

[As Amended by House Committee of the Whole]

Session of 2011

House Substitute for SENATE BILL No. 196

By Committee on Taxation

3-15

1 AN ACT concerning taxation; relating to IMPACT program; income tax
2 deductions, expensing of investment expenditures; promoting employment
3 across Kansas act, qualifications for benefits; income tax credits; sales tax
4 exemptions; creating job creation program fund, administration and
5 expenditures; amending K.S.A. 2010 Supp. 74-50,104, 74-50,106, 74-
6 50,107, 74-50,109, 74-50,110, 74-50,111, 74-50,210, 74-50,211, 74-50,212,
7 74-50,213, 79-32,160a, 79-32,206 and 79-3606 and repealing the existing
8 sections; also repealing K.S.A. 2010 Supp. 74-50,151 and 74-50,152.
9

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

11 New Section 1. (a) There is hereby created in the state treasury the job
12 creation program fund. The secretary of commerce, in consultation with the
13 secretary of revenue and the governor, shall administer the fund. All
14 expenditures from the fund shall be for the purpose of promoting job creation
15 and economic development by funding projects related to: (1) Major
16 expansion of an existing Kansas commercial enterprise;

17 (2) potential location in Kansas of the operations of a major employer;

18 (3) award of a significant federal or private sector grant which has a
19 financial matching requirement;

20 (4) potential departure from Kansas or the substantial reduction of the
21 operations of a major Kansas employer;

22 (5) training or retraining activities for employees in Kansas companies;

23 (6) potential closure or substantial reduction of the operations of a major
24 state or federal institution;

25 (7) projects in counties with at least a 10% population decline during the
26 period from 2000 to 2010; or

27 (8) other unique economic development opportunities.

28 (b) All expenditures from the fund shall be for the purposes described in
29 subsection (a) and shall be made in accordance with appropriation acts upon
30 warrants of the director of accounts and reports issued pursuant to vouchers
31 approved by the secretary of commerce or the secretary's designee.

32 New Sec. 2. (a) For taxable years beginning after December 31, 2011, a
33 taxpayer may elect to take an expense deduction from Kansas net income
34 before expensing or recapture allocated or apportioned to this state for the cost
35 of the following property placed in service in this state during the taxable year:

36 (1) Tangible property eligible for depreciation under the modified accelerated

1 cost recovery system in section 168 of the internal revenue code, as amended,
2 but not including residential rental property, nonresidential real property, any
3 railroad grading or tunnel bore or any other property with an applicable
4 recovery period in excess of 25 years as defined under section 168(c) or (g) of
5 the internal revenue code, as amended; and (2) computer software as defined
6 in section 197(e)(3)(B) of the internal revenue code, as amended, and as
7 described in section 197(e)(3)(A)(i) of the internal revenue code, as amended,
8 to which section 167 of the internal revenue code, as amended, applies. If such
9 election is made, the amount of expense deduction for such cost shall equal
10 the difference between the depreciable cost of such property for federal
11 income tax purposes and the amount of bonus depreciation being claimed for
12 such property pursuant to section 168(k) of the internal revenue code, as
13 amended, for federal income tax purposes in such tax year, but without regard
14 to any expense deduction being claimed for such property under section 179 of
15 the internal revenue code, as amended, multiplied by the applicable factor,
16 determined by using, the table provided in subsection (f), based on the method
17 of depreciation selected pursuant to section 168(b)(1), (2), or (3) or (g) of the
18 internal revenue code, as amended, and the applicable recovery period for such
19 property as defined under section 168(c) or (g) of the internal revenue code, as
20 amended. This election shall be made by the due date of the original return,
21 including any extensions, and may be made only for the taxable year in which
22 the property is placed in service, and once made, shall be irrevocable. If the
23 section 179 expense deduction election has been made for federal income tax
24 purposes for any asset, the applicable factor to be utilized is in the IRC § 168
25 (b)(1) column of the table provided in subsection (f) for the applicable
26 recovery period of the respective assets.

27 (b) If the amount of expense deduction calculated pursuant to subsection
28 (a) exceeds the taxpayer's Kansas net income before expensing or recapture
29 allocated or apportioned to this state, such excess amount shall be treated as a
30 Kansas net operating loss as provided in K.S.A. 79-32,143, and amendments
31 thereto.

32 (c) If the property for which an expense deduction is taken pursuant to
33 subsection (a) is subsequently sold during the applicable recovery period for
34 such property as defined under section 168(c) of the internal revenue code, as
35 amended, and in a manner that would cause recapture of any previously taken
36 expense or depreciation deductions for federal income tax purposes, or if the
37 situs of such property is otherwise changed such that the property is relocated
38 outside the state of Kansas during such applicable recovery period, then the
39 expense deduction determined pursuant to subsection (a) shall be subject to
40 recapture and treated as Kansas taxable income allocated to this state. The
41 amount of recapture shall be the Kansas expense deduction determined
42 pursuant to subsection (a) multiplied by a fraction, the numerator of which is
43 the number of years remaining in the applicable recovery period for such

1 property as defined under section 168(c) or (g) of the internal revenue code, as
 2 amended, after such property is sold or removed from the state including the
 3 year of such disposition, and the denominator of which is the total number of
 4 years in such applicable recovery period.

5 (d) The situs of tangible property for purposes of claiming and recapture
 6 of the expense deduction shall be the physical location of such property. If
 7 such property is mobile, the situs shall be the physical location of the business
 8 operations from where such property is used or based. The situs of computer
 9 software shall be apportioned to Kansas based on the fraction, the numerator
 10 of which is the number of the taxpayer’s users located in Kansas of licenses
 11 for such computer software used in the active conduct of the taxpayer’s
 12 business operations, and the denominator of which is the total number of the
 13 taxpayer’s users of the licenses for such computer software used in the active
 14 conduct of the taxpayer’s business operations everywhere.

15 (e) Any member of a unitary group filing a combined report may elect to
 16 take an expense deduction pursuant to subsection (a) for an investment in
 17 property made by any member of the combined group, provided that the
 18 amount calculated pursuant to subsection (a) may only be deducted from the
 19 Kansas net income before expensing or recapture allocated to or apportioned
 20 to this state by such member making the election.

21 (f) The following table shall be used in determining the expense
 22 deduction calculated pursuant to subsection (a):

		Factors		
RC§168	IRC§168(b)(1)	IRC§168(b)(2)	IRC§168(b)(3) or (g)	
Recover Period	Depreciation Method	Depreciation Method	Depreciation Method	
(year)				
27 2.5	*	.077	.092	
28 3	.075	.091	.106	
29 3.5	*	.102	.116	
30 4	*	.114	.129	
31 5	.116	.135	.150	
32 6	*	.154	.170	
33 6.5	*	.163	.179	
34 7	.151	.173	.190	
35 7.5	*	.181	.199	
36 8	*	.191	.208	
37 8.5	*	.199	.217	
38 9	*	.208	.226	
39 9.5	*	.216	.235	
40 10	.198	.224	.244	
41 10.5	*	.232	.252	
42 11	*	.240	.261	
43 11.5	*	.248	.269	

1	12	*	.256	.277
2	12.5	*	.263	.285
3	13	*	.271	.293
4	13.5	*	.278	.300
5	14	*	.285	.308
6	15	*	.299	.323
7	16	*	.313	.337
8	16.5	*	.319	.344
9	17	*	.326	.351
10	18	*	.339	.365
11	19	*	.351	.378
12	20	*	.363	.391
13	22	*	.386	.415
14	24	*	.408	.438
15	25	*	.419	.449

16 * Not Applicable.

17 (g) If a taxpayer elects to expense any investment pursuant to subsection
 18 (a), such taxpayer shall not be eligible for any tax credit, accelerated
 19 depreciation, or deduction for such investment allowed pursuant to K.S.A.
 20 2010 Supp. 79-32,160a(e), 79-32,182b, 79-32,201, 79-32,204, 79-32,211, 79-
 21 32,218, 79-32,221, 79-32,222, 79-32,224, 79-32,227, 79-32,229, 79-32,232,
 22 79-32,234, 79-32,237, 79-32,239, 79-32,246, 79-32,249, 79-32,252, 79-
 23 32,255, 79-32,256 and 79-32,258, and amendments thereto.

24 New Sec. 3. Except as otherwise provided, for taxable years commencing
 25 after December 31, 2011, no credits may be earned through the Kansas
 26 enterprise zone act, K.S.A. 79-32,160a; or the job expansion and investment
 27 tax credit act, K.S.A. 79-32,153. Any carry forward credit that has been earned
 28 through the Kansas enterprise zone act, K.S.A. 79-32,160a, and is remaining
 29 after December 31, 2011, may be carried forward to succeeding taxable years
 30 as long as all requirements continue to be met. Any credit that has been earned
 31 through the job expansion and investment tax credit act, K.S.A. 79-32,153,
 32 with years left in recomputing the credit after December 31, 2011, may
 33 continue for the remainder of the nine-year period as long as all requirements
 34 continue to be met.

35 **New Sec. 4. (a) For all tax years commencing after December 31,**
 36 **2011, each Kansas state individual income tax return form shall contain a**
 37 **designation as follows:**

38 **Kansas Hometown Heroes Fund. Check if you wish to donate, in**
 39 **addition to your tax liability, or designate from your refund, _____\$1,**
 40 **_____ \$5, _____ \$10 or \$_____.**

41 **(b) The director of taxation of the department of revenue shall**
 42 **determine annually the total amount designated for contribution to the**
 43 **Kansas hometown heroes fund pursuant to subsection (a) and shall report**

1 **such amount to the state treasurer who shall credit the entire amount**
2 **thereof to the Kansas hometown heroes fund which fund is hereby**
3 **established in the state treasury. All moneys deposited in such fund shall**
4 **be used solely for the purpose of funding the continued operations of the**
5 **veteran services program of the Kansas commission on veterans affairs.**
6 **In the case where donations are made pursuant to subsection (a), the**
7 **director shall remit the entire amount thereof to the state treasurer in**
8 **accordance with the provisions of K.S.A. 75-4215, and amendments**
9 **thereto. Upon receipt of such remittance, the state treasurer shall deposit**
10 **the entire amount in the state treasury to the credit of such fund. All**
11 **expenditures from such fund shall be made in accordance with**
12 **appropriation acts upon warrants of the director of accounts and reports**
13 **issued pursuant to vouchers approved by the executive director of the**
14 **Kansas commission on veterans affairs.**

15 Sec. 4[5]. K.S.A. 2010 Supp. 74-50,104 is hereby amended to read as
16 follows: 74-50,104. (a) The secretary shall administer the provisions of this act
17 and the IMPACT program established thereunder. The secretary shall
18 encourage Kansas basic enterprises with similar training needs to cooperate in
19 establishing SKILL projects. The secretary shall coordinate the SKILL
20 program with other job training programs administered by the department of
21 commerce. The secretary shall provide opportunities for coordination and
22 cooperation of SKILL projects with other job training activities in Kansas.
23 Subject to the limitation in K.S.A. 74-50,103, *and amendments thereto*, the
24 secretary shall be authorized to make direct investments in educational and
25 related workforce development institutions, for the purpose of promoting
26 improvements in workforce development, human capital, training expertise,
27 infrastructure and job retention.

28 (b) The secretary shall adopt rules and regulations as follows: (1)
29 Prescribing review standards and priorities for approval of proposed
30 agreements under this act, including appropriate incentives for cooperation
31 among projects, in order to maximize the number of new jobs created or
32 retained with respect to individual Kansas basic enterprises, which will remain
33 in Kansas, and (2) prescribing limits on program costs and on project and
34 program size in relation to the number of new jobs created and wages of new
35 or retained jobs. No agreement shall be approved which provides for program
36 costs of a project under the agreement of more than 95% of the amount equal
37 to the estimated rate of withholding tax applied to the estimated amount of
38 gross wages of all the new or retained jobs under the project over a ten-year
39 period, *except that this provision shall not apply to any project funded from*
40 *the job creation program fund.*

41 (c) Notice of the approval of a project or program and an annual report of
42 the number of jobs created or retained under the IMPACT act shall be
43 provided to the chairpersons of the senate committee on commerce and the

1 committee on economic development of the house of representatives.

2 (d) The secretary may adopt such other rules and regulations as may be
3 required for the implementation and administration of this act.

4 Sec. 5[6]. K.S.A. 2010 Supp. 74-50,106 is hereby amended to read as
5 follows: 74-50,106. (a) The secretary of commerce shall review applications
6 for proposed agreements submitted by employers in accordance with the
7 standards and guidelines prescribed by this act and by rules and regulations
8 adopted under K.S.A. 74-50,104, and amendments thereto. Each application
9 for approval of a proposed agreement shall be accompanied by information
10 about the number and wages of the new or retained jobs created by the
11 employer, documentation of existing training activities of the employer and
12 such other information as may be required by the secretary of commerce.

13 (b) The secretary of commerce may pool the funding requirements of
14 projects which are the subject of proposed agreements to determine the
15 funding requirements of the IMPACT projects under consideration to facilitate
16 the issuance of bonds by the Kansas development finance authority.

17 (c) The secretary of commerce is hereby authorized to expend funds
18 raised pursuant to this act on major project investments. The secretary shall
19 adopt guidelines consistent with this act concerning firm eligibility for major
20 project investments and shall otherwise administer the major project
21 investment portion of the IMPACT act.

22 (d) In order for an employer to be eligible for a major project investment,
23 the employer must:

24 (1) Annually make an investment in training and education of the
25 employer's employees that exceeds 2% of the employer's total annual payroll
26 costs; or

27 (2) agree that a portion of any funds available under the agreement be
28 spent directly on employee education and training.

29 (e) An employer not creating new jobs shall be eligible to participate in
30 the IMPACT program if the employer meets the following criteria: (1)
31 Maintains a minimum of 250 retained jobs if located in a metropolitan
32 statistical area or a minimum of 100 retained jobs if located in a
33 nonmetropolitan statistical area; and (2) the secretary of commerce finds that
34 the program or project will be a major factor in the Kansas basic enterprise
35 remaining in Kansas, *except that this subsection shall not apply to any project*
36 *funded from the job creation program fund.*

37 Sec. 6[7]. K.S.A. 2010 Supp. 74-50,107 is hereby amended to read as
38 follows: 74-50,107. ~~(a) The secretary shall determine and from time to time~~
39 ~~shall redetermine the rate at which moneys shall be credited to the IMPACT~~
40 ~~program repayment fund in order to satisfy all bond repayment obligations~~
41 ~~which have been incurred to finance program costs for IMPACT programs,~~
42 ~~which shall be referred to as the debt service rate, and the rate at which~~
43 ~~moneys shall be credited to the IMPACT program services fund in order to~~

1 finance program costs that are not financed by bonds, which shall be referred
 2 to as the direct funding rate. The total of the debt service rate and the direct
 3 funding rate shall be the combined rate. Each rate so determined shall be
 4 certified to the secretary of revenue. The combined rate determined under this
 5 subsection shall not exceed 2%.

6 (b) ~~Upon receipt of the rates determined and certified under subsection~~
 7 ~~(a), the secretary of revenue shall apply daily the combined rate to that portion~~
 8 ~~of the moneys withheld from the wages of individuals and collected under the~~
 9 ~~Kansas withholding and declaration of estimated tax act K.S.A. 79-3294 et~~
 10 ~~seq., and amendments thereto. The amount so determined shall be credited as~~
 11 ~~follows: (1) The portion attributable to the debt service rate shall be credited to~~
 12 ~~the IMPACT program repayment fund, and (2) the remaining portion shall be~~
 13 ~~credited to the IMPACT program services fund.~~

14 ~~The aggregate of all amounts credited to the IMPACT program repayment~~
 15 ~~fund under this section during any fiscal year to pay bond repayment~~
 16 ~~obligations on bonds to finance major project investments shall not exceed the~~
 17 ~~amount which results when the rate of 2% is applied to all money withheld~~
 18 ~~from the wages of individuals and received under the Kansas withholding and~~
 19 ~~declaration of estimated tax act. (a) Commencing July 1, 2011, the secretary of~~
 20 ~~revenue shall apply a rate of 2% to that portion of moneys withheld from the~~
 21 ~~wages of individuals and collected under the Kansas withholding and~~
 22 ~~declaration of estimated tax act, K.S.A. 79-3294 et seq., and amendments~~
 23 ~~thereto. The amount so determined shall be credited as follows: (1) An amount~~
 24 ~~necessary to meet obligations of the debt services for the IMPACT program~~
 25 ~~repayment fund; and (2) an amount to the IMPACT program services fund as~~
 26 ~~needed for program administration; and (3) any remaining amounts to the job~~
 27 ~~creation program fund created pursuant to section 1, and amendments thereto.~~

28 (b) *Commencing July 1, 2012, and on an annual basis thereafter, the*
 29 *secretary of revenue shall estimate the amount equal to the amount of net*
 30 *savings realized from the elimination, modification or limitation of any credit,*
 31 *deduction or program pursuant to the provisions of this act as compared to the*
 32 *expense deduction provided for in section 2, and amendments thereto.*
 33 *Whereupon such amount of savings in accordance with appropriation acts*
 34 *shall be remitted to the state treasurer in accordance with the provisions of*
 35 *K.S.A. 75-4215, and amendments thereto. Upon receipt of each such*
 36 *remittance, the state treasurer shall deposit the entire amount to the credit of*
 37 *the job creation program fund created pursuant to section 1, and amendments*
 38 *thereto. In addition, such other amount or amounts of money may be*
 39 *transferred from the state general fund or any other fund or funds in the state*
 40 *treasury to the job creation program fund in accordance with appropriation*
 41 *acts.*

42 Sec. 7[8]. K.S.A. 2010 Supp. 74-50,109 is hereby amended to read as
 43 follows: 74-50,109. (a) There is hereby created in the state treasury the

1 IMPACT program repayment fund. The secretary of commerce shall
2 administer the IMPACT program repayment fund. Except as provided in
3 subsection (c), all moneys credited to the IMPACT program repayment fund
4 shall be to make payments to the Kansas development finance authority for
5 payment of costs relating to the retirement of bonds issued to finance projects
6 approved by the secretary of commerce under this act, including but not
7 limited to the principal of and interest on such bonds and the expenses of
8 issuance. All expenditures from the IMPACT program repayment fund shall be
9 made in accordance with appropriations acts upon warrants of the director of
10 accounts and reports issued pursuant to vouchers approved by the secretary of
11 commerce or the secretary's designee.

12 (b) Upon request of the secretary of commerce, the director of accounts
13 and reports shall establish one or more reserve accounts in the IMPACT
14 program repayment fund to secure one or more issues of bonds issued by the
15 Kansas development finance authority for the purposes of this act.

16 (c) On June 30 of each year, any unencumbered balance in the IMPACT
17 program repayment fund which is not required for payment of such expenses
18 during the ensuing fiscal year, including any such expenses associated with
19 proposed ~~investments~~ *investment* agreements and bond issues under
20 consideration for such fiscal year, and which is not credited to any reserve
21 account in the fund, as certified by the secretary of commerce to the director of
22 accounts and reports, shall be transferred by the director of accounts and
23 reports from the IMPACT program repayment fund to the IMPACT program
24 services fund *or the job creation program fund*.

25 Sec. 8[9]. K.S.A. 2010 Supp. 74-50,110 is hereby amended to read as
26 follows: 74-50,110. *Except as otherwise provided*, the activities of the
27 secretary of commerce in administering and performing the powers, duties and
28 functions prescribed by the provisions of this act and providing moneys for
29 IMPACT programs from the proceeds of bonds issued by the Kansas
30 development finance authority are hereby approved for the purposes of
31 subsection (b) of K.S.A. 74-8905 and amendments thereto and the
32 authorization of the issuance of such bonds by the Kansas development
33 finance authority in accordance with that statute. The provisions of subsection
34 (a) of K.S.A. 74-8905 and amendments thereto shall not prohibit the issuance
35 of bonds for such purposes when so authorized and any such issuance of bonds
36 is exempt from the provisions of subsection (a) of K.S.A. 74-8905 and
37 amendments thereto. *No bonds shall be issued for IMPACT projects after*
38 *December 31, 2011.*

39 Sec. 9[10]. K.S.A. 2010 Supp. 74-50,111 is hereby amended to read as
40 follows: 74-50,111. The secretary of commerce shall annually report on
41 activities under the IMPACT act, pursuant to K.S.A. 74-5049, and
42 amendments thereto. Each report shall contain information regarding the
43 number and characteristics of the new jobs created or jobs retained in Kansas

1 for which SKILL projects or major project investments have been financed
2 under this act, including a report on any such new or retained jobs which do
3 not continue to exist and the circumstances and effect of any such
4 discontinuances, *and activities of the department related to administration of*
5 *the job creation program fund and the funding of projects thereunder.*

6 Sec. ~~40~~[11]. K.S.A. 2010 Supp. 74-50,210 is hereby amended to read as
7 follows: 74-50,210. (a) The provisions of K.S.A. 2010 Supp. 74-50,210
8 through ~~74-50,216~~ 74-50,219, and amendments thereto, shall be known and
9 may be cited as the promoting employment across Kansas act.

10 (b) It shall be the intent of this act to foster economic development and
11 the creation of new jobs and opportunities for the citizens of Kansas and to
12 incentivize the location of business facilities, other operations and jobs in
13 Kansas. The primary objective of this legislation is economic development for
14 Kansas.

15 Sec. ~~41~~[12]. K.S.A. 2010 Supp. 74-50,211 is hereby amended to read as
16 follows: 74-50,211. As used in this act, unless the context otherwise requires:

17 (a) "Act" means the provisions of K.S.A. 2010 Supp. 74-50,210 through
18 ~~74-50,216~~ 74-50,219, and amendments thereto.

19 (b) "County median wage" means the median wage paid to employees
20 located in the county where the qualified company intends to employ new
21 employees as reported by the department of labor in its annual report for the
22 previous year.

23 (c) "Department" means the department of commerce.

24 (d) "Expanding business" means the expansion of an existing business
25 facility, office, department or other operation located in the state of Kansas and
26 locating in Kansas the jobs directly related to such business facility, office,
27 department or other operation.

28 (e) "High-impact project" means a business development project for
29 which the qualified company shall meet the requirements of subsection (c) of
30 K.S.A. 2010 Supp. 74-50,212, and amendments thereto.

31 (f) "Metropolitan county" means the county of Douglas, Johnson,
32 Leavenworth, Sedgwick, Shawnee or Wyandotte.

33 (g) "NAICS" means the North American industry classification system.

34 (h) "NAICS code industry average wage" means the average wage paid to
35 employees of companies classified in the same NAICS code as the qualified
36 company for the region in which the qualified company intends to employ new
37 employees as reported by the department of labor in its annual report for the
38 previous year.

39 (i) "New business" means a facility, plant, division, office, department,
40 production line, production shift or other business operations of a company
41 that was not doing business in Kansas prior to the submission of an application
42 for benefits under this act and that provides documentation of such to the
43 satisfaction of the secretary.

1 (j) "New employee" means a person newly employed by the qualified
2 company in the qualified company's business operating in Kansas during the
3 taxable year for which benefits are sought under K.S.A. 2010 Supp. 74-
4 50,212, and amendments thereto. A person shall be deemed to be so engaged if
5 such person performs duties in Kansas in connection with the operation of the
6 Kansas business on: (1) A regular, full-time basis; or (2) a part-time basis,
7 provided such person is customarily performing such duties at least 20 hours
8 per week throughout the taxable year. Employees performing functions
9 directly related to a relocating, expanding, or new business facility, office,
10 department or other operation shall be considered new employees.

11 (k) "Non-metropolitan county" means any county that is not a
12 metropolitan county.

13 (l) (1) (A) "Qualified company" means any for-profit corporation,
14 partnership or other entity making available to its full-time employees
15 adequate health insurance coverage and paying at least 50% of the premium
16 for such health insurance, which meets the requirements of K.S.A. 2010 Supp.
17 74-50,212, and amendments thereto, and submits an application for benefits
18 meeting requirements established by the secretary.

19 (B) *"Qualified company" also includes any not-for-profit corporation*
20 *which locates within the state of Kansas a regional, national or international*
21 *headquarters and which meets the requirements of subparagraph (A).*

22 (2) "Qualified company" shall not include any corporation, partnership or
23 other entity: (A) Which is identified by any of the following NAICS code
24 groups, sectors or subsectors:

25 (i) Industry group 7132 or 8131;

26 (ii) sectors 44, 45, 61, 92 or 221 (including water and sewer services); or

27 (iii) subsector 722;

28 (B) which is a bioscience company, as defined in K.S.A. 2010 Supp. 74-
29 99b33, and amendments thereto;

30 (C) which is delinquent in the payment of any nonprotested taxes or any
31 other amounts due to the federal government, the state of Kansas or any other
32 political taxing subdivision; or

33 (D) which has filed for or has publicly announced its intention to file for
34 bankruptcy protection.

35 (3) Notwithstanding any provision of this subsection, except for
36 paragraphs (2)(B), (C) and (D), a company may be deemed a qualified
37 company if such company's headquarters or administrative offices located in
38 this state serve an international or multi-state territory and such company
39 meets the requirements of K.S.A. 2010 Supp. 74-50,212, and amendments
40 thereto.

41 (m) *"Retained job" means an existing job which will be lost without*
42 *participation by the employer under the provisions of the promoting*
43 *employment across Kansas act.*

1 (n) "Secretary" means the secretary of the department of commerce.

2 (o) "Small business" means a qualified company located in Kansas that
3 has fewer than 100 employees.

4 Sec. ~~12~~**[13]**. K.S.A. 2010 Supp. 74-50,212 is hereby amended to read as
5 follows: 74-50,212. (a) In order to qualify for benefits under this act a
6 qualified company shall:

7 (1) Relocate to Kansas an existing business facility, office, department or
8 other operation doing business outside the state of Kansas and locate the jobs
9 directly related to such relocated business facility, office, department or other
10 operation in Kansas; or

11 (2) locate a new business facility, office, department or other operation in
12 Kansas and locate the jobs directly related to such business facility, office,
13 department or other operation in Kansas; or

14 (3) expand ~~a~~ *an existing* business facility, office, department or other
15 operation located in the state of Kansas and locate the jobs directly related to
16 such business facility, office, department or other operation in Kansas, ~~except~~
17 ~~that no payroll withholding taxes shall be retained prior to January 1, 2012.~~

18 A qualified company may *utilize or* contract with ~~an unrelated~~ a third-party
19 *employer* to perform services whereby the third-party *employer* serves as the
20 legal employer of the new employees providing services to the qualified
21 company and such services are performed in Kansas and the third-party
22 *employer* and the new employees are subject to *the* Kansas ~~state~~ withholding
23 *and declaration of estimated tax act.*

24 (b) Any qualified company, approved by the secretary for benefits
25 pursuant to paragraph (a), that locates its business operation in a metropolitan
26 county and will hire at least 10 new employees within two years from the date
27 the qualified company enters into an agreement with the secretary pursuant to
28 K.S.A. 2010 Supp. 74-50,213, and amendments thereto, or any qualified
29 company, approved by the secretary for benefits pursuant to paragraph (a), that
30 locates its business operation in a non-metropolitan county and will hire at
31 least five new employees within two years from the date the qualified
32 company enters into an agreement with the secretary pursuant to K.S.A. 2010
33 Supp. 74-50,213, and amendments thereto, shall: (1) Be eligible to retain 95%
34 of the qualified company's Kansas payroll withholding taxes for ~~such~~ *all* new
35 employees ~~being paid the county median wage or higher~~ for a period of up to:

36 (A) Five years if the median *or average* wage paid to the new employees
37 is equal to at least 100% of the county median wage;

38 (B) six years if the median *or average* wage paid to the new employees is
39 equal to at least 110% of the county median wage;

40 (C) seven years if the median *or average* wage paid to the new
41 employees is equal to at least 120% of the county median wage; or

42 (2) be eligible to retain 95% of the qualified company's Kansas payroll
43 withholding taxes for ~~such~~ *all* new employees ~~being paid the county median~~

1 ~~wage or higher~~ for a period of up to five years if the median *or average* wage
 2 paid to the new employees is equal to at least 100% of the NAICS code
 3 industry average wage.

4 (c) Any qualified company, approved by the secretary for benefits
 5 pursuant to paragraph (a), that engages in a high-impact project whereby the
 6 qualified company will hire at least 100 new employees within two years from
 7 the date the qualified company enters into an agreement with the secretary
 8 pursuant to K.S.A. 2010 Supp. 74-50,213, and amendments thereto, shall be
 9 eligible to retain 95% of the qualified company's Kansas payroll withholding
 10 taxes for ~~such all new employees being paid the county median wage or higher~~
 11 for a period of up to:

12 (1) Seven years if the median *or average* wage paid to the new
 13 employees is equal to at least 100% of the county median wage;

14 (2) eight years if the median *or average* wage paid to the new employees
 15 is equal to at least 110% of the county median wage;

16 (3) nine years if the median *or average* wage paid to the new employees
 17 is equal to at least 120% of the county median wage; or

18 (4) ten years if the median *or average* wage paid to the new employees is
 19 equal to at least 140% of the county median wage.

20 (d) In the event that a qualified company contracts with a third party as
 21 described in subsection (a), the third party shall remit payments equal to the
 22 amount of Kansas payroll withholding taxes the qualified company is eligible
 23 to retain under this section to the qualified company, and report such amount
 24 to the department of revenue as required pursuant to subsection (a) of K.S.A.
 25 2010 Supp. 74-50,214, and amendments thereto.

26 (e) *Effective January 1, 2012, any company, which meets the criteria*
 27 *provided pursuant to the provisions of K.S.A. 74-50,211, and amendments*
 28 *thereto, that retains the employees of an existing business unit located in*
 29 *Kansas and enters into an agreement with the secretary pursuant to K.S.A.*
 30 *2010 Supp. 74-50,213, and amendments thereto, shall be eligible to retain*
 31 *95% of the qualified company's Kansas payroll withholding taxes for such*
 32 *employees for a period of up to five years.*

33 (f) (1) *Effective January 1, 2012, pursuant to the provisions of subsection*
 34 *(e), the secretary of commerce, in the secretary's sole determination, may*
 35 *provide the benefits of the promoting employment across Kansas act for*
 36 *situations where it is deemed necessary by the secretary that the state of*
 37 *Kansas provide incentives for a company or its operations currently located in*
 38 *Kansas to remain in Kansas so as to keep its retained jobs. The secretary shall*
 39 *establish and verify that a prospective company has competitive alternatives*
 40 *that it is seriously considering and that a company's relocation may be*
 41 *imminent. Furthermore, the secretary shall assess:*

42 (A) *Whether the retention of the company or its operations is important*
 43 *to the economic vitality of the state;*

1 (B) *the area where such company or operations is located; or*

2 (C) *whether the retention of the company or its operations is important to*
3 *a particular industry in the state due to any number of factors including, but*
4 *not limited to, the quantity, quality or wages of the retained jobs involved.*

5 (2) *Effective January 1, 2012, the secretary may use the promoting*
6 *employment across Kansas act in conjunction with other economic*
7 *development programs to develop a retention package.*

8 (g) *A small business, which meets the criteria provided pursuant to the*
9 *provisions of K.S.A. 74-50,211, and amendments thereto, and which is*
10 *approved by the secretary for benefits shall be eligible to retain 95% of the*
11 *Kansas small business' payroll withholding taxes for a period up to five years*
12 *for each additional employee, if that employee represents an increase in the*
13 *Kansas small business' statewide employment over its highest level of*
14 *employment for the previous ten-year period. Any reduction in employment by*
15 *a Kansas small business utilizing the benefit under this subsection shall result*
16 *in a corresponding reduction of such benefit allowed.*

17 (h) *The provisions of this act as in effect prior to the effective date of this*
18 *act shall apply to employers who have entered into agreements with the*
19 *secretary prior to July 1, 2011. The provisions of this act shall apply to*
20 *employers who enter into agreements with the secretary on and after July 1,*
21 *2011.*

22 Sec. ~~14~~**[14]**. K.S.A. 2010 Supp. 74-50,213 is hereby amended to read as
23 follows: 74-50,213. (a) Any qualified company meeting the requirements of
24 K.S.A. 2010 Supp. 74-50,212, and amendments thereto, may apply to the
25 secretary for benefits under this act. The application shall be submitted on a
26 form and in a manner prescribed by the secretary, and shall include: (1)
27 Evidence that the applicant is a qualified company; and (2) evidence that the
28 applicant meets the requirements of K.S.A. 2010 Supp. 74-50,212, and
29 amendments thereto.

30 (b) The secretary may either approve or disapprove the application. Any
31 qualified company whose application is approved shall be eligible to receive
32 benefits under this act as of the date such qualified company enters into an
33 agreement with the secretary in accordance with this section.

34 (c) Upon approval of an application for benefits under this act, the
35 secretary may enter into an agreement with the qualified company for benefits
36 under this act. If necessary, the secretary may also enter into an agreement
37 with any third party described in subsection (a) of K.S.A. 2010 Supp. 74-
38 50,212, and amendments thereto, or such third party may be a party to the
39 agreement between the qualified company and the secretary. The agreement
40 shall commit the secretary to certify to the secretary of revenue: (1) That the
41 qualified company is eligible to receive benefits under this act; (2) the number
42 of new employees hired by the qualified company; and (3) the amount of gross
43 wages being paid to each new employee.

1 (d) The agreement between the qualified company and the secretary shall
 2 be entered into before any benefits may be provided under this act, and shall
 3 specify that should the qualified company fail to comply with the terms and
 4 conditions set forth in the agreement, or fails to comply with the provisions set
 5 forth in this act, the secretary may terminate the agreement, and the qualified
 6 company shall not be entitled to any further benefits provided under this act
 7 and shall be required to remit to the state an amount equal to the aggregate
 8 Kansas payroll withholding taxes retained by the qualified company, or
 9 remitted to the qualified company by a third party, pursuant to this act as of the
 10 date the agreement is terminated.

11 (e) A qualified company that is already receiving benefits pursuant to this
 12 act may apply to the secretary for additional benefits if the qualified company
 13 meets the requirements of K.S.A. 2010 Supp. 74-50,212, and amendments
 14 thereto.

15 (f) A qualified company seeking benefits shall be allowed to participate in
 16 the IMPACT program pursuant to K.S.A. 74-50,102 et seq., and amendments
 17 thereto, but shall not be allowed to participate in any other program in which
 18 any portion of such qualified company's Kansas payroll withholding taxes
 19 have been pledged to finance indebtedness or transferred to or for the benefit
 20 of such company. A qualified company shall not be allowed to claim any
 21 credits under K.S.A. 79-32,153, 79-32,160a or 79-32,182b, and amendments
 22 thereto, if such credits would otherwise be earned for the hiring of new
 23 employees and the qualified company has retained any Kansas payroll
 24 withholding taxes from wages of such employees. A qualified company shall
 25 not be eligible to receive benefits under K.S.A. 2010 Supp. 74-50,212, and
 26 amendments thereto, and under K.S.A. 74-50,102 et seq., and amendments
 27 thereto, for the same new employees.

28 ~~(g) Under no circumstances shall the total amount of benefits authorized~~
 29 ~~or granted to the aggregate of all expanding businesses, as such term is defined~~
 30 ~~in K.S.A. 2010 Supp. 74-50,211, and amendments thereto, under this act~~
 31 ~~exceed \$4,800,000 in any fiscal year commencing on or after July 1, 2011.~~

32 ~~(h)~~ (g) The secretary shall adopt rules and regulations necessary to
 33 implement and administer the provisions of this act.

34 New Sec. ~~44~~**15**. (a) For taxable years commencing after December 31,
 35 2010, there shall be allowed as a credit against the tax liability of a resident
 36 individual taxpayer an amount equal to the resident individual's income tax
 37 liability under the provisions of the Kansas income tax act for Kansas source
 38 income received from a qualified company that is business income attributable
 39 to business activities conducted at the business facility, office, department or
 40 other operation relocated to Kansas when the taxpayer owns such qualified
 41 company and materially participates in such business activities conducted at
 42 such relocated business facility, office, department or other operation of such
 43 qualified company which qualified for benefits under the provisions of

1 subsection (a)(1) of K.S.A. 74-50,212, and amendments thereto. A taxpayer
2 shall be treated as materially participating in such qualified company's
3 business activities conducted at such business facility, office department or
4 other operation relocated to Kansas only if the taxpayer is involved in such
5 business activities of such qualified company on a basis which is regular,
6 continuous and substantial. A taxpayer may claim the credit authorized by this
7 section during any tax year in which the qualified company owned by the
8 taxpayer qualifies for benefits under provisions of K.S.A. 74-50,212, and
9 amendments thereto.

10 (b) Business income attributable to the business activities conducted at
11 the business facility, office, department or other operation relocated to Kansas
12 of a qualified company which qualified for benefits under the provisions of
13 subsection (a)(1) of K.S.A. 74-50,212, and amendments thereto, shall be
14 determined by multiplying the business income of the company apportioned to
15 this state by a fraction, the numerator of which is the property factor plus the
16 payroll factor plus the sales factor, and the denominator of which is three. For
17 purposes of this subsection, the property factor is a fraction, the numerator of
18 which is the average value of the company's real and tangible personal
19 property owned or rented and used during the tax period at such relocated
20 facility, office, department or other relocated operation in Kansas, and the
21 denominator of which is the average value of the company's real and tangible
22 personal property owned or rented and used within this state during the tax
23 period. The payroll factor is a fraction, the numerator of which is the total
24 amount paid during the tax period by the company for compensation at such
25 relocated facility, office, department or other relocated operation in Kansas,
26 and the denominator of which is the total compensation paid by the company
27 in this state during the tax period. The sales factor is a fraction, the numerator
28 of which is the total sales of the relocated facility, office, department or other
29 relocated operation in this state during the tax period, and the denominator of
30 which is the total sales of the company in this state during the tax period.

31 (c) The secretary of revenue shall adopt rules and regulations regarding
32 the filing of documents that support the qualifications of the taxpayer for the
33 credit claimed pursuant to this section.

34 Sec. ~~16~~**[16]**. K.S.A. 2010 Supp. 79-32,160a is hereby amended to read as
35 follows: 79-32,160a. (a) For taxable years commencing after December 31,
36 1999, *and before January 1, 2012*, any taxpayer who shall invest in a qualified
37 business facility, as defined in subsection (b) of K.S.A. 79-32,154, and
38 amendments thereto, and effective for tax years commencing after December
39 31, 2010, *and before January 1, 2012*, located in an area other than a
40 metropolitan county as defined in either K.S.A. 2010 Supp. 74-50,114 or 74-
41 50,211, and amendments thereto, and also meets the definition of a business in
42 subsection (b) of K.S.A. 74-50,114, and amendments thereto, shall be allowed
43 a credit for such investment, in an amount determined under subsection (b) or

1 (c), as the case requires, against the tax imposed by the Kansas income tax act
2 or where the qualified business facility is the principal place from which the
3 trade or business of the taxpayer is directed or managed and the facility has
4 facilitated the creation of at least 20 new full-time positions, against the
5 premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and
6 amendments thereto, or as measured by the net income of financial institutions
7 imposed pursuant to chapter 79, article 11 of the Kansas Statutes Annotated,
8 *and amendments thereto*, for the taxable year during which commencement of
9 commercial operations, as defined in subsection (f) of K.S.A. 79-32,154, and
10 amendments thereto, occurs at such qualified business facility. In the case of a
11 taxpayer who meets the definition of a manufacturing business in subsection
12 (d) of K.S.A. 74-50,114, and amendments thereto, no credit shall be allowed
13 under this section unless the number of qualified business facility employees,
14 as determined under subsection (d) of K.S.A. 79-32,154, and amendments
15 thereto, engaged or maintained in employment at the qualified business facility
16 as a direct result of the investment by the taxpayer for the taxable year for
17 which the credit is claimed equals or exceeds two. In the case of a taxpayer
18 who meets the definition of a nonmanufacturing business in subsection (f) of
19 K.S.A. 74-50,114, and amendments thereto, no credit shall be allowed under
20 this section unless the number of qualified business facility employees, as
21 determined under subsection (d) of K.S.A. 79-32,154, and amendments
22 thereto, engaged or maintained in employment at the qualified business facility
23 as a direct result of the investment by the taxpayer for the taxable year for
24 which the credit is claimed equals or exceeds five. Where an employee
25 performs services for the taxpayer outside the qualified business facility, the
26 employee shall be considered engaged or maintained in employment at the
27 qualified business facility if (1) the employee's service performed outside the
28 qualified business facility is incidental to the employee's service inside the
29 qualified business facility, or (2) the base of operations or, the place from
30 which the service is directed or controlled, is at the qualified business facility.

31 (b) The credit allowed by subsection (a) for any taxpayer who invests in a
32 qualified business facility which is located in a designated nonmetropolitan
33 region established under K.S.A. 74-50,116, and amendments thereto, on or
34 after the effective date of this act, shall be a portion of the income tax imposed
35 by the Kansas income tax act on the taxpayer's Kansas taxable income, the
36 premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and
37 amendments thereto, or the privilege tax as measured by the net income of
38 financial institutions imposed pursuant to chapter 79, article 11 of the Kansas
39 Statutes Annotated, *and amendments thereto*, for the taxable year for which
40 such credit is allowed, but in the case where the qualified business facility
41 investment was made prior to January 1, 1996, not in excess of 50% of such
42 tax. Such portion shall be an amount equal to the sum of the following:

43 (1) Two thousand five hundred dollars for each qualified business facility

1 employee determined under K.S.A. 79-32,154, and amendments thereto; plus

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

5 (c) The credit allowed by subsection (a) for any taxpayer who invests in a
6 qualified business facility, which is not located in a nonmetropolitan region
7 established under K.S.A. 74-50,116, and amendments thereto, and effective for
8 tax years commencing after December 31, 2010, *and before January 1, 2012*,
9 located in an area other than a metropolitan county as defined in either K.S.A.
10 2010 Supp. 74-50,114 or 74-50,211, and amendments thereto, and which also
11 meets the definition of business in subsection (b) of K.S.A. 74-50,114, and
12 amendments thereto, on or after the effective date of this act, shall be a portion
13 of the income tax imposed by the Kansas income tax act on the taxpayer's
14 Kansas taxable income, the premium tax or privilege fees imposed pursuant to
15 K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by
16 the net income of financial institutions imposed pursuant to chapter 79, article
17 11 of the Kansas Statutes Annotated, *and amendments thereto*, for the taxable
18 year for which such credit is allowed, but in the case where the qualified
19 business facility investment was made prior to January 1, 1996, not in excess
20 of 50% of such tax. Such portion shall be an amount equal to the sum of the
21 following:

22 (1) One thousand five hundred dollars for each qualified business facility
23 employee as determined under K.S.A. 79-32,154, and amendments thereto;
24 and

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

28 (d) The credit allowed by subsection (a) for each qualified business
29 facility employee and for qualified business facility investment shall be a one-
30 time credit. If the amount of the credit allowed under subsection (a) exceeds
31 the tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable
32 income, the premium tax and privilege fees imposed pursuant to K.S.A. 40-
33 252, and amendments thereto, or the privilege tax as measured by the net
34 income of financial institutions imposed pursuant to chapter 79, article 11 of
35 the Kansas Statutes Annotated, *and amendments thereto*, for the taxable year,
36 or in the case where the qualified business facility investment was made prior
37 to January 1, 1996, 50% of such tax imposed upon the amount which exceeds
38 such tax liability or such portion thereof may be carried over for credit in the
39 same manner in the succeeding taxable years until the total amount of such
40 credit is used. Except that, before the credit is allowed, a taxpayer, who meets
41 the definition of a manufacturing business in subsection (d) of K.S.A. 74-
42 50,114, and amendments thereto, shall recertify annually that the net increase
43 of a minimum of two qualified business facility employees has continued to be

1 maintained and a taxpayer, who meets the definition of a nonmanufacturing
2 business in subsection (f) of K.S.A. 74-50,114, and amendments thereto, shall
3 recertify annually that the net increase of a minimum of five qualified business
4 employees has continued to be maintained.

5 (e) Notwithstanding the foregoing provisions of this section, *and except*
6 *as otherwise provided in this subsection*, any taxpayer qualified and certified
7 under the provisions of K.S.A. 74-50,131, and amendments thereto; which,
8 prior to making a commitment to invest in a qualified Kansas business, has
9 filed a certificate of intent to invest in a qualified business facility in a form
10 satisfactory to the secretary of commerce; and that has received written
11 approval from the secretary of commerce for participation and has
12 participated, during the tax year for which the exemption is claimed, in the
13 Kansas industrial training, Kansas industrial retraining or the state of Kansas
14 investments in lifelong learning program or is eligible for the tax credit
15 established in K.S.A. 74-50,132, and amendments thereto, shall be entitled to a
16 credit in an amount equal to 10% of that portion of the qualified business
17 facility investment which exceeds \$50,000 in lieu of the credit provided in
18 subsection (b)(2) or (c)(2) without regard to the number of qualified business
19 facility employees engaged or maintained in employment at the qualified
20 business facility. *For tax years beginning on or after January 1, 2012, for a*
21 *qualified business facility investment in Douglas, Johnson, Leavenworth,*
22 *Sedgwick, Shawnee or Wyandotte counties, such credit shall be in an amount*
23 *equal to 10% of that portion of the qualified business facility investment which*
24 *exceeds \$1,000,000. Any taxpayer who has filed a certificate of intent to invest*
25 *in a qualified business facility pursuant to this subsection in Douglas,*
26 *Johnson, ~~Leavenworth,~~ Sedgwick, Shawnee or Wyandotte county prior to*
27 *December 31, 2011, and commences investments in a qualified business*
28 *facility prior to December 31, 2013, may claim credits under K.S.A. 74-*
29 *50,131, 74-50,132 and subsection (e) of 79-32,160a, and amendments thereto,*
30 *in an amount equal to 10% of that portion of the qualified business facility*
31 *investment which exceeds \$50,000. Timing modifications may be authorized at*
32 *the discretion of the secretary of commerce and the secretary of revenue*
33 *during the transition period.* The credit allowed by this subsection shall be a
34 one-time credit. If the amount thereof exceeds the tax imposed by the Kansas
35 income tax act on the taxpayer's Kansas taxable income or the premium tax or
36 privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or
37 the privilege tax as measured by net income of financial institutions imposed
38 pursuant to chapter 79, article 11 of the Kansas Statutes Annotated, *and*
39 *amendments thereto*, for the taxable year, the amount thereof which exceeds
40 such tax liability may be carried forward for credit in the succeeding taxable
41 year or years until the total amount of the tax credit is used, except that no
42 such tax credit shall be carried forward for deduction after the 10th taxable
43 year succeeding the taxable year in which such credit initially was claimed and

1 no carry forward shall be allowed for deduction in any succeeding taxable year
2 unless the taxpayer continued to be qualified and was recertified for such
3 succeeding taxable year pursuant to K.S.A. 74-50,131, and amendments
4 thereto.

5 (f) For tax years commencing after December 31, 2005, any taxpayer
6 claiming credits pursuant to this section, as a condition for claiming and
7 qualifying for such credits, shall provide information pursuant to K.S.A. 2010
8 Supp. 79-32,243, and amendments thereto, as part of the tax return in which
9 such credits are claimed. Such credits shall not be denied solely on the basis of
10 the contents of the information provided by the taxpayer pursuant to K.S.A.
11 2010 Supp. 79-32,243, and amendments thereto.

12 (g) This section and K.S.A. 79-32,160b, and amendments thereto, shall
13 be part of and supplemental to the job expansion and investment credit act of
14 1976 and ~~acts amendatory thereof and supplemental~~ *amendments* thereto.

15 Sec. ~~16~~¹⁷. K.S.A. 2010 Supp. 79-32,206 is hereby amended to read as
16 follows: 79-32,206. For all taxable years commencing after December 31,
17 2001, *and before January 1, 2012*, there shall be allowed as a credit against the
18 tax liability of a taxpayer imposed under the Kansas income tax act, the
19 premiums tax upon insurance companies imposed pursuant to K.S.A. 40-252,
20 and amendments thereto, and the privilege tax as measured by net income of
21 financial institutions imposed pursuant to article 11 of chapter 79 of the
22 Kansas Statutes Annotated, *and amendments thereto*, an amount equal to 15%
23 of the property tax levied for property tax years 2002, 2003 and 2004, 20% of
24 the property tax levied for property tax years 2005 and 2006, and 25% of the
25 property tax levied for property tax year 2007, and all such years thereafter,
26 actually and timely paid during an income or privilege taxable year upon
27 commercial and industrial machinery and equipment classified for property
28 taxation purposes pursuant to section 1 of article 11 of the Kansas constitution
29 in subclass (5) or (6) of class 2, machinery and equipment classified for such
30 purposes in subclass (2) of class 2. For all taxable years commencing after
31 December 31, 2004, *and before January 1, 2012*, there shall be allowed as a
32 credit against the tax liability of a taxpayer imposed under the Kansas income
33 tax act an amount equal to 20% of the property tax levied for property tax
34 years 2005 and 2006, and 25% of the property tax levied for property tax year
35 2007 and all such years thereafter, actually and timely paid during an income
36 taxable year upon railroad machinery and equipment classified for property tax
37 purposes pursuant to section 1 of article 11 of the Kansas constitution in
38 subclass (3) of class 2. If the amount of such tax credit exceeds the taxpayer's
39 income tax liability for the taxable year, the amount thereof which exceeds
40 such tax liability shall be refunded to the taxpayer. If the taxpayer is a
41 corporation having an election in effect under subchapter S of the federal
42 internal revenue code, a partnership or a limited liability company, the credit
43 provided by this section shall be claimed by the shareholders of such

1 corporation, the partners of such partnership or the members of such limited
2 liability company in the same manner as such shareholders, partners or
3 members account for their proportionate shares of the income or loss of the
4 corporation, partnership or limited liability company. The secretary of revenue
5 shall adopt rules and regulations regarding the filing of documents that support
6 the amount of credit claimed pursuant to this section.

7 Sec. 17[18]. K.S.A. 2010 Supp. 79-3606 is hereby amended to read as
8 follows: 79-3606. The following shall be exempt from the tax imposed by this
9 act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 (m) all sales of tangible personal property which become an ingredient or
42 component part of tangible personal property or services produced,
43 manufactured or compounded for ultimate sale at retail within or without the

1 state of Kansas; and any such producer, manufacturer or compounder may
2 obtain from the director of taxation and furnish to the supplier an exemption
3 certificate number for tangible personal property for use as an ingredient or
4 component part of the property or services produced, manufactured or
5 compounded;

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

16 (o) all sales of animals, fowl and aquatic plants and animals, the primary
17 purpose of which is use in agriculture or aquaculture, as defined in K.S.A. 47-
18 1901, and amendments thereto, the production of food for human
19 consumption, the production of animal, dairy, poultry or aquatic plant and
20 animal products, fiber or fur, or the production of offspring for use for any
21 such purpose or purposes;

22 (p) all sales of drugs dispensed pursuant to a prescription order by a
23 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-1626,
24 and amendments thereto. As used in this subsection, "drug" means a
25 compound, substance or preparation and any component of a compound,
26 substance or preparation, other than food and food ingredients, dietary
27 supplements or alcoholic beverages, recognized in the official United States
28 pharmacopoeia, official homeopathic pharmacopoeia of the United States or
29 official national formulary, and supplement to any of them, intended for use in
30 the diagnosis, cure, mitigation, treatment or prevention of disease or intended
31 to affect the structure or any function of the body;

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

35 (r) all sales of oxygen delivery equipment, kidney dialysis equipment,
36 enteral feeding systems, prosthetic devices and mobility enhancing equipment
37 prescribed in writing by a person licensed to practice the healing arts, dentistry
38 or optometry, and in addition to such sales, all sales of hearing aids, as defined
39 by subsection (c) of K.S.A. 74-5807, and amendments thereto, and repair and
40 replacement parts therefor, including batteries, by a person licensed in the
41 practice of dispensing and fitting hearing aids pursuant to the provisions of
42 K.S.A. 74-5808, and amendments thereto. For the purposes of this subsection:

43 (1) "Mobility enhancing equipment" means equipment including repair and

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

11 (s) except as provided in K.S.A. 2010 Supp. 82a-2101, and amendments
12 thereto, all sales of tangible personal property or services purchased directly or
13 indirectly by a groundwater management district organized or operating under
14 the authority of K.S.A. 82a-1020 et seq. and amendments thereto, by a rural
15 water district organized or operating under the authority of K.S.A. 82a-612,
16 and amendments thereto, or by a water supply district organized or operating
17 under the authority of K.S.A. 19-3501 et seq., 19-3522 et seq. or 19-3545, and
18 amendments thereto, which property or services are used in the construction
19 activities, operation or maintenance of the district;

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

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

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

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

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

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

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

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

43 (bb) all sales of used mobile homes or manufactured homes. As used in

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

5 (cc) all sales of tangible personal property or services purchased *prior to*
6 *January 1, 2012, except as otherwise provided*, for the purpose of and in
7 conjunction with constructing, reconstructing, enlarging or remodeling a
8 business or retail business which meets the requirements established in K.S.A.
9 74-50,115 and amendments thereto, and the sale and installation of machinery
10 and equipment purchased for installation at any such business or retail
11 business, *and all sales of tangible personal property or services purchased on*
12 *or after January 1, 2012, for the purpose of and in conjunction with*
13 *constructing, reconstructing, enlarging or remodeling a business which meets*
14 *the requirements established in K.S.A. 74-50,115(e), and amendments thereto,*
15 *and the sale and installation of machinery and equipment purchased for*
16 *installation at any such business.* When a person shall contract for the
17 construction, reconstruction, enlargement or remodeling of any such business
18 or retail business, such person shall obtain from the state and furnish to the
19 contractor an exemption certificate for the project involved, and the contractor
20 may purchase materials, machinery and equipment for incorporation in such
21 project. The contractor shall furnish the number of such certificates to all
22 suppliers from whom such purchases are made, and such suppliers shall
23 execute invoices covering the same bearing the number of such certificate.
24 Upon completion of the project the contractor shall furnish to the owner of the
25 business or retail business a sworn statement, on a form to be provided by the
26 director of taxation, that all purchases so made were entitled to exemption
27 under this subsection. All invoices shall be held by the contractor for a period
28 of five years and shall be subject to audit by the director of taxation. Any
29 contractor or any agent, employee or subcontractor thereof, who shall use or
30 otherwise dispose of any materials, machinery or equipment purchased under
31 such a certificate for any purpose other than that for which such a certificate is
32 issued without the payment of the sales or compensating tax otherwise
33 imposed thereon, shall be guilty of a misdemeanor and, upon conviction
34 therefor, shall be subject to the penalties provided for in subsection (g) of
35 K.S.A. 79-3615 and amendments thereto. As used in this subsection,
36 "business" and "retail business" have the meanings respectively ascribed
37 thereto by K.S.A. 74-50,114 and amendments thereto. *Project exemption*
38 *certificates that have been previously issued under this subsection by the*
39 *department of revenue pursuant to K.S.A. 74-50,115, and amendments thereto,*
40 *but not including K.S.A. 74-50,115(c), and amendments thereto, prior to*
41 *January 1, 2012, and have not expired will be effective for the term of the*
42 *project or two years from the effective date of the certificate, whichever occurs*
43 *earlier. Project exemption certificates that are submitted to the department of*

1 *revenue prior to January 1, 2012, and are found to qualify will be issued a*
2 *project exemption certificate that will be effective for a two-year period or for*
3 *the term of the project, whichever occurs earlier;*

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

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

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

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

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

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

35 (jj) all sales of tangible personal property or services, including the
36 renting and leasing of tangible personal property, purchased directly on behalf
37 of a community-based mental retardation facility or mental health center
38 organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto, and
39 licensed in accordance with the provisions of K.S.A. 75-3307b and
40 amendments thereto and all sales of tangible personal property or services
41 purchased by contractors during the time period from July, 2003, through June,
42 2006, for the purpose of constructing, equipping, maintaining or furnishing a
43 new facility for a community-based mental retardation facility or mental health

1 center located in Riverton, Cherokee County, Kansas, which would have been
2 eligible for sales tax exemption pursuant to this subsection if purchased
3 directly by such facility or center. This exemption shall not apply to tangible
4 personal property customarily used for human habitation purposes;

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

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

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

12 (2) For purposes of this subsection:

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

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

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

35 (D) "manufacturing or processing business" means a business that utilizes
36 an integrated production operation to manufacture, process, fabricate, finish,
37 or assemble items for wholesale and retail distribution as part of what is
38 commonly regarded by the general public as an industrial manufacturing or
39 processing operation or an agricultural commodity processing operation. (i)
40 Industrial manufacturing or processing operations include, by way of
41 illustration but not of limitation, the fabrication of automobiles, airplanes,
42 machinery or transportation equipment, the fabrication of metal, plastic, wood,
43 or paper products, electricity power generation, water treatment, petroleum

1 refining, chemical production, wholesale bottling, newspaper printing, ready
2 mixed concrete production, and the remanufacturing of used parts for
3 wholesale or retail sale. Such processing operations shall include operations at
4 an oil well, gas well, mine or other excavation site where the oil, gas, minerals,
5 coal, clay, stone, sand or gravel that has been extracted from the earth is
6 cleaned, separated, crushed, ground, milled, screened, washed, or otherwise
7 treated or prepared before its transmission to a refinery or before any other
8 wholesale or retail distribution. (ii) Agricultural commodity processing
9 operations include, by way of illustration but not of limitation, meat packing,
10 poultry slaughtering and dressing, processing and packaging farm and dairy
11 products in sealed containers for wholesale and retail distribution, feed
12 grinding, grain milling, frozen food processing, and grain handling, cleaning,
13 blending, fumigation, drying and aeration operations engaged in by grain
14 elevators or other grain storage facilities. (iii) Manufacturing or processing
15 businesses do not include, by way of illustration but not of limitation,
16 nonindustrial businesses whose operations are primarily retail and that produce
17 or process tangible personal property as an incidental part of conducting the
18 retail business, such as retailers who bake, cook or prepare food products in
19 the regular course of their retail trade, grocery stores, meat lockers and meat
20 markets that butcher or dress livestock or poultry in the regular course of their
21 retail trade, contractors who alter, service, repair or improve real property, and
22 retail businesses that clean, service or refurbish and repair tangible personal
23 property for its owner;

24 (E) "repair and replacement parts and accessories" means all parts and
25 accessories for exempt machinery and equipment, including, but not limited to,
26 dies, jigs, molds, patterns and safety devices that are attached to exempt
27 machinery or that are otherwise used in production, and parts and accessories
28 that require periodic replacement such as belts, drill bits, grinding wheels,
29 grinding balls, cutting bars, saws, refractory brick and other refractory items
30 for exempt kiln equipment used in production operations;

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

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

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

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

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

43 (D) to guide, control or direct the movement of property undergoing

1 manufacturing or processing;

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

5 (F) to plan, manage, control or record the receipt and flow of inventories
6 of raw materials, consumables and component parts, the flow of the property
7 undergoing manufacturing or processing and the management of inventories of
8 the finished product;

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

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

14 (I) to transmit or transport electricity, coke, gas, water, steam or similar
15 substances used in production operations from the point of generation, if
16 produced by the manufacturer or processor at the plant site, to that
17 manufacturer's production operation; or, if purchased or delivered from offsite,
18 from the point where the substance enters the site of the plant or facility to that
19 manufacturer's production operations;

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

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

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

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

30 (4) The following machinery, equipment and materials shall be deemed to
31 be exempt even though it may not otherwise qualify as machinery and
32 equipment used as an integral or essential part of an integrated production
33 operation: (A) Computers and related peripheral equipment that are utilized by
34 a manufacturing or processing business for engineering of the finished product
35 or for research and development or product design; (B) machinery and
36 equipment that is utilized by a manufacturing or processing business to
37 manufacture or rebuild tangible personal property that is used in
38 manufacturing or processing operations, including tools, dies, molds, forms
39 and other parts of qualifying machinery and equipment; (C) portable plants for
40 aggregate concrete, bulk cement and asphalt including cement mixing drums
41 to be attached to a motor vehicle; (D) industrial fixtures, devices, support
42 facilities and special foundations necessary for manufacturing and production
43 operations, and materials and other tangible personal property sold for the

1 purpose of fabricating such fixtures, devices, facilities and foundations. An
2 exemption certificate for such purchases shall be signed by the manufacturer
3 or processor. If the fabricator purchases such material, the fabricator shall also
4 sign the exemption certificate; and (E) a manufacturing or processing business'
5 laboratory equipment that is not located at the plant or facility, but that would
6 otherwise qualify for exemption under subsection (3)(E).

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

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

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

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

20 (D) office machines and equipment including computers and related
21 peripheral equipment not used directly and primarily to control or measure the
22 manufacturing process;

23 (E) furniture and other furnishings;

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

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

30 (H) machinery and equipment used for general plant heating, cooling and
31 lighting;

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

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

36 (6) Subsections (3) and (5) shall not be construed as exclusive listings of
37 the machinery and equipment that qualify or do not qualify as an integral or
38 essential part of an integrated production operation. When machinery or
39 equipment is used as an integral or essential part of production operations part
40 of the time and for nonproduction purpose at other times, the primary use of
41 the machinery or equipment shall determine whether or not such machinery or
42 equipment qualifies for exemption.

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

1 to administer the provisions of this subsection;

2 (ll) all sales of educational materials purchased for distribution to the
3 public at no charge by a nonprofit corporation organized for the purpose of
4 encouraging, fostering and conducting programs for the improvement of
5 public health;

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

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

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

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

18 (qq) all sales of tangible personal property and services purchased by a
19 nonprofit museum or historical society or any combination thereof, including a
20 nonprofit organization which is organized for the purpose of stimulating public
21 interest in the exploration of space by providing educational information,
22 exhibits and experiences, which is exempt from federal income taxation
23 pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

24 (rr) all sales of tangible personal property which will admit the purchaser
25 thereof to any annual event sponsored by a nonprofit organization which is
26 exempt from federal income taxation pursuant to section 501(c)(3) of the
27 federal internal revenue code of 1986;

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

31 (tt) all sales of tangible personal property and services purchased by or on
32 behalf of a not-for-profit corporation which is exempt from federal income
33 taxation pursuant to section 501(c)(3) of the federal internal revenue code of
34 1986, for the sole purpose of constructing a Kansas Korean War memorial;

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

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

43 (1) The American Heart Association, Kansas Affiliate, Inc. for the

1 purposes of providing education, training, certification in emergency cardiac
2 care, research and other related services to reduce disability and death from
3 cardiovascular diseases and stroke;

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

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

10 (4) the American Diabetes Association Kansas Affiliate, Inc. for the
11 purpose of eliminating diabetes through medical research, public education
12 focusing on disease prevention and education, patient education including
13 information on coping with diabetes, and professional education and training;

14 (5) the American Lung Association of Kansas, Inc. for the purpose of
15 eliminating all lung diseases through medical research, public education
16 including information on coping with lung diseases, professional education
17 and training related to lung disease and other related services to reduce the
18 incidence of disability and death due to lung disease;

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

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

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

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

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

33 (11) the spina bifida association of Kansas for the purpose of providing
34 financial, educational and practical aid to families and individuals with spina
35 bifida. Such aid includes, but is not limited to, funding for medical devices,
36 counseling and medical educational opportunities;

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

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

43 (14) the Dreams Work, Inc., for the purpose of providing young adult day

1 services to individuals with developmental disabilities and assisting families in
2 avoiding institutional or nursing home care for a developmentally disabled
3 member of their family;

4 (15) the KSDS, Inc., for the purpose of promoting the independence and
5 inclusion of people with disabilities as fully participating and contributing
6 members of their communities and society through the training and providing
7 of guide and service dogs to people with disabilities, and providing disability
8 education and awareness to the general public;

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

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

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

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

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

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

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

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

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

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

38 (xx) all sales of tangible personal property and services purchased by a
39 nonprofit zoo which is exempt from federal income taxation pursuant to
40 section 501(c)(3) of the federal internal revenue code of 1986, or on behalf of
41 such zoo by an entity itself exempt from federal income taxation pursuant to
42 section 501(c)(3) of the federal internal revenue code of 1986 contracted with
43 to operate such zoo and all sales of tangible personal property or services

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

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

41 (zz) all sales of machinery and equipment purchased by over-the-air, free
42 access radio or television station which is used directly and primarily for the
43 purpose of producing a broadcast signal or is such that the failure of the

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

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

1 sales or compensating tax otherwise imposed upon such materials, shall be
2 guilty of a misdemeanor and, upon conviction therefor, shall be subject to the
3 penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments
4 thereto. Sales tax paid on and after July 1, 1998, but prior to the effective date
5 of this act upon the gross receipts received from any sale exempted by the
6 amendatory provisions of this subsection shall be refunded. Each claim for a
7 sales tax refund shall be verified and submitted to the director of taxation upon
8 forms furnished by the director and shall be accompanied by any additional
9 documentation required by the director. The director shall review each claim
10 and shall refund that amount of sales tax paid as determined under the
11 provisions of this subsection. All refunds shall be paid from the sales tax
12 refund fund upon warrants of the director of accounts and reports pursuant to
13 vouchers approved by the director or the director's designee;

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

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

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

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

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

33 (fff) all sales of material handling equipment, racking systems and other
34 related machinery and equipment that is used for the handling, movement or
35 storage of tangible personal property in a warehouse or distribution facility in
36 this state; all sales of installation, repair and maintenance services performed
37 on such machinery and equipment; and all sales of repair and replacement
38 parts for such machinery and equipment. For purposes of this subsection, a
39 warehouse or distribution facility means a single, fixed location that consists
40 of buildings or structures in a contiguous area where storage or distribution
41 operations are conducted that are separate and apart from the business' retail
42 operations, if any, and which do not otherwise qualify for exemption as
43 occurring at a manufacturing or processing plant or facility. Material handling

1 and storage equipment shall include aeration, dust control, cleaning, handling
2 and other such equipment that is used in a public grain warehouse or other
3 commercial grain storage facility, whether used for grain handling, grain
4 storage, grain refining or processing, or other grain treatment operation;

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

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

13 (iii) all sales of personal property and services purchased by an
14 organization which is exempt from federal income taxation pursuant to section
15 501(c)(3) of the federal internal revenue code of 1986, and which such
16 personal property and services are used by any such organization in the
17 collection, storage and distribution of food products to nonprofit organizations
18 which distribute such food products to persons pursuant to a food distribution
19 program on a charitable basis without fee or charge, and all sales of tangible
20 personal property or services purchased by a contractor for the purpose of
21 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
22 furnishing or remodeling facilities used for the collection and storage of such
23 food products for any such organization which is exempt from federal income
24 taxation pursuant to section 501(c)(3) of the federal internal revenue code of
25 1986, which would be exempt from taxation under the provisions of this
26 section if purchased directly by such organization. Nothing in this subsection
27 shall be deemed to exempt the purchase of any construction machinery,
28 equipment or tools used in the constructing, equipping, reconstructing,
29 maintaining, repairing, enlarging, furnishing or remodeling facilities for any
30 such organization. When any such organization shall contract for the purpose
31 of constructing, equipping, reconstructing, maintaining, repairing, enlarging,
32 furnishing or remodeling facilities, it shall obtain from the state and furnish to
33 the contractor an exemption certificate for the project involved, and the
34 contractor may purchase materials for incorporation in such project. The
35 contractor shall furnish the number of such certificate to all suppliers from
36 whom such purchases are made, and such suppliers shall execute invoices
37 covering the same bearing the number of such certificate. Upon completion of
38 the project the contractor shall furnish to such organization concerned a sworn
39 statement, on a form to be provided by the director of taxation, that all
40 purchases so made were entitled to exemption under this subsection. All
41 invoices shall be held by the contractor for a period of five years and shall be
42 subject to audit by the director of taxation. If any materials purchased under
43 such a certificate are found not to have been incorporated in such facilities or

1 not to have been returned for credit or the sales or compensating tax otherwise
2 imposed upon such materials which will not be so incorporated in such
3 facilities reported and paid by such contractor to the director of taxation not
4 later than the 20th day of the month following the close of the month in which
5 it shall be determined that such materials will not be used for the purpose for
6 which such certificate was issued, such organization concerned shall be liable
7 for tax on all materials purchased for the project, and upon payment thereof it
8 may recover the same from the contractor together with reasonable attorney
9 fees. Any contractor or any agent, employee or subcontractor thereof, who
10 shall use or otherwise dispose of any materials purchased under such a
11 certificate for any purpose other than that for which such a certificate is issued
12 without the payment of the sales or compensating tax otherwise imposed upon
13 such materials, shall be guilty of a misdemeanor and, upon conviction therefor,
14 shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-
15 3615, and amendments thereto. Sales tax paid on and after July 1, 2005, but
16 prior to the effective date of this act upon the gross receipts received from any
17 sale exempted by the amendatory provisions of this subsection shall be
18 refunded. Each claim for a sales tax refund shall be verified and submitted to
19 the director of taxation upon forms furnished by the director and shall be
20 accompanied by any additional documentation required by the director. The
21 director shall review each claim and shall refund that amount of sales tax paid
22 as determined under the provisions of this subsection. All refunds shall be paid
23 from the sales tax refund fund upon warrants of the director of accounts and
24 reports pursuant to vouchers approved by the director or the director's
25 designee;

26 (jjj) all sales of dietary supplements dispensed pursuant to a prescription
27 order by a licensed practitioner or a mid-level practitioner as defined by
28 K.S.A. 65-1626, and amendments thereto. As used in this subsection, "dietary
29 supplement" means any product, other than tobacco, intended to supplement
30 the diet that: (1) Contains one or more of the following dietary ingredients: A
31 vitamin, a mineral, an herb or other botanical, an amino acid, a dietary
32 substance for use by humans to supplement the diet by increasing the total
33 dietary intake or a concentrate, metabolite, constituent, extract or combination
34 of any such ingredient; (2) is intended for ingestion in tablet, capsule, powder,
35 softgel, gelcap or liquid form, or if not intended for ingestion, in such a form,
36 is not represented as conventional food and is not represented for use as a sole
37 item of a meal or of the diet; and (3) is required to be labeled as a dietary
38 supplement, identifiable by the supplemental facts box found on the label and
39 as required pursuant to 21 C.F.R. § 101.36;

40 (lll) all sales of tangible personal property and services purchased by
41 special olympics Kansas, inc. for the purpose of providing year-round sports
42 training and athletic competition in a variety of olympic-type sports for
43 individuals with intellectual disabilities by giving them continuing

1 opportunities to develop physical fitness, demonstrate courage, experience joy
2 and participate in a sharing of gifts, skills and friendship with their families,
3 other special olympics athletes and the community, and activities provided or
4 sponsored by such organization, and all sales of tangible personal property by
5 or on behalf of any such organization;

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

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

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

21 (ppp) all sales of tangible personal property and services purchased by or
22 on behalf of a homeless shelter which is exempt from federal income taxation
23 pursuant to section 501(c)(3) of the federal income tax code of 1986, and used
24 by any such homeless shelter to provide emergency and transitional housing
25 for individuals and families experiencing homelessness, and all sales of any
26 such property by or on behalf of any such homeless shelter for any such
27 purpose;

28 (qqq) all sales of tangible personal property and services purchased by
29 TLC for children and families, inc., hereinafter referred to as TLC, which is
30 exempt from federal income taxation pursuant to section 501(c)(3) of the
31 federal internal revenue code of 1986, and which such property and services
32 are used for the purpose of providing emergency shelter and treatment for
33 abused and neglected children as well as meeting additional critical needs for
34 children, juveniles and family, and all sales of any such property by or on
35 behalf of TLC for any such purpose; and all sales of tangible personal property
36 or services purchased by a contractor for the purpose of constructing,
37 maintaining, repairing, enlarging, furnishing or remodeling facilities for the
38 operation of services for TLC for any such purpose which would be exempt
39 from taxation under the provisions of this section if purchased directly by
40 TLC. Nothing in this subsection shall be deemed to exempt the purchase of
41 any construction machinery, equipment or tools used in the constructing,
42 maintaining, repairing, enlarging, furnishing or remodeling such facilities for
43 TLC. When TLC contracts for the purpose of constructing, maintaining,

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

28 (rrr) all sales of tangible personal property and services purchased by any
29 county law library maintained pursuant to law and sales of tangible personal
30 property and services purchased by an organization which would have been
31 exempt from taxation under the provisions of this subsection if purchased
32 directly by the county law library for the purpose of providing legal resources
33 to attorneys, judges, students and the general public, and all sales of any such
34 property by or on behalf of any such county law library;

35 (sss) all sales of tangible personal property and services purchased by
36 catholic charities or youthville, hereinafter referred to as charitable family
37 providers, which is exempt from federal income taxation pursuant to section
38 501(c)(3) of the federal internal revenue code of 1986, and which such
39 property and services are used for the purpose of providing emergency shelter
40 and treatment for abused and neglected children as well as meeting additional
41 critical needs for children, juveniles and family, and all sales of any such
42 property by or on behalf of charitable family providers for any such purpose;
43 and all sales of tangible personal property or services purchased by a

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

37 (tt) all sales of tangible personal property or services purchased by a
38 contractor for a project for the purpose of restoring, constructing, equipping,
39 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a
40 home or facility owned by a nonprofit museum which has been granted an
41 exemption pursuant to subsection (qq), which such home or facility is located
42 in a city which has been designated as a qualified hometown pursuant to the
43 provisions of K.S.A. 75-5071 et seq., and amendments thereto, and which such

1 project is related to the purposes of K.S.A. 75-5071 et seq., and amendments
2 thereto, and which would be exempt from taxation under the provisions of this
3 section if purchased directly by such nonprofit museum. Nothing in this
4 subsection shall be deemed to exempt the purchase of any construction
5 machinery, equipment or tools used in the restoring, constructing, equipping,
6 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a
7 home or facility for any such nonprofit museum. When any such nonprofit
8 museum shall contract for the purpose of restoring, constructing, equipping,
9 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a
10 home or facility, it shall obtain from the state and furnish to the contractor an
11 exemption certificate for the project involved, and the contractor may purchase
12 materials for incorporation in such project. The contractor shall furnish the
13 number of such certificates to all suppliers from whom such purchases are
14 made, and such suppliers shall execute invoices covering the same bearing the
15 number of such certificate. Upon completion of the project, the contractor
16 shall furnish to such nonprofit museum a sworn statement on a form to be
17 provided by the director of taxation that all purchases so made were entitled to
18 exemption under this subsection. All invoices shall be held by the contractor
19 for a period of five years and shall be subject to audit by the director of
20 taxation. If any materials purchased under such a certificate are found not to
21 have been incorporated in the building or other project or not to have been
22 returned for credit or the sales or compensating tax otherwise imposed upon
23 such materials which will not be so incorporated in a home or facility or other
24 project reported and paid by such contractor to the director of taxation not later
25 than the 20th day of the month following the close of the month in which it
26 shall be determined that such materials will not be used for the purpose for
27 which such certificate was issued, such nonprofit museum shall be liable for
28 tax on all materials purchased for the project, and upon payment thereof it may
29 recover the same from the contractor together with reasonable attorney fees.
30 Any contractor or any agent, employee or subcontractor thereof, who shall use
31 or otherwise dispose of any materials purchased under such a certificate for
32 any purpose other than that for which such a certificate is issued without the
33 payment of the sales or compensating tax otherwise imposed upon such
34 materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall
35 be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
36 and amendments thereto;

37 (uuu) all sales of tangible personal property and services purchased by
38 Kansas children's service league, hereinafter referred to as KCSL, which is
39 exempt from federal income taxation pursuant to section 501(c)(3) of the
40 federal internal revenue code of 1986, and which such property and services
41 are used for the purpose of providing for the prevention and treatment of child
42 abuse and maltreatment as well as meeting additional critical needs for
43 children, juveniles and family, and all sales of any such property by or on

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

37 (vvv) all sales of tangible personal property or services, including the
38 renting and leasing of tangible personal property or services, purchased by
39 Jazz in the Woods, Inc., a Kansas corporation which is exempt from federal
40 income taxation pursuant to section 501(c)(3) of the federal internal revenue
41 code, for the purpose of providing Jazz in the Woods, an event benefiting
42 children-in-need and other nonprofit charities assisting such children, and all
43 sales of any such property by or on behalf of such organization for such

1 purpose;

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

7 (xxx) all sales of personal property and services purchased by the booth
8 theatre foundation, inc., an organization which is exempt from federal income
9 taxation pursuant to section 501(c)(3) of the federal internal revenue code of
10 1986, and which such personal property and services are used by any such
11 organization in the constructing, equipping, reconstructing, maintaining,
12 repairing, enlarging, furnishing or remodeling of the booth theatre, and all
13 sales of tangible personal property or services purchased by a contractor for
14 the purpose of constructing, equipping, reconstructing, maintaining, repairing,
15 enlarging, furnishing or remodeling the booth theatre for such organization,
16 which would be exempt from taxation under the provisions of this section if
17 purchased directly by such organization. Nothing in this subsection shall be
18 deemed to exempt the purchase of any construction machinery, equipment or
19 tools used in the constructing, equipping, reconstructing, maintaining,
20 repairing, enlarging, furnishing or remodeling facilities for any such
21 organization. When any such organization shall contract for the purpose of
22 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
23 furnishing or remodeling facilities, it shall obtain from the state and furnish to
24 the 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 completion of
29 the project the contractor shall furnish to such organization 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. All
32 invoices shall be held by the contractor for a period of five years and shall be
33 subject to audit by the director of taxation. If any materials purchased under
34 such a certificate are found not to have been incorporated in such facilities or
35 not to have been returned for credit or the sales or compensating tax otherwise
36 imposed upon such materials which will not be so incorporated in such
37 facilities reported and paid by such contractor to the director of taxation not
38 later than the 20th day of the month following the close of the month in which
39 it shall be determined that such materials will not be used for the purpose for
40 which such certificate was issued, such organization concerned shall be liable
41 for tax on all materials purchased for the project, and upon payment thereof it
42 may recover the same from the contractor together with reasonable attorney
43 fees. Any contractor or any agent, employee or subcontractor thereof, who

1 shall use or otherwise dispose of any materials purchased under such a
2 certificate for any purpose other than that for which such a certificate is issued
3 without the payment of the sales or compensating tax otherwise imposed upon
4 such materials, shall be guilty of a misdemeanor and, upon conviction therefor,
5 shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-
6 3615, and amendments thereto. Sales tax paid on and after January 1, 2007,
7 but prior to the effective date of this act upon the gross receipts received from
8 any sale which would have been exempted by the provisions of this subsection
9 had such sale occurred after the effective date of this act shall be refunded.
10 Each claim for a sales tax refund shall be verified and submitted to the director
11 of taxation upon forms furnished by the director and shall be accompanied by
12 any additional documentation required by the director. The director shall
13 review each claim and shall refund that amount of sales tax paid as determined
14 under the provisions of this subsection. All refunds shall be paid from the sales
15 tax refund fund upon warrants of the director of accounts and reports pursuant
16 to vouchers approved by the director or the director's designee;

17 (yyy) all sales of tangible personal property and services purchased by
18 TLC charities foundation, inc., hereinafter referred to as TLC charities, which
19 is exempt from federal income taxation pursuant to section 501(c)(3) of the
20 federal internal revenue code of 1986, and which such property and services
21 are used for the purpose of encouraging private philanthropy to further the
22 vision, values, and goals of TLC for children and families, inc.; and all sales of
23 such property and services by or on behalf of TLC charities for any such
24 purpose and all sales of tangible personal property or services purchased by a
25 contractor for the purpose of constructing, maintaining, repairing, enlarging,
26 furnishing or remodeling facilities for the operation of services for TLC
27 charities for any such purpose which would be exempt from taxation under the
28 provisions of this section if purchased directly by TLC charities. Nothing in
29 this subsection shall be deemed to exempt the purchase of any construction
30 machinery, equipment or tools used in the constructing, maintaining, repairing,
31 enlarging, furnishing or remodeling such facilities for TLC charities. When
32 TLC charities contracts for the purpose of constructing, maintaining, repairing,
33 enlarging, furnishing or remodeling such facilities, it shall obtain from the
34 state and furnish to the contractor an exemption certificate for the project
35 involved, and the contractor may purchase materials for incorporation in such
36 project. The contractor shall furnish the number of such certificate to all
37 suppliers from whom such purchases are made, and such suppliers shall
38 execute invoices covering the same bearing the number of such certificate.
39 Upon completion of the project the contractor shall furnish to TLC charities a
40 sworn statement, on a form to be provided by the director of taxation, that all
41 purchases so made were entitled to exemption under this subsection. All
42 invoices shall be held by the contractor for a period of five years and shall be
43 subject to audit by the director of taxation. If any materials purchased under

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

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

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

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

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

42 (dddd) all sales of tangible personal property or services purchased by or
43 on behalf of Goodwill Industries or Easter Seals of Kansas, Inc., both of which

1 are exempt from federal income taxation pursuant to section 501(c)(3) of the
2 federal internal revenue code, for the purpose of providing education, training
3 and employment opportunities for people with disabilities and other barriers to
4 employment;

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

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

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

12 New Sec. ~~18~~**[19]**. Prior to January 1, 2017, the standing committee on
13 assessment and taxation of the senate and the standing committee on taxation
14 of the house of representatives shall review the income tax credit cost
15 effectiveness report prepared by the department of revenue as required
16 pursuant to K.S.A. 74-99b35, and amendments thereto, and other relevant
17 information to determine whether the credits provided in K.S.A. 74-50,132
18 and subsection (e) of K.S.A. 79-32,160a, and amendments thereto, and the
19 exemption provided in subsection (cc) of K.S.A. 79-3606, and amendments
20 thereto, shall continue in effect or be repealed.

21 Sec. ~~19~~**[20]**. K.S.A. 2010 Supp. 74-50,104, 74-50,106, 74-50,107, 74-
22 50,109, 74-50,110, 74-50,111, 74-50,210, 74-50,211, 74-50,212, 74-50,213,
23 79-32,160a, 79-32,206 and 79-3606 are hereby repealed.

24 Sec. ~~20~~**[21]**. On January 1, 2012, K.S.A. 2010 Supp. 74-50,151 and 74-
25 50,152 are hereby repealed.

26 Sec. ~~21~~**[22]**. This act shall take effect and be in force from and after its
27 publication in the statute book.

28