining sections accordingly.

1 noneconomic, as a result of a physical condition of such minor that existed  
2 at the time of such minor's birth, and which is based on a claim that a  
3 person's action, or omission, contributed to such minor's mother not  
4 obtaining an abortion.

5 (3) "Claim of wrongful life" means a cause of action brought by, or  
6 on behalf of, a minor, which seeks damages, whether economic or  
7 noneconomic, for such minor as a result of a physical condition of such  
8 minor that existed at the time of such minor's birth, and which is based on  
9 a claim that a person's action, or omission, contributed to such minor's  
10 mother not obtaining an abortion.

11 Sec. 11. K.S.A. 2011 Supp. 40-2246 is hereby amended to read as  
12 follows: 40-2246. (a) A credit against the taxes otherwise due under the  
13 Kansas income tax act shall be allowed to an employer for amounts paid  
14 during the taxable year for purposes of this act on behalf of an eligible  
15 employee as defined in K.S.A. 40-2239, and amendments thereto, to  
16 provide health insurance or care and amounts contributed to health savings  
17 accounts of eligible covered employees, *except that for taxable years*  
18 *commencing after December 31, 2011 no credit shall be allowed pursuant*  
19 *to this section for that portion of any amounts paid by an employer for*  
20 *healthcare, a health benefit plan, as defined in section 1, and amendments*  
21 *thereto, or amounts contributed to health savings accounts for the*  
22 *purchase of an optional rider for coverage of abortion in accordance with*  
23 *K.S.A. 2011 Supp. 40-2,190, and amendments thereto.*

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

38 (2) For employers that have established a small employer health  
39 benefit plan or made contributions to a health savings account of an  
40 eligible covered employee after December 31, 2004, the amount of credit  
41 allowed by subsection (a) shall be \$70 per month per eligible covered  
42 employee for the first 12 months of participation, \$50 per month per  
43 eligible covered employee for the next 12 months of participation and \$35

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1 performs abortions only when necessary to prevent the death of the  
2 pregnant woman.

3 (f) For purposes of this section:

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

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

10 Sec. 16. K.S.A. 2011 Supp. 65-6710 is hereby amended to read as  
11 follows: 65-6710. (a) The department shall cause to be published and  
12 distributed widely, within 30 days after the effective date of this act, and  
13 shall update on an annual basis, the following easily comprehensible  
14 informational materials:

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

36 "Many public and private agencies exist to provide counseling and  
37 information on available services. You are strongly urged to seek their  
38 assistance to obtain guidance during your pregnancy. In addition, you are  
39 encouraged to seek information on ~~abortion services~~, alternatives to  
40 abortion, including adoption, and resources available to post-partum  
41 mothers. The law requires that your physician or the physician's agent  
42 provide the enclosed information."

43 (2) Printed materials that inform the pregnant woman of the probable

1 Furthermore, you should know that: (A) It is unlawful for any  
2 individual to coerce you to undergo an abortion. Coercion is the use of  
3 express or implied threats of violence or intimidation to compel a person  
4 to act against such person's will; (B) abortion terminates the life of a  
5 whole, separate, unique, living human being; (C) any physician who fails  
6 to provide informed consent prior to performing an abortion may be guilty  
7 of unprofessional conduct and liable for damages; (D) you are not  
8 required to pay any amount for the abortion procedure until the 24-hour  
9 waiting period has expired; (E) the father of your child is legally  
10 responsible to assist in the support of the child, even in instances where  
11 the father has offered to pay for an abortion; and (F) the law permits  
12 adoptive parents to pay the costs of prenatal care, childbirth and neonatal  
13 care.

14 Many public and private agencies exist to provide counseling and  
15 information on available services. You are strongly urged to seek  
16 assistance from such agencies in order to obtain guidance during your  
17 pregnancy. In addition, you are encouraged to seek information on  
18 ~~abortion~~ ~~services~~ alternatives to abortion, including adoption, and  
19 resources available to postpartum mothers. The law requires that your  
20 physician, or the physician's agent, provide this information.

21 Pregnancy begins at conception with the union of a man's sperm and a  
22 woman's egg to form a single-cell embryo. This brand new being contains  
23 the original copy of a new individual's complete genetic code. Gender, eye  
24 color and other traits are determined at conception.

25 Most significant developmental milestones occur long before birth  
26 during the first eight weeks following conception when most body parts  
27 and all body systems appear and begin to function. The main divisions of  
28 the body, such as the head, chest, abdomen, pelvis, arms and legs are  
29 established by about four weeks after conception. Eight weeks after  
30 conception, except for the small size, the developing human's overall  
31 appearance and many internal structures closely resemble the newborn.

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

39 Unless otherwise noted, all prenatal ages in the rest of this handbook  
40 are referenced from the start of the last normal menstrual period. This age  
41 is two weeks greater than the age since conception.

42 By five weeks, development of the brain, the spinal cord and the heart  
43 is well underway. The heart begins beating at five weeks and one day, and

1 assessments paid to a political subdivision of the state of Kansas in  
2 determining taxable income for income tax purposes in such other state, to  
3 the extent that such taxes and assessments are claimed as an itemized  
4 deduction for federal income tax purposes.

5 (xix) For taxable years commencing after December 31, ~~2011~~ that 2012  
6 portion of the amount of any expenditure deduction claimed in  
7 determining federal adjusted gross income for expenses paid for medical  
8 care of the taxpayer or the taxpayer's spouse or dependents when such  
9 expenses were paid or incurred for an abortion, or for a health benefit  
10 plan, as defined by section 1, and amendments thereto, for the purchase of  
11 an optional rider for coverage of abortion in accordance with K.S.A. 2011  
12 Supp. 40-2,190, and amendments thereto.

13 (xx) For taxable years commencing after December 31, ~~2011~~ that 2012  
14 portion of the amount of any expenditure deduction claimed in  
15 determining federal adjusted gross income for expenses paid by a  
16 taxpayer for health care, a health benefit plan, as defined by section 1,  
17 and amendments thereto, or amounts contributed to health savings  
18 accounts of such taxpayer's employees for the purchase of an optional  
19 rider for coverage of abortion in accordance with K.S.A. 40-2,190, and  
20 amendments thereto.

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

22 (i) Interest or dividend income on obligations or securities of any  
23 authority, commission or instrumentality of the United States and its  
24 possessions less any related expenses directly incurred in the purchase of  
25 such obligations or securities, to the extent included in federal adjusted  
26 gross income but exempt from state income taxes under the laws of the  
27 United States.

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

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

39 (iv) The amount necessary to prevent the taxation under this act of  
40 any annuity or other amount of income or gain which was properly  
41 included in income or gain and was taxed under the laws of this state for a  
42 taxable year prior to the effective date of this act, as amended, to the  
43 taxpayer, or to a decedent by reason of whose death the taxpayer acquired

1 modifications as provided for in subsection (b)(ii) of K.S.A. 79-32,138,  
2 *and amendments thereto*, and subtraction modifications as provided for in  
3 subsection (c)(iii) of K.S.A. 79-32,138, *and amendments thereto*, as those  
4 subsections existed prior to their amendment by this act, shall be required  
5 to be made for such taxable year.

6 Sec. 19. K.S.A. 2011 Supp. 79-32,182b is hereby amended to read as  
7 follows: 79-32,182b. (a) For all taxable years commencing after December  
8 31, 2000, a credit shall be allowed against the tax imposed by the Kansas  
9 income tax act on the Kansas taxable income of a taxpayer for  
10 expenditures in research and development activities conducted within this  
11 state in an amount equal to 6 1/2% of the amount by which the amount  
12 expended for such activities in the taxable year of the taxpayer exceeds the  
13 taxpayer's average of the actual expenditures for such purposes made in  
14 such taxable year and the next preceding two taxable years.

15 (b) In any one taxable year, the amount of such credit allowable for  
16 deduction from the taxpayer's tax liability shall not exceed 25% of the total  
17 amount of such credit plus any applicable carry forward amount. The  
18 amount by which that portion of the credit allowed by subsections (a) and  
19 (b) to be claimed in any one taxable year exceeds the taxpayer's tax  
20 liability in such year may be carried forward until the total amount of the  
21 credit is used.

22 (c) As used in this section, the term "expenditures in research and  
23 development activities" means expenditures made for such purposes, other  
24 than expenditures of moneys made available to the taxpayer pursuant to  
25 federal or state law, which are treated as expenses allowable for deduction  
26 under the provisions of the federal internal revenue code of 1986, and  
27 ~~amendments thereto as amended, except that for taxable years~~  
28 ~~commencing after December 31, 2011, expenditures in research and~~  
29 ~~development activities shall not include any expenditures for the~~  
30 ~~performance of any abortion, as defined in section 1, and amendments~~  
31 ~~thereto.~~

32 Sec. 20. K.S.A. 2011 Supp. 79-32,195 is hereby amended to read as  
33 follows: 79-32,195. As used in this act, the following words and phrases  
34 shall have the meanings ascribed to them herein: (a) "Business firm"  
35 means any business entity authorized to do business in the state of Kansas  
36 which is subject to the state income tax imposed by the provisions of the  
37 Kansas income tax act, any individual subject to the state income tax  
38 imposed by the provisions of the Kansas income tax act, any national  
39 banking association, state bank, trust company or savings and loan  
40 association paying an annual tax on its net income pursuant to article 11 of  
41 chapter 79 of the Kansas Statutes Annotated, or any insurance company  
42 paying the premium tax and privilege fees imposed pursuant to K.S.A. 40-  
43 252, and amendments thereto;

1 an amount not to exceed \$78,125; for the tax year 2009, an amount not to  
2 exceed \$156,250; and for the tax years 2010, 2011 and 2012, an amount  
3 not to exceed \$208,233.33.

4 (2) In no event shall the total of credits allowed under this section for  
5 taxpayers who contribute to postsecondary educational institutions exceed  
6 the following amounts: For the tax year 2008, an amount not to exceed  
7 \$5,625,000; for the tax year 2009, an amount not to exceed \$11,250,000;  
8 and for the tax years 2010, 2011 and 2012, an amount not to exceed  
9 \$15,000,000. Except as otherwise provided, the allocation of such tax  
10 credits for each individual state educational institution shall be determined  
11 by the state board of regents in consultation with the secretary of revenue  
12 and the university foundation or endowment association of each  
13 postsecondary educational institution, and such determination shall be  
14 completed prior to the issuance of any tax credits pursuant to this section.  
15 Not more than 40% of the total of credits allowed under this section shall  
16 be allocated to any one postsecondary educational institution unless all  
17 such postsecondary educational institutions approve an allocation to any  
18 one such postsecondary educational institution which exceeds 40% of the  
19 total of such credits allowed under this section.

20 (d) As used in this section: (1) "Community college" means a  
21 community college established under the provisions of the community  
22 college act;

23 (2) "deferred maintenance" means the maintenance, repair,  
24 reconstruction or rehabilitation of a building located at a technical college  
25 or a postsecondary educational institution which has been deferred, any  
26 utility systems relating to such building, any life-safety upgrades to such  
27 building and any improvements necessary to be made to such building in  
28 order to comply with the requirements of the Americans with disabilities  
29 act or other federal or state law, except that for taxable years commencing  
30 after December 31, 2011, deferred maintenance shall not include any  
31 maintenance, repair, reconstruction or rehabilitation of any building in  
32 which any abortion, as defined in section 1, and amendments thereto, is  
33 performed.

34 (3) "postsecondary educational institution" means the university of  
35 Kansas, Kansas state university of agriculture and applied science, Wichita  
36 state university, Emporia state university, Pittsburg state university, Fort  
37 Hays state university and Washburn university of Topeka; and

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

41 (e) Any taxpayer not subject to Kansas income, privilege or  
42 premiums tax who contributes to a community college, technical college  
43 or postsecondary educational institution, hereinafter designated the

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1 compounding of tangible personal property, the treating of by-products or  
2 wastes derived from any such production process, the providing of  
3 services or the irrigation of crops for ultimate sale at retail within or  
4 without the state of Kansas; and any purchaser of such property may  
5 obtain from the director of taxation and furnish to the supplier an  
6 exemption certificate number for tangible personal property for  
7 consumption in such production, manufacture, processing, mining,  
8 drilling, refining, compounding, treating, irrigation and in providing such  
9 services;

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

16 (p) all sales of drugs dispensed pursuant to a prescription order by a  
17 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-  
18 1626, and amendments thereto. As used in this subsection, "drug" means a  
19 compound, substance or preparation and any component of a compound,  
20 substance or preparation, other than food and food ingredients, dietary  
21 supplements or alcoholic beverages, recognized in the official United  
22 States pharmacopoeia, official homeopathic pharmacopoeia of the United  
23 States or official national formulary, and supplement to any of them,  
24 intended for use in the diagnosis, cure, mitigation, treatment or prevention  
25 of disease or intended to affect the structure or any function of the body,  
26 *except that for taxable years commencing after December 31, 2014, this*  
27 *subsection shall not apply to any sales of drugs used in the performance*  
28 *or induction of an abortion, as defined in section 1, and amendments*  
29 *thereto;*

30 (q) all sales of insulin dispensed by a person licensed by the state  
31 board of pharmacy to practice medicine by the board of hearing arts;  
32 a person licensed to practice medicine by the board of hearing arts;

33 (r) all sales of oxygen delivery equipment, kidney dialysis equipment,  
34 enteral feeding systems, prosthetic devices and mobility enhancing  
35 equipment prescribed in writing by a person licensed to practice the  
36 hearing arts, dentistry or optometry, and in addition to such sales, all sales  
37 of hearing aids, as defined by subsection (c) of K.S.A. 74-5807, and  
38 amendments thereto, and repair and replacement parts therefor, including  
39 batteries, by a person licensed in the practice of dispensing and fitting  
40 hearing aids pursuant to the provisions of K.S.A. 74-5808, and  
41 amendments thereto. For the purposes of this subsection: (1) "Mobility  
42 enhancing equipment" means equipment including repair and replacement  
43 parts to same, but does not include durable medical equipment, which is

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1 operation, such as utility systems for heating, ventilation, air conditioning,  
2 communications, plumbing or electrical;

3 (H) machinery and equipment used for general plant heating, cooling  
4 and lighting;

5 (I) motor vehicles that are registered for operation on public  
6 highways; or

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

10 (6) Subsections (3) and (5) shall not be construed as exclusive listings  
11 of the machinery and equipment that qualify or do not qualify as an  
12 integral or essential part of an integrated production operation. When  
13 machinery or equipment is used as an integral or essential part of  
14 production operations part of the time and for nonproduction purpose at  
15 other times, the primary use of the machinery or equipment shall  
16 determine whether or not such machinery or equipment qualifies for  
17 exemption.

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

20 (II) all sales of educational materials purchased for distribution to the  
21 public at no charge by a nonprofit corporation organized for the purpose of  
22 encouraging, fostering and conducting programs for the improvement of  
23 public health, except that for taxable years commencing after December  
24 31, 2011, this subsection shall not apply to any sales of such materials

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25 purchased by a nonprofit corporation which performs any abortion, as  
26 defined in section 1, and amendments thereto;

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

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

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

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

39 (qq) all sales of tangible personal property and services purchased by  
40 a nonprofit museum or historical society or any combination thereof,  
41 including a nonprofit organization which is organized for the purpose of  
42 stimulating public interest in the exploration of space by providing  
43 educational information, exhibits and experiences, which is exempt from

1 federal income taxation pursuant to section 501(c)(3) of the federal  
2 internal revenue code of 1986;

3 (rr) all sales of tangible personal property which will admit the  
4 purchaser thereof to any annual event sponsored by a nonprofit  
5 organization which is exempt from federal income taxation pursuant to  
6 section 501(c)(3) of the federal internal revenue code of 1986, *except that*  
7 *for taxable years commencing after December 31, 2011 this subsection*

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8 *shall not apply to any sales of such tangible personal property purchased*  
9 *by a nonprofit organization which performs any abortion, as defined in*  
10 *section 1, and amendments thereto;*

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

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

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

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

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

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

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

37 (4) the American Diabetes Association Kansas Affiliate, Inc. for the  
38 purpose of eliminating diabetes through medical research, public education  
39 focusing on disease prevention and education, patient education including  
40 information on coping with diabetes, and professional education and  
41 training;

42 (5) the American Lung Association of Kansas, Inc. for the purpose of  
43 eliminating all lung diseases through medical research, public education

1 in the building or other project or not to have been returned for credit or  
2 the sales or compensating tax otherwise imposed upon such materials  
3 which will not be so incorporated in the building or other project reported  
4 and paid by such contractor to the director of taxation not later than the  
5 20<sup>th</sup> day of the month following the close of the month in which it shall be  
6 determined that such materials will not be used for the purpose for which  
7 such certificate was issued, such clinic or center concerned shall be liable  
8 for tax on all materials purchased for the project, and upon payment  
9 thereof it may recover the same from the contractor together with  
10 reasonable attorney fees. Any contractor or any agent, employee or  
11 subcontractor thereof, who shall use or otherwise dispose of any materials  
12 purchased under such a certificate for any purpose other than that for  
13 which such a certificate is issued without the payment of the sales or  
14 compensating tax otherwise imposed upon such materials, shall be guilty  
15 of a misdemeanor and, upon conviction therefor, shall be subject to the  
16 penalties provided for in subsection (g) of K.S.A. 79-3615, and  
17 amendments thereto, except that for taxable years commencing after  
18 December 31, 2011, this subsection shall not apply to any sales of such  
19 tangible personal property and services purchased by a primary care  
20 clinic or health center which performs any abortion, as defined in section  
21 1, and amendments thereto;  
22 (ddd) on and after January 1, 1999, and before January 1, 2000, all  
23 sales of materials and services purchased by any class II or III railroad as  
24 classified by the federal surface transportation board for the construction,  
25 renovation, repair or replacement of class II or III railroad track and  
26 facilities used directly in interstate commerce. In the event any such track  
27 or facility for which materials and services were purchased sales tax  
28 exempt is not operational for five years succeeding the allowance of such  
29 exemption, the total amount of sales tax which would have been payable  
30 except for the operation of this subsection shall be recouped in accordance  
31 with rules and regulations adopted for such purpose by the secretary of  
32 revenue;  
33 (eee) on and after January 1, 1999, and before January 1, 2001, all  
34 sales of materials and services purchased for the original construction,  
35 reconstruction, repair or replacement of grain storage facilities, including  
36 railroad sidings providing access thereto;  
37 (fff) all sales of material handling equipment, racking systems and  
38 other related machinery and equipment that is used for the handling,  
39 movement or storage of tangible personal property in a warehouse or  
40 distribution facility in this state; all sales of installation, repair and  
41 maintenance services performed on such machinery and equipment; and  
42 all sales of repair and replacement parts for such machinery and  
43 equipment. For purposes of this subsection, a warehouse or distribution

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1 property by or on behalf of sheltered living, inc. for any such purpose; and  
 2 all sales of tangible personal property or services purchased by a  
 3 contractor for the purpose of rehabilitating, constructing, maintaining,  
 4 repairing, enlarging, furnishing or remodeling homes and facilities for  
 5 sheltered living, inc. for any such purpose which would be exempt from  
 6 taxation under the provisions of this section if purchased directly by  
 7 sheltered living, inc. Nothing in this subsection shall be deemed to exempt  
 8 the purchase of any construction machinery, equipment or tools used in the  
 9 constructing, maintaining, repairing, enlarging, furnishing or remodeling  
 10 such homes and facilities for sheltered living, inc. When sheltered living,  
 11 inc. contracts for the purpose of rehabilitating, constructing, maintaining,  
 12 repairing, enlarging, furnishing or remodeling such homes and facilities, it  
 13 shall obtain from the state and furnish to the contractor an exemption  
 14 certificate for the project involved, and the contractor may purchase  
 15 materials for incorporation in such project. The contractor shall furnish the  
 16 number of such certificate to all suppliers from whom such purchases are  
 17 made, and such suppliers shall execute invoices covering the same bearing  
 18 the number of such certificate. Upon completion of the project the  
 19 contractor shall furnish to sheltered living, inc. a sworn statement, on a  
 20 form to be provided by the director of taxation, that all purchases so made  
 21 were entitled to exemption under this subsection. All invoices shall be held  
 22 by the contractor for a period of five years and shall be subject to audit by  
 23 the director of taxation. If any materials purchased under such a certificate  
 24 are found not to have been incorporated in the building or other project or  
 25 not to have been returned for credit or the sales or compensating tax  
 26 otherwise imposed upon such materials which will not be so incorporated  
 27 in the building or other project reported and paid by such contractor to the  
 28 director of taxation not later than the 20<sup>th</sup> day of the month following the  
 29 close of the month in which it shall be determined that such materials will  
 30 not be used for the purpose for which such certificate was issued, sheltered  
 31 living, inc. shall be liable for tax on all materials purchased for the project,  
 32 and upon payment thereof it may recover the same from the contractor  
 33 together with reasonable attorney fees. Any contractor or any agent,  
 34 employee or subcontractor thereof, who shall use or otherwise dispose of  
 35 any materials purchased under such a certificate for any purpose other than  
 36 that for which such a certificate is issued without the payment of the sales  
 37 or compensating tax otherwise imposed upon such materials, shall be  
 38 guilty of a misdemeanor and, upon conviction therefor, shall be subject to  
 39 the penalties provided for in subsection (g) of K.S.A. 79-3615, and  
 40 amendments thereto; and  
 41 *(gggg) all sales of game birds for which the primary purpose is use in*  
 42 *hunting.*  
 43 Sec. 23. K.S.A. 60-1901 and K.S.A. 2011 Supp. 40-2246, 65-6701,

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