

Approved: 2-28-07

Date

MINUTES OF THE HOUSE ECONOMIC DEVELOPMENT AND TOURISM COMMITTEE

The meeting was called to order by Chairman Lana Gordon at 3:30 P.M. on February 19, 2007 in Room 519-S of the Capitol.

All members were present except:

Don Myers- excused

Committee staff present:

Kathie Sparks, Kansas Legislative Research Department

Hank Avila, Kansas Legislative Research Department

Jason Long, Revisor of Statutes

Ann Deitcher, Committee Assistant

Conferees appearing before the committee:

Marlee Carpenter, Topeka C of C

Ashley Sherard, Lenexa C of C

Allie Devine Kansas Livestock Association

Joan Wagon, Secretary, Department of Commerce

The Chair reminded the Committee that minutes for previous meetings had been emailed to each of the members' offices for their approval.

Representative Hayzlett made the motion that the minutes for January 29, 30, 31 and February 1, 5, 6, 7, 8, 12, 13, 14 and 15 be approved. The motion was seconded by Representative Olsen and passed on a voice vote.

HB 2496 - concerning taxation; relating to credits; enacting the KS investment credit act and KS jobs credit act.

Representative Olsen offered an amendment to **HB 2496**. (Attachment 1).

Jason Long explained to the Committee what the amendment would affect **HB 2496**.

A motion was made by Representative Olsen to adopt the amendment to **HB 2496**. Representative Swanson seconded the motion.

Questions and answers followed.

Allie Devine and Joan Wagon answered the questions of Committee members.

The motion to amend **HB 2496** was defeated. Division was called for and the count was 5 in favor and 9 against.

A motion was made by Representative Hayzlett and seconded by Representative Hill to accept the amendment to **HB 2496** that had previously been offered by the Kansas Chamber of Commerce. (Attachments 2 and 3).

Jason Long explained how this amendment would affect **HB 2496**.

The motion to accept this amendment to **HB 2496** passed on a voice vote.

CONTINUATION SHEET

MINUTES OF THE House Economic Development and Tourism Committee at 3:30 P.M. on February 19, 2007 in Room 519-S of the Capitol.

Representative Hill requested that Chairperson Gordon give Jason Long the authority to clarify and make necessary statutory changes to the amendments to **HB 2496**.

Representative Winn offered a balloon amendment to **HB 2496**. (Attachment 4).

A motion was made by Representative Winn and seconded by Representative Flaharty to accept this balloon amendment to **HB 2496**.

Representative Winn requested certain changes in the amendments to **HB 2496** that having already been addressed, made all balloon amendments null and void with the exception of those on page 9.

The motion to adopt the balloon amendments to **HB 2496** passed on a voice vote.

A motion was made by Representative Huntington and seconded by Representative Hill offering a balloon amendment to **HB 2496**. (Attachment 5).

Representative Huntington asked that all but the sections regarding NAICS codes and livestock (beef cattle only) be stricken from her amendment to **HB 2496**.

A motion was made by Representative Huntington to adopt this amendment. A second offered by Representative Hill and passed on a voice vote.

Representative Hayzlett moved and Representative Huntington seconded the motion to move **HB 2496** as amended, out of Committee. The motion carried on a voice vote.

The meeting was adjourned at 5:30 p.m. The next meeting is scheduled for Tuesday, February 20, 2007.

HOUSE BILL No. 2496

By Committee on Economic Development and Tourism

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9 AN ACT concerning taxation; relating to credits; enacting the Kansas
10 investment credit act and the Kansas jobs credit act; relating to qual-
11 ifications and procedures; eliminating certain existing credits related
12 thereto; amending K.S.A. 40-253a and 74-8945 and K.S.A. 2006 Supp. —
13 79-32,111, 79-32,243 and 79-3606 and repealing the existing sections;
14 also repealing K.S.A. 74-50,113, 74-50,116, 74-50,117, 74-50,118, 74-
15 50,119, 74-50,135, 74-50,135a, 79-32,155, 79-32,156, 79-32,157, 79-
16 32,158, 79-32,159, 79-32,159a, 79-32,159b, 79-32,159c, 79-32,160, 79-
17 32,160b and 79-32,160c and K.S.A. 2006 Supp. 74-50,114, 74-50,115,
18 ~~74-50,131, 74-50,132, 74-50,133, 74-50,134, 79-3269, 79-32,153, 79-~~
19 ~~32,154 and 79-32,160a.~~

74-50,131

20
21 *Be it enacted by the Legislature of the State of Kansas:*

22 New Section 1. The provisions of sections 1 through 8, and amend-
23 ments thereto, shall be known and may be cited as the Kansas investment
24 credit act.

25 New Sec. 2. As used in the Kansas investment credit act, unless oth-
26 erwise provided: (a) "Act" means the Kansas investment credit act;

27 (b) "ancillary support operation" means a Kansas business facility at
28 which the business activities are ancillary processing functions and from
29 which no or de minimis primary business activities occur. Ancillary proc-
30 essing functions shall support and improve operating efficiencies of the
31 primary focus of the business, but are not of themselves, integral and
32 necessary to performing the primary business activities;

33 (c) "eligible taxpayer" means a for-profit business establishment sub-
34 ject to the Kansas income tax act, the premium tax or privilege fees im-
35 posed pursuant to K.S.A. 40-252, and amendments thereto, the privilege
36 tax as measured by the net income of financial institutions imposed pur-
37 suant to chapter 79, article 11 of the Kansas Statutes Annotated, sales or
38 property taxes and that meets the eligibility criteria in section 3, and
39 amendments thereto and is current in payment of Kansas taxes;

40 (d) "headquarters" means a Kansas business facility where principal
41 officers of the business are housed and from which direction, manage-
42 ment, or administrative support of transactions is provided for a business
43 or division of a business and from which no more than de minimis rev-

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1 enues are generated from primary business activities.

2 (e) "Kansas business facility" means any factory, mill, plant, refinery,
3 warehouse, feedlot, building or complex of buildings that operate as a
4 single unit on a contiguous piece of property, located within the state,
5 including the land on which such facility is located and all machinery,
6 equipment and other real and tangible personal property located at or
7 within such facility used in connection with the operation of such facility.
8 The term "Kansas business facility" includes only structures within which
9 individuals are customarily employed or which are customarily used to
10 house machinery, equipment or other property and that are not designed
11 with the capability of being transported, moved or relocated. Such Kansas
12 business facility shall satisfy the following requirements: (1) Such facility
13 must be employed by the eligible taxpayer in the operation of a revenue
14 producing enterprise. Such facility shall not be considered a Kansas busi-
15 ness facility in the hands of the taxpayer if the taxpayer's only activity with
16 respect to such facility is to lease it to another person or persons. If the
17 taxpayer employs only a portion of such facility in the operation of a
18 revenue producing enterprise, and leases another portion of such facility
19 to another person or persons or does not otherwise use such other por-
20 tions in the operation of a revenue producing enterprise, the portion
21 employed by the taxpayer in the operation of a revenue producing en-
22 terprise shall be considered a Kansas business facility, if the requirements
23 of subsection (e)(2) are satisfied; and

24 (2) if such facility was acquired by the taxpayer from another person
25 or persons, such facility was not employed, immediately prior to the trans-
26 fer of title to such facility to the taxpayer, or to the commencement of
27 the term of the lease of such facility to the taxpayer, by any other person
28 or persons in the operation of a revenue producing enterprise and the
29 taxpayer continues the operation of the same or substantially identical
30 revenue producing enterprise at such facility;

31 (f) "opportunity zone" shall be established by the secretary of com-
32 merce through rules and regulations. In addition to other opportunity
33 zone designation criteria established by the secretary, such criteria shall
34 include: (1) An opportunity zone, which shall be comprised of at least
35 one county; (2) shall be economically disadvantaged; and (3) shall not
36 include any counties in a metropolitan statistical area or micropolitan
37 statistical area;

38 (g) "qualified investment" means the value of the real and tangible
39 personal property permanently and physically located at the Kansas busi-
40 ness facility, except that "qualified investment" does not include inven-
41 tory, construction in progress, or property held for sale to customers in
42 the ordinary course of the taxpayer's business, which constitutes the Kan-
43 sas business facility, or which is used by the taxpayer in the operation of

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1 the Kansas business facility, during the taxable year for which the credit
2 is claimed. The value of such property during such taxable year shall be:
3 (1) The original cost of such property, if owned by the eligible taxpayer;
4 or (2) eight times the net annual rental rate, if leased by the eligible
5 taxpayer. Original cost is deemed to be the basis of the property for fed-
6 eral income tax purposes, prior to any federal adjustments, at the time of
7 acquisition by the taxpayer and adjusted by subsequent capital additions
8 or improvements thereto and partial disposition thereof, by reason of sale,
9 exchange or abandonment. The net annual rental rate shall be the annual
10 rental rate paid by the taxpayer less any annual rental rate received by
11 the taxpayer from subrentals. "Qualified investment" shall be determined
12 by calculating the value of the qualified investment that has been newly
13 placed into service at the eligible taxpayer's Kansas business facility during
14 the taxpayer's tax year. In order to remain eligible the investment must
15 continue to be used during the tax year and remain in service on the last
16 business day of the taxpayer's tax year for which the credit is claimed. For
17 plans that show a project shall extend beyond one tax period in which the
18 minimum investment is not met at the end of the first tax period that the
19 qualified investment is placed in service, the qualified investment can be
20 accumulated into the next consecutive tax period for computation of the
21 investment credit until the minimum investment has been met as long as
22 the qualified investment remains in service and is identified as part of the
23 same project. Once the minimum investment has been initially met on a
24 project, subsequent qualified investment may be claimed in the tax period
25 that it is placed in service;

26 (h) "revenue producing enterprise" means: (1) The assembly, fabri-
27 cation, manufacture or processing of any agricultural, mineral or manu-
28 factured product;

29 (2) the storage, warehousing, distribution or sale of any products of
30 agriculture, aquaculture, mining or manufacturing;

31 (3) the feeding of livestock at a feedlot;

32 (4) the operation of laboratories or other facilities for scientific, ag-
33 ricultural, aquacultural, animal husbandry or industrial research, devel-
34 opment or testing;

35 (5) the performance of services of any type;

36 (6) the feeding of aquatic plants and animals at an aquaculture
37 operation;

38 (7) the administrative management of any of the foregoing activities;
39 or

40 (8) any combination of any of the foregoing activities.

41 "Revenue producing enterprise" shall not mean a swine production
42 facility as defined in K.S.A. 17-5903, and amendments thereto; and

43 (i) "same or substantially identical revenue producing enterprise"

1 means a revenue producing enterprise in which the products produced
2 or sold, services performed or activities conducted are the same in char-
3 acter and use, are produced, sold, performed or conducted in the same
4 manner and to or for the same type of customers as the products, services
5 or activities produced, sold, performed or conducted in another revenue
6 producing enterprise.

7 New Sec. 3. (a) An eligible taxpayer may qualify for the investment
8 credit if all of the following criteria are met: (1) The taxpayer's Kansas
9 business facility must be:

10 (A) Identified under the North American industry classification sys-
11 tem (NAICS) subsector of 221, 311-425, 481-624, 812-813, or 922-928,
12 as assigned by the secretary of the department of labor; or

13 (B) identified as a headquarters or ancillary support operation by the
14 secretary of commerce for purposes of this act, regardless of NAICS
15 classification;

16 (2) the qualified investment for the project must equal or exceed
17 ~~\$100,000~~ for those Kansas business facilities that are located in an op-
18 portunity zone, and ~~\$1,000,000~~ for those Kansas business facilities that
19 are not located in an opportunity zone;

\$25,000

\$100,000

20 (3) the taxpayer shall satisfy payment of a higher-than-average wage
21 within a wage region at the Kansas business facility at which qualified
22 investment occurs by performing one of the options described below: (A)
23 The taxpayer's Kansas business facility with 500 or fewer full-time equiv-
24 alent employees will provide an average wage that is above the average
25 wage paid by all Kansas business facilities that share the same assigned
26 NAICS category used to develop wage thresholds and that have reported
27 500 or fewer employees to the Kansas department of labor on the quar-
28 terly wage reports;

, \$25,000 for those Kansas business facilities identified under NAICS
subsector 112112, and are not located in an opportunity zone or
metropolitan statistical area,

29 (B) the taxpayer's Kansas business facility with 500 or fewer full-time
30 equivalent employees is the sole facility within its assigned NAICS cate-
31 gory that has reported wages for 500 or fewer employees to the Kansas
32 department of labor on the quarterly wage reports;

33 (C) the taxpayer's Kansas business facility with more than 500 full-
34 time equivalent employees will provide an average wage that is above the
35 average wage paid by all Kansas business facilities that share the same
36 assigned NAICS category used to develop wage thresholds and that have
37 reported more than 500 employees to the Kansas department of labor on
38 the quarterly wage reports;

39 (D) the taxpayer's Kansas business facility with more than 500 full-
40 time equivalent employees is the sole facility within its assigned NAICS
41 category that has reported wages for more than 500 employees to the
42 Kansas department of labor on the quarterly wage reports, in which event
43 it shall either provide an average wage that is above the average wage

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1 paid by all Kansas business facilities that share the same assigned NAICS
2 category and that have reported wages for 500 or fewer employees to the
3 Kansas department of labor on the quarterly wage reports, or be the sole
4 Kansas business facility within its assigned NAICS category that has re-
5 ported wages to the Kansas department of labor on the quarterly wage
6 reports;

7 (E) the number of NAICS digits to use in developing each set of
8 wage thresholds for comparison purposes shall be determined by the
9 secretary of commerce; or

10 (F) the composition of wage regions used in connection with each set
11 of wage thresholds shall be determined by the secretary of commerce;
12 and

13 (4) as an alternative to the requirements of subsection (a)(3), a tax-
14 payer having met the requirements of subsections (a)(1) and (2) may
15 wage-qualify its Kansas business facility if, after excluding the headcount
16 and wages reported on the quarterly wage reports to the Kansas depart-
17 ment of labor for employees at that Kansas business facility who own five
18 percent or more equity in the taxpayer, the average wage calculated for
19 the taxpayer's Kansas business facility is greater than or equal to 1.5 times
20 the aggregate state-wide average wage paid by industries covered by the
21 employment security law based on data maintained by the secretary of
22 labor.

23 (b) For the purposes of this section, the number of full-time equiv-
24 alent employees shall be determined by dividing the number of hours
25 worked by part-time employees during the pertinent measurement in-
26 terval by an amount equal to the corresponding multiple of a 40-hour
27 work week and adding the quotient to the average number of full-time
28 employees.

29 New Sec. 4. (a) For taxable years commencing after December 31,
30 2006, an eligible taxpayer that makes a qualified investment in a Kansas
31 business facility shall be entitled to a credit in an amount equal to 10%
32 of the qualified investment. Qualified investment must be identified and
33 submitted to the secretary of commerce prior to making a commitment
34 to invest. The credit allowed by this subsection shall be a one-time credit.
35 The credit shall be allowed against the tax imposed by the Kansas income
36 tax act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-
37 252, and amendments thereto, or the privilege tax as measured by the
38 net income of financial institutions imposed pursuant to article 11 of
39 chapter 79 of the Kansas Statutes Annotated, for the taxable year during
40 which the qualified investment is placed into service.

41 (b) The eligible taxpayer shall claim the credit on the original return
42 for the tax year in which the qualified investment is placed into service.

43 (c) If the tax credit amount thereof exceeds the tax imposed, the tax

1 credit amount thereof which exceeds the eligible taxpayer's tax liability
 2 may be carried forward for credit in the succeeding taxable year or years
 3 until the total amount of the tax credit is used, except that no such tax
 4 credit shall be carried forward for deduction after the tenth taxable year
 5 succeeding the taxable year in which such credit initially was claimed and
 6 no carry forward shall be allowed for deduction in any succeeding taxable
 7 year unless the taxpayer continues to satisfy the eligibility criteria in sec-
 8 tion 3, and amendments thereto, for such succeeding taxable year.

\$100,000

9 (d) A qualified investment, of at least ~~\$1,000,000~~, made by the eligible
 10 taxpayer in a Kansas business facility that is not located in a designated
 11 opportunity zone, may qualify for the investment credit.

\$25,000

12 (e) A qualified investment, of at least ~~\$100,000~~, made by the eligible
 13 taxpayer in a Kansas business facility that is located in a designated op-
 14 portunity zone, may qualify for the investment credit.

15 ~~(f) If the eligible taxpayer is a corporation having an election in effect~~
 16 under subchapter S of the federal internal revenue code, a partnership
 17 or limited liability company, the credit provided by this section shall be
 18 claimed by the shareholders of such corporation, the partners of such
 19 partnership or the members of such limited liability company in the same
 20 manner as such shareholders, partners, or members account for their
 21 proportionate shares of income or loss of the corporation, partnership or
 22 limited liability company.

(g)

(f) A qualified investment, of at least \$25,000, made by the eligible taxpayer in a
 Kansas business facility identified under NAICS subsector 112112, and is not
 located in a designated opportunity zone or metropolitan statistical area, may
 qualify for the investment credit.

23 New Sec. 5. (a) The secretary of revenue and the secretary of com-
 24 merce shall work together to coordinate a set of procedures to implement
 25 the provisions of this act.

26 (b) Any taxpayer claiming credits pursuant to this act, as a condition
 27 for claiming and qualifying for such credits, shall provide information
 28 pursuant to K.S.A. 2006 Supp. 79-32,243, and amendments thereto, as
 29 part of the tax return in which such credits are claimed. Such credits shall
 30 not be denied solely on the basis of the contents of the information pro-
 31 vided by the taxpayer pursuant to K.S.A. 2006 Supp. 79-32,243, and
 32 amendments thereto.

33 (c) The secretary of revenue shall submit an annual report to the
 34 legislature regarding utilization of the credits claimed pursuant to this act,
 35 for purposes of evaluation. Such report shall be due during the legislative
 36 session, commencing with the 2009 legislative session.

37 New Sec. 6. The secretary of revenue and secretary of commerce
 38 may adopt such rules and regulations as necessary to carry out the pur-
 39 poses of this act.

40 New Sec. 7. (a) Except as otherwise provided, for tax years com-
 41 mencing on or after December 31, 2006, no additional credits may be
 42 earned through the Kansas enterprise zone act, K.S.A. 79-32,160a; or the
 43 job expansion and investment tax credit act, K.S.A. 79-32,153. Any carry

1 forward credit that has been earned through the Kansas enterprise zone
2 act, K.S.A. 79-32,160a and is remaining after December 31, 2006, may
3 be carried forward to succeeding taxable years as long as all requirements
4 continue to be met. Any credit that has been earned through the job
5 expansion and investment tax credit act, K.S.A. 79-32,153, with years left
6 in recomputing the credit after December 31, 2006, may continue for the
7 remainder of the 10-year period as long as all requirements continue to
8 be met.

9 (b) Except as otherwise provided, for tax years commencing on or
10 after December 31, 2006, no additional credits may be earned through
11 the high performance incentive act, K.S.A. 74-50,115, ~~K.S.A. 74-50,132,~~
12 and subsection (e) of K.S.A. 79-32,160a. Any carry forward credit that
13 has been earned through the high performance incentive act, subsection
14 (e) of K.S.A. 79-32,160a and is remaining after December 31, 2006, may
15 be carried forward to succeeding taxable years, providing all requirements
16 continue to be met and subject to the applicable carryforward limitations.
17 Any taxpayer who has filed an application to be certified under K.S.A.
18 74-50,131, prior to July 1, 2007, may claim credits under the high per-
19 formance incentive act, subsection (e) of K.S.A. 79-32,160a, ~~K.S.A. 74-~~
20 ~~50,131 and K.S.A. 74-50,132~~ during the certification period in tax years
21 2007 and 2008, which credits may be carried forward until used or for a
22 maximum of ten years, as long as such taxpayer does not claim any credits
23 for the same investment under the Kansas investment credit act. To ac-
24 commodate unusual timing situations during the 2007 transition period,
25 timing modifications may be authorized at the discretion of the secretary
26 of commerce and the secretary of revenue.

27 New Sec. 8. The provisions of this act shall be applicable to all tax-
28 able years commencing after December 31, 2006, and prior to January
29 1, 2012.

30 New Sec. 9. The provisions of sections 9 through 14 may be cited
31 and shall be known as the Kansas jobs credit act.

32 New Sec. 10. As used in the Kansas jobs credit act, unless otherwise
33 provided: (a) "Act" means the Kansas jobs credit act;

34 (b) "employed" means that an employer-employee relationship ex-
35 ists. A person who performs services for the taxpayer shall be considered
36 as an employee if the taxpayer has the right to direct and control when,
37 where, and how work will be done. In addition the taxpayer shall pay for
38 the employee's wages directly, or indirectly through inter-company trans-
39 fers. Independent contractors shall not be considered as employed for
40 purposes of the Kansas jobs credit;

41 (c) "Kansas job credit taxpayer" means any business entity authorized
42 to do business in the state of Kansas which is subject to the state income
43 tax imposed by the provisions of the Kansas income tax act, any national

1 banking association, state bank, trust company or savings and loan asso-
2 ciation paying an annual tax on its net income pursuant to article 11 of
3 chapter 79 of the Kansas Statutes Annotated, or any insurance company
4 paying the premium tax and privilege fees imposed pursuant to K.S.A.
5 40-252, and amendments thereto, is current in payment of Kansas taxes,
6 and has a Kansas business facility as defined in the investment credit act:
7 (1) Identified under the North American industry classification system
8 (NAICS) subsector of 221, 311-425, 481-624, 812-813, or 922-928, as
9 assigned by the secretary of the department of labor; or

10 (2) identified as a headquarters or ancillary support operation, re-
11 gardless of NAICS classification;

12 (d) "new employee" means a person newly employed by the taxpayer
13 in the taxpayer's business operating in Kansas during the taxable year for
14 which the credit allowed by section (11), and amendments thereto, is
15 claimed. A person shall be deemed to be so engaged if such person per-
16 forms duties in Kansas in connection with the operation of the Kansas
17 business on: (A) A regular, full-time basis; (B) a part-time basis, provided
18 such person is customarily performing such duties at least 20 hours per
19 week throughout the taxable year; or (C) a seasonal basis, provided such
20 person performs such duties for substantially all of the season customary
21 for the position in which such person is employed. For a Kansas business
22 that becomes operational during the current tax year, new employees shall
23 be the number of employees employed at the taxpayer's Kansas business
24 on the last business day of the taxpayer's tax year. In the case of employees
25 hired, in which the Kansas business existed and was operated by the
26 taxpayer prior to such hiring, the number of new employees employed in
27 the operation of the Kansas business shall be reduced by the number of
28 employees employed at such Kansas business on the last business day of
29 the taxpayer's previous tax year. Employees acquired through an acqui-
30 sition or merger of a business operating in Kansas shall not be considered
31 as new employees;

32 (e) "opportunity zone" shall be established by the secretary of com-
33 merce through rules and regulations. In addition to other criteria estab-
34 lished by the secretary, such criteria shall include: (1) An opportunity
35 zone which shall be comprised of at least one county;

36 (2) shall be economically disadvantaged; and

37 (3) shall not include any counties in a metropolitan statistical area or
38 micropolitan statistical area;

39 (f) "opportunity zone job credit taxpayer" means any business entity
40 with a Kansas business facility as defined in the Kansas investment credit
41 act authorized to do business in the state of Kansas which is subject to
42 the state income tax imposed by the provisions of the Kansas income tax
43 act, any national banking association, state bank, trust company or savings

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1 and loan association paying an annual tax on its net income pursuant to
 2 article 11 of chapter 79 of the Kansas Statutes Annotated, or any insurance
 3 company paying the premium tax and privilege fees imposed pursuant to
 4 K.S.A. 40-252, and amendments thereto, and that is current in payment
 5 of Kansas taxes; and

6 (g) "related taxpayer" means: (1) A corporation, partnership, trust or
 7 association controlled by the taxpayer; (2) an individual, corporation, part-
 8 nership, trust or association in control of the taxpayer; or (3) a corporation,
 9 partnership, trust or association controlled by an individual, corporation,
 10 partnership, trust or association in control of the taxpayer. "Control of a
 11 corporation" means ownership, directly or indirectly, of stock possessing
 12 at least 80% of the total combined voting power of all classes of stock
 13 entitled to vote and at least 80% of all other classes of stock of the cor-
 14 poration. "Control of a partnership or association" means ownership of
 15 at least 80% of the capital or profits interest in such partnership or as-
 16 sociation. "Control of a trust" means ownership, directly or indirectly, of
 17 at least 80% of the beneficial interest in the principal or income of such
 18 trust.

19 New Sec. 11. (a) For taxable years commencing after December 31,
 20 2006, any opportunity zone job credit taxpayer who engages in new em-
 21 ployment at least ~~five~~ new employees in the taxpayer's business operating
 22 in a designated opportunity zone in Kansas shall be allowed a credit of
 23 \$3,500 per new employee, against the tax imposed by the Kansas income
 24 tax act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-
 25 252, and amendments thereto, or the privilege tax as measured by the
 26 net income of financial institutions imposed pursuant to article 11 of
 27 chapter 79 of the Kansas Statutes Annotated, for the taxable year during
 28 which the employees were hired. To be considered employed in an op-
 29 portunity zone, the employee must perform the majority of the services
 30 for the opportunity zone job credit taxpayer in the opportunity zone. Any
 31 Kansas job credit taxpayer located in the state of Kansas who engages in
 32 new employment at least ~~20~~ new employees in the taxpayer's business
 33 operating in Kansas shall be allowed a credit of ~~\$1,500~~ per new employee,
 34 against the tax imposed by the Kansas income tax act, the premium tax
 35 or privilege fees imposed pursuant to K.S.A. 40-252, and amendments
 36 thereto, or the privilege tax as measured by the net income of financial
 37 institutions imposed pursuant to article 11 of chapter 79 of the Kansas
 38 Statutes Annotated, for the taxable year during which the employees were
 39 hired.

40 (b) The taxpayer shall claim any credits pursuant to this act on the
 41 original return for the tax year in which the employees were hired.

42 (c) If the amount of the tax credit exceeds the tax imposed, the
 43 amount thereof which exceeds such tax liability may be carried forward

two

, or that number of new employees which would increase the total
 number of employees employed by such taxpayer by at least
 33%,

five

\$3,500

, or that number of new employees which would increase the total
 number of employees employed by such taxpayer by at least
 33%,

Any Kansas job credit taxpayer located in the state of Kansas, but not located in any metropolitan statistical area, who is engaged in a business identified under NAICS subsector 112112, and who engages in new employment at least five new employees, or that number of new employees which would increase the total number of employees employed by such taxpayer by at least 33%, in the taxpayer's business operating in Kansas shall be allowed a credit of \$3,500 per new employee, against the tax imposed by the Kansas income tax act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by the net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, for the taxable year during which the employees were hired.

1 for credit in the succeeding taxable year or years until the total amount
2 of the tax credit is used. In the event the taxpayer does not continue to
3 employ the required minimum number of employees, any credit remain-
4 ing will be forfeited and no longer available for carry forward.

5 (d) If the taxpayer is a corporation having an election in effect under
6 subchapter S of the federal internal revenue code, a partnership or limited
7 liability company, the credit provided by this section shall be claimed by
8 the shareholders of such corporation, the partners of such partnership or
9 the members of such limited liability company in the same manner as
10 such shareholders, partners, or members account for their proportionate
11 shares of income or loss of the corporation, partnership or limited liability
12 company.

13 (e) A taxpayer that qualifies for the opportunity zone job credit for
14 an employee may not also qualify for the Kansas job credit for the same
15 employee.

16 (f) Only one taxpayer may claim a specific employee for purposes of
17 the opportunity zone job credit or the Kansas job credit. Employees trans-
18 ferred or reassigned within Kansas between related taxpayers will not
19 qualify for the credit.

20 New Sec. 12. (a) Any taxpayer claiming credits pursuant to this act,
21 as a condition for claiming and qualifying for such credits, shall provide
22 information pursuant to K.S.A. 2006 Supp. 79-32,243, and amendments
23 thereto, as part of the tax return in which such credits are claimed. Such
24 credits shall not be denied solely on the basis of the contents of the
25 information provided by the taxpayer pursuant to K.S.A. 2006 Supp. 79-
26 32,243, and amendments thereto.

27 (b) The secretary of revenue shall submit an annual report to the
28 legislature regarding utilization of the credits claimed pursuant to this act,
29 for purposes of evaluation. Such report shall be due during the legislative
30 session, commencing with the 2009 legislative session.

31 New Sec. 13. The secretary of revenue may adopt such rules and
32 regulations as necessary to carry out the purposes of this act.

33 New Sec. 14. The provisions of this act shall be applicable to all tax-
34 able years commencing after December 31, 2006 and prior to January 1,
35 2012.

36 Sec. 15. K.S.A. 40-253a is hereby amended to read as follows: 40-
37 253a. For purposes of calculating any tax due under K.S.A. 40-253, and
38 amendments thereto, from a taxpayer not organized under the laws of
39 this state, the credits allowed pursuant to K.S.A. 40-2813, ~~74-50,132, 79-~~
40 ~~32,153, 79-32,160~~ and 79-32,196, and the Kansas investment credit act
41 and the Kansas jobs credit act, and amendments thereto, shall be treated
42 as tax paid under K.S.A. 40-252, and amendments thereto.

43 Sec. 16. K.S.A. 74-8945 is hereby amended to read as follows: 74-

see attachment and renumber remaining sections accordingly

74-50,132

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1 8945. The establishment shall not be allowed credits pursuant to K.S.A.
2 79-32,160a *the Kansas investment credit act*, and amendments thereto,
3 for any amount of investment related to or computed on the basis of any
4 investment of the proceeds of obligations issued pursuant to this act.

5 Sec. 17. K.S.A. 2006 Supp. 79-32,111 is hereby amended to read as
6 follows: 79-32,111. ~~(a)~~ The amount of income tax paid to another state
7 by a resident individual, resident estate or resident trust on income de-
8 rived from sources in another state shall be allowed as a credit against
9 the tax computed under the provisions of this act. Such credit shall not
10 be greater in proportion to the tax computed under this act than the
11 adjusted gross income for such year derived in another state while such
12 taxpayer is a resident of this state is to the total Kansas adjusted gross
13 income of the taxpayer. As used in this subsection, state shall have the
14 meaning ascribed thereto by subsection (h) of K.S.A. 79-3271, and
15 amendments thereto. The credit allowable hereunder for income tax paid
16 to a foreign country or political subdivision thereof shall not exceed the
17 difference of such income tax paid less the credit allowable for such in-
18 come tax paid by the federal internal revenue code. No redetermination
19 of income tax paid for the purposes of determining the credit allowed by
20 this subsection shall be required for the taxable year for which an income
21 tax refund payment pursuant to the provisions of section 18 of article 10
22 of the Missouri constitution is made, but the income tax paid allowable
23 for credit in the next following taxable year shall be reduced by the
24 amount of such refund amount, except that, for tax year 1998, the income
25 tax paid allowable for credit shall be reduced by the amount of such
26 refunds made for all taxable years prior to tax year 1998.

27 ~~(b) There shall be allowed as a credit against the tax computed under~~
28 ~~the provisions of the Kansas income tax act, and acts amendatory thereof~~
29 ~~and supplemental thereto, on the Kansas taxable income of an individual,~~
30 ~~corporation or fiduciary the amount determined under the provisions of~~
31 ~~K.S.A. 79-32,153 to 79-32,158, and amendments thereto.~~

32 Sec. 18. K.S.A. 2006 Supp. 79-32,243 is hereby amended to read as
33 follows: 79-32,243. (a) For tax years commencing after December 31,
34 2005, any taxpayer claiming credits pursuant to K.S.A. 74-50,132, 79-
35 32,153 or 79-32,160a, and amendments thereto, *and the Kansas invest-*
36 *ment credit act and the Kansas jobs credit act, and amendments thereto,*
37 as a condition for claiming and qualifying for such credits, shall provide
38 the following information as part of the tax return, in which such credits
39 are claimed, which shall be used by the department of revenue in eval-
40 uating the effectiveness of such tax credit programs, pursuant to K.S.A.
41 2006 Supp. 74-99b35, and amendments thereto:

42 (1) Actual jobs created as a direct result of the expenditures on which
43 such credit claim is based, if the taxpayer has previously submitted an

1 estimate of such number of actual jobs created to the department of
2 commerce as a part of applying for certification for such program
3 participation;

4 (2) additional payroll generated as a direct result of the expenditures
5 on which such credit claim is based, if the taxpayer has previously sub-
6 mitted an estimate of such amount of additional payroll generated to the
7 department of commerce as a part of applying for certification for such
8 program participation;

9 (3) actual jobs retained as a direct result of the expenditures on which
10 such credit claim is based, if the taxpayer has previously submitted an
11 estimate of actual jobs retained to the department of commerce as a part
12 of applying for certification for such program participation;

13 (4) additional revenue generated as a direct result of the expenditures
14 on which such credit claim is based, if the taxpayer has previously sub-
15 mitted an estimate of such amount of additional revenue generated to
16 the department of commerce as a part of applying for certification for
17 such program participation;

18 (5) additional sales generated as a direct result of the expenditures
19 on which such credit claim is based, if the taxpayer has previously sub-
20 mitted an estimate of additional sales generated to the department of
21 commerce as a part of applying for certification for program participation;
22 and

23 (6) total employment and payroll at the end of the tax year in which
24 the credits are claimed.

25 (b) Such credits specified in subsection (a) shall not be denied solely
26 on the basis of the information provided by the taxpayer pursuant to
27 subsections (a)(1) through (a)(6).

28 Sec. 19. K.S.A. 2006 Supp. 79-3606 is hereby amended to read as
29 follows: 79-3606. The following shall be exempt from the tax imposed by
30 this act:

31 (a) All sales of motor-vehicle fuel or other articles upon which a sales
32 or excise tax has been paid, not subject to refund, under the laws of this
33 state except cigarettes as defined by K.S.A. 79-3301 and amendments
34 thereto, cereal malt beverages and malt products as defined by K.S.A. 79-
35 3817 and amendments thereto, including wort, liquid malt, malt syrup
36 and malt extract, which is not subject to taxation under the provisions of
37 K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant
38 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to
39 K.S.A. 65-3424d, and amendments thereto, drycleaning and laundry serv-
40 ices taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and
41 gross receipts from regulated sports contests taxed pursuant to the Kansas
42 professional regulated sports act, and amendments thereto;

43 (b) all sales of tangible personal property or service, including the

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

14 (c) all sales of tangible personal property or services, including the
15 renting and leasing of tangible personal property, purchased directly by
16 a public or private elementary or secondary school or public or private
17 nonprofit educational institution and used primarily by such school or
18 institution for nonsectarian programs and activities provided or sponsored
19 by such school or institution or in the erection, repair or enlargement of
20 buildings to be used for such purposes. The exemption herein provided
21 shall not apply to erection, construction, repair, enlargement or equip-
22 ment of buildings used primarily for human habitation;

23 (d) all sales of tangible personal property or services purchased by a
24 contractor for the purpose of constructing, equipping, reconstructing,
25 maintaining, repairing, enlarging, furnishing or remodeling facilities for
26 any public or private nonprofit hospital or public hospital authority, public
27 or private elementary or secondary school or a public or private nonprofit
28 educational institution, which would be exempt from taxation under the
29 provisions of this act if purchased directly by such hospital or public hos-
30 pital authority, school or educational institution; and all sales of tangible
31 personal property or services purchased by a contractor for the purpose
32 of constructing, equipping, reconstructing, maintaining, repairing, en-
33 larging, furnishing or remodeling facilities for any political subdivision of
34 the state or district described in subsection (s), the total cost of which is
35 paid from funds of such political subdivision or district and which would
36 be exempt from taxation under the provisions of this act if purchased
37 directly by such political subdivision or district. Nothing in this subsection
38 or in the provisions of K.S.A. 12-3418 and amendments thereto, shall be
39 deemed to exempt the purchase of any construction machinery, equip-
40 ment or tools used in the constructing, equipping, reconstructing, main-
41 taining, repairing, enlarging, furnishing or remodeling facilities for any
42 political subdivision of the state or any such district. As used in this sub-
43 section, K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds

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1 of a political subdivision" shall mean general tax revenues, the proceeds
2 of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used
3 for the purpose of constructing, equipping, reconstructing, repairing, en-
4 larging, furnishing or remodeling facilities which are to be leased to the
5 donor. When any political subdivision of the state, district described in
6 subsection (s), public or private nonprofit hospital or public hospital au-
7 thority, public or private elementary or secondary school or public or
8 private nonprofit educational institution shall contract for the purpose of
9 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
10 ing, furnishing or remodeling facilities, it shall obtain from the state and
11 furnish to the contractor an exemption certificate for the project involved,
12 and the contractor may purchase materials for incorporation in such pro-
13 ject. The contractor shall furnish the number of such certificate to all
14 suppliers from whom such purchases are made, and such suppliers shall
15 execute invoices covering the same bearing the number of such certifi-
16 cate. Upon completion of the project the contractor shall furnish to the
17 political subdivision, district described in subsection (s), hospital or public
18 hospital authority, school or educational institution concerned a sworn
19 statement, on a form to be provided by the director of taxation, that all
20 purchases so made were entitled to exemption under this subsection. As
21 an alternative to the foregoing procedure, any such contracting entity may
22 apply to the secretary of revenue for agent status for the sole purpose of
23 issuing and furnishing project exemption certificates to contractors pur-
24 suant to rules and regulations adopted by the secretary establishing con-
25 ditions and standards for the granting and maintaining of such status. All
26 invoices shall be held by the contractor for a period of five years and shall
27 be subject to audit by the director of taxation. If any materials purchased
28 under such a certificate are found not to have been incorporated in the
29 building or other project or not to have been returned for credit or the
30 sales or compensating tax otherwise imposed upon such materials which
31 will not be so incorporated in the building or other project reported and
32 paid by such contractor to the director of taxation not later than the 20th
33 day of the month following the close of the month in which it shall be
34 determined that such materials will not be used for the purpose for which
35 such certificate was issued, the political subdivision, district described in
36 subsection (s), hospital or public hospital authority, school or educational
37 institution concerned shall be liable for tax on all materials purchased for
38 the project, and upon payment thereof it may recover the same from the
39 contractor together with reasonable attorney fees. Any contractor or any
40 agent, employee or subcontractor thereof, who shall use or otherwise
41 dispose of any materials purchased under such a certificate for any pur-
42 pose other than that for which such a certificate is issued without the
43 payment of the sales or compensating tax otherwise imposed upon such

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

4 (e) all sales of tangible personal property or services purchased by a
5 contractor for the erection, repair or enlargement of buildings or other
6 projects for the government of the United States, its agencies or instru-
7 mentalities, which would be exempt from taxation if purchased directly
8 by the government of the United States, its agencies or instrumentalities.
9 When the government of the United States, its agencies or instrumen-
10 talities shall contract for the erection, repair, or enlargement of any build-
11 ing or other project, it shall obtain from the state and furnish to the
12 contractor an exemption certificate for the project involved, and the con-
13 tractor may purchase materials for incorporation in such project. The
14 contractor shall furnish the number of such certificates to all suppliers
15 from whom such purchases are made, and such suppliers shall execute
16 invoices covering the same bearing the number of such certificate. Upon
17 completion of the project the contractor shall furnish to the government
18 of the United States, its agencies or instrumentalities concerned a sworn
19 statement, on a form to be provided by the director of taxation, that all
20 purchases so made were entitled to exemption under this subsection. As
21 an alternative to the foregoing procedure, any such contracting entity may
22 apply to the secretary of revenue for agent status for the sole purpose of
23 issuing and furnishing project exemption certificates to contractors pur-
24 suant to rules and regulations adopted by the secretary establishing con-
25 ditions and standards for the granting and maintaining of such status. All
26 invoices shall be held by the contractor for a period of five years and shall
27 be subject to audit by the director of taxation. Any contractor or any agent,
28 employee or subcontractor thereof, who shall use or otherwise dispose of
29 any materials purchased under such a certificate for any purpose other
30 than that for which such a certificate is issued without the payment of
31 the sales or compensating tax otherwise imposed upon such materials,
32 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
33 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615
34 and amendments thereto;

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

38 (g) sales of aircraft including remanufactured and modified aircraft
39 sold to persons using directly or through an authorized agent such aircraft
40 as certified or licensed carriers of persons or property in interstate or
41 foreign commerce under authority of the laws of the United States or any
42 foreign government or sold to any foreign government or agency or in-
43 strumentality of such foreign government and all sales of aircraft for use

1 outside of the United States and sales of aircraft repair, modification and
2 replacement parts and sales of services employed in the remanufacture,
3 modification and repair of aircraft;

4 (h) all rentals of nonsectarian textbooks by public or private elemen-
5 tary or secondary schools;

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

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

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

19 (l) all isolated or occasional sales of tangible personal property, serv-
20 ices, substances or things, except isolated or occasional sale of motor
21 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.
22 79-3603 and amendments thereto;

23 (m) all sales of tangible personal property which become an ingre-
24 dient or component part of tangible personal property or services pro-
25 duced, manufactured or compounded for ultimate sale at retail within or
26 without the state of Kansas; and any such producer, manufacturer or
27 compounder may obtain from the director of taxation and furnish to the
28 supplier an exemption certificate number for tangible personal property
29 for use as an ingredient or component part of the property or services
30 produced, manufactured or compounded;

31 (n) all sales of tangible personal property which is consumed in the
32 production, manufacture, processing, mining, drilling, refining or com-
33 pounding of tangible personal property, the treating of by-products or
34 wastes derived from any such production process, the providing of serv-
35 ices or the irrigation of crops for ultimate sale at retail within or without
36 the state of Kansas; and any purchaser of such property may obtain from
37 the director of taxation and furnish to the supplier an exemption certifi-
38 cate number for tangible personal property for consumption in such pro-
39 duction, manufacture, processing, mining, drilling, refining, compound-
40 ing, treating, irrigation and in providing such services;

41 (o) all sales of animals, fowl and aquatic plants and animals, the pri-
42 mary purpose of which is use in agriculture or aquaculture, as defined in
43 K.S.A. 47-1901, and amendments thereto, the production of food for

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1 human consumption, the production of animal, dairy, poultry or aquatic
2 plant and animal products, fiber or fur, or the production of offspring for
3 use for any such purpose or purposes;

4 (p) all sales of drugs dispensed pursuant to a prescription order by a
5 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-
6 1626, and amendments thereto. As used in this subsection, "drug" means
7 a compound, substance or preparation and any component of a com-
8 pound, substance or preparation, other than food and food ingredients,
9 dietary supplements or alcoholic beverages, recognized in the official
10 United States pharmacopoeia, official homeopathic pharmacopoeia of the
11 United States or official national formulary, and supplement to any of
12 them, intended for use in the diagnosis, cure, mitigation, treatment or
13 prevention of disease or intended to affect the structure or any function
14 of the body;

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

18 (r) all sales of prosthetic devices and mobility enhancing equipment
19 prescribed in writing by a person licensed to practice the healing arts,
20 dentistry or optometry, and in addition to such sales, all sales of hearing
21 aids, as defined by subsection (c) of K.S.A. 74-5807, and amendments
22 thereto, and repair and replacement parts therefor, including batteries,
23 by a person licensed in the practice of dispensing and fitting hearing aids
24 pursuant to the provisions of K.S.A. 74-5808, and amendments thereto.
25 For the purposes of this subsection: (1) "Mobility enhancing equipment"
26 means equipment including repair and replacement parts to same, but
27 does not include durable medical equipment, which is primarily and cus-
28 tomarily used to provide or increase the ability to move from one place
29 to another and which is appropriate for use either in a home or a motor
30 vehicle; is not generally used by persons with normal mobility; and does
31 not include any motor vehicle or equipment on a motor vehicle normally
32 provided by a motor vehicle manufacturer; and (2) "prosthetic device"
33 means a replacement, corrective or supportive device including repair
34 and replacement parts for same worn on or in the body to artificially
35 replace a missing portion of the body, prevent or correct physical deform-
36 ity or malfunction or support a weak or deformed portion of the body;

37 (s) except as provided in K.S.A. 2006 Supp. 82a-2101, and amend-
38 ments thereto, all sales of tangible personal property or services pur-
39 chased directly or indirectly by a groundwater management district or-
40 ganized or operating under the authority of K.S.A. 82a-1020 et seq. and
41 amendments thereto, by a rural water district organized or operating un-
42 der the authority of K.S.A. 82a-612, and amendments thereto, or by a
43 water supply district organized or operating under the authority of K.S.A.

1 19-3501 et seq., 19-3522 et seq. or 19-3545, and amendments thereto,
2 which property or services are used in the construction activities, opera-
3 tion or maintenance of the district;

4 (t) all sales of farm machinery and equipment or aquaculture ma-
5 chinery and equipment, repair and replacement parts therefor and serv-
6 ices performed in the repair and maintenance of such machinery and
7 equipment. For the purposes of this subsection the term "farm machinery
8 and equipment or aquaculture machinery and equipment" shall include
9 a work-site utility vehicle, as defined in K.S.A. 8-126, and amendments
10 thereto, and is equipped with a bed or cargo box for hauling materials,
11 and shall also include machinery and equipment used in the operation of
12 Christmas tree farming but shall not include any passenger vehicle, truck,
13 truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer,
14 as such terms are defined by K.S.A. 8-126 and amendments thereto. Each
15 purchaser of farm machinery and equipment or aquaculture machinery
16 and equipment exempted herein must certify in writing on the copy of
17 the invoice or sales ticket to be retained by the seller that the farm ma-
18 chinery and equipment or aquaculture machinery and equipment pur-
19 chased will be used only in farming, ranching or aquaculture production.
20 Farming or ranching shall include the operation of a feedlot and farm
21 and ranch work for hire and the operation of a nursery;

22 (u) all leases or rentals of tangible personal property used as a dwell-
23 ing if such tangible personal property is leased or rented for a period of
24 more than 28 consecutive days;

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

38 (w) all sales of natural gas, electricity, heat and water delivered
39 through mains, lines or pipes: (1) To residential premises for noncom-
40 mercial use by the occupant of such premises; (2) for agricultural use and
41 also, for such use, all sales of propane gas; (3) for use in the severing of
42 oil; and (4) to any property which is exempt from property taxation pur-
43 suant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph,

1 “severing” shall have the meaning ascribed thereto by subsection (k) of
2 K.S.A. 79-4216, and amendments thereto. For all sales of natural gas,
3 electricity and heat delivered through mains, lines or pipes pursuant to
4 the provisions of subsection (w)(1) and (w)(2), the provisions of this sub-
5 section shall expire on December 31, 2005;

6 (x) all sales of propane gas, LP-gas, coal, wood and other fuel sources
7 for the production of heat or lighting for noncommercial use of an oc-
8 cupant of residential premises occurring prior to January 1, 2006;

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

13 (z) all sales of tangible personal property and services purchased di-
14 rectly by a port authority or by a contractor therefor as provided by the
15 provisions of K.S.A. 12-3418 and amendments thereto;

16 (aa) all sales of materials and services applied to equipment which is
17 transported into the state from without the state for repair, service, al-
18 teration, maintenance, remanufacture or modification and which is sub-
19 sequently transported outside the state for use in the transmission of
20 liquids or natural gas by means of pipeline in interstate or foreign com-
21 merce under authority of the laws of the United States;

22 (bb) all sales of used mobile homes or manufactured homes. As used
23 in this subsection: (1) “Mobile homes” and “manufactured homes” shall
24 have the meanings ascribed thereto by K.S.A. 58-4202 and amendments
25 thereto; and (2) “sales of used mobile homes or manufactured homes”
26 means sales other than the original retail sale thereof;

27 (cc) all sales of tangible personal property or services purchased for
28 the purpose of and in conjunction with constructing, reconstructing, en-
29 larging or remodeling a ~~business or retail business which meets the~~
30 ~~requirements established in K.S.A. 74-50,115 and amendments thereto~~
31 *Kansas business facility*, and the sale and installation of machinery and
32 equipment purchased for installation at any such ~~business or retail busi-~~
33 ~~ness~~ *Kansas business facility*. When a ~~person shall contract Kansas jobs~~
34 *or opportunity zone credit taxpayer, as defined in section 10, and amend-*
35 *ments thereto, or an eligible taxpayer, as defined in section 2, and amend-*
36 *ments thereto, purchases machinery and equipment or contracts for the*
37 *construction, reconstruction, enlargement or remodeling of any such*
38 ~~business or retail business~~ *Kansas business facility, such person taxpayer*
39 *shall obtain from the state and furnish to the contractor an exemption*
40 *certificate for the project involved, and the contractor may purchase ma-*
41 *terials, machinery and equipment for incorporation in such project. Such*
42 *exemption certificate shall not extend beyond two years from the date of*
43 *the application for the exemption certificate. Extensions may be granted*

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1 *under proper circumstances.* The contractor shall furnish the number of
2 such certificates to all suppliers from whom such purchases are made,
3 and such suppliers shall execute invoices covering the same bearing the
4 number of such certificate. Upon completion of the project the contractor
5 shall furnish to the ~~owner of the business or retail business taxpayer~~ a
6 sworn statement, on a form to be provided by the director of taxation,
7 that all purchases so made were entitled to exemption under this subsec-
8 tion. All invoices shall be held by the contractor for a period of five years
9 and shall be subject to audit by the director of taxation. Any contractor
10 or any agent, employee or subcontractor thereof, who shall use or oth-
11 erwise dispose of any materials, machinery or equipment purchased un-
12 der such a certificate for any purpose other than that for which such a
13 certificate is issued without the payment of the sales or compensating tax
14 otherwise imposed thereon, shall be guilty of a misdemeanor and, upon
15 conviction therefor, shall be subject to the penalties provided for in sub-
16 section (g) of K.S.A. 79-3615 and amendments thereto. ~~As used in this~~
17 ~~subsection, "business" and "retail business" have the meanings respec-~~
18 ~~tively ascribed thereto by K.S.A. 74-50,114 and amendments thereto.~~ Any
19 *person constructing, reconstructing, remodeling or enlarging a facility*
20 *which will be leased in whole or in part for a period of five years or more,*
21 *to a Kansas jobs or opportunity zone credit taxpayer as defined in section*
22 *10, and amendments thereto, or an eligible taxpayer as defined in section*
23 *2, and amendments thereto, that would be eligible for a sales tax exemp-*
24 *tion under the provisions of this subsection, if such taxpayer had con-*
25 *structed, reconstructed, enlarged or remodeled such facility or portion*
26 *thereof itself shall be entitled to the sales tax exemption under the provi-*
27 *sions of this subsection. When such person leases less than the total facility*
28 *to such taxpayer, a project exemption certificate may be granted on: (1)*
29 *The total cost of constructing, reconstructing, remodeling or enlarging,*
30 *the facility multiplied by a fraction given by dividing the number of leased*
31 *square feet eligible for the sales tax exemption by the total square feet*
32 *being constructed, reconstructed, remodeled or enlarged; or (2) the actual*
33 *cost of constructing, reconstructing, remodeling or enlarging that portion*
34 *of the facility to be occupied by such taxpayer, as the person may elect;*
35 (dd) all sales of tangible personal property purchased with food
36 stamps issued by the United States department of agriculture;
37 (ee) all sales of lottery tickets and shares made as part of a lottery
38 operated by the state of Kansas;
39 (ff) on and after July 1, 1988, all sales of new mobile homes or man-
40 ufactured homes to the extent of 40% of the gross receipts, determined
41 without regard to any trade-in allowance, received from such sale. As used
42 in this subsection, "mobile homes" and "manufactured homes" shall have
43 the meanings ascribed thereto by K.S.A. 58-4202 and amendments

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1 thereto;

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

5 (hh) all sales of medical supplies and equipment, including durable
6 medical equipment, purchased directly by a nonprofit skilled nursing
7 home or nonprofit intermediate nursing care home, as defined by K.S.A.
8 39-923, and amendments thereto, for the purpose of providing medical
9 services to residents thereof. This exemption shall not apply to tangible
10 personal property customarily used for human habitation purposes. As
11 used in this subsection, "durable medical equipment" means equipment
12 including repair and replacement parts for such equipment, but does not
13 include mobility enhancing equipment as defined in subsection (r) which
14 can withstand repeated use, is primarily and customarily used to serve a
15 medical purpose, generally is not useful to a person in the absence of
16 illness or injury and is not worn in or on the body;

17 (ii) all sales of tangible personal property purchased directly by a non-
18 profit organization for nonsectarian comprehensive multidiscipline youth
19 development programs and activities provided or sponsored by such or-
20 ganization, and all sales of tangible personal property by or on behalf of
21 any such organization. This exemption shall not apply to tangible personal
22 property customarily used for human habitation purposes;

23 (jj) all sales of tangible personal property or services, including the
24 renting and leasing of tangible personal property, purchased directly on
25 behalf of a community-based mental retardation facility or mental health
26 center organized pursuant to K.S.A. 19-4001 et seq., and amendments
27 thereto, and licensed in accordance with the provisions of K.S.A. 75-
28 3307b and amendments thereto and all sales of tangible personal property
29 or services purchased by contractors during the time period from July,
30 2003, through June, 2006, for the purpose of constructing, equipping,
31 maintaining or furnishing a new facility for a community-based mental
32 retardation facility or mental health center located in Riverton, Cherokee
33 County, Kansas, which would have been eligible for sales tax exemption
34 pursuant to this subsection if purchased directly by such facility or center.
35 This exemption shall not apply to tangible personal property customarily
36 used for human habitation purposes;

37 (kk) (1) (A) all sales of machinery and equipment which are used in
38 this state as an integral or essential part of an integrated production op-
39 eration by a manufacturing or processing plant or facility;

40 (B) all sales of installation, repair and maintenance services per-
41 formed on such machinery and equipment; and

42 (C) all sales of repair and replacement parts and accessories pur-
43 chased for such machinery and equipment.

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1 (2) For purposes of this subsection:

2 (A) "Integrated production operation" means an integrated series of
3 operations engaged in at a manufacturing or processing plant or facility
4 to process, transform or convert tangible personal property by physical,
5 chemical or other means into a different form, composition or character
6 from that in which it originally existed. Integrated production operations
7 shall include: (i) Production line operations, including packaging opera-
8 tions; (ii) preproduction operations to handle, store and treat raw mate-
9 rials; (iii) post production handling, storage, warehousing and distribution
10 operations; and (iv) waste, pollution and environmental control opera-
11 tions, if any;

12 (B) "production line" means the assemblage of machinery and equip-
13 ment at a manufacturing or processing plant or facility where the actual
14 transformation or processing of tangible personal property occurs;

15 (C) "manufacturing or processing plant or facility" means a single,
16 fixed location owned or controlled by a manufacturing or processing busi-
17 ness that consists of one or more structures or buildings in a contiguous
18 area where integrated production operations are conducted to manufac-
19 ture or process tangible personal property to be ultimately sold at retail.
20 Such term shall not include any facility primarily operated for the purpose
21 of conveying or assisting in the conveyance of natural gas, electricity, oil
22 or water. A business may operate one or more manufacturing or proc-
23 essing plants or facilities at different locations to manufacture or process
24 a single product of tangible personal property to be ultimately sold at
25 retail;

26 (D) "manufacturing or processing business" means a business that
27 utilizes an integrated production operation to manufacture, process, fab-
28 ricate, finish, or assemble items for wholesale and retail distribution as
29 part of what is commonly regarded by the general public as an industrial
30 manufacturing or processing operation or an agricultural commodity
31 processing operation. (i) Industrial manufacturing or processing opera-
32 tions include, by way of illustration but not of limitation, the fabrication
33 of automobiles, airplanes, machinery or transportation equipment, the
34 fabrication of metal, plastic, wood, or paper products, electricity power
35 generation, water treatment, petroleum refining, chemical production,
36 wholesale bottling, newspaper printing, ready mixed concrete production,
37 and the remanufacturing of used parts for wholesale or retail sale. Such
38 processing operations shall include operations at an oil well, gas well, mine
39 or other excavation site where the oil, gas, minerals, coal, clay, stone, sand
40 or gravel that has been extracted from the earth is cleaned, separated,
41 crushed, ground, milled, screened, washed, or otherwise treated or pre-
42 pared before its transmission to a refinery or before any other wholesale
43 or retail distribution. (ii) Agricultural commodity processing operations

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1 include, by way of illustration but not of limitation, meat packing, poultry
2 slaughtering and dressing, processing and packaging farm and dairy prod-
3 ucts in sealed containers for wholesale and retail distribution, feed grind-
4 ing, grain milling, frozen food processing, and grain handling, cleaning,
5 blending, fumigation, drying and aeration operations engaged in by grain
6 elevators or other grain storage facilities. (iii) Manufacturing or processing
7 businesses do not include, by way of illustration but not of limitation,
8 nonindustrial businesses whose operations are primarily retail and that
9 produce or process tangible personal property as an incidental part of
10 conducting the retail business, such as retailers who bake, cook or prepare
11 food products in the regular course of their retail trade, grocery stores,
12 meat lockers and meat markets that butcher or dress livestock or poultry
13 in the regular course of their retail trade, contractors who alter, service,
14 repair or improve real property, and retail businesses that clean, service
15 or refurbish and repair tangible personal property for its owner;

16 (E) "repair and replacement parts and accessories" means all parts
17 and accessories for exempt machinery and equipment, including, but not
18 limited to, dies, jigs, molds, patterns and safety devices that are attached
19 to exempt machinery or that are otherwise used in production, and parts
20 and accessories that require periodic replacement such as belts, drill bits,
21 grinding wheels, grinding balls, cutting bars, saws, refractory brick and
22 other refractory items for exempt kiln equipment used in production
23 operations;

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

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

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

30 (B) to transport, convey, handle or store the property undergoing
31 manufacturing or processing at any point from the beginning of the pro-
32 duction line through any warehousing or distribution operation of the
33 final product that occurs at the plant or facility;

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

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

38 (E) to test or measure raw materials, the property undergoing man-
39 ufacturing or processing or the finished product, as a necessary part of
40 the manufacturer's integrated production operations;

41 (F) to plan, manage, control or record the receipt and flow of inven-
42 tories of raw materials, consumables and component parts, the flow of
43 the property undergoing manufacturing or processing and the manage-

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1 ment of inventories of the finished product;

2 (G) to produce energy for, lubricate, control the operating of or oth-
3 erwise enable the functioning of other production machinery and equip-
4 ment and the continuation of production operations;

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

8 (I) to transmit or transport electricity, coke, gas, water, steam or sim-
9 ilar substances used in production operations from the point of genera-
10 tion, if produced by the manufacturer or processor at the plant site, to
11 that manufacturer's production operation; or, if purchased or delivered
12 from offsite, from the point where the substance enters the site of the
13 plant or facility to that manufacturer's production operations;

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

16 (K) to provide and control an environment required to maintain cer-
17 tain levels of air quality, humidity or temperature in special and limited
18 areas of the plant or facility, where such regulation of temperature or
19 humidity is part of and essential to the production process;

20 (L) to treat, transport or store waste or other byproducts of produc-
21 tion operations at the plant or facility; or

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

24 (4) The following machinery, equipment and materials shall be
25 deemed to be exempt even though it may not otherwise qualify as ma-
26 chinery and equipment used as an integral or essential part of an inte-
27 grated production operation: (A) Computers and related peripheral
28 equipment that are utilized by a manufacturing or processing business
29 for engineering of the finished product or for research and development
30 or product design; (B) machinery and equipment that is utilized by a
31 manufacturing or processing business to manufacture or rebuild tangible
32 personal property that is used in manufacturing or processing operations,
33 including tools, dies, molds, forms and other parts of qualifying machinery
34 and equipment; (C) portable plants for aggregate concrete, bulk cement
35 and asphalt including cement mixing drums to be attached to a motor
36 vehicle; (D) industrial fixtures, devices, support facilities and special foun-
37 dations necessary for manufacturing and production operations, and ma-
38 terials and other tangible personal property sold for the purpose of fab-
39 ricating such fixtures, devices, facilities and foundations. An exemption
40 certificate for such purchases shall be signed by the manufacturer or
41 processor. If the fabricator purchases such material, the fabricator shall
42 also sign the exemption certificate; and (E) a manufacturing or processing
43 business' laboratory equipment that is not located at the plant or facility,

1 but that would otherwise qualify for exemption under subsection (3)(E).

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

4 (A) Machinery and equipment used for nonproduction purposes, in-
5 cluding, but not limited to, machinery and equipment used for plant se-
6 curity, fire prevention, first aid, accounting, administration, record keep-
7 ing, advertising, marketing, sales or other related activities, plant cleaning,
8 plant communications, and employee work scheduling;

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

12 (C) transportation, transmission and distribution equipment not pri-
13 marily used in a production, warehousing or material handling operation
14 at the plant or facility, including the means of conveyance of natural gas,
15 electricity, oil or water, and equipment related thereto, located outside
16 the plant or facility;

17 (D) office machines and equipment including computers and related
18 peripheral equipment not used directly and primarily to control or mea-
19 sure the manufacturing process;

20 (E) furniture and other furnishings;

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

24 (G) building fixtures that are not integral to the manufacturing op-
25 eration, such as utility systems for heating, ventilation, air conditioning,
26 communications, plumbing or electrical;

27 (H) machinery and equipment used for general plant heating, cooling
28 and lighting;

29 (I) motor vehicles that are registered for operation on public high-
30 ways; or

31 (J) employee apparel, except safety and protective apparel that is pur-
32 chased by an employer and furnished gratuitously to employees who are
33 involved in production or research activities.

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

42 (7) The secretary of revenue shall adopt rules and regulations nec-
43 essary to administer the provisions of this subsection;

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

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

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

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

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

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

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

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

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

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

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

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1 (1) The American Heart Association, Kansas Affiliate, Inc. for the
2 purposes of providing education, training, certification in emergency car-
3 diac care, research and other related services to reduce disability and
4 death from cardiovascular diseases and stroke;

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

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

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

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

21 (6) the Kansas chapters of the Alzheimer's Disease and Related Dis-
22 orders Association, Inc. for the purpose of providing assistance and sup-
23 port to persons in Kansas with Alzheimer's disease, and their families and
24 caregivers;

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

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

31 (9) the heartstrings community foundation for the purpose of provid-
32 ing training, employment and activities for adults with developmental
33 disabilities;

34 (10) the Cystic Fibrosis Foundation, Heart of America Chapter, for
35 the purposes of assuring the development of the means to cure and con-
36 trol cystic fibrosis and improving the quality of life for those with the
37 disease;

38 (11) the spina bifida association of Kansas for the purpose of provid-
39 ing financial, educational and practical aid to families and individuals with
40 spina bifida. Such aid includes, but is not limited to, funding for medical
41 devices, counseling and medical educational opportunities;

42 (12) the CHWC, Inc., for the purpose of rebuilding urban core neigh-
43 borhoods through the construction of new homes, acquiring and reno-

1 vating existing homes and other related activities, and promoting eco-
2 nomic development in such neighborhoods;

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

5 (14) the Dreams Work, Inc., for the purpose of providing young adult
6 day services to individuals with developmental disabilities and assisting
7 families in avoiding institutional or nursing home care for a developmen-
8 tally disabled member of their family;

9 (15) the KSDS, Inc., for the purpose of promoting the independence
10 and inclusion of people with disabilities as fully participating and contrib-
11 uting members of their communities and society through the training and
12 providing of guide and service dogs to people with disabilities, and pro-
13 viding disability education and awareness to the general public; and

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

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

20 (xx) all sales of tangible personal property and services purchased by
21 a nonprofit zoo which is exempt from federal income taxation pursuant
22 to section 501(c)(3) of the federal internal revenue code of 1986, or on
23 behalf of such zoo by an entity itself exempt from federal income taxation
24 pursuant to section 501(c)(3) of the federal internal revenue code of 1986
25 contracted with to operate such zoo and all sales of tangible personal
26 property or services purchased by a contractor for the purpose of con-
27 structing, equipping, reconstructing, maintaining, repairing, enlarging,
28 furnishing or remodeling facilities for any nonprofit zoo which would be
29 exempt from taxation under the provisions of this section if purchased
30 directly by such nonprofit zoo or the entity operating such zoo. Nothing
31 in this subsection shall be deemed to exempt the purchase of any con-
32 struction machinery, equipment or tools used in the constructing, equip-
33 ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-
34 modeling facilities for any nonprofit zoo. When any nonprofit zoo shall
35 contract for the purpose of constructing, equipping, reconstructing, main-
36 taining, repairing, enlarging, furnishing or remodeling facilities, it shall
37 obtain from the state and furnish to the contractor an exemption certifi-
38 cate for the project involved, and the contractor may purchase materials
39 for incorporation in such project. The contractor shall furnish the number
40 of such certificate to all suppliers from whom such purchases are made,
41 and such suppliers shall execute invoices covering the same bearing the
42 number of such certificate. Upon completion of the project the contractor
43 shall furnish to the nonprofit zoo concerned a sworn statement, on a form

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

22 (yy) all sales of tangible personal property and services purchased by
23 a parent-teacher association or organization, and all sales of tangible per-
24 sonal property by or on behalf of such association or organization;

25 (zz) all sales of machinery and equipment purchased by over-the-air,
26 free access radio or television station which is used directly and primarily
27 for the purpose of producing a broadcast signal or is such that the failure
28 of the machinery or equipment to operate would cause broadcasting to
29 cease. For purposes of this subsection, machinery and equipment shall
30 include, but not be limited to, that required by rules and regulations of
31 the federal communications commission, and all sales of electricity which
32 are essential or necessary for the purpose of producing a broadcast signal
33 or is such that the failure of the electricity would cause broadcasting to
34 cease;

35 (aaa) all sales of tangible personal property and services purchased
36 by a religious organization which is exempt from federal income taxation
37 pursuant to section 501(c)(3) of the federal internal revenue code, and
38 used exclusively for religious purposes, and all sales of tangible personal
39 property or services purchased by a contractor for the purpose of con-
40 structing, equipping, reconstructing, maintaining, repairing, enlarging,
41 furnishing or remodeling facilities for any such organization which would
42 be exempt from taxation under the provisions of this section if purchased
43 directly by such organization. Nothing in this subsection shall be deemed

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1 to exempt the purchase of any construction machinery, equipment or
2 tools used in the constructing, equipping, reconstructing, maintaining,
3 repairing, enlarging, furnishing or remodeling facilities for any such or-
4 ganization. When any such organization shall contract for the purpose of
5 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
6 ing, furnishing or remodeling facilities, it shall obtain from the state and
7 furnish to the contractor an exemption certificate for the project involved,
8 and the contractor may purchase materials for incorporation in such pro-
9 ject. The contractor shall furnish the number of such certificate to all
10 suppliers from whom such purchases are made, and such suppliers shall
11 execute invoices covering the same bearing the number of such certifi-
12 cate. Upon completion of the project the contractor shall furnish to such
13 organization concerned a sworn statement, on a form to be provided by
14 the director of taxation, that all purchases so made were entitled to ex-
15 emption under this subsection. All invoices shall be held by the contractor
16 for a period of five years and shall be subject to audit by the director of
17 taxation. If any materials purchased under such a certificate are found
18 not to have been incorporated in the building or other project or not to
19 have been returned for credit or the sales or compensating tax otherwise
20 imposed upon such materials which will not be so incorporated in the
21 building or other project reported and paid by such contractor to the
22 director of taxation not later than the 20th day of the month following
23 the close of the month in which it shall be determined that such materials
24 will not be used for the purpose for which such certificate was issued,
25 such organization concerned shall be liable for tax on all materials pur-
26 chased for the project, and upon payment thereof it may recover the same
27 from the contractor together with reasonable attorney fees. Any contrac-
28 tor or any agent, employee or subcontractor thereof, who shall use or
29 otherwise dispose of any materials purchased under such a certificate for
30 any purpose other than that for which such a certificate is issued without
31 the payment of the sales or compensating tax otherwise imposed upon
32 such materials, shall be guilty of a misdemeanor and, upon conviction
33 therefor, shall be subject to the penalties provided for in subsection (g)
34 of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after
35 July 1, 1998, but prior to the effective date of this act upon the gross
36 receipts received from any sale exempted by the amendatory provisions
37 of this subsection shall be refunded. Each claim for a sales tax refund
38 shall be verified and submitted to the director of taxation upon forms
39 furnished by the director and shall be accompanied by any additional
40 documentation required by the director. The director shall review each
41 claim and shall refund that amount of sales tax paid as determined under
42 the provisions of this subsection. All refunds shall be paid from the sales
43 tax refund fund upon warrants of the director of accounts and reports

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1 pursuant to vouchers approved by the director or the director's designee;
2 (bbb) all sales of food for human consumption by an organization
3 which is exempt from federal income taxation pursuant to section 501
4 (c)(3) of the federal internal revenue code of 1986, pursuant to a food
5 distribution program which offers such food at a price below cost in
6 exchange for the performance of community service by the purchaser
7 thereof;

8 (ccc) on and after July 1, 1999, all sales of tangible personal property
9 and services purchased by a primary care clinic or health center the pri-
10 mary purpose of which is to provide services to medically underserved
11 individuals and families, and which is exempt from federal income taxa-
12 tion pursuant to section 501 (c)(3) of the federal internal revenue code,
13 and all sales of tangible personal property or services purchased by a
14 contractor for the purpose of constructing, equipping, reconstructing,
15 maintaining, repairing, enlarging, furnishing or remodeling facilities for
16 any such clinic or center which would be exempt from taxation under the
17 provisions of this section if purchased directly by such clinic or center.
18 Nothing in this subsection shall be deemed to exempt the purchase of
19 any construction machinery, equipment or tools used in the constructing,
20 equipping, reconstructing, maintaining, repairing, enlarging, furnishing
21 or remodeling facilities for any such clinic or center. When any such clinic
22 or center shall contract for the purpose of constructing, equipping, re-
23 constructing, maintaining, repairing, enlarging, furnishing or remodeling
24 facilities, it shall obtain from the state and furnish to the contractor an
25 exemption certificate for the project involved, and the contractor may
26 purchase materials for incorporation in such project. The contractor shall
27 furnish the number of such certificate to all suppliers from whom such
28 purchases are made, and such suppliers shall execute invoices covering
29 the same bearing the number of such certificate. Upon completion of the
30 project the contractor shall furnish to such clinic or center concerned a
31 sworn statement, on a form to be provided by the director of taxation,
32 that all purchases so made were entitled to exemption under this subsec-
33 tion. All invoices shall be held by the contractor for a period of five years
34 and shall be subject to audit by the director of taxation. If any materials
35 purchased under such a certificate are found not to have been incorpo-
36 rated in the building or other project or not to have been returned for
37 credit or the sales or compensating tax otherwise imposed upon such
38 materials which will not be so incorporated in the building or other pro-
39 ject reported and paid by such contractor to the director of taxation not
40 later than the 20th day of the month following the close of the month in
41 which it shall be determined that such materials will not be used for the
42 purpose for which such certificate was issued, such clinic or center con-
43 cerned shall be liable for tax on all materials purchased for the project,

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

10 (ddd) on and after January 1, 1999, and before January 1, 2000, all
11 sales of materials and services purchased by any class II or III railroad as
12 classified by the federal surface transportation board for the construction,
13 renovation, repair or replacement of class II or III railroad track and
14 facilities used directly in interstate commerce. In the event any such track
15 or facility for which materials and services were purchased sales tax ex-
16 empt is not operational for five years succeeding the allowance of such
17 exemption, the total amount of sales tax which would have been payable
18 except for the operation of this subsection shall be recouped in accord-
19 ance with rules and regulations adopted for such purpose by the secretary
20 of revenue;

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

25 (fff) all sales of material handling equipment, racking systems and
26 other related machinery and equipment that is used for the handling,
27 movement or storage of tangible personal property in a warehouse or
28 distribution facility in this state; all sales of installation, repair and main-
29 tenance services performed on such machinery and equipment; and all
30 sales of repair and replacement parts for such machinery and equipment.
31 For purposes of this subsection, a warehouse or distribution facility means
32 a single, fixed location that consists of buildings or structures in a contig-
33 uous area where storage or distribution operations are conducted that are
34 separate and apart from the business' retail operations, if any, and which
35 do not otherwise qualify for exemption as occurring at a manufacturing
36 or processing plant or facility. Material handling and storage equipment
37 shall include aeration, dust control, cleaning, handling and other such
38 equipment that is used in a public grain warehouse or other commercial
39 grain storage facility, whether used for grain handling, grain storage, grain
40 refining or processing, or other grain treatment operation;

41 (ggg) all sales of tangible personal property and services purchased
42 by or on behalf of the Kansas Academy of Science which is exempt from
43 federal income taxation pursuant to section 501(c)(3) of the federal in-

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1 ternal revenue code of 1986, and used solely by such academy for the
2 preparation, publication and dissemination of education materials;

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

6 (iii) all sales of personal property and services purchased by an or-
7 ganization which is exempt from federal income taxation pursuant to sec-
8 tion 501(c)(3) of the federal internal revenue code of 1986, and which
9 such personal property and services are used by any such organization in
10 the collection, storage and distribution of food products to nonprofit or-
11 ganizations which distribute such food products to persons pursuant to a
12 food distribution program on a charitable basis without fee or charge, and
13 all sales of tangible personal property or services purchased by a contrac-
14 tor for the purpose of constructing, equipping, reconstructing, maintain-
15 ing, repairing, enlarging, furnishing or remodeling facilities used for the
16 collection and storage of such food products for any such organization
17 which is exempt from federal income taxation pursuant to section
18 501(c)(3) of the federal internal revenue code of 1986, which would be
19 exempt from taxation under the provisions of this section if purchased
20 directly by such organization. Nothing in this subsection shall be deemed
21 to exempt the purchase of any construction machinery, equipment or
22 tools used in the constructing, equipping, reconstructing, maintaining,
23 repairing, enlarging, furnishing or remodeling facilities for any such or-
24 ganization. When any such organization shall contract for the purpose of
25 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
26 ing, furnishing or remodeling facilities, it shall obtain from the state and
27 furnish to the contractor an exemption certificate for the project involved,
28 and the contractor may purchase materials for incorporation in such pro-
29 ject. The contractor shall furnish the number of such certificate to all
30 suppliers from whom such purchases are made, and such suppliers shall
31 execute invoices covering the same bearing the number of such certifi-
32 cate. Upon completion of the project the contractor shall furnish to such
33 organization concerned a sworn statement, on a form to be provided by
34 the director of taxation, that all purchases so made were entitled to ex-
35 emption under this subsection. All invoices shall be held by the contractor
36 for a period of five years and shall be subject to audit by the director of
37 taxation. If any materials purchased under such a certificate are found
38 not to have been incorporated in such facilities or not to have been re-
39 turned for credit or the sales or compensating tax otherwise imposed upon
40 such materials which will not be so incorporated in such facilities reported
41 and paid by such contractor to the director of taxation not later than the
42 20th day of the month following the close of the month in which it shall
43 be determined that such materials will not be used for the purpose for

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1 which such certificate was issued, such organization concerned shall be
2 liable for tax on all materials purchased for the project, and upon payment
3 thereof it may recover the same from the contractor together with rea-
4 sonable attorney fees. Any contractor or any agent, employee or subcon-
5 tractor thereof, who shall use or otherwise dispose of any materials pur-
6 chased under such a certificate for any purpose other than that for which
7 such a certificate is issued without the payment of the sales or compen-
8 sating tax otherwise imposed upon such materials, shall be guilty of a
9 misdemeanor and, upon conviction therefor, shall be subject to the pen-
10 alties provided for in subsection (g) of K.S.A. 79-3615, and amendments
11 thereto. Sales tax paid on and after July 1, 2005, but prior to the effective
12 date of this act upon the gross receipts received from any sale exempted
13 by the amendatory provisions of this subsection shall be refunded. Each
14 claim for a sales tax refund shall be verified and submitted to the director
15 of taxation upon forms furnished by the director and shall be accompanied
16 by any additional documentation required by the director. The director
17 shall review each claim and shall refund that amount of sales tax paid as
18 determined under the provisions of this subsection. All refunds shall be
19 paid from the sales tax refund fund upon warrants of the director of
20 accounts and reports pursuant to vouchers approved by the director or
21 the director's designee;

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

37 (lll) all sales of tangible personal property and services purchased by
38 special olympics Kansas, inc. for the purpose of providing year-round
39 sports training and athletic competition in a variety of olympic-type sports
40 for individuals with intellectual disabilities by giving them continuing op-
41 portunities to develop physical fitness, demonstrate courage, experience
42 joy and participate in a sharing of gifts, skills and friendship with their
43 families, other special olympics athletes and the community, and activities

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1 provided or sponsored by such organization, and all sales of tangible personal property by or on behalf of any such organization;

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

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

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

17 (ppp) all sales of tangible personal property and services purchased
18 by or on behalf of a homeless shelter which is exempt from federal income
19 taxation pursuant to section 501(c)(3) of the federal income tax code of
20 1986, and used by any such homeless shelter to provide emergency and
21 transitional housing for individuals and families experiencing homelessness,
22 and all sales of any such property by or on behalf of any such homeless
23 shelter for any such purpose;

24 (qqq) all sales of tangible personal property and services purchased
25 by TLC for children and families, inc., hereinafter referred to as TLC,
26 which is exempt from federal income taxation pursuant to section
27 501(c)(3) of the federal internal revenue code of 1986, and which such
28 property and services are used for the purpose of providing emergency
29 shelter and treatment for abused and neglected children as well as meeting
30 additional critical needs for children, juveniles and family, and all sales
31 of any such property by or on behalf of TLC for any such purpose; and
32 all sales of tangible personal property or services purchased by a contractor
33 for the purpose of constructing, maintaining, repairing, enlarging, furnishing
34 or remodeling facilities for the operation of services for TLC for any such
35 purpose which would be exempt from taxation under the provisions of this
36 section if purchased directly by TLC. Nothing in this subsection shall be
37 deemed to exempt the purchase of any construction machinery, equipment or
38 tools used in the constructing, maintaining, repairing, enlarging, furnishing
39 or remodeling such facilities for TLC. When TLC contracts for the purpose
40 of constructing, maintaining, repairing, enlarging, furnishing or remodeling
41 such facilities, it shall obtain from the state and furnish to the contractor
42 an exemption certificate for
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1 the project involved, and the contractor may purchase materials for in-
2 corporation in such project. The contractor shall furnish the number of
3 such certificate to all suppliers from whom such purchases are made, and
4 such suppliers shall execute invoices covering the same bearing the num-
5 ber of such certificate. Upon completion of the project the contractor
6 shall furnish to TLC a sworn statement, on a form to be provided by the
7 director of taxation, that all purchases so made were entitled to exemption
8 under this subsection. All invoices shall be held by the contractor for a
9 period of five years and shall be subject to audit by the director of taxation.
10 If any materials purchased under such a certificate are found not to have
11 been incorporated in the building or other project or not to have been
12 returned for credit or the sales or compensating tax otherwise imposed
13 upon such materials which will not be so incorporated in the building or
14 other project reported and paid by such contractor to the director of
15 taxation not later than the 20th day of the month following the close of
16 the month in which it shall be determined that such materials will not be
17 used for the purpose for which such certificate was issued, TLC shall be
18 liable for tax on all materials purchased for the project, and upon payment
19 thereof it may recover the same from the contractor together with rea-
20 sonable attorney fees. Any contractor or any agent, employee or subcon-
21 tractor thereof, who shall use or otherwise dispose of any materials pur-
22 chased 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 compen-
24 sating tax otherwise imposed upon such materials, shall be guilty of a
25 misdemeanor and, upon conviction therefor, shall be subject to the pen-
26 alties provided for in subsection (g) of K.S.A. 79-3615, and amendments
27 thereto;

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

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

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

41 (ttt) all sales of tangible personal property or services purchased by
42 a contractor for a project for the purpose of restoring, constructing, equip-
43 ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-

Sec 1

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

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(uuu) all sales of tangible personal property and services purchased by Kansas children's service league, hereinafter referred to as KCSL, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing for the prevention and treatment of child abuse and maltreatment as well as meeting additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of KCSL for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for KCSL for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by KCSL. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for KCSL. When KCSL contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to KCSL a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, KCSL shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials,

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

4 Sec. 20. K.S.A. 40-253a, 74-50,113, 74-50,116, 74-50,117, 74-50,118,
5 74-50,119, 74-50,135, 74-50,135a, 74-8945, 79-32,155, 79-32,156, 79-
6 32,157, 79-32,158, 79-32,159, 79-32,159a, 79-32,159b, 79-32,159c, 79-
7 32,160, 79-32,160b and 79-32,160c and K.S.A. 2006 Supp. 74-50,114, 74-
8 50,115, 74-50,131, ~~74-50,132, 74-50,133,~~ 74-50,134, 79-3269, 79-32,111,
9 79-32,153, 79-32,154, 79-32,160a, 79-32,243 and 79-3606 are hereby
10 repealed.

11 Sec. 21. This act shall take effect and be in force from and after its
12 publication in the statute book.

Sec. 15. K.S.A. 2006 Supp. 74-50,131 is hereby amended to read as follows: 74-50,131. Commencing after December 31, 1999: (a) As used in this act: (1) "Qualified firm" means a for-profit business establishment, subject to state income, sales or property taxes, identified under the standard industrial classification (SIC) codes as in effect July 1, 1993, major groups 20 through 39, major groups 40 through 51, and major groups 60 through 89; identified under the North American industry classification system (NAICS) as in effect on October 1, 2000, or is identified as a corporate or regional headquarters or back-office operation of a national or multi-national corporation regardless of SIC code or NAICS designation. The secretary of commerce shall determine eligibility when a difference exists between a firm's SIC code and NAICS designation. A business establishment may be assigned a standard industrial classification code or NAICS designation according to the primary business activity at a single physical location in the state.

(2) "*Metropolitan county*" means the county of Douglas, Johnson, Leavenworth, Sedgwick, Shawnee or Wyandotte.

(b) In the case of firms in major groups 40 through 51, and major groups 60 through 89 or the appropriate NAICS designation the business establishment must also demonstrate the following:

(1) More than 1/2 of its gross revenues are a result of sales to commercial or governmental customers outside the state of Kansas; or

(2) more than 1/2 of its gross revenues are a result of sales to Kansas manufacturing firms within major groups 20 through 39 or the appropriate NAICS designation; or

(3) more than 1/2 of its gross revenues are a result of a combination of sales described in (1) and (2).

(c) For purposes of determining whether one of the average wage options described in subsection (d) below is satisfied, business establishments located within a metropolitan county~~[, as defined in K.S.A. 74-50,114, and amendments thereto,]~~ will be compared only to other businesses within that metropolitan county, and business establishments located outside of a metropolitan county will be compared to businesses within an aggregation of counties representing the business establishment's region of the state, which regional aggregation will exclude metropolitan counties. Such aggregation shall be determined by the department of commerce.

(d) Additionally, a business establishment having met the criteria as established in subsection (a) or (b), and using the comparison method described in subsection (c), must meet one of the following criteria:

(1) The establishment with 500 or fewer full-time equivalent employees will provide an average wage that is above the average wage paid by all firms with 500 or fewer full-time equivalent employees which share the same two-digit standard industrial classification code or appropriate NAICS designation.

(2) The establishment with 500 or fewer full-time equivalent employees is the sole firm within its two-digit standard industrial classification code or appropriate NAICS designation which has 500 or fewer full-time equivalent employees.

(3) The establishment with more than 500 full-time equivalent employees will provide an average wage that is above the average wage paid by firms with more than 500 full-time equivalent employees which share the same two-digit standard industrial classification code or appropriate NAICS designation.

(4) The establishment with more than 500 full-time equivalent employees is the sole firm within its two-digit standard industrial classification code or appropriate NAICS designation which has 500 or more full-time equivalent employees, in which event it shall either provide an average

wage that is above the average wage paid by all firms with 500 or fewer full-time equivalent employees which share the same two-digit standard industrial classification code or appropriate NAICS designation, or be the sole firm within its two-digit standard industrial classification code or appropriate NAICS designation.

(e) As an alternative to the requirements of subsections (c) and (d), a firm having met the requirements of subsections (a) or (b), may qualify, if excluding taxable disbursements to company owners, the business establishment's annual average wage must be greater than or equal to 1.5 times the aggregate average wage paid by industries covered by the employment security law based on data maintained by the secretary of labor.

(f) For the purposes of this section, the number of full-time equivalent employees shall be determined by dividing the number of hours worked by part-time employees during the pertinent measurement interval by an amount equal to the corresponding multiple of a 40-hour work week and adding the quotient to the number of full-time employees.

(g) The secretary of commerce shall certify annually to the secretary of revenue that a firm meets the criteria for a qualified firm and that the firm is eligible for the benefits and assistance provided under ~~[this act]~~ K.S.A. 74-50,132 and 74-50,133, and amendments thereto. The secretary of commerce is hereby authorized to obtain any and all information necessary to determine such eligibility. Information obtained under this section shall not be subject to disclosure pursuant to K.S.A. 45-215 *et seq.*, and amendments thereto, but shall upon request be made available to the legislative post audit division. The secretary of commerce shall publish rules and regulations for the implementation of this act. Such rules and regulations shall include, but not be limited to:

(1) A definition of "training and education" for purposes of K.S.A. 74-50,132 and amendments thereto.

(2) Establishment of eligibility requirements and application procedures for expenditures from the high performance incentive fund created in K.S.A. 74-50,133 and amendments thereto.

(3) Establishment of approval guidelines for private consultants authorized pursuant to K.S.A. 74-50,133 and amendments thereto.

(4) Establishment of guidelines for prioritizing business assistance programs pursuant to K.S.A. 74-50,133 and amendments thereto.

(5) A definition of "commercial customer" for the purpose of K.S.A. 74-50,133 and amendments thereto.

(6) A definition of "headquarters" for the purpose of K.S.A. 74-50,133 and amendments thereto.

(7) Establishment of guidelines concerning the use and disclosure of any information obtained to determine the eligibility of a firm for the assistance and benefits provided for by ~~[this act]~~ K.S.A. 74-50,132 and 74-50,133, and amendments thereto.

HOUSE BILL No. 2496

By Committee on Economic Development and Tourism

2-9

9 AN ACT concerning taxation; relating to credits; enacting the Kansas
10 investment credit act and the Kansas jobs credit act; relating to qual-
11 ifications and procedures; eliminating certain existing credits related
12 thereto; amending K.S.A. 40-253a and 74-8945 and K.S.A. 2006 Supp.
13 79-32,111, 79-32,243 and 79-3606 and repealing the existing sections;
14 also repealing K.S.A. 74-50,113, 74-50,116, 74-50,117, 74-50,118, 74-
15 50,119, 74-50,135, 74-50,135a, 79-32,155, 79-32,156, 79-32,157, 79-
16 32,158, 79-32,159, 79-32,159a, 79-32,159b, 79-32,159c, 79-32,160, 79-
17 32,160b and 79-32,160c and K.S.A. 2006 Supp. 74-50,114, 74-50,115,
18 74-50,131, 74-50,132, 74-50,133, 74-50,134, 79-3269, 79-32,153, 79-
19 32,154 and 79-32,160a.

20

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

22 New Section 1. The provisions of sections 1 through 8, and amend-
23 ments thereto, shall be known and may be cited as the Kansas investment
24 credit act.

25 New Sec. 2. As used in the Kansas investment credit act, unless oth-
26 erwise provided: (a) "Act" means the Kansas investment credit act;

27 (b) "ancillary support operation" means a Kansas business facility at
28 which the business activities are ancillary processing functions and from
29 which no or de minimis primary business activities occur. Ancillary proc-
30 essing functions shall support and improve operating efficiencies of the
31 primary focus of the business, but are not of themselves, integral and
32 necessary to performing the primary business activities;

33 (c) "eligible taxpayer" means a for-profit business establishment sub-
34 ject to the Kansas income tax act, the premium tax or privilege fees im-
35 posed pursuant to K.S.A. 40-252, and amendments thereto, the privilege
36 tax as measured by the net income of financial institutions imposed pur-
37 suant to chapter 79, article 11 of the Kansas Statutes Annotated, sales or
38 property taxes and that meets the eligibility criteria in section 3, and
39 amendments thereto and is current in payment of Kansas taxes;

40 (d) "headquarters" means a Kansas business facility where principal
41 officers of the business are housed and from which direction, manage-
42 ment, or administrative support of transactions is provided for a business
43 or division of a business and from which no more than de minimis rev-

Economic Development & Tourism

Date: 2-19-07

Attachment # 2-1

1 enues are generated from primary business activities.

2 (e) "Kansas business facility" means any factory, mill, plant, refinery,
3 warehouse, feedlot, building or complex of buildings that operate as a
4 single unit on a contiguous piece of property, located within the state,
5 including the land on which such facility is located and all machinery,
6 equipment and other real and tangible personal property located at or
7 within such facility used in connection with the operation of such facility.
8 The term "Kansas business facility" includes only structures within which
9 individuals are customarily employed or which are customarily used to
10 house machinery, equipment or other property and that are not designed
11 with the capability of being transported, moved or relocated. Such Kansas
12 business facility shall satisfy the following requirements: (1) Such facility
13 must be employed by the eligible taxpayer in the operation of a revenue
14 producing enterprise. Such facility shall not be considered a Kansas busi-
15 ness facility in the hands of the taxpayer if the taxpayer's only activity with
16 respect to such facility is to lease it to another person or persons. If the
17 taxpayer employs only a portion of such facility in the operation of a
18 revenue producing enterprise, and leases another portion of such facility
19 to another person or persons or does not otherwise use such other por-
20 tions in the operation of a revenue producing enterprise, the portion
21 employed by the taxpayer in the operation of a revenue producing en-
22 terprise shall be considered a Kansas business facility, if the requirements
23 of subsection (e)(2) are satisfied; and

24 (2) if such facility was acquired by the taxpayer from another person
25 or persons, such facility was not employed, immediately prior to the trans-
26 fer of title to such facility to the taxpayer, or to the commencement of
27 the term of the lease of such facility to the taxpayer, by any other person
28 or persons in the operation of a revenue producing enterprise and the
29 taxpayer continues the operation of the same or substantially identical
30 revenue producing enterprise at such facility;

31 (f) "opportunity zone" shall be established by the secretary of com-
32 merce through rules and regulations. In addition to other opportunity
33 zone designation criteria established by the secretary, such criteria shall
34 include: (1) An opportunity zone, which shall be comprised of at least
35 one county; (2) shall be economically disadvantaged; and (3) shall not
36 include any counties in a metropolitan statistical area or micropolitan
37 statistical area;

38 (g) "qualified investment" means the value of the real and tangible
39 personal property permanently and physically located at the Kansas busi-
40 ness facility, except that "qualified investment" does not include inven-
41 tory, construction in progress, or property held for sale to customers in
42 the ordinary course of the taxpayer's business, which constitutes the Kan-
43 sas business facility, or which is used by the taxpayer in the operation of

- 1 the Kansas business facility, during the taxable year for which the credit
2 is claimed. The value of such property during such taxable year shall be:
- 3 (1) The original cost of such property, if owned by the eligible taxpayer;
4 or (2) eight times the net annual rental rate, if leased by the eligible
5 taxpayer. Original cost is deemed to be the basis of the property for fed-
6 eral income tax purposes, prior to any federal adjustments, at the time of
7 acquisition by the taxpayer and adjusted by subsequent capital additions
8 or improvements thereto and partial disposition thereof, by reason of sale,
9 exchange or abandonment. The net annual rental rate shall be the annual
10 rental rate paid by the taxpayer less any annual rental rate received by
11 the taxpayer from subrentals. "Qualified investment" shall be determined
12 by calculating the value of the qualified investment that has been newly
13 placed into service at the eligible taxpayer's Kansas business facility during
14 the taxpayer's tax year. In order to remain eligible the investment must
15 continue to be used during the tax year and remain in service on the last
16 business day of the taxpayer's tax year for which the credit is claimed. For
17 plans that show a project shall extend beyond one tax period in which the
18 minimum investment is not met at the end of the first tax period that the
19 qualified investment is placed in service, the qualified investment can be
20 accumulated into the next consecutive tax period for computation of the
21 investment credit until the minimum investment has been met as long as
22 the qualified investment remains in service and is identified as part of the
23 same project. Once the minimum investment has been initially met on a
24 project, subsequent qualified investment may be claimed in the tax period
25 that it is placed in service;
- 26 (h) "revenue producing enterprise" means: (1) The assembly, fabri-
27 cation, manufacture or processing of any agricultural, mineral or manu-
28 factured product;
- 29 (2) the storage, warehousing, distribution or sale of any products of
30 agriculture, aquaculture, mining or manufacturing;
- 31 (3) the feeding of livestock at a feedlot;
- 32 (4) the operation of laboratories or other facilities for scientific, ag-
33 ricultural, aquacultural, animal husbandry or industrial research, devel-
34 opment or testing;
- 35 (5) the performance of services of any type;
- 36 (6) the feeding of aquatic plants and animals at an aquaculture
37 operation;
- 38 (7) the administrative management of any of the foregoing activities;
39 or
- 40 (8) any combination of any of the foregoing activities.
- 41 "Revenue producing enterprise" shall not mean a swine production
42 facility as defined in K.S.A. 17-5903, and amendments thereto; and
- 43 (i) "same or substantially identical revenue producing enterprise"
- 2-3

1 means a revenue producing enterprise in which the products produced
2 or sold, services performed or activities conducted are the same in char-
3 acter and use, are produced, sold, performed or conducted in the same
4 manner and to or for the same type of customers as the products, services
5 or activities produced, sold, performed or conducted in another revenue
6 producing enterprise.

7 New Sec. 3. (a) An eligible taxpayer may qualify for the investment
8 credit if all of the following criteria are met: (1) The taxpayer's Kansas
9 business facility must be:

10 (A) Identified under the North American industry classification sys-
11 tem (NAICS) subsector of 221, 311-425, 481-624, 812-813, or 922-928,
12 as assigned by the secretary of the department of labor; or

13 (B) identified as a headquarters or ancillary support operation by the
14 secretary of commerce for purposes of this act, regardless of NAICS
15 classification;

16 (2) the qualified investment for the project must equal or exceed
17 ~~\$100,000~~ for those Kansas business facilities that are located in an op-
18 portunity zone and ~~\$1,000,000~~ for those Kansas business facilities that
19 are not located in an opportunity zone;

50,000

150,000

20 (3) the taxpayer shall satisfy payment of a higher-than-average wage
21 within a wage region at the Kansas business facility at which qualified
22 investment occurs by performing one of the options described below: (A)
23 The taxpayer's Kansas business facility with 500 or fewer full-time equiv-
24 alent employees will provide an average wage that is above the average
25 wage paid by all Kansas business facilities that share the same assigned
26 NAICS category used to develop wage thresholds and that have reported
27 500 or fewer employees to the Kansas department of labor on the quar-
28 terly wage reports;

29 (B) the taxpayer's Kansas business facility with 500 or fewer full-time
30 equivalent employees is the sole facility within its assigned NAICS cate-
31 gory that has reported wages for 500 or fewer employees to the Kansas
32 department of labor on the quarterly wage reports;

33 (C) the taxpayer's Kansas business facility with more than 500 full-
34 time equivalent employees will provide an average wage that is above the
35 average wage paid by all Kansas business facilities that share the same
36 assigned NAICS category used to develop wage thresholds and that have
37 reported more than 500 employees to the Kansas department of labor on
38 the quarterly wage reports;

39 (D) the taxpayer's Kansas business facility with more than 500 full-
40 time equivalent employees is the sole facility within its assigned NAICS
41 category that has reported wages for more than 500 employees to the
42 Kansas department of labor on the quarterly wage reports, in which event
43 it shall either provide an average wage that is above the average wage

1 paid by all Kansas business facilities that share the same assigned NAICS
2 category and that have reported wages for 500 or fewer employees to the
3 Kansas department of labor on the quarterly wage reports, or be the sole
4 Kansas business facility within its assigned NAICS category that has re-
5 ported wages to the Kansas department of labor on the quarterly wage
6 reports;

7 (E) the number of NAICS digits to use in developing each set of
8 wage thresholds for comparison purposes shall be determined by the
9 secretary of commerce; or

10 (F) the composition of wage regions used in connection with each set
11 of wage thresholds shall be determined by the secretary of commerce;
12 and

13 (4) as an alternative to the requirements of subsection (a)(3), a tax-
14 payer having met the requirements of subsections (a)(1) and (2) may
15 wage-qualify its Kansas business facility if, after excluding the headcount
16 and wages reported on the quarterly wage reports to the Kansas depart-
17 ment of labor for employees at that Kansas business facility who own five
18 percent or more equity in the taxpayer, the average wage calculated for
19 the taxpayer's Kansas business facility is greater than or equal to 1.5 times
20 the aggregate state-wide average wage paid by industries covered by the
21 employment security law based on data maintained by the secretary of
22 labor.

23 (b) For the purposes of this section, the number of full-time equiv-
24 alent employees shall be determined by dividing the number of hours
25 worked by part-time employees during the pertinent measurement in-
26 terval by an amount equal to the corresponding multiple of a 40-hour
27 work week and adding the quotient to the average number of full-time
28 employees.

29 New Sec. 4. (a) For taxable years commencing after December 31,
30 2006, an eligible taxpayer that makes a qualified investment in a Kansas
31 business facility shall be entitled to a credit in an amount equal to 10%
32 of the qualified investment. Qualified investment must be identified and
33 submitted to the secretary of commerce prior to making a commitment
34 to invest. The credit allowed by this subsection shall be a one-time credit.
35 The credit shall be allowed against the tax imposed by the Kansas income
36 tax act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-
37 252, and amendments thereto, or the privilege tax as measured by the
38 net income of financial institutions imposed pursuant to article 11 of
39 chapter 79 of the Kansas Statutes Annotated, for the taxable year during
40 which the qualified investment is placed into service.

41 (b) The eligible taxpayer shall claim the credit on the original return
42 for the tax year in which the qualified investment is placed into service.

43 (c) If the tax credit amount thereof exceeds the tax imposed, the tax

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1 credit amount thereof which exceeds the eligible taxpayer's tax liability
2 may be carried forward for credit in the succeeding taxable year or years
3 until the total amount of the tax credit is used, except that no such tax
4 credit shall be carried forward for deduction after the tenth taxable year
5 succeeding the taxable year in which such credit initially was claimed and
6 no carry forward shall be allowed for deduction in any succeeding taxable
7 year unless the taxpayer continues to satisfy the eligibility criteria in sec-
8 tion 3, and amendments thereto, for such succeeding taxable year.

9 (d) A qualified investment, of at least ~~\$1,000,000~~, made by the eligible
10 taxpayer in a Kansas business facility that is not located in a designated
11 opportunity zone, may qualify for the investment credit.

\$150,000

12 (e) A qualified investment, of at least ~~\$100,000~~, made by the eligible
13 taxpayer in a Kansas business facility that is located in a designated op-
14 portunity zone, may qualify for the investment credit.

\$50,000

15 (f) If the eligible taxpayer is a corporation having an election in effect
16 under subchapter S of the federal internal revenue code, a partnership
17 or limited liability company, the credit provided by this section shall be
18 claimed by the shareholders of such corporation, the partners of such
19 partnership or the members of such limited liability company in the same
20 manner as such shareholders, partners, or members account for their
21 proportionate shares of income or loss of the corporation, partnership or
22 limited liability company.

23 New Sec. 5. (a) The secretary of revenue and the secretary of com-
24 merce shall work together to coordinate a set of procedures to implement
25 the provisions of this act.

26 (b) Any taxpayer claiming credits pursuant to this act, as a condition
27 for claiming and qualifying for such credits, shall provide information
28 pursuant to K.S.A. 2006 Supp. 79-32,243, and amendments thereto, as
29 part of the tax return in which such credits are claimed. Such credits shall
30 not be denied solely on the basis of the contents of the information pro-
31 vided by the taxpayer pursuant to K.S.A. 2006 Supp. 79-32,243, and
32 amendments thereto.

33 (c) The secretary of revenue shall submit an annual report to the
34 legislature regarding utilization of the credits claimed pursuant to this act,
35 for purposes of evaluation. Such report shall be due during the legislative
36 session, commencing with the 2009 legislative session.

37 New Sec. 6. The secretary of revenue and secretary of commerce
38 may adopt such rules and regulations as necessary to carry out the pur-
39 poses of this act.

40 New Sec. 7. (a) Except as otherwise provided, for tax years com-
41 mencing on or after December 31, 2006, no additional credits may be
42 earned through the Kansas enterprise zone act, K.S.A. 79-32,160a; or the
43 job expansion and investment tax credit act, K.S.A. 79-32,153. Any carry

1 forward credit that has been earned through the Kansas enterprise zone
2 act, K.S.A. 79-32,160a and is remaining after December 31, 2006, may
3 be carried forward to succeeding taxable years as long as all requirements
4 continue to be met. Any credit that has been earned through the job
5 expansion and investment tax credit act, K.S.A. 79-32,153, with years left
6 in recomputing the credit after December 31, 2006, may continue for the
7 remainder of the 10-year period as long as all requirements continue to
8 be met.

9 (b) Except as otherwise provided, for tax years commencing on or
10 after December 31, 2006, no additional credits may be earned through
11 the high performance incentive act, K.S.A. 74-50,115, K.S.A. 74-50,132,
12 and subsection (e) of K.S.A. 79-32,160a. Any carry forward credit that
13 has been earned through the high performance incentive act, subsection
14 (e) of K.S.A. 79-32,160a and is remaining after December 31, ~~2006~~, may
15 be carried forward to succeeding taxable years, providing all requirements
16 continue to be met and subject to the applicable carryforward limitations.
17 Any taxpayer who has filed an application to be certified under K.S.A.
18 74-50,131, prior to July 1, 2007, may claim credits under the high per-
19 formance incentive act, subsection (e) of K.S.A. 79-32,160a, K.S.A. 74-
20 50,131 and K.S.A. 74-50,132 during the certification period in tax years
21 2007 and 2008, which credits may be carried forward until used or for a
22 maximum of ten years, as long as such taxpayer does not claim any credits
23 for the same investment under the Kansas investment credit act. To ac-
24 commodate unusual timing situations during the 2007 transition period,
25 timing modifications may be authorized at the discretion of the secretary
26 of commerce and the secretary of revenue.

27 New Sec. 8. The provisions of this act shall be applicable to all tax-
28 able years commencing after December 31, ~~2006~~, and prior to January
29 1, ~~2012~~.

30 New Sec. 9. The provisions of sections 9 through 14 may be cited
31 and shall be known as the Kansas jobs credit act.

32 New Sec. 10. As used in the Kansas jobs credit act, unless otherwise
33 provided: (a) "Act" means the Kansas jobs credit act;

34 (b) "employed" means that an employer-employee relationship ex-
35 ists. A person who performs services for the taxpayer shall be considered
36 as an employee if the taxpayer has the right to direct and control when,
37 where, and how work will be done. In addition the taxpayer shall pay for
38 the employee's wages directly, or indirectly through inter-company trans-
39 fers. Independent contractors shall not be considered as employed for
40 purposes of the Kansas jobs credit;

41 (c) "Kansas job credit taxpayer" means any business entity authorized
42 to do business in the state of Kansas which is subject to the state income
43 tax imposed by the provisions of the Kansas income tax act, any national

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- 1 banking association, state bank, trust company or savings and loan asso-
2 ciation paying an annual tax on its net income pursuant to article 11 of
3 chapter 79 of the Kansas Statutes Annotated, or any insurance company
4 paying the premium tax and privilege fees imposed pursuant to K.S.A.
5 40-252, and amendments thereto, is current in payment of Kansas taxes,
6 and has a Kansas business facility as defined in the investment credit act:
7 (1) Identified under the North American industry classification system
8 (NAICS) subsector of 221, 311-425, 481-624, 812-813, or 922-928, as
9 assigned by the secretary of the department of labor; or
10 (2) identified as a headquarters or ancillary support operation, re-
11 gardless of NAICS classification;
- 12 (d) "new employee" means a person newly employed by the taxpayer
13 in the taxpayer's business operating in Kansas during the taxable year for
14 which the credit allowed by section (11), and amendments thereto, is
15 claimed. A person shall be deemed to be so engaged if such person per-
16 forms duties in Kansas in connection with the operation of the Kansas
17 business on: (A) A regular, full-time basis; (B) a part-time basis, provided
18 such person is customarily performing such duties at least 20 hours per
19 week throughout the taxable year; or (C) a seasonal basis, provided such
20 person performs such duties for substantially all of the season customary
21 for the position in which such person is employed. For a Kansas business
22 that becomes operational during the current tax year, new employees shall
23 be the number of employees employed at the taxpayer's Kansas business
24 on the last business day of the taxpayer's tax year. In the case of employees
25 hired, in which the Kansas business existed and was operated by the
26 taxpayer prior to such hiring, the number of new employees employed in
27 the operation of the Kansas business shall be reduced by the number of
28 employees employed at such Kansas business on the last business day of
29 the taxpayer's previous tax year. Employees acquired through an acqui-
30 sition or merger of a business operating in Kansas shall not be considered
31 as new employees;
- 32 (e) "opportunity zone" shall be established by the secretary of com-
33 merce through rules and regulations. In addition to other criteria estab-
34 lished by the secretary, such criteria shall include: (1) An opportunity
35 zone which shall be comprised of at least one county;
- 36 (2) shall be economically disadvantaged; and
37 (3) shall not include any counties in a metropolitan statistical area or
38 micropolitan statistical area;
- 39 (f) "opportunity zone job credit taxpayer" means any business entity
40 with a Kansas business facility as defined in the Kansas investment credit
41 act authorized to do business in the state of Kansas which is subject to
42 the state income tax imposed by the provisions of the Kansas income tax
43 act, any national banking association, state bank, trust company or savings

1 and loan association paying an annual tax on its net income pursuant to
2 article 11 of chapter 79 of the Kansas Statutes Annotated, or any insurance
3 company paying the premium tax and privilege fees imposed pursuant to
4 K.S.A. 40-252, and amendments thereto, and that is current in payment
5 of Kansas taxes; and

6 (g) "related taxpayer" means: (1) A corporation, partnership, trust or
7 association controlled by the taxpayer; (2) an individual, corporation, part-
8 nership, trust or association in control of the taxpayer; or (3) a corporation,
9 partnership, trust or association controlled by an individual, corporation,
10 partnership, trust or association in control of the taxpayer. "Control of a
11 corporation" means ownership, directly or indirectly, of stock possessing
12 at least 80% of the total combined voting power of all classes of stock
13 entitled to vote and at least 80% of all other classes of stock of the cor-
14 poration. "Control of a partnership or association" means ownership of
15 at least 80% of the capital or profits interest in such partnership or as-
16 sociation. "Control of a trust" means ownership, directly or indirectly, of
17 at least 80% of the beneficial interest in the principal or income of such
18 trust.

19 New Sec. 11. (a) For taxable years commencing after December 31,
20 ~~2006~~, any opportunity zone job credit taxpayer who engages in new em- 2007
21 ployment at least ~~five~~ new employees in the taxpayer's business operating two
22 in a designated opportunity zone in Kansas shall be allowed a credit of
23 \$3,500 per new employee, against the tax imposed by the Kansas income
24 tax act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-
25 252, and amendments thereto, or the privilege tax as measured by the
26 net income of financial institutions imposed pursuant to article 11 of
27 chapter 79 of the Kansas Statutes Annotated, for the taxable year during
28 which the employees were hired. To be considered employed in an op-
29 portunity zone, the employee must perform the majority of the services
30 for the opportunity zone job credit taxpayer in the opportunity zone. Any
31 Kansas job credit taxpayer located in the state of Kansas who engages in 5
32 new employment at least ~~20~~ new employees in the taxpayer's business
33 operating in Kansas shall be allowed a credit of \$1,500 per new employee,
34 against the tax imposed by the Kansas income tax act, the premium tax
35 or privilege fees imposed pursuant to K.S.A. 40-252, and amendments
36 thereto, or the privilege tax as measured by the net income of financial
37 institutions imposed pursuant to article 11 of chapter 79 of the Kansas
38 Statutes Annotated, for the taxable year during which the employees were
39 hired.

40 (b) The taxpayer shall claim any credits pursuant to this act on the
41 original return for the tax year in which the employees were hired.

42 (c) If the amount of the tax credit exceeds the tax imposed, the
43 amount thereof which exceeds such tax liability may be carried forward

1 for credit in the succeeding taxable year or years until the total amount
2 of the tax credit is used. In the event the taxpayer does not continue to
3 employ the required minimum number of employees, any credit remain-
4 ing will be forfeited and no longer available for carry forward.

5 (d) If the taxpayer is a corporation having an election in effect under
6 subchapter S of the federal internal revenue code, a partnership or limited
7 liability company, the credit provided by this section shall be claimed by
8 the shareholders of such corporation, the partners of such partnership or
9 the members of such limited liability company in the same manner as
10 such shareholders, partners, or members account for their proportionate
11 shares of income or loss of the corporation, partnership or limited liability
12 company.

13 (e) A taxpayer that qualifies for the opportunity zone job credit for
14 an employee may not also qualify for the Kansas job credit for the same
15 employee.

16 (f) Only one taxpayer may claim a specific employee for purposes of
17 the opportunity zone job credit or the Kansas job credit. Employees trans-
18 ferred or reassigned within Kansas between related taxpayers will not
19 qualify for the credit.

20 New Sec. 12. (a) Any taxpayer claiming credits pursuant to this act,
21 as a condition for claiming and qualifying for such credits, shall provide
22 information pursuant to K.S.A. 2006 Supp. 79-32,243, and amendments
23 thereto, as part of the tax return in which such credits are claimed. Such
24 credits shall not be denied solely on the basis of the contents of the
25 information provided by the taxpayer pursuant to K.S.A. 2006 Supp. 79-
26 32,243, and amendments thereto.

27 (b) The secretary of revenue shall submit an annual report to the
28 legislature regarding utilization of the credits claimed pursuant to this act,
29 for purposes of evaluation. Such report shall be due during the legislative
30 session, commencing with the 2009 legislative session.

31 New Sec. 13. The secretary of revenue may adopt such rules and
32 regulations as necessary to carry out the purposes of this act.

33 New Sec. 14. The provisions of this act shall be applicable to all tax-
34 able years commencing after December 31, 2006 and prior to January 1,
35 2012.

36 Sec. 15. K.S.A. 40-253a is hereby amended to read as follows: 40-
37 253a. For purposes of calculating any tax due under K.S.A. 40-253, and
38 amendments thereto, from a taxpayer not organized under the laws of
39 this state, the credits allowed pursuant to K.S.A. 40-2813, 74-50,132, 79-
40 32,153, 79-32,160 and 79-32,196, and the Kansas investment credit act
41 and the Kansas jobs credit act, and amendments thereto, shall be treated
42 as tax paid under K.S.A. 40-252, and amendments thereto.

43 Sec. 16. K.S.A. 74-8945 is hereby amended to read as follows: 74-

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1 8945. The establishment shall not be allowed credits pursuant to K.S.A.
2 79-32,160a *the Kansas investment credit act*, and amendments thereto,
3 for any amount of investment related to or computed on the basis of any
4 investment of the proceeds of obligations issued pursuant to this act.

5 Sec. 17. K.S.A. 2006 Supp. 79-32,111 is hereby amended to read as
6 follows: 79-32,111. (a) The amount of income tax paid to another state
7 by a resident individual, resident estate or resident trust on income de-
8 rived from sources in another state shall be allowed as a credit against
9 the tax computed under the provisions of this act. Such credit shall not
10 be greater in proportion to the tax computed under this act than the
11 adjusted gross income for such year derived in another state while such
12 taxpayer is a resident of this state is to the total Kansas adjusted gross
13 income of the taxpayer. As used in this subsection, state shall have the
14 meaning ascribed thereto by subsection (h) of K.S.A. 79-3271, and
15 amendments thereto. The credit allowable hereunder for income tax paid
16 to a foreign country or political subdivision thereof shall not exceed the
17 difference of such income tax paid less the credit allowable for such in-
18 come tax paid by the federal internal revenue code. No redetermination
19 of income tax paid for the purposes of determining the credit allowed by
20 this subsection shall be required for the taxable year for which an income
21 tax refund payment pursuant to the provisions of section 18 of article 10
22 of the Missouri constitution is made, but the income tax paid allowable
23 for credit in the next following taxable year shall be reduced by the
24 amount of such refund amount, except that, for tax year 1998, the income
25 tax paid allowable for credit shall be reduced by the amount of such
26 refunds made for all taxable years prior to tax year 1998.

27 ~~(b) There shall be allowed as a credit against the tax computed under~~
28 ~~the provisions of the Kansas income tax act, and acts amendatory thereof~~
29 ~~and supplemental thereto, on the Kansas taxable income of an individual,~~
30 ~~corporation or fiduciary the amount determined under the provisions of~~
31 ~~K.S.A. 79-32,153 to 79-32,158, and amendments thereto.~~

32 Sec. 18. K.S.A. 2006 Supp. 79-32,243 is hereby amended to read as
33 follows: 79-32,243. (a) For tax years commencing after December 31,
34 2005, any taxpayer claiming credits pursuant to K.S.A. 74-50,132, 79-
35 32,153 or 79-32,160a, and amendments thereto, *and the Kansas invest-*
36 *ment credit act and the Kansas jobs credit act, and amendments thereto,*
37 as a condition for claiming and qualifying for such credits, shall provide
38 the following information as part of the tax return, in which such credits
39 are claimed, which shall be used by the department of revenue in eval-
40 uating the effectiveness of such tax credit programs, pursuant to K.S.A.
41 2006 Supp. 74-99b35, and amendments thereto:

42 (1) Actual jobs created as a direct result of the expenditures on which
43 such credit claim is based, if the taxpayer has previously submitted an

1 estimate of such number of actual jobs created to the department of
2 commerce as a part of applying for certification for such program
3 participation;

4 (2) additional payroll generated as a direct result of the expenditures
5 on which such credit claim is based, if the taxpayer has previously sub-
6 mitted an estimate of such amount of additional payroll generated to the
7 department of commerce as a part of applying for certification for such
8 program participation;

9 (3) actual jobs retained as a direct result of the expenditures on which
10 such credit claim is based, if the taxpayer has previously submitted an
11 estimate of actual jobs retained to the department of commerce as a part
12 of applying for certification for such program participation;

13 (4) additional revenue generated as a direct result of the expenditures
14 on which such credit claim is based, if the taxpayer has previously sub-
15 mitted an estimate of such amount of additional revenue generated to the
16 department of commerce as a part of applying for certification for
17 such program participation;

18 (5) additional sales generated as a direct result of the expenditures
19 on which such credit claim is based, if the taxpayer has previously sub-
20 mitted an estimate of additional sales generated to the department of
21 commerce as a part of applying for certification for program participation;
22 and

23 (6) total employment and payroll at the end of the tax year in which
24 the credits are claimed.

25 (b) Such credits specified in subsection (a) shall not be denied solely
26 on the basis of the information provided by the taxpayer pursuant to
27 subsections (a)(1) through (a)(6).

28 Sec. 19. K.S.A. 2006 Supp. 79-3606 is hereby amended to read as
29 follows: 79-3606. The following shall be exempt from the tax imposed by
30 this act:

31 (a) All sales of motor-vehicle fuel or other articles upon which a sales
32 or excise tax has been paid, not subject to refund, under the laws of this
33 state except cigarettes as defined by K.S.A. 79-3301 and amendments
34 thereto, cereal malt beverages and malt products as defined by K.S.A. 79-
35 3817 and amendments thereto, including wort, liquid malt, malt syrup
36 and malt extract, which is not subject to taxation under the provisions of
37 K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant
38 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to
39 K.S.A. 65-3424d, and amendments thereto, drycleaning and laundry serv-
40 ices taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and
41 gross receipts from regulated sports contests taxed pursuant to the Kansas
42 professional regulated sports act, and amendments thereto;

43 (b) all sales of tangible personal property or service, including the

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

14 (c) all sales of tangible personal property or services, including the
15 renting and leasing of tangible personal property, purchased directly by
16 a public or private elementary or secondary school or public or private
17 nonprofit educational institution and used primarily by such school or
18 institution for nonsectarian programs and activities provided or sponsored
19 by such school or institution or in the erection, repair or enlargement of
20 buildings to be used for such purposes. The exemption herein provided
21 shall not apply to erection, construction, repair, enlargement or equip-
22 ment of buildings used primarily for human habitation;

23 (d) all sales of tangible personal property or services purchased by a
24 contractor for the purpose of constructing, equipping, reconstructing,
25 maintaining, repairing, enlarging, furnishing or remodeling facilities for
26 any public or private nonprofit hospital or public hospital authority, public
27 or private elementary or secondary school or a public or private nonprofit
28 educational institution, which would be exempt from taxation under the
29 provisions of this act if purchased directly by such hospital or public hos-
30 pital authority, school or educational institution; and all sales of tangible
31 personal property or services purchased by a contractor for the purpose
32 of constructing, equipping, reconstructing, maintaining, repairing, en-
33 larging, furnishing or remodeling facilities for any political subdivision of
34 the state or district described in subsection (s), the total cost of which is
35 paid from funds of such political subdivision or district and which would
36 be exempt from taxation under the provisions of this act if purchased
37 directly by such political subdivision or district. Nothing in this subsection
38 or in the provisions of K.S.A. 12-3418 and amendments thereto, shall be
39 deemed to exempt the purchase of any construction machinery, equip-
40 ment or tools used in the constructing, equipping, reconstructing, main-
41 taining, repairing, enlarging, furnishing or remodeling facilities for any
42 political subdivision of the state or any such district. As used in this sub-
43 section, K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds

1 of a political subdivision" shall mean general tax revenues, the proceeds
2 of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used
3 for the purpose of constructing, equipping, reconstructing, repairing, en-
4 larging, furnishing or remodeling facilities which are to be leased to the
5 donor. When any political subdivision of the state, district described in
6 subsection (s), public or private nonprofit hospital or public hospital au-
7 thority, public or private elementary or secondary school or public or
8 private nonprofit educational institution shall contract for the purpose of
9 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
10 ing, furnishing or remodeling facilities, it shall obtain from the state and
11 furnish to the contractor an exemption certificate for the project involved,
12 and the contractor may purchase materials for incorporation in such pro-
13 ject. The contractor shall furnish the number of such certificate to all
14 suppliers from whom such purchases are made, and such suppliers shall
15 execute invoices covering the same bearing the number of such certifi-
16 cate. Upon completion of the project the contractor shall furnish to the
17 political subdivision, district described in subsection (s), hospital or public
18 hospital authority, school or educational institution concerned a sworn
19 statement, on a form to be provided by the director of taxation, that all
20 purchases so made were entitled to exemption under this subsection. As
21 an alternative to the foregoing procedure, any such contracting entity may
22 apply to the secretary of revenue for agent status for the sole purpose of
23 issuing and furnishing project exemption certificates to contractors pur-
24 suant to rules and regulations adopted by the secretary establishing con-
25 ditions and standards for the granting and maintaining of such status. All
26 invoices shall be held by the contractor for a period of five years and shall
27 be subject to audit by the director of taxation. If any materials purchased
28 under such a certificate are found not to have been incorporated in the
29 building or other project or not to have been returned for credit or the
30 sales or compensating tax otherwise imposed upon such materials which
31 will not be so incorporated in the building or other project reported and
32 paid by such contractor to the director of taxation not later than the 20th
33 day of the month following the close of the month in which it shall be
34 determined that such materials will not be used for the purpose for which
35 such certificate was issued, the political subdivision, district described in
36 subsection (s), hospital or public hospital authority, school or educational
37 institution concerned shall be liable for tax on all materials purchased for
38 the project, and upon payment thereof it may recover the same from the
39 contractor together with reasonable attorney fees. Any contractor or any
40 agent, employee or subcontractor thereof, who shall use or otherwise
41 dispose of any materials purchased under such a certificate for any pur-
42 pose other than that for which such a certificate is issued without the
43 payment of the sales or compensating tax otherwise imposed upon such

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

4 (e) all sales of tangible personal property or services purchased by a
5 contractor for the erection, repair or enlargement of buildings or other
6 projects for the government of the United States, its agencies or instru-
7 mentalities, which would be exempt from taxation if purchased directly
8 by the government of the United States, its agencies or instrumentalities.
9 When the government of the United States, its agencies or instrumen-
10 talities shall contract for the erection, repair, or enlargement of any build-
11 ing or other project, it shall obtain from the state and furnish to the
12 contractor an exemption certificate for the project involved, and the con-
13 tractor may purchase materials for incorporation in such project. The
14 contractor shall furnish the number of such certificates to all suppliers
15 from whom such purchases are made, and such suppliers shall execute
16 invoices covering the same bearing the number of such certificate. Upon
17 completion of the project the contractor shall furnish to the government
18 of the United States, its agencies or instrumentalities concerned a sworn
19 statement, on a form to be provided by the director of taxation, that all
20 purchases so made were entitled to exemption under this subsection. As
21 an alternative to the foregoing procedure, any such contracting entity may
22 apply to the secretary of revenue for agent status for the sole purpose of
23 issuing and furnishing project exemption certificates to contractors pur-
24 suant to rules and regulations adopted by the secretary establishing con-
25 ditions and standards for the granting and maintaining of such status. All
26 invoices shall be held by the contractor for a period of five years and shall
27 be subject to audit by the director of taxation. Any contractor or any agent,
28 employee or subcontractor thereof, who shall use or otherwise dispose of
29 any materials purchased under such a certificate for any purpose other
30 than that for which such a certificate is issued without the payment of
31 the sales or compensating tax otherwise imposed upon such materials,
32 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
33 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615
34 and amendments thereto;

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

38 (g) sales of aircraft including remanufactured and modified aircraft
39 sold to persons using directly or through an authorized agent such aircraft
40 as certified or licensed carriers of persons or property in interstate or
41 foreign commerce under authority of the laws of the United States or any
42 foreign government or sold to any foreign government or agency or in-
43 strumentality of such foreign government and all sales of aircraft for use

1 outside of the United States and sales of aircraft repair, modification and
2 replacement parts and sales of services employed in the remanufacture,
3 modification and repair of aircraft;

4 (h) all rentals of nonsectarian textbooks by public or private elemen-
5 tary or secondary schools;

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

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

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

19 (l) all isolated or occasional sales of tangible personal property, serv-
20 ices, substances or things, except isolated or occasional sale of motor
21 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.
22 79-3603 and amendments thereto;

23 (m) all sales of tangible personal property which become an ingre-
24 dient or component part of tangible personal property or services pro-
25 duced, manufactured or compounded for ultimate sale at retail within or
26 without the state of Kansas; and any such producer, manufacturer or
27 compounder may obtain from the director of taxation and furnish to the
28 supplier an exemption certificate number for tangible personal property
29 for use as an ingredient or component part of the property or services
30 produced, manufactured or compounded;

31 (n) all sales of tangible personal property which is consumed in the
32 production, manufacture, processing, mining, drilling, refining or com-
33 pounding of tangible personal property, the treating of by-products or
34 wastes derived from any such production process, the providing of serv-
35 ices or the irrigation of crops for ultimate sale at retail within or without
36 the state of Kansas; and any purchaser of such property may obtain from
37 the director of taxation and furnish to the supplier an exemption certifi-
38 cate number for tangible personal property for consumption in such pro-
39 duction, manufacture, processing, mining, drilling, refining, compound-
40 ing, treating, irrigation and in providing such services;

41 (o) all sales of animals, fowl and aquatic plants and animals, the pri-
42 mary purpose of which is use in agriculture or aquaculture, as defined in
43 K.S.A. 47-1901, and amendments thereto, the production of food for

1 human consumption, the production of animal, dairy, poultry or aquatic
2 plant and animal products, fiber or fur, or the production of offspring for
3 use for any such purpose or purposes;

4 (p) all sales of drugs dispensed pursuant to a prescription order by a
5 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-
6 1626, and amendments thereto. As used in this subsection, "drug" means
7 a compound, substance or preparation and any component of a com-
8 pound, substance or preparation, other than food and food ingredients,
9 dietary supplements or alcoholic beverages, recognized in the official
10 United States pharmacopoeia, official homeopathic pharmacopoeia of the
11 United States or official national formulary, and supplement to any of
12 them, intended for use in the diagnosis, cure, mitigation, treatment or
13 prevention of disease or intended to affect the structure or any function
14 of the body;

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

18 (r) all sales of prosthetic devices and mobility enhancing equipment
19 prescribed in writing by a person licensed to practice the healing arts,
20 dentistry or optometry, and in addition to such sales, all sales of hearing
21 aids, as defined by subsection (c) of K.S.A. 74-5807, and amendments
22 thereto, and repair and replacement parts therefor, including batteries,
23 by a person licensed in the practice of dispensing and fitting hearing aids
24 pursuant to the provisions of K.S.A. 74-5808, and amendments thereto.
25 For the purposes of this subsection: (1) "Mobility enhancing equipment"
26 means equipment including repair and replacement parts to same, but
27 does not include durable medical equipment, which is primarily and cus-
28 tomarily used to provide or increase the ability to move from one place
29 to another and which is appropriate for use either in a home or a motor
30 vehicle; is not generally used by persons with normal mobility; and does
31 not include any motor vehicle or equipment on a motor vehicle normally
32 provided by a motor vehicle manufacturer; and (2) "prosthetic device"
33 means a replacement, corrective or supportive device including repair
34 and replacement parts for same worn on or in the body to artificially
35 replace a missing portion of the body, prevent or correct physical deform-
36 ity or malfunction or support a weak or deformed portion of the body;

37 (s) except as provided in K.S.A. 2006 Supp. 82a-2101, and amend-
38 ments thereto, all sales of tangible personal property or services pur-
39 chased directly or indirectly by a groundwater management district or-
40 ganized or operating under the authority of K.S.A. 82a-1020 et seq. and
41 amendments thereto, by a rural water district organized or operating un-
42 der the authority of K.S.A. 82a-612, and amendments thereto, or by a
43 water supply district organized or operating under the authority of K.S.A.

1 19-3501 et seq., 19-3522 et seq. or 19-3545, and amendments thereto,
2 which property or services are used in the construction activities, opera-
3 tion or maintenance of the district;

4 (t) all sales of farm machinery and equipment or aquaculture ma-
5 chinery and equipment, repair and replacement parts therefor and serv-
6 ices performed in the repair and maintenance of such machinery and
7 equipment. For the purposes of this subsection the term "farm machinery
8 and equipment or aquaculture machinery and equipment" shall include
9 a work-site utility vehicle, as defined in K.S.A. 8-126, and amendments
10 thereto, and is equipped with a bed or cargo box for hauling materials,
11 and shall also include machinery and equipment used in the operation of
12 Christmas tree farming but shall not include any passenger vehicle, truck,
13 truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer,
14 as such terms are defined by K.S.A. 8-126 and amendments thereto. Each
15 purchaser of farm machinery and equipment or aquaculture machinery
16 and equipment exempted herein must certify in writing on the copy of
17 the invoice or sales ticket to be retained by the seller that the farm ma-
18 chinery and equipment or aquaculture machinery and equipment pur-
19 chased will be used only in farming, ranching or aquaculture production.
20 Farming or ranching shall include the operation of a feedlot and farm
21 and ranch work for hire and the operation of a nursery;

22 (u) all leases or rentals of tangible personal property used as a dwell-
23 ing if such tangible personal property is leased or rented for a period of
24 more than 28 consecutive days;

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

38 (w) all sales of natural gas, electricity, heat and water delivered
39 through mains, lines or pipes: (1) To residential premises for noncom-
40 mercial use by the occupant of such premises; (2) for agricultural use and
41 also, for such use, all sales of propane gas; (3) for use in the severing of
42 oil; and (4) to any property which is exempt from property taxation pur-
43 suant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph,

1 “severing” shall have the meaning ascribed thereto by subsection (k) of
2 K.S.A. 79-4216, and amendments thereto. For all sales of natural gas,
3 electricity and heat delivered through mains, lines or pipes pursuant to
4 the provisions of subsection (w)(1) and (w)(2), the provisions of this sub-
5 section shall expire on December 31, 2005;

6 (x) all sales of propane gas, LP-gas, coal, wood and other fuel sources
7 for the production of heat or lighting for noncommercial use of an oc-
8 cupant of residential premises occurring prior to January 1, 2006;

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

13 (z) all sales of tangible personal property and services purchased di-
14 rectly by a port authority or by a contractor therefor as provided by the
15 provisions of K.S.A. 12-3418 and amendments thereto;

16 (aa) all sales of materials and services applied to equipment which is
17 transported into the state from without the state for repair, service, al-
18 teration, maintenance, remanufacture or modification and which is sub-
19 sequently transported outside the state for use in the transmission of
20 liquids or natural gas by means of pipeline in interstate or foreign com-
21 merce under authority of the laws of the United States;

22 (bb) all sales of used mobile homes or manufactured homes. As used
23 in this subsection: (1) “Mobile homes” and “manufactured homes” shall
24 have the meanings ascribed thereto by K.S.A. 58-4202 and amendments
25 thereto; and (2) “sales of used mobile homes or manufactured homes”
26 means sales other than the original retail sale thereof;

27 (cc) all sales of tangible personal property or services purchased for
28 the purpose of and in conjunction with constructing, reconstructing, en-
29 larging or remodeling a ~~business or retail business which meets the~~
30 ~~requirements established in K.S.A. 74-50,115 and amendments thereto~~
31 *Kansas business facility*, and the sale and installation of machinery and
32 equipment purchased for installation at any such ~~business or retail busi-~~
33 ~~ness~~ *Kansas business facility*. When a ~~person shall contract Kansas jobs~~
34 ~~or opportunity zone credit taxpayer, as defined in section 10, and amend-~~
35 ~~ments thereto, or an eligible taxpayer, as defined in section 2, and amend-~~
36 ~~ments thereto, purchases machinery and equipment or contracts for the~~
37 ~~construction, reconstruction, enlargement or remodeling of any such~~
38 ~~business or retail business~~ *Kansas business facility*, such ~~person taxpayer~~
39 shall obtain from the state and furnish to the contractor an exemption
40 certificate for the project involved, and the contractor may purchase ma-
41 terials, machinery and equipment for incorporation in such project. *Such*
42 *exemption certificate shall not extend beyond two years from the date of*
43 *the application for the exemption certificate. Extensions may be granted*

1 *under proper circumstances.* The contractor shall furnish the number of
2 such certificates to all suppliers from whom such purchases are made,
3 and such suppliers shall execute invoices covering the same bearing the
4 number of such certificate. Upon completion of the project the contractor
5 shall furnish to the ~~owner of the business or retail business taxpayer~~ a
6 sworn statement, on a form to be provided by the director of taxation,
7 that all purchases so made were entitled to exemption under this subsection.
8 All invoices shall be held by the contractor for a period of five years
9 and shall be subject to audit by the director of taxation. Any contractor
10 or any agent, employee or subcontractor thereof, who shall use or otherwise
11 dispose of any materials, machinery or equipment purchased under such a
12 certificate for any purpose other than that for which such a certificate is
13 issued without the payment of the sales or compensating tax otherwise
14 imposed thereon, shall be guilty of a misdemeanor and, upon conviction
15 therefor, shall be subject to the penalties provided for in subsection (g)
16 of K.S.A. 79-3615 and amendments thereto. ~~As used in this subsection, "business" and "retail business" have the meanings respectively~~
17 ~~ascribed thereto by K.S.A. 74-50,114 and amendments thereto~~ Any
18 *person constructing, reconstructing, remodeling or enlarging a facility*
19 *which will be leased in whole or in part for a period of five years or more,*
20 *to a Kansas jobs or opportunity zone credit taxpayer as defined in section*
21 *10, and amendments thereto, or an eligible taxpayer as defined in section*
22 *2, and amendments thereto, that would be eligible for a sales tax exemption*
23 *under the provisions of this subsection, if such taxpayer had constructed,*
24 *reconstructed, enlarged or remodeled such facility or portion thereof*
25 *itself shall be entitled to the sales tax exemption under the provisions of*
26 *this subsection. When such person leases less than the total facility to*
27 *such taxpayer, a project exemption certificate may be granted on: (1)*
28 *The total cost of constructing, reconstructing, remodeling or enlarging,*
29 *the facility multiplied by a fraction given by dividing the number of leased*
30 *square feet eligible for the sales tax exemption by the total square feet*
31 *being constructed, reconstructed, remodeled or enlarged; or (2) the actual*
32 *cost of constructing, reconstructing, remodeling or enlarging that portion*
33 *of the facility to be occupied by such taxpayer, as the person may elect;*
34 (dd) all sales of tangible personal property purchased with food
35 stamps issued by the United States department of agriculture;
36 (ee) all sales of lottery tickets and shares made as part of a lottery
37 operated by the state of Kansas;
38 (ff) on and after July 1, 1988, all sales of new mobile homes or manufactured
39 homes to the extent of 40% of the gross receipts, determined
40 without regard to any trade-in allowance, received from such sale. As used
41 in this subsection, "mobile homes" and "manufactured homes" shall have
42 the meanings ascribed thereto by K.S.A. 58-4202 and amendments
43

1 thereto;

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

5 (hh) all sales of medical supplies and equipment, including durable
6 medical equipment, purchased directly by a nonprofit skilled nursing
7 home or nonprofit intermediate nursing care home, as defined by K.S.A.
8 39-923, and amendments thereto, for the purpose of providing medical
9 services to residents thereof. This exemption shall not apply to tangible
10 personal property customarily used for human habitation purposes. As
11 used in this subsection, "durable medical equipment" means equipment
12 including repair and replacement parts for such equipment, but does not
13 include mobility enhancing equipment as defined in subsection (r) which
14 can withstand repeated use, is primarily and customarily used to serve a
15 medical purpose, generally is not useful to a person in the absence of
16 illness or injury and is not worn in or on the body;

17 (ii) all sales of tangible personal property purchased directly by a non-
18 profit organization for nonsectarian comprehensive multidiscipline youth
19 development programs and activities provided or sponsored by such or-
20 ganization, and all sales of tangible personal property by or on behalf of
21 any such organization. This exemption shall not apply to tangible personal
22 property customarily used for human habitation purposes;

23 (jj) all sales of tangible personal property or services, including the
24 renting and leasing of tangible personal property, purchased directly on
25 behalf of a community-based mental retardation facility or mental health
26 center organized pursuant to K.S.A. 19-4001 et seq., and amendments
27 thereto, and licensed in accordance with the provisions of K.S.A. 75-
28 3307b and amendments thereto and all sales of tangible personal property
29 or services purchased by contractors during the time period from July,
30 2003, through June, 2006, for the purpose of constructing, equipping,
31 maintaining or furnishing a new facility for a community-based mental
32 retardation facility or mental health center located in Riverton, Cherokee
33 County, Kansas, which would have been eligible for sales tax exemption
34 pursuant to this subsection if purchased directly by such facility or center.
35 This exemption shall not apply to tangible personal property customarily
36 used for human habitation purposes;

37 (kk) (1) (A) all sales of machinery and equipment which are used in
38 this state as an integral or essential part of an integrated production op-
39 eration by a manufacturing or processing plant or facility;

40 (B) all sales of installation, repair and maintenance services per-
41 formed on such machinery and equipment; and

42 (C) all sales of repair and replacement parts and accessories pur-
43 chased for such machinery and equipment.

1 (2) For purposes of this subsection:

2 (A) "Integrated production operation" means an integrated series of
3 operations engaged in at a manufacturing or processing plant or facility
4 to process, transform or convert tangible personal property by physical,
5 chemical or other means into a different form, composition or character
6 from that in which it originally existed. Integrated production operations
7 shall include: (i) Production line operations, including packaging opera-
8 tions; (ii) preproduction operations to handle, store and treat raw mate-
9 rials; (iii) post production handling, storage, warehousing and distribution
10 operations; and (iv) waste, pollution and environmental control opera-
11 tions, if any;

12 (B) "production line" means the assemblage of machinery and equip-
13 ment at a manufacturing or processing plant or facility where the actual
14 transformation or processing of tangible personal property occurs;

15 (C) "manufacturing or processing plant or facility" means a single,
16 fixed location owned or controlled by a manufacturing or processing busi-
17 ness that consists of one or more structures or buildings in a contiguous
18 area where integrated production operations are conducted to manufac-
19 ture or process tangible personal property to be ultimately sold at retail.
20 Such term shall not include any facility primarily operated for the purpose
21 of conveying or assisting in the conveyance of natural gas, electricity, oil
22 or water. A business may operate one or more manufacturing or proc-
23 essing plants or facilities at different locations to manufacture or process
24 a single product of tangible personal property to be ultimately sold at
25 retail;

26 (D) "manufacturing or processing business" means a business that
27 utilizes an integrated production operation to manufacture, process, fab-
28 ricate, finish, or assemble items for wholesale and retail distribution as
29 part of what is commonly regarded by the general public as an industrial
30 manufacturing or processing operation or an agricultural commodity
31 processing operation. (i) Industrial manufacturing or processing opera-
32 tions include, by way of illustration but not of limitation, the fabrication
33 of automobiles, airplanes, machinery or transportation equipment, the
34 fabrication of metal, plastic, wood, or paper products, electricity power
35 generation, water treatment, petroleum refining, chemical production,
36 wholesale bottling, newspaper printing, ready mixed concrete production,
37 and the remanufacturing of used parts for wholesale or retail sale. Such
38 processing operations shall include operations at an oil well, gas well, mine
39 or other excavation site where the oil, gas, minerals, coal, clay, stone, sand
40 or gravel that has been extracted from the earth is cleaned, separated,
41 crushed, ground, milled, screened, washed, or otherwise treated or pre-
42 pared before its transmission to a refinery or before any other wholesale
43 or retail distribution. (ii) Agricultural commodity processing operations

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1 include, by way of illustration but not of limitation, meat packing, poultry
2 slaughtering and dressing, processing and packaging farm and dairy prod-
3 ucts in sealed containers for wholesale and retail distribution, feed grind-
4 ing, grain milling, frozen food processing, and grain handling, cleaning,
5 blending, fumigation, drying and aeration operations engaged in by grain
6 elevators or other grain storage facilities. (iii) Manufacturing or processing
7 businesses do not include, by way of illustration but not of limitation,
8 nonindustrial businesses whose operations are primarily retail and that
9 produce or process tangible personal property as an incidental part of
10 conducting the retail business, such as retailers who bake, cook or prepare
11 food products in the regular course of their retail trade, grocery stores,
12 meat lockers and meat markets that butcher or dress livestock or poultry
13 in the regular course of their retail trade, contractors who alter, service,
14 repair or improve real property, and retail businesses that clean, service
15 or refurbish and repair tangible personal property for its owner;

16 (E) "repair and replacement parts and accessories" means all parts
17 and accessories for exempt machinery and equipment, including, but not
18 limited to, dies, jigs, molds, patterns and safety devices that are attached
19 to exempt machinery or that are otherwise used in production, and parts
20 and accessories that require periodic replacement such as belts, drill bits,
21 grinding wheels, grinding balls, cutting bars, saws, refractory brick and
22 other refractory items for exempt kiln equipment used in production
23 operations;

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

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

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

30 (B) to transport, convey, handle or store the property undergoing
31 manufacturing or processing at any point from the beginning of the pro-
32 duction line through any warehousing or distribution operation of the
33 final product that occurs at the plant or facility;

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

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

38 (E) to test or measure raw materials, the property undergoing man-
39 ufacturing or processing or the finished product, as a necessary part of
40 the manufacturer's integrated production operations;

41 (F) to plan, manage, control or record the receipt and flow of inven-
42 tories of raw materials, consumables and component parts, the flow of
43 the property undergoing manufacturing or processing and the manage-

- 1 ment of inventories of the finished product;
- 2 (G) to produce energy for, lubricate, control the operating of or otherwise enable the functioning of other production machinery and equipment and the continuation of production operations;
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- 5 (H) to package the property being manufactured or processed in a container or wrapping in which such property is normally sold or transported;
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- 8 (I) to transmit or transport electricity, coke, gas, water, steam or similar substances used in production operations from the point of generation, if produced by the manufacturer or processor at the plant site, to that manufacturer's production operation; or, if purchased or delivered from offsite, from the point where the substance enters the site of the plant or facility to that manufacturer's production operations;
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- 14 (J) to cool, heat, filter, refine or otherwise treat water, steam, acid, oil, solvents or other substances that are used in production operations;
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- 16 (K) to provide and control an environment required to maintain certain levels of air quality, humidity or temperature in special and limited areas of the plant or facility, where such regulation of temperature or humidity is part of and essential to the production process;
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- 20 (L) to treat, transport or store waste or other byproducts of production operations at the plant or facility; or
- 21
- 22 (M) to control pollution at the plant or facility where the pollution is produced by the manufacturing or processing operation.
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- 24 (4) The following machinery, equipment and materials shall be deemed to be exempt even though it may not otherwise qualify as machinery and equipment used as an integral or essential part of an integrated production operation: (A) Computers and related peripheral equipment that are utilized by a manufacturing or processing business for engineering of the finished product or for research and development or product design; (B) machinery and equipment that is utilized by a manufacturing or processing business to manufacture or rebuild tangible personal property that is used in manufacturing or processing operations, including tools, dies, molds, forms and other parts of qualifying machinery and equipment; (C) portable plants for aggregate concrete, bulk cement and asphalt including cement mixing drums to be attached to a motor vehicle; (D) industrial fixtures, devices, support facilities and special foundations necessary for manufacturing and production operations, and materials and other tangible personal property sold for the purpose of fabricating such fixtures, devices, facilities and foundations. An exemption certificate for such purchases shall be signed by the manufacturer or processor. If the fabricator purchases such material, the fabricator shall also sign the exemption certificate; and (E) a manufacturing or processing business' laboratory equipment that is not located at the plant or facility,
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1 but that would otherwise qualify for exemption under subsection (3)(E).

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

4 (A) Machinery and equipment used for nonproduction purposes, in-
5 cluding, but not limited to, machinery and equipment used for plant se-
6 curity, fire prevention, first aid, accounting, administration, record keep-
7 ing, advertising, marketing, sales or other related activities, plant cleaning,
8 plant communications, and employee work scheduling;

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

12 (C) transportation, transmission and distribution equipment not pri-
13 marily used in a production, warehousing or material handling operation
14 at the plant or facility, including the means of conveyance of natural gas,
15 electricity, oil or water, and equipment related thereto, located outside
16 the plant or facility;

17 (D) office machines and equipment including computers and related
18 peripheral equipment not used directly and primarily to control or mea-
19 sure the manufacturing process;

20 (E) furniture and other furnishings;

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

24 (G) building fixtures that are not integral to the manufacturing op-
25 eration, such as utility systems for heating, ventilation, air conditioning,
26 communications, plumbing or electrical;

27 (H) machinery and equipment used for general plant heating, cooling
28 and lighting;

29 (I) motor vehicles that are registered for operation on public high-
30 ways; or

31 (J) employee apparel, except safety and protective apparel that is pur-
32 chased by an employer and furnished gratuitously to employees who are
33 involved in production or research activities.

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

42 (7) The secretary of revenue shall adopt rules and regulations nec-
43 essary to administer the provisions of this subsection;

- 1 (ll) all sales of educational materials purchased for distribution to the
2 public at no charge by a nonprofit corporation organized for the purpose
3 of encouraging, fostering and conducting programs for the improvement
4 of public health;
- 5 (mm) all sales of seeds and tree seedlings; fertilizers, insecticides,
6 herbicides, germicides, pesticides and fungicides; and services, purchased
7 and used for the purpose of producing plants in order to prevent soil
8 erosion on land devoted to agricultural use;
- 9 (nn) except as otherwise provided in this act, all sales of services ren-
10 dered by an advertising agency or licensed broadcast station or any mem-
11 ber, agent or employee thereof;
- 12 (oo) all sales of tangible personal property purchased by a community
13 action group or agency for the exclusive purpose of repairing or weath-
14 erizing housing occupied by low income individuals;
- 15 (pp) all sales of drill bits and explosives actually utilized in the explo-
16 ration and production of oil or gas;
- 17 (qq) all sales of tangible personal property and services purchased by
18 a nonprofit museum or historical society or any combination thereof, in-
19 cluding a nonprofit organization which is organized for the purpose of
20 stimulating public interest in the exploration of space by providing edu-
21 cational information, exhibits and experiences, which is exempt from fed-
22 eral income taxation pursuant to section 501(c)(3) of the federal internal
23 revenue code of 1986;
- 24 (rr) all sales of tangible personal property which will admit the pur-
25 chaser thereof to any annual event sponsored by a nonprofit organization
26 which is exempt from federal income taxation pursuant to section
27 501(c)(3) of the federal internal revenue code of 1986;
- 28 (ss) all sales of tangible personal property and services purchased by
29 a 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
32 or on behalf of a not-for-profit corporation which is exempt from federal
33 income taxation pursuant to section 501(c)(3) of the federal internal rev-
34 enue code of 1986, for the sole purpose of constructing a Kansas Korean
35 War memorial;
- 36 (uu) all sales of tangible personal property and services purchased by
37 or on behalf of any rural volunteer fire-fighting organization for use ex-
38 clusively in the performance of its duties and functions;
- 39 (vv) all sales of tangible personal property purchased by any of the
40 following organizations which are exempt from federal income taxation
41 pursuant to section 501 (c)(3) of the federal internal revenue code of
42 1986, for the following purposes, and all sales of any such property by or
43 on behalf of any such organization for any such purpose:

- 1 (1) The American Heart Association, Kansas Affiliate, Inc. for the
2 purposes of providing education, training, certification in emergency car-
3 diac care, research and other related services to reduce disability and
4 death from cardiovascular diseases and stroke;
- 5 (2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of
6 advocacy for persons with mental illness and to education, research and
7 support for their families;
- 8 (3) the Kansas Mental Illness Awareness Council for the purposes of
9 advocacy for persons who are mentally ill and to education, research and
10 support for them and their families;
- 11 (4) the American Diabetes Association Kansas Affiliate, Inc. for the
12 purpose of eliminating diabetes through medical research, public edu-
13 cation focusing on disease prevention and education, patient education
14 including information on coping with diabetes, and professional education
15 and training;
- 16 (5) the American Lung Association of Kansas, Inc. for the purpose of
17 eliminating all lung diseases through medical research, public education
18 including information on coping with lung diseases, professional educa-
19 tion and training related to lung disease and other related services to
20 reduce the incidence of disability and death due to lung disease;
- 21 (6) the Kansas chapters of the Alzheimer's Disease and Related Dis-
22 orders Association, Inc. for the purpose of providing assistance and sup-
23 port to persons in Kansas with Alzheimer's disease, and their families and
24 caregivers;
- 25 (7) the Kansas chapters of the Parkinson's disease association for the
26 purpose of eliminating Parkinson's disease through medical research and
27 public and professional education related to such disease;
- 28 (8) the National Kidney Foundation of Kansas and Western Missouri
29 for the purpose of eliminating kidney disease through medical research
30 and public and private education related to such disease;
- 31 (9) the heartstrings community foundation for the purpose of provid-
32 ing training, employment and activities for adults with developmental
33 disabilities;
- 34 (10) the Cystic Fibrosis Foundation, Heart of America Chapter, for
35 the purposes of assuring the development of the means to cure and con-
36 trol cystic fibrosis and improving the quality of life for those with the
37 disease;
- 38 (11) the spina bifida association of Kansas for the purpose of provid-
39 ing financial, educational and practical aid to families and individuals with
40 spina bifida. Such aid includes, but is not limited to, funding for medical
41 devices, counseling and medical educational opportunities;
- 42 (12) the CHWC, Inc., for the purpose of rebuilding urban core neigh-
43 borhoods through the construction of new homes, acquiring and reno-

1 vating existing homes and other related activities, and promoting economic development in such neighborhoods;

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

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

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

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

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

15 (xx) all sales of tangible personal property and services purchased by
16 a nonprofit zoo which is exempt from federal income taxation pursuant
17 to section 501(c)(3) of the federal internal revenue code of 1986, or on
18 behalf of such zoo by an entity itself exempt from federal income taxation
19 pursuant to section 501(c)(3) of the federal internal revenue code of 1986
20 contracted with to operate such zoo and all sales of tangible personal
21 property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging,
22 furnishing or remodeling facilities for any nonprofit zoo which would be
23 exempt from taxation under the provisions of this section if purchased
24 directly by such nonprofit zoo or the entity operating such zoo. Nothing
25 in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping,
26 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo. When any nonprofit zoo shall
27 contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall
28 obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials
29 for incorporation in such project. The contractor shall furnish the number
30 of such certificate to all suppliers from whom such purchases are made,
31 and such suppliers shall execute invoices covering the same bearing the
32 number of such certificate. Upon completion of the project the contractor
33 shall furnish to the nonprofit zoo concerned a sworn statement, on a form

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

22 (yy) all sales of tangible personal property and services purchased by
23 a parent-teacher association or organization, and all sales of tangible per-
24 sonal property by or on behalf of such association or organization;

25 (zz) all sales of machinery and equipment purchased by over-the-air,
26 free access radio or television station which is used directly and primarily
27 for the purpose of producing a broadcast signal or is such that the failure
28 of the machinery or equipment to operate would cause broadcasting to
29 cease. For purposes of this subsection, machinery and equipment shall
30 include, but not be limited to, that required by rules and regulations of
31 the federal communications commission, and all sales of electricity which
32 are essential or necessary for the purpose of producing a broadcast signal
33 or is such that the failure of the electricity would cause broadcasting to
34 cease;

35 (aaa) all sales of tangible personal property and services purchased
36 by a religious organization which is exempt from federal income taxation
37 pursuant to section 501(c)(3) of the federal internal revenue code, and
38 used exclusively for religious purposes, and all sales of tangible personal
39 property or services purchased by a contractor for the purpose of con-
40 structing, equipping, reconstructing, maintaining, repairing, enlarging,
41 furnishing or remodeling facilities for any such organization which would
42 be exempt from taxation under the provisions of this section if purchased
43 directly by such organization. Nothing in this subsection shall be deemed

1 to exempt the purchase of any construction machinery, equipment or
2 tools used in the constructing, equipping, reconstructing, maintaining,
3 repairing, enlarging, furnishing or remodeling facilities for any such or-
4 ganization. When any such organization shall contract for the purpose of
5 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
6 ing, furnishing or remodeling facilities, it shall obtain from the state and
7 furnish to the contractor an exemption certificate for the project involved,
8 and the contractor may purchase materials for incorporation in such pro-
9 ject. The contractor shall furnish the number of such certificate to all
10 suppliers from whom such purchases are made, and such suppliers shall
11 execute invoices covering the same bearing the number of such certifi-
12 cate. Upon completion of the project the contractor shall furnish to such
13 organization concerned a sworn statement, on a form to be provided by
14 the director of taxation, that all purchases so made were entitled to ex-
15 emption under this subsection. All invoices shall be held by the contractor
16 for a period of five years and shall be subject to audit by the director of
17 taxation. If any materials purchased under such a certificate are found
18 not to have been incorporated in the building or other project or not to
19 have been returned for credit or the sales or compensating tax otherwise
20 imposed upon such materials which will not be so incorporated in the
21 building or other project reported and paid by such contractor to the
22 director of taxation not later than the 20th day of the month following
23 the close of the month in which it shall be determined that such materials
24 will not be used for the purpose for which such certificate was issued,
25 such organization concerned shall be liable for tax on all materials pur-
26 chased for the project, and upon payment thereof it may recover the same
27 from the contractor together with reasonable attorney fees. Any contrac-
28 tor or any agent, employee or subcontractor thereof, who shall use or
29 otherwise dispose of any materials purchased under such a certificate for
30 any purpose other than that for which such a certificate is issued without
31 the payment of the sales or compensating tax otherwise imposed upon
32 such materials, shall be guilty of a misdemeanor and, upon conviction
33 therefor, shall be subject to the penalties provided for in subsection (g)
34 of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after
35 July 1, 1998, but prior to the effective date of this act upon the gross
36 receipts received from any sale exempted by the amendatory provisions
37 of this subsection shall be refunded. Each claim for a sales tax refund
38 shall be verified and submitted to the director of taxation upon forms
39 furnished by the director and shall be accompanied by any additional
40 documentation required by the director. The director shall review each
41 claim and shall refund that amount of sales tax paid as determined under
42 the provisions of this subsection. All refunds shall be paid from the sales
43 tax refund fund upon warrants of the director of accounts and reports

1 pursuant to vouchers approved by the director or the director's designee;
2 (bbb) all sales of food for human consumption by an organization
3 which is exempt from federal income taxation pursuant to section 501
4 (c)(3) of the federal internal revenue code of 1986, pursuant to a food
5 distribution program which offers such food at a price below cost in
6 exchange for the performance of community service by the purchaser
7 thereof;
8 (ccc) on and after July 1, 1999, all sales of tangible personal property
9 and services purchased by a primary care clinic or health center the pri-
10 mary purpose of which is to provide services to medically underserved
11 individuals and families, and which is exempt from federal income taxa-
12 tion pursuant to section 501 (c)(3) of the federal internal revenue code,
13 and all sales of tangible personal property or services purchased by a
14 contractor for the purpose of constructing, equipping, reconstructing,
15 maintaining, repairing, enlarging, furnishing or remodeling facilities for
16 any such clinic or center which would be exempt from taxation under the
17 provisions of this section if purchased directly by such clinic or center.
18 Nothing in this subsection shall be deemed to exempt the purchase of
19 any construction machinery, equipment or tools used in the constructing,
20 equipping, reconstructing, maintaining, repairing, enlarging, furnishing
21 or remodeling facilities for any such clinic or center. When any such clinic
22 or center shall contract for the purpose of constructing, equipping, re-
23 constructing, maintaining, repairing, enlarging, furnishing or remodeling
24 facilities, it shall obtain from the state and furnish to the contractor an
25 exemption certificate for the project involved, and the contractor may
26 purchase materials for incorporation in such project. The contractor shall
27 furnish the number of such certificate to all suppliers from whom such
28 purchases are made, and such suppliers shall execute invoices covering
29 the same bearing the number of such certificate. Upon completion of the
30 project the contractor shall furnish to such clinic or center concerned a
31 sworn statement, on a form to be provided by the director of taxation,
32 that all purchases so made were entitled to exemption under this subsec-
33 tion. All invoices shall be held by the contractor for a period of five years
34 and shall be subject to audit by the director of taxation. If any materials
35 purchased under such a certificate are found not to have been incorpo-
36 rated in the building or other project or not to have been returned for
37 credit or the sales or compensating tax otherwise imposed upon such
38 materials which will not be so incorporated in the building or other pro-
39 ject reported and paid by such contractor to the director of taxation not
40 later than the 20th day of the month following the close of the month in
41 which it shall be determined that such materials will not be used for the
42 purpose for which such certificate was issued, such clinic or center con-
43 cerned shall be liable for tax on all materials purchased for the project,

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

10 (ddd) on and after January 1, 1999, and before January 1, 2000, all
11 sales of materials and services purchased by any class II or III railroad as
12 classified by the federal surface transportation board for the construction,
13 renovation, repair or replacement of class II or III railroad track and
14 facilities used directly in interstate commerce. In the event any such track
15 or facility for which materials and services were purchased sales tax ex-
16 empt is not operational for five years succeeding the allowance of such
17 exemption, the total amount of sales tax which would have been payable
18 except for the operation of this subsection shall be recouped in accord-
19 ance with rules and regulations adopted for such purpose by the secretary
20 of revenue;

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

25 (fff) all sales of material handling equipment, racking systems and
26 other related machinery and equipment that is used for the handling,
27 movement or storage of tangible personal property in a warehouse or
28 distribution facility in this state; all sales of installation, repair and main-
29 tenance services performed on such machinery and equipment; and all
30 sales of repair and replacement parts for such machinery and equipment.
31 For purposes of this subsection, a warehouse or distribution facility means
32 a single, fixed location that consists of buildings or structures in a contig-
33 uous area where storage or distribution operations are conducted that are
34 separate and apart from the business' retail operations, if any, and which
35 do not otherwise qualify for exemption as occurring at a manufacturing
36 or processing plant or facility. Material handling and storage equipment
37 shall include aeration, dust control, cleaning, handling and other such
38 equipment that is used in a public grain warehouse or other commercial
39 grain storage facility, whether used for grain handling, grain storage, grain
40 refining or processing, or other grain treatment operation;

41 (ggg) all sales of tangible personal property and services purchased
42 by or on behalf of the Kansas Academy of Science which is exempt from
43 federal income taxation pursuant to section 501(c)(3) of the federal in-

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1 ternal revenue code of 1986, and used solely by such academy for the
2 preparation, publication and dissemination of education materials;
3 (hhh) all sales of tangible personal property and services purchased
4 by or on behalf of all domestic violence shelters that are member agencies
5 of the Kansas coalition against sexual and domestic violence;
6 (iii) all sales of personal property and services purchased by an or-
7 ganization which is exempt from federal income taxation pursuant to sec-
8 tion 501(c)(3) of the federal internal revenue code of 1986, and which
9 such personal property and services are used by any such organization in
10 the collection, storage and distribution of food products to nonprofit or-
11 ganizations which distribute such food products to persons pursuant to a
12 food distribution program on a charitable basis without fee or charge, and
13 all sales of tangible personal property or services purchased by a contrac-
14 tor for the purpose of constructing, equipping, reconstructing, maintain-
15 ing, repairing, enlarging, furnishing or remodeling facilities used for the
16 collection and storage of such food products for any such organization
17 which is exempt from federal income taxation pursuant to section
18 501(c)(3) of the federal internal revenue code of 1986, which would be
19 exempt from taxation under the provisions of this section if purchased
20 directly by such organization. Nothing in this subsection shall be deemed
21 to exempt the purchase of any construction machinery, equipment or
22 tools used in the constructing, equipping, reconstructing, maintaining,
23 repairing, enlarging, furnishing or remodeling facilities for any such or-
24 ganization. When any such organization shall contract for the purpose of
25 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
26 ing, furnishing or remodeling facilities, it shall obtain from the state and
27 furnish to the contractor an exemption certificate for the project involved,
28 and the contractor may purchase materials for incorporation in such pro-
29 ject. The contractor shall furnish the number of such certificate to all
30 suppliers from whom such purchases are made, and such suppliers shall
31 execute invoices covering the same bearing the number of such certifi-
32 cate. Upon completion of the project the contractor shall furnish to such
33 organization concerned a sworn statement, on a form to be provided by
34 the director of taxation, that all purchases so made were entitled to ex-
35 emption under this subsection. All invoices shall be held by the contractor
36 for a period of five years and shall be subject to audit by the director of
37 taxation. If any materials purchased under such a certificate are found
38 not to have been incorporated in such facilities or not to have been re-
39 turned for credit or the sales or compensating tax otherwise imposed upon
40 such materials which will not be so incorporated in such facilities reported
41 and paid by such contractor to the director of taxation not later than the
42 20th day of the month following the close of the month in which it shall
43 be determined that such materials will not be used for the purpose for

1 which such certificate was issued, such organization concerned shall be
2 liable for tax on all materials purchased for the project, and upon payment
3 thereof it may recover the same from the contractor together with rea-
4 sonable attorney fees. Any contractor or any agent, employee or subcon-
5 tractor thereof, who shall use or otherwise dispose of any materials pur-
6 chased under such a certificate for any purpose other than that for which
7 such a certificate is issued without the payment of the sales or compen-
8 sating tax otherwise imposed upon such materials, shall be guilty of a
9 misdemeanor and, upon conviction therefor, shall be subject to the pen-
10 alties provided for in subsection (g) of K.S.A. 79-3615, and amendments
11 thereto. Sales tax paid on and after July 1, 2005, but prior to the effective
12 date of this act upon the gross receipts received from any sale exempted
13 by the amendatory provisions of this subsection shall be refunded. Each
14 claim for a sales tax refund shall be verified and submitted to the director
15 of taxation upon forms furnished by the director and shall be accompanied
16 by any additional documentation required by the director. The director
17 shall review each claim and shall refund that amount of sales tax paid as
18 determined under the provisions of this subsection. All refunds shall be
19 paid from the sales tax refund fund upon warrants of the director of
20 accounts and reports pursuant to vouchers approved by the director or
21 the director's designee;

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

37 (lll) all sales of tangible personal property and services purchased by
38 special olympics Kansas, inc. for the purpose of providing year-round
39 sports training and athletic competition in a variety of olympic-type sports
40 for individuals with intellectual disabilities by giving them continuing op-
41 portunities to develop physical fitness, demonstrate courage, experience
42 joy and participate in a sharing of gifts, skills and friendship with their
43 families, other special olympics athletes and the community, and activities

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1 provided or sponsored by such organization, and all sales of tangible per-
2 sonal property by or on behalf of any such organization;

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

9 (nnn) all sales of tangible personal property and services purchased
10 by the West Sedgwick County-Sunrise Rotary Club and Sunrise Chari-
11 table Fund for the purpose of constructing a boundless playground which
12 is an integrated, barrier free and developmentally advantageous play en-
13 vironment for children of all abilities and disabilities;

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

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

25 (qqq) all sales of tangible personal property and services purchased
26 by TLC for children and families, inc., hereinafter referred to as TLC,
27 which is exempt from federal income taxation pursuant to section
28 501(c)(3) of the federal internal revenue code of 1986, and which such
29 property and services are used for the purpose of providing emergency
30 shelter and treatment for abused and neglected children as well as meet-
31 ing additional critical needs for children, juveniles and family, and all sales
32 of any such property by or on behalf of TLC for any such purpose; and
33 all sales of tangible personal property or services purchased by a contrac-
34 tor for the purpose of constructing, maintaining, repairing, enlarging, fur-
35 nishing or remodeling facilities for the operation of services for TLC for
36 any such purpose which would be exempt from taxation under the pro-
37 visions of this section if purchased directly by TLC. Nothing in this sub-
38 section shall be deemed to exempt the purchase of any construction ma-
39 chinery, equipment or tools used in the constructing, maintaining,
40 repairing, enlarging, furnishing or remodeling such facilities for TLC.
41 When TLC contracts for the purpose of constructing, maintaining, re-
42 pairing, enlarging, furnishing or remodeling such facilities, it shall obtain
43 from the state and furnish to the contractor an exemption certificate for

1 the project involved, and the contractor may purchase materials for in-
2 corporation in such project. The contractor shall furnish the number of
3 such certificate to all suppliers from whom such purchases are made, and
4 such suppliers shall execute invoices covering the same bearing the num-
5 ber of such certificate. Upon completion of the project the contractor
6 shall furnish to TLC a sworn statement, on a form to be provided by the
7 director of taxation, that all purchases so made were entitled to exemption
8 under this subsection. All invoices shall be held by the contractor for a
9 period of five years and shall be subject to audit by the director of taxation.
10 If any materials purchased under such a certificate are found not to have
11 been incorporated in the building or other project or not to have been
12 returned for credit or the sales or compensating tax otherwise imposed
13 upon such materials which will not be so incorporated in the building or
14 other project reported and paid by such contractor to the director of
15 taxation not later than the 20th day of the month following the close of
16 the month in which it shall be determined that such materials will not be
17 used for the purpose for which such certificate was issued, TLC shall be
18 liable for tax on all materials purchased for the project, and upon payment
19 thereof it may recover the same from the contractor together with rea-
20 sonable attorney fees. Any contractor or any agent, employee or subcon-
21 tractor thereof, who shall use or otherwise dispose of any materials pur-
22 chased 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 compen-
24 sating tax otherwise imposed upon such materials, shall be guilty of a
25 misdemeanor and, upon conviction therefor, shall be subject to the pen-
26 alties provided for in subsection (g) of K.S.A. 79-3615, and amendments
27 thereto;

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

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

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

41 (ttt) all sales of tangible personal property or services purchased by
42 a contractor for a project for the purpose of restoring, constructing, equip-
43 ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-

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

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

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

4 Sec. 20. K.S.A. 40-253a, 74-50,113, 74-50,116, 74-50,117, 74-50,118,
5 74-50,119, 74-50,135, 74-50,135a, 74-8945, 79-32,155, 79-32,156, 79-
6 32,157, 79-32,158, 79-32,159, 79-32,159a, 79-32,159b, 79-32,159c, 79-
7 32,160, 79-32,160b and 79-32,160c and K.S.A. 2006 Supp. 74-50,114, 74-
8 50,115, 74-50,131, 74-50,132, 74-50,133, 74-50,134, 79-3269, 79-32,111,
9 79-32,153, 79-32,154, 79-32,160a, 79-32,243 and 79-3606 are hereby
10 repealed.

11 Sec. 21. This act shall take effect and be in force from and after its
12 publication in the statute book.

Training Tax Credits
(modified KSA 74-50,132)

(a) For taxable years commencing after December 31, 2007, a business shall be entitled to a credit against the tax imposed by the Kansas income tax act, the premium tax or privilege fee imposed pursuant to K.S.A. 40-252, and amendments thereto or the privilege tax as measured by net income of financial institutions imposed pursuant to chapter 79, article 11 of the Kansas Statutes Annotated in an amount equal to the portion of the business facility cash investment in the training and education of the firm's employees that exceeds 2% of the firm's total payroll costs. The maximum amount of the credit that may be claimed by a single corporate taxpayer in any single tax year under this section shall not exceed \$50,000. Tax credits earned by a business under this section must be claimed in their entirety in the tax year eligible.

(b) For tax years commencing after December 31, 2005, any taxpayer claiming credits pursuant to this section, as a condition for claiming and qualifying for such credits, shall provide information pursuant to K.S.A. 2006 Supp. 79-32,243, and amendments thereto, as part of the tax return in which such credits are claimed. Such credits shall not be denied solely on the basis of the contents of the information provided by the taxpayer pursuant to K.S.A. 2006 Supp. 79-32, 243, and amendments thereto.

HB 2496

Business Proposal

Investment Tax Credit

- **Threshold reduced to \$150,000** (*change on page 4, line 18 and page 6, line 9*)
- **Threshold reduced to \$50,000 in opportunity zone** (*change on page 4, line 17 and 6, line 12*)
- **Maintain Training Tax Credit** with computer based training allowed to meet requirement (*language attached to end of document*)
- **Change date for new tax credit** from December 31, 2006 to December 31, 2007 (*change on page 5, line 30, page 7, line 14, 28*)
- **Sunset of tax credit date changed to 2013**—to maintain 5 year sunset of tax credit (*page 7, line 29*)

Jobs Credit

- **5 net new job threshold** (*page 9, line 32*)
- **2 net new job threshold in opportunity zone** (*page 9, line 21*)
- 20 net new job threshold maintained for headquarters and back-office facilities
- **Change date for new jobs credit** from December 31, 2006 to December 31, 2007 (*page 9, line 20 and page 10, line 34*)
- **Sunset of tax credit date changed to 2013**—to maintain 5 year sunset of tax credit (*page 10, line 35*)

HOUSE BILL No. 2496

By Committee on Economic Development and Tourism

2-9

9 AN ACT concerning taxation; relating to credits; enacting the Kansas
10 investment credit act and the Kansas jobs credit act; relating to qual-
11 ifications and procedures; eliminating certain existing credits related
12 thereto; amending K.S.A. 40-253a and 74-8945 and K.S.A. 2006 Supp.
13 79-32,111, 79-32,243 and 79-3606 and repealing the existing sections;
14 also repealing K.S.A. 74-50,113, 74-50,116, 74-50,117, 74-50,118, 74-
15 50,119, 74-50,135, 74-50,135a, 79-32,155, 79-32,156, 79-32,157, 79-
16 32,158, 79-32,159, 79-32,159a, 79-32,159b, 79-32,159c, 79-32,160, 79-
17 32,160b and 79-32,160c and K.S.A. 2006 Supp. 74-50,114, 74-50,115,
18 74-50,131, 74-50,132, 74-50,133, 74-50,134, 79-3269, 79-32,153, 79-
19 32,154 and 79-32,160a.

20

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

22 New Section 1. The provisions of sections 1 through 8, and amend-
23 ments thereto, shall be known and may be cited as the Kansas investment
24 credit act.

25 New Sec. 2. As used in the Kansas investment credit act, unless oth-
26 erwise provided: (a) "Act" means the Kansas investment credit act;

27 (b) "ancillary support operation" means a Kansas business facility at
28 which the business activities are ancillary processing functions and from
29 which no or de minimis primary business activities occur. Ancillary proc-
30 essing functions shall support and improve operating efficiencies of the
31 primary focus of the business, but are not of themselves, integral and
32 necessary to performing the primary business activities;

33 (c) "eligible taxpayer" means a for-profit business establishment sub-
34 ject to the Kansas income tax act, the premium tax or privilege fees im-
35 posed pursuant to K.S.A. 40-252, and amendments thereto, the privilege
36 tax as measured by the net income of financial institutions imposed pur-
37 suant to chapter 79, article 11 of the Kansas Statutes Annotated, sales or
38 property taxes and that meets the eligibility criteria in section 3, and
39 amendments thereto and is current in payment of Kansas taxes;

40 (d) "headquarters" means a Kansas business facility where principal
41 officers of the business are housed and from which direction, manage-
42 ment, or administrative support of transactions is provided for a business
43 or division of a business and from which no more than de minimis rev-

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1 means a revenue producing enterprise in which the products produced
2 or sold, services performed or activities conducted are the same in char-
3 acter and use, are produced, sold, performed or conducted in the same
4 manner and to or for the same type of customers as the products, services
5 or activities produced, sold, performed or conducted in another revenue
6 producing enterprise.

7 New Sec. 3. (a) An eligible taxpayer may qualify for the investment
8 credit if all of the following criteria are met: (1) The taxpayer's Kansas
9 business facility must be:

10 (A) Identified under the North American industry classification sys-
11 tem (NAICS) subsector of 221, 311-425, 481-624, 812-813, or 922-928,
12 as assigned by the secretary of the department of labor; or

13 (B) identified as a headquarters or ancillary support operation by the
14 secretary of commerce for purposes of this act, regardless of NAICS
15 classification;

16 (2) the qualified investment for the project must equal or exceed
17 \$100,000 for those Kansas business facilities that are located in an op-
18 portunity zone and ~~\$1,000,000~~ for those Kansas business facilities that
19 are not located in an opportunity zone;

\$300,000

20 (3) the taxpayer shall satisfy payment of a higher-than-average wage
21 within a wage region at the Kansas business facility at which qualified
22 investment occurs by performing one of the options described below: (A)
23 The taxpayer's Kansas business facility with 500 or fewer full-time equiv-
24 alent employees will provide an average wage that is above the average
25 wage paid by all Kansas business facilities that share the same assigned
26 NAICS category used to develop wage thresholds and that have reported
27 500 or fewer employees to the Kansas department of labor on the quar-
28 terly wage reports;

29 (B) the taxpayer's Kansas business facility with 500 or fewer full-time
30 equivalent employees is the sole facility within its assigned NAICS cate-
31 gory that has reported wages for 500 or fewer employees to the Kansas
32 department of labor on the quarterly wage reports;

33 (C) the taxpayer's Kansas business facility with more than 500 full-
34 time equivalent employees will provide an average wage that is above the
35 average wage paid by all Kansas business facilities that share the same
36 assigned NAICS category used to develop wage thresholds and that have
37 reported more than 500 employees to the Kansas department of labor on
38 the quarterly wage reports;

39 (D) the taxpayer's Kansas business facility with more than 500 full-
40 time equivalent employees is the sole facility within its assigned NAICS
41 category that has reported wages for more than 500 employees to the
42 Kansas department of labor on the quarterly wage reports, in which event
43 it shall either provide an average wage that is above the average wage

C.B.
4.3

1 credit amount thereof which exceeds the eligible taxpayer's tax liability
2 may be carried forward for credit in the succeeding taxable year or years
3 until the total amount of the tax credit is used, except that no such tax
4 credit shall be carried forward for deduction after the tenth taxable year
5 succeeding the taxable year in which such credit initially was claimed and
6 no carry forward shall be allowed for deduction in any succeeding taxable
7 year unless the taxpayer continues to satisfy the eligibility criteria in sec-
8 tion 3, and amendments thereto, for such succeeding taxable year.

9 (d) A qualified investment, of at least ~~\$1,000,000~~, made by the eligible
10 taxpayer in a Kansas business facility that is not located in a designated
11 opportunity zone, may qualify for the investment credit.

\$300,000

12 (e) A qualified investment, of at least \$100,000, made by the eligible
13 taxpayer in a Kansas business facility that is located in a designated op-
14 portunity zone, may qualify for the investment credit.

15 (f) If the eligible taxpayer is a corporation having an election in effect
16 under subchapter S of the federal internal revenue code, a partnership
17 or limited liability company, the credit provided by this section shall be
18 claimed by the shareholders of such corporation, the partners of such
19 partnership or the members of such limited liability company in the same
20 manner as such shareholders, partners, or members account for their
21 proportionate shares of income or loss of the corporation, partnership or
22 limited liability company.

23 New Sec. 5. (a) The secretary of revenue and the secretary of com-
24 merce shall work together to coordinate a set of procedures to implement
25 the provisions of this act.

26 (b) Any taxpayer claiming credits pursuant to this act, as a condition
27 for claiming and qualifying for such credits, shall provide information
28 pursuant to K.S.A. 2006 Supp. 79-32,243, and amendments thereto, as
29 part of the tax return in which such credits are claimed. Such credits shall
30 not be denied solely on the basis of the contents of the information pro-
31 vided by the taxpayer pursuant to K.S.A. 2006 Supp. 79-32,243, and
32 amendments thereto.

33 (c) The secretary of revenue shall submit an annual report to the
34 legislature regarding utilization of the credits claimed pursuant to this act,
35 for purposes of evaluation. Such report shall be due during the legislative
36 session, commencing with the 2009 legislative session.

37 New Sec. 6. The secretary of revenue and secretary of commerce
38 may adopt such rules and regulations as necessary to carry out the pur-
39 poses of this act.

40 New Sec. 7. (a) Except as otherwise provided, for tax years com-
41 mencing on or after December 31, 2006, no additional credits may be
42 earned through the Kansas enterprise zone act, K.S.A. 79-32,160a; or the
43 job expansion and investment tax credit act, K.S.A. 79-32,153. Any carry

1 and loan association paying an annual tax on its net income pursuant to
 2 article 11 of chapter 79 of the Kansas Statutes Annotated, or any insurance
 3 company paying the premium tax and privilege fees imposed pursuant to
 4 K.S.A. 40-252, and amendments thereto, and that is current in payment
 5 of Kansas taxes; and

6 (g) "related taxpayer" means: (1) A corporation, partnership, trust or
 7 association controlled by the taxpayer; (2) an individual, corporation, part-
 8 nership, trust or association in control of the taxpayer; or (3) a corporation,
 9 partnership, trust or association controlled by an individual, corporation,
 10 partnership, trust or association in control of the taxpayer. "Control of a
 11 corporation" means ownership, directly or indirectly, of stock possessing
 12 at least 80% of the total combined voting power of all classes of stock
 13 entitled to vote and at least 80% of all other classes of stock of the cor-
 14 poration. "Control of a partnership or association" means ownership of
 15 at least 80% of the capital or profits interest in such partnership or as-
 16 sociation. "Control of a trust" means ownership, directly or indirectly, of
 17 at least 80% of the beneficial interest in the principal or income of such
 18 trust.

19 New Sec. 11. (a) For taxable years commencing after December 31,
 20 2006, any opportunity zone job credit taxpayer who engages in new em-
 21 ployment at least five new employees in the taxpayer's business operating
 22 in a designated opportunity zone in Kansas shall be allowed a credit of
 23 \$3,500 per new employee, against the tax imposed by the Kansas income
 24 tax act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-
 25 252, and amendments thereto, or the privilege tax as measured by the
 26 net income of financial institutions imposed pursuant to article 11 of
 27 chapter 79 of the Kansas Statutes Annotated, for the taxable year during
 28 which the employees were hired. To be considered employed in an op-
 29 portunity zone, the employee must perform the majority of the services
 30 for the opportunity zone job credit taxpayer in the opportunity zone. Any
 31 Kansas job credit taxpayer located in the state of Kansas who engages in
 32 new employment at least 20 new employees in the taxpayer's business
 33 operating in Kansas shall be allowed a credit of \$1,500 per new employee,
 34 against the tax imposed by the Kansas income tax act, the premium tax
 35 or privilege fees imposed pursuant to K.S.A. 40-252, and amendments
 36 thereto, or the privilege tax as measured by the net income of financial
 37 institutions imposed pursuant to article 11 of chapter 79 of the Kansas
 38 Statutes Annotated, for the taxable year during which the employees were
 39 hired.

40 (b) The taxpayer shall claim any credits pursuant to this act on the
 41 original return for the tax year in which the employees were hired.

42 (c) If the amount of the tax credit exceeds the tax imposed, the
 43 amount thereof which exceeds such tax liability may be carried forward

, provided, that such new employees shall be paid a
 wage that is at least the minimum set by the federal fair
 labor standards act of 1938, and amendments thereto

10

within two consecutive tax years

HOUSE BILL No. 2496

By Committee on Economic Development and Tourism

2-9

9 AN ACT concerning taxation; relating to credits; enacting the Kansas
10 investment credit act and the Kansas jobs credit act; relating to qual-
11 ifications and procedures; eliminating certain existing credits related
12 thereto; amending K.S.A. 40-253a and 74-8945 and K.S.A. 2006 Supp. ———
13 79-32,111, 79-32,243 and 79-3606 and repealing the existing sections;
14 also repealing K.S.A. 74-50,113, 74-50,116, 74-50,117, 74-50,118, 74-
15 50,119, 74-50,135, 74-50,135a, 79-32,155, 79-32,156, 79-32,157, 79-
16 32,158, 79-32,159, 79-32,159a, 79-32,159b, 79-32,159c, 79-32,160, 79-
17 32,160b and 79-32,160c and K.S.A. 2006 Supp. 74-50,114, 74-50,115,
18 ~~74-50,131, 74-50,132, 74-50,133, 74-50,134, 79-3269, 79-32,153, 79-~~
19 ~~32,154 and 79-32,160a.~~

74-50,131

20
21 *Be it enacted by the Legislature of the State of Kansas:*

22 New Section 1. The provisions of sections 1 through 8, and amend-
23 ments thereto, shall be known and may be cited as the Kansas investment
24 credit act.

25 New Sec. 2. As used in the Kansas investment credit act, unless oth-
26 erwise provided: (a) "Act" means the Kansas investment credit act;

27 (b) "ancillary support operation" means a Kansas business facility at
28 which the business activities are ancillary processing functions and from
29 which no or de minimis primary business activities occur. Ancillary proc-
30 essing functions shall support and improve operating efficiencies of the
31 primary focus of the business, but are not of themselves, integral and
32 necessary to performing the primary business activities;

33 (c) "eligible taxpayer" means a for-profit business establishment sub-
34 ject to the Kansas income tax act, the premium tax or privilege fees im-
35 posed pursuant to K.S.A. 40-252, and amendments thereto, the privilege
36 tax as measured by the net income of financial institutions imposed pur-
37 suant to chapter 79, article 11 of the Kansas Statutes Annotated, sales or
38 property taxes and that meets the eligibility criteria in section 3, and
39 amendments thereto and is current in payment of Kansas taxes;

40 (d) "headquarters" means a Kansas business facility where principal
41 officers of the business are housed and from which direction, manage-
42 ment, or administrative support of transactions is provided for a business
43 or division of a business and from which no more than de minimis rev-

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1 enues are generated from primary business activities.

2 (e) "Kansas business facility" means any factory, mill, plant, refinery,
3 warehouse, feedlot, building or complex of buildings that operate as a
4 single unit on a contiguous piece of property, located within the state,
5 including the land on which such facility is located and all machinery,
6 equipment and other real and tangible personal property located at or
7 within such facility used in connection with the operation of such facility.
8 The term "Kansas business facility" includes only structures within which
9 individuals are customarily employed or which are customarily used to
10 house machinery, equipment or other property and that are not designed
11 with the capability of being transported, moved or relocated. Such Kansas
12 business facility shall satisfy the following requirements: (1) Such facility
13 must be employed by the eligible taxpayer in the operation of a revenue
14 producing enterprise. Such facility shall not be considered a Kansas busi-
15 ness facility in the hands of the taxpayer if the taxpayer's only activity with
16 respect to such facility is to lease it to another person or persons. If the
17 taxpayer employs only a portion of such facility in the operation of a
18 revenue producing enterprise, and leases another portion of such facility
19 to another person or persons or does not otherwise use such other por-
20 tions in the operation of a revenue producing enterprise, the portion
21 employed by the taxpayer in the operation of a revenue producing en-
22 terprise shall be considered a Kansas business facility, if the requirements
23 of subsection (e)(2) are satisfied; and

24 (2) if such facility was acquired by the taxpayer from another person
25 or persons, such facility was not employed, immediately prior to the trans-
26 fer of title to such facility to the taxpayer, or to the commencement of
27 the term of the lease of such facility to the taxpayer, by any other person
28 or persons in the operation of a revenue producing enterprise and the
29 taxpayer continues the operation of the same or substantially identical
30 revenue producing enterprise at such facility;

31 (f) "opportunity zone" shall be established by the secretary of com-
32 merce through rules and regulations. In addition to other opportunity
33 zone designation criteria established by the secretary, such criteria shall
34 include: (1) An opportunity zone, which shall be comprised of at least
35 one county; (2) shall be economically disadvantaged; and (3) shall not
36 include any counties in a metropolitan statistical area or micropolitan
37 statistical area;

38 (g) "qualified investment" means the value of the real and tangible
39 personal property permanently and physically located at the Kansas busi-
40 ness facility, except that "qualified investment" does not include inven-
41 tory, construction in progress, or property held for sale to customers in
42 the ordinary course of the taxpayer's business, which constitutes the Kan-
43 sas business facility, or which is used by the taxpayer in the operation of

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1 the Kansas business facility, during the taxable year for which the credit
2 is claimed. The value of such property during such taxable year shall be:

3 (1) The original cost of such property, if owned by the eligible taxpayer;
4 or (2) eight times the net annual rental rate, if leased by the eligible
5 taxpayer. Original cost is deemed to be the basis of the property for fed-
6 eral income tax purposes, prior to any federal adjustments, at the time of
7 acquisition by the taxpayer and adjusted by subsequent capital additions
8 or improvements thereto and partial disposition thereof, by reason of sale,
9 exchange or abandonment. The net annual rental rate shall be the annual
10 rental rate paid by the taxpayer less any annual rental rate received by
11 the taxpayer from subrentals. "Qualified investment" shall be determined
12 by calculating the value of the qualified investment that has been newly
13 placed into service at the eligible taxpayer's Kansas business facility during
14 the taxpayer's tax year. In order to remain eligible the investment must
15 continue to be used during the tax year and remain in service on the last
16 business day of the taxpayer's tax year for which the credit is claimed. For
17 plans that show a project shall extend beyond one tax period in which the
18 minimum investment is not met at the end of the first tax period that the
19 qualified investment is placed in service, the qualified investment can be
20 accumulated into the next consecutive tax period for computation of the
21 investment credit until the minimum investment has been met as long as
22 the qualified investment remains in service and is identified as part of the
23 same project. Once the minimum investment has been initially met on a
24 project, subsequent qualified investment may be claimed in the tax period
25 that it is placed in service;

26 (h) "revenue producing enterprise" means: (1) The assembly, fabri-
27 cation, manufacture or processing of any agricultural, mineral or manu-
28 factured product;

29 (2) the storage, warehousing, distribution or sale of any products of
30 agriculture, aquaculture, mining or manufacturing;

31 (3) the feeding of livestock at a feedlot;

32 (4) the operation of laboratories or other facilities for scientific, ag-
33 ricultural, aquacultural, animal husbandry or industrial research, devel-
34 opment or testing;

35 (5) the performance of services of any type;

36 (6) the feeding of aquatic plants and animals at an aquaculture
37 operation;

38 (7) the administrative management of any of the foregoing activities;

39 or

40 (8) any combination of any of the foregoing activities.

41 "Revenue producing enterprise" shall not mean a swine production
42 facility as defined in K.S.A. 17-5903, and amendments thereto; and

43 (i) "same or substantially identical revenue producing enterprise"

1 means a revenue producing enterprise in which the products produced
2 or sold, services performed or activities conducted are the same in char-
3 acter and use, are produced, sold, performed or conducted in the same
4 manner and to or for the same type of customers as the products, services
5 or activities produced, sold, performed or conducted in another revenue
6 producing enterprise.

7 New Sec. 3. (a) An eligible taxpayer may qualify for the investment
8 credit if all of the following criteria are met: (1) The taxpayer's Kansas
9 business facility must be:

10 (A) Identified under the North American industry classification sys-
11 tem (NAICS) subsector of 221, 311-425, 481-624, 812-813, or 922-928,
12 as assigned by the secretary of the department of labor; or

13 (B) identified as a headquarters or ancillary support operation by the
14 secretary of commerce for purposes of this act, regardless of NAICS
15 classification;

16 (2) the qualified investment for the project must equal or exceed
17 \$100,000 for those Kansas business facilities that are located in an op-
18 portunity zone and \$1,000,000 for those Kansas business facilities that
19 are not located in an opportunity zone;

20 (3) the taxpayer shall satisfy payment of a higher-than-average wage
21 within a wage region at the Kansas business facility at which qualified
22 investment occurs by performing one of the options described below: (A)
23 The taxpayer's Kansas business facility with 500 or fewer full-time equiv-
24 alent employees will provide an average wage that is above the average
25 wage paid by all Kansas business facilities that share the same assigned
26 NAICS category used to develop wage thresholds and that have reported
27 500 or fewer employees to the Kansas department of labor on the quar-
28 terly wage reports;

29 (B) the taxpayer's Kansas business facility with 500 or fewer full-time
30 equivalent employees is the sole facility within its assigned NAICS cate-
31 gory that has reported wages for 500 or fewer employees to the Kansas
32 department of labor on the quarterly wage reports;

33 (C) the taxpayer's Kansas business facility with more than 500 full-
34 time equivalent employees will provide an average wage that is above the
35 average wage paid by all Kansas business facilities that share the same
36 assigned NAICS category used to develop wage thresholds and that have
37 reported more than 500 employees to the Kansas department of labor on
38 the quarterly wage reports;

39 (D) the taxpayer's Kansas business facility with more than 500 full-
40 time equivalent employees is the sole facility within its assigned NAICS
41 category that has reported wages for more than 500 employees to the
42 Kansas department of labor on the quarterly wage reports, in which event
43 it shall either provide an average wage that is above the average wage

112112,

*livestock
industry
(beef cattle)
only*

1 paid by all Kansas business facilities that share the same assigned NAICS
 2 category and that have reported wages for 500 or fewer employees to the
 3 Kansas department of labor on the quarterly wage reports, or be the sole
 4 Kansas business facility within its assigned NAICS category that has re-
 5 ported wages to the Kansas department of labor on the quarterly wage
 6 reports;

7 (E) the number of NAICS digits to use in developing each set of
 8 wage thresholds for comparison purposes shall be determined by the
 9 secretary of commerce; or

10 (F) the composition of wage regions used in connection with each set
 11 of wage thresholds shall be determined by the secretary of commerce;
 12 and

13 (4) as an alternative to the requirements of subsection (a)(3), a tax-
 14 payer having met the requirements of subsections (a)(1) and (2) may
 15 wage-qualify its Kansas business facility if, after excluding the headcount
 16 and wages reported on the quarterly wage reports to the Kansas depart-
 17 ment of labor for employees at that Kansas business facility who own five
 18 percent or more equity in the taxpayer, the average wage calculated for
 19 the taxpayer's Kansas business facility is greater than or equal to 1.5 times
 20 the aggregate state-wide average wage paid by industries covered by the
 21 employment security law based on data maintained by the secretary of
 22 labor.

23 (b) For the purposes of this section, the number of full-time equiv-
 24 alent employees shall be determined by dividing the number of hours
 25 worked by part-time employees during the pertinent measurement in-
 26 terval by an amount equal to the corresponding multiple of a 40-hour
 27 work week and adding the quotient to the average number of full-time
 28 employees.

29 New Sec. 4. (a) For taxable years commencing after December 31,
 30 2006, an eligible taxpayer that makes a qualified investment in a Kansas
 31 business facility shall be entitled to a credit in an amount equal to 10%
 32 of the qualified investment. Qualified investment must be identified and
 33 submitted to the secretary of commerce prior to making a commitment
 34 to invest. The credit allowed by this subsection shall be a one-time credit.
 35 The credit shall be allowed against the tax imposed by the Kansas income
 36 tax act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-
 37 252, and amendments thereto, or the privilege tax as measured by the
 38 net income of financial institutions imposed pursuant to article 11 of
 39 chapter 79 of the Kansas Statutes Annotated, for the taxable year during
 40 which the qualified investment is placed into service.

41 (b) The eligible taxpayer shall claim the credit on the original return
 42 for the tax year in which the qualified investment is placed into service.

43 (c) If the tax credit amount thereof exceeds the tax imposed, the tax

(A) for taxpayers not covered by the Kansas employment security law pursuant to K.S.A. 44-703(i)(4)(B), and amendments thereto, the wage data required to compute the average wage calculated for the taxpayer's Kansas business facility will be based upon the taxpayer's wage level documentation approved by the secretary of commerce. (B) As

*should not
be stricken*

1 credit amount thereof which exceeds the eligible taxpayer's tax liability
2 may be carried forward for credit in the succeeding taxable year or years
3 until the total amount of the tax credit is used, except that no such tax
4 credit shall be carried forward for deduction after the tenth taxable year
5 succeeding the taxable year in which such credit initially was claimed and
6 no carry forward shall be allowed for deduction in any succeeding taxable
7 year unless the taxpayer continues to satisfy the eligibility criteria in sec-
8 tion 3, and amendments thereto, for such succeeding taxable year.

9 (d) A qualified investment, of at least \$1,000,000, made by the eligible
10 taxpayer in a Kansas business facility that is not located in a designated
11 opportunity zone, may qualify for the investment credit.

12 (e) A qualified investment, of at least \$100,000, made by the eligible
13 taxpayer in a Kansas business facility that is located in a designated op-
14 portunity zone, may qualify for the investment credit.

15 (f) If the eligible taxpayer is a corporation having an election in effect
16 under subchapter S of the federal internal revenue code, a partnership
17 or limited liability company, the credit provided by this section shall be
18 claimed by the shareholders of such corporation, the partners of such
19 partnership or the members of such limited liability company in the same
20 manner as such shareholders, partners, or members account for their
21 proportionate shares of income or loss of the corporation, partnership or
22 limited liability company.

23 New Sec. 5. (a) The secretary of revenue and the secretary of com-
24 merce shall work together to coordinate a set of procedures to implement
25 the provisions of this act.

26 (b) Any taxpayer claiming credits pursuant to this act, as a condition
27 for claiming and qualifying for such credits, shall provide information
28 pursuant to K.S.A. 2006 Supp. 79-32,243, and amendments thereto, as
29 part of the tax return in which such credits are claimed. Such credits shall
30 not be denied solely on the basis of the contents of the information pro-
31 vided by the taxpayer pursuant to K.S.A. 2006 Supp. 79-32,243, and
32 amendments thereto.

33 (c) The secretary of revenue shall submit an annual report to the
34 legislature regarding utilization of the credits claimed pursuant to this act,
35 for purposes of evaluation. Such report shall be due during the legislative
36 session, commencing with the 2009 legislative session.

37 New Sec. 6. The secretary of revenue and secretary of commerce
38 may adopt such rules and regulations as necessary to carry out the pur-
39 poses of this act.

40 New Sec. 7. (a) Except as otherwise provided, for tax years com-
41 mencing on or after December 31, 2006, no additional credits may be
42 earned through the Kansas enterprise zone act, K.S.A. 79-32,160a; or the
43 job expansion and investment tax credit act, K.S.A. 79-32,153. Any carry

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1 forward credit that has been earned through the Kansas enterprise zone
2 act, K.S.A. 79-32,160a and is remaining after December 31, 2006, may
3 be carried forward to succeeding taxable years as long as all requirements
4 continue to be met. Any credit that has been earned through the job
5 expansion and investment tax credit act, K.S.A. 79-32,153, with years left
6 in recomputing the credit after December 31, 2006, may continue for the
7 remainder of the 10-year period as long as all requirements continue to
8 be met.

9 (b) Except as otherwise provided, for tax years commencing on or
10 after December 31, 2006, no additional credits may be earned through
11 the high performance incentive act, K.S.A. 74-50,115, ~~K.S.A. 74-50,132,~~
12 and subsection (e) of K.S.A. 79-32,160a. Any carry forward credit that
13 has been earned through the high performance incentive act, subsection
14 (e) of K.S.A. 79-32,160a and is remaining after December 31, 2006, may
15 be carried forward to succeeding taxable years, providing all requirements
16 continue to be met and subject to the applicable carryforward limitations.
17 Any taxpayer who has filed an application to be certified under K.S.A.
18 74-50,131, prior to July 1, 2007, may claim credits under the high per-
19 formance incentive act, subsection (e) of K.S.A. 79-32,160a, ~~K.S.A. 74-~~
20 ~~50,131 and K.S.A. 74-50,132~~ during the certification period in tax years
21 2007 and 2008, which credits may be carried forward until used or for a
22 maximum of ten years, as long as such taxpayer does not claim any credits
23 for the same investment under the Kansas investment credit act. To ac-
24 commodate unusual timing situations during the 2007 transition period,
25 timing modifications may be authorized at the discretion of the secretary
26 of commerce and the secretary of revenue.

27 New Sec. 8. The provisions of this act shall be applicable to all tax-
28 able years commencing after December 31, 2006, and prior to January
29 1, 2012.

30 New Sec. 9. The provisions of sections 9 through 14 may be cited
31 and shall be known as the Kansas jobs credit act.

32 New Sec. 10. As used in the Kansas jobs credit act, unless otherwise
33 provided: (a) "Act" means the Kansas jobs credit act;

34 (b) "employed" means that an employer-employee relationship ex-
35 ists. A person who performs services for the taxpayer shall be considered
36 as an employee if the taxpayer has the right to direct and control when,
37 where, and how work will be done. In addition the taxpayer shall pay for
38 the employee's wages directly, or indirectly through inter-company trans-
39 fers. Independent contractors shall not be considered as employed for
40 purposes of the Kansas jobs credit;

41 (c) "Kansas job credit taxpayer" means any business entity authorized
42 to do business in the state of Kansas which is subject to the state income
43 tax imposed by the provisions of the Kansas income tax act, any national

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1 banking association, state bank, trust company or savings and loan asso-
2 ciation paying an annual tax on its net income pursuant to article 11 of
3 chapter 79 of the Kansas Statutes Annotated, or any insurance company
4 paying the premium tax and privilege fees imposed pursuant to K.S.A.
5 40-252, and amendments thereto, is current in payment of Kansas taxes,
6 and has a Kansas business facility as defined in the investment credit act:
7 (1) Identified under the North American industry classification system
8 (NAICS) subsector of 221, 311-425, 481-624, 812-813, or 922-928, as
9 assigned by the secretary of the department of labor; or

112112,

10 (2) identified as a headquarters or ancillary support operation, re-
11 gardless of NAICS classification;

12 (d) "new employee" means a person newly employed by the taxpayer
13 in the taxpayer's business operating in Kansas during the taxable year for
14 which the credit allowed by section (11), and amendments thereto, is
15 claimed. A person shall be deemed to be so engaged if such person per-
16 forms duties in Kansas in connection with the operation of the Kansas
17 business on: (A) A regular, full-time basis; (B) a part-time basis, provided
18 such person is customarily performing such duties at least 20 hours per
19 week throughout the taxable year; or (C) a seasonal basis, provided such
20 person performs such duties for substantially all of the season customary
21 for the position in which such person is employed. For a Kansas business
22 that becomes operational during the current tax year, new employees shall
23 be the number of employees employed at the taxpayer's Kansas business
24 on the last business day of the taxpayer's tax year. In the case of employees
25 hired, in which the Kansas business existed and was operated by the
26 taxpayer prior to such hiring, the number of new employees employed in
27 the operation of the Kansas business shall be reduced by the number of
28 employees employed at such Kansas business on the last business day of
29 the taxpayer's previous tax year. Employees acquired through an acqui-
30 sition or merger of a business operating in Kansas shall not be considered
31 as new employees;

32 (e) "opportunity zone" shall be established by the secretary of com-
33 merce through rules and regulations. In addition to other criteria estab-
34 lished by the secretary, such criteria shall include: (1) An opportunity
35 zone which shall be comprised of at least one county;

36 (2) shall be economically disadvantaged; and

37 (3) shall not include any counties in a metropolitan statistical area or
38 micropolitan statistical area;

39 (f) "opportunity zone job credit taxpayer" means any business entity
40 with a Kansas business facility as defined in the Kansas investment credit
41 act authorized to do business in the state of Kansas which is subject to
42 the state income tax imposed by the provisions of the Kansas income tax
43 act, any national banking association, state bank, trust company or savings

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1 and loan association paying an annual tax on its net income pursuant to
2 article 11 of chapter 79 of the Kansas Statutes Annotated, or any insurance
3 company paying the premium tax and privilege fees imposed pursuant to
4 K.S.A. 40-252, and amendments thereto, and that is current in payment
5 of Kansas taxes; and

6 (g) "related taxpayer" means: (1) A corporation, partnership, trust or
7 association controlled by the taxpayer; (2) an individual, corporation, part-
8 nership, trust or association in control of the taxpayer; or (3) a corporation,
9 partnership, trust or association controlled by an individual, corporation,
10 partnership, trust or association in control of the taxpayer. "Control of a
11 corporation" means ownership, directly or indirectly, of stock possessing
12 at least 80% of the total combined voting power of all classes of stock
13 entitled to vote and at least 80% of all other classes of stock of the cor-
14 poration. "Control of a partnership or association" means ownership of
15 at least 80% of the capital or profits interest in such partnership or as-
16 sociation. "Control of a trust" means ownership, directly or indirectly, of
17 at least 80% of the beneficial interest in the principal or income of such
18 trust.

19 New Sec. 11. (a) For taxable years commencing after December 31,
20 2006, any opportunity zone job credit taxpayer who engages in new em-
21 ployment at least five new employees in the taxpayer's business operating
22 in a designated opportunity zone in Kansas shall be allowed a credit of
23 \$3,500 per new employee, against the tax imposed by the Kansas income
24 tax act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-
25 252, and amendments thereto, or the privilege tax as measured by the
26 net income of financial institutions imposed pursuant to article 11 of
27 chapter 79 of the Kansas Statutes Annotated, for the taxable year during
28 which the employees were hired. To be considered employed in an op-
29 portunity zone, the employee must perform the majority of the services
30 for the opportunity zone job credit taxpayer in the opportunity zone. Any
31 Kansas job credit taxpayer located in the state of Kansas who engages in
32 new employment at least 20 new employees in the taxpayer's business
33 operating in Kansas shall be allowed a credit of \$1,500 per new employee,
34 against the tax imposed by the Kansas income tax act, the premium tax
35 or privilege fees imposed pursuant to K.S.A. 40-252, and amendments
36 thereto, or the privilege tax as measured by the net income of financial
37 institutions imposed pursuant to article 11 of chapter 79 of the Kansas
38 Statutes Annotated, for the taxable year during which the employees were
39 hired.

40 (b) The taxpayer shall claim any credits pursuant to this act on the
41 original return for the tax year in which the employees were hired.

42 (c) If the amount of the tax credit exceeds the tax imposed, the
43 amount thereof which exceeds such tax liability may be carried forward

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1 for credit in the succeeding taxable year or years until the total amount
2 of the tax credit is used. In the event the taxpayer does not continue to
3 employ the required minimum number of employees, any credit remain-
4 ing will be forfeited and no longer available for carry forward.

5 (d) If the taxpayer is a corporation having an election in effect under
6 subchapter S of the federal internal revenue code, a partnership or limited
7 liability company, the credit provided by this section shall be claimed by
8 the shareholders of such corporation, the partners of such partnership or
9 the members of such limited liability company in the same manner as
10 such shareholders, partners, or members account for their proportionate
11 shares of income or loss of the corporation, partnership or limited liability
12 company.

13 (e) A taxpayer that qualifies for the opportunity zone job credit for
14 an employee may not also qualify for the Kansas job credit for the same
15 employee.

16 (f) Only one taxpayer may claim a specific employee for purposes of
17 the opportunity zone job credit or the Kansas job credit. Employees trans-
18 ferred or reassigned within Kansas between related taxpayers will not
19 qualify for the credit.

20 New Sec. 12. (a) Any taxpayer claiming credits pursuant to this act,
21 as a condition for claiming and qualifying for such credits, shall provide
22 information pursuant to K.S.A. 2006 Supp. 79-32,243, and amendments
23 thereto, as part of the tax return in which such credits are claimed. Such
24 credits shall not be denied solely on the basis of the contents of the
25 information provided by the taxpayer pursuant to K.S.A. 2006 Supp. 79-
26 32,243, and amendments thereto.

27 (b) The secretary of revenue shall submit an annual report to the
28 legislature regarding utilization of the credits claimed pursuant to this act,
29 for purposes of evaluation. Such report shall be due during the legislative
30 session, commencing with the 2009 legislative session.

31 New Sec. 13. The secretary of revenue may adopt such rules and
32 regulations as necessary to carry out the purposes of this act.

33 New Sec. 14. The provisions of this act shall be applicable to all tax-
34 able years commencing after December 31, 2006 and prior to January 1,
35 2012.

36 Sec. 15. K.S.A. 40-253a is hereby amended to read as follows: 40-
37 253a. For purposes of calculating any tax due under K.S.A. 40-253, and
38 amendments thereto, from a taxpayer not organized under the laws of
39 this state, the credits allowed pursuant to K.S.A. 40-2813, ~~74-50,132, 79-~~
40 ~~32,153, 79-32,160~~ and 79-32,196, *and the Kansas investment credit act*
41 *and the Kansas jobs credit act*, and amendments thereto, shall be treated
42 as tax paid under K.S.A. 40-252, and amendments thereto.

43 Sec. 16. K.S.A. 74-8945 is hereby amended to read as follows: 74-

see attachment and renumber remaining sections accordingly

74-50,132

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

4 Sec. 20. K.S.A. 40-253a, 74-50,113, 74-50,116, 74-50,117, 74-50,118,
5 74-50,119, 74-50,135, 74-50,135a, 74-8945, 79-32,155, 79-32,156, 79-
6 32,157, 79-32,158, 79-32,159, 79-32,159a, 79-32,159b, 79-32,159c, 79-
7 32,160, 79-32,160b and 79-32,160c and K.S.A. 2006 Supp. 74-50,114, 74-
8 50,115, 74-50,131, ~~74-50,132, 74-50,133~~, 74-50,134, 79-3269, 79-32,111,
9 79-32,153, 79-32,154, 79-32,160a, 79-32,243 and 79-3606 are hereby
10 repealed.

11 Sec. 21. This act shall take effect and be in force from and after its
12 publication in the statute book.

Sec. 15. K.S.A. 2006 Supp. 74-50,131 is hereby amended to read as follows: 74-50,131. Commencing after December 31, 1999: (a) As used in this act: (1) "Qualified firm" means a for-profit business establishment, subject to state income, sales or property taxes, identified under the standard industrial classification (SIC) codes as in effect July 1, 1993, major groups 20 through 39, major groups 40 through 51, and major groups 60 through 89; identified under the North American industry classification system (NAICS) as in effect on October 1, 2000, or is identified as a corporate or regional headquarters or back-office operation of a national or multi-national corporation regardless of SIC code or NAICS designation. The secretary of commerce shall determine eligibility when a difference exists between a firm's SIC code and NAICS designation. A business establishment may be assigned a standard industrial classification code or NAICS designation according to the primary business activity at a single physical location in the state.

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

(b) In the case of firms in major groups 40 through 51, and major groups 60 through 89 or the appropriate NAICS designation the business establishment must also demonstrate the following:

(1) More than 1/2 of its gross revenues are a result of sales to commercial or governmental customers outside the state of Kansas; or

(2) more than 1/2 of its gross revenues are a result of sales to Kansas manufacturing firms within major groups 20 through 39 or the appropriate NAICS designation; or

(3) more than 1/2 of its gross revenues are a result of a combination of sales described in (1) and (2).

(c) For purposes of determining whether one of the average wage options described in subsection (d) below is satisfied, business establishments located within a metropolitan county~~[-as defined in K.S.A. 74-50,114, and amendments thereto,]~~ will be compared only to other businesses within that metropolitan county, and business establishments located outside of a metropolitan county will be compared to businesses within an aggregation of counties representing the business establishment's region of the state, which regional aggregation will exclude metropolitan counties. Such aggregation shall be determined by the department of commerce.

(d) Additionally, a business establishment having met the criteria as established in subsection (a) or (b), and using the comparison method described in subsection (c), must meet one of the following criteria:

(1) The establishment with 500 or fewer full-time equivalent employees will provide an average wage that is above the average wage paid by all firms with 500 or fewer full-time equivalent employees which share the same two-digit standard industrial classification code or appropriate NAICS designation.

(2) The establishment with 500 or fewer full-time equivalent employees is the sole firm within its two-digit standard industrial classification code or appropriate NAICS designation which has 500 or fewer full-time equivalent employees.

(3) The establishment with more than 500 full-time equivalent employees will provide an average wage that is above the average wage paid by firms with more than 500 full-time equivalent employees which share the same two-digit standard industrial classification code or appropriate NAICS designation.

(4) The establishment with more than 500 full-time equivalent employees is the sole firm within its two-digit standard industrial classification code or appropriate NAICS designation which has 500 or more full-time equivalent employees, in which event it shall either provide an average

wage that is above the average wage paid by all firms with 500 or fewer full-time equivalent employees which share the same two-digit standard industrial classification code or appropriate NAICS designation, or be the sole firm within its two-digit standard industrial classification code or appropriate NAICS designation.

(e) As an alternative to the requirements of subsections (c) and (d), a firm having met the requirements of subsections (a) or (b), may qualify, if excluding taxable disbursements to company owners, the business establishment's annual average wage must be greater than or equal to 1.5 times the aggregate average wage paid by industries covered by the employment security law based on data maintained by the secretary of labor.

(f) For the purposes of this section, the number of full-time equivalent employees shall be determined by dividing the number of hours worked by part-time employees during the pertinent measurement interval by an amount equal to the corresponding multiple of a 40-hour work week and adding the quotient to the number of full-time employees.

(g) The secretary of commerce shall certify annually to the secretary of revenue that a firm meets the criteria for a qualified firm and that the firm is eligible for the benefits and assistance provided under ~~[this act]~~ K.S.A. 74-50,132 and 74-50,133, and amendments thereto. The secretary of commerce is hereby authorized to obtain any and all information necessary to determine such eligibility. Information obtained under this section shall not be subject to disclosure pursuant to K.S.A. 45-215 *et seq.*, and amendments thereto, but shall upon request be made available to the legislative post audit division. The secretary of commerce shall publish rules and regulations for the implementation of this act. Such rules and regulations shall include, but not be limited to:

(1) A definition of "training and education" for purposes of K.S.A. 74-50,132 and amendments thereto.

(2) Establishment of eligibility requirements and application procedures for expenditures from the high performance incentive fund created in K.S.A. 74-50,133 and amendments thereto.

(3) Establishment of approval guidelines for private consultants authorized pursuant to K.S.A. 74-50,133 and amendments thereto.

(4) Establishment of guidelines for prioritizing business assistance programs pursuant to K.S.A. 74-50,133 and amendments thereto.

(5) A definition of "commercial customer" for the purpose of K.S.A. 74-50,133 and amendments thereto.

(6) A definition of "headquarters" for the purpose of K.S.A. 74-50,133 and amendments thereto.

(7) Establishment of guidelines concerning the use and disclosure of any information obtained to determine the eligibility of a firm for the assistance and benefits provided for by ~~[this act]~~ K.S.A. 74-50,132 and 74-50,133, and amendments thereto.