

House Substitute for SENATE BILL No. 313

By Committee on Federal and State Affairs

3-20

1 AN ACT concerning abortion; relating to restrictions on late term
2 abortions; relating to the woman's-right-to-know act; creating the no
3 taxpayer funding for abortion act; amending K.S.A. 60-1901 and
4 K.S.A. 2011 Supp. 40-2246, 65-6701, 65-6703, 65-6709, 65-6710, 76-
5 3308, 79-32,117, 79-32,138, 79-32,182b, 79-32,195, 79-32,261 and 79-
6 3606 and repealing the existing sections; also repealing K.S.A. 2011
7 Supp. 79-3606g.

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

10 New Section 1. (a) Sections 1 through 6, and amendments thereto,
11 shall be known and may be cited as the no taxpayer funding for abortion
12 act.

13 (b) As used in this act:

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

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

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

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

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

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

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

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

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

4 (d) no health care services provided by any state agency, or any
5 employee of a state agency while acting within the scope of such
6 employee's employment, shall include abortion. Nothing in this subsection
7 shall be construed to prevent a physician enrolled in a residency program
8 and employed by the university of Kansas medical center from receiving
9 experience with induced abortions conducted at facilities other than those
10 owned, leased or operated by the university of Kansas hospital authority or
11 any other state entity. For purposes of this act only, such physicians shall
12 be considered as acting outside the scope of their official employment in
13 such actions. This provision regarding physicians enrolled in a residency
14 program shall remain in effect through June 30, 2013.

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

20 New Sec. 4. Nothing in sections 1 through 6, and amendments
21 thereto, shall be construed:

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

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

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

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

31 New Sec. 7. (a) No person shall perform an abortion with knowledge
32 that the pregnant woman is seeking the abortion solely on account of the
33 sex of the unborn child.

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

42 (2) Such relief shall include:

43 (A) Money damages for all injuries, psychological and physical,

1 occasioned by the violation of this section;

2 (B) statutory damages equal to three times the cost of the abortion;
3 and

4 (C) reasonable attorney fees.

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

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

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

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

19 New Sec. 8. (a) No school district, employee or volunteer thereof, or
20 educational service provider contracting with such school district shall
21 provide abortion services. No school district shall permit any person or
22 entity to offer, sponsor or otherwise furnish in any manner any course
23 materials or instruction relating to human sexuality or sexually transmitted
24 diseases if such person or entity is an abortion services provider.

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

28 New Sec. 9. (a) No civil action may be commenced in any court for a
29 claim of wrongful life or wrongful birth, and no damages may be
30 recovered in any civil action for any physical condition of a minor that
31 existed at the time of such minor's birth if the damages sought arise out of
32 a claim that a person's action, or omission, contributed to such minor's
33 mother not obtaining an abortion.

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

41 (c) As used in this section:

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

1 (2) "Claim of wrongful birth" means a cause of action brought by a
2 parent, legal guardian or other individual legally required to provide for
3 the support of a minor, which seeks damages, whether economic or
4 noneconomic, as a result of a physical condition of such minor that existed
5 at the time of such minor's birth, and which is based on a claim that a
6 person's action, or omission, contributed to such minor's mother not
7 obtaining an abortion.

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

14 Sec. 10. K.S.A. 2011 Supp. 40-2246 is hereby amended to read as
15 follows: 40-2246. (a) A credit against the taxes otherwise due under the
16 Kansas income tax act shall be allowed to an employer for amounts paid
17 during the taxable year for purposes of this act on behalf of an eligible
18 employee as defined in K.S.A. 40-2239, and amendments thereto, to
19 provide health insurance or care and amounts contributed to health savings
20 accounts of eligible covered employees, *except that for taxable years*
21 *commencing after December 31, 2012, no credit shall be allowed pursuant*
22 *to this section for that portion of any amounts paid by an employer for*
23 *healthcare, a health benefit plan, as defined in section 1, and amendments*
24 *thereto, or amounts contributed to health savings accounts for the*
25 *purchase of an optional rider for coverage of abortion in accordance with*
26 *K.S.A. 2011 Supp. 40-2,190, and amendments thereto.*

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

41 (2) For employers that have established a small employer health
42 benefit plan or made contributions to a health savings account of an
43 eligible covered employee after December 31, 2004, the amount of credit

1 allowed by subsection (a) shall be \$70 per month per eligible covered
2 employee for the first 12 months of participation, \$50 per month per
3 eligible covered employee for the next 12 months of participation and \$35
4 per eligible covered employee for the next 12 months of participation.
5 After 36 months of participation, no credit shall be allowed.

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

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

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

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

23 Sec. 11. K.S.A. 60-1901 is hereby amended to read as follows: 60-
24 1901. (a) If the death of a person is caused by the wrongful act or
25 omission of another, an action may be maintained for the damages
26 resulting therefrom if the former might have maintained the action had ~~he~~
27 ~~or she~~ *such person* lived, in accordance with the provisions of this article,
28 against the wrongdoer, or ~~his or her~~ *such wrongdoer's* personal
29 representative if ~~he or she~~ *such wrongdoer* is deceased.

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

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

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

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

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

41 (3) *the lawful dispensation or administration of lawfully prescribed*
42 *medication.*

43 Sec. 12. K.S.A. 2011 Supp. 65-6701 is hereby amended to read as

1 follows: 65-6701. As used in ~~this act~~ *K.S.A. 65-6701 through 65-6721 and*
2 *section 7, and amendments thereto:*

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

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

13 ~~(b)(c)~~ "Counselor" means a person who is: (1) Licensed to practice
14 medicine and surgery; (2) ~~licensed to practice psychology;~~ (3) ~~licensed to~~
15 ~~practice professional or practical nursing;~~ (4) ~~registered to practice~~
16 ~~professional counseling;~~ (5) ~~licensed as a social worker;~~ (6) ~~the holder of a~~
17 ~~master's or doctor's degree from an accredited graduate school of social~~
18 ~~work;~~ (7) ~~registered to practice marriage and family therapy;~~ (8) *licensed*
19 *to practice professional or practical nursing;* (3) *the following persons*
20 *licensed to practice behavioral sciences: Licensed psychologists, licensed*
21 *master's level psychologists, licensed clinical psychotherapists, licensed*
22 *social workers, licensed specialist clinical social workers, licensed*
23 *marriage and family therapists, licensed clinical marriage and family*
24 *therapists, licensed professional counselors, licensed clinical professional*
25 *counselors;* (4) a licensed physician assistant; or ~~(9)~~(5) a currently
26 ordained member of the clergy or religious authority of any religious
27 denomination or society. Counselor does not include the physician who
28 performs or induces the abortion or a physician or other person who assists
29 in performing or inducing the abortion.

30 ~~(e)(d)~~ "Department" means the department of health and
31 environment.

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

34 ~~(e)(f)~~ "Medical emergency" means ~~that a condition which, on the~~
35 ~~basis of the physician's good faith clinical judgment, that, in reasonable~~
36 *medical judgment, so complicates the medical condition of a the pregnant*
37 *woman as to necessitate the immediate abortion of her pregnancy without*
38 *first determining gestational age to avert her death or for which a delay*
39 *necessary to determine gestational age will create serious risk of*
40 *substantial and irreversible physical impairment of a major bodily*
41 *function. No condition shall be deemed a medical emergency if based on a*
42 *claim or diagnosis that the woman will engage in conduct which would*
43 *result in her death or in substantial and irreversible physical impairment*

1 *of a major bodily function.*

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

3 ~~(g)~~(h) "Physician" means a person licensed to practice medicine and
4 surgery in this state.

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

7 ~~(i)~~(j) "Qualified person" means an agent of the physician who is a
8 psychologist, licensed social worker, ~~registered~~ *licensed* professional
9 counselor, *licensed marriage and family therapist, licensed master's level*
10 *psychologist, licensed clinical psychotherapist*, registered nurse or
11 physician.

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

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

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

40 (b) Except in the case of a medical emergency, a copy of the written
41 documented referral and of the abortion-performing physician's written
42 determination shall be provided to the pregnant woman no less than 30
43 minutes prior to the initiation of the abortion. The written determination

1 shall be time-stamped at the time it is delivered to the pregnant woman.
2 The medical basis for the determination shall also be reported by the
3 physician as part of the written report made by the physician to the
4 secretary of health and environment under K.S.A. 65-445, and
5 amendments thereto. Such determination shall specify:

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

8 (2) if the abortion is necessary to preserve the life of the pregnant
9 woman and the medical basis of such determination, including the specific
10 medical condition the physician believes would cause the death of the
11 pregnant woman; or

12 (3) if a continuation of the pregnancy will cause a substantial and
13 irreversible *physical* impairment of a major bodily function of the pregnant
14 woman and the medical basis of such determination, including the specific
15 medical condition the physician believes would constitute a substantial and
16 irreversible *physical* impairment of a major bodily function of the pregnant
17 woman.

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

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

40 (3) If the physician determines the gestational age of an unborn child
41 is 22 or more weeks, and determines that the unborn child is not viable and
42 performs an abortion on the woman, the physician shall report such
43 determinations, the medical basis and the reasons for such determinations

1 in writing to the medical care facility in which the abortion is performed
2 for inclusion in the report of the medical care facility to the secretary of
3 health and environment under K.S.A. 65-445, and amendments thereto, or
4 if the abortion is not performed in a medical care facility, the physician
5 shall report such determinations, the medical basis and the reasons for
6 such determinations in writing to the secretary of health and environment
7 as part of the written report made by the physician to the secretary of
8 health and environment under K.S.A. 65-445, and amendments thereto.

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

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

41 (d) The secretary of health and environment shall adopt rules and
42 regulations to administer this section. Such rules and regulations shall
43 include:

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

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

5 (3) detailed specifications regarding information that must be
6 provided by a physician in order to comply with the obligation to disclose
7 the medical basis and specific medical diagnosis relied upon in
8 determining that an abortion is necessary to preserve the life of the
9 pregnant woman or that a continuation of the pregnancy will cause a
10 substantial and irreversible *physical* impairment of a major bodily function
11 of the pregnant woman.

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

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

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

25 (2) Such relief shall include:

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

28 (B) statutory damages equal to three times the cost of the abortion;
29 and

30 (C) reasonable attorney fees.

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

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

36 (j) If any provision of this section is held to be invalid or
37 unconstitutional, it shall be conclusively presumed that the legislature
38 would have enacted the remainder of this section without such invalid or
39 unconstitutional provision.

40 (k) Upon a first conviction of a violation of this section, a person
41 shall be guilty of a class A nonperson misdemeanor. Upon a second or
42 subsequent conviction of a violation of this section, a person shall be
43 guilty of a severity level 10, nonperson felony.

1 Sec. 14. K.S.A. 2011 Supp. 65-6709 is hereby amended to read as
2 follows: 65-6709. No abortion shall be performed or induced without the
3 voluntary and informed consent of the woman upon whom the abortion is
4 to be performed or induced. Except in the case of a medical emergency,
5 consent to an abortion is voluntary and informed only if:

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

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

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

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

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

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

30 (6) the contact information for ~~free~~—counseling assistance for
31 medically challenging pregnancies and the contact information for ~~free~~
32 perinatal hospice services, *including information regarding which entities*
33 *provide such services free of charge;*

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

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

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

42 (1) Medical assistance benefits may be available for prenatal care,
43 childbirth and neonatal care, and that more detailed information on the

1 availability of such assistance is contained in the printed materials given to
2 her and described in K.S.A. 65-6710, and amendments thereto;

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

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

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

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

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

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

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

35 (e) The woman certifies in writing on a form provided by the
36 department, prior to the abortion, that the information required to be
37 provided under subsections (a), (b) and (d) has been provided and that she
38 has met with the physician who is to perform the abortion on an individual
39 basis as provided under subsection (c). All physicians who perform
40 abortions shall report the total number of certifications received monthly
41 to the department. *The total number of certifications shall be reported by*
42 *the physician as part of the written report made by the physician to the*
43 *secretary of health and environment under K.S.A. 65-445, and*

1 *amendments thereto.* The department shall make the number of
2 certifications received *and the number of women who decided not to have*
3 *an abortion after hearing the heartbeat of the unborn child* available on an
4 annual basis.

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

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

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

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

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

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

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

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

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

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

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

36 (2) offers the woman the opportunity to listen to the heartbeat of her
37 unborn child;

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

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

43 If the woman accepts the offer and requests to listen to the heartbeat of

1 her unborn child, her request shall be granted by the physician at no
2 additional expense to the woman. The physician's certification shall be
3 time-stamped at the time the opportunity to listen to the heartbeat of her
4 unborn child was offered.

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

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

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

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

41 (l) For purposes of this section:

42 (1) The term "human being" means an individual living member of
43 the species of homo sapiens, including the unborn human being during the

1 entire embryonic and fetal ages from fertilization to full gestation.

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

5 Sec. 15. K.S.A. 2011 Supp. 65-6710 is hereby amended to read as
6 follows: 65-6710. (a) The department shall cause to be published and
7 distributed widely, within 30 days after the effective date of this act, and
8 shall update on an annual basis, the following easily comprehensible
9 informational materials:

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

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

38 (2) Printed materials that inform the pregnant woman of the probable
39 anatomical and physiological characteristics of the unborn child at two-
40 week gestational increments from fertilization to full term, including
41 pictures or drawings representing the development of an unborn child at
42 two-week gestational increments, and any relevant information on the
43 possibility of the unborn child's survival. Any such pictures or drawings

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

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

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

29 *In order to determine the gestational age of the unborn child the doctor*
30 *must use ultrasound equipment preparatory to the performance of an*
31 *abortion. You have the right to view the ultrasound image of the unborn*
32 *child at no additional expense, and you have the right to receive a picture*
33 *of the unborn child.*

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

39 *Furthermore, you should know that: (A) It is unlawful for any*
40 *individual to coerce you to undergo an abortion. Coercion is the use of*
41 *express or implied threats of violence or intimidation to compel a person*
42 *to act against such person's will; (B) abortion terminates the life of a*
43 *whole, separate, unique, living human being; (C) any physician who fails*

1 to provide informed consent prior to performing an abortion may be guilty
2 of unprofessional conduct and liable for damages; (D) you are not
3 required to pay any amount for the abortion procedure until the 24-hour
4 waiting period has expired; (E) the father of your child is legally
5 responsible to assist in the support of the child, even in instances where
6 the father has offered to pay for an abortion; and (F) the law permits
7 adoptive parents to pay the costs of prenatal care, childbirth and neonatal
8 care.

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

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

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

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

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

37 By five weeks, development of the brain, the spinal cord and the heart
38 is well underway. The heart begins beating at five weeks and one day, and
39 is visible by ultrasound almost immediately. By six weeks the heart is
40 pumping the unborn child's own blood to such unborn child's brain and
41 body. All four chambers of the heart are present, and more than one
42 million heartbeats have occurred. The head, chest and abdominal cavities
43 have formed and the beginnings of the arms and legs are easily seen. At

1 *6½ weeks rapid brain development continues with the appearance of the*
2 *cerebral hemispheres. At 7½ weeks the unborn child reflexively turns away*
3 *in response to light touch on the face. The fingers also begin to form on*
4 *the hand.*

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

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

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

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

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

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

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

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

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

21 *By 24 weeks more than 30 million heartbeats have been performed.*
22 *Survival rates for infants born at 24 weeks have been reported as high as*
23 *81%. By 25 weeks breathing motions may occur up to 44 times per minute.*

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

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

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

40 *By state law, no person shall perform or induce an abortion when the*
41 *unborn child is viable or pain-capable unless such person is a physician*
42 *and has a documented referral. The physician who performs or induces an*
43 *abortion when the unborn child is viable must have a documented referral*

1 from another physician not legally or financially affiliated with the
2 physician performing or inducing the abortion. Both physicians must
3 determine that the abortion is necessary to preserve the life of the
4 pregnant woman or that a continuation of the pregnancy will cause a
5 substantial and irreversible impairment of a major physical bodily
6 function of the pregnant woman. If the child is born alive, the attending
7 physician has the legal obligation to take all reasonable steps necessary to
8 maintain the life and health of the child.

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

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

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

36 The decision regarding your pregnancy is one of the most important
37 decisions you will ever make. There are lists of state, county and local
38 health and social service agencies and organizations available to assist
39 you. You are encouraged to contact these groups if you need more
40 information so you can make an informed decision.

41 (3)(4) A certification form to be used by physicians or their agents
42 under subsection (e) of K.S.A. 65-6709, and amendments thereto, which
43 will list all the items of information which are to be given to women by

1 physicians or their agents under the woman's-right-to-know act.

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

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

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

16 Sec. 16. K.S.A. 2011 Supp. 79-32,117 is hereby amended to read as
17 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual
18 means such individual's federal adjusted gross income for the taxable year,
19 with the modifications specified in this section.

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

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

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

41 (iii) The federal net operating loss deduction.

42 (iv) Federal income tax refunds received by the taxpayer if the
43 deduction of the taxes being refunded resulted in a tax benefit for Kansas

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

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

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

22 (vii) The amount of any charitable contribution made to the extent the
23 same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-
24 32,196, and amendments thereto.

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

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

36 (x) Amounts received as nonqualified withdrawals, as defined by
37 K.S.A. 2011 Supp. 75-643, and amendments thereto, if, at the time of
38 contribution to a family postsecondary education savings account, such
39 amounts were subtracted from the federal adjusted gross income pursuant
40 to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amendments
41 thereto, or if such amounts are not already included in the federal adjusted
42 gross income.

43 (xi) The amount of any contribution made to the same extent the

1 same is claimed as the basis for the credit allowed pursuant to K.S.A. 2011
2 Supp. 74-50,154, and amendments thereto.

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

10 (xiii) The amount of any expenditures claimed for deduction in
11 determining federal adjusted gross income, to the extent the same is
12 claimed as the basis for any credit allowed pursuant to K.S.A. 2011 Supp.
13 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

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

18 (xv) The amount of any expenditures claimed for deduction in
19 determining federal adjusted gross income, to the extent the same is
20 claimed as the basis for any credit allowed pursuant to K.S.A. 2011 Supp.
21 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233
22 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-
23 32,248 or 79-32,251 through 79-32,254, and amendments thereto.

24 (xvi) The amount of any amortization deduction claimed in
25 determining federal adjusted gross income to the extent the same is
26 claimed for deduction pursuant to K.S.A. 2011 Supp. 79-32,227, 79-
27 32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments
28 thereto.

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

33 (xviii) For taxable years commencing after December 31, 2006, the
34 amount of any ad valorem or property taxes and assessments paid to a state
35 other than Kansas or local government located in a state other than Kansas
36 by a taxpayer who resides in a state other than Kansas, when the law of
37 such state does not allow a resident of Kansas who earns income in such
38 other state to claim a deduction for ad valorem or property taxes or
39 assessments paid to a political subdivision of the state of Kansas in
40 determining taxable income for income tax purposes in such other state, to
41 the extent that such taxes and assessments are claimed as an itemized
42 deduction for federal income tax purposes.

43 (xix) *For taxable years commencing after December 31, 2012, that*

1 *portion of the amount of any expenditure deduction claimed in*
2 *determining federal adjusted gross income for expenses paid for medical*
3 *care of the taxpayer or the taxpayer's spouse or dependents when such*
4 *expenses were paid or incurred for an abortion, or for a health benefit*
5 *plan, as defined by section 1, and amendments thereto, for the purchase of*
6 *an optional rider for coverage of abortion in accordance with K.S.A. 2011*
7 *Supp. 40-2,190, and amendments thereto.*

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

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

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

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

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

34 (iv) The amount necessary to prevent the taxation under this act of
35 any annuity or other amount of income or gain which was properly
36 included in income or gain and was taxed under the laws of this state for a
37 taxable year prior to the effective date of this act, as amended, to the
38 taxpayer, or to a decedent by reason of whose death the taxpayer acquired
39 the right to receive the income or gain, or to a trust or estate from which
40 the taxpayer received the income or gain.

41 (v) The amount of any refund or credit for overpayment of taxes on
42 or measured by income or fees or payments in lieu of income taxes
43 imposed by this state, or any taxing jurisdiction, to the extent included in

1 gross income for federal income tax purposes.

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

5 (vii) Amounts received as annuities under the federal civil service
6 retirement system from the civil service retirement and disability fund and
7 other amounts received as retirement benefits in whatever form which
8 were earned for being employed by the federal government or for service
9 in the armed forces of the United States.

10 (viii) Amounts received by retired railroad employees as a
11 supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and
12 228c (a)(1) *et seq.*

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

18 (x) For taxable years beginning after December 31, 1976, the amount
19 of the federal tentative jobs tax credit disallowance under the provisions of
20 26 U.S.C. § 280 C. For taxable years ending after December 31, 1978, the
21 amount of the targeted jobs tax credit and work incentive credit
22 disallowances under 26 U.S.C. § 280 C.

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

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

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

33 (xiv) For all taxable years commencing after December 31, 1996, that
34 portion of any income of a bank organized under the laws of this state or
35 any other state, a national banking association organized under the laws of
36 the United States, an association organized under the savings and loan
37 code of this state or any other state, or a federal savings association
38 organized under the laws of the United States, for which an election as an
39 S corporation under subchapter S of the federal internal revenue code is in
40 effect, which accrues to the taxpayer who is a stockholder of such
41 corporation and which is not distributed to the stockholders as dividends of
42 the corporation.

43 (xv) For all taxable years beginning after December 31, 2006,

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

13 (xvi) For the tax year beginning after December 31, 2004, an amount
14 not exceeding \$500; for the tax year beginning after December 31, 2005,
15 an amount not exceeding \$600; for the tax year beginning after December
16 31, 2006, an amount not exceeding \$700; for the tax year beginning after
17 December 31, 2007, an amount not exceeding \$800; for the tax year
18 beginning December 31, 2008, an amount not exceeding \$900; and for all
19 taxable years commencing after December 31, 2009, an amount not
20 exceeding \$1,000 of the premium costs for qualified long-term care
21 insurance contracts, as defined by subsection (b) of section 7702B of
22 public law 104-191.

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

33 (xviii) For all taxable years beginning after December 31, 2004,
34 amounts received by taxpayers who are eligible members of the Kansas
35 army and air national guard as a reimbursement pursuant to K.S.A. 48-
36 281, and amendments thereto, and amounts received for death benefits
37 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to section
38 1 or section 2 of chapter 207 of the 2005 session laws of Kansas, and
39 amendments thereto, to the extent that such death benefits are included in
40 federal adjusted gross income of the taxpayer.

41 (xix) For the taxable year beginning after December 31, 2006,
42 amounts received as benefits under the federal social security act which
43 are included in federal adjusted gross income of a taxpayer with federal

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

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

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

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

20 Sec. 17. K.S.A. 2011 Supp. 79-32,138 is hereby amended to read as
21 follows: 79-32,138. (a) Kansas taxable income of a corporation taxable
22 under this act shall be the corporation's federal taxable income for the
23 taxable year with the modifications specified in this section.

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

27 (ii) The amount of all depreciation deductions claimed for any
28 property upon which the deduction allowed by K.S.A. 2011 Supp. 79-
29 32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-
30 32,255 or 79-32,256, and amendments thereto, is claimed.

31 (iii) The amount of any charitable contribution deduction claimed for
32 any contribution or gift to or for the use of any racially segregated
33 educational institution.

34 (iv) *For taxable years commencing after December 31, 2011, that*
35 *portion of the amount of any expenditure deduction claimed in*
36 *determining federal adjusted gross income for expenses paid by a*
37 *taxpayer for health care, a health benefit plan, as defined by section 1,*
38 *and amendments thereto, or amounts contributed to health savings*
39 *accounts of such taxpayer's employees for the purchase of an optional*
40 *rider for coverage of abortion in accordance with K.S.A. 2011 Supp. 40-*
41 *2,190, and amendments thereto.*

42 (c) There shall be subtracted from federal taxable income: (i) The
43 same modifications as are set forth in subsection (c) of K.S.A. 79-32,117,

1 and amendments thereto, with respect to resident individuals.

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

16 (iii) An amount for the amortization deduction allowed pursuant to
17 K.S.A. 2011 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-
18 32,249, 79-32,250, 79-32,255 or 79-32,256, and amendments thereto.

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

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

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

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

1 Sec. 18. K.S.A. 2011 Supp. 79-32,182b is hereby amended to read as
2 follows: 79-32,182b. (a) For all taxable years commencing after December
3 31, 2000, a credit shall be allowed against the tax imposed by the Kansas
4 income tax act on the Kansas taxable income of a taxpayer for
5 expenditures in research and development activities conducted within this
6 state in an amount equal to 6¹/₂% of the amount by which the amount
7 expended for such activities in the taxable year of the taxpayer exceeds the
8 taxpayer's average of the actual expenditures for such purposes made in
9 such taxable year and the next preceding two taxable years.

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

17 (c) As used in this section, the term "expenditures in research and
18 development activities" means expenditures made for such purposes, other
19 than expenditures of moneys made available to the taxpayer pursuant to
20 federal or state law, which are treated as expenses allowable for deduction
21 under the provisions of the federal internal revenue code of 1986, ~~and~~
22 ~~amendments thereto~~ *as amended, except that for taxable years*
23 *commencing after December 31, 2012, expenditures in research and*
24 *development activities shall not include any expenditures for the*
25 *performance of any abortion, as defined in section 1, and amendments*
26 *thereto.*

27 Sec. 19. K.S.A. 2011 Supp. 79-32,195 is hereby amended to read as
28 follows: 79-32,195. As used in this act, the following words and phrases
29 shall have the meanings ascribed to them herein: (a) "Business firm"
30 means any business entity authorized to do business in the state of Kansas
31 which is subject to the state income tax imposed by the provisions of the
32 Kansas income tax act, any individual subject to the state income tax
33 imposed by the provisions of the Kansas income tax act, any national
34 banking association, state bank, trust company or savings and loan
35 association paying an annual tax on its net income pursuant to article 11 of
36 chapter 79 of the Kansas Statutes Annotated, or any insurance company
37 paying the premium tax and privilege fees imposed pursuant to K.S.A. 40-
38 252, and amendments thereto;

39 (b) "Community services" means:

40 (1) The conduct of activities which meet a demonstrated community
41 need and which are designed to achieve improved educational and social
42 services for Kansas children and their families, and which are coordinated
43 with communities including, but not limited to, social and human services

1 organizations that address the causes of poverty through programs and
2 services that assist low income persons in the areas of employment, food,
3 housing, emergency assistance and health care;

4 (2) crime prevention; and

5 (3) health care services.

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

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

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

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

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

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

20 (e) "Contributions" shall mean and include the donation of cash,
21 services or property other than used clothing in an amount or value of
22 \$250 or more. Stocks and bonds contributed shall be valued at the stock
23 market price on the date of transfer. Services contributed shall be valued at
24 the standard billing rate for not-for-profit clients. Personal property items
25 contributed shall be valued at the lesser of its fair market value or cost to
26 the donor and may be inclusive of costs incurred in making the
27 contribution, but shall not include sales tax. Contributions of real estate are
28 allowable for credit only when title thereto is in fee simple absolute and is
29 clear of any encumbrances. The amount of credit allowable shall be based
30 upon the lesser of two current independent appraisals conducted by state
31 licensed appraisers.

32 (f) "Health care services" shall include, but not be limited to, the
33 following: Services provided by local health departments, city, county or
34 district hospitals, city or county nursing homes, or other residential
35 institutions, preventive health care services offered by a community
36 service organization including immunizations, prenatal care, the
37 postponement of entry into nursing homes by home health care services,
38 and community-based services for persons with a disability, mental health
39 services, indigent health care, physician or health care worker recruitment,
40 health education, emergency medical services, services provided by rural
41 health clinics, integration of health care services, home health services and
42 services provided by rural health networks, *except that for taxable years*
43 *commencing after December 31, 2011, health care services shall not*

1 *include any service involving the performance of any abortion, as defined*
2 *in section 1, and amendments thereto.*

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

14 Sec. 20. K.S.A. 2011 Supp. 79-32,261 is hereby amended to read as
15 follows: 79-32,261. (a) On and after July 1, 2008, any taxpayer who
16 contributes in the manner prescribed by this section to a community
17 college located in Kansas for capital improvements, to a technical college
18 for deferred maintenance or the purchase of technology or equipment or to
19 a postsecondary educational institution located in Kansas for deferred
20 maintenance, shall be allowed a credit against the tax imposed by the
21 Kansas income tax act, the premium tax or privilege fees imposed
22 pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as
23 measured by net income of financial institutions imposed pursuant to
24 article 11 of chapter 79 of the Kansas Statutes Annotated. The tax credit
25 allowed by this section is applicable for the tax year 2008 for any
26 contributions made on and after July 1, 2008, and for the tax years 2009,
27 2010, 2011 and 2012 for any contributions made during the entire tax year.
28 The amount of the credit allowed by this section shall not exceed 60% of
29 the total amount contributed during the taxable year by the taxpayer to a
30 community college or a technical college located in Kansas for such
31 purposes. The amount of the credit allowed by this section shall not exceed
32 50% of the total amount contributed during the taxable year by the
33 taxpayer to a postsecondary educational institution for such purposes. If
34 the amount of the credit allowed by this section for a taxpayer who
35 contributes to a community college or a technical college exceeds the
36 taxpayer's income tax liability imposed by the Kansas income tax act, such
37 excess amount shall be refunded to the taxpayer. If the amount of the tax
38 credit for a taxpayer who contributes to a postsecondary educational
39 institution exceeds the taxpayer's income tax liability for the taxable year,
40 the amount which exceeds the tax liability may be carried over for
41 deduction from the taxpayer's income tax liability in the next succeeding
42 taxable year or years until the total amount of the tax credit has been
43 deducted from tax liability, except that no such tax credit shall be carried

1 over for deduction after the third taxable year succeeding the taxable year
2 in which the contribution is made. Prior to the issuance of any tax credits
3 pursuant to this section, the structure of the process in which contributions
4 received by a community college, a technical college or a postsecondary
5 educational institution qualify as tax credits allowed and issued pursuant to
6 this section shall be developed by a community college, a technical college
7 and a postsecondary educational institution in consultation with the
8 secretary of revenue and the foundation or endowment association of any
9 such community college, technical college or postsecondary educational
10 institution in a manner that complies with requirements specified in the
11 federal internal revenue code of 1986, as amended, so that contributions
12 qualify as charitable contributions allowable as deductions from federal
13 adjusted gross income.

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

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

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

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

42 (2) In no event shall the total of credits allowed under this section for
43 taxpayers who contribute to postsecondary educational institutions exceed

1 the following amounts: For the tax year 2008, an amount not to exceed
2 \$5,625,000; for the tax year 2009, an amount not to exceed \$11,250,000;
3 and for the tax years 2010, 2011 and 2012, an amount not to exceed
4 \$15,000,000. Except as otherwise provided, the allocation of such tax
5 credits for each individual state educational institution shall be determined
6 by the state board of regents in consultation with the secretary of revenue
7 and the university foundation or endowment association of each
8 postsecondary educational institution, and such determination shall be
9 completed prior to the issuance of any tax credits pursuant to this section.
10 Not more than 40% of the total of credits allowed under this section shall
11 be allocated to any one postsecondary educational institution unless all
12 such postsecondary educational institutions approve an allocation to any
13 one such postsecondary educational institution which exceeds 40% of the
14 total of such credits allowed under this section.

15 (d) As used in this section: (1) "Community college" means a
16 community college established under the provisions of the community
17 college act;

18 (2) "deferred maintenance" means the maintenance, repair,
19 reconstruction or rehabilitation of a building located at a technical college
20 or a postsecondary educational institution which has been deferred, any
21 utility systems relating to such building, any life-safety upgrades to such
22 building and any improvements necessary to be made to such building in
23 order to comply with the requirements of the Americans with disabilities
24 act or other federal or state law, *except that for taxable years commencing*
25 *after December 31, 2012, deferred maintenance shall not include any*
26 *maintenance, repair, reconstruction or rehabilitation of any building in*
27 *which any abortion, as defined in section 1, and amendments thereto, is*
28 *performed;*

29 (3) "postsecondary educational institution" means the university of
30 Kansas, Kansas state university of agriculture and applied science, Wichita
31 state university, Emporia state university, Pittsburg state university, Fort
32 Hays state university and Washburn university of Topeka; and

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

36 (e) Any taxpayer not subject to Kansas income, privilege or
37 premiums tax who contributes to a community college, technical college
38 or postsecondary educational institution, hereinafter designated the
39 transferor, may sell, assign, convey or otherwise transfer tax credits
40 allowed and earned pursuant to this section. The sale price of a tax credit
41 shall be at least 50% of the full value of the credit. Such credit shall be
42 deemed to be allowed and earned by any such taxpayer which is only
43 disqualified therefrom by reason of not being subject to such Kansas taxes.

1 The taxpayer acquiring earned credits, hereinafter designated the
2 transferee, may use the amount of the acquired credits to offset up to 100%
3 of the taxpayer's income, privilege or premiums tax liability for the taxable
4 year in which such acquisition was made. Such credits may be sold or
5 transferred only one time and, if sold or transferred, shall be transferred in
6 the tax year such credit is earned or the two successive tax years. A
7 transferred credit shall be claimed in the year purchased. The transferor
8 shall enter into a written agreement with the transferee establishing the
9 terms and conditions of the sale or transfer and shall perfect such transfer
10 by notifying the secretary of revenue in writing within 30 calendar days
11 following the effective date of the transfer, subject to the review and
12 approval or denial of such transfer by the secretary of revenue. The
13 transferor and transferee shall provide any information pertaining to the
14 sale or transfer as may be required by the secretary of revenue to
15 administer and carry out the provisions of this section. The amount
16 received by the transferor of such tax credit shall be taxable as income of
17 the transferor, and the excess of the value of such credit over the amount
18 paid by the transferee for such credit shall be taxable as income of the
19 transferee.

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

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

29 Sec. 21. K.S.A. 2011 Supp. 79-3606 is hereby amended to read as
30 follows: 79-3606. The following shall be exempt from the tax imposed by
31 this act:

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

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

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

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

1 repairing, enlarging, furnishing or remodeling facilities for any political
2 subdivision of the state or any such district. As used in this subsection,
3 K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a
4 political subdivision" shall mean general tax revenues, the proceeds of any
5 bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the
6 purpose of constructing, equipping, reconstructing, repairing, enlarging,
7 furnishing or remodeling facilities which are to be leased to the donor.
8 When any political subdivision of the state, district described in subsection
9 (s), public or private nonprofit hospital or public hospital authority, public
10 or private elementary or secondary school, public or private nonprofit
11 educational institution, state correctional institution including a privately
12 constructed correctional institution contracted for state use and ownership
13 shall contract for the purpose of constructing, equipping, reconstructing,
14 maintaining, repairing, enlarging, furnishing or remodeling facilities, it
15 shall obtain from the state and furnish to the contractor an exemption
16 certificate for the project involved, and the contractor may purchase
17 materials for incorporation in such project. The contractor shall furnish the
18 number of such certificate to all suppliers from whom such purchases are
19 made, and such suppliers shall execute invoices covering the same bearing
20 the number of such certificate. Upon completion of the project the
21 contractor shall furnish to the political subdivision, district described in
22 subsection (s), hospital or public hospital authority, school, educational
23 institution or department of corrections concerned a sworn statement, on a
24 form to be provided by the director of taxation, that all purchases so made
25 were entitled to exemption under this subsection. As an alternative to the
26 foregoing procedure, any such contracting entity may apply to the
27 secretary of revenue for agent status for the sole purpose of issuing and
28 furnishing project exemption certificates to contractors pursuant to rules
29 and regulations adopted by the secretary establishing conditions and
30 standards for the granting and maintaining of such status. All invoices
31 shall be held by the contractor for a period of five years and shall be
32 subject to audit by the director of taxation. If any materials purchased
33 under such a certificate are found not to have been incorporated in the
34 building or other project or not to have been returned for credit or the sales
35 or compensating tax otherwise imposed upon such materials which will
36 not be so incorporated in the building or other project reported and paid by
37 such contractor to the director of taxation not later than the 20th day of the
38 month following the close of the month in which it shall be determined
39 that such materials will not be used for the purpose for which such
40 certificate was issued, the political subdivision, district described in
41 subsection (s), hospital or public hospital authority, school, educational
42 institution or the contractor contracting with the department of corrections
43 for a correctional institution concerned shall be liable for tax on all

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

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

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

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

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

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

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

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

25 (l) all isolated or occasional sales of tangible personal property,
26 services, substances or things, except isolated or occasional sale of motor
27 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.
28 79-3603, and amendments thereto;

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

37 (n) all sales of tangible personal property which is consumed in the
38 production, manufacture, processing, mining, drilling, refining or
39 compounding of tangible personal property, the treating of by-products or
40 wastes derived from any such production process, the providing of
41 services or the irrigation of crops for ultimate sale at retail within or
42 without the state of Kansas; and any purchaser of such property may
43 obtain from the director of taxation and furnish to the supplier an

1 exemption certificate number for tangible personal property for
2 consumption in such production, manufacture, processing, mining,
3 drilling, refining, compounding, treating, irrigation and in providing such
4 services;

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

11 (p) all sales of drugs dispensed pursuant to a prescription order by a
12 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-
13 1626, and amendments thereto. As used in this subsection, "drug" means a
14 compound, substance or preparation and any component of a compound,
15 substance or preparation, other than food and food ingredients, dietary
16 supplements or alcoholic beverages, recognized in the official United
17 States pharmacopoeia, official homeopathic pharmacopoeia of the United
18 States or official national formulary, and supplement to any of them,
19 intended for use in the diagnosis, cure, mitigation, treatment or prevention
20 of disease or intended to affect the structure or any function of the body,
21 *except that for taxable years commencing after December 31, 2012, this*
22 *subsection shall not apply to any sales of drugs used in the performance*
23 *or induction of an abortion, as defined in section 1, and amendments*
24 *thereto;*

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

28 (r) all sales of oxygen delivery equipment, kidney dialysis equipment,
29 enteral feeding systems, prosthetic devices and mobility enhancing
30 equipment prescribed in writing by a person licensed to practice the
31 healing arts, dentistry or optometry, and in addition to such sales, all sales
32 of hearing aids, as defined by subsection (c) of K.S.A. 74-5807, and
33 amendments thereto, and repair and replacement parts therefor, including
34 batteries, by a person licensed in the practice of dispensing and fitting
35 hearing aids pursuant to the provisions of K.S.A. 74-5808, and
36 amendments thereto. For the purposes of this subsection: (1) "Mobility
37 enhancing equipment" means equipment including repair and replacement
38 parts to same, but does not include durable medical equipment, which is
39 primarily and customarily used to provide or increase the ability to move
40 from one place to another and which is appropriate for use either in a
41 home or a motor vehicle; is not generally used by persons with normal
42 mobility; and does not include any motor vehicle or equipment on a motor
43 vehicle normally provided by a motor vehicle manufacturer; and (2)

1 "prosthetic device" means a replacement, corrective or supportive device
2 including repair and replacement parts for same worn on or in the body to
3 artificially replace a missing portion of the body, prevent or correct
4 physical deformity or malfunction or support a weak or deformed portion
5 of the body;

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

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

42 (u) all leases or rentals of tangible personal property used as a
43 dwelling if such tangible personal property is leased or rented for a period

1 of more than 28 consecutive days;

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

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

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

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

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

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

42 (bb) all sales of used mobile homes or manufactured homes. As used
43 in this subsection: (1) "Mobile homes" and "manufactured homes" shall

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

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

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

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

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

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

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

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

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

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

1 2003, through June, 2006, for the purpose of constructing, equipping,
2 maintaining or furnishing a new facility for a community-based mental
3 retardation facility or mental health center located in Riverton, Cherokee
4 County, Kansas, which would have been eligible for sales tax exemption
5 pursuant to this subsection if purchased directly by such facility or center.
6 This exemption shall not apply to tangible personal property customarily
7 used for human habitation purposes;

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

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

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

15 (2) For purposes of this subsection:

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

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

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

40 (D) "manufacturing or processing business" means a business that
41 utilizes an integrated production operation to manufacture, process,
42 fabricate, finish, or assemble items for wholesale and retail distribution as
43 part of what is commonly regarded by the general public as an industrial

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

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

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

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

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

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

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

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

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

12 (F) to plan, manage, control or record the receipt and flow of
13 inventories of raw materials, consumables and component parts, the flow
14 of the property undergoing manufacturing or processing and the
15 management of inventories of the finished product;

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

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

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

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

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

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

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

38 (4) The following machinery, equipment and materials shall be
39 deemed to be exempt even though it may not otherwise qualify as
40 machinery and equipment used as an integral or essential part of an
41 integrated production operation: (A) Computers and related peripheral
42 equipment that are utilized by a manufacturing or processing business for
43 engineering of the finished product or for research and development or

1 product design; (B) machinery and equipment that is utilized by a
2 manufacturing or processing business to manufacture or rebuild tangible
3 personal property that is used in manufacturing or processing operations,
4 including tools, dies, molds, forms and other parts of qualifying machinery
5 and equipment; (C) portable plants for aggregate concrete, bulk cement
6 and asphalt including cement mixing drums to be attached to a motor
7 vehicle; (D) industrial fixtures, devices, support facilities and special
8 foundations necessary for manufacturing and production operations, and
9 materials and other tangible personal property sold for the purpose of
10 fabricating such fixtures, devices, facilities and foundations. An exemption
11 certificate for such purchases shall be signed by the manufacturer or
12 processor. If the fabricator purchases such material, the fabricator shall
13 also sign the exemption certificate; and (E) a manufacturing or processing
14 business' laboratory equipment that is not located at the plant or facility,
15 but that would otherwise qualify for exemption under subsection (3)(E).

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

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

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

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

31 (D) office machines and equipment including computers and related
32 peripheral equipment not used directly and primarily to control or measure
33 the manufacturing process;

34 (E) furniture and other furnishings;

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

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

41 (H) machinery and equipment used for general plant heating, cooling
42 and lighting;

43 (I) motor vehicles that are registered for operation on public

1 highways; or

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

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

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

15 (ll) all sales of educational materials purchased for distribution to the
16 public at no charge by a nonprofit corporation organized for the purpose of
17 encouraging, fostering and conducting programs for the improvement of
18 public health, *except that for taxable years commencing after December*
19 *31, 2012, this subsection shall not apply to any sales of such materials*
20 *purchased by a nonprofit corporation which performs any abortion, as*
21 *defined in section 1, and amendments thereto;*

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

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

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

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

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

41 (rr) all sales of tangible personal property which will admit the
42 purchaser thereof to any annual event sponsored by a nonprofit
43 organization which is exempt from federal income taxation pursuant to

1 section 501(c)(3) of the federal internal revenue code of 1986, *except that*
2 *for taxable years commencing after December 31, 2012, this subsection*
3 *shall not apply to any sales of such tangible personal property purchased*
4 *by a nonprofit organization which performs any abortion, as defined in*
5 *section 1, and amendments thereto;*

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

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

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

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

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

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

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

32 (4) the American Diabetes Association Kansas Affiliate, Inc. for the
33 purpose of eliminating diabetes through medical research, public education
34 focusing on disease prevention and education, patient education including
35 information on coping with diabetes, and professional education and
36 training;

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

42 (6) the Kansas chapters of the Alzheimer's Disease and Related
43 Disorders Association, Inc. for the purpose of providing assistance and

- 1 support to persons in Kansas with Alzheimer's disease, and their families
2 and caregivers;
- 3 (7) the Kansas chapters of the Parkinson's disease association for the
4 purpose of eliminating Parkinson's disease through medical research and
5 public and professional education related to such disease;
- 6 (8) the National Kidney Foundation of Kansas and Western Missouri
7 for the purpose of eliminating kidney disease through medical research
8 and public and private education related to such disease;
- 9 (9) the heartstrings community foundation for the purpose of
10 providing training, employment and activities for adults with
11 developmental disabilities;
- 12 (10) the Cystic Fibrosis Foundation, Heart of America Chapter, for
13 the purposes of assuring the development of the means to cure and control
14 cystic fibrosis and improving the quality of life for those with the disease;
- 15 (11) the spina bifida association of Kansas for the purpose of
16 providing financial, educational and practical aid to families and
17 individuals with spina bifida. Such aid includes, but is not limited to,
18 funding for medical devices, counseling and medical educational
19 opportunities;
- 20 (12) the CHWC, Inc., for the purpose of rebuilding urban core
21 neighborhoods through the construction of new homes, acquiring and
22 renovating existing homes and other related activities, and promoting
23 economic development in such neighborhoods;
- 24 (13) the cross-lines cooperative council for the purpose of providing
25 social services to low income individuals and families;
- 26 (14) the Dreams Work, Inc., for the purpose of providing young adult
27 day services to individuals with developmental disabilities and assisting
28 families in avoiding institutional or nursing home care for a
29 developmentally disabled member of their family;
- 30 (15) the KSDS, Inc., for the purpose of promoting the independence
31 and inclusion of people with disabilities as fully participating and
32 contributing members of their communities and society through the
33 training and providing of guide and service dogs to people with
34 disabilities, and providing disability education and awareness to the
35 general public;
- 36 (16) the lyme association of greater Kansas City, Inc., for the purpose
37 of providing support to persons with lyme disease and public education
38 relating to the prevention, treatment and cure of lyme disease;
- 39 (17) the Dream Factory, Inc., for the purpose of granting the dreams
40 of children with critical and chronic illnesses;
- 41 (18) the Ottawa Suzuki Strings, Inc., for the purpose of providing
42 students and families with education and resources necessary to enable
43 each child to develop fine character and musical ability to the fullest

1 potential;

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

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

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

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

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

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

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

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

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

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

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

38 (aaa) all sales of tangible personal property and services purchased by
39 a religious organization which is exempt from federal income taxation
40 pursuant to section 501(c)(3) of the federal internal revenue code, and used
41 exclusively for religious purposes, and all sales of tangible personal
42 property or services purchased by a contractor for the purpose of
43 constructing, equipping, reconstructing, maintaining, repairing, enlarging,

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

1 tax paid as determined under the provisions of this subsection. All refunds
2 shall be paid from the sales tax refund fund upon warrants of the director
3 of accounts and reports pursuant to vouchers approved by the director or
4 the director's designee;

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

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

1 determined that such materials will not be used for the purpose for which
2 such certificate was issued, such clinic or center concerned shall be liable
3 for tax on all materials purchased for the project, and upon payment
4 thereof it may recover the same from the contractor together with
5 reasonable attorney fees. Any contractor or any agent, employee or
6 subcontractor thereof, who shall use or otherwise dispose of any materials
7 purchased under such a certificate for any purpose other than that for
8 which such a certificate is issued without the payment of the sales or
9 compensating tax otherwise imposed upon such materials, shall be guilty
10 of a misdemeanor and, upon conviction therefor, shall be subject to the
11 penalties provided for in subsection (g) of K.S.A. 79-3615, and
12 amendments thereto, *except that for taxable years commencing after*
13 *December 31, 2012, this subsection shall not apply to any sales of such*
14 *tangible personal property and services purchased by a primary care*
15 *clinic or health center which performs any abortion, as defined in section*
16 *1, and amendments thereto;*

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

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

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

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

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

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

13 (iii) all sales of personal property and services purchased by an
14 organization which is exempt from federal income taxation pursuant to
15 section 501(c)(3) of the federal internal revenue code of 1986, and which
16 such personal property and services are used by any such organization in
17 the collection, storage and distribution of food products to nonprofit
18 organizations which distribute such food products to persons pursuant to a
19 food distribution program on a charitable basis without fee or charge, and
20 all sales of tangible personal property or services purchased by a
21 contractor for the purpose of constructing, equipping, reconstructing,
22 maintaining, repairing, enlarging, furnishing or remodeling facilities used
23 for the collection and storage of such food products for any such
24 organization which is exempt from federal income taxation pursuant to
25 section 501(c)(3) of the federal internal revenue code of 1986, which
26 would be exempt from taxation under the provisions of this section if
27 purchased directly by such organization. Nothing in this subsection shall
28 be deemed to exempt the purchase of any construction machinery,
29 equipment or tools used in the constructing, equipping, reconstructing,
30 maintaining, repairing, enlarging, furnishing or remodeling facilities for
31 any such organization. When any such organization shall contract for the
32 purpose of constructing, equipping, reconstructing, maintaining, repairing,
33 enlarging, furnishing or remodeling facilities, it shall obtain from the state
34 and furnish to the contractor an exemption certificate for the project
35 involved, and the contractor may purchase materials for incorporation in
36 such project. The contractor shall furnish the number of such certificate to
37 all suppliers from whom such purchases are made, and such suppliers shall
38 execute invoices covering the same bearing the number of such certificate.
39 Upon completion of the project the contractor shall furnish to such
40 organization concerned a sworn statement, on a form to be provided by the
41 director of taxation, that all purchases so made were entitled to exemption
42 under this subsection. All invoices shall be held by the contractor for a
43 period of five years and shall be subject to audit by the director of taxation.

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

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

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

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

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

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

25 (ppp) all sales of tangible personal property and services purchased
26 by or on behalf of a homeless shelter which is exempt from federal income
27 taxation pursuant to section 501(c)(3) of the federal income tax code of
28 1986, and used by any such homeless shelter to provide emergency and
29 transitional housing for individuals and families experiencing
30 homelessness, and all sales of any such property by or on behalf of any
31 such homeless shelter for any such purpose;

32 (qqq) all sales of tangible personal property and services purchased
33 by TLC for children and families, inc., hereinafter referred to as TLC,
34 which is exempt from federal income taxation pursuant to section 501(c)
35 (3) of the federal internal revenue code of 1986, and which such property
36 and services are used for the purpose of providing emergency shelter and
37 treatment for abused and neglected children as well as meeting additional
38 critical needs for children, juveniles and family, and all sales of any such
39 property by or on behalf of TLC for any such purpose; and all sales of
40 tangible personal property or services purchased by a contractor for the
41 purpose of constructing, maintaining, repairing, enlarging, furnishing or
42 remodeling facilities for the operation of services for TLC for any such
43 purpose which would be exempt from taxation under the provisions of this

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

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

42 (sss) all sales of tangible personal property and services purchased by
43 catholic charities or youthville, hereinafter referred to as charitable family

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

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

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

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

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

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

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

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

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

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

36 (yyy) all sales of tangible personal property and services purchased
37 by TLC charities foundation, inc., hereinafter referred to as TLC charities,
38 which is exempt from federal income taxation pursuant to section 501(c)
39 (3) of the federal internal revenue code of 1986, and which such property
40 and services are used for the purpose of encouraging private philanthropy
41 to further the vision, values, and goals of TLC for children and families,
42 inc.; and all sales of such property and services by or on behalf of TLC
43 charities for any such purpose and all sales of tangible personal property or

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

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

43 (aaaa) all sales of personal property and services purchased by or on

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

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

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

20 (dddd) all sales of tangible personal property or services purchased
21 by or on behalf of Goodwill Industries or Easter Seals of Kansas, Inc.,
22 both of which are exempt from federal income taxation pursuant to section
23 501(c)(3) of the federal internal revenue code, for the purpose of providing
24 education, training and employment opportunities for people with
25 disabilities and other barriers to employment;

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

33 (ffff) all sales of tangible personal property and services purchased by
34 sheltered living, inc., which is exempt from federal income taxation
35 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
36 and which such property and services are used for the purpose of
37 providing residential and day services for people with developmental
38 disabilities or mental retardation, or both, and all sales of any such
39 property by or on behalf of sheltered living, inc. for any such purpose; and
40 all sales of tangible personal property or services purchased by a
41 contractor for the purpose of rehabilitating, constructing, maintaining,
42 repairing, enlarging, furnishing or remodeling homes and facilities for
43 sheltered living, inc. for any such purpose which would be exempt from

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

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

38 Sec. 22. K.S.A. 2011 Supp. 76-3308 is hereby amended to read as
39 follows: 76-3308. (a) The authority shall have all the powers necessary to
40 carry out the purposes and provisions of this act, including, without
41 limitation, the following powers to:

42 (1) Have the duties, privileges, immunities, rights, liabilities and
43 disabilities of a body corporate and a political instrumentality of the state;

- 1 (2) have perpetual existence and succession;
- 2 (3) adopt, have and use a seal and to alter the same at its pleasure;
- 3 (4) sue and be sued in its own name;
- 4 (5) make and execute contracts, guarantees or any other instruments
- 5 and agreements necessary or convenient for the exercise of its powers and
- 6 functions including, without limitation, to make and execute contracts with
- 7 hospitals or other health care businesses to operate and manage any or all
- 8 of the hospital facilities or operations and to incur liabilities and secure the
- 9 obligations of any entity or individual;
- 10 (6) borrow money and to issue bonds evidencing the same and pledge
- 11 all or any part of the authority's assets therefor;
- 12 (7) purchase, lease, trade, exchange or otherwise acquire, maintain,
- 13 hold, improve, mortgage, sell, lease and dispose of personal property,
- 14 whether tangible or intangible, and any interest therein; and to purchase,
- 15 lease, trade, exchange or otherwise acquire real property or any interest
- 16 therein, and to maintain, hold, improve, mortgage, lease and otherwise
- 17 transfer such real property, so long as such transactions do not conflict
- 18 with the mission of the authority as specified in this act;
- 19 (8) incur or assume indebtedness to, and enter into contracts with the
- 20 Kansas development finance authority, which is authorized to borrow
- 21 money and provide financing for the authority;
- 22 (9) develop policies and procedures generally applicable to the
- 23 procurement of goods, services and construction, based upon sound
- 24 business practices;
- 25 (10) contract for and to accept any gifts, grants and loans of funds,
- 26 property, or any other aid in any form from the federal government, the
- 27 state, any state agency, or any other source, or any combination thereof,
- 28 and to comply with the provisions of the terms and conditions thereof;
- 29 (11) acquire space, equipment, services, supplies and insurance
- 30 necessary to carry out the purposes of this act;
- 31 (12) deposit any moneys of the authority in any banking institution
- 32 within or without the state or in any depository authorized to receive such
- 33 deposits, one or more persons to act as custodians of the moneys of the
- 34 authority, to give surety bonds in such amounts in form and for such
- 35 purposes as the board requires;
- 36 (13) procure such insurance, participate in such insurance plans or
- 37 provide such self insurance or both as it deems necessary or convenient to
- 38 carry out the purposes and provisions of this act; the purchase of
- 39 insurance, participation in an insurance plan or creation of a self-insurance
- 40 fund by the authority shall not be deemed as a waiver or relinquishment of
- 41 any sovereign immunity to which the authority or its officers, directors,
- 42 employees or agents are otherwise entitled;
- 43 (14) appoint, supervise and set the salary and compensation of a

1 president of the authority who shall be appointed by and serve at the
2 pleasure of the board;

3 (15) fix, revise, charge and collect rates, rentals, fees and other
4 charges for the services or facilities furnished by or on behalf of the
5 authority, and to establish policies and procedures regarding any such
6 service rendered for the use, occupancy or operation of any such facility;
7 such charges and policies and procedures not to be subject to supervision
8 or regulation by any commission, board, bureau or agency of the State;
9 and

10 (16) do any and all things necessary or convenient to carry out the
11 authority's purposes and exercise the powers given in this act.

12 (b) The authority may create, own in whole or in part, or otherwise
13 acquire or dispose of any entity organized for a purpose related to or in
14 support of the mission of the authority.

15 (c) The authority may participate in joint ventures with individuals,
16 corporations, governmental bodies or agencies, partnerships, associations,
17 insurers or other entities to facilitate any activities or programs consistent
18 with the public purpose and intent of this act.

19 (d) The authority may create a nonprofit entity or entities for the
20 purpose of soliciting, accepting and administering grants, outright gifts and
21 bequests, endowment gifts and bequests and gifts and bequests in trust
22 which entity or entities shall not engage in trust business.

23 (e) In carrying out any activities authorized by this act, the authority
24 may provide appropriate assistance, including the making of loans and
25 providing time of employees, to corporations, partnerships, associations,
26 joint ventures or other entities, whether or not such corporations,
27 partnerships, associations, joint ventures or other entities are owned or
28 controlled in whole or in part, directly or indirectly, by the authority.

29 (f) Effective with the transfer date, all moneys of the authority shall
30 be deposited in one or more banks or trust companies in one or more
31 special accounts. All banks and trust companies are authorized to give
32 security for such deposits if required by the authority. The moneys in such
33 accounts shall be paid out on a warrant or other orders of the treasurer of
34 the authority or any such other person or persons as the authority may
35 authorize to execute such warrants or orders.

36 (g) Notwithstanding any provision of law to the contrary, the
37 authority, effective with the transfer date, may invest the authority's
38 operating funds in any obligations or securities as authorized by the board.
39 The board shall adopt written investment guidelines.

40 (h) The authority is authorized to negotiate contracts with one or
41 more qualified parties to provide collection services. The selection of a
42 collection services provider shall be based on responses to a request for
43 proposals from qualified professional firms and shall be administered in

1 accordance with policies adopted by the board.

2 (i) Notwithstanding any provision of law to the contrary, no abortion
3 shall be performed, except in the event of a medical emergency, in any
4 medical facility, hospital or clinic owned, leased or operated by the
5 authority. The provisions of this subsection are not applicable to any
6 member of the physician faculty of the university of Kansas school of
7 medicine on property not owned, leased or operated by the authority. As
8 used in this subsection, "medical emergency" ~~means a pregnant woman's~~
9 ~~medical condition that, on the basis of a physician's good faith clinical~~
10 ~~judgment, necessitates an immediate abortion to avert the woman's death~~
11 ~~or to avert a serious risk of substantial and irreversible impairment of a~~
12 ~~major bodily function~~ *has the meaning as defined in K.S.A. 65-6701, and*
13 *amendments thereto.*

14 New Sec. 23. If any provision or clause of this act or application
15 thereof to any person or circumstances is held invalid, such invalidity shall
16 not affect other provisions or applications of the act which can be given
17 effect without the invalid provision or application, and to this end the
18 provisions of this act are declared to be severable.

19 Sec. 24. K.S.A. 60-1901 and K.S.A. 2011 Supp. 40-2246, 65-6701,
20 65-6703, 65-6709, 65-6710, 76-3308, 79-32,117, 79-32,138, 79-32,182b,
21 79-32,195, 79-32,261, 79-3606 and 79-3606g are hereby repealed.

22 Sec. 25. This act shall take effect and be in force from and after its
23 publication in the statute book.

24