

HOUSE BILL No. 2598

By Committee on Federal and State Affairs

2-1

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

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

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

13 (b) As used in this act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (2) Such relief shall include:

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

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

1 (C) reasonable attorney fees.

2 (c) A woman upon whom an abortion is performed shall not be
3 prosecuted under this section for a conspiracy to violate this section
4 pursuant to K.S.A. 2011 Supp. 21-5302, and amendments thereto.

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

8 (e) Upon a first conviction of a violation of this section, a person
9 shall be guilty of a class A person misdemeanor. Upon a second or
10 subsequent conviction of a violation of this section, a person shall be
11 guilty of a severity level 10, person felony.

12 (f) If any provision of this section is held to be invalid or
13 unconstitutional, it shall be conclusively presumed that the legislature
14 would have enacted the remainder of this section without such invalid or
15 unconstitutional provision.

16 New Sec. 9. (a) No school district, employee or volunteer thereof,
17 or educational service provider contracting with such school district shall
18 provide abortion services. No school district shall permit any person or
19 entity to offer, sponsor or otherwise furnish in any manner any course
20 materials or instruction relating to human sexuality or sexually transmitted
21 diseases if such person or entity is an abortion services provider.

22 (b) For the purposes of this section, the term "abortion" shall have the
23 same meaning as such term is defined in K.S.A. 65-6701, and amendments
24 thereto.

25 New Sec. 10. (a) No civil action may be commenced in any court
26 for a claim of wrongful life or wrongful birth, and no damages may be
27 recovered in any civil action for any physical condition of a minor that
28 existed at the time of such minor's birth if the damages sought arise out of
29 a claim that a person's action, or omission, contributed to such minor's
30 mother not obtaining an abortion.

31 (b) Nothing in this section shall be deemed to create any new cause of
32 action, nor preclude any otherwise proper cause of action based on a claim
33 that, but for a person's wrongful action, or omission, the death or injury of
34 the mother would not have occurred, or the handicap, disease or disability
35 of an individual prior to birth would have been prevented, cured or
36 ameliorated in a manner that preserved the health and life of such
37 individual.

38 (c) As used in this section:

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

41 (2) "Claim of wrongful birth" means a cause of action brought by a
42 parent, legal guardian or other individual legally required to provide for
43 the support of a minor, which seeks damages, whether economic or

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

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

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

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

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

1 per eligible covered employee for the next 12 months of participation.
2 After 36 months of participation, no credit shall be allowed.

3 (c) If the credit allowed by this section is claimed, the amount of any
4 deduction allowable under the Kansas income tax act for expenses
5 described in this section shall be reduced by the dollar amount of the
6 credit. The election to claim the credit shall be made at the time of filing
7 the tax return in accordance with law. If the credit allowed by this section
8 exceeds the taxes imposed under the Kansas income tax act for the taxable
9 year, that portion of the credit which exceeds those taxes shall be refunded
10 to the taxpayer.

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

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

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

20 Sec. 12. K.S.A. 60-1901 is hereby amended to read as follows: 60-
21 1901. (a) If the death of a person is caused by the wrongful act or
22 omission of another, an action may be maintained for the damages
23 resulting therefrom if the former might have maintained the action had he
24 ~~or she~~ *such person* lived, in accordance with the provisions of this article,
25 against the wrongdoer, or ~~his or her~~ *such wrongdoer's* personal
26 representative if ~~he or she~~ *such wrongdoer* is deceased.

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

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

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

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

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

38 (3) *the lawful dispensation or administration of lawfully prescribed*
39 *medication.*

40 Sec. 13. K.S.A. 2011 Supp. 65-6701 is hereby amended to read as
41 follows: 65-6701. As used in ~~this act~~ *K.S.A. 65-6701 through 65-6721 and*
42 *section 8, and amendments thereto:*

43 (a) "Abortion" means the use or prescription of any instrument,

1 medicine, drug or any other substance or device to terminate the
2 pregnancy of a woman known to be pregnant with an intention other than
3 to increase the probability of a live birth, to preserve the life or health of
4 the child after live birth, or to remove a dead unborn child who died as the
5 result of natural causes in utero, accidental trauma or a criminal assault on
6 the pregnant woman or her unborn child, and which causes the premature
7 termination of the pregnancy.

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

10 (b) (c) "Counselor" means a person who is: (1) Licensed to practice
11 medicine and surgery; (2) licensed to practice psychology; (3) licensed to
12 practice professional or practical nursing; (4) registered to practice
13 professional counseling; (5) licensed as a social worker; (6) the holder of a
14 master's or doctor's degree from an accredited graduate school of social
15 work; (7) registered to practice marriage and family therapy; (8) a licensed
16 physician assistant; or (9) a currently ordained member of the clergy or
17 religious authority of any religious denomination or society. Counselor
18 does not include the physician who performs or induces the abortion or a
19 physician or other person who assists in performing or inducing the
20 abortion.

21 (e) (d) "Department" means the department of health and
22 environment.

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

25 (e) (f) "Medical emergency" means that condition which, on the basis
26 of the physician's good faith clinical judgment *using and exercising that*
27 *degree of care, skill and proficiency commonly exercised by the ordinary*
28 *skillful, careful and prudent physician in the same or similar*
29 *circumstances*, so complicates the medical condition of a pregnant woman
30 as to necessitate the immediate abortion of her pregnancy to avert her
31 death or for which a delay will create serious risk of substantial and
32 irreversible impairment of a major bodily function. *No condition shall be*
33 *deemed a medical emergency if based on a claim or diagnosis that the*
34 *woman will engage in conduct which would result in her death or in*
35 *substantial and irreversible physical impairment of a major bodily*
36 *function.*

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

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

40 (h) (i) "Pregnant" or "pregnancy" means that female reproductive
41 condition of having an unborn child in the mother's body.

42 (i) (j) "Qualified person" means an agent of the physician who is a
43 psychologist, licensed social worker, registered professional counselor,

1 registered nurse or physician.

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

5 ~~(k)~~ (l) "Viable" means that stage of fetal development when it is the
6 physician's judgment according to accepted obstetrical or neonatal
7 standards of care and practice applied by physicians in the same or similar
8 circumstances that there is a reasonable probability that the life of the child
9 can be continued indefinitely outside the mother's womb with natural or
10 artificial life-supportive measures.

11 Sec. 14. K.S.A. 2011 Supp. 65-6703 is hereby amended to read as
12 follows: 65-6703. (a) No person shall perform or induce, *or attempt to*
13 *perform or induce* an abortion when the unborn child is viable unless such
14 person is a physician and has a documented referral from another
15 physician not legally or financially affiliated with the physician
16 performing or inducing, *or attempting to perform or induce* the abortion
17 and both physicians provide a written determination, based upon a medical
18 judgment arrived at using and exercising that degree of care, skill and
19 proficiency commonly exercised by the ordinary skillful, careful and
20 prudent physician in the same or similar circumstances and that would be
21 made by a reasonably prudent physician, knowledgeable in the field, and
22 knowledgeable about the case and the treatment possibilities with respect
23 to the conditions involved, that: (1) The abortion is necessary to preserve
24 the life of the pregnant woman; or (2) a continuation of the pregnancy will
25 cause a substantial and irreversible *physical* impairment of a major bodily
26 function of the pregnant woman. *No condition shall be deemed to exist if*
27 *it is based on a claim or diagnosis that the woman will engage in conduct*
28 *that would result in her death or in substantial and irreversible physical*
29 *impairment of a major bodily function.*

30 (b) Except in the case of a medical emergency, a copy of the written
31 documented referral and of the abortion-performing physician's written
32 determination shall be provided to the pregnant woman no less than 30
33 minutes prior to the initiation of the abortion. The written determination
34 shall be time-stamped at the time it is delivered to the pregnant woman.
35 The medical basis for the determination shall also be reported by the
36 physician as part of the written report made by the physician to the
37 secretary of health and environment under K.S.A. 65-445, and
38 amendments thereto. Such determination shall specify:

39 (1) If the unborn child was determined to be nonviable and the
40 medical basis of such determination;

41 (2) if the abortion is necessary to preserve the life of the pregnant
42 woman and the medical basis of such determination, including the specific
43 medical condition the physician believes would cause the death of the

1 pregnant woman; or

2 (3) if a continuation of the pregnancy will cause a substantial and
3 irreversible *physical* impairment of a major bodily function of the pregnant
4 woman and the medical basis of such determination, including the specific
5 medical condition the physician believes would constitute a substantial and
6 irreversible *physical* impairment of a major bodily function of the pregnant
7 woman.

8 (c) (1) Except in the case of a medical emergency, prior to performing
9 *or inducing, or attempting to perform or induce* an abortion upon a
10 woman, the physician shall determine the gestational age of the unborn
11 child according to accepted obstetrical and neonatal practice and standards
12 applied by physicians in the same or similar circumstances. If the
13 physician determines the gestational age is less than 22 weeks, the
14 physician shall document as part of the medical records of the woman the
15 basis for the determination. The medical basis for the determination of the
16 gestational age of the unborn child shall also be reported by the physician
17 as part of the written report made by the physician to the secretary of
18 health and environment under K.S.A. 65-445, and amendments thereto.

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

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

42 (4) If the physician who is to perform the abortion determines the
43 gestational age of an unborn child is 22 or more weeks, and determines

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

27 (5) The physician shall retain the medical records required to be kept
28 under paragraphs (1) and (2) of this subsection (c) for not less than 10
29 years and shall retain a copy of the written reports required under
30 paragraphs (3) and (4) of this subsection (c) for not less than 10 years.

31 (d) The secretary of health and environment shall adopt rules and
32 regulations to administer this section. Such rules and regulations shall
33 include:

34 (1) A detailed list of the information that must be kept by a physician
35 under paragraphs (1) and (2) of subsection (c);

36 (2) the contents of the written reports required under paragraphs (3)
37 and (4) of subsection (c); and

38 (3) detailed specifications regarding information that must be
39 provided by a physician in order to comply with the obligation to disclose
40 the medical basis and specific medical diagnosis relied upon in
41 determining that an abortion is necessary to preserve the life of the
42 pregnant woman or that a continuation of the pregnancy will cause a
43 substantial and irreversible impairment of a major bodily function of the

1 pregnant woman.

2 (e) A woman upon whom an abortion is performed shall not be
3 prosecuted under this section for a conspiracy to violate this section
4 pursuant to K.S.A. 2011 Supp. 21-5302, and amendments thereto.

5 (f) Nothing in this section shall be construed to create a right to an
6 abortion. Notwithstanding any provision of this section, a person shall not
7 perform an abortion that is prohibited by law.

8 (g) (1) A woman upon whom an abortion is performed in violation of
9 this section, the father, if married to the woman at the time of the abortion,
10 and the parents or custodial guardian of the woman, if the woman has not
11 attained the age of 18 years at the time of the abortion, may in a civil
12 action obtain appropriate relief, unless, in a case where the plaintiff is not
13 the woman upon whom the abortion was performed, the pregnancy
14 resulted from the plaintiff's criminal conduct.

15 (2) Such relief shall include:

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

18 (B) statutory damages equal to three times the cost of the abortion;
19 and

20 (C) reasonable attorney fees.

21 (h) The prosecution of violations of this section may be brought by
22 the attorney general or by the district attorney or county attorney for the
23 county where any violation of this section is alleged to have occurred.

24 (i) Nothing in this section shall be construed to restrict the authority
25 of the board of healing arts to engage in a disciplinary action.

26 (j) If any provision of this section is held to be invalid or
27 unconstitutional, it shall be conclusively presumed that the legislature
28 would have enacted the remainder of this section without such invalid or
29 unconstitutional provision.

30 (k) Upon a first conviction of a violation of this section, a person
31 shall be guilty of a class A nonperson misdemeanor. Upon a second or
32 subsequent conviction of a violation of this section, a person shall be
33 guilty of a severity level 10, nonperson felony.

34 Sec. 15. K.S.A. 2011 Supp. 65-6709 is hereby amended to read as
35 follows: 65-6709. No abortion shall be performed or induced without the
36 voluntary and informed consent of the woman upon whom the abortion is
37 to be performed or induced. Except in the case of a medical emergency,
38 consent to an abortion is voluntary and informed only if:

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

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

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

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

6 (4) the probable gestational age of the unborn child at the time the
7 abortion is to be performed and that Kansas law requires the following:
8 "No person shall perform or induce an abortion when the unborn child is
9 viable unless such person is a physician and has a documented referral
10 from another physician not financially associated with the physician
11 performing or inducing the abortion and both physicians determine that:
12 (1) The abortion is necessary to preserve the life of the pregnant woman;
13 or (2) a continuation of the pregnancy will cause a substantial and
14 irreversible, *physical* impairment of a major bodily function of the
15 pregnant woman." If the child is born alive, the attending physician has the
16 legal obligation to take all reasonable steps necessary to maintain the life
17 and health of the child;

18 (5) the probable anatomical and physiological characteristics of the
19 unborn child at the time the abortion is to be performed;

20 (6) the contact information for ~~free~~—counseling assistance for
21 medically challenging pregnancies and the contact information for ~~free~~
22 perinatal hospice services, *including information regarding which entities*
23 *provide such services free of charge;*

24 (7) the medical risks associated with carrying an unborn child to
25 term; and

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

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

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

36 (2) the informational materials in K.S.A. 65-6710, and amendments
37 thereto, are available in printed form and online, and describe the unborn
38 child, list agencies which offer alternatives to abortion with a special
39 section listing adoption services and list providers of free ultrasound
40 services;

41 (3) the father of the unborn child is liable to assist in the support of
42 her child, even in instances where he has offered to pay for the abortion
43 except that in the case of rape this information may be omitted;

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

5 (5) the abortion will terminate the life of a whole, separate, unique,
6 living human being; *and*

7 (6) *by no later than 20 weeks from fertilization, the unborn child has*
8 *the physical structures necessary to experience pain. There is evidence*
9 *that by 20 weeks from fertilization unborn children seek to evade certain*
10 *stimuli in a manner that in an infant or an adult would be interpreted to be*
11 *a response to pain. Anesthesia is routinely administered to unborn*
12 *children who are 20 weeks from fertilization or older who undergo*
13 *prenatal surgery.*

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

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

25 (e) The woman certifies in writing on a form provided by the
26 department, prior to the abortion, that the information required to be
27 provided under subsections (a), (b) and (d) has been provided and that she
28 has met with the physician who is to perform the abortion on an individual
29 basis as provided under subsection (c). All physicians who perform
30 abortions shall report the total number of certifications received monthly
31 to the department. The department shall make the number of certifications
32 received available on an annual basis.

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

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

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

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

43 (2) informs the woman that she has the right to receive a physical

1 picture of the ultrasound image, at no additional expense to her;

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

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

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

10 If the woman accepts the offer and requests to view the ultrasound
11 image, receive a physical picture of the ultrasound image or both, her
12 request shall be granted by the physician at no additional expense to the
13 woman. The physician's certification shall be time-stamped at the time the
14 opportunity to view the ultrasound image and receive a physical picture of
15 the ultrasound image was offered.

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

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

21 (2) offers the woman the opportunity to listen to the heartbeat of her
22 unborn child;

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

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

28 If the woman accepts the offer and requests to listen to the heartbeat of
29 her unborn child, her request shall be granted by the physician at no
30 additional expense to the woman. The physician's certification shall be
31 time-stamped at the time the opportunity to listen to the heartbeat of her
32 unborn child was offered.

33 (j) (1) *Prior to a woman giving informed consent to having any part*
34 *of an abortion performed or induced, if the pregnancy is at least 10 weeks*
35 *from the first day of the last menstrual period, the abortion provider who*
36 *is to perform or induce the abortion, a certified technician or another*
37 *agent of the abortion provider shall, using a hand-held doppler fetal*
38 *monitor, make the embryonic or fetal heartbeat of the unborn child audible*
39 *for the pregnant woman to hear.*

40 (2) *An abortion provider, a certified technician or another agent of*
41 *the abortion provider shall not be in violation of this subsection if:*

42 (A) *The provider, certified technician or agent has attempted,*
43 *consistent with standard medical practice, to make the embryonic or fetal*

1 *heartbeat of the unborn child audible for the pregnant woman to hear*
2 *using a hand-held doppler fetal monitor;*

3 *(B) the attempt does not result in the heartbeat being made audible;*
4 *and*

5 *(C) the provider offers to attempt to make the heartbeat audible at a*
6 *subsequent date.*

7 *(3) Nothing in this subsection shall be construed to require the*
8 *pregnant woman to listen to the sounds detected by the hand-held doppler*
9 *fetal monitor pursuant to paragraph (1).*

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

17 ~~(l)~~ *(l) Any private office, freestanding surgical outpatient clinic or*
18 *other facility or clinic in which abortions are performed shall*
19 *conspicuously post a sign in a location so as to be clearly visible to*
20 *patients. The sign required pursuant to this subsection shall be printed with*
21 *lettering that is legible and shall be at least three quarters of an inch*
22 *boldfaced type ~~which reads~~. The sign shall include the address for the*
23 *pregnancy resources website published and maintained by the department*
24 *of health and environment, and the following text:*

25 *Notice: It is against the law for anyone, regardless of their relationship*
26 *to you, to force you to have an abortion. By law, we cannot perform an*
27 *abortion on you unless we have your freely given and voluntary consent. It*
28 *is against the law to perform an abortion on you against your will. You*
29 *have the right to contact any local or state law enforcement agency to*
30 *receive protection from any actual or threatened physical abuse or*
31 *violence. You have the right to change your mind at any time prior to the*
32 *actual abortion and request that the abortion procedure cease. It is*
33 *unlawful for anyone to make you have an abortion against your will, even*
34 *if you are a minor. The father of your child must provide support for the*
35 *child, even if he has offered to pay for an abortion. If you decide not to*
36 *have an abortion you may qualify for financial help for pregnancy, child*
37 *birth and newborn care. If you qualify, medicaid will pay or help pay the*
38 *cost of doctor, clinic hospital and other related medical expenses,*
39 *including child birth delivery services and care for your newborn baby.*
40 *Many agencies are willing to provide assistance so that you may carry*
41 *your child to term, and to assist after your child's birth.*

42 *The provisions of this subsection shall not apply to any private office,*
43 *freestanding surgical outpatient clinic or other facility or clinic which*

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

3 (†) (m) For purposes of this section:

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

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

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

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

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

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

1 anatomical and physiological characteristics of the unborn child at two-
2 week gestational increments from fertilization to full term, including
3 pictures or drawings representing the development of an unborn child at
4 two-week gestational increments, and any relevant information on the
5 possibility of the unborn child's survival. Any such pictures or drawings
6 shall contain the dimensions of the unborn child and shall be realistic. The
7 material shall include the ~~statement~~ *the following statements: (A) That by*
8 *no later than 20 weeks from fertilization, the unborn child has the physical*
9 *structures necessary to experience pain; (B) that there is evidence that by*
10 *20 weeks from fertilization unborn children seek to evade certain stimuli*
11 *in a manner that in an infant or an adult would be interpreted to be a*
12 *response to pain; (C) that anesthesia is routinely administered to unborn*
13 *children who are 20 weeks from fertilization or older who undergo*
14 *prenatal surgery; (D) that less than 5% of all natural pregnancies end in*
15 *spontaneous miscarriage after detection of cardiac activity, and a fetal*
16 *heartbeat is, therefore, a key medical indicator that an unborn child is*
17 *likely to achieve the capacity for live birth; and (E) that abortion*
18 *terminates the life of a whole, separate, unique, living human being. The*
19 *materials shall be objective, nonjudgmental and designed to convey only*
20 *accurate scientific information about the unborn child at the various*
21 *gestational ages. The material shall also contain objective information*
22 *describing the methods of abortion procedures commonly employed, the*
23 *medical risks commonly associated with each such procedure, including*
24 *risk of premature birth in future pregnancies, risk of breast cancer, risks to*
25 *the woman's reproductive health and the medical risks associated with*
26 *carrying an unborn child to term.*

27 (3) *The printed materials shall, at a minimum, contain the following*
28 *text:*

29 *Your doctor is required to tell you about the nature of the physical and*
30 *emotional risks of both the abortion procedure and carrying a child to*
31 *term. The doctor must tell you how long you have been pregnant and must*
32 *give you a chance to ask questions and discuss your decision about the*
33 *pregnancy carefully and privately in your own language.*

34 *In order to determine the gestational age of the unborn child the doctor*
35 *must use ultrasound equipment preparatory to the performance of an*
36 *abortion. You have the right to view the ultrasound image of the unborn*
37 *child at no additional expense, and you have the right to receive a picture*
38 *of the unborn child.*

39 *A directory of services is also available. By calling or visiting the*
40 *agencies and offices in the directory you can find out about alternatives to*
41 *abortion, assistance to make an adoption plan for your baby or locate*
42 *public and private agencies that offer medical and financial help during*
43 *pregnancy, during childbirth and while you are raising your child.*

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

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

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

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

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

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

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

1 is visible by ultrasound almost immediately. By six weeks the heart is
2 pumping the unborn child's own blood to such unborn child's brain and
3 body. All four chambers of the heart are present, and more than one
4 million heartbeats have occurred. The head, chest and abdominal cavities
5 have formed and the beginnings of the arms and legs are easily seen. At
6 6½ weeks rapid brain development continues with the appearance of the
7 cerebral hemispheres. At 7½ weeks the unborn child reflexively turns away
8 in response to light touch on the face. The fingers also begin to form on
9 the hand.

10 By 8½ weeks the bones of the jaw and collarbone begin to harden.
11 Brainwaves have been measured and recorded by this point in gestation.
12 By nine weeks the hands move, the neck turns and hiccups begin. Girls
13 also now have ovaries and boys have testes. The unborn child's heart in
14 nearly fully formed, and the heart rate peaks at about 170 beats per
15 minute and will gradually slow down until birth. Electrical recordings of
16 the heart at 9½ weeks are very similar to the EKG tracing of the unborn
17 child.

18 By 10 weeks intermittent breathing motions begin, and the kidneys
19 begin to produce and release urine. All the fingers and toes are free and
20 fully formed, and several hundred muscles are now present. The hands
21 and feet move frequently, and most unborn children show the first signs of
22 right- or left-handedness. Pain receptors in the skin, the sensory nerves
23 connecting them to the spinal cord, and the nerve tracts in the spinal cord
24 that will carry pain impulses to the brain are all present by this time.
25 Experts estimate the 10-week unborn child possesses approximately 90%
26 of the 4,500 body parts found in adults. This means approximately 4,000
27 permanent body parts are present just eight weeks after conception.

28 By 11 weeks the head moves forward and back, the jaw actively opens
29 and closes and the unborn child periodically sighs and stretches. The face,
30 palms of the hands and soles of the feet are sensitive to light touch. The
31 unborn child begins thumb-sucking and swallowing amniotic fluid. The
32 uterus is now present, and girls' ovaries now contain reproductive cells
33 that will give rise to eggs later in life.

34 At 12 weeks fingerprints start forming, while fingernails and toenails
35 begin to grow. The bones are hardening in many locations. The heartbeat
36 can be detected with a hand-held doppler fetal monitor, or external heart
37 rate monitor. By 13 weeks the lips and nose are fully formed and the
38 unborn child can make complex facial expressions.

39 At 14 weeks taste buds are present all over the mouth and tongue. The
40 unborn child now produces a wide variety of hormones. Also, the arms
41 reach final proportion to body size. By 15 weeks the entire unborn child,
42 except for parts of the scalp, responds to light touch, and tooth
43 development is underway.

1 *At 16 weeks a pregnant woman may begin to feel the unborn child*
2 *move. The unborn child also begins making several digestive enzymes.*
3 *Around 17 weeks blood cell formation moves to its permanent location*
4 *inside the bone marrow, and the unborn child begins storing energy in the*
5 *form of body fat.*

6 *By 18 weeks the formation of the breathing passages, called the*
7 *bronchial tree, is complete. The unborn child will release stress hormones*
8 *in response to being poked with a needle. By 19 weeks the unborn child's*
9 *heart has beaten more than 20 million times.*

10 *By 20 weeks nearly all organs and structures of the unborn child have*
11 *been formed. The larynx, or voice box, moves in a way similar to*
12 *movement seen during crying after birth. The skin has developed sweat*
13 *glands and is covered by a greasy white substance called vernix, which*
14 *protects the skin from the long exposure to amniotic fluid. At 21 weeks*
15 *breathing patterns, body movements and the heart rate begin to follow*
16 *daily cycles called circadian rhythms.*

17 *By 22 weeks the cochlea, the organ of hearing, reaches adult size, and*
18 *the unborn child begins hearing and responding to various sounds. All the*
19 *skin layers and structures are now complete. The unborn child reacts to*
20 *stimuli that would be recognized as painful if applied to an adult human.*
21 *By 22 weeks some infants can live outside the womb with specialized*
22 *medical care, and survival rates have been reported as high as 40% in*
23 *some medical centers. Between 20 and 23 weeks rapid eye movements*
24 *begin, which are similar to the REM sleep pattern seen when children and*
25 *adults have dreams.*

26 *By 24 weeks more than 30 million heartbeats have been performed.*
27 *Survival rates for infants born at 24 weeks have been reported as high as*
28 *81%. By 25 weeks breathing motions may occur up to 44 times per minute.*

29 *By 26 weeks sudden, loud noises trigger a blink-startle response in the*
30 *unborn child, and may increase body movement, the heart rate and*
31 *swallowing. The lungs begin to produce a substance necessary for*
32 *breathing after birth. The survival rate of infants born at 26 weeks has*
33 *been reported as high as 95%.*

34 *By 28 weeks the sense of smell is functioning and the eyes produce*
35 *tears. Nearly all infants born between this point and full term survive. By*
36 *29 weeks pupils of the eyes react to light. By 31 weeks the heart has beat*
37 *more than 40 million times, and wrinkles in the skin disappear as more fat*
38 *deposits are formed.*

39 *By 32 weeks breathing movements occur up to 40% of the time. By 34*
40 *weeks true alveoli, or air "pocket" cells, begin developing in the lungs. At*
41 *36 weeks scalp hair is silky and lies against the head. By 37 weeks the*
42 *unborn child has a firm hand grip, and the heart has beat more than 50*
43 *million times. The unborn child initiates labor, ideally around 40 weeks,*

1 *leading to childbirth.*

2 *By state law, no person shall perform or induce an abortion when the*
3 *unborn child is viable or pain-capable unless such person is a physician*
4 *and has a documented referral. The physician who performs or induces an*
5 *abortion when the unborn child is viable must have a documented referral*
6 *from another physician not legally or financially affiliated with the*
7 *physician performing or inducing the abortion. Both physicians must*
8 *determine that the abortion is necessary to preserve the life of the*
9 *pregnant woman or that a continuation of the pregnancy will cause a*
10 *substantial and irreversible impairment of a major physical bodily*
11 *function of the pregnant woman. If the child is born alive, the attending*
12 *physician has the legal obligation to take all reasonable steps necessary to*
13 *maintain the life and health of the child.*

14 *What about adoption? Women or couples facing an untimely pregnancy*
15 *who choose not to take on the full responsibilities of parenthood have*
16 *another option, which is adoption. Counseling and support services are a*
17 *key part of adoption and are available from a variety of adoption agencies*
18 *and parent support groups across the state. A list of adoption agencies is*
19 *available. There are several ways to make a plan for adoption, including*
20 *through a child placement agency or through a private attorney. Although*
21 *fully anonymous adoptions are available, some degree of openness in*
22 *adoption is more common, such as permitting the birth mother to choose*
23 *the adoptive parents. A father only has the right to consent to an adoption*
24 *or refuse consent and raise the child if he provides support for the mother*
25 *during the last six months of the pregnancy.*

26 *The father of a child has a legal responsibility to provide for the*
27 *support, educational, medical and other needs of the child. In Kansas that*
28 *responsibility includes child support payments to the child's mother or*
29 *legal guardian. A child has rights of inheritance from the father and may*
30 *be eligible through him for benefits such as life insurance, social security,*
31 *pension, veteran's or disability benefits. Further, the child benefits from*
32 *knowing the father's medical history and any potential health problems*
33 *that can be passed genetically. A father's and mother's rights are equal*
34 *regarding access, care and custody.*

35 *Paternity can be established in Kansas by two methods: (A) The father*
36 *and mother, at the time of birth, can sign forms provided by the hospital*
37 *acknowledging paternity and the father's name is added to the birth*
38 *certificate; or (B) a legal action can be brought in a court of law to*
39 *determine paternity and establish a child support order. Issues of paternity*
40 *affect your legal rights and the rights of the child.*

41 *The decision regarding your pregnancy is one of the most important*
42 *decisions you will ever make. There are lists of state, county and local*
43 *health and social service agencies and organizations available to assist*

1 you. You are encouraged to contact these groups if you need more
2 information so you can make an informed decision.

3 (3) (4) A certification form to be used by physicians or their agents
4 under subsection (e) of K.S.A. 65-6709, and amendments thereto, which
5 will list all the items of information which are to be given to women by
6 physicians or their agents under the woman's-right-to-know act.

7 (4) (5) A standardized video containing all of the information
8 described in paragraphs (1) and (2). In addition, the video shall show
9 ultrasound images, using the best available ultrasound technology, of an
10 unborn child at two-week gestational increments.

11 (b) The print materials required under this section shall be printed in a
12 typeface large enough to be clearly legible. The informational video ~~shall~~
13 *may* be published in digital video disc format *or in the latest video*
14 *technology available*. All materials required to be published under this
15 section shall also be published online on the department's website. All
16 materials shall be made available in both English and Spanish language
17 versions.

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

21 Sec. 17. K.S.A. 2011 Supp. 79-32,117 is hereby amended to read as
22 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual
23 means such individual's federal adjusted gross income for the taxable year,
24 with the modifications specified in this section.

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

26 (i) Interest income less any related expenses directly incurred in the
27 purchase of state or political subdivision obligations, to the extent that the
28 same is not included in federal adjusted gross income, on obligations of
29 any state or political subdivision thereof, but to the extent that interest
30 income on obligations of this state or a political subdivision thereof issued
31 prior to January 1, 1988, is specifically exempt from income tax under the
32 laws of this state authorizing the issuance of such obligations, it shall be
33 excluded from computation of Kansas adjusted gross income whether or
34 not included in federal adjusted gross income. Interest income on
35 obligations of this state or a political subdivision thereof issued after
36 December 31, 1987, shall be excluded from computation of Kansas
37 adjusted gross income whether or not included in federal adjusted gross
38 income.

39 (ii) Taxes on or measured by income or fees or payments in lieu of
40 income taxes imposed by this state or any other taxing jurisdiction to the
41 extent deductible in determining federal adjusted gross income and not
42 credited against federal income tax. This paragraph shall not apply to taxes
43 imposed under the provisions of K.S.A. 79-1107 or 79-1108, and

1 amendments thereto, for privilege tax year 1995, and all such years
2 thereafter.

3 (iii) The federal net operating loss deduction.

4 (iv) Federal income tax refunds received by the taxpayer if the
5 deduction of the taxes being refunded resulted in a tax benefit for Kansas
6 income tax purposes during a prior taxable year. Such refunds shall be
7 included in income in the year actually received regardless of the method
8 of accounting used by the taxpayer. For purposes hereof, a tax benefit shall
9 be deemed to have resulted if the amount of the tax had been deducted in
10 determining income subject to a Kansas income tax for a prior year
11 regardless of the rate of taxation applied in such prior year to the Kansas
12 taxable income, but only that portion of the refund shall be included as
13 bears the same proportion to the total refund received as the federal taxes
14 deducted in the year to which such refund is attributable bears to the total
15 federal income taxes paid for such year. For purposes of the foregoing
16 sentence, federal taxes shall be considered to have been deducted only to
17 the extent such deduction does not reduce Kansas taxable income below
18 zero.

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

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

27 (vii) The amount of any charitable contribution made to the extent the
28 same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-
29 32,196, and amendments thereto.

30 (viii) The amount of any costs incurred for improvements to a swine
31 facility, claimed for deduction in determining federal adjusted gross
32 income, to the extent the same is claimed as the basis for any credit
33 allowed pursuant to K.S.A. 2011 Supp. 79-32,204, and amendments
34 thereto.

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

41 (x) Amounts received as nonqualified withdrawals, as defined by
42 K.S.A. 2011 Supp. 75-643, and amendments thereto, if, at the time of
43 contribution to a family postsecondary education savings account, such

1 amounts were subtracted from the federal adjusted gross income pursuant
2 to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amendments
3 thereto, or if such amounts are not already included in the federal adjusted
4 gross income.

5 (xi) The amount of any contribution made to the same extent the
6 same is claimed as the basis for the credit allowed pursuant to K.S.A. 2011
7 Supp. 74-50,154, and amendments thereto.

8 (xii) For taxable years commencing after December 31, 2004,
9 amounts received as withdrawals not in accordance with the provisions of
10 K.S.A. 2011 Supp. 74-50,204, and amendments thereto, if, at the time of
11 contribution to an individual development account, such amounts were
12 subtracted from the federal adjusted gross income pursuant to paragraph
13 (xiii) of subsection (c), or if such amounts are not already included in the
14 federal adjusted gross income.

15 (xiii) The amount of any expenditures claimed for deduction in
16 determining federal adjusted gross income, to the extent the same is
17 claimed as the basis for any credit allowed pursuant to K.S.A. 2011 Supp.
18 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

19 (xiv) The amount of any amortization deduction claimed in
20 determining federal adjusted gross income to the extent the same is
21 claimed for deduction pursuant to K.S.A. 2011 Supp. 79-32,221, and
22 amendments thereto.

23 (xv) The amount of any expenditures claimed for deduction in
24 determining federal adjusted gross income, to the extent the same is
25 claimed as the basis for any credit allowed pursuant to K.S.A. 2011 Supp.
26 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233
27 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-
28 32,248 or 79-32,251 through 79-32,254, and amendments thereto.

29 (xvi) The amount of any amortization deduction claimed in
30 determining federal adjusted gross income to the extent the same is
31 claimed for deduction pursuant to K.S.A. 2011 Supp. 79-32,227, 79-
32 32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments
33 thereto.

34 (xvii) The amount of any amortization deduction claimed in
35 determining federal adjusted gross income to the extent the same is
36 claimed for deduction pursuant to K.S.A. 2011 Supp. 79-32,256, and
37 amendments thereto.

38 (xviii) For taxable years commencing after December 31, 2006, the
39 amount of any *ad valorem* or property taxes and assessments paid to a
40 state other than Kansas or local government located in a state other than
41 Kansas by a taxpayer who resides in a state other than Kansas, when the
42 law of such state does not allow a resident of Kansas who earns income in
43 such other state to claim a deduction for *ad valorem* or property taxes or

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

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

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

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

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

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

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

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

1 the right to receive the income or gain, or to a trust or estate from which
2 the taxpayer received the income or gain.

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

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

10 (vii) Amounts received as annuities under the federal civil service
11 retirement system from the civil service retirement and disability fund and
12 other amounts received as retirement benefits in whatever form which
13 were earned for being employed by the federal government or for service
14 in the armed forces of the United States.

15 (viii) Amounts received by retired railroad employees as a
16 supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and
17 228c (a)(1) et seq.

18 (ix) Amounts received by retired employees of a city and by retired
19 employees of any board of such city as retirement allowances pursuant to
20 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter
21 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and
22 amendments thereto.

23 (x) For taxable years beginning after December 31, 1976, the amount
24 of the federal tentative jobs tax credit disallowance under the provisions of
25 26 U.S.C. § 280 C. For taxable years ending after December 31, 1978, the
26 amount of the targeted jobs tax credit and work incentive credit
27 disallowances under 26 U.S.C. § 280 C.

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

30 (xii) For taxable years beginning after December 31, 1989, amounts
31 received by retired employees of a board of public utilities as pension and
32 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249,
33 and amendments thereto.

34 (xiii) For taxable years beginning after December 31, 2004, amounts
35 contributed to and the amount of income earned on contributions deposited
36 to an individual development account under K.S.A. 2011 Supp. 74-50,201-
37 et seq., and amendments thereto.

38 (xiv) For all taxable years commencing after December 31, 1996, that
39 portion of any income of a bank organized under the laws of this state or
40 any other state, a national banking association organized under the laws of
41 the United States, an association organized under the savings and loan
42 code of this state or any other state, or a federal savings association
43 organized under the laws of the United States, for which an election as an

1 S corporation under subchapter S of the federal internal revenue code is in
2 effect, which accrues to the taxpayer who is a stockholder of such
3 corporation and which is not distributed to the stockholders as dividends of
4 the corporation.

5 (xv) For all taxable years beginning after December 31, 2006,
6 amounts not exceeding \$3,000, or \$6,000 for a married couple filing a
7 joint return, for each designated beneficiary which are contributed to a
8 family postsecondary education savings account established under the
9 Kansas postsecondary education savings program or a qualified tuition
10 program established and maintained by another state or agency or
11 instrumentality thereof pursuant to section 529 of the internal revenue
12 code of 1986, as amended, for the purpose of paying the qualified higher
13 education expenses of a designated beneficiary at an institution of
14 postsecondary education. The terms and phrases used in this paragraph
15 shall have the meaning respectively ascribed thereto by the provisions of
16 K.S.A. 2011 Supp. 75-643, and amendments thereto, and the provisions of
17 such section are hereby incorporated by reference for all purposes thereof.

18 (xvi) For the tax year beginning after December 31, 2004, an amount
19 not exceeding \$500; for the tax year beginning after December 31, 2005,
20 an amount not exceeding \$600; for the tax year beginning after December
21 31, 2006, an amount not exceeding \$700; for the tax year beginning after
22 December 31, 2007, an amount not exceeding \$800; for the tax year
23 beginning December 31, 2008, an amount not exceeding \$900; and for all
24 taxable years commencing after December 31, 2009, an amount not
25 exceeding \$1,000 of the premium costs for qualified long-term care
26 insurance contracts, as defined by subsection (b) of section 7702B of
27 public law 104-191.

28 (xvii) For all taxable years beginning after December 31, 2004,
29 amounts received by taxpayers who are or were members of the armed
30 forces of the United States, including service in the Kansas army and air
31 national guard, as a recruitment, sign up or retention bonus received by
32 such taxpayer as an incentive to join, enlist or remain in the armed services
33 of the United States, including service in the Kansas army and air national
34 guard, and amounts received for repayment of educational or student loans
35 incurred by or obligated to such taxpayer and received by such taxpayer as
36 a result of such taxpayer's service in the armed forces of the United States,
37 including service in the Kansas army and air national guard.

38 (xviii) For all taxable years beginning after December 31, 2004,
39 amounts received by taxpayers who are eligible members of the Kansas
40 army and air national guard as a reimbursement pursuant to K.S.A. 48-
41 281, and amendments thereto, and amounts received for death benefits
42 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to section
43 1 or section 2 of chapter 207 of the 2005 session laws of Kansas, and

1 amendments thereto, to the extent that such death benefits are included in
2 federal adjusted gross income of the taxpayer.

3 (xix) For the taxable year beginning after December 31, 2006,
4 amounts received as benefits under the federal social security act which
5 are included in federal adjusted gross income of a taxpayer with federal
6 adjusted gross income of \$50,000 or less, whether such taxpayer's filing
7 status is single, head of household, married filing separate or married filing
8 jointly; and for all taxable years beginning after December 31, 2007,
9 amounts received as benefits under the federal social security act which
10 are included in federal adjusted gross income of a taxpayer with federal
11 adjusted gross income of \$75,000 or less, whether such taxpayer's filing
12 status is single, head of household, married filing separate or married filing
13 jointly.

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

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

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

25 Sec. 18. K.S.A. 2011 Supp. 79-32,138 is hereby amended to read as
26 follows: 79-32,138. (a) Kansas taxable income of a corporation taxable
27 under this act shall be the corporation's federal taxable income for the
28 taxable year with the modifications specified in this section.

29 (b) There shall be added to federal taxable income: (i) The same
30 modifications as are set forth in subsection (b) of K.S.A. 79-32,117, and
31 amendments thereto, with respect to resident individuals.

32 (ii) The amount of all depreciation deductions claimed for any
33 property upon which the deduction allowed by K.S.A. 2011 Supp. 79-
34 32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-
35 32,255 or 79-32,256, and amendments thereto, is claimed.

36 (iii) The amount of any charitable contribution deduction claimed for
37 any contribution or gift to or for the use of any racially segregated
38 educational institution.

39 (iv) *For taxable years commencing after December 31, 2011, that*
40 *portion of the amount of any expenditure deduction claimed in*
41 *determining federal adjusted gross income for expenses paid by a*
42 *taxpayer for health care, a health benefit plan, as defined by section 1,*
43 *and amendments thereto, or amounts contributed to health savings*

1 *accounts of such taxpayer's employees for the purchase of an optional*
2 *rider for coverage of abortion in accordance with K.S.A. 2011 Supp. 40-*
3 *2,190, and amendments thereto.*

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

7 (ii) The federal income tax liability for any taxable year commencing
8 prior to December 31, 1971, for which a Kansas return was filed after
9 reduction for all credits thereon, except credits for payments on estimates
10 of federal income tax, credits for gasoline and lubricating oil tax, and for
11 foreign tax credits if, on the Kansas income tax return for such prior year,
12 the federal income tax deduction was computed on the basis of the federal
13 income tax paid in such prior year, rather than as accrued. Notwithstanding
14 the foregoing, the deduction for federal income tax liability for any year
15 shall not exceed that portion of the total federal income tax liability for
16 such year which bears the same ratio to the total federal income tax
17 liability for such year as the Kansas taxable income, as computed before
18 any deductions for federal income taxes and after application of
19 subsections (d) and (e) of this section as existing for such year, bears to the
20 federal taxable income for the same year.

21 (iii) An amount for the amortization deduction allowed pursuant to
22 K.S.A. 2011 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-
23 32,249, 79-32,250, 79-32,255 or 79-32,256, and amendments thereto.

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

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

30 (d) If any corporation derives all of its income from sources within
31 Kansas in any taxable year commencing after December 31, 1979, its
32 Kansas taxable income shall be the sum resulting after application of
33 subsections (a) through (c) hereof. Otherwise, such corporation's Kansas
34 taxable income in any such taxable year, after excluding any refunds of
35 federal income tax and before the deduction of federal income taxes
36 provided by subsection (c)(ii) shall be allocated as provided in K.S.A. 79-
37 3271 to K.S.A. 79-3293, inclusive, and amendments thereto, plus any
38 refund of federal income tax as determined under paragraph (iv) of
39 subsection (b) of K.S.A. 79-32,117, and amendments thereto, and minus
40 the deduction for federal income taxes as provided by subsection (c)(ii)
41 shall be such corporation's Kansas taxable income.

42 (e) A corporation may make an election with respect to its first
43 taxable year commencing after December 31, 1982, whereby no addition

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

6 Sec. 19. K.S.A. 2011 Supp. 79-32,182b is hereby amended to read as
7 follows: 79-32,182b. (a) For all taxable years commencing after December
8 31, 2000, a credit shall be allowed against the tax imposed by the Kansas
9 income tax act on the Kansas taxable income of a taxpayer for
10 expenditures in research and development activities conducted within this
11 state in an amount equal to 6¹/₂% of the amount by which the amount
12 expended for such activities in the taxable year of the taxpayer exceeds the
13 taxpayer's average of the actual expenditures for such purposes made in
14 such taxable year and the next preceding two taxable years.

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

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

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

1 (b) "Community services" means:

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

9 (2) crime prevention; and

10 (3) health care services.

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

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

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

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

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

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

25 (e) "Contributions" shall mean and include the donation of cash,
26 services or property other than used clothing in an amount or value of
27 \$250 or more. Stocks and bonds contributed shall be valued at the stock
28 market price on the date of transfer. Services contributed shall be valued at
29 the standard billing rate for not-for-profit clients. Personal property items
30 contributed shall be valued at the lesser of its fair market value or cost to
31 the donor and may be inclusive of costs incurred in making the
32 contribution, but shall not include sales tax. Contributions of real estate are
33 allowable for credit only when title thereto is in fee simple absolute and is
34 clear of any encumbrances. The amount of credit allowable shall be based
35 upon the lesser of two current independent appraisals conducted by state
36 licensed appraisers.

37 (f) "Health care services" shall include, but not be limited to, the
38 following: Services provided by local health departments, city, county or
39 district hospitals, city or county nursing homes, or other residential
40 institutions, preventive health care services offered by a community
41 service organization including immunizations, prenatal care, the
42 postponement of entry into nursing homes by home health care services,
43 and community-based services for persons with a disability, mental health

1 services, indigent health care, physician or health care worker recruitment,
2 health education, emergency medical services, services provided by rural
3 health clinics, integration of health care services, home health services and
4 services provided by rural health networks, *except that for taxable years*
5 *commencing after December 31, 2011, health care services shall not*
6 *include any service involving the performance of any abortion, as defined*
7 *in section 1, and amendments thereto.*

8 (g) "Rural community" means any city having a population of fewer
9 than 15,000 located in a county that is not part of a standard metropolitan
10 statistical area as defined by the United States department of commerce or
11 its successor agency. However, any such city located in a county defined
12 as a standard metropolitan statistical area shall be deemed a rural
13 community if a substantial number of persons in such county derive their
14 income from agriculture and, in any county where there is only one city
15 within the county which has a population of more than 15,000 and which
16 classifies as a standard metropolitan statistical area, all other cities in that
17 county having a population of less than 15,000 shall be deemed a rural
18 community.

19 Sec. 21. K.S.A. 2011 Supp. 79-32,261 is hereby amended to read as
20 follows: 79-32,261. (a) On and after July 1, 2008, any taxpayer who
21 contributes in the manner prescribed by this section to a community
22 college located in Kansas for capital improvements, to a technical college
23 for deferred maintenance or the purchase of technology or equipment or to
24 a postsecondary educational institution located in Kansas for deferred
25 maintenance, shall be allowed a credit against the tax imposed by the
26 Kansas income tax act, the premium tax or privilege fees imposed
27 pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as
28 measured by net income of financial institutions imposed pursuant to
29 article 11 of chapter 79 of the Kansas Statutes Annotated. The tax credit
30 allowed by this section is applicable for the tax year 2008 for any
31 contributions made on and after July 1, 2008, and for the tax years 2009,
32 2010, 2011 and 2012 for any contributions made during the entire tax year.
33 The amount of the credit allowed by this section shall not exceed 60% of
34 the total amount contributed during the taxable year by the taxpayer to a
35 community college or a technical college located in Kansas for such
36 purposes. The amount of the credit allowed by this section shall not exceed
37 50% of the total amount contributed during the taxable year by the
38 taxpayer to a postsecondary educational institution for such purposes. If
39 the amount of the credit allowed by this section for a taxpayer who
40 contributes to a community college or a technical college exceeds the
41 taxpayer's income tax liability imposed by the Kansas income tax act, such
42 excess amount shall be refunded to the taxpayer. If the amount of the tax
43 credit for a taxpayer who contributes to a postsecondary educational

1 institution exceeds the taxpayer's income tax liability for the taxable year,
2 the amount which exceeds the tax liability may be carried over for
3 deduction from the taxpayer's income tax liability in the next succeeding
4 taxable year or years until the total amount of the tax credit has been
5 deducted from tax liability, except that no such tax credit shall be carried
6 over for deduction after the third taxable year succeeding the taxable year
7 in which the contribution is made. Prior to the issuance of any tax credits
8 pursuant to this section, the structure of the process in which contributions
9 received by a community college, a technical college or a postsecondary
10 educational institution qualify as tax credits allowed and issued pursuant to
11 this section shall be developed by a community college, a technical college
12 and a postsecondary educational institution in consultation with the
13 secretary of revenue and the foundation or endowment association of any
14 such community college, technical college or postsecondary educational
15 institution in a manner that complies with requirements specified in the
16 federal internal revenue code of 1986, as amended, so that contributions
17 qualify as charitable contributions allowable as deductions from federal
18 adjusted gross income.

19 (b) (1) Upon receipt of any such contributions to a community
20 college made pursuant to the provisions of this section, the treasurer of the
21 community college shall deposit such contributions to the credit of the
22 capital outlay fund of such community college established as provided by
23 K.S.A. 71-501a, and amendments thereto. Expenditures from such fund
24 shall be made for the purposes described in subsection (a) of K.S.A. 71-
25 501, and amendments thereto, except that expenditures shall not be made
26 from such fund for new construction or the acquisition of real property for
27 use as building sites or for educational programs.

28 (2) Upon receipt of any such contributions to a technical college
29 made pursuant to the provisions of this section, such contributions shall be
30 deposited to the credit of a deferred maintenance fund or a technology and
31 equipment fund established by the technical college which received the
32 contribution. Expenditures from such fund shall be made only for the
33 purpose as provided in this subsection.

34 (3) Upon receipt of any such contributions to a postsecondary
35 educational institution made pursuant to the provisions of this section,
36 such contributions shall be deposited to the credit of the appropriate
37 deferred maintenance support fund of the postsecondary educational
38 institution which received the contribution. Expenditures from such fund
39 shall be made only for the purposes designated for such fund pursuant to
40 law.

41 (c) (1) In no event shall the total amount of credits allowed under this
42 section for taxpayers who contribute to any one such community college
43 or technical college exceed the following amounts: For the tax year 2008,

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

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

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

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

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

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

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

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

25 (f) The secretary of revenue shall submit an annual report to the
26 legislature to assist the legislature in the evaluation of the utilization of any
27 credits claimed pursuant to this act, including information specific as to
28 each community college, technical college or postsecondary educational
29 institution. Such report shall be due on or before the first day of the
30 legislative session following the tax year in which the credits were
31 claimed.

32 (g) The secretary of revenue shall adopt rules and regulations
33 necessary to administer the provisions of this section.

34 Sec. 22. K.S.A. 2011 Supp. 79-3606 is hereby amended to read as
35 follows: 79-3606. The following shall be exempt from the tax imposed by
36 this act:

37 (a) All sales of motor-vehicle fuel or other articles upon which a sales
38 or excise tax has been paid, not subject to refund, under the laws of this
39 state except cigarettes as defined by K.S.A. 79-3301, and amendments
40 thereto, cereal malt beverages and malt products as defined by K.S.A. 79-
41 3817, and amendments thereto, including wort, liquid malt, malt syrup and
42 malt extract, which is not subject to taxation under the provisions of
43 K.S.A. 79-41a02, and amendments thereto, motor vehicles taxed pursuant

1 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to K.S.A.
2 65-3424d, and amendments thereto, drycleaning and laundry services
3 taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and gross
4 receipts from regulated sports contests taxed pursuant to the Kansas
5 professional regulated sports act, and amendments thereto;

6 (b) all sales of tangible personal property or service, including the
7 renting and leasing of tangible personal property, purchased directly by the
8 state of Kansas, a political subdivision thereof, other than a school or
9 educational institution, or purchased by a public or private nonprofit
10 hospital or public hospital authority or nonprofit blood, tissue or organ
11 bank and used exclusively for state, political subdivision, hospital or
12 public hospital authority or nonprofit blood, tissue or organ bank purposes,
13 except when: (1) Such state, hospital or public hospital authority is
14 engaged or proposes to engage in any business specifically taxable under
15 the provisions of this act and such items of tangible personal property or
16 service are used or proposed to be used in such business; ; or (2) such
17 political subdivision is engaged or proposes to engage in the business of
18 furnishing gas, electricity or heat to others and such items of personal
19 property or service are used or proposed to be used in such business;

20 (c) all sales of tangible personal property or services, including the
21 renting and leasing of tangible personal property, purchased directly by a
22 public or private elementary or secondary school or public or private
23 nonprofit educational institution and used primarily by such school or
24 institution for nonsectarian programs and activities provided or sponsored
25 by such school or institution or in the erection, repair or enlargement of
26 buildings to be used for such purposes. The exemption herein provided
27 shall not apply to erection, construction, repair, enlargement or equipment
28 of buildings used primarily for human habitation;

29 (d) all sales of tangible personal property or services purchased by a
30 contractor for the purpose of constructing, equipping, reconstructing,
31 maintaining, repairing, enlarging, furnishing or remodeling facilities for
32 any public or private nonprofit hospital or public hospital authority, public
33 or private elementary or secondary school, a public or private nonprofit
34 educational institution, state correctional institution including a privately
35 constructed correctional institution contracted for state use and ownership,
36 which would be exempt from taxation under the provisions of this act if
37 purchased directly by such hospital or public hospital authority, school,
38 educational institution or a state correctional institution; and all sales of
39 tangible personal property or services purchased by a contractor for the
40 purpose of constructing, equipping, reconstructing, maintaining, repairing,
41 enlarging, furnishing or remodeling facilities for any political subdivision
42 of the state or district described in subsection (s), the total cost of which is
43 paid from funds of such political subdivision or district and which would

1 be exempt from taxation under the provisions of this act if purchased
2 directly by such political subdivision or district. Nothing in this subsection
3 or in the provisions of K.S.A. 12-3418, and amendments thereto, shall be
4 deemed to exempt the purchase of any construction machinery, equipment
5 or tools used in the constructing, equipping, reconstructing, maintaining,
6 repairing, enlarging, furnishing or remodeling facilities for any political
7 subdivision of the state or any such district. As used in this subsection,
8 K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a
9 political subdivision" shall mean general tax revenues, the proceeds of any
10 bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the
11 purpose of constructing, equipping, reconstructing, repairing, enlarging,
12 furnishing or remodeling facilities which are to be leased to the donor.
13 When any political subdivision of the state, district described in subsection
14 (s), public or private nonprofit hospital or public hospital authority, public
15 or private elementary or secondary school, public or private nonprofit
16 educational institution, state correctional institution including a privately
17 constructed correctional institution contracted for state use and ownership
18 shall contract for the purpose of constructing, equipping, reconstructing,
19 maintaining, repairing, enlarging, furnishing or remodeling facilities, it
20 shall obtain from the state and furnish to the contractor an exemption
21 certificate for the project involved, and the contractor may purchase
22 materials for incorporation in such project. The contractor shall furnish the
23 number of such certificate to all suppliers from whom such purchases are
24 made, and such suppliers shall execute invoices covering the same bearing
25 the number of such certificate. Upon completion of the project the
26 contractor shall furnish to the political subdivision, district described in
27 subsection (s), hospital or public hospital authority, school, educational
28 institution or department of corrections concerned a sworn statement, on a
29 form to be provided by the director of taxation, that all purchases so made
30 were entitled to exemption under this subsection. As an alternative to the
31 foregoing procedure, any such contracting entity may apply to the
32 secretary of revenue for agent status for the sole purpose of issuing and
33 furnishing project exemption certificates to contractors pursuant to rules
34 and regulations adopted by the secretary establishing conditions and
35 standards for the granting and maintaining of such status. All invoices
36 shall be held by the contractor for a period of five years and shall be
37 subject to audit by the director of taxation. If any materials purchased
38 under such a certificate are found not to have been incorporated in the
39 building or other project or not to have been returned for credit or the sales
40 or compensating tax otherwise imposed upon such materials which will
41 not be so incorporated in the building or other project reported and paid by
42 such contractor to the director of taxation not later than the 20th day of the
43 month following the close of the month in which it shall be determined

1 that such materials will not be used for the purpose for which such
2 certificate was issued, the political subdivision, district described in
3 subsection (s), hospital or public hospital authority, school, educational
4 institution or the contractor contracting with the department of corrections
5 for a correctional institution concerned shall be liable for tax on all
6 materials purchased for the project, and upon payment thereof it may
7 recover the same from the contractor together with reasonable attorney
8 fees. Any contractor or any agent, employee or subcontractor thereof, who
9 shall use or otherwise dispose of any materials purchased under such a
10 certificate for any purpose other than that for which such a certificate is
11 issued without the payment of the sales or compensating tax otherwise
12 imposed upon such materials, shall be guilty of a misdemeanor and, upon
13 conviction therefor, shall be subject to the penalties provided for in
14 subsection (g) of K.S.A. 79-3615, and amendments thereto;

15 (e) all sales of tangible personal property or services purchased by a
16 contractor for the erection, repair or enlargement of buildings or other
17 projects for the government of the United States, its agencies or
18 instrumentalities, which would be exempt from taxation if purchased
19 directly by the government of the United States, its agencies or
20 instrumentalities. When the government of the United States, its agencies
21 or instrumentalities shall contract for the erection, repair, or enlargement
22 of any building or other project, it shall obtain from the state and furnish to
23 the contractor an exemption certificate for the project involved, and the
24 contractor may purchase materials for incorporation in such project. The
25 contractor shall furnish the number of such certificates to all suppliers
26 from whom such purchases are made, and such suppliers shall execute
27 invoices covering the same bearing the number of such certificate. Upon
28 completion of the project the contractor shall furnish to the government of
29 the United States, its agencies or instrumentalities concerned a sworn
30 statement, on a form to be provided by the director of taxation, that all
31 purchases so made were entitled to exemption under this subsection. As an
32 alternative to the foregoing procedure, any such contracting entity may
33 apply to the secretary of revenue for agent status for the sole purpose of
34 issuing and furnishing project exemption certificates to contractors
35 pursuant to rules and regulations adopted by the secretary establishing
36 conditions and standards for the granting and maintaining of such status.
37 All invoices shall be held by the contractor for a period of five years and
38 shall be subject to audit by the director of taxation. Any contractor or any
39 agent, employee or subcontractor thereof, who shall use or otherwise
40 dispose of any materials purchased under such a certificate for any purpose
41 other than that for which such a certificate is issued without the payment
42 of the sales or compensating tax otherwise imposed upon such materials,
43 shall be guilty of a misdemeanor and, upon conviction therefor, shall be

1 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
2 and amendments thereto;

3 (f) tangible personal property purchased by a railroad or public utility
4 for consumption or movement directly and immediately in interstate
5 commerce;

6 (g) sales of aircraft including remanufactured and modified aircraft
7 sold to persons using directly or through an authorized agent such aircraft
8 as certified or licensed carriers of persons or property in interstate or
9 foreign commerce under authority of the laws of the United States or any
10 foreign government or sold to any foreign government or agency or
11 instrumentality of such foreign government and all sales of aircraft for use
12 outside of the United States and sales of aircraft repair, modification and
13 replacement parts and sales of services employed in the remanufacture,
14 modification and repair of aircraft;

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

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

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

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

30 (l) all isolated or occasional sales of tangible personal property,
31 services, substances or things, except isolated or occasional sale of motor
32 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.
33 79-3603, and amendments thereto;

34 (m) all sales of tangible personal property which become an
35 ingredient or component part of tangible personal property or services
36 produced, manufactured or compounded for ultimate sale at retail within
37 or without the state of Kansas; and any such producer, manufacturer or
38 compounder may obtain from the director of taxation and furnish to the
39 supplier an exemption certificate number for tangible personal property for
40 use as an ingredient or component part of the property or services
41 produced, manufactured or compounded;

42 (n) all sales of tangible personal property which is consumed in the
43 production, manufacture, processing, mining, drilling, refining or

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

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

16 (p) all sales of drugs dispensed pursuant to a prescription order by a
17 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-
18 1626, and amendments thereto. As used in this subsection, "drug" means a
19 compound, substance or preparation and any component of a compound,
20 substance or preparation, other than food and food ingredients, dietary
21 supplements or alcoholic beverages, recognized in the official United
22 States pharmacopoeia, official homeopathic pharmacopoeia of the United
23 States or official national formulary, and supplement to any of them,
24 intended for use in the diagnosis, cure, mitigation, treatment or prevention
25 of disease or intended to affect the structure or any function of the body,
26 *except that for taxable years commencing after December 31, 2011, this*
27 *subsection shall not apply to any sales of drugs used in the performance*
28 *or induction of an abortion, as defined in section 1, and amendments*
29 *thereto;*

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

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

1 primarily and customarily used to provide or increase the ability to move
2 from one place to another and which is appropriate for use either in a
3 home or a motor vehicle; is not generally used by persons with normal
4 mobility; and does not include any motor vehicle or equipment on a motor
5 vehicle normally provided by a motor vehicle manufacturer; and (2)
6 "prosthetic device" means a replacement, corrective or supportive device
7 including repair and replacement parts for same worn on or in the body to
8 artificially replace a missing portion of the body, prevent or correct
9 physical deformity or malfunction or support a weak or deformed portion
10 of the body;

11 (s) except as provided in K.S.A. 2011 Supp. 82a-2101, and
12 amendments thereto, all sales of tangible personal property or services
13 purchased directly or indirectly by a groundwater management district
14 organized or operating under the authority of K.S.A. 82a-1020 *et seq.*, and
15 amendments thereto, by a rural water district organized or operating under
16 the authority of K.S.A. 82a-612, and amendments thereto, or by a water
17 supply district organized or operating under the authority of K.S.A. 19-
18 3501 *et seq.*, 19-3522 *et seq.* or 19-3545, and amendments thereto, which
19 property or services are used in the construction activities, operation or
20 maintenance of the district;

21 (t) all sales of farm machinery and equipment or aquaculture
22 machinery and equipment, repair and replacement parts therefor and
23 services performed in the repair and maintenance of such machinery and
24 equipment. For the purposes of this subsection the term "farm machinery
25 and equipment or aquaculture machinery and equipment" shall include a
26 work-site utility vehicle, as defined in K.S.A. 8-126, and amendments
27 thereto, and is equipped with a bed or cargo box for hauling materials, and
28 shall also include machinery and equipment used in the operation of
29 Christmas tree farming but shall not include any passenger vehicle, truck,
30 truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as
31 such terms are defined by K.S.A. 8-126, and amendments thereto. "Farm
32 machinery and equipment" includes precision farming equipment that is
33 portable or is installed or purchased to be installed on farm machinery and
34 equipment. "Precision farming equipment" includes the following items
35 used only in computer-assisted farming, ranching or aquaculture
36 production operations: Soil testing sensors, yield monitors, computers,
37 monitors, software, global positioning and mapping systems, guiding
38 systems, modems, data communications equipment and any necessary
39 mounting hardware, wiring and antennas. Each purchaser of farm
40 machinery and equipment or aquaculture machinery and equipment
41 exempted herein must certify in writing on the copy of the invoice or sales
42 ticket to be retained by the seller that the farm machinery and equipment
43 or aquaculture machinery and equipment purchased will be used only in

1 farming, ranching or aquaculture production. Farming or ranching shall
2 include the operation of a feedlot and farm and ranch work for hire and the
3 operation of a nursery;

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

7 (v) all sales of tangible personal property to any contractor for use in
8 preparing meals for delivery to homebound elderly persons over 60 years
9 of age and to homebound disabled persons or to be served at a group-
10 sitting at a location outside of the home to otherwise homebound elderly
11 persons over 60 years of age and to otherwise homebound disabled
12 persons, as all or part of any food service project funded in whole or in
13 part by government or as part of a private nonprofit food service project
14 available to all such elderly or disabled persons residing within an area of
15 service designated by the private nonprofit organization, and all sales of
16 tangible personal property for use in preparing meals for consumption by
17 indigent or homeless individuals whether or not such meals are consumed
18 at a place designated for such purpose, and all sales of food products by or
19 on behalf of any such contractor or organization for any such purpose;

20 (w) all sales of natural gas, electricity, heat and water delivered
21 through mains, lines or pipes: (1) To residential premises for
22 noncommercial use by the occupant of such premises; (2) for agricultural
23 use and also, for such use, all sales of propane gas; (3) for use in the
24 severing of oil; and (4) to any property which is exempt from property
25 taxation pursuant to K.S.A. 79-201b *Second* through *Sixth*. As used in this
26 paragraph, "severing" shall have the meaning ascribed thereto by
27 subsection (k) of K.S.A. 79-4216, and amendments thereto. For all sales of
28 natural gas, electricity and heat delivered through mains, lines or pipes
29 pursuant to the provisions of subsection (w)(1) and (w)(2), the provisions
30 of this subsection shall expire on December 31, 2005;

31 (x) all sales of propane gas, LP-gas, coal, wood and other fuel sources
32 for the production of heat or lighting for noncommercial use of an
33 occupant of residential premises occurring prior to January 1, 2006;

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

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

41 (aa) all sales of materials and services applied to equipment which is
42 transported into the state from without the state for repair, service,
43 alteration, maintenance, remanufacture or modification and which is

1 subsequently transported outside the state for use in the transmission of
2 liquids or natural gas by means of pipeline in interstate or foreign
3 commerce under authority of the laws of the United States;

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

9 (cc) all sales of tangible personal property or services purchased prior
10 to January 1, 2012, except as otherwise provided, for the purpose of and in
11 conjunction with constructing, reconstructing, enlarging or remodeling a
12 business or retail business which meets the requirements established in
13 K.S.A. 74-50,115, and amendments thereto, and the sale and installation of
14 machinery and equipment purchased for installation at any such business
15 or retail business, and all sales of tangible personal property or services
16 purchased on or after January 1, 2012, for the purpose of and in
17 conjunction with constructing, reconstructing, enlarging or remodeling a
18 business which meets the requirements established in K.S.A. 74-50,115(e),
19 and amendments thereto, and the sale and installation of machinery and
20 equipment purchased for installation at any such business. When a person
21 shall contract for the construction, reconstruction, enlargement or
22 remodeling of any such business or retail business, such person shall
23 obtain from the state and furnish to the contractor an exemption certificate
24 for the project involved, and the contractor may purchase materials,
25 machinery and equipment for incorporation in such project. The contractor
26 shall furnish the number of such certificates to all suppliers from whom
27 such purchases are made, and such suppliers shall execute invoices
28 covering the same bearing the number of such certificate. Upon
29 completion of the project the contractor shall furnish to the owner of the
30 business or retail business a sworn statement, on a form to be provided by
31 the director of taxation, that all purchases so made were entitled to
32 exemption under this subsection. All invoices shall be held by the
33 contractor for a period of five years and shall be subject to audit by the
34 director of taxation. Any contractor or any agent, employee or
35 subcontractor thereof, who shall use or otherwise dispose of any materials,
36 machinery or equipment purchased under such a certificate for any
37 purpose other than that for which such a certificate is issued without the
38 payment of the sales or compensating tax otherwise imposed thereon, shall
39 be guilty of a misdemeanor and, upon conviction therefor, shall be subject
40 to the penalties provided for in subsection (g) of K.S.A. 79-3615, and
41 amendments thereto. As used in this subsection, "business" and "retail
42 business" have the meanings respectively ascribed thereto by K.S.A. 74-
43 50,114, and amendments thereto. Project exemption certificates that have

1 been previously issued under this subsection by the department of revenue
2 pursuant to K.S.A. 74-50,115, and amendments thereto, but not including
3 K.S.A. 74-50,115(e), and amendments thereto, prior to January 1, 2012,
4 and have not expired will be effective for the term of the project or two
5 years from the effective date of the certificate, whichever occurs earlier.
6 Project exemption certificates that are submitted to the department of
7 revenue prior to January 1, 2012, and are found to qualify will be issued a
8 project exemption certificate that will be effective for a two-year period or
9 for the term of the project, whichever occurs earlier;

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

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

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

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

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

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

42 (jj) all sales of tangible personal property or services, including the
43 renting and leasing of tangible personal property, purchased directly on

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

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

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

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

20 (2) For purposes of this subsection:

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

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

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

1 at retail;

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

33 (J) to cool, heat, filter, refine or otherwise treat water, steam, acid, oil,
34 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 limited
37 areas of the plant or facility, where such regulation of temperature or
38 humidity is part of and essential to the production process;

39 (L) to treat, transport or store waste or other byproducts of production
40 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 machinery
10 and equipment; (C) portable plants for aggregate concrete, bulk cement
11 and asphalt including cement mixing drums to be attached to a motor
12 vehicle; (D) industrial fixtures, devices, support facilities and special
13 foundations necessary for manufacturing and production operations, and
14 materials and other tangible personal property sold for the purpose of
15 fabricating such fixtures, devices, facilities and foundations. An exemption
16 certificate for such purchases shall be signed by the manufacturer or
17 processor. If the fabricator purchases such material, the fabricator shall
18 also sign the exemption certificate; and (E) a manufacturing or processing
19 business' laboratory equipment that is not located at the plant or facility,
20 but that would otherwise qualify for exemption under subsection (3)(E).

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

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

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

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

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

39 (E) furniture and other furnishings;

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

43 (G) building fixtures that are not integral to the manufacturing

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

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

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

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

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

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

20 (ll) all sales of educational materials purchased for distribution to the
21 public at no charge by a nonprofit corporation organized for the purpose of
22 encouraging, fostering and conducting programs for the improvement of
23 public health, *except that for taxable years commencing after December*
24 *31, 2011, this subsection shall not apply to any sales of such materials*
25 *purchased by a nonprofit corporation which performs any abortion, as*
26 *defined in section 1, and amendments thereto;*

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

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

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

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

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

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

3 (rr) all sales of tangible personal property which will admit the
4 purchaser thereof to any annual event sponsored by a nonprofit
5 organization which is exempt from federal income taxation pursuant to
6 section 501(c)(3) of the federal internal revenue code of 1986, *except that*
7 *for taxable years commencing after December 31, 2011, this subsection*
8 *shall not apply to any sales of such tangible personal property purchased*
9 *by a nonprofit organization which performs any abortion, as defined in*
10 *section 1, and amendments thereto;*

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

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

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

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

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

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

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

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

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

1 including information on coping with lung diseases, professional education
2 and training related to lung disease and other related services to reduce the
3 incidence of disability and death due to lung disease;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the purpose of constructing, equipping, reconstructing, maintaining,
2 repairing, enlarging, furnishing or remodeling facilities, it shall obtain
3 from the state and furnish to the contractor an exemption certificate for the
4 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 the nonprofit zoo 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 the
13 director of taxation. If any materials purchased under such a certificate are
14 found not to have been incorporated in the building or other project or not
15 to have been returned for credit or the sales or compensating tax otherwise
16 imposed upon such materials which will not be so incorporated in the
17 building or other project reported and paid by such contractor to the
18 director of taxation not later than the 20th day of the month following the
19 close of the month in which it shall be determined that such materials will
20 not be used for the purpose for which such certificate was issued, the
21 nonprofit zoo 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 purpose
26 other than that for which such a certificate is issued without the payment
27 of the sales or compensating tax otherwise imposed upon such materials,
28 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
29 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
30 and amendments thereto;

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

34 (zz) all sales of machinery and equipment purchased by over-the-air,
35 free access radio or television station which is used directly and primarily
36 for the purpose of producing a broadcast signal or is such that the failure
37 of the machinery or equipment to operate would cause broadcasting to
38 cease. For purposes of this subsection, machinery and equipment shall
39 include, but not be limited to, that required by rules and regulations of the
40 federal communications commission, and all sales of electricity which are
41 essential or necessary for the purpose of producing a broadcast signal or is
42 such that the failure of the electricity would cause broadcasting to cease;

43 (aaa) all sales of tangible personal property and services purchased by

1 a religious organization which is exempt from federal income taxation
2 pursuant to section 501(c)(3) of the federal internal revenue code, and used
3 exclusively for religious purposes, and all sales of tangible personal
4 property or services purchased by a contractor for the purpose of
5 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
6 furnishing or remodeling facilities for any such organization which would
7 be exempt from taxation under the provisions of this section if purchased
8 directly by such organization. Nothing in this subsection shall be deemed
9 to exempt the purchase of any construction machinery, equipment or tools
10 used in the constructing, equipping, reconstructing, maintaining, repairing,
11 enlarging, furnishing or remodeling facilities for any such organization.
12 When any such organization shall contract for the purpose of constructing,
13 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
14 remodeling facilities, it shall obtain from the state and furnish to the
15 contractor an exemption certificate for the project involved, and the
16 contractor may purchase materials for incorporation in such project. The
17 contractor shall furnish the number of such certificate to all suppliers from
18 whom such purchases are made, and such suppliers shall execute invoices
19 covering the same bearing the number of such certificate. Upon
20 completion of the project the contractor shall furnish to such organization
21 concerned a sworn statement, on a form to be provided by the director of
22 taxation, that all purchases so made were entitled to exemption under this
23 subsection. All invoices shall be held by the contractor for a period of five
24 years and shall be subject to audit by the director of taxation. If any
25 materials purchased under such a certificate are found not to have been
26 incorporated in the building or other project or not to have been returned
27 for credit or the sales or compensating tax otherwise imposed upon such
28 materials which will not be so incorporated in the building or other project
29 reported and paid by such contractor to the director of taxation not later
30 than the 20th day of the month following the close of the month in which it
31 shall be determined that such materials will not be used for the purpose for
32 which such certificate was issued, such organization concerned shall be
33 liable for tax on all materials purchased for the project, and upon payment
34 thereof it may recover the same from the contractor together with
35 reasonable attorney fees. Any contractor or any agent, employee or
36 subcontractor thereof, who shall use or otherwise dispose of any materials
37 purchased under such a certificate for any purpose other than that for
38 which such a certificate is issued without the payment of the sales or
39 compensating tax otherwise imposed upon such materials, shall be guilty
40 of a misdemeanor and, upon conviction therefor, shall be subject to the
41 penalties provided for in subsection (g) of K.S.A. 79-3615, and
42 amendments thereto. Sales tax paid on and after July 1, 1998, but prior to
43 the effective date of this act upon the gross receipts received from any sale

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

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

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

1 in the building or other project or not to have been returned for credit or
2 the sales or compensating tax otherwise imposed upon such materials
3 which will not be so incorporated in the building or other project reported
4 and paid by such contractor to the director of taxation not later than the
5 20th day of the month following the close of the month in which it shall be
6 determined that such materials will not be used for the purpose for which
7 such certificate was issued, such clinic or center concerned shall be liable
8 for tax on all materials purchased for the project, and upon payment
9 thereof it may recover the same from the contractor together with
10 reasonable attorney fees. Any contractor or any agent, employee or
11 subcontractor thereof, who shall use or otherwise dispose of any materials
12 purchased under such a certificate for any purpose other than that for
13 which such a certificate is issued without the payment of the sales or
14 compensating tax otherwise imposed upon such materials, shall be guilty
15 of a misdemeanor and, upon conviction therefor, shall be subject to the
16 penalties provided for in subsection (g) of K.S.A. 79-3615, and
17 amendments thereto, *except that for taxable years commencing after*
18 *December 31, 2011, this subsection shall not apply to any sales of such*
19 *tangible personal property and services purchased by a primary care*
20 *clinic or health center which performs any abortion, as defined in section*
21 *1, and amendments thereto;*

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

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

37 (fff) all sales of material handling equipment, racking systems and
38 other related machinery and equipment that is used for the handling,
39 movement or storage of tangible personal property in a warehouse or
40 distribution facility in this state; all sales of installation, repair and
41 maintenance services performed on such machinery and equipment; and
42 all sales of repair and replacement parts for such machinery and
43 equipment. For purposes of this subsection, a warehouse or distribution

1 facility means a single, fixed location that consists of buildings or
2 structures in a contiguous area where storage or distribution operations are
3 conducted that are separate and apart from the business' retail operations,
4 if any, and which do not otherwise qualify for exemption as occurring at a
5 manufacturing or processing plant or facility. Material handling and
6 storage equipment shall include aeration, dust control, cleaning, handling
7 and other such equipment that is used in a public grain warehouse or other
8 commercial grain storage facility, whether used for grain handling, grain
9 storage, grain refining or processing, or other grain treatment operation;

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

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

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

1 Upon completion of the project the contractor shall furnish to such
2 organization concerned a sworn statement, on a form to be provided by the
3 director of taxation, that all purchases so made were entitled to exemption
4 under this subsection. All invoices shall be held by the contractor for a
5 period of five years and shall be subject to audit by the director of taxation.
6 If any materials purchased under such a certificate are found not to have
7 been incorporated in such facilities or not to have been returned for credit
8 or the sales or compensating tax otherwise imposed upon such materials
9 which will not be so incorporated in such facilities reported and paid by
10 such contractor to the director of taxation not later than the 20th day of the
11 month following the close of the month in which it shall be determined
12 that such materials will not be used for the purpose for which such
13 certificate was issued, such organization concerned shall be liable for tax
14 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 for
22 in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax
23 paid on and after July 1, 2005, but prior to the effective date of this act
24 upon the gross receipts received from any sale exempted by the
25 amendatory provisions of this subsection shall be refunded. Each claim for
26 a sales tax refund shall be verified and submitted to the director of taxation
27 upon forms furnished by the director and shall be accompanied by any
28 additional documentation required by the director. The director shall
29 review each claim and shall refund that amount of sales tax paid as
30 determined under the provisions of this subsection. All refunds shall be
31 paid from the sales tax refund fund upon warrants of the director of
32 accounts and reports pursuant to vouchers approved by the director or the
33 director's designee;

34 (jjj) all sales of dietary supplements dispensed pursuant to a
35 prescription order by a licensed practitioner or a mid-level practitioner as
36 defined by K.S.A. 65-1626, and amendments thereto. As used in this
37 subsection, "dietary supplement" means any product, other than tobacco,
38 intended to supplement the diet that: (1) Contains one or more of the
39 following dietary ingredients: A vitamin, a mineral, an herb or other
40 botanical, an amino acid, a dietary substance for use by humans to
41 supplement the diet by increasing the total dietary intake or a concentrate,
42 metabolite, constituent, extract or combination of any such ingredient; (2)
43 is intended for ingestion in tablet, capsule, powder, softgel, gelcap or

1 liquid form, or if not intended for ingestion, in such a form, is not
2 represented as conventional food and is not represented for use as a sole
3 item of a meal or of the diet; and (3) is required to be labeled as a dietary
4 supplement, identifiable by the supplemental facts box found on the label
5 and as required pursuant to 21 C.F.R. § 101.36;

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

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

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

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

30 (ppp) all sales of tangible personal property and services purchased
31 by or on behalf of a homeless shelter which is exempt from federal income
32 taxation pursuant to section 501(c)(3) of the federal income tax code of
33 1986, and used by any such homeless shelter to provide emergency and
34 transitional housing for individuals and families experiencing
35 homelessness, and all sales of any such property by or on behalf of any
36 such homeless shelter for any such purpose;

37 (qqq) all sales of tangible personal property and services purchased
38 by TLC for children and families, inc., hereinafter referred to as TLC,
39 which is exempt from federal income taxation pursuant to section 501(c)
40 (3) of the federal internal revenue code of 1986, and which such property
41 and services are used for the purpose of providing emergency shelter and
42 treatment for abused and neglected children as well as meeting additional
43 critical needs for children, juveniles and family, and all sales of any such

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

39 (rrr) all sales of tangible personal property and services purchased by
40 any county law library maintained pursuant to law and sales of tangible
41 personal property and services purchased by an organization which would
42 have been exempt from taxation under the provisions of this subsection if
43 purchased directly by the county law library for the purpose of providing

1 legal resources to attorneys, judges, students and the general public, and
2 all sales of any such property by or on behalf of any such county law
3 library;

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

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

9 (ttt) all sales of tangible personal property or services purchased by a
10 contractor for a project for the purpose of restoring, constructing,
11 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
12 remodeling a home or facility owned by a nonprofit museum which has
13 been granted an exemption pursuant to subsection (qq), which such home
14 or facility is located in a city which has been designated as a qualified
15 hometown pursuant to the provisions of K.S.A. 75-5071 *et seq.*, and
16 amendments thereto, and which such project is related to the purposes of
17 K.S.A. 75-5071 *et seq.*, and amendments thereto, and which would be
18 exempt from taxation under the provisions of this section if purchased
19 directly by such nonprofit museum. Nothing in this subsection shall be
20 deemed to exempt the purchase of any construction machinery, equipment
21 or tools used in the restoring, constructing, equipping, reconstructing,
22 maintaining, repairing, enlarging, furnishing or remodeling a home or
23 facility for any such nonprofit museum. When any such nonprofit museum
24 shall contract for the purpose of restoring, constructing, equipping,
25 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
26 a home or facility, it shall obtain from the state and furnish to the
27 contractor an exemption certificate for the project involved, and the
28 contractor may purchase materials for incorporation in such project. The
29 contractor shall furnish the number of such certificates to all suppliers
30 from whom such purchases are made, and such suppliers shall execute
31 invoices covering the same bearing the number of such certificate. Upon
32 completion of the project, the contractor shall furnish to such nonprofit
33 museum a sworn statement on a form to be provided by the director of
34 taxation that all purchases so made were entitled to exemption under this
35 subsection. All invoices shall be held by the contractor for a period of five
36 years and shall be subject to audit by the director of taxation. If any
37 materials purchased under such a certificate are found not to have been
38 incorporated in the building or other project or not to have been returned
39 for credit or the sales or compensating tax otherwise imposed upon such
40 materials which will not be so incorporated in a home or facility or other
41 project reported and paid by such contractor to the director of taxation not
42 later than the 20th day of the month following the close of the month in
43 which it shall be determined that such materials will not be used for the

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

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

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

14 (vvv) all sales of tangible personal property or services, including the
15 renting and leasing of tangible personal property or services, purchased by
16 Jazz in the Woods, Inc., a Kansas corporation which is exempt from
17 federal income taxation pursuant to section 501(c)(3) of the federal
18 internal revenue code, for the purpose of providing Jazz in the Woods, an
19 event benefiting children-in-need and other nonprofit charities assisting
20 such children, and all sales of any such property by or on behalf of such
21 organization for such purpose;

22 (www) all sales of tangible personal property purchased by or on
23 behalf of the Frontenac Education Foundation, which is exempt from
24 federal income taxation pursuant to section 501(c)(3) of the federal
25 internal revenue code, for the purpose of providing education support for
26 students, and all sales of any such property by or on behalf of such
27 organization for such purpose;

28 (xxx) all sales of personal property and services purchased by the
29 booth theatre foundation, inc., an organization which is exempt from
30 federal income taxation pursuant to section 501(c)(3) of the federal
31 internal revenue code of 1986, and which such personal property and
32 services are used by any such organization in the constructing, equipping,
33 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
34 of the booth theatre, and all sales of tangible personal property or services
35 purchased by a contractor for the purpose of constructing, equipping,
36 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
37 the booth theatre for such organization, which would be exempt from
38 taxation under the provisions of this section if purchased directly by such
39 organization. Nothing in this subsection shall be deemed to exempt the
40 purchase of any construction machinery, equipment or tools used in the
41 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
42 furnishing or remodeling facilities for any such organization. When any
43 such organization shall contract for the purpose of constructing, equipping,

1 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
2 facilities, it shall obtain from the state and furnish to the contractor an
3 exemption certificate for the project involved, and the contractor may
4 purchase materials for incorporation in such project. The contractor shall
5 furnish the number of such certificate to all suppliers from whom such
6 purchases are made, and such suppliers shall execute invoices covering the
7 same bearing the number of such certificate. Upon completion of the
8 project the contractor shall furnish to such organization concerned a sworn
9 statement, on a form to be provided by the director of taxation, that all
10 purchases so made were entitled to exemption under this subsection. All
11 invoices shall be held by the contractor for a period of five years and shall
12 be subject to audit by the director of taxation. If any materials purchased
13 under such a certificate are found not to have been incorporated in such
14 facilities or not to have been returned for credit or the sales or
15 compensating tax otherwise imposed upon such materials which will not
16 be so incorporated in such facilities reported and paid by such contractor
17 to the director of taxation not later than the 20th day of the month following
18 the close of the month in which it shall be determined that such materials
19 will not be used for the purpose for which such certificate was issued, such
20 organization concerned shall be liable for tax on all materials purchased
21 for the project, and upon payment thereof it may recover the same from
22 the contractor together with reasonable attorney fees. Any contractor or
23 any agent, employee or subcontractor thereof, who shall use or otherwise
24 dispose of any materials purchased under such a certificate for any purpose
25 other than that for which such a certificate is issued without the payment
26 of the sales or compensating tax otherwise imposed upon such materials,
27 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
28 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
29 and amendments thereto. Sales tax paid on and after January 1, 2007, but
30 prior to the effective date of this act upon the gross receipts received from
31 any sale which would have been exempted by the provisions of this
32 subsection had such sale occurred after the effective date of this act shall
33 be refunded. Each claim for a sales tax refund shall be verified and
34 submitted to the director of taxation upon forms furnished by the director
35 and shall be accompanied by any additional documentation required by the
36 director. The director shall review each claim and shall refund that amount
37 of sales tax paid as determined under the provisions of this subsection. All
38 refunds shall be paid from the sales tax refund fund upon warrants of the
39 director of accounts and reports pursuant to vouchers approved by the
40 director or the director's designee;

41 (yyy) all sales of tangible personal property and services purchased
42 by TLC charities foundation, inc., hereinafter referred to as TLC charities,
43 which is exempt from federal income taxation pursuant to section 501(c)

1 (3) of the federal internal revenue code of 1986, and which such property
2 and services are used for the purpose of encouraging private philanthropy
3 to further the vision, values, and goals of TLC for children and families,
4 inc.; and all sales of such property and services by or on behalf of TLC
5 charities for any such purpose and all sales of tangible personal property or
6 services purchased by a contractor for the purpose of constructing,
7 maintaining, repairing, enlarging, furnishing or remodeling facilities for
8 the operation of services for TLC charities for any such purpose which
9 would be exempt from taxation under the provisions of this section if
10 purchased directly by TLC charities. Nothing in this subsection shall be
11 deemed to exempt the purchase of any construction machinery, equipment
12 or tools used in the constructing, maintaining, repairing, enlarging,
13 furnishing or remodeling such facilities for TLC charities. When TLC
14 charities contracts for the purpose of constructing, maintaining, repairing,
15 enlarging, furnishing or remodeling such facilities, it shall obtain from the
16 state and furnish to the contractor an exemption certificate for the project
17 involved, and the contractor may purchase materials for incorporation in
18 such project. The contractor shall furnish the number of such certificate to
19 all suppliers from whom such purchases are made, and such suppliers shall
20 execute invoices covering the same bearing the number of such certificate.
21 Upon completion of the project the contractor shall furnish to TLC
22 charities a sworn statement, on a form to be provided by the director of
23 taxation, that all purchases so made were entitled to exemption under this
24 subsection. All invoices shall be held by the contractor for a period of five
25 years and shall be subject to audit by the director of taxation. If any
26 materials purchased under such a certificate are found not to have been
27 incorporated in the building or other project or not to have been returned
28 for credit or the sales or compensating tax otherwise imposed upon such
29 materials which will not be incorporated into the building or other project
30 reported and paid by such contractor to the director of taxation not later
31 than the 20th day of the month following the close of the month in which it
32 shall be determined that such materials will not be used for the purpose for
33 which such certificate was issued, TLC charities shall be liable for tax on
34 all materials purchased for the project, and upon payment thereof it may
35 recover the same from the contractor together with reasonable attorney
36 fees. Any contractor or any agent, employee or subcontractor thereof, who
37 shall use or otherwise dispose of any materials purchased under such a
38 certificate for any purpose other than that for which such a certificate is
39 issued without the payment of the sales or compensating tax otherwise
40 imposed upon such materials, shall be guilty of a misdemeanor and, upon
41 conviction therefor, shall be subject to the penalties provided for in
42 subsection (g) of K.S.A. 79-3615, and amendments thereto;

43 (zzz) all sales of tangible personal property purchased by the rotary

1 club of shawnee foundation which is exempt from federal income taxation
2 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
3 as amended, used for the purpose of providing contributions to community
4 service organizations and scholarships;

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

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

16 (cccc) all sales of tangible personal property or services purchased by
17 or on behalf of wayside waifs, inc., which is exempt from federal income
18 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
19 for the purpose of providing such organization's annual fundraiser, an
20 event whose purpose is to support the care of homeless and abandoned
21 animals, animal adoption efforts, education programs for children and
22 efforts to reduce animal over-population and animal welfare services, and
23 all sales of any such property, including entry or participation fees or
24 charges, by or on behalf of such organization for such purpose;

25 (dddd) all sales of tangible personal property or services purchased
26 by or on behalf of Goodwill Industries or Easter Seals of Kansas, Inc.,
27 both of which are exempt from federal income taxation pursuant to section
28 501(c)(3) of the federal internal revenue code, for the purpose of providing
29 education, training and employment opportunities for people with
30 disabilities and other barriers to employment;

31 (eeee) all sales of tangible personal property or services purchased by
32 or on behalf of All American Beef Battalion, Inc., 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 educating, promoting and
35 participating as a contact group through the beef cattle industry in order to
36 carry out such projects that provide support and morale to members of the
37 United States armed forces and military services; ~~and~~

38 (ffff) all sales of tangible personal property and services purchased by
39 sheltered living, inc., which is exempt from federal income taxation
40 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
41 and which such property and services are used for the purpose of
42 providing residential and day services for people with developmental
43 disabilities or mental retardation, or both, and all sales of any such

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

41 *(gggg) all sales of game birds for which the primary purpose is use in*
42 *hunting.*

43 Sec. 23. K.S.A. 60-1901 and K.S.A. 2011 Supp. 40-2246, 65-6701,

1 65-6703, 65-6709, 65-6710, 79-32,117, 79-32,138, 79-32,182b, 79-32,195,
2 79-32,261, 79-3606 and 79-3606g are hereby repealed.

3 Sec. 24. This act shall take effect and be in force from and after its
4 publication in the statute book.

5