

HOUSE BILL No. 2377

By Committee on Federal and State Affairs

3-9

1 AN ACT concerning abortion; regarding restrictions on late term
2 abortion; creating the no taxpayer funding for abortion act; amending
3 K.S.A. 60-1901, 65-6701, 65-6703 and 65-6713 and K.S.A. 2010
4 Supp. 40-2,103, 40-19c09, 40-2246, 65-6709, 65-6710, 79-32,117, 79-
5 32,138, 79-32,182b, 79-32,195, 79-32,261 and 79-3606 and repealing
6 the existing sections.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 New Section 1. (a) Sections 1 through 13, and amendments
10 thereto, shall be known and may be cited as the no taxpayer funding for
11 abortion act.

12 (b) As used in this act:

13 (1) "Abortion" has the same meaning ascribed thereto in K.S.A. 65-
14 6701, and amendments thereto.

15 (2) "Health benefits coverage" means the package of services
16 provided by any provider or provider network, as defined by K.S.A. 40-
17 4602, and amendments thereto.

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

23 New Sec. 2. Except to the extent required by federal law, no moneys
24 appropriated from the state general fund or from any special revenue fund
25 shall be expended for:

26 (a) Any abortion; or

27 (b) health benefits plan that includes coverage of abortion.

28 New Sec. 3. Except to the extent required by federal law:

29 (a) No tax credit shall be allowed against any income tax, premium
30 or privilege tax liability and no exemption shall be granted from sales or
31 compensating use tax for amounts paid or incurred for an abortion, or
32 amounts paid or incurred for a health benefit plan, including premium
33 assistance, that includes coverage of abortion; and

34 (b) in the case of any tax-preferred trust or account, the purpose of
35 which is to pay medical expenses of the account beneficiary, any amount

1 paid or distributed from such an account for an abortion shall be included
2 in the gross income of such beneficiary.

3 New Sec. 4. (a) Except to the extent required by federal law, no
4 health care services provided by any state agency, or any employee of a
5 state agency while acting within the scope of such employee's
6 employment, shall include abortion.

7 (b) For purposes of this section, the term "state agency" has the
8 same meaning ascribed thereto in K.S.A. 75-3701, and amendments
9 thereto.

10 New Sec. 5. Nothing in sections 1 through 13, and amendments
11 thereto, shall be construed as prohibiting any individual, entity or other
12 organization from purchasing separate abortion coverage or health
13 benefits plan that includes abortion so long as such coverage is paid for
14 solely from funds that are not appropriated from the state general fund or
15 any special revenue fund.

16 New Sec. 6. (a) Except as provided in subsections (b) and (c),
17 nothing in sections 1 through 13, and amendments thereto, shall be
18 construed as restricting the ability of any private entity offering health
19 benefits plans from offering abortion coverage, or the ability of any
20 private organization to contract separately with such private entity for
21 such coverage, so long as such coverage is paid for solely from funds that
22 are not appropriated from the state general fund or any special revenue
23 fund.

24 (b) No health benefit plan delivered or issued for delivery, amended
25 or renewed on or after the effective date of this act, in this state shall
26 provide coverage for elective abortions except by an optional rider for
27 which there must be paid an additional premium.

28 (c) No health insurance exchange established within this state, or
29 exchange established in another state and offering health insurance within
30 this state, or any health insurance exchange administered by the federal
31 government or its agencies within this state shall offer health benefit
32 plans that provide coverage for elective abortions, nor shall any health
33 insurance exchange operating within this state offer coverage for elective
34 abortions through the purchase of an optional rider.

35 (d) For purposes of this section, an "elective abortion" means an
36 abortion for any reason other than: (1) A spontaneous abortion; or (2) an
37 abortion which is necessary to preserve the life of the pregnant woman.

38 (e) The provisions of K.S.A. 40-2249a, and amendments thereto,
39 shall not apply to the provisions of this section.

40 New Sec. 7. Nothing in sections 1 through 13, and amendments
41 thereto, shall repeal, amend or have any effect on any other state law to
42 the extent such law imposes any limitation on the use of funds for
43 abortion or for health benefits coverage that includes coverage of

1 abortion, more restrictive than the limitations set forth in sections 1
2 through 13, and amendments thereto.

3 New Sec. 8. Nothing in sections 1 through 13, and amendments
4 thereto, shall be construed to require any state agency or municipality to
5 provide or pay for any abortion or any health benefits coverage that
6 includes coverage of abortion.

7 New Sec. 9. The limitations set forth in sections 1 through 13, and
8 amendments thereto, shall not apply to an abortion which is necessary to
9 preserve the life of the pregnant woman.

10 New Sec. 10. (a) No state agency, as defined in K.S.A. 75-3701,
11 and amendments thereto, shall discriminate against any individual or
12 institutional health care entity on the basis that such health care entity
13 does not provide, pay for, provide coverage of or refer for abortions.

14 (b) For purposes of this section, the term "health care entity"
15 includes an individual physician or other health care professional, a
16 hospital, a provider-sponsored organization, a health maintenance
17 organization, a health insurance plan or any other kind of health care
18 facility, organization or plan.

19 New Sec. 11. (a) No abortion coverage may be provided by a
20 qualified health plan offered through an exchange created within the state
21 of Kansas pursuant to public law 111-148, the patient protection and
22 affordable care act, or public law 111-152, the health care and education
23 reconciliation act of 2010, or any combination thereof.

24 (b) The provisions of subsection (a) shall not apply to an abortion
25 which is necessary to preserve the life of the pregnant woman.

26 New Sec. 12. Nothing in sections 1 through 13, and amendments
27 thereto, shall be construed as creating or recognizing a right to abortion.
28 Notwithstanding any provision of this section, a person shall not perform
29 an abortion that is prohibited by law.

30 New Sec. 13. The provisions of sections 1 through 13, and
31 amendments thereto, are declared to be severable, and if any provision, or
32 the application thereof, to any person shall be held invalid, such invalidity
33 shall not affect the validity of the remaining provisions of sections 1
34 through 13, and amendments thereto.

35 New Sec. 14. (a) No diagnostic or therapeutic professional service
36 involving an abortion procedure shall occur outside the physical presence
37 of a physician licensed in the state of Kansas. When RU-486
38 (mifepristone) or any drug is used for the purpose of inducing an
39 abortion, the drug must be administered by or in the same room and in the
40 physical presence of the physician who prescribed, dispensed or
41 otherwise provided the drug to the patient.

42 (b) The physician inducing the abortion, or a person acting on behalf
43 of the physician inducing the abortion, shall make all reasonable efforts to

1 ensure that the patient returns 12 to 18 days after the administration or
2 use of such drug for a subsequent examination so that the physician can
3 confirm that the pregnancy has been terminated and assess the patient's
4 medical condition. A brief description of the efforts made to comply with
5 this subsection, including the date, time and identification by name of the
6 person making such efforts, shall be included in the patient's medical
7 record.

8 (c) A violation of this section shall constitute unprofessional conduct
9 under K.S.A. 65-2837, and amendments thereto.

10 New Sec. 15. (a) No person shall perform an abortion with
11 knowledge that the pregnant woman is seeking the abortion solely on
12 account of the race or sex of the unborn child. Nothing in this section
13 shall be construed to proscribe the performance of an abortion because
14 the unborn child has a genetic disorder that is linked to the race or sex of
15 the unborn child.

16 (b) (1) A woman upon whom an abortion is performed in violation
17 of this section, the father, if married to the woman at the time of the
18 abortion, and the parents or custodial guardian of the woman, if the
19 woman has not attained the age of 18 years at the time of the abortion,
20 may in a civil action obtain appropriate relief, unless, in a case where the
21 plaintiff is not the woman upon whom the abortion was performed, the
22 pregnancy resulted from the plaintiff's criminal conduct.

23 (2) Such relief shall include:

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

26 (B) statutory damages equal to three times the cost of the abortion;
27 and

28 (C) reasonable attorney fees.

29 (c) A woman upon whom an abortion is performed shall not be
30 prosecuted under this section for a conspiracy to violate this section
31 pursuant to section 34 of chapter 136 of 2010 session laws of Kansas, and
32 amendments thereto.

33 (d) Nothing in this section shall be construed to create a right to an
34 abortion. Notwithstanding any provision of this section, a person shall
35 not perform an abortion that is prohibited by law.

36 (e) Upon a first conviction of a violation of this section, a person shall
37 be guilty of a class A person misdemeanor. Upon a second or subsequent
38 conviction of a violation of this section, a person shall be guilty of a
39 severity level 10, person felony.

40 (f) If any provision of this section is held to be invalid or
41 unconstitutional, it shall be conclusively presumed that the legislature
42 would have enacted the remainder of this section without such invalid or
43 unconstitutional provision.

1 Sec. 16. K.S.A. 2010 Supp. 40-2,103 is hereby amended to read as
2 follows: 40-2,103. The requirements of K.S.A. 40-2,100, 40-2,101, 40-
3 2,102, 40-2,104, 40-2,105, 40-2,114, 40-2,160, 40-2,165 through 40-
4 2,170, inclusive, 40-2250, K.S.A. 2010 Supp. 40-2,105a, 40-2,105b ~~and~~ ,
5 40-2,184 *and section 6*, and amendments thereto, shall apply to all
6 insurance policies, subscriber contracts or certificates of insurance
7 delivered, renewed or issued for delivery within or outside of this state or
8 used within this state by or for an individual who resides or is employed
9 in this state.

10 Sec. 17. K.S.A. 2010 Supp. 40-19c09 is hereby amended to read as
11 follows: 40-19c09. (a) Corporations organized under the nonprofit
12 medical and hospital service corporation act shall be subject to the
13 provisions of the Kansas general corporation code, articles 60 to 74,
14 inclusive, of chapter 17 of the Kansas Statutes Annotated, applicable to
15 nonprofit corporations, to the provisions of K.S.A. 40-214, 40-215, 40-
16 216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-225, 40-226, 40-229,
17 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-
18 250, 40-251, 40-252, 40-254, 40-2,100, 40-2,101, 40-2,102, 40-2,103,
19 40-2,104, 40-2,105, 40-2,116, 40-2,117, 40-2,153, 40-2,154, 40-2,160,
20 40-2,161, 40-2,163 through 40-2,170, inclusive, 40-2a01 et seq., 40-2111
21 to 40-2116, inclusive, 40-2215 to 40-2220, inclusive, 40-2221a, 40-
22 2221b, 40-2229, 40-2230, 40-2250, 40-2251, 40-2253, 40-2254, 40-2401
23 to 40-2421, inclusive, and 40-3301 to 40-3313, inclusive, K.S.A. 2010
24 Supp. 40-2,105a, 40-2,105b ~~and~~ , 40-2,184 *and section 6*, and
25 amendments thereto, except as the context otherwise requires, and shall
26 not be subject to any other provisions of the insurance code except as
27 expressly provided in this act.

28 (b) No policy, agreement, contract or certificate issued by a
29 corporation to which this section applies shall contain a provision which
30 excludes, limits or otherwise restricts coverage because medicaid benefits
31 as permitted by title XIX of the social security act of 1965 are or may be
32 available for the same accident or illness.

33 (c) Violation of subsection (b) shall be subject to the penalties
34 prescribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

35 Sec. 18. K.S.A. 2010 Supp. 40-2246 is hereby amended to read as
36 follows: 40-2246. (a) A credit against the taxes otherwise due under the
37 Kansas income tax act shall be allowed to an employer for amounts paid
38 during the taxable year for purposes of this act on behalf of an eligible
39 employee as defined in K.S.A. 40-2239, and amendments thereto, to
40 provide health insurance or care and amounts contributed to health
41 savings accounts of eligible covered employees, *except that for taxable*
42 *years commencing after December 31, 2010, no credit shall be allowed*
43 *pursuant to this section for any amounts paid by an employer for health*

1 *care, a health benefit plan, as defined in section 1, and amendments*
2 *thereto, or amounts contributed to health savings accounts that include*
3 *coverage of abortion.*

4 (b) (1) For employers that have established a small employer health
5 benefit plan after December 31, 1999, but prior to January 1, 2005, the
6 amount of the credit allowed by subsection (a) shall be \$35 per month per
7 eligible covered employee or 50% of the total amount paid by the
8 employer during the taxable year, whichever is less, for the first two years
9 of participation. In the third year, the credit shall be equal to 75% of the
10 lesser of \$35 per month per employee or 50% of the total amount paid by
11 the employer during the taxable year. In the fourth year, the credit shall be
12 equal to 50% of the lesser of \$35 per month per employee or 50% of the
13 total amount paid by the employer during the taxable year. In the fifth
14 year, the credit shall be equal to 25% of the lesser of \$35 per month per
15 employee or 50% of the total amount paid by the employer during the
16 taxable year. For the sixth and subsequent years, no credit shall be
17 allowed.

18 (2) For employers that have established a small employer health
19 benefit plan or made contributions to a health savings account of an
20 eligible covered employee after December 31, 2004, the amount of credit
21 allowed by subsection (a) shall be \$70 per month per eligible covered
22 employee for the first 12 months of participation, \$50 per month per
23 eligible covered employee for the next 12 months of participation and
24 \$35 per eligible covered employee for the next 12 months of
25 participation. After 36 months of participation, no credit shall be allowed.

26 (c) If the credit allowed by this section is claimed, the amount of any
27 deduction allowable under the Kansas income tax act for expenses
28 described in this section shall be reduced by the dollar amount of the
29 credit. The election to claim the credit shall be made at the time of filing
30 the tax return in accordance with law. If the credit allowed by this section
31 exceeds the taxes imposed under the Kansas income tax act for the
32 taxable year, that portion of the credit which exceeds those taxes shall be
33 refunded to the taxpayer.

34 (d) Any amount of expenses paid by an employer under this act shall
35 not be included as income to the employee for purposes of the Kansas
36 income tax act. If such expenses have been included in federal taxable
37 income of the employee, the amount included shall be subtracted in
38 arriving at state taxable income under the Kansas income tax act.

39 (e) The secretary of revenue shall promulgate rules and regulations
40 to carry out the provisions of this section.

41 (f) This section shall apply to all taxable years commencing after
42 December 31, 1999.

43 Sec. 19. K.S.A. 60-1901 is hereby amended to read as follows: 60-

1 1901. (a) If the death of a person is caused by the wrongful act or
2 omission of another, an action may be maintained for the damages
3 resulting therefrom if the former might have maintained the action had ~~he~~
4 ~~or she~~ *such person* lived, in accordance with the provisions of this article,
5 against the wrongdoer, or ~~his or her~~ *such wrongdoer's* personal
6 representative if ~~he or she~~ *such wrongdoer* is deceased.

7 (b) *As used in article 19 of chapter 60 of the Kansas Statutes*
8 *Annotated, and amendments thereto, a person also means an unborn*
9 *child.*

10 (c) *As used in this section, "unborn child" means a living individual*
11 *organism of the species homo sapiens, in utero, at any stage of gestation*
12 *from fertilization to birth.*

13 (d) *This section shall not apply to a wrongful death action if the*
14 *death is of an unborn child by means of:*

15 (1) *Any act committed by the mother of the unborn child;*

16 (2) *any medical procedure, including abortion, performed by a*
17 *physician or other licensed medical professional at the request of the*
18 *pregnant woman or her legal guardian; or*

19 (3) *the lawful dispensation or administration of lawfully prescribed*
20 *medication.*

21 Sec. 20. K.S.A. 65-6701 is hereby amended to read as follows: 65-
22 6701. As used in ~~this act~~ *K.S.A. 65-6701 through 65-6721 and section 15,*
23 *and amendments thereto:*

24 (a) "Abortion" means ~~the use of any means to intentionally terminate~~
25 ~~a pregnancy except for the purpose of causing a live birth. Abortion does~~
26 ~~not include: (1) The use of any drug or device that inhibits or prevents~~
27 ~~ovulation, fertilization or the implantation of an embryo; or (2)~~
28 ~~disposition of the product of in vitro fertilization prior to implantation.~~
29 *the use or prescription of any instrument, medicine, drug or any other*
30 *substance or device to terminate the pregnancy of a woman known to be*
31 *pregnant with an intention other than to increase the probability of a live*
32 *birth, to preserve the life or health of the child after live birth, or to*
33 *remove a dead unborn child who died as the result of natural causes in*
34 *utero, accidental trauma or a criminal assault on the pregnant woman or*
35 *her unborn child, and which causes the premature termination of the*
36 *pregnancy.*

37 (b) "Bodily function" means *physical functions only. The term*
38 *"bodily function" does not include mental or emotional functions.*

39 (b) (c) "Counselor" means a person who is: (1) Licensed to practice
40 medicine and surgery; (2) licensed to practice psychology; (3) licensed to
41 practice professional or practical nursing; (4) registered to practice
42 professional counseling; (5) licensed as a social worker; (6) the holder of
43 a master's or doctor's degree from an accredited graduate school of social

1 work; (7) registered to practice marriage and family therapy; (8) a
2 licensed physician assistant; or (9) a currently ordained member of the
3 clergy or religious authority of any religious denomination or society.
4 Counselor does not include the physician who performs or induces the
5 abortion or a physician or other person who assists in performing or
6 inducing the abortion.

7 (e) (d) "Department" means the department of health and
8 environment.

9 (d) (e) "Gestational age" means the time that has elapsed since the
10 first day of the woman's last menstrual period.

11 (e) (f) "Medical emergency" means that condition which, on the
12 basis of the physician's good faith clinical judgment *using and exercising*
13 *that degree of care, skill and proficiency commonly exercised by the*
14 *ordinary skillful, careful and prudent physician in the same or similar*
15 *circumstances*, so complicates the medical condition of a pregnant
16 woman as to necessitate the immediate abortion of her pregnancy to avert
17 her death or for which a delay will create serious risk of substantial and
18 irreversible *physical* impairment of a major bodily function. *No condition*
19 *shall be deemed a medical emergency if based on a claim or diagnosis*
20 *that the woman will engage in conduct which would result in her death or*
21 *in substantial and irreversible physical impairment of a major bodily*
22 *function.*

23 (f) (g) "Minor" means a person less than 18 years of age.

24 (g) (h) "Physician" means a person licensed to practice medicine and
25 surgery in this state.

26 (h) (i) "Pregnant" or "pregnancy" means that female reproductive
27 condition of having a fetus *an unborn child* in the mother's body.

28 (i) (j) "Qualified person" means an agent of the physician who is a
29 psychologist, licensed social worker, registered professional counselor,
30 registered nurse or physician.

31 (j) (k) "Unemancipated minor" means any minor who has never
32 been: (1) Married; or (2) freed, by court order or otherwise, from the care,
33 custody and control of the minor's parents.

34 (k) (l) "Viable" means that stage of gestation ~~when, in the best~~
35 ~~medical judgment of the attending physician, the fetus is capable of~~
36 ~~sustained survival outside the uterus without the application of~~
37 ~~extraordinary medical means.~~ *of fetal development when it is the*
38 *physician's judgment, according to accepted obstetrical or neonatal*
39 *standards of care and practice applied by physicians in the same or*
40 *similar circumstances, that there is a realistic possibility of maintaining*
41 *and nourishing a life outside the womb with natural or artificial life-*
42 *supportive measures.*

43 Sec. 21. K.S.A. 65-6703 is hereby amended to read as follows: 65-

1 6703. (a) No person shall perform or induce, *or attempt to perform or*
2 *induce* an abortion when the ~~fetus~~ *unborn child* is viable unless such
3 person is a physician and has a documented referral from another
4 physician not legally or financially affiliated with the physician
5 performing or inducing, *or attempting to perform or induce* the abortion
6 and both physicians determine that: (1) The abortion is necessary to
7 preserve the life of the pregnant woman; or (2) a continuation of the
8 pregnancy will cause a substantial and irreversible *physical* impairment
9 of a major bodily function of the pregnant woman. *No such condition*
10 *shall be deemed to exist if it is based on a claim or diagnosis that the*
11 *woman will engage in conduct which would result in her death or in*
12 *substantial and irreversible physical impairment of a major bodily*
13 *function.*

14 (b) (1) Except in the case of a medical emergency, prior to
15 performing *or inducing, or attempting to perform or induce* an abortion
16 upon a woman, the physician shall determine the gestational age of the
17 fetus according to accepted obstetrical and neonatal practice and
18 standards applied by physicians in the same or similar circumstances. If
19 the physician determines the gestational age is less than 22 weeks, the
20 physician shall document as part of the medical records of the woman the
21 basis for the determination.

22 (2) If the physician determines the gestational age of the ~~fetus~~
23 *unborn child* is 22 or more weeks, prior to performing *or inducing, or*
24 *attempting to perform or induce* an abortion upon the woman the
25 physician shall determine if the ~~fetus~~ *unborn child* is viable by using and
26 exercising that degree of care, skill and proficiency commonly exercised
27 by the ordinary skillful, careful and prudent physician in the same or
28 similar circumstances. In making this determination of viability, the
29 physician shall perform or cause to be performed such medical
30 examinations and tests as are necessary to make a finding of the
31 gestational age of the ~~fetus~~ *unborn child* and shall enter such findings and
32 determinations of viability in the medical record of the woman.

33 (3) If the physician determines the gestational age of a ~~fetus~~ *an*
34 *unborn child* is 22 or more weeks, and determines that the ~~fetus~~ *unborn*
35 *child* is not viable and performs an abortion on the woman, the physician
36 shall report such determinations and the reasons for such determinations
37 in writing to the medical care facility in which the abortion is performed
38 for inclusion in the report of the medical care facility to the secretary of
39 health and environment under K.S.A. 65-445, and amendments thereto,
40 or if the abortion is not performed in a medical care facility, the physician
41 shall report such determinations and the reasons for such determinations
42 in writing to the secretary of health and environment as part of the written
43 report made by the physician to the secretary of health and environment

1 under K.S.A. 65-445, and amendments thereto.

2 (4) If the physician who is to perform the abortion determines the
3 gestational age of ~~a fetus~~ *an unborn child* is 22 or more weeks, and
4 determines that the ~~fetus~~ *unborn child* is viable, both physicians under
5 subsection (a) determine in accordance with the provisions of subsection
6 (a) that an abortion is necessary to preserve the life of the pregnant
7 woman or that a continuation of the pregnancy will cause a substantial
8 and irreversible *physical* impairment of a major bodily function of the
9 pregnant woman and the physician performs an abortion on the woman,
10 the physician who performs the abortion shall report such determinations,
11 the reasons for such determinations and the basis for the determination
12 that an abortion is necessary to preserve the life of the pregnant woman or
13 that a continuation of the pregnancy will cause a substantial and
14 irreversible *physical* impairment of a major bodily function of the
15 pregnant woman in writing to the medical care facility in which the
16 abortion is performed for inclusion in the report of the medical care
17 facility to the secretary of health and environment under K.S.A. 65-445,
18 and amendments thereto, or if the abortion is not performed in a medical
19 care facility, the physician who performs the abortion shall report such
20 determinations, the reasons for such determinations and the basis for the
21 determination that an abortion is necessary to preserve the life of the
22 pregnant woman or that a continuation of the pregnancy will cause a
23 substantial and irreversible *physical* impairment of a major bodily
24 function of the pregnant woman in writing to the secretary of health and
25 environment as part of the written report made by the physician to the
26 secretary of health and environment under K.S.A. 65-445, and
27 amendments thereto.

28 (5) The physician shall retain the medical records required to be kept
29 under paragraphs (1) and (2) of this subsection (b) for not less than five
30 years and shall retain a copy of the written reports required under
31 paragraphs (3) and (4) of this subsection (b) for not less than five years.

32 (c) A woman upon whom an abortion is performed shall not be
33 prosecuted under this section for a conspiracy to violate this section
34 pursuant to K.S.A. 21-3302, and amendments thereto.

35 (d) Nothing in this section shall be construed to create a right to an
36 abortion. Notwithstanding any provision of this section, a person shall not
37 perform an abortion that is prohibited by law.

38 ~~(e) As used in this section, "viable" means that stage of fetal~~
39 ~~development when it is the physician's judgment according to accepted~~
40 ~~obstetrical or neonatal standards of care and practice applied by~~
41 ~~physicians in the same or similar circumstances that there is a reasonable~~
42 ~~probability that the life of the child can be continued indefinitely outside~~
43 ~~the mother's womb with natural or artificial life-supportive measures.~~

1 ~~(f)~~ (e) If any provision of this section is held to be invalid or
2 unconstitutional, it shall be conclusively presumed that the legislature
3 would have enacted the remainder of this section without such invalid or
4 unconstitutional provision.

5 ~~(g)~~ (f) Upon a first conviction of a violation of this section, a person
6 shall be guilty of a ~~class A nonperson misdemeanor~~ *severity level 10,*
7 *person felony*. Upon a second or subsequent conviction of a violation of
8 this section, a person shall be guilty of a ~~severity level 10, nonperson~~ *8,*
9 *person felony*.

10 Sec. 22. K.S.A. 2010 Supp. 65-6709 is hereby amended to read as
11 follows: 65-6709. No abortion shall be performed or induced without the
12 voluntary and informed consent of the woman upon whom the abortion is
13 to be performed or induced. Except in the case of a medical emergency,
14 consent to an abortion is voluntary and informed only if:

15 (a) At least 24 hours before the abortion the physician who is to
16 perform the abortion or the referring physician has informed the woman
17 in writing of:

18 (1) The name of the physician who will perform the abortion;

19 (2) a description of the proposed abortion method;

20 (3) a description of risks related to the proposed abortion method,
21 including *risk of premature birth in future pregnancies, risk of breast*
22 *cancer and* risks to the woman's reproductive health and alternatives to
23 the abortion that a reasonable patient would consider material to the
24 decision of whether or not to undergo the abortion;

25 (4) the probable gestational age of the ~~fetus~~ *unborn child* at the time
26 the abortion is to be performed and that Kansas law requires the
27 following: "No person shall perform or induce an abortion when the ~~fetus~~
28 *unborn child* is viable unless such person is a physician and has a
29 documented referral from another physician not financially associated
30 with the physician performing or inducing the abortion and both
31 physicians determine that: (1) The abortion is necessary to preserve the
32 life of the pregnant woman; or (2) that a continuation of the pregnancy
33 will cause a substantial and irreversible impairment of a major bodily
34 function of the pregnant woman." If the child is born alive, the attending
35 physician has the legal obligation to take all reasonable steps necessary to
36 maintain the life and health of the child;

37 (5) the probable anatomical and physiological characteristics of the
38 ~~fetus~~ *unborn child* at the time the abortion is to be performed;

39 (6) the contact information for ~~free~~ counseling assistance for
40 medically challenging pregnancies and the contact information for free
41 perinatal hospice services;

42 (7) the medical risks associated with carrying a ~~fetus~~ *an unborn*
43 *child* to term; and

1 (8) any need for anti-Rh immune globulin therapy, if she is Rh
2 negative, the likely consequences of refusing such therapy and the cost of
3 the therapy.

4 (b) At least 24 hours before the abortion, the physician who is to
5 perform the abortion, the referring physician or a qualified person has
6 informed the woman in writing that:

7 (1) Medical assistance benefits may be available for prenatal care,
8 childbirth and neonatal care, and that more detailed information on the
9 availability of such assistance is contained in the printed materials given
10 to her and described in K.S.A. 65-6710, and amendments thereto;

11 (2) the informational materials in K.S.A. 65-6710, and amendments
12 thereto, are available in printed form and online, and describe the ~~fetus~~
13 *unborn child*, list agencies which offer alternatives to abortion with a
14 special section listing adoption services and list providers of free
15 ultrasound services;

16 (3) the father of the ~~fetus~~ *unborn child* is liable to assist in the
17 support of her child, even in instances where he has offered to pay for the
18 abortion except that in the case of rape this information may be omitted;
19 ~~and~~

20 (4) the woman is free to withhold or withdraw her consent to the
21 abortion at any time prior to invasion of the uterus without affecting her
22 right to future care or treatment and without the loss of any state or
23 federally-funded benefits to which she might otherwise be entitled; *and*

24 (5) *by no later than 20 weeks from fertilization, the unborn child has*
25 *the physical structures necessary to experience pain. There is evidence*
26 *that by 20 weeks from fertilization unborn children seek to evade certain*
27 *stimuli in a manner which in an infant or an adult would be interpreted*
28 *to be a response to pain. Anesthesia is routinely administered to unborn*
29 *children who are 20 weeks from fertilization or older who undergo*
30 *prenatal surgery.*

31 (c) At least 30 minutes prior to the abortion procedure, prior to
32 physical preparation for the abortion and prior to the administration of
33 medication for the abortion, the woman shall meet privately with the
34 physician who is to perform the abortion and such person's staff to ensure
35 that she has an adequate opportunity to ask questions of and obtain
36 information from the physician concerning the abortion.

37 (d) At least 24 hours before the abortion, the woman is given a copy
38 of the informational materials described in K.S.A. 65-6710, and
39 amendments thereto. If the woman asks questions concerning any of the
40 information or materials, answers shall be provided to her in her own
41 language.

42 (e) The woman certifies in writing on a form provided by the
43 department, prior to the abortion, that the information required to be

1 provided under subsections (a), (b) and (d) has been provided and that she
2 has met with the physician who is to perform the abortion on an
3 individual basis as provided under subsection (c). All physicians who
4 perform abortions shall report the total number of certifications received
5 monthly to the department. The department shall make the number of
6 certifications received available on an annual basis.

7 (f) Prior to the performance of the abortion, the physician who is to
8 perform the abortion or the physician's agent receives a copy of the
9 written certification prescribed by subsection (e) of this section.

10 (g) The woman is not required to pay any amount for the abortion
11 procedure until the 24-hour waiting period has expired.

12 (h) A physician who will use ultrasound equipment preparatory to or
13 in the performance of the abortion, at least 30 minutes prior to the
14 performance of the abortion:

15 (1) Informs the woman that she has the right to view the ultrasound
16 image of her unborn child, at no additional expense to her;

17 (2) informs the woman that she has the right to receive a physical
18 picture of the ultrasound image, at no additional expense to her;

19 (3) offers the woman the opportunity to view the ultrasound image
20 and receive a physical picture of the ultrasound image;

21 (4) certifies in writing that the woman was offered the opportunity
22 to view the ultrasound image and receive a physical picture of the
23 ultrasound image at least 30 minutes prior to the performance of the
24 abortion; and

25 (5) obtains the woman's signed acceptance or rejection of the
26 opportunity to view the ultrasound image and receive a physical picture
27 of the ultrasound image.

28 If the woman accepts the offer and requests to view the ultrasound
29 image, receive a physical picture of the ultrasound image or both, her
30 request shall be granted by the physician at no additional expense to the
31 woman. The physician's certification shall be time-stamped at the time
32 the opportunity to view the ultrasound image and receive a physical
33 picture of the ultrasound image was offered.

34 (i) A physician who will use heart monitor equipment preparatory to
35 or in the performance of the abortion, at least 30 minutes prior to the
36 performance of the abortion:

37 (1) Informs the woman that she has the right to listen to the
38 heartbeat of her unborn child, at no additional expense to her;

39 (2) offers the woman the opportunity to listen to the heartbeat of her
40 unborn child;

41 (3) certifies in writing that the woman was offered the opportunity to
42 listen to the heartbeat of her unborn child at least 30 minutes prior to the
43 performance of the abortion; and

1 (4) obtains the woman's signed acceptance or rejection of the
2 opportunity to listen to the heartbeat of her unborn child.

3 If the woman accepts the offer and requests to listen to the heartbeat of
4 her unborn child, her request shall be granted by the physician at no
5 additional expense to the woman. The physician's certification shall be
6 time-stamped at the time the opportunity to listen to the heartbeat of her
7 unborn child was offered.

8 (j) The physician's certification required by subsections (h) and (i)
9 together with the pregnant woman's signed acceptance or rejection of
10 such offer shall be placed in the woman's medical file in the physician's
11 office and kept for 10 years. However, in the case of a minor, the
12 physician shall keep a copy of the certification and the signed acceptance
13 or rejection in the minor's medical file for five years past the minor's
14 majority, but in no event less than 10 years.

15 (k) Any private office, freestanding surgical outpatient clinic or
16 other facility or clinic in which abortions are performed shall
17 conspicuously post a sign in a location so as to be clearly visible to
18 patients. The sign required pursuant to this subsection shall be printed
19 with lettering that is legible and shall be at least three quarters of an inch
20 boldfaced type which reads:

21 Notice: It is against the law for anyone, regardless of their relationship
22 to you, to force you to have an abortion. By law, we cannot perform an
23 abortion on you unless we have your freely given and voluntary consent.
24 It is against the law to perform an abortion on you against your will. You
25 have the right to contact any local or state law enforcement agency to
26 receive protection from any actual or threatened physical abuse or
27 violence. You have the right to change your mind at any time prior to the
28 actual abortion and request that the abortion procedure cease.

29 The provisions of this subsection shall not apply to any private office,
30 freestanding surgical outpatient clinic or other facility or clinic which
31 performs abortions only when necessary to prevent the death of the
32 pregnant woman.

33 (l) For purposes of this section, the term "medically challenging
34 pregnancy" means a pregnancy where the ~~fetus~~ *unborn child* is diagnosed
35 as having: (1) A severe anomaly; or (2) an illness, disease or defect which
36 is invariably fatal.

37 Sec. 23. K.S.A. 2010 Supp. 65-6710 is hereby amended to read as
38 follows: 65-6710. (a) The department shall cause to be published and
39 distributed widely, within 30 days after the effective date of this act, and
40 shall update on an annual basis, the following easily comprehensible
41 informational materials:

42 (1) Geographically indexed printed materials designed to inform the
43 woman of public and private agencies and services available to assist a

1 woman through pregnancy, upon childbirth and while her child is
2 dependent, including but not limited to, a list of providers of free
3 ultrasound services and adoption agencies. The materials shall include a
4 comprehensive list of the agencies, a description of the services they offer
5 and the telephone numbers and addresses of the agencies; and inform the
6 woman about available medical assistance benefits for prenatal care,
7 childbirth and neonatal care and about the support obligations of the
8 father of a child who is born alive. The department shall ensure that the
9 materials described in this section are comprehensive and do not directly
10 or indirectly promote, exclude or discourage the use of any agency or
11 service described in this section. The materials shall also contain a toll-
12 free 24-hour a day telephone number which may be called to obtain,
13 orally, such a list and description of agencies in the locality of the caller
14 and of the services they offer. The materials shall state that it is unlawful
15 for any individual to coerce a woman to undergo an abortion, that any
16 physician who performs an abortion upon a woman without her informed
17 consent may be liable to her for damages. Kansas law permits adoptive
18 parents to pay costs of prenatal care, childbirth and neonatal care. The
19 materials shall include the following statement:

20 "Many public and private agencies exist to provide counseling and
21 information on available services. You are strongly urged to seek their
22 assistance to obtain guidance during your pregnancy. In addition, you are
23 encouraged to seek information on abortion services, alternatives to
24 abortion, including adoption, and resources available to post-partum
25 mothers. The law requires that your physician or the physician's agent
26 provide the enclosed information."

27 (2) Printed materials that inform the pregnant woman of the
28 probable anatomical and physiological characteristics of the *fetus unborn*
29 *child* at two-week gestational increments from fertilization to full term,
30 including pictures or drawings representing the development of a ~~fetus~~ *an*
31 *unborn child* at two-week gestational increments, and any relevant
32 information on the possibility of the ~~fetus'~~ *unborn child's* survival. Any
33 such pictures or drawings shall contain the dimensions of the ~~fetus-~~
34 *unborn child* and shall be realistic. *The material shall include the*
35 *following statements: (A) That by no later than 20 weeks from*
36 *fertilization, the unborn child has the physical structures necessary to*
37 *experience pain; (B) that there is evidence that by 20 weeks from*
38 *fertilization unborn children seek to evade certain stimuli in a manner*
39 *which in an infant or an adult would be interpreted to be a response to*
40 *pain; and (C) that anesthesia is routinely administered to unborn*
41 *children who are 20 weeks from fertilization or older who undergo*
42 *prenatal surgery.* The materials shall be objective, nonjudgmental and
43 designed to convey only accurate scientific information about the ~~fetus~~

1 *unborn child* at the various gestational ages. The material shall also
2 contain objective information describing the methods of abortion
3 procedures commonly employed, the medical risks commonly associated
4 with each such procedure, *including risk of premature birth in future*
5 *pregnancies, risk of breast cancer, risks to the woman's reproductive*
6 *health* and the medical risks associated with carrying a ~~fetus~~ *an unborn*
7 *child* to term.

8 (3) A certification form to be used by physicians or their agents
9 under subsection (e) of K.S.A. 65-6709, and amendments thereto, which
10 will list all the items of information which are to be given to women by
11 physicians or their agents under the woman's-right-to-know act.

12 (4) A standardized video containing all of the information described
13 in paragraphs (1) and (2). In addition, the video shall show ultrasound
14 images, using the best available ultrasound technology, of a ~~fetus~~ *an*
15 *unborn child* at two week gestational increments.

16 (b) The print materials required under this section shall be printed in
17 a typeface large enough to be clearly legible. The informational video
18 shall be published in digital video disc format. All materials required to
19 be published under this section shall also be published online on the
20 department's website. All materials shall be made available in both
21 English and Spanish language versions.

22 (c) The materials required under this section shall be available at no
23 cost from the department upon request and in appropriate number to any
24 person, facility or hospital.

25 Sec. 24. K.S.A. 65-6713 is hereby amended to read as follows: 65-
26 6713. ~~Any physician who complies with the provisions of this act shall~~
27 ~~not be held civilly liable to a patient for failure to obtain informed~~
28 ~~consent to the abortion. The common law cause of action for medical~~
29 ~~malpractice informed consent claims is reaffirmed and is hereby~~
30 ~~expressly declared to apply to all abortion procedures. Nothing in the~~
31 ~~woman's-right-to-know act shall be construed to render any of the~~
32 ~~requirements otherwise imposed by common law inapplicable to abortion~~
33 ~~procedures or to diminish the nature or the extent of those requirements.~~
34 *The disclosure requirements expressly set forth in the woman's-right-to-*
35 *know act are an express clarification of, and are in addition to, those*
36 *common law disclosure requirements.*

37 Sec. 25. K.S.A. 2010 Supp. 79-32,117 is hereby amended to read as
38 follows: 79-32,117. (a) The Kansas adjusted gross income of an
39 individual means such individual's federal adjusted gross income for the
40 taxable year, with the modifications specified in this section.

41 (b) There shall be added to federal adjusted gross income:

42 (i) Interest income less any related expenses directly incurred in the
43 purchase of state or political subdivision obligations, to the extent that the

1 same is not included in federal adjusted gross income, on obligations of
2 any state or political subdivision thereof, but to the extent that interest
3 income on obligations of this state or a political subdivision thereof
4 issued prior to January 1, 1988, is specifically exempt from income tax
5 under the laws of this state authorizing the issuance of such obligations, it
6 shall be excluded from computation of Kansas adjusted gross income
7 whether or not included in federal adjusted gross income. Interest income
8 on obligations of this state or a political subdivision thereof issued after
9 December 31, 1987, shall be excluded from computation of Kansas
10 adjusted gross income whether or not included in federal adjusted gross
11 income.

12 (ii) Taxes on or measured by income or fees or payments in lieu of
13 income taxes imposed by this state or any other taxing jurisdiction to the
14 extent deductible in determining federal adjusted gross income and not
15 credited against federal income tax. This paragraph shall not apply to
16 taxes imposed under the provisions of K.S.A. 79-1107 or 79-1108, and
17 amendments thereto, for privilege tax year 1995, and all such years
18 thereafter.

19 (iii) The federal net operating loss deduction.

20 (iv) Federal income tax refunds received by the taxpayer if the
21 deduction of the taxes being refunded resulted in a tax benefit for Kansas
22 income tax purposes during a prior taxable year. Such refunds shall be
23 included in income in the year actually received regardless of the method
24 of accounting used by the taxpayer. For purposes hereof, a tax benefit
25 shall be deemed to have resulted if the amount of the tax had been
26 deducted in determining income subject to a Kansas income tax for a
27 prior year regardless of the rate of taxation applied in such prior year to
28 the Kansas taxable income, but only that portion of the refund shall be
29 included as bears the same proportion to the total refund received as the
30 federal taxes deducted in the year to which such refund is attributable
31 bears to the total federal income taxes paid for such year. For purposes of
32 the foregoing sentence, federal taxes shall be considered to have been
33 deducted only to the extent such deduction does not reduce Kansas
34 taxable income below zero.

35 (v) The amount of any depreciation deduction or business expense
36 deduction claimed on the taxpayer's federal income tax return for any
37 capital expenditure in making any building or facility accessible to the
38 handicapped, for which expenditure the taxpayer claimed the credit
39 allowed by K.S.A. 79-32,177, and amendments thereto.

40 (vi) Any amount of designated employee contributions picked up by
41 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,
42 and amendments to such sections.

43 (vii) The amount of any charitable contribution made to the extent

1 the same is claimed as the basis for the credit allowed pursuant to K.S.A.
2 79-32,196, and amendments thereto.

3 (viii) The amount of any costs incurred for improvements to a swine
4 facility, claimed for deduction in determining federal adjusted gross
5 income, to the extent the same is claimed as the basis for any credit
6 allowed pursuant to K.S.A. 2010 Supp. 79-32,204, and amendments
7 thereto.

8 (ix) The amount of any ad valorem taxes and assessments paid and
9 the amount of any costs incurred for habitat management or construction
10 and maintenance of improvements on real property, claimed for deduction
11 in determining federal adjusted gross income, to the extent the same is
12 claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203
13 and amendments thereto.

14 (x) Amounts received as nonqualified withdrawals, as defined by
15 K.S.A. 2010 Supp. 75-643, and amendments thereto, if, at the time of
16 contribution to a family postsecondary education savings account, such
17 amounts were subtracted from the federal adjusted gross income pursuant
18 to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amendments
19 thereto, or if such amounts are not already included in the federal
20 adjusted gross income.

21 (xi) The amount of any contribution made to the same extent the
22 same is claimed as the basis for the credit allowed pursuant to K.S.A.
23 2010 Supp. 74-50,154, and amendments thereto.

24 (xii) For taxable years commencing after December 31, 2004,
25 amounts received as withdrawals not in accordance with the provisions of
26 K.S.A. 2010 Supp. 74-50,204, and amendments thereto, if, at the time of
27 contribution to an individual development account, such amounts were
28 subtracted from the federal adjusted gross income pursuant to paragraph
29 (xiii) of subsection (c), or if such amounts are not already included in the
30 federal adjusted gross income.

31 (xiii) The amount of any expenditures claimed for deduction in
32 determining federal adjusted gross income, to the extent the same is
33 claimed as the basis for any credit allowed pursuant to K.S.A. 2010 Supp.
34 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

35 (xiv) The amount of any amortization deduction claimed in
36 determining federal adjusted gross income to the extent the same is
37 claimed for deduction pursuant to K.S.A. 2010 Supp. 79-32,221, and
38 amendments thereto.

39 (xv) The amount of any expenditures claimed for deduction in
40 determining federal adjusted gross income, to the extent the same is
41 claimed as the basis for any credit allowed pursuant to K.S.A. 2010 Supp.
42 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233
43 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-

1 32,248 or 79-32,251 through 79-32,254, and amendments thereto.

2 (xvi) The amount of any amortization deduction claimed in
3 determining federal adjusted gross income to the extent the same is
4 claimed for deduction pursuant to K.S.A. 2010 Supp. 79-32,227, 79-
5 32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments
6 thereto.

7 (xvii) The amount of any amortization deduction claimed in
8 determining federal adjusted gross income to the extent the same is
9 claimed for deduction pursuant to K.S.A. 2010 Supp. 79-32,256, and
10 amendments thereto.

11 (xviii) For taxable years commencing after December 31, 2006, the
12 amount of any ad valorem or property taxes and assessments paid to a
13 state other than Kansas or local government located in a state other than
14 Kansas by a taxpayer who resides in a state other than Kansas, when the
15 law of such state does not allow a resident of Kansas who earns income
16 in such other state to claim a deduction for ad valorem or property taxes
17 or assessments paid to a political subdivision of the state of Kansas in
18 determining taxable income for income tax purposes in such other state,
19 to the extent that such taxes and assessments are claimed as an itemized
20 deduction for federal income tax purposes.

21 (xix) *For taxable years commencing after December 31, 2010, the*
22 *amount of any expenditure deduction claimed in determining federal*
23 *adjusted gross income for expenses paid for medical care of the taxpayer*
24 *or the taxpayer's spouse or dependents when such expenses were paid or*
25 *incurred for an abortion, or for a health benefit plan, as defined by*
26 *section 1, and amendments thereto, that include coverage of abortion.*

27 (xx) *For taxable years commencing after December 31, 2010, the*
28 *amount of any expenditure deduction claimed in determining federal*
29 *adjusted gross income for expenses paid by a taxpayer for health care, a*
30 *health benefit plan, as defined by section 1, and amendments thereto, or*
31 *amounts contributed to health savings accounts of such taxpayer's*
32 *employees that include coverage of abortion.*

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

34 (i) Interest or dividend income on obligations or securities of any
35 authority, commission or instrumentality of the United States and its
36 possessions less any related expenses directly incurred in the purchase of
37 such obligations or securities, to the extent included in federal adjusted
38 gross income but exempt from state income taxes under the laws of the
39 United States.

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

43 (iii) The portion of any gain or loss from the sale or other disposition

1 of property having a higher adjusted basis for Kansas income tax
2 purposes than for federal income tax purposes on the date such property
3 was sold or disposed of in a transaction in which gain or loss was
4 recognized for purposes of federal income tax that does not exceed such
5 difference in basis, but if a gain is considered a long-term capital gain for
6 federal income tax purposes, the modification shall be limited to that
7 portion of such gain which is included in federal adjusted gross income.

8 (iv) The amount necessary to prevent the taxation under this act of
9 any annuity or other amount of income or gain which was properly
10 included in income or gain and was taxed under the laws of this state for
11 a taxable year prior to the effective date of this act, as amended, to the
12 taxpayer, or to a decedent by reason of whose death the taxpayer acquired
13 the right to receive the income or gain, or to a trust or estate from which
14 the taxpayer received the income or gain.

15 (v) The amount of any refund or credit for overpayment of taxes on
16 or measured by income or fees or payments in lieu of income taxes
17 imposed by this state, or any taxing jurisdiction, to the extent included in
18 gross income for federal income tax purposes.

19 (vi) Accumulation distributions received by a taxpayer as a
20 beneficiary of a trust to the extent that the same are included in federal
21 adjusted gross income.

22 (vii) Amounts received as annuities under the federal civil service
23 retirement system from the civil service retirement and disability fund
24 and other amounts received as retirement benefits in whatever form
25 which were earned for being employed by the federal government or for
26 service in the armed forces of the United States.

27 (viii) Amounts received by retired railroad employees as a
28 supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and
29 228c (a)(1) et seq.

30 (ix) Amounts received by retired employees of a city and by retired
31 employees of any board of such city as retirement allowances pursuant to
32 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter
33 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and
34 amendments thereto.

35 (x) For taxable years beginning after December 31, 1976, the
36 amount of the federal tentative jobs tax credit disallowance under the
37 provisions of 26 U.S.C. § 280 C. For taxable years ending after
38 December 31, 1978, the amount of the targeted jobs tax credit and work
39 incentive credit disallowances under 26 U.S.C. § 280 C.

40 (xi) For taxable years beginning after December 31, 1986, dividend
41 income on stock issued by Kansas Venture Capital, Inc.

42 (xii) For taxable years beginning after December 31, 1989, amounts
43 received by retired employees of a board of public utilities as pension and

1 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249
2 and amendments thereto.

3 (xiii) For taxable years beginning after December 31, 2004, amounts
4 contributed to and the amount of income earned on contributions
5 deposited to an individual development account under K.S.A. 2010 Supp.
6 74-50,201, et seq., and amendments thereto.

7 (xiv) For all taxable years commencing after December 31, 1996,
8 that portion of any income of a bank organized under the laws of this
9 state or any other state, a national banking association organized under
10 the laws of the United States, an association organized under the savings
11 and loan code of this state or any other state, or a federal savings
12 association organized under the laws of the United States, for which an
13 election as an S corporation under subchapter S of the federal internal
14 revenue code is in effect, which accrues to the taxpayer who is a
15 stockholder of such corporation and which is not distributed to the
16 stockholders as dividends of the corporation.

17 (xv) For all taxable years beginning after December 31, 2006,
18 amounts not exceeding \$3,000, or \$6,000 for a married couple filing a
19 joint return, for each designated beneficiary which are contributed to a
20 family postsecondary education savings account established under the
21 Kansas postsecondary education savings program or a qualified tuition
22 program established and maintained by another state or agency or
23 instrumentality thereof pursuant to section 529 of the internal revenue
24 code of 1986, as amended, for the purpose of paying the qualified higher
25 education expenses of a designated beneficiary at an institution of
26 postsecondary education. The terms and phrases used in this paragraph
27 shall have the meaning respectively ascribed thereto by the provisions of
28 K.S.A. 2010 Supp. 75-643, and amendments thereto, and the provisions
29 of such section are hereby incorporated by reference for all purposes
30 thereof.

31 (xvi) For the tax year beginning after December 31, 2004, an
32 amount not exceeding \$500; for the tax year beginning after December
33 31, 2005, an amount not exceeding \$600; for the tax year beginning after
34 December 31, 2006, an amount not exceeding \$700; for the tax year
35 beginning after December 31, 2007, an amount not exceeding \$800; for
36 the tax year beginning December 31, 2008, an amount not exceeding
37 \$900; and for all taxable years commencing after December 31, 2009, an
38 amount not exceeding \$1,000 of the premium costs for qualified long-
39 term care insurance contracts, as defined by subsection (b) of section
40 7702B of public law 104-191.

41 (xvii) For all taxable years beginning after December 31, 2004,
42 amounts received by taxpayers who are or were members of the armed
43 forces of the United States, including service in the Kansas army and air

1 national guard, as a recruitment, sign up or retention bonus received by
2 such taxpayer as an incentive to join, enlist or remain in the armed
3 services of the United States, including service in the Kansas army and
4 air national guard, and amounts received for repayment of educational or
5 student loans incurred by or obligated to such taxpayer and received by
6 such taxpayer as a result of such taxpayer's service in the armed forces of
7 the United States, including service in the Kansas army and air national
8 guard.

9 (xviii) For all taxable years beginning after December 31, 2004,
10 amounts received by taxpayers who are eligible members of the Kansas
11 army and air national guard as a reimbursement pursuant to K.S.A. 48-
12 281, and amendments thereto, and amounts received for death benefits
13 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to
14 section 1 or section 2 of chapter 207 of the 2005 session laws of Kansas,
15 and amendments thereto, to the extent that such death benefits are
16 included in federal adjusted gross income of the taxpayer.

17 (xix) For the taxable year beginning after December 31, 2006,
18 amounts received as benefits under the federal social security act which
19 are included in federal adjusted gross income of a taxpayer with federal
20 adjusted gross income of \$50,000 or less, whether such taxpayer's filing
21 status is single, head of household, married filing separate or married
22 filing jointly; and for all taxable years beginning after December 31,
23 2007, amounts received as benefits under the federal social security act
24 which are included in federal adjusted gross income of a taxpayer with
25 federal adjusted gross income of \$75,000 or less, whether such taxpayer's
26 filing status is single, head of household, married filing separate or
27 married filing jointly.

28 (xx) Amounts received by retired employees of Washburn university
29 as retirement and pension benefits under the university's retirement plan.

30 (d) There shall be added to or subtracted from federal adjusted gross
31 income the taxpayer's share, as beneficiary of an estate or trust, of the
32 Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and
33 amendments thereto.

34 (e) The amount of modifications required to be made under this
35 section by a partner which relates to items of income, gain, loss,
36 deduction or credit of a partnership shall be determined under K.S.A. 79-
37 32,131, and amendments thereto, to the extent that such items affect
38 federal adjusted gross income of the partner.

39 Sec. 26. K.S.A. 2010 Supp. 79-32,138 is hereby amended to read as
40 follows: 79-32,138. (a) Kansas taxable income of a corporation taxable
41 under this act shall be the corporation's federal taxable income for the
42 taxable year with the modifications specified in this section.

43 (b) There shall be added to federal taxable income: (i) The same

1 modifications as are set forth in subsection (b) of K.S.A. 79-32,117, and
2 amendments thereto, with respect to resident individuals.

3 (ii) The amount of all depreciation deductions claimed for any
4 property upon which the deduction allowed by K.S.A. 2010 Supp. 79-
5 32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-
6 32,255 or 79-32,256, and amendments thereto, is claimed.

7 (iii) The amount of any charitable contribution deduction claimed
8 for any contribution or gift to or for the use of any racially segregated
9 educational institution.

10 (iv) *For taxable years commencing after December 31, 2010, the*
11 *amount of any expenditure deduction claimed in determining federal*
12 *adjusted gross income for expenses paid by a taxpayer for health care, a*
13 *health benefit plan, as defined by section 1, and amendments thereto, or*
14 *amounts contributed to health savings accounts of such taxpayer's*
15 *employees that include coverage of abortion.*

16 (c) There shall be subtracted from federal taxable income: (i) The
17 same modifications as are set forth in subsection (c) of K.S.A. 79-32,117,
18 and amendments thereto, with respect to resident individuals.

19 (ii) The federal income tax liability for any taxable year
20 commencing prior to December 31, 1971, for which a Kansas return was
21 filed after reduction for all credits thereon, except credits for payments on
22 estimates of federal income tax, credits for gasoline and lubricating oil
23 tax, and for foreign tax credits if, on the Kansas income tax return for
24 such prior year, the federal income tax deduction was computed on the
25 basis of the federal income tax paid in such prior year, rather than as
26 accrued. Notwithstanding the foregoing, the deduction for federal income
27 tax liability for any year shall not exceed that portion of the total federal
28 income tax liability for such year which bears the same ratio to the total
29 federal income tax liability for such year as the Kansas taxable income, as
30 computed before any deductions for federal income taxes and after
31 application of subsections (d) and (e) of this section as existing for such
32 year, bears to the federal taxable income for the same year.

33 (iii) An amount for the amortization deduction allowed pursuant to
34 K.S.A. 2010 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-
35 32,249, 79-32,250, 79-32,255 or 79-32,256, and amendments thereto.

36 (iv) For all taxable years commencing after December 31, 1987, the
37 amount included in federal taxable income pursuant to the provisions of
38 section 78 of the internal revenue code.

39 (v) For all taxable years commencing after December 31, 1987, 80%
40 of dividends from corporations incorporated outside of the United States
41 or the District of Columbia which are included in federal taxable income.

42 (d) If any corporation derives all of its income from sources within
43 Kansas in any taxable year commencing after December 31, 1979, its

1 Kansas taxable income shall be the sum resulting after application of
2 subsections (a) through (c) hereof. Otherwise, such corporation's Kansas
3 taxable income in any such taxable year, after excluding any refunds of
4 federal income tax and before the deduction of federal income taxes
5 provided by subsection (c)(ii) shall be allocated as provided in K.S.A. 79-
6 3271 to K.S.A. 79-3293, inclusive, and amendments thereto, plus any
7 refund of federal income tax as determined under paragraph (iv) of
8 subsection (b) of K.S.A. 79-32,117, and amendments thereto, and minus
9 the deduction for federal income taxes as provided by subsection (c)(ii)
10 shall be such corporation's Kansas taxable income.

11 (e) A corporation may make an election with respect to its first
12 taxable year commencing after December 31, 1982, whereby no addition
13 modifications as provided for in subsection (b)(ii) of K.S.A. 79-32,138,
14 *and amendments thereto*, and subtraction modifications as provided for in
15 subsection (c)(iii) of K.S.A. 79-32,138, *and amendments thereto*, as those
16 subsections existed prior to their amendment by this act, shall be required
17 to be made for such taxable year.

18 Sec. 27. K.S.A. 2010 Supp. 79-32,182b is hereby amended to read
19 as follows: 79-32,182b. (a) For all taxable years commencing after
20 December 31, 2000, a credit shall be allowed against the tax imposed by
21 the Kansas income tax act on the Kansas taxable income of a taxpayer for
22 expenditures in research and development activities conducted within this
23 state in an amount equal to 6¹/₂% of the amount by which the amount
24 expended for such activities in the taxable year of the taxpayer exceeds
25 the taxpayer's average of the actual expenditures for such purposes made
26 in such taxable year and the next preceding two taxable years.

27 (b) In any one taxable year, the amount of such credit allowable for
28 deduction from the taxpayer's tax liability shall not exceed 25% of the
29 total amount of such credit plus any applicable carry forward amount.
30 The amount by which that portion of the credit allowed by subsections (a)
31 and (b) to be claimed in any one taxable year exceeds the taxpayer's tax
32 liability in such year may be carried forward until the total amount of the
33 credit is used.

34 (c) As used in this section, the term "expenditures in research and
35 development activities" means expenditures made for such purposes,
36 other than expenditures of moneys made available to the taxpayer
37 pursuant to federal or state law, which are treated as expenses allowable
38 for deduction under the provisions of the federal internal revenue code of
39 1986, ~~and amendments thereto~~, *as amended, except that for taxable years*
40 *commencing after December 31, 2010, expenditures in research and*
41 *development activities shall not include any expenditures involving*
42 *abortion.*

43 Sec. 28. K.S.A. 2010 Supp. 79-32,195 is hereby amended to read as

1 follows: 79-32,195. As used in this act, the following words and phrases
2 shall have the meanings ascribed to them herein: (a) "Business firm"
3 means any business entity authorized to do business in the state of Kansas
4 which is subject to the state income tax imposed by the provisions of the
5 Kansas income tax act, any individual subject to the state income tax
6 imposed by the provisions of the Kansas income tax act, any national
7 banking association, state bank, trust company or savings and loan
8 association paying an annual tax on its net income pursuant to article 11
9 of chapter 79 of the Kansas Statutes Annotated, *and amendments thereto*,
10 or any insurance company paying the premium tax and privilege fees
11 imposed pursuant to K.S.A. 40-252, and amendments thereto;

12 (b) "Community services" means:

13 (1) The conduct of activities which meet a demonstrated community
14 need and which are designed to achieve improved educational and social
15 services for Kansas children and their families, and which are coordinated
16 with communities including, but not limited to, social and human services
17 organizations that address the causes of poverty through programs and
18 services that assist low income persons in the areas of employment, food,
19 housing, emergency assistance and health care;

20 (2) crime prevention; and

21 (3) health care services.

22 (c) "Crime prevention" means any nongovernmental activity which
23 aids in the prevention of crime.

24 (d) "Community service organization" means any organization
25 performing community services in Kansas and which:

26 (1) Has obtained a ruling from the internal revenue service of the
27 United States department of the treasury that such organization is exempt
28 from income taxation under the provisions of section 501(c)(3) of the
29 federal internal revenue code; or

30 (2) is incorporated in the state of Kansas or another state as a
31 nonstock, nonprofit corporation; or

32 (3) has been designated as a community development corporation by
33 the United States government under the provisions of title VII of the
34 economic opportunity act of 1964; or

35 (4) is chartered by the United States congress.

36 (e) "Contributions" shall mean and include the donation of cash,
37 services or property other than used clothing in an amount or value of
38 \$250 or more. Stocks and bonds contributed shall be valued at the stock
39 market price on the date of transfer. Services contributed shall be valued
40 at the standard billing rate for not-for-profit clients. Personal property
41 items contributed shall be valued at the lesser of its fair market value or
42 cost to the donor and may be inclusive of costs incurred in making the
43 contribution, but shall not include sales tax. Contributions of real estate

1 are allowable for credit only when title thereto is in fee simple absolute
2 and is clear of any encumbrances. The amount of credit allowable shall
3 be based upon the lesser of two current independent appraisals conducted
4 by state licensed appraisers.

5 (f) "Health care services" shall include, but not be limited to, the
6 following: Services provided by local health departments, city, county or
7 district hospitals, city or county nursing homes, or other residential
8 institutions, preventive health care services offered by a community
9 service organization including immunizations, prenatal care, the
10 postponement of entry into nursing homes by home health care services,
11 and community based services for persons with a disability, mental health
12 services, indigent health care, physician or health care worker
13 recruitment, health education, emergency medical services, services
14 provided by rural health clinics, integration of health care services, home
15 health services and services provided by rural health networks, *except*
16 *that for taxable years commencing after December 31, 2010, health care*
17 *services shall not include any service involving an abortion.*

18 (g) "Rural community" means any city having a population of fewer
19 than 15,000 located in a county that is not part of a standard metropolitan
20 statistical area as defined by the United States department of commerce
21 or its successor agency. However, any such city located in a county
22 defined as a standard metropolitan statistical area shall be deemed a rural
23 community if a substantial number of persons in such county derive their
24 income from agriculture and, in any county where there is only one city
25 within the county which has a population of more than 15,000 and which
26 classifies as a standard metropolitan statistical area, all other cities in that
27 county having a population of less than 15,000 shall be deemed a rural
28 community.

29 Sec. 29. K.S.A. 2010 Supp. 79-32,261 is hereby amended to read as
30 follows: 79-32,261. (a) On and after July 1, 2008, any taxpayer who
31 contributes in the manner prescribed by this section to a community
32 college located in Kansas for capital improvements, to a technical college
33 for deferred maintenance or the purchase of technology or equipment or
34 to a postsecondary educational institution located in Kansas for deferred
35 maintenance, shall be allowed a credit against the tax imposed by the
36 Kansas income tax act, the premium tax or privilege fees imposed
37 pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax
38 as measured by net income of financial institutions imposed pursuant to
39 article 11 of chapter 79 of the Kansas Statutes Annotated. The tax credit
40 allowed by this section is applicable for the tax year 2008 for any
41 contributions made on and after July 1, 2008, and for the tax years 2009,
42 2010, 2011 and 2012 for any contributions made during the entire tax
43 year. The amount of the credit allowed by this section shall not exceed

1 60% of the total amount contributed during the taxable year by the
2 taxpayer to a community college or a technical college located in Kansas
3 for such purposes. The amount of the credit allowed by this section shall
4 not exceed 50% of the total amount contributed during the taxable year
5 by the taxpayer to a postsecondary educational institution for such
6 purposes. If the amount of the credit allowed by this section for a
7 taxpayer who contributes to a community college or a technical college
8 exceeds the taxpayer's income tax liability imposed by the Kansas income
9 tax act, such excess amount shall be refunded to the taxpayer. If the
10 amount of the tax credit for a taxpayer who contributes to a
11 postsecondary educational institution exceeds the taxpayer's income tax
12 liability for the taxable year, the amount which exceeds the tax liability
13 may be carried over for deduction from the taxpayer's income tax liability
14 in the next succeeding taxable year or years until the total amount of the
15 tax credit has been deducted from tax liability, except that no such tax
16 credit shall be carried over for deduction after the third taxable year
17 succeeding the taxable year in which the contribution is made. Prior to
18 the issuance of any tax credits pursuant to this section, the structure of the
19 process in which contributions received by a community college, a
20 technical college or a postsecondary educational institution qualify as tax
21 credits allowed and issued pursuant to this section shall be developed by
22 a community college, a technical college and a postsecondary educational
23 institution in consultation with the secretary of revenue and the
24 foundation or endowment association of any such community college,
25 technical college or postsecondary educational institution in a manner
26 that complies with requirements specified in the federal internal revenue
27 code of 1986, as amended, so that contributions qualify as charitable
28 contributions allowable as deductions from federal adjusted gross
29 income.

30 (b) (1) Upon receipt of any such contributions to a community
31 college made pursuant to the provisions of this section, the treasurer of
32 the community college shall deposit such contributions to the credit of the
33 capital outlay fund of such community college established as provided by
34 K.S.A. 71-501a, and amendments thereto. Expenditures from such fund
35 shall be made for the purposes described in subsection (a) of K.S.A. 71-
36 501, and amendments thereto, except that expenditures shall not be made
37 from such fund for new construction or the acquisition of real property
38 for use as building sites or for educational programs.

39 (2) Upon receipt of any such contributions to a technical college
40 made pursuant to the provisions of this section, such contributions shall
41 be deposited to the credit of a deferred maintenance fund or a technology
42 and equipment fund established by the technical college which received
43 the contribution. Expenditures from such fund shall be made only for the

1 purpose as provided in this subsection.

2 (3) Upon receipt of any such contributions to a postsecondary
3 educational institution made pursuant to the provisions of this section,
4 such contributions shall be deposited to the credit of the appropriate
5 deferred maintenance support fund of the postsecondary educational
6 institution which received the contribution. Expenditures from such fund
7 shall be made only for the purposes designated for such fund pursuant to
8 law.

9 (c) (1) In no event shall the total amount of credits allowed under
10 this section for taxpayers who contribute to any one such community
11 college or technical college exceed the following amounts: For the tax
12 year 2008, an amount not to exceed \$78,125; for the tax year 2009, an
13 amount not to exceed \$156,250; and for the tax years 2010, 2011 and
14 2012, an amount not to exceed \$208,233.33.

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

31 (d) As used in this section: (1) "Community college" means a
32 community college established under the provisions of the community
33 college act;

34 (2) "deferred maintenance" means the maintenance, repair,
35 reconstruction or rehabilitation of a building located at a technical college
36 or a postsecondary educational institution which has been deferred, any
37 utility systems relating to such building, any life-safety upgrades to such
38 building and any improvements necessary to be made to such building in
39 order to comply with the requirements of the Americans with disabilities
40 act or other federal or state law, *except that for taxable years*
41 *commencing after December 31, 2010, "deferred maintenance" shall not*
42 *include any maintenance, repair, reconstruction or rehabilitation of any*
43 *building in which any activity involving abortion takes place;*

1 (3) "postsecondary educational institution" means the university of
2 Kansas, Kansas state university of agriculture and applied science,
3 Wichita state university, Emporia state university, Pittsburg state
4 university, Fort Hays state university and Washburn university of Topeka;
5 and

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

9 (e) Any taxpayer not subject to Kansas income, privilege or
10 premiums tax who contributes to a community college, technical college
11 or postsecondary educational institution, hereinafter designated the
12 transferor, may sell, assign, convey or otherwise transfer tax credits
13 allowed and earned pursuant to this section. The sale price of a tax credit
14 shall be at least 50% of the full value of the credit. Such credit shall be
15 deemed to be allowed and earned by any such taxpayer which is only
16 disqualified therefrom by reason of not being subject to such Kansas
17 taxes. The taxpayer acquiring earned credits, hereinafter designated the
18 transferee, may use the amount of the acquired credits to offset up to
19 100% of the taxpayer's income, privilege or premiums tax liability for the
20 taxable year in which such acquisition was made. Such credits may be
21 sold or transferred only one time and, if sold or transferred, shall be
22 transferred in the tax year such credit is earned or the two successive tax
23 years. A transferred credit shall be claimed in the year purchased. The
24 transferor shall enter into a written agreement with the transferee
25 establishing the terms and conditions of the sale or transfer and shall
26 perfect such transfer by notifying the secretary of revenue in writing
27 within 30 calendar days following the effective date of the transfer,
28 subject to the review and approval or denial of such transfer by the
29 secretary of revenue. The transferor and transferee shall provide any
30 information pertaining to the sale or transfer as may be required by the
31 secretary of revenue to administer and carry out the provisions of this
32 section. The amount received by the transferor of such tax credit shall be
33 taxable as income of the transferor, and the excess of the value of such
34 credit over the amount paid by the transferee for such credit shall be
35 taxable as income of the transferee.

36 (f) The secretary of revenue shall submit an annual report to the
37 legislature to assist the legislature in the evaluation of the utilization of
38 any credits claimed pursuant to this act, including information specific as
39 to each community college, technical college or postsecondary
40 educational institution. Such report shall be due on or before the first day
41 of the legislative session following the tax year in which the credits were
42 claimed.

43 (g) The secretary of revenue shall adopt rules and regulations

1 necessary to administer the provisions of this section.

2 Sec. 30. K.S.A. 2010 Supp. 79-3606 is hereby amended to read as
3 follows: 79-3606. The following shall be exempt from the tax imposed by
4 this act:

5 (a) All sales of motor-vehicle fuel or other articles upon which a
6 sales or excise tax has been paid, not subject to refund, under the laws of
7 this state except cigarettes as defined by K.S.A. 79-3301, and
8 amendments thereto, cereal malt beverages and malt products as defined
9 by K.S.A. 79-3817, and amendments thereto, including wort, liquid malt,
10 malt syrup and malt extract, which is not subject to taxation under the
11 provisions of K.S.A. 79-41a02, and amendments thereto, motor vehicles
12 taxed pursuant to K.S.A. 79-5117, and amendments thereto, tires taxed
13 pursuant to K.S.A. 65-3424d, and amendments thereto, drycleaning and
14 laundry services taxed pursuant to K.S.A. 65-34,150, and amendments
15 thereto, and gross receipts from regulated sports contests taxed pursuant
16 to the Kansas professional regulated sports act, and amendments thereto;

17 (b) all sales of tangible personal property or service, including the
18 renting and leasing of tangible personal property, purchased directly by
19 the state of Kansas, a political subdivision thereof, other than a school or
20 educational institution, or purchased by a public or private nonprofit
21 hospital or public hospital authority or nonprofit blood, tissue or organ
22 bank and used exclusively for state, political subdivision, hospital or
23 public hospital authority or nonprofit blood, tissue or organ bank
24 purposes, except when: (1) Such state, hospital or public hospital
25 authority is engaged or proposes to engage in any business specifically
26 taxable under the provisions of this act and such items of tangible
27 personal property or service are used or proposed to be used in such
28 business, or (2) such political subdivision is engaged or proposes to
29 engage in the business of furnishing gas, electricity or heat to others and
30 such items of personal property or service are used or proposed to be used
31 in such business;

32 (c) all sales of tangible personal property or services, including the
33 renting and leasing of tangible personal property, purchased directly by a
34 public or private elementary or secondary school or public or private
35 nonprofit educational institution and used primarily by such school or
36 institution for nonsectarian programs and activities provided or sponsored
37 by such school or institution or in the erection, repair or enlargement of
38 buildings to be used for such purposes. The exemption herein provided
39 shall not apply to erection, construction, repair, enlargement or equipment
40 of buildings used primarily for human habitation;

41 (d) all sales of tangible personal property or services purchased by a
42 contractor for the purpose of constructing, equipping, reconstructing,
43 maintaining, repairing, enlarging, furnishing or remodeling facilities for

1 any public or private nonprofit hospital or public hospital authority,
2 public or private elementary or secondary school, a public or private
3 nonprofit educational institution, state correctional institution including a
4 privately constructed correctional institution contracted for state use and
5 ownership, which would be exempt from taxation under the provisions of
6 this act if purchased directly by such hospital or public hospital authority,
7 school, educational institution or a state correctional institution; and all
8 sales of tangible personal property or services purchased by a contractor
9 for the purpose of constructing, equipping, reconstructing, maintaining,
10 repairing, enlarging, furnishing or remodeling facilities for any political
11 subdivision of the state or district described in subsection (s), the total
12 cost of which is paid from funds of such political subdivision or district
13 and which would be exempt from taxation under the provisions of this act
14 if purchased directly by such political subdivision or district. Nothing in
15 this subsection or in the provisions of K.S.A. 12-3418, and amendments
16 thereto, shall be deemed to exempt the purchase of any construction
17 machinery, equipment or tools used in the constructing, equipping,
18 reconstructing, maintaining, repairing, enlarging, furnishing or
19 remodeling facilities for any political subdivision of the state or any such
20 district. As used in this subsection, K.S.A. 12-3418 and 79-3640, and
21 amendments thereto, "funds of a political subdivision" shall mean general
22 tax revenues, the proceeds of any bonds and gifts or grants-in-aid. Gifts
23 shall not mean funds used for the purpose of constructing, equipping,
24 reconstructing, repairing, enlarging, furnishing or remodeling facilities
25 which are to be leased to the donor. When any political subdivision of the
26 state, district described in subsection (s), public or private nonprofit
27 hospital or public hospital authority, public or private elementary or
28 secondary school, public or private nonprofit educational institution, state
29 correctional institution including a privately constructed correctional
30 institution contracted for state use and ownership shall contract for the
31 purpose of constructing, equipping, reconstructing, maintaining,
32 repairing, enlarging, furnishing or remodeling facilities, it shall obtain
33 from the state and furnish to the contractor an exemption certificate for
34 the project involved, and the contractor may purchase materials for
35 incorporation in such project. The contractor shall furnish the number of
36 such certificate to all suppliers from whom such purchases are made, and
37 such suppliers shall execute invoices covering the same bearing the
38 number of such certificate. Upon completion of the project the contractor
39 shall furnish to the political subdivision, district described in subsection
40 (s), hospital or public hospital authority, school, educational institution or
41 department of corrections concerned a sworn statement, on a form to be
42 provided by the director of taxation, that all purchases so made were
43 entitled to exemption under this subsection. As an alternative to the

1 foregoing procedure, any such contracting entity may apply to the
2 secretary of revenue for agent status for the sole purpose of issuing and
3 furnishing project exemption certificates to contractors pursuant to rules
4 and regulations adopted by the secretary establishing conditions and
5 standards for the granting and maintaining of such status. All invoices
6 shall be held by the contractor for a period of five years and shall be
7 subject to audit by the director of taxation. If any materials purchased
8 under such a certificate are found not to have been incorporated in the
9 building or other project or not to have been returned for credit or the
10 sales or compensating tax otherwise imposed upon such materials which
11 will not be so incorporated in the building or other project reported and
12 paid by such contractor to the director of taxation not later than the 20th
13 day of the month following the close of the month in which it shall be
14 determined that such materials will not be used for the purpose for which
15 such certificate was issued, the political subdivision, district described in
16 subsection (s), hospital or public hospital authority, school, educational
17 institution or the contractor contracting with the department of
18 corrections for a correctional institution concerned shall be liable for tax
19 on all materials purchased for the project, and upon payment thereof it
20 may recover the same from the contractor together with reasonable
21 attorney fees. Any contractor or any agent, employee or subcontractor
22 thereof, who shall use or otherwise dispose of any materials purchased
23 under such a certificate for any purpose other than that for which such a
24 certificate is issued without the payment of the sales or compensating tax
25 otherwise imposed upon such materials, shall be guilty of a misdemeanor
26 and, upon conviction therefor, shall be subject to the penalties provided
27 for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

28 (e) all sales of tangible personal property or services purchased by a
29 contractor for the erection, repair or enlargement of buildings or other
30 projects for the government of the United States, its agencies or
31 instrumentalities, which would be exempt from taxation if purchased
32 directly by the government of the United States, its agencies or
33 instrumentalities. When the government of the United States, its agencies
34 or instrumentalities shall contract for the erection, repair, or enlargement
35 of any building or other project, it shall obtain from the state and furnish
36 to the contractor an exemption certificate for the project involved, and the
37 contractor may purchase materials for incorporation in such project. The
38 contractor shall furnish the number of such certificates to all suppliers
39 from whom such purchases are made, and such suppliers shall execute
40 invoices covering the same bearing the number of such certificate. Upon
41 completion of the project the contractor shall furnish to the government
42 of the United States, its agencies or instrumentalities concerned a sworn
43 statement, on a form to be provided by the director of taxation, that all

1 purchases so made were entitled to exemption under this subsection. As
2 an alternative to the foregoing procedure, any such contracting entity may
3 apply to the secretary of revenue for agent status for the sole purpose of
4 issuing and furnishing project exemption certificates to contractors
5 pursuant to rules and regulations adopted by the secretary establishing
6 conditions and standards for the granting and maintaining of such status.
7 All invoices shall be held by the contractor for a period of five years and
8 shall be subject to audit by the director of taxation. Any contractor or any
9 agent, employee or subcontractor thereof, who shall use or otherwise
10 dispose of any materials purchased under such a certificate for any
11 purpose other than that for which such a certificate is issued without the
12 payment of the sales or compensating tax otherwise imposed upon such
13 materials, shall be guilty of a misdemeanor and, upon conviction therefor,
14 shall be subject to the penalties provided for in subsection (g) of K.S.A.
15 79-3615, and amendments thereto;

16 (f) tangible personal property purchased by a railroad or public
17 utility for consumption or movement directly and immediately in
18 interstate commerce;

19 (g) sales of aircraft including remanufactured and modified aircraft
20 sold to persons using directly or through an authorized agent such aircraft
21 as certified or licensed carriers of persons or property in interstate or
22 foreign commerce under authority of the laws of the United States or any
23 foreign government or sold to any foreign government or agency or
24 instrumentality of such foreign government and all sales of aircraft for
25 use outside of the United States and sales of aircraft repair, modification
26 and replacement parts and sales of services employed in the
27 remanufacture, modification and repair of aircraft;

28 (h) all rentals of nonsectarian textbooks by public or private
29 elementary or secondary schools;

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

32 (j) meals served without charge or food used in the preparation of
33 such meals to employees of any restaurant, eating house, dining car,
34 hotel, drugstore or other place where meals or drinks are regularly sold to
35 the public if such employees' duties are related to the furnishing or sale of
36 such meals or drinks;

37 (k) any motor vehicle, semitrailer or pole trailer, as such terms are
38 defined by K.S.A. 8-126, and amendments thereto, or aircraft sold and
39 delivered in this state to a bona fide resident of another state, which motor
40 vehicle, semitrailer, pole trailer or aircraft is not to be registered or based
41 in this state and which vehicle, semitrailer, pole trailer or aircraft will not
42 remain in this state more than 10 days;

43 (l) all isolated or occasional sales of tangible personal property,

1 services, substances or things, except isolated or occasional sale of motor
2 vehicles specifically taxed under the provisions of subsection (o) of
3 K.S.A. 79-3603, and amendments thereto;

4 (m) all sales of tangible personal property which become an
5 ingredient or component part of tangible personal property or services
6 produced, manufactured or compounded for ultimate sale at retail within
7 or without the state of Kansas; and any such producer, manufacturer or
8 compounder may obtain from the director of taxation and furnish to the
9 supplier an exemption certificate number for tangible personal property
10 for use as an ingredient or component part of the property or services
11 produced, manufactured or compounded;

12 (n) all sales of tangible personal property which is consumed in the
13 production, manufacture, processing, mining, drilling, refining or
14 compounding of tangible personal property, the treating of by-products or
15 wastes derived from any such production process, the providing of
16 services or the irrigation of crops for ultimate sale at retail within or
17 without the state of Kansas; and any purchaser of such property may
18 obtain from the director of taxation and furnish to the supplier an
19 exemption certificate number for tangible personal property for
20 consumption in such production, manufacture, processing, mining,
21 drilling, refining, compounding, treating, irrigation and in providing such
22 services;

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

29 (p) all sales of drugs dispensed pursuant to a prescription order by a
30 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-
31 1626, and amendments thereto. As used in this subsection, "drug" means
32 a compound, substance or preparation and any component of a
33 compound, substance or preparation, other than food and food
34 ingredients, dietary supplements or alcoholic beverages, recognized in the
35 official United States pharmacopoeia, official homeopathic
36 pharmacopoeia of the United States or official national formulary, and
37 supplement to any of them, intended for use in the diagnosis, cure,
38 mitigation, treatment or prevention of disease or intended to affect the
39 structure or any function of the body, *except that for taxable years*
40 *commencing after December 31, 2010, this subsection shall not apply to*
41 *any sales of drugs used in the performance or induction of an abortion;*

42 (q) all sales of insulin dispensed by a person licensed by the state
43 board of pharmacy to a person for treatment of diabetes at the direction of

1 a person licensed to practice medicine by the board of healing arts;

2 (r) all sales of oxygen delivery equipment, kidney dialysis
3 equipment, enteral feeding systems, prosthetic devices and mobility
4 enhancing equipment prescribed in writing by a person licensed to
5 practice the healing arts, dentistry or optometry, and in addition to such
6 sales, all sales of hearing aids, as defined by subsection (c) of K.S.A. 74-
7 5807, and amendments thereto, and repair and replacement parts therefor,
8 including batteries, by a person licensed in the practice of dispensing and
9 fitting hearing aids pursuant to the provisions of K.S.A. 74-5808, and
10 amendments thereto. For the purposes of this subsection: (1) "Mobility
11 enhancing equipment" means equipment including repair and
12 replacement parts to same, but does not include durable medical
13 equipment, which is primarily and customarily used to provide or
14 increase the ability to move from one place to another and which is
15 appropriate for use either in a home or a motor vehicle; is not generally
16 used by persons with normal mobility; and does not include any motor
17 vehicle or equipment on a motor vehicle normally provided by a motor
18 vehicle manufacturer; and (2) "prosthetic device" means a replacement,
19 corrective or supportive device including repair and replacement parts for
20 same worn on or in the body to artificially replace a missing portion of
21 the body, prevent or correct physical deformity or malfunction or support
22 a weak or deformed portion of the body;

23 (s) except as provided in K.S.A. 2010 Supp. 82a-2101, and
24 amendments thereto, all sales of tangible personal property or services
25 purchased directly or indirectly by a groundwater management district
26 organized or operating under the authority of K.S.A. 82a-1020 et seq.,
27 and amendments thereto, by a rural water district organized or operating
28 under the authority of K.S.A. 82a-612, and amendments thereto, or by a
29 water supply district organized or operating under the authority of K.S.A.
30 19-3501 et seq., 19-3522 et seq. or 19-3545, and amendments thereto,
31 which property or services are used in the construction activities,
32 operation or maintenance of the district;

33 (t) all sales of farm machinery and equipment or aquaculture
34 machinery and equipment, repair and replacement parts therefor and
35 services performed in the repair and maintenance of such machinery and
36 equipment. For the purposes of this subsection the term "farm machinery
37 and equipment or aquaculture machinery and equipment" shall include a
38 work-site utility vehicle, as defined in K.S.A. 8-126, and amendments
39 thereto, and is equipped with a bed or cargo box for hauling materials,
40 and shall also include machinery and equipment used in the operation of
41 Christmas tree farming but shall not include any passenger vehicle, truck,
42 truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as
43 such terms are defined by K.S.A. 8-126, and amendments thereto. "Farm

1 machinery and equipment" includes precision farming equipment that is
2 portable or is installed or purchased to be installed on farm machinery
3 and equipment. "Precision farming equipment" includes the following
4 items used only in computer-assisted farming, ranching or aquaculture
5 production operations: Soil testing sensors, yield monitors, computers,
6 monitors, software, global positioning and mapping systems, guiding
7 systems, modems, data communications equipment and any necessary
8 mounting hardware, wiring and antennas. Each purchaser of farm
9 machinery and equipment or aquaculture machinery and equipment
10 exempted herein must certify in writing on the copy of the invoice or
11 sales ticket to be retained by the seller that the farm machinery and
12 equipment or aquaculture machinery and equipment purchased will be
13 used only in farming, ranching or aquaculture production. Farming or
14 ranching shall include the operation of a feedlot and farm and ranch work
15 for hire and the operation of a nursery;

16 (u) all leases or rentals of tangible personal property used as a
17 dwelling if such tangible personal property is leased or rented for a period
18 of more than 28 consecutive days;

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

32 (w) all sales of natural gas, electricity, heat and water delivered
33 through mains, lines or pipes: (1) To residential premises for
34 noncommercial use by the occupant of such premises; (2) for agricultural
35 use and also, for such use, all sales of propane gas; (3) for use in the
36 severing of oil; and (4) to any property which is exempt from property
37 taxation pursuant to K.S.A. 79-201b *Second* through *Sixth*. As used in this
38 paragraph, "severing" shall have the meaning ascribed thereto by
39 subsection (k) of K.S.A. 79-4216, and amendments thereto. For all sales
40 of natural gas, electricity and heat delivered through mains, lines or pipes
41 pursuant to the provisions of subsection (w)(1) and (w)(2), the provisions
42 of this subsection shall expire on December 31, 2005;

43 (x) all sales of propane gas, LP-gas, coal, wood and other fuel

1 sources for the production of heat or lighting for noncommercial use of
2 an occupant of residential premises occurring prior to January 1, 2006;

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

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

10 (aa) all sales of materials and services applied to equipment which is
11 transported into the state from without the state for repair, service,
12 alteration, maintenance, remanufacture or modification and which is
13 subsequently transported outside the state for use in the transmission of
14 liquids or natural gas by means of pipeline in interstate or foreign
15 commerce under authority of the laws of the United States;

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

21 (cc) all sales of tangible personal property or services purchased for
22 the purpose of and in conjunction with constructing, reconstructing,
23 enlarging or remodeling a business or retail business which meets the
24 requirements established in K.S.A. 74-50,115, and amendments thereto,
25 and the sale and installation of machinery and equipment purchased for
26 installation at any such business or retail business. When a person shall
27 contract for the construction, reconstruction, enlargement or remodeling
28 of any such business or retail business, such person shall obtain from the
29 state and furnish to the contractor an exemption certificate for the project
30 involved, and the contractor may purchase materials, machinery and
31 equipment for incorporation in such project. The contractor shall furnish
32 the number of such certificates to all suppliers from whom such
33 purchases are made, and such suppliers shall execute invoices covering
34 the same bearing the number of such certificate. Upon completion of the
35 project the contractor shall furnish to the owner of the business or retail
36 business a sworn statement, on a form to be provided by the director of
37 taxation, that all purchases so made were entitled to exemption under this
38 subsection. All invoices shall be held by the contractor for a period of
39 five years and shall be subject to audit by the director of taxation. Any
40 contractor or any agent, employee or subcontractor thereof, who shall use
41 or otherwise dispose of any materials, machinery or equipment purchased
42 under such a certificate for any purpose other than that for which such a
43 certificate is issued without the payment of the sales or compensating tax

1 otherwise imposed thereon, shall be guilty of a misdemeanor and, upon
2 conviction therefor, shall be subject to the penalties provided for in
3 subsection (g) of K.S.A. 79-3615, and amendments thereto. As used in
4 this subsection, "business" and "retail business" have the meanings
5 respectively ascribed thereto by K.S.A. 74-50,114, and amendments
6 thereto;

7 (dd) all sales of tangible personal property purchased with food
8 stamps issued by the United States department of agriculture;

9 (ee) all sales of lottery tickets and shares made as part of a lottery
10 operated by the state of Kansas;

11 (ff) on and after July 1, 1988, all sales of new mobile homes or
12 manufactured homes to the extent of 40% of the gross receipts,
13 determined without regard to any trade-in allowance, received from such
14 sale. As used in this subsection, "mobile homes" and "manufactured
15 homes" shall have the meanings ascribed thereto by K.S.A. 58-4202, and
16 amendments thereto;

17 (gg) all sales of tangible personal property purchased in accordance
18 with vouchers issued pursuant to the federal special supplemental food
19 program for women, infants and children;

20 (hh) all sales of medical supplies and equipment, including durable
21 medical equipment, purchased directly by a nonprofit skilled nursing
22 home or nonprofit intermediate nursing care home, as defined by K.S.A.
23 39-923, and amendments thereto, for the purpose of providing medical
24 services to residents thereof. This exemption shall not apply to tangible
25 personal property customarily used for human habitation purposes. As
26 used in this subsection, "durable medical equipment" means equipment
27 including repair and replacement parts for such equipment, which can
28 withstand repeated use, is primarily and customarily used to serve a
29 medical purpose, generally is not useful to a person in the absence of
30 illness or injury and is not worn in or on the body, but does not include
31 mobility enhancing equipment as defined in subsection (r), oxygen
32 delivery equipment, kidney dialysis equipment or enteral feeding
33 systems;

34 (ii) all sales of tangible personal property purchased directly by a
35 nonprofit organization for nonsectarian comprehensive multidiscipline
36 youth development programs and activities provided or sponsored by
37 such organization, and all sales of tangible personal property by or on
38 behalf of any such organization. This exemption shall not apply to
39 tangible personal property customarily used for human habitation
40 purposes;

41 (jj) all sales of tangible personal property or services, including the
42 renting and leasing of tangible personal property, purchased directly on
43 behalf of a community-based mental retardation facility or mental health

1 center organized pursuant to K.S.A. 19-4001 et seq., and amendments
2 thereto, and licensed in accordance with the provisions of K.S.A. 75-
3 3307b, and amendments thereto, and all sales of tangible personal
4 property or services purchased by contractors during the time period from
5 July, 2003, through June, 2006, for the purpose of constructing,
6 equipping, maintaining or furnishing a new facility for a community-
7 based mental retardation facility or mental health center located in
8 Riverton, Cherokee County, Kansas, which would have been eligible for
9 sales tax exemption pursuant to this subsection if purchased directly by
10 such facility or center. This exemption shall not apply to tangible personal
11 property customarily used for human habitation purposes;

12 (kk) (1) (A) all sales of machinery and equipment which are used in
13 this state as an integral or essential part of an integrated production
14 operation by a manufacturing or processing plant or facility;

15 (B) all sales of installation, repair and maintenance services
16 performed on such machinery and equipment; and

17 (C) all sales of repair and replacement parts and accessories
18 purchased for such machinery and equipment.

19 (2) For purposes of this subsection:

20 (A) "Integrated production operation" means an integrated series of
21 operations engaged in at a manufacturing or processing plant or facility to
22 process, transform or convert tangible personal property by physical,
23 chemical or other means into a different form, composition or character
24 from that in which it originally existed. Integrated production operations
25 shall include: (i) Production line operations, including packaging
26 operations; (ii) preproduction operations to handle, store and treat raw
27 materials; (iii) post production handling, storage, warehousing and
28 distribution operations; and (iv) waste, pollution and environmental
29 control operations, if any;

30 (B) "production line" means the assemblage of machinery and
31 equipment at a manufacturing or processing plant or facility where the
32 actual transformation or processing of tangible personal property occurs;

33 (C) "manufacturing or processing plant or facility" means a single,
34 fixed location owned or controlled by a manufacturing or processing
35 business that consists of one or more structures or buildings in a
36 contiguous area where integrated production operations are conducted to
37 manufacture or process tangible personal property to be ultimately sold at
38 retail. Such term shall not include any facility primarily operated for the
39 purpose of conveying or assisting in the conveyance of natural gas,
40 electricity, oil or water. A business may operate one or more
41 manufacturing or processing plants or facilities at different locations to
42 manufacture or process a single product of tangible personal property to
43 be ultimately sold at retail;

1 (D) "manufacturing or processing business" means a business that
2 utilizes an integrated production operation to manufacture, process,
3 fabricate, finish, or assemble items for wholesale and retail distribution as
4 part of what is commonly regarded by the general public as an industrial
5 manufacturing or processing operation or an agricultural commodity
6 processing operation. (i) Industrial manufacturing or processing
7 operations include, by way of illustration but not of limitation, the
8 fabrication of automobiles, airplanes, machinery or transportation
9 equipment, the fabrication of metal, plastic, wood, or paper products,
10 electricity power generation, water treatment, petroleum refining,
11 chemical production, wholesale bottling, newspaper printing, ready
12 mixed concrete production, and the remanufacturing of used parts for
13 wholesale or retail sale. Such processing operations shall include
14 operations at an oil well, gas well, mine or other excavation site where
15 the oil, gas, minerals, coal, clay, stone, sand or gravel that has been
16 extracted from the earth is cleaned, separated, crushed, ground, milled,
17 screened, washed, or otherwise treated or prepared before its transmission
18 to a refinery or before any other wholesale or retail distribution. (ii)
19 Agricultural commodity processing operations include, by way of
20 illustration but not of limitation, meat packing, poultry slaughtering and
21 dressing, processing and packaging farm and dairy products in sealed
22 containers for wholesale and retail distribution, feed grinding, grain
23 milling, frozen food processing, and grain handling, cleaning, blending,
24 fumigation, drying and aeration operations engaged in by grain elevators
25 or other grain storage facilities. (iii) Manufacturing or processing
26 businesses do not include, by way of illustration but not of limitation,
27 nonindustrial businesses whose operations are primarily retail and that
28 produce or process tangible personal property as an incidental part of
29 conducting the retail business, such as retailers who bake, cook or prepare
30 food products in the regular course of their retail trade, grocery stores,
31 meat lockers and meat markets that butcher or dress livestock or poultry
32 in the regular course of their retail trade, contractors who alter, service,
33 repair or improve real property, and retail businesses that clean, service or
34 refurbish and repair tangible personal property for its owner;

35 (E) "repair and replacement parts and accessories" means all parts
36 and accessories for exempt machinery and equipment, including, but not
37 limited to, dies, jigs, molds, patterns and safety devices that are attached
38 to exempt machinery or that are otherwise used in production, and parts
39 and accessories that require periodic replacement such as belts, drill bits,
40 grinding wheels, grinding balls, cutting bars, saws, refractory brick and
41 other refractory items for exempt kiln equipment used in production
42 operations;

43 (F) "primary" or "primarily" mean more than 50% of the time.

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

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

6 (B) to transport, convey, handle or store the property undergoing
7 manufacturing or processing at any point from the beginning of the
8 production line through any warehousing or distribution operation of the
9 final product that occurs at the plant or facility;

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

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

14 (E) to test or measure raw materials, the property undergoing
15 manufacturing or processing or the finished product, as a necessary part
16 of the manufacturer's integrated production operations;

17 (F) to plan, manage, control or record the receipt and flow of
18 inventories of raw materials, consumables and component parts, the flow
19 of the property undergoing manufacturing or processing and the
20 management of inventories of the finished product;

21 (G) to produce energy for, lubricate, control the operating of or
22 otherwise enable the functioning of other production machinery and
23 equipment and the continuation of production operations;

24 (H) to package the property being manufactured or processed in a
25 container or wrapping in which such property is normally sold or
26 transported;

27 (I) to transmit or transport electricity, coke, gas, water, steam or
28 similar substances used in production operations from the point of
29 generation, if produced by the manufacturer or processor at the plant site,
30 to that manufacturer's production operation; or, if purchased or delivered
31 from offsite, from the point where the substance enters the site of the
32 plant or facility to that manufacturer's production operations;

33 (J) to cool, heat, filter, refine or otherwise treat water, steam, acid,
34 oil, solvents or other substances that are used in production operations;

35 (K) to provide and control an environment required to maintain
36 certain levels of air quality, humidity or temperature in special and
37 limited areas of the plant or facility, where such regulation of temperature
38 or humidity is part of and essential to the production process;

39 (L) to treat, transport or store waste or other byproducts of
40 production operations at the plant or facility; or

41 (M) to control pollution at the plant or facility where the pollution is
42 produced by the manufacturing or processing operation.

43 (4) The following machinery, equipment and materials shall be

1 deemed to be exempt even though it may not otherwise qualify as
2 machinery and equipment used as an integral or essential part of an
3 integrated production operation: (A) Computers and related peripheral
4 equipment that are utilized by a manufacturing or processing business for
5 engineering of the finished product or for research and development or
6 product design; (B) machinery and equipment that is utilized by a
7 manufacturing or processing business to manufacture or rebuild tangible
8 personal property that is used in manufacturing or processing operations,
9 including tools, dies, molds, forms and other parts of qualifying
10 machinery and equipment; (C) portable plants for aggregate concrete,
11 bulk cement and asphalt including cement mixing drums to be attached to
12 a motor vehicle; (D) industrial fixtures, devices, support facilities and
13 special foundations necessary for manufacturing and production
14 operations, and materials and other tangible personal property sold for the
15 purpose of fabricating such fixtures, devices, facilities and foundations.
16 An exemption certificate for such purchases shall be signed by the
17 manufacturer or processor. If the fabricator purchases such material, the
18 fabricator shall also sign the exemption certificate; and (E) a
19 manufacturing or processing business' laboratory equipment that is not
20 located at the plant or facility, but that would otherwise qualify for
21 exemption under subsection (3)(E).

22 (5) "Machinery and equipment used as an integral or essential part
23 of an integrated production operation" shall not include:

24 (A) Machinery and equipment used for nonproduction purposes,
25 including, but not limited to, machinery and equipment used for plant
26 security, fire prevention, first aid, accounting, administration, record
27 keeping, advertising, marketing, sales or other related activities, plant
28 cleaning, plant communications, and employee work scheduling;

29 (B) machinery, equipment and tools used primarily in maintaining
30 and repairing any type of machinery and equipment or the building and
31 plant;

32 (C) transportation, transmission and distribution equipment not
33 primarily used in a production, warehousing or material handling
34 operation at the plant or facility, including the means of conveyance of
35 natural gas, electricity, oil or water, and equipment related thereto,
36 located outside the plant or facility;

37 (D) office machines and equipment including computers and related
38 peripheral equipment not used directly and primarily to control or
39 measure the manufacturing process;

40 (E) furniture and other furnishings;

41 (F) buildings, other than exempt machinery and equipment that is
42 permanently affixed to or becomes a physical part of the building, and
43 any other part of real estate that is not otherwise exempt;

1 (G) building fixtures that are not integral to the manufacturing
2 operation, such as utility systems for heating, ventilation, air
3 conditioning, communications, plumbing or electrical;

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

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

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

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

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

21 (ll) all sales of educational materials purchased for distribution to the
22 public at no charge by a nonprofit corporation organized for the purpose
23 of encouraging, fostering and conducting programs for the improvement
24 of public health, *except that for taxable years commencing after*
25 *December 31, 2010, this subsection shall not apply to any sales of such*
26 *materials purchased by a nonprofit corporation which conducts activities*
27 *that involve abortion;*

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

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

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

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

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

1 educational information, exhibits and experiences, which is exempt from
2 federal income taxation pursuant to section 501(c)(3) of the federal
3 internal revenue code of 1986;

4 (rr) all sales of tangible personal property which will admit the
5 purchaser thereof to any annual event sponsored by a nonprofit
6 organization which is exempt from federal income taxation pursuant to
7 section 501(c)(3) of the federal internal revenue code of 1986, *except that*
8 *for taxable years commencing after December 31, 2010, this subsection*
9 *shall not apply to any sales of such tangible personal property purchased*
10 *by a nonprofit organization which conducts activities that involve*
11 *abortion;*

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

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

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

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

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

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

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

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

43 (5) the American Lung Association of Kansas, Inc., for the purpose

1 of eliminating all lung diseases through medical research, public
2 education including information on coping with lung diseases,
3 professional education and training related to lung disease and other
4 related services to reduce the incidence of disability and death due to lung
5 disease;

6 (6) the Kansas chapters of the Alzheimer's Disease and Related
7 Disorders Association, Inc., for the purpose of providing assistance and
8 support to persons in Kansas with Alzheimer's disease, and their families
9 and caregivers;

10 (7) the Kansas chapters of the Parkinson's disease association, for
11 the purpose of eliminating Parkinson's disease through medical research
12 and public and professional education related to such disease;

13 (8) the National Kidney Foundation of Kansas and Western
14 Missouri, for the purpose of eliminating kidney disease through medical
15 research and public and private education related to such disease;

16 (9) the heartstrings community foundation for the purpose of
17 providing training, employment and activities for adults with
18 developmental disabilities;

19 (10) the Cystic Fibrosis Foundation, Heart of America Chapter, for
20 the purposes of assuring the development of the means to cure and
21 control cystic fibrosis and improving the quality of life for those with the
22 disease;

23 (11) the spina bifida association of Kansas, for the purpose of
24 providing financial, educational and practical aid to families and
25 individuals with spina bifida. Such aid includes, but is not limited to,
26 funding for medical devices, counseling and medical educational
27 opportunities;

28 (12) the CHWC, Inc., for the purpose of rebuilding urban core
29 neighborhoods through the construction of new homes, acquiring and
30 renovating existing homes and other related activities, and promoting
31 economic development in such neighborhoods;

32 (13) the cross-lines cooperative council, for the purpose of providing
33 social services to low income individuals and families;

34 (14) the Dreams Work, Inc., for the purpose of providing young
35 adult day services to individuals with developmental disabilities and
36 assisting families in avoiding institutional or nursing home care for a
37 developmentally disabled member of their family;

38 (15) the KSDS, Inc., for the purpose of promoting the independence
39 and inclusion of people with disabilities as fully participating and
40 contributing members of their communities and society through the
41 training and providing of guide and service dogs to people with
42 disabilities, and providing disability education and awareness to the
43 general public;

1 (16) the lyme association of greater Kansas City, Inc., for the
2 purpose of providing support to persons with lyme disease and public
3 education relating to the prevention, treatment and cure of lyme disease;

4 (17) the Dream Factory, Inc., for the purpose of granting the dreams
5 of children with critical and chronic illnesses;

6 (18) the Ottawa Suzuki Strings, Inc., for the purpose of providing
7 students and families with education and resources necessary to enable
8 each child to develop fine character and musical ability to the fullest
9 potential;

10 (19) the International Association of Lions Clubs for the purpose of
11 creating and fostering a spirit of understanding among all people for
12 humanitarian needs by providing voluntary services through community
13 involvement and international cooperation;

14 (20) the Johnson county young matrons, inc., for the purpose of
15 promoting a positive future for members of the community through
16 volunteerism, financial support and education through the efforts of an all
17 volunteer organization;

18 (21) the American Cancer Society, Inc., for the purpose of
19 eliminating cancer as a major health problem by preventing cancer,
20 saving lives and diminishing suffering from cancer, through research,
21 education, advocacy and service;

22 (22) the community services of Shawnee, inc., for the purpose of
23 providing food and clothing to those in need;

24 (23) the angel babies association, for the purpose of providing
25 assistance, support and items of necessity to teenage mothers and their
26 babies; and

27 (24) the Kansas fairgrounds foundation for the purpose of the
28 preservation, renovation and beautification of the Kansas state
29 fairgrounds;

30 (ww) all sales of tangible personal property purchased by the Habitat
31 for Humanity for the exclusive use of being incorporated within a
32 housing project constructed by such organization;

33 (xx) all sales of tangible personal property and services purchased
34 by a nonprofit zoo which is exempt from federal income taxation
35 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
36 or on behalf of such zoo by an entity itself exempt from federal income
37 taxation pursuant to section 501(c)(3) of the federal internal revenue code
38 of 1986 contracted with to operate such zoo and all sales of tangible
39 personal property or services purchased by a contractor for the purpose of
40 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
41 furnishing or remodeling facilities for any nonprofit zoo which would be
42 exempt from taxation under the provisions of this section if purchased
43 directly by such nonprofit zoo or the entity operating such zoo. Nothing

1 in this subsection shall be deemed to exempt the purchase of any
2 construction machinery, equipment or tools used in the constructing,
3 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
4 remodeling facilities for any nonprofit zoo. When any nonprofit zoo shall
5 contract for the purpose of constructing, equipping, reconstructing,
6 maintaining, repairing, enlarging, furnishing or remodeling facilities, it
7 shall obtain from the state and furnish to the contractor an exemption
8 certificate for the project involved, and the contractor may purchase
9 materials for incorporation in such project. The contractor shall furnish
10 the number of such certificate to all suppliers from whom such purchases
11 are made, and such suppliers shall execute invoices covering the same
12 bearing the number of such certificate. Upon completion of the project
13 the contractor shall furnish to the nonprofit zoo concerned a sworn
14 statement, on a form to be provided by the director of taxation, that all
15 purchases so made were entitled to exemption under this subsection. All
16 invoices shall be held by the contractor for a period of five years and
17 shall be subject to audit by the director of taxation. If any materials
18 purchased under such a certificate are found not to have been
19 incorporated in the building or other project or not to have been returned
20 for credit or the sales or compensating tax otherwise imposed upon such
21 materials which will not be so incorporated in the building or other
22 project reported and paid by such contractor to the director of taxation not
23 later than the 20th day of the month following the close of the month in
24 which it shall be determined that such materials will not be used for the
25 purpose for which such certificate was issued, the nonprofit zoo
26 concerned shall be liable for tax on all materials purchased for the
27 project, and upon payment thereof it may recover the same from the
28 contractor together with reasonable attorney fees. Any contractor or any
29 agent, employee or subcontractor thereof, who shall use or otherwise
30 dispose of any materials purchased under such a certificate for any
31 purpose other than that for which such a certificate is issued without the
32 payment of the sales or compensating tax otherwise imposed upon such
33 materials, shall be guilty of a misdemeanor and, upon conviction therefor,
34 shall be subject to the penalties provided for in subsection (g) of K.S.A.
35 79-3615, and amendments thereto;

36 (yy) all sales of tangible personal property and services purchased
37 by a parent-teacher association or organization, and all sales of tangible
38 personal property by or on behalf of such association or organization;

39 (zz) all sales of machinery and equipment purchased by over-the-air,
40 free access radio or television station which is used directly and primarily
41 for the purpose of producing a broadcast signal or is such that the failure
42 of the machinery or equipment to operate would cause broadcasting to
43 cease. For purposes of this subsection, machinery and equipment shall

1 include, but not be limited to, that required by rules and regulations of the
2 federal communications commission, and all sales of electricity which are
3 essential or necessary for the purpose of producing a broadcast signal or
4 is such that the failure of the electricity would cause broadcasting to
5 cease;

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

1 purpose other than that for which such a certificate is issued without the
2 payment of the sales or compensating tax otherwise imposed upon such
3 materials, shall be guilty of a misdemeanor and, upon conviction therefor,
4 shall be subject to the penalties provided for in subsection (g) of K.S.A.
5 79-3615, and amendments thereto. Sales tax paid on and after July 1,
6 1998, but prior to the effective date of this act upon the gross receipts
7 received from any sale exempted by the amendatory provisions of this
8 subsection shall be refunded. Each claim for a sales tax refund shall be
9 verified and submitted to the director of taxation upon forms furnished by
10 the director and shall be accompanied by any additional documentation
11 required by the director. The director shall review each claim and shall
12 refund that amount of sales tax paid as determined under the provisions
13 of this subsection. All refunds shall be paid from the sales tax refund fund
14 upon warrants of the director of accounts and reports pursuant to
15 vouchers approved by the director or the director's designee;

16 (bbb) all sales of food for human consumption by an organization
17 which is exempt from federal income taxation pursuant to section 501(c)
18 (3) of the federal internal revenue code of 1986, pursuant to a food
19 distribution program which offers such food at a price below cost in
20 exchange for the performance of community service by the purchaser
21 thereof;

22 (ccc) on and after July 1, 1999, all sales of tangible personal
23 property and services purchased by a primary care clinic or health center
24 the primary purpose of which is to provide services to medically
25 underserved individuals and families, and which is exempt from federal
26 income taxation pursuant to section 501(c)(3) of the federal internal
27 revenue code, and all sales of tangible personal property or services
28 purchased by a contractor for the purpose of constructing, equipping,
29 reconstructing, maintaining, repairing, enlarging, furnishing or
30 remodeling facilities for any such clinic or center which would be exempt
31 from taxation under the provisions of this section if purchased directly by
32 such clinic or center. Nothing in this subsection shall be deemed to
33 exempt the purchase of any construction machinery, equipment or tools
34 used in the constructing, equipping, reconstructing, maintaining,
35 repairing, enlarging, furnishing or remodeling facilities for any such
36 clinic or center. When any such clinic or center shall contract for the
37 purpose of constructing, equipping, reconstructing, maintaining,
38 repairing, enlarging, furnishing or remodeling facilities, it shall obtain
39 from the state and furnish to the contractor an exemption certificate for
40 the project involved, and the contractor may purchase materials for
41 incorporation in such project. The contractor shall furnish the number of
42 such certificate to all suppliers from whom such purchases are made, and
43 such suppliers shall execute invoices covering the same bearing the

1 number of such certificate. Upon completion of the project the contractor
2 shall furnish to such clinic or center concerned a sworn statement, on a
3 form to be provided by the director of taxation, that all purchases so made
4 were entitled to exemption under this subsection. All invoices shall be
5 held by the contractor for a period of five years and shall be subject to
6 audit by the director of taxation. If any materials purchased under such a
7 certificate are found not to have been incorporated in the building or other
8 project or not to have been returned for credit or the sales or
9 compensating tax otherwise imposed upon such materials which will not
10 be so incorporated in the building or other project reported and paid by
11 such contractor to the director of taxation not later than the 20th day of
12 the month following the close of the month in which it shall be
13 determined that such materials will not be used for the purpose for which
14 such certificate was issued, such clinic or center concerned shall be liable
15 for tax on all materials purchased for the project, and upon payment
16 thereof it may recover the same from the contractor together with
17 reasonable attorney fees. Any contractor or any agent, employee or
18 subcontractor thereof, who shall use or otherwise dispose of any materials
19 purchased under such a certificate for any purpose other than that for
20 which such a certificate is issued without the payment of the sales or
21 compensating tax otherwise imposed upon such materials, shall be guilty
22 of a misdemeanor and, upon conviction therefor, shall be subject to the
23 penalties provided for in subsection (g) of K.S.A. 79-3615, and
24 amendments thereto, *except that for taxable years commencing after*
25 *December 31, 2010, this subsection shall not apply to any sales of such*
26 *tangible personal property and services purchased by a primary care*
27 *clinic or health center which conducts activities that involve abortion;*

28 (ddd) on and after January 1, 1999, and before January 1, 2000, all
29 sales of materials and services purchased by any class II or III railroad as
30 classified by the federal surface transportation board for the construction,
31 renovation, repair or replacement of class II or III railroad track and
32 facilities used directly in interstate commerce. In the event any such track
33 or facility for which materials and services were purchased sales tax
34 exempt is not operational for five years succeeding the allowance of such
35 exemption, the total amount of sales tax which would have been payable
36 except for the operation of this subsection shall be recouped in
37 accordance with rules and regulations adopted for such purpose by the
38 secretary of revenue;

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

43 (fff) all sales of material handling equipment, racking systems and

1 other related machinery and equipment that is used for the handling,
2 movement or storage of tangible personal property in a warehouse or
3 distribution facility in this state; all sales of installation, repair and
4 maintenance services performed on such machinery and equipment; and
5 all sales of repair and replacement parts for such machinery and
6 equipment. For purposes of this subsection, a warehouse or distribution
7 facility means a single, fixed location that consists of buildings or
8 structures in a contiguous area where storage or distribution operations
9 are conducted that are separate and apart from the business' retail
10 operations, if any, and which do not otherwise qualify for exemption as
11 occurring at a manufacturing or processing plant or facility. Material
12 handling and storage equipment shall include aeration, dust control,
13 cleaning, handling and other such equipment that is used in a public grain
14 warehouse or other commercial grain storage facility, whether used for
15 grain handling, grain storage, grain refining or processing, or other grain
16 treatment operation;

17 (ggg) all sales of tangible personal property and services purchased
18 by or on behalf of the Kansas Academy of Science which is exempt from
19 federal income taxation pursuant to section 501(c)(3) of the federal
20 internal revenue code of 1986, and used solely by such academy for the
21 preparation, publication and dissemination of education materials;

22 (hhh) all sales of tangible personal property and services purchased
23 by or on behalf of all domestic violence shelters that are member agencies
24 of the Kansas coalition against sexual and domestic violence;

25 (iii) all sales of personal property and services purchased by an
26 organization which is exempt from federal income taxation pursuant to
27 section 501(c)(3) of the federal internal revenue code of 1986, and which
28 such personal property and services are used by any such organization in
29 the collection, storage and distribution of food products to nonprofit
30 organizations which distribute such food products to persons pursuant to
31 a food distribution program on a charitable basis without fee or charge,
32 and all sales of tangible personal property or services purchased by a
33 contractor for the purpose of constructing, equipping, reconstructing,
34 maintaining, repairing, enlarging, furnishing or remodeling facilities used
35 for the collection and storage of such food products for any such
36 organization which is exempt from federal income taxation pursuant to
37 section 501(c)(3) of the federal internal revenue code of 1986, which
38 would be exempt from taxation under the provisions of this section if
39 purchased directly by such organization. Nothing in this subsection shall
40 be deemed to exempt the purchase of any construction machinery,
41 equipment or tools used in the constructing, equipping, reconstructing,
42 maintaining, repairing, enlarging, furnishing or remodeling facilities for
43 any such organization. When any such organization shall contract for the

1 purpose of constructing, equipping, reconstructing, maintaining,
2 repairing, enlarging, furnishing or remodeling facilities, it shall obtain
3 from the state and furnish to the contractor an exemption certificate for
4 the project involved, and the contractor may purchase materials for
5 incorporation in such project. The contractor shall furnish the number of
6 such certificate to all suppliers from whom such purchases are made, and
7 such suppliers shall execute invoices covering the same bearing the
8 number of such certificate. Upon completion of the project the contractor
9 shall furnish to such organization concerned a sworn statement, on a form
10 to be provided by the director of taxation, that all purchases so made were
11 entitled to exemption under this subsection. All invoices shall be held by
12 the contractor for a period of five years and shall be subject to audit by
13 the director of taxation. If any materials purchased under such a
14 certificate are found not to have been incorporated in such facilities or not
15 to have been returned for credit or the sales or compensating tax
16 otherwise imposed upon such materials which will not be so incorporated
17 in such facilities reported and paid by such contractor to the director of
18 taxation not later than the 20th day of the month following the close of
19 the month in which it shall be determined that such materials will not be
20 used for the purpose for which such certificate was issued, such
21 organization concerned shall be liable for tax on all materials purchased
22 for the project, and upon payment thereof it may recover the same from
23 the contractor together with reasonable attorney fees. Any contractor or
24 any agent, employee or subcontractor thereof, who shall use or otherwise
25 dispose of any materials purchased under such a certificate for any
26 purpose other than that for which such a certificate is issued without the
27 payment of the sales or compensating tax otherwise imposed upon such
28 materials, shall be guilty of a misdemeanor and, upon conviction therefor,
29 shall be subject to the penalties provided for in subsection (g) of K.S.A.
30 79-3615, and amendments thereto. Sales tax paid on and after July 1,
31 2005, but prior to the effective date of this act upon the gross receipts
32 received from any sale exempted by the amendatory provisions of this
33 subsection shall be refunded. Each claim for a sales tax refund shall be
34 verified and submitted to the director of taxation upon forms furnished by
35 the director and shall be accompanied by any additional documentation
36 required by the director. The director shall review each claim and shall
37 refund that amount of sales tax paid as determined under the provisions
38 of this subsection. All refunds shall be paid from the sales tax refund fund
39 upon warrants of the director of accounts and reports pursuant to
40 vouchers approved by the director or the director's designee;

41 (jjj) all sales of dietary supplements dispensed pursuant to a
42 prescription order by a licensed practitioner or a mid-level practitioner as
43 defined by K.S.A. 65-1626, and amendments thereto. As used in this

1 subsection, "dietary supplement" means any product, other than tobacco,
2 intended to supplement the diet that: (1) Contains one or more of the
3 following dietary ingredients: A vitamin, a mineral, an herb or other
4 botanical, an amino acid, a dietary substance for use by humans to
5 supplement the diet by increasing the total dietary intake or a concentrate,
6 metabolite, constituent, extract or combination of any such ingredient; (2)
7 is intended for ingestion in tablet, capsule, powder, softgel, gelcap or
8 liquid form, or if not intended for ingestion, in such a form, is not
9 represented as conventional food and is not represented for use as a sole
10 item of a meal or of the diet; and (3) is required to be labeled as a dietary
11 supplement, identifiable by the supplemental facts box found on the label
12 and as required pursuant to 21 C.F.R. § 101.36;

13 (lll) all sales of tangible personal property and services purchased by
14 special olympics Kansas, inc. for the purpose of providing year-round
15 sports training and athletic competition in a variety of olympic-type
16 sports for individuals with intellectual disabilities by giving them
17 continuing opportunities to develop physical fitness, demonstrate
18 courage, experience joy and participate in a sharing of gifts, skills and
19 friendship with their families, other special olympics athletes and the
20 community, and activities provided or sponsored by such organization,
21 and all sales of tangible personal property by or on behalf of any such
22 organization;

23 (mmm) all sales of tangible personal property purchased by or on
24 behalf of the Marillac Center, Inc., which is exempt from federal income
25 taxation pursuant to section 501(c)(3) of the federal internal revenue
26 code, for the purpose of providing psycho-social-biological and special
27 education services to children, and all sales of any such property by or on
28 behalf of such organization for such purpose;

29 (nnn) all sales of tangible personal property and services purchased
30 by the West Sedgwick County-Sunrise Rotary Club and Sunrise
31 Charitable Fund for the purpose of constructing a boundless playground
32 which is an integrated, barrier free and developmentally advantageous
33 play environment for children of all abilities and disabilities;

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

38 (ppp) all sales of tangible personal property and services purchased
39 by or on behalf of a homeless shelter which is exempt from federal
40 income taxation pursuant to section 501(c)(3) of the federal income tax
41 code of 1986, and used by any such homeless shelter to provide
42 emergency and transitional housing for individuals and families
43 experiencing homelessness, and all sales of any such property by or on

1 behalf of any such homeless shelter for any such purpose;
2 (qqq) all sales of tangible personal property and services purchased
3 by TLC for children and families, inc., hereinafter referred to as TLC,
4 which is exempt from federal income taxation pursuant to section 501(c)
5 (3) of the federal internal revenue code of 1986, and which such property
6 and services are used for the purpose of providing emergency shelter and
7 treatment for abused and neglected children as well as meeting additional
8 critical needs for children, juveniles and family, and all sales of any such
9 property by or on behalf of TLC for any such purpose; and all sales of
10 tangible personal property or services purchased by a contractor for the
11 purpose of constructing, maintaining, repairing, enlarging, furnishing or
12 remodeling facilities for the operation of services for TLC for any such
13 purpose which would be exempt from taxation under the provisions of
14 this section if purchased directly by TLC. Nothing in this subsection shall
15 be deemed to exempt the purchase of any construction machinery,
16 equipment or tools used in the constructing, maintaining, repairing,
17 enlarging, furnishing or remodeling such facilities for TLC. When TLC
18 contracts for the purpose of constructing, maintaining, repairing,
19 enlarging, furnishing or remodeling such facilities, it shall obtain from the
20 state and furnish to the contractor an exemption certificate for the project
21 involved, and the contractor may purchase materials for incorporation in
22 such project. The contractor shall furnish the number of such certificate to
23 all suppliers from whom such purchases are made, and such suppliers
24 shall execute invoices covering the same bearing the number of such
25 certificate. Upon completion of the project the contractor shall furnish to
26 TLC a sworn statement, on a form to be provided by the director of
27 taxation, that all purchases so made were entitled to exemption under this
28 subsection. All invoices shall be held by the contractor for a period of
29 five years and shall be subject to audit by the director of taxation. If any
30 materials purchased under such a certificate are found not to have been
31 incorporated in the building or other project or not to have been returned
32 for credit or the sales or compensating tax otherwise imposed upon such
33 materials which will not be so incorporated in the building or other
34 project reported and paid by such contractor to the director of taxation not
35 later than the 20th day of the month following the close of the month in
36 which it shall be determined that such materials will not be used for the
37 purpose for which such certificate was issued, TLC shall be liable for tax
38 on all materials purchased for the project, and upon payment thereof it
39 may recover the same from the contractor together with reasonable
40 attorney fees. Any contractor or any agent, employee or subcontractor
41 thereof, who shall use or otherwise dispose of any materials purchased
42 under such a certificate for any purpose other than that for which such a
43 certificate is issued without the payment of the sales or compensating tax

1 otherwise imposed upon such materials, shall be guilty of a misdemeanor
2 and, upon conviction therefor, shall be subject to the penalties provided
3 for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

4 (rrr) all sales of tangible personal property and services purchased
5 by any county law library maintained pursuant to law and sales of
6 tangible personal property and services purchased by an organization
7 which would have been exempt from taxation under the provisions of this
8 subsection if purchased directly by the county law library for the purpose
9 of providing legal resources to attorneys, judges, students and the general
10 public, and all sales of any such property by or on behalf of any such
11 county law library;

12 (sss) all sales of tangible personal property and services purchased
13 by catholic charities or youthville, hereinafter referred to as charitable
14 family providers, which is exempt from federal income taxation pursuant
15 to section 501(c)(3) of the federal internal revenue code of 1986, and
16 which such property and services are used for the purpose of providing
17 emergency shelter and treatment for abused and neglected children as
18 well as meeting additional critical needs for children, juveniles and
19 family, and all sales of any such property by or on behalf of charitable
20 family providers for any such purpose; and all sales of tangible personal
21 property or services purchased by a contractor for the purpose of
22 constructing, maintaining, repairing, enlarging, furnishing or remodeling
23 facilities for the operation of services for charitable family providers for
24 any such purpose which would be exempt from taxation under the
25 provisions of this section if purchased directly by charitable family
26 providers. Nothing in this subsection shall be deemed to exempt the
27 purchase of any construction machinery, equipment or tools used in the
28 constructing, maintaining, repairing, enlarging, furnishing or remodeling
29 such facilities for charitable family providers. When charitable family
30 providers contracts for the purpose of constructing, maintaining,
31 repairing, enlarging, furnishing or remodeling such facilities, it shall
32 obtain from the state and furnish to the contractor an exemption
33 certificate for the project involved, and the contractor may purchase
34 materials for incorporation in such project. The contractor shall furnish
35 the number of such certificate to all suppliers from whom such purchases
36 are made, and such suppliers shall execute invoices covering the same
37 bearing the number of such certificate. Upon completion of the project
38 the contractor shall furnish to charitable family providers a sworn
39 statement, on a form to be provided by the director of taxation, that all
40 purchases so made were entitled to exemption under this subsection. All
41 invoices shall be held by the contractor for a period of five years and
42 shall be subject to audit by the director of taxation. If any materials
43 purchased under such a certificate are found not to have been

1 incorporated in the building or other project or not to have been returned
2 for credit or the sales or compensating tax otherwise imposed upon such
3 materials which will not be so incorporated in the building or other
4 project reported and paid by such contractor to the director of taxation not
5 later than the 20th day of the month following the close of the month in
6 which it shall be determined that such materials will not be used for the
7 purpose for which such certificate was issued, charitable family providers
8 shall be liable for tax on all materials purchased for the project, and upon
9 payment thereof it may recover the same from the contractor together
10 with 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;

18 (ttt) all sales of tangible personal property or services purchased by a
19 contractor for a project for the purpose of restoring, constructing,
20 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
21 remodeling a home or facility owned by a nonprofit museum which has
22 been granted an exemption pursuant to subsection (qq), which such home
23 or facility is located in a city which has been designated as a qualified
24 hometown pursuant to the provisions of K.S.A. 75-5071 et seq., and
25 amendments thereto, and which such project is related to the purposes of
26 K.S.A. 75-5071 et seq., and amendments thereto, and which would be
27 exempt from taxation under the provisions of this section if purchased
28 directly by such nonprofit museum. Nothing in this subsection shall be
29 deemed to exempt the purchase of any construction machinery,
30 equipment or tools used in the restoring, constructing, equipping,
31 reconstructing, maintaining, repairing, enlarging, furnishing or
32 remodeling a home or facility for any such nonprofit museum. When any
33 such nonprofit museum shall contract for the purpose of restoring,
34 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
35 furnishing or remodeling a home or facility, it shall obtain from the state
36 and furnish to the contractor an exemption certificate for the project
37 involved, and the contractor may purchase materials for incorporation in
38 such project. The contractor shall furnish the number of such certificates
39 to all suppliers from whom such purchases are made, and such suppliers
40 shall execute invoices covering the same bearing the number of such
41 certificate. Upon completion of the project, the contractor shall furnish to
42 such nonprofit museum a sworn statement on a form to be provided by
43 the director of taxation that all purchases so made were entitled to

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

21 (uuu) all sales of tangible personal property and services purchased
22 by Kansas children's service league, hereinafter referred to as KCSL,
23 which is exempt from federal income taxation pursuant to section 501(c)
24 (3) of the federal internal revenue code of 1986, and which such property
25 and services are used for the purpose of providing for the prevention and
26 treatment of child abuse and maltreatment as well as meeting additional
27 critical needs for children, juveniles and family, and all sales of any such
28 property by or on behalf of KCSL for any such purpose; and all sales of
29 tangible personal property or services purchased by a contractor for the
30 purpose of constructing, maintaining, repairing, enlarging, furnishing or
31 remodeling facilities for the operation of services for KCSL for any such
32 purpose which would be exempt from taxation under the provisions of
33 this section if purchased directly by KCSL. Nothing in this subsection
34 shall be deemed to exempt the purchase of any construction machinery,
35 equipment or tools used in the constructing, maintaining, repairing,
36 enlarging, furnishing or remodeling such facilities for KCSL. When
37 KCSL contracts for the purpose of constructing, maintaining, repairing,
38 enlarging, furnishing or remodeling such facilities, it shall obtain from the
39 state and furnish to the contractor an exemption certificate for the project
40 involved, and the contractor may purchase materials for incorporation in
41 such project. The contractor shall furnish the number of such certificate to
42 all suppliers from whom such purchases are made, and such suppliers
43 shall execute invoices covering the same bearing the number of such

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

23 (vvv) all sales of tangible personal property or services, including
24 the renting and leasing of tangible personal property or services,
25 purchased by Jazz in the Woods, Inc., a Kansas corporation which is
26 exempt from federal income taxation pursuant to section 501(c)(3) of the
27 federal internal revenue code, for the purpose of providing Jazz in the
28 Woods, an event benefiting children-in-need and other nonprofit charities
29 assisting such children, and all sales of any such property by or on behalf
30 of such organization for such purpose;

31 (www) all sales of tangible personal property purchased by or on
32 behalf of the Frontenac Education Foundation, which is exempt from
33 federal income taxation pursuant to section 501(c)(3) of the federal
34 internal revenue code, for the purpose of providing education support for
35 students, and all sales of any such property by or on behalf of such
36 organization for such purpose;

37 (xxx) all sales of personal property and services purchased by the
38 booth theatre foundation, inc., an organization which is exempt from
39 federal income taxation pursuant to section 501(c)(3) of the federal
40 internal revenue code of 1986, and which such personal property and
41 services are used by any such organization in the constructing, equipping,
42 reconstructing, maintaining, repairing, enlarging, furnishing or
43 remodeling of the booth theatre, and all sales of tangible personal

1 property or services purchased by a contractor for the purpose of
2 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
3 furnishing or remodeling the booth theatre for such organization, which
4 would be exempt from taxation under the provisions of this section if
5 purchased directly by such organization. Nothing in this subsection shall
6 be deemed to exempt the purchase of any construction machinery,
7 equipment or tools used in the constructing, equipping, reconstructing,
8 maintaining, repairing, enlarging, furnishing or remodeling facilities for
9 any such organization. When any such organization shall contract for the
10 purpose of constructing, equipping, reconstructing, maintaining,
11 repairing, enlarging, furnishing or remodeling facilities, it shall obtain
12 from the state and furnish to the contractor an exemption certificate for
13 the project involved, and the contractor may purchase materials for
14 incorporation in such project. The contractor shall furnish the number of
15 such certificate to all suppliers from whom such purchases are made, and
16 such suppliers shall execute invoices covering the same bearing the
17 number of such certificate. Upon completion of the project the contractor
18 shall furnish to such organization concerned a sworn statement, on a form
19 to be provided by the director of taxation, that all purchases so made were
20 entitled to exemption under this subsection. All invoices shall be held by
21 the contractor for a period of five years and shall be subject to audit by
22 the director of taxation. If any materials purchased under such a
23 certificate are found not to have been incorporated in such facilities or not
24 to have been returned for credit or the sales or compensating tax
25 otherwise imposed upon such materials which will not be so incorporated
26 in such facilities reported and paid by such contractor to the director of
27 taxation not later than the 20th day of the month following the close of
28 the month in which it shall be determined that such materials will not be
29 used for the purpose for which such certificate was issued, such
30 organization concerned shall be liable for tax on all materials purchased
31 for the project, and upon payment thereof it may recover the same from
32 the contractor together with reasonable attorney fees. Any contractor or
33 any agent, employee or subcontractor thereof, who shall use or otherwise
34 dispose of any materials purchased under such a certificate for any
35 purpose other than that for which such a certificate is issued without the
36 payment of the sales or compensating tax otherwise imposed upon such
37 materials, shall be guilty of a misdemeanor and, upon conviction therefor,
38 shall be subject to the penalties provided for in subsection (g) of K.S.A.
39 79-3615, and amendments thereto. Sales tax paid on and after January 1,
40 2007, but prior to the effective date of this act upon the gross receipts
41 received from any sale which would have been exempted by the
42 provisions of this subsection had such sale occurred after the effective
43 date of this act shall be refunded. Each claim for a sales tax refund shall

1 be verified and submitted to the director of taxation upon forms furnished
2 by the director and shall be accompanied by any additional
3 documentation required by the director. The director shall review each
4 claim and shall refund that amount of sales tax paid as determined under
5 the provisions of this subsection. All refunds shall be paid from the sales
6 tax refund fund upon warrants of the director of accounts and reports
7 pursuant to vouchers approved by the director or the director's designee;

8 (yyy) all sales of tangible personal property and services purchased
9 by TLC charities foundation, inc., hereinafter referred to as TLC
10 charities, which is exempt from federal income taxation pursuant to
11 section 501(c)(3) of the federal internal revenue code of 1986, and which
12 such property and services are used for the purpose of encouraging
13 private philanthropy to further the vision, values, and goals of TLC for
14 children and families, inc.; and all sales of such property and services by
15 or on behalf of TLC charities for any such purpose and all sales of
16 tangible personal property or services purchased by a contractor for the
17 purpose of constructing, maintaining, repairing, enlarging, furnishing or
18 remodeling facilities for the operation of services for TLC charities for
19 any such purpose which would be exempt from taxation under the
20 provisions of this section if purchased directly by TLC charities. Nothing
21 in this subsection shall be deemed to exempt the purchase of any
22 construction machinery, equipment or tools used in the constructing,
23 maintaining, repairing, enlarging, furnishing or remodeling such facilities
24 for TLC charities. When TLC charities contracts for the purpose of
25 constructing, maintaining, repairing, enlarging, furnishing or remodeling
26 such facilities, it shall obtain from the state and furnish to the contractor
27 an exemption certificate for the project involved, and the contractor may
28 purchase materials for incorporation in such project. The contractor shall
29 furnish the number of such certificate to all suppliers from whom such
30 purchases are made, and such suppliers shall execute invoices covering
31 the same bearing the number of such certificate. Upon completion of the
32 project the contractor shall furnish to TLC charities a sworn statement, on
33 a form to be provided by the director of taxation, that all purchases so
34 made were entitled to exemption under this subsection. All invoices shall
35 be held by the contractor for a period of five years and shall be subject to
36 audit by the director of taxation. If any materials purchased under such a
37 certificate are found not to have been incorporated in the building or other
38 project or not to have been returned for credit or the sales or
39 compensating tax otherwise imposed upon such materials which will not
40 be incorporated into the building or other project reported and paid by
41 such contractor to the director of taxation not later than the 20th day of
42 the month following the close of the month in which it shall be
43 determined that such materials will not be used for the purpose for which

1 such certificate was issued, TLC charities shall be liable for tax on all
2 materials purchased for the project, and upon payment thereof it may
3 recover the same from the contractor together with reasonable attorney
4 fees. Any contractor or any agent, employee or subcontractor thereof,
5 who shall use or otherwise dispose of any materials purchased under such
6 a certificate for any purpose other than that for which such a certificate is
7 issued without the payment of the sales or compensating tax otherwise
8 imposed upon such materials, shall be guilty of a misdemeanor and, upon
9 conviction therefor, shall be subject to the penalties provided for in
10 subsection (g) of K.S.A. 79-3615, and amendments thereto;

11 (zzz) all sales of tangible personal property purchased by the rotary
12 club of shawnee foundation which is exempt from federal income
13 taxation pursuant to section 501(c)(3) of the federal internal revenue code
14 of 1986, as amended, used for the purpose of providing contributions to
15 community service organizations and scholarships;

16 (aaaa) all sales of personal property and services purchased by or on
17 behalf of victory in the valley, inc., which is exempt from federal income
18 taxation pursuant to section 501(c)(3) of the federal internal revenue
19 code, for the purpose of providing a cancer support group and services for
20 persons with cancer, and all sales of any such property by or on behalf of
21 any such organization for any such purpose;

22 (bbbb) all sales of entry or participation fees, charges or tickets by
23 Guadalupe health foundation, which is exempt from federal income
24 taxation pursuant to section 501(c)(3) of the federal internal revenue
25 code, for such organization's annual fundraising event which purpose is to
26 provide health care services for uninsured workers;

27 (cccc) all sales of tangible personal property or services purchased
28 by or on behalf of wayside waifs, inc., which is exempt from federal
29 income taxation pursuant to section 501(c)(3) of the federal internal
30 revenue code, for the purpose of providing such organization's annual
31 fundraiser, an event whose purpose is to support the care of homeless and
32 abandoned animals, animal adoption efforts, education programs for
33 children and efforts to reduce animal over-population and animal welfare
34 services, and all sales of any such property, including entry or
35 participation fees or charges, by or on behalf of such organization for
36 such purpose;

37 (dddd) all sales of tangible personal property or services purchased
38 by or on behalf of Goodwill Industries or Easter Seals of Kansas, Inc.,
39 both of which are exempt from federal income taxation pursuant to
40 section 501(c)(3) of the federal internal revenue code, for the purpose of
41 providing education, training and employment opportunities for people
42 with disabilities and other barriers to employment;

43 (eeee) all sales of tangible personal property or services purchased

1 by or on behalf of All American Beef Battalion, Inc., which is exempt
2 from federal income taxation pursuant to section 501(c)(3) of the federal
3 internal revenue code, for the purpose of educating, promoting and
4 participating as a contact group through the beef cattle industry in order
5 to carry out such projects that provide support and morale to members of
6 the United States armed forces and military services; and

7 (ffff) all sales of tangible personal property and services purchased
8 by sheltered living, inc., which is exempt from federal income taxation
9 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
10 and which such property and services are used for the purpose of
11 providing residential and day services for people with developmental
12 disabilities or mental retardation, or both, and all sales of any such
13 property by or on behalf of sheltered living, inc. for any such purpose;
14 and all sales of tangible personal property or services purchased by a
15 contractor for the purpose of rehabilitating, constructing, maintaining,
16 repairing, enlarging, furnishing or remodeling homes and facilities for
17 sheltered living, inc. for any such purpose which would be exempt from
18 taxation under the provisions of this section if purchased directly by
19 sheltered living, inc. Nothing in this subsection shall be deemed to
20 exempt the purchase of any construction machinery, equipment or tools
21 used in the constructing, maintaining, repairing, enlarging, furnishing or
22 remodeling such homes and facilities for sheltered living, inc. When
23 sheltered living, inc. contracts for the purpose of rehabilitating,
24 constructing, maintaining, repairing, enlarging, furnishing or remodeling
25 such homes and facilities, it shall obtain from the state and furnish to the
26 contractor an exemption certificate for the project involved, and the
27 contractor may purchase materials for incorporation in such project. The
28 contractor shall furnish the number of such certificate to all suppliers
29 from whom such purchases are made, and such suppliers shall execute
30 invoices covering the same bearing the number of such certificate. Upon
31 completion of the project the contractor shall furnish to sheltered living,
32 inc. a sworn statement, on a form to be provided by the director of
33 taxation, that all purchases so made were entitled to exemption under this
34 subsection. All invoices shall be held by the contractor for a period of
35 five years and shall be subject to audit by the director of taxation. If any
36 materials purchased under such a certificate are found not to have been
37 incorporated in the building or other project or not to have been returned
38 for credit or the sales or compensating tax otherwise imposed upon such
39 materials which will not be so incorporated in the building or other
40 project reported and paid by such contractor to the director of taxation not
41 later than the 20th day of the month following the close of the month in
42 which it shall be determined that such materials will not be used for the
43 purpose for which such certificate was issued, sheltered living, inc. shall

1 be liable for tax on all materials purchased for the project, and upon
2 payment thereof it may recover the same from the contractor together
3 with reasonable attorney fees. Any contractor or any agent, employee or
4 subcontractor thereof, who shall use or otherwise dispose of any materials
5 purchased under such a certificate for any purpose other than that for
6 which such a certificate is issued without the payment of the sales or
7 compensating tax otherwise imposed upon such materials, shall be guilty
8 of a misdemeanor and, upon conviction therefor, shall be subject to the
9 penalties provided for in subsection (g) of K.S.A. 79-3615, and
10 amendments thereto.

11 Sec. 31. K.S.A. 60-1901, 65-6701, 65-6703 and 65-6713 and K.S.A.
12 2010 Supp. 40-2,103, 40-19c09, 40-2246, 65-6709, 65-6710, 79-32,117,
13 79-32,138, 79-32,182b, 79-32,195, 79-32,261 and 79-3606 are hereby
14 repealed.

15 Sec. 32. This act shall take effect and be in force from and after its
16 publication in the statute book.