

HOUSE BILL No. 2861

By Representative Reardon

2-13

AN ACT concerning and providing for the financing of state government functions; amending K.S.A. 40-252 and 75-6702 and K.S.A. 2001 Supp. 79-1107, 79-1108, 79-2959, 79-2964, 79-32,110, 79-34,147, 79-3603, 79-3606, 79-3620, 79-3703 and 79-3710 and repealing the existing sections; also repealing K.S.A. 79-3632, 79-3634, 79-3636 through 79-3638 and K.S.A. 2001 Supp. 79-15,100 through 79-15,126, 79-3603b, 79-3633, 79-3635 and 79-3639.

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

New Section 1. As used in sections 1 through 56 of this act unless the context otherwise requires:

(a) Any term used in this act shall have the same meaning as when used in a comparable context in the internal revenue code. Any reference in this act to the "internal revenue code" shall mean the provisions of the United States internal revenue code of 1986, as such code exists on December 31, 1997. Any reference in this act to a specific provision of the internal revenue code shall be to such provision as it exists on December 31, 1997.

(b) "Deemed executor" includes any person in actual or constructive possession of any property of the decedent.

(c) "Director" means the director of taxation.

(d) "Distributee" means a beneficiary, legatee, devisee, heir, next of kin, grantee, donee, vendee, joint tenant or any other successor in interest, whether outright or in trust.

(e) "Distributive share" or "distributive shares" means the share or shares of the distributive estate passing to a distributee or distributees.

(f) "Domicile" refers to that place where a person resides, has an intention to remain and to which they intend to return following any absence.

(g) "Estate" and "property" shall mean the real, personal, and mixed property or interest therein of the testator, intestate, grantor, bargainor, vendor or donor which shall pass or be transferred to legatees, devisees, heirs, next of kin, grantees, donees, vendees, or successors and shall include all personal property within or without the state.

(h) "Executor" and "administrator" mean the duly appointed, quali-

1 fied and acting executor or administrator of the decedent in this state.

2 (i) "Nonresident decedent" means a decedent who was not a resident
3 decedent at the time of death.

4 (j) "Personal representative" means the executor, administrator or
5 deemed executor of the decedent.

6 (k) "Resident decedent" means a decedent who was domiciled in this
7 state at the time of death.

8 (l) "Secretary" means the secretary of revenue, or the secretary's
9 designee.

10 (m) "Tax" includes tax, penalty and interest, unless the context of a
11 particular section otherwise requires.

12 (n) "Transfer" shall include the passing of property or any interest
13 therein in possession or enjoyment, present or future, by inheritance,
14 descent, devise, succession, bequest, grant, deed, bargain, sale, gift or
15 appointment in the manner herein prescribed.

16 New Sec. 2. (a) A tax is hereby imposed on the privilege of succeed-
17 ing to the ownership of any property, corporeal or incorporeal, and any
18 interest therein within the jurisdiction of this state.

19 (b) Distributees of estates shall be classified as follows:

20 (1) Class A shall consist of the lineal ancestors, lineal descendants,
21 step-parents, step-children, adopted children, lineal descendants of any
22 adopted child or step-child, the spouse or surviving spouse of a son or
23 daughter, or the spouse or surviving spouse of an adopted child or step-
24 child of the decedent. In the case of an adopted child or step-child, a
25 spouse or surviving spouse of an adopted child or step-child or the lineal
26 descendant of an adopted child or step-child of the decedent, such person
27 shall file with the department of revenue an affidavit setting forth the
28 relationship of such person to the decedent. Such affidavit shall be suf-
29 ficient proof of the adoptive or step-child relationship in question, and
30 the department, or any officer or employee thereof, shall not require any
31 additional proof of such relationship. As used in this paragraph, "step-
32 child" means a child of a spouse or former spouse of the decedent.

33 (2) Class B shall consist of the brothers and sisters of the decedent.

34 (3) Class C shall consist of relatives of all degrees of consanguinity,
35 except those included in classes A and B, and shall also include strangers
36 in the blood of the decedent.

37 Notwithstanding the foregoing provisions of this subsection, with re-
38 spect to qualified terminable interest property includable in the dece-
39 dent's estate under section 29, and amendments thereto, the relationship
40 of the distributees of such property shall be determined by their rela-
41 tionship to the individual whose estate made an election with respect to
42 such property pursuant to subsection (b)(3) of section 3, and amendments
43 thereto.

1 (c) (1) From the value of the shares of the distributable estate, as
2 ascertained under the provisions of this act and succeeded to by the sev-
3 eral distributees, deductions shall be allowed as follows: (A) To each
4 member of class A, \$30,000; and (B) to each member of class B, \$5,000.

5 (2) The tax herein provided for shall be charged upon the value of
6 the shares of the distributable estate after deduction of the amounts
7 herein provided, except that when one or more of the shares of the dis-
8 tributable estate shall consist of property within and property without the
9 state, only such percentage of the deductions above named shall be al-
10 lowed in the percentage that the Kansas share bears to the total shares
11 of the distributee.

12 (d) The tax herein imposed shall be an amount equal to a percentage
13 of the value of the shares of the distributable estate of the decedent
14 succeeded to by the distributees thereof, reduced by any deductions au-
15 thorized pursuant to subsection (c):

16 (1) Upon the value of shares succeeded to by members of class A
17 reduced by such deductions, the following rates of tax are hereby im-
18 posed: On the first \$25,000, or fraction thereof, 1%; on the second
19 \$25,000, or fraction thereof, 2%; on the next \$50,000, or fraction thereof,
20 3%; on the next \$400,000, or fraction thereof, 4%; on all over \$500,000,
21 5%;

22 (2) upon the value of shares succeeded to by members of class B
23 reduced by such deductions, the following rates of tax are hereby im-
24 posed: On the first \$25,000, or fraction thereof, 3%; on the second
25 \$25,000, or fraction thereof, 5%; on the next \$50,000, or fraction thereof,
26 7½%; on the next \$400,000, or fraction thereof, 10%; on all over
27 \$500,000, 12½%; and

28 (3) upon the value of shares succeeded to by members of class C, the
29 following rates of taxes are hereby imposed: On any amount up to
30 \$100,000, 10%; on any amount in excess of \$100,000 and up to \$200,000,
31 12%; on all sums in excess of \$200,000, 15%.

32 New Sec. 3. (a) A distributive share passing to or for the benefit of
33 the surviving spouse of a decedent shall be exempt from the tax imposed
34 by section 2, and amendments thereto.

35 (b) (1) In the case of qualified terminable interest property, such
36 property shall be treated as passing to the surviving spouse, and no part
37 of such property shall be treated as passing to any person other than the
38 surviving spouse.

39 (2) For purposes of this paragraph:

40 (A) The term “qualified terminable interest property” means
41 property:

42 (i) which passes from the decedent;

43 (ii) in which the surviving spouse has a qualifying income interest for

1 life; and

2 (iii) to which an election under this paragraph applies.

3 (B) The surviving spouse has a qualifying income interest for life if:

4 (i) the surviving spouse is entitled to all the income from the property,
5 payable annually or at more frequent intervals, or has a usufruct interest
6 for life in the property; and

7 (ii) no person has a power to appoint any part of the property to any
8 person other than the surviving spouse. This subclause shall not apply to
9 a power exercisable only at or after the death of the surviving spouse. To
10 the extent provided by regulation, an annuity shall be treated in a manner
11 similar to an income interest in property (regardless of whether the prop-
12 erty from which the annuity is payable can be separately identified).

13 (C) The term "property" includes an interest in property.

14 (D) A specific portion of property shall be treated as separate prop-
15 erty. For purposes of this provision, the term "specific portion" only in-
16 cludes a portion determined on a fractional or percentage basis.

17 (3) A qualified terminable interest property election with respect to
18 any property shall be made by the personal representative of the dece-
19 dent's estate in such manner as the secretary shall prescribe by rules and
20 regulations. No election may be made under this section with respect to
21 property in an estate unless an election has also been made with respect
22 to the same qualified terminable interest property under the provisions
23 of 26 U.S.C. 2056(b)(7). Any election made under this section shall be
24 irrevocable.

25 (4) The personal representative of any decedent's estate subject to
26 the jurisdiction of this state who makes a qualified terminable interest
27 property election with respect to any property in which the surviving
28 spouse has a "qualifying income interest for life" as defined in this section
29 or 26 U.S.C. 2056(b)(7) shall not be liable to any holder of a beneficial
30 interest under the instrument governing the disposition of property in
31 the decedent's estate, whether such instrument was executed before or
32 after the effective date of Public Law 97-34.

33 New Sec. 4. (a) A distributive share passing to or for the use of any
34 charitable organization shall be exempt from tax imposed by section 2,
35 and amendments thereto.

36 (b) For purposes of this section, charitable organizations shall mean
37 those corporations, organizations, associations, societies, institutions,
38 foundations, governmental units or agencies described in 26 U.S.C.
39 2055a.

40 (c) Where the distributive share includes a remainder interest, the
41 present value of such interest shall be determined under rules and reg-
42 ulations to be promulgated by the secretary of revenue, and the holder
43 of the other beneficial interest in the property (unless otherwise exempt)

1 shall be taxable upon the value of the property reduced by the present
2 value of the remainder interest.

3 New Sec. 5. Any distributive share which shall be valued, for the
4 purposes of this act, after deductions are allowed pursuant to section 2,
5 and amendments thereto, at a sum less than \$200, shall not be subject to
6 the tax imposed by section 2, and amendments thereto.

7 New Sec. 6. All property transferred by a decedent to any person
8 described in class A, providing the same was transferred to such decedent
9 not more than five years prior to such decedent's death by another de-
10 cedent described in class A with respect to the decedent, shall be valued
11 as of the date of death of the second decedent and shall be exempt from
12 the tax imposed by section 2, and amendments thereto, to the extent such
13 value was taxed and the tax paid thereon in the estate of the first decedent.

14 New Sec. 7. When provision is made by any will or other instrument
15 for payment of the legacy or succession tax upon any gift thereby made
16 out of any property other than that so given, no tax shall be chargeable
17 upon any money to be applied in payment of such tax.

18 New Sec. 8. The tax imposed by this act in respect to personal prop-
19 erty of nonresidents (other than tangible personal property having an
20 actual situs in this state) shall not be payable if, at the time of death (a)
21 the decedent was a resident of a state or territory of the United States
22 which did not impose a transfer tax or death tax of any character in respect
23 to personal property of residents of the state of Kansas (other than tan-
24 gible personal property having an actual situs in such state or territory),
25 or (b) the laws of the state or territory of residence of the decedent
26 contained a reciprocal provision under which Kansas residents would be
27 exempted from transfer taxes or death taxes of every character in respect
28 to personal property (other than tangible personal property having an
29 actual situs therein) provided the state of Kansas allowed a similar ex-
30 emption to residents of the state or territory of residence of such
31 decedent.

32 In no case shall the provisions of this section apply to the intangible
33 personal property of nonresident decedents unless such intangible per-
34 sonal property shall have been subjected to a tax or submitted for pur-
35 poses of taxation in the state of the decedent's residence. For the purpose
36 of this section the District of Columbia and possessions of the United
37 States shall be considered territories of the United States.

38 New Sec. 9. In the event that the total of the inheritance taxes im-
39 posed upon the distributive shares of the estate of the decedent by section
40 2, and amendments thereto, shall not equal the amount of the maximum
41 credit allowed by section 2011 of the internal revenue code, against the
42 tax that would otherwise be imposed on the transfer of the taxable estate
43 of the decedent by section 2001 of the internal revenue code, whenever

1 the federal estate tax is determined an additional tax equal to the differ-
2 ence between the total tax imposed by section 2, and amendments
3 thereto, and the amount of such credit is hereby imposed upon the dis-
4 tributable estate of the decedent.

5 New Sec. 10. In the event that no tax is imposed upon the distrib-
6 utive shares of the estate of the decedent by section 2, and amendments
7 thereto, whenever the federal estate tax is determined, a tax, equal to the
8 amount of the maximum credit allowed by section 2011 of the internal
9 revenue code against the tax that would otherwise be imposed on the
10 transfer of the taxable estate of the decedent by section 2001 of the in-
11 ternal revenue code, is hereby imposed upon the distributable estate of
12 the decedent.

13 New Sec. 11. (a) When the estate shall consist of property within
14 and property without the state, the tax imposed under sections 9 and 10,
15 and amendments thereto, shall be the percentage that the gross estate
16 for federal estate tax purposes, less the deduction allowed by subsection
17 (a) of section 30, and amendments thereto, bears to the total gross estate
18 for federal estate tax purposes.

19 (b) The tax which may be imposed under sections 9 and 10, and
20 amendments thereto, shall be chargeable against the interests of each
21 distributee in proportion to the amount of the shares of the estate re-
22 ceived by each.

23 New Sec. 12. Whenever the amount of the tax imposed upon a gen-
24 eration-skipping transfer by section 2601 of the internal revenue code is
25 determined, a tax, equal to the maximum amount of the credit allowed
26 against such tax by section 2604 of the internal revenue code, is hereby
27 imposed upon the taxable estate of the decedent as of the date of such
28 determination. The tax imposed under the provisions of this act shall be
29 chargeable against the interests of each beneficiary in proportion to the
30 share received by each beneficiary under such transfer.

31 New Sec. 13. When the property transferred subject to the tax im-
32 posed by section 12, and amendments thereto, shall consist of property
33 within and property without the state, the tax imposed shall be the per-
34 centage that the Kansas assets of the generation-skipping trust or gen-
35 eration-skipping trust equivalent bears to the total assets of the genera-
36 tion-skipping trust or generation-skipping trust equivalent.

37 New Sec. 14. (a) The value of the gross estate of a decedent shall be
38 determined by valuing the property included in the gross estate at fair
39 market value as of the time of the decedent's death.

40 (b) Whenever reference is made to the value of property at the time
41 of the decedent's death, such reference shall be deemed to refer to the
42 value of such property in determining the value of the gross estate.

43 (c) When any property or interest therein, or income therefrom, to

1 be included in the gross estate shall pass or be limited for the life of
2 another, or for a term of years, or to terminate on the expiration of a
3 certain period, the value of the life estate, term of years, or period of
4 limitation shall be fixed according to rules and regulations adopted by the
5 secretary. The value of the remainder in such property so limited shall
6 be ascertained by deducting the value of the life estate, term of years or
7 period of limitation, from the actual value of the property as determined
8 at the time of death.

9 New Sec. 15. (a) If the personal representative so elects, the value
10 of the gross estate may be determined by valuing all the property included
11 in the gross estate as follows:

12 (1) In the case of property distributed, sold, exchanged or otherwise
13 disposed of, within six months after the decedent's death such property
14 shall be valued as of the date of distribution, sale, exchange or other
15 disposition.

16 (2) In the case of property not distributed, sold, exchanged or oth-
17 erwise disposed of, within six months after the decedent's death such
18 property shall be valued as of the date six months after the decedent's
19 death.

20 (3) Any interest or estate which is affected by mere lapse of time shall
21 be included at its value as of the time of death (instead of the later date)
22 with adjustment for any difference in its value as of the later date not due
23 to mere lapse of time.

24 (b) No deduction authorized by section 32, and amendments thereto,
25 shall be allowed if allowance for such item is in effect given by the alter-
26 nate valuation provided by this section.

27 (c) No election may be made under this subsection with respect to
28 an estate unless such election will decrease (1) the value of the gross
29 estate and (2) the tax imposed by this act with respect to property in-
30 cludible in the decedent's gross estate.

31 (d) (1) The election provided for in this subsection shall be made by
32 the personal representative on the return of tax imposed by this act. Such
33 election, once made, shall be irrevocable.

34 (2) No election may be made under this subsection if such return is
35 filed more than one year after the time prescribed by law (including
36 extensions) for filing such return.

37 (e) The property of any estate for which a federal estate tax return is
38 required to be filed shall be valued pursuant to subsection (a) upon the
39 same date as is elected to value the property for federal estate tax pur-
40 poses under the provisions of 26 U.S.C. 2032.

41 New Sec. 16. (a) If the person filing the return elects the application
42 of this section, the value of qualified real property shall be its value for
43 the use under which it qualifies as qualified real property. The aggregate

1 decrease in the value of qualified real property which results from the
2 application of this section with respect to the gross estate of any decedent
3 shall not exceed \$500,000 in the case of decedents dying in 1980 or be-
4 fore, \$600,000 in the case of decedents dying in 1981, \$700,000 in the
5 case of decedents dying in 1982 and \$750,000 in the case of decedents
6 dying in 1983 or thereafter.

7 (b) For purposes of this section: (1) "Qualified real property" means
8 real property located in the state which, on the date of the decedent's
9 death, was being used for a qualified use by the decedent or a member
10 of the decedent's family, but only if:

11 (A) Fifty percent or more of the adjusted value of the gross estate
12 consists of the adjusted value of real or personal property which:

13 (i) On the date of the decedent's death, was being used for a qualified
14 use by the decedent or a member of the decedent's family; and

15 (ii) was acquired from or passed from the decedent to a qualified heir
16 of the decedent;

17 (B) Twenty-five percent or more of the adjusted value of the gross
18 estate consists of the adjusted value of real property which meets the
19 requirements of subparagraphs (A)(ii) and (C) of this subsection (b);

20 (C) During the eight-year period ending on the date of the decedent's
21 death there have been periods aggregation five years or more during
22 which:

23 (i) Such real property was owned by the decedent or a member of
24 the decedent's family and used for a qualified use by the decedent or a
25 member of the decedent's family; and

26 (ii) there was material participation by the decedent or a member of
27 the decedent's family in the operation of the farm or other business.

28 (2) "Qualified use" means the devotion of the property to any of the
29 following:

30 (A) Use as a farm for farming purposes; or

31 (B) use in a trade or business other than the trade or business of
32 farming.

33 (3) "Adjusted value," for purposes of paragraph (1) of this subsection
34 (b), means:

35 (A) In the case of the gross estate, the value of the gross estate, de-
36 termined without regard to this section reduced by any amounts allowable
37 as a deduction under subsection (d) of section 30, and amendments
38 thereto; or

39 (B) in the case of any real or personal property, the value of such
40 property for purposes of this act, determined without regard to this sec-
41 tion reduced by any amounts allowable as a deduction in respect to such
42 property under subsection (d) of section 30, and amendments thereto.

43 (4) If, on the date of the decedent's death, the requirements of sub-

1 paragraph (C)(ii) of paragraph (1) of subsection (b) with respect to the
2 decedent for any property are not met, and the decedent either was re-
3 ceiving old-age benefits under title II of the social security act for a con-
4 tinuous period ending on such date, or was disabled for a continuous
5 period ending on such date, then such subparagraph shall be applied with
6 respect to such property by substituting “the date on which the longer of
7 such continuous periods began” for “the date of the decedent’s death” in
8 subparagraph (C) of paragraph (1) of subsection (b). An individual shall
9 be considered to be disabled if such individual has a mental or physical
10 impairment which renders such individual unable to materially participate
11 in the operation of the farm or other business.

12 (5) If property is qualified real property with respect to a decedent,
13 hereinafter referred to as the “first decedent,” and such property was
14 acquired from or passed from the first decedent to the surviving spouse
15 of the first decedent, for purposes of applying this subsection, and in the
16 case of the estate of such surviving spouse active management of the farm
17 or other business by the surviving spouse shall be treated as material
18 participation by such surviving spouse in the operation of such farm or
19 business. For the purposes of this paragraph, the determination of
20 whether property is qualified real property with respect to the first de-
21 cedent shall be made without regard to whether an election under this
22 section was made.

23 (c) The election under this section shall be made not later than the
24 time prescribed by section 36, and amendments thereto, for filing the
25 return of tax imposed by this act, including extensions thereof, and shall
26 be made in such manner as the secretary shall prescribe by rules and
27 regulations. No election may be made under this section with respect to
28 an estate unless an election has been made with respect to such estate
29 under the provisions of 26 U.S.C. 2032A. Any election made under this
30 section shall be irrevocable.

31 (d) For purposes of this section: (1) “Qualified heir” means, with
32 respect to any property, a member of the decedent’s family who acquired
33 such property, or to whom such property passed, from the decedent. If
34 a qualified heir disposes of any interest in qualified real property to any
35 member of the qualified heir’s family, such member shall thereafter be
36 treated as the qualified heir with respect to such interest.

37 (2) “Member of the family” means, with respect to any individual,
38 only:

- 39 (A) An ancestor of such individual;
- 40 (B) the spouse of such individual;
- 41 (C) a lineal descendant of such individual, of such individual’s spouse
42 or of a parent of such individual; or
- 43 (D) the spouse of any lineal descendant described in subparagraph (C).

1 For purposes of the preceding sentence, a legally adopted child of an
2 individual shall be treated as a child of such individual by blood.

3 (3) In the case of real property which meets the requirements of
4 subparagraph (C) of subsection (b)(1), residential buildings and related
5 improvements on such real property occupied on a regular basis by the
6 owner or lessee of such real property or by persons employed by such
7 owner or lessee for the purpose of operating or maintaining such real
8 property, and roads, buildings, and other structures and improvements
9 functionally related to the qualified use shall be treated as real property
10 devoted to the qualified use.

11 (4) "Farm" includes stock, dairy, poultry, aquatic plants and animals,
12 fruit, fur bearing animals, and truck farms, plantations, ranches, nurseries,
13 ranges, greenhouses or other similar structures used primarily for the
14 raising of agricultural, aquacultural or horticultural commodities, and or-
15 chards and woodlands.

16 (5) "Farming purposes" means:

17 (A) Cultivating the soil or raising or harvesting any agricultural, aqua-
18 cultural or horticultural commodity including the raising, shearing, feed-
19 ing, caring for, training and management of animals on a farm or aquaculture
20 plants and animals in an aquaculture operation;

21 (B) handling, drying, packing, grading, or storing on a farm or aqua-
22 culture operation any agricultural, aquacultural or horticultural commod-
23 ity in its unmanufactured state, but only if the owner, tenant, or operator
24 of the farm or aquaculture operation regularly produces more than 1/2 of
25 the commodity so treated; and

26 (C) (i) the planting, cultivating, caring for or cutting of trees, or (ii)
27 the preparation, other than milling, of trees for market.

28 (6) Material participation shall be determined in a manner similar to
29 the manner used for purposes of paragraph (1) of 26 U.S.C. 1402(a).

30 (7) (A) Except as provided in subparagraph (C), the value of a farm
31 for farming purposes shall be determined by dividing (i) the excess of the
32 average annual gross cash rental for comparable land used for farming
33 purposes and located in the locality of such farm over the average annual
34 state and local real estate taxes for such comparable land, by (ii) the
35 average annual effective interest rate for all new federal land bank loans.
36 For purposes of the preceding sentence, each average annual computa-
37 tion shall be made on the basis of the five most recent calendar years
38 ending before the date of the decedent's death.

39 (B) If there is no comparable land from which the average annual
40 gross cash rental may be determined but there is comparable land from
41 which the average annual net share rental may be determined, subpara-
42 graph (A) shall be applied by substituting "average annual net share
43 rental" for "average annual gross cash rental." For purposes of this sub-

1 paragraph, the term “net share rental” means the excess of (i) the value
2 of the produce received by the lessor of the land on which such produce
3 is grown, over (ii) the cash operating expenses of growing such produce
4 which, under the lease, are paid by the lessor.

5 (C) The formula provided by subparagraph (7)(A) shall not be used
6 (i) where it is established that there is no comparable land from which
7 the average annual gross cash rental may be determined and that there
8 is no comparable land from which the average net share rental may be
9 determined, or (ii) where the executor elects to have the value of the farm
10 for farming purposes determined under paragraph (8).

11 (8) In any case to which paragraph (7)(A) does not apply, the follow-
12 ing factors shall apply in determining the value of any qualified real
13 property:

14 (A) The capitalization of income which the property can be expected
15 to yield for farming or closely held business purposes over a reasonable
16 period of time under prudent management using traditional cropping
17 patterns for the area, taking into account soil capacity, terrain configu-
18 ration, and similar factors;

19 (B) the capitalization of the fair rental value of the land for farmland
20 or closely held business purposes;

21 (C) assessed land values in the state pursuant to use value appraisal
22 for farmland or closely held business;

23 (D) comparable sales of other farm or closely held business land in
24 the same geographical area far enough removed from a metropolitan or
25 resort area so that nonagricultural use is not a significant factor in the
26 sales price; and

27 (E) any other factor which fairly values the farm or closely held busi-
28 ness value of the property.

29 (9) The method elected for valuing any qualified real property under
30 the provisions of this section shall be the same method as that elected for
31 valuing such property for federal estate tax purposes under the provisions
32 of 26 U.S.C. 2032A.

33 (10) “Active management” means the making of the management
34 decisions of a business, other than the daily operating decisions.

35 (e) The secretary shall prescribe regulations setting forth the appli-
36 cation of this section in the case of an interest in a partnership, corpo-
37 ration, or trust which, with respect to the decedent, is an interest in a
38 closely held business, within the meaning of subsection (c) of section 38,
39 and amendments thereto.

40 (f) (1) For the purposes of this section, qualified real property shall
41 cease to be used for qualified use if such property ceases to be used for
42 the qualified use set forth in subsection (b)(2).

43 (2) If, within 10 years after the decedent’s death and before the death

1 of the qualified heir:

2 (A) The qualified heir disposes of any interest or portion thereof in
3 qualified real property, other than by disposition to a member of such
4 heir's family; or

5 (B) the qualified heir ceases to use for the qualified use the qualified
6 real property, or portion thereof, which was acquired or passed from the
7 decedent, then there is hereby imposed an additional tax.

8 (3) The amount of the additional tax imposed shall be the greater of:

9 (A) An amount equal to the difference between:

10 (i) The inheritance tax computed after qualification under subsection
11 (a); and

12 (ii) the inheritance tax which would have been due had qualification
13 under subsection (a) been allowed for only that property which continues
14 in a qualified use under subsection (a); or

15 (B) An amount equal to the difference between:

16 (i) The tax imposed under section 9, and amendments thereto, after
17 qualification under subsections (a) and (c); and

18 (ii) the tax imposed under section 9, and amendments thereto, after
19 imposition of additional federal estate tax liability required under the
20 provisions of 26 U.S.C. 2032A (C).

21 (4) The additional tax imposed by this subsection shall become due
22 and payable on the day which is six months after the date of the disposition
23 or cessation.

24 (5) The qualified heir shall be personally liable for the additional tax
25 imposed by this subsection with respect to such heir's interest.

26 (g) Real property shall cease to be used for the qualified use if:

27 (1) Such property ceases to be used for the qualified use set forth in
28 subsection (b)(2) under which the property qualified, or

29 (2) during any period of eight years ending after the date of the de-
30 cedent's death and before the date of the death of the qualified heir,
31 there had been periods aggregating more than three years during which:

32 (A) In the case of periods during which the property was held by the
33 decedent, there was no material participation by the decedent or any
34 member of the decedent's family in the operation of the farm or other
35 business; and

36 (B) in the case of periods during which the property was held by any
37 qualified heir, there was no material participation by such qualified heir
38 or any member of such heir's family in the operation of the farm or other
39 business.

40 (h) (1) Notwithstanding any provision of subsection (f), if the date
41 on which the qualified heir begins to use the qualified real property,
42 hereinafter referred to as the commencement date, is before the date
43 two years after the decedent's death:

1 (A) No tax shall be imposed under paragraph (2) of subsection (f) by
2 reason of the failure by the qualified heir to so use such property before
3 the commencement date; and

4 (B) the ten-year period under paragraph (2) of subsection (f) shall be
5 extended by the period after the decedent's death and before the com-
6 mencement date.

7 (2) For purposes of paragraph (g)(2)(B), the active management of a
8 farm or other business by (A) an eligible qualified heir, or (B) a fiduciary
9 of an eligible qualified heir described in clause (B) or (C) of subparagraph
10 (3), shall be treated as material participation by such qualified heir in the
11 operation of such farm or business. In the case of an eligible qualified
12 heir described in clause (B), (C) or (D) of subparagraph (3), the preceding
13 sentence shall apply only during periods during which such heir meets
14 the requirements of such clause.

15 (3) For purposes of this paragraph, the term "eligible qualified heir"
16 means a qualified heir who:

17 (A) Is the surviving spouse of the decedent;

18 (B) has not attained the age of 21 years;

19 (C) is disabled, within the meaning of subsection (b)(4); or

20 (D) is a student.

21 (4) For purposes of subparagraph (3), an individual shall be treated
22 as a student with respect to periods during any calendar year if, and only
23 if, such individual is a student, within the meaning of 26 U.S.C. 151(e)(4)
24 for such calendar year.

25 (i) If qualified real property is disposed of or ceases to be used for a
26 qualified use, then:

27 (1) The statutory period for the assessment of any additional tax un-
28 der subsection (f) attributable to such disposition or cessation shall not
29 expire before the expiration of three years from the date the secretary is
30 notified, in such manner as the secretary may prescribe by rules and
31 regulations, of such disposition or cessation; and

32 (2) such additional tax may be assessed before the expiration of such
33 three-year period notwithstanding the provisions of any other law or rule
34 of law which would otherwise prevent such assessment.

35 New Sec. 17. The value of the gross estate of a decedent shall be
36 determined by including the value, as determined in accordance with the
37 provisions of section 14, 15 or 16, and amendments thereto, of all prop-
38 erty, real or personal, tangible or intangible, wherever situated to the
39 extent provided in sections 18 through 28, and amendments thereto.

40 New Sec. 18. The value of the gross estate shall include the value of
41 all property to the extent of the interest therein of the decedent at the
42 time of death.

43 New Sec. 19. The value of the gross estate shall include the value of

1 all property to the extent of any interest therein of the surviving spouse,
2 existing at the time of decedent's death by virtue of a statute creating an
3 estate in lieu of dower or curtesy.

4 New Sec. 20. (a) The value of the gross estate shall include the value
5 of all property to the extent of any interest therein of which the decedent
6 has at any time made a transfer (except in case of a bona fide sale for an
7 adequate and full consideration in money or money's worth), by trust or
8 otherwise, in contemplation of death.

9 (b) If the decedent within a period of one year ending with the date
10 of such decedent's death (except in case of a bona fide sale for an ade-
11 quate and full consideration in money or money's worth) transferred an
12 interest in property, relinquished a power, exercised or released a general
13 power of appointment, such transfer, relinquishment, exercise or release
14 shall, unless shown to the contrary, be deemed to have been made in
15 contemplation of death within the meaning of this section and sections
16 23 and 26, and amendments thereto, (relating to revocable transfers and
17 powers of appointment); but no such transfer, relinquishment, exercise
18 or release made before such one-year period shall be treated as having
19 been made in contemplation of death.

20 (c) (1) Except as otherwise provided in this subsection, subsections
21 (a) and (b) shall not apply to the estate of a decedent dying after Decem-
22 ber 31, 1982, with respect to each transfer of property to the extent of
23 the first \$10,000 of value thereof made to a separate transferee.

24 (2) Paragraph (1) shall not apply to a transfer of an interest in prop-
25 erty which is included in the value of the gross estate under section 21
26 (relating to retained interests), section 22 (relating to transfers taking
27 effect at death), section 23 (relating to powers of revocation), or section
28 27 (relating to life insurance), and amendments thereto, or would have
29 been included under any of such sections if such interest had been re-
30 tained by the decedent.

31 (3) Paragraph (1) shall not apply for purposes of section 16 and 38,
32 and amendments thereto.

33 New Sec. 21. (a) The value of the gross estate shall include the value
34 of all property to the extent of any interest therein of which the decedent
35 has at any time made a transfer, except in case of a bona fide sale for an
36 adequate and full consideration in money or money's worth, by trust or
37 otherwise, under which the decedent has retained for life or for any pe-
38 riod not ascertainable without reference to the decedent's death or for
39 any period which does not in fact end before the decedent's death (1) the
40 possession or enjoyment of, or the right to the income from, the property,
41 or (2) the right, either alone or in conjunction with any person, to des-
42 ignate the persons who shall possess or enjoy the property or the income
43 therefrom.

1 (b) (1) For purposes of subsection (a)(1), the retention of the right
2 to vote, directly or indirectly, shares of stock of a controlled corporation
3 shall be considered to be a retention of the enjoyment of transferred
4 property.

5 (2) For purposes of subsection (b)(1), a corporation shall be treated
6 as a controlled corporation if, at any time after the transfer of the property
7 and during the three-year period ending on the date of the decedent's
8 death, the decedent owned, within the application of 26 U.S.C. 318, or
9 had the right, either alone or in conjunction with any person, to vote,
10 stock possessing at least 20% of the total combined voting power of all
11 classes of stock.

12 (3) For purposes of applying section 20, and amendments thereto,
13 with respect to subsection (b)(1), the relinquishment or cessation of vot-
14 ing rights shall be treated as a transfer of property made by the decedent.

15 New Sec. 22. (a) The value of the gross estate shall include the value
16 of all property to the extent of any interest therein of which the decedent
17 has at any time made a transfer, except in case of a bona fide sale for an
18 adequate and full consideration in money or money's worth, by trust or
19 otherwise, if:

20 (1) Possession or enjoyment of the property can, through ownership
21 of such interest, be obtained only by surviving the decedent; and

22 (2) the decedent has retained a reversionary interest, and the value
23 of such reversionary interest immediately before the death of the dece-
24 dent exceeds 5% of the value of such property.

25 (b) For purposes of this section, the term "reversionary interest" in-
26 cludes a possibility that property transferred by the decedent may: (1)
27 Return to the decedent or the decedent's estate, or; (2) be subject to a
28 power of disposition by the decedent, but such term does not include a
29 possibility that the income alone from such property may return to the
30 decedent or become subject to a power of disposition by the decedent.
31 The value of a reversionary interest immediately before the death of the
32 decedent shall be determined without regard to the fact of the decedent's
33 death by usual methods of valuation, including the use of tables of mor-
34 tality and actuarial principles, under rules and regulations adopted by the
35 secretary. In determining the value of a possibility that property may be
36 subject to a power of disposition by the decedent, such possibility shall
37 be valued as if it were a possibility that such property may return to the
38 decedent or the decedent's estate. Notwithstanding the foregoing, an in-
39 terest so transferred shall not be included in the decedent's gross estate
40 under this section if possession or enjoyment of the property could have
41 been obtained by any beneficiary during the decedent's life through the
42 exercise of a general power of appointment as defined in section 26, and
43 amendments thereto, which in fact was exercisable immediately before

1 the decedent's death.

2 New Sec. 23. (a) The value of the gross estate shall include the value
3 of all property to the extent of any interest therein of which the decedent
4 has at any time made a transfer, except in case of a bona fide sale for an
5 adequate and full consideration in money or money's worth, by trust or
6 otherwise, where the enjoyment thereof was subject at the date of the
7 decedent's death to any change through the exercise of a power, in what-
8 ever capacity exercisable, by the decedent alone or in conjunction with
9 any other person, without regard to when or from what source the de-
10 cedent acquired such power, to alter, amend, revoke or terminate, or
11 where any such power is relinquished during the three-year period ending
12 on the date of the decedent's death.

13 (b) For purposes of this section, the power to alter, amend, revoke
14 or terminate shall be considered to exist on the date of the decedent's
15 death even though the exercise of the power is subject to a precedent
16 giving of notice or even though the alteration, amendment, revocation or
17 termination takes effect only on the expiration of a stated period after the
18 exercise of the power, whether or not on or before the date of the de-
19 cedent's death notice has been given or the power has been exercised. In
20 such cases proper adjustment shall be made representing the interest
21 which would have been excluded from the power if the decedent had
22 lived, and for such purpose, if the notice has not been given or the power
23 has not been exercised on or before the date of the decedent's death,
24 such notice shall be considered to have been given, or the power exer-
25 cised, on the date of the decedent's death.

26 New Sec. 24. (a) The gross estate shall include the value of an an-
27 nuity or other payment receivable by any beneficiary by reason of surviv-
28 ing the decedent under any form of contract or agreement other than as
29 insurance under policies on the life of the decedent, if, under such con-
30 tract or agreement, an annuity or other payment was payable to the de-
31 cedent, or the decedent possessed the right to receive such annuity or
32 payment, either alone or in conjunction with another for life or for any
33 period not ascertainable without reference to the decedent's death or for
34 any period which does not in fact end before the decedent's death.

35 (b) Subsection (a) shall apply to only such part of the value of the
36 annuity or other payment receivable under such contract or agreement
37 as is proportionate to that part of the purchase price therefor contributed
38 by the decedent. For purposes of this section, any contribution by the
39 decedent's employer or former employer to the purchase price of such
40 contract or agreement, whether or not to an employee's trust or fund
41 forming part of a pension, annuity, retirement, bonus or profit-sharing
42 plan, shall be considered to be contributed by the decedent if made by
43 reason of their employment.

1 New Sec. 25. (a) The value of the gross estate shall include the value
2 of all property to the extent of the interest therein held as joint tenants
3 with right of survivorship by the decedent and any other person, or as
4 tenants by the entirety by the decedent and spouse or deposited, with
5 any person carrying on the banking business, in their joint names and
6 payable to either or the survivor, except such part thereof as may be
7 shown to have originally belonged to such other person and never to have
8 been received or acquired by the latter from the decedent for less than
9 an adequate and full consideration in money or money's worth. Where
10 such property or any part thereof, or part of the consideration with which
11 such property was acquired, is shown to have been at any time acquired
12 by such other person from the decedent for less than an adequate and
13 full consideration in money or money's worth, there shall be excepted
14 only such part of the value of such property as is proportionate to the
15 consideration furnished by such other person. Where any property has
16 been acquired by gift, bequest, devise or inheritance, as a tenancy by the
17 entirety by the decedent and spouse, to the extent of $\frac{1}{2}$ of the value
18 thereof, or, where so acquired by the decedent and any other person as
19 joint tenants with right of survivorship and their interests are not other-
20 wise specified or fixed by law, the value of decedent's interest herein shall
21 be determined by dividing the value of the property by the number of
22 joint tenants with right of survivorship.

23 (b) Notwithstanding subsection (a), in the case of any qualified joint
24 interest, the value included in the gross estate with respect to such in-
25 terest by reason of this section is $\frac{1}{2}$ of the value of such qualified joint
26 interest. For purposes of this subsection, the term "qualified joint inter-
27 est" means any interest in property held by the decedent and the dece-
28 dent's spouse as (1) tenants by the entirety, or (2) joint tenants with right
29 of survivorship, but only if the decedent and the spouse of the decedent
30 are the only joint tenants.

31 New Sec. 26. (a) The value of the gross estate shall include the value
32 of all property: (1) To the extent of any property with respect to which
33 the decedent has at the time of death a general power of appointment,
34 or with respect to which the decedent has at any time exercised or re-
35 leased such a power of appointment by a disposition which is of such
36 nature that if it were a transfer of property owned by the decedent, such
37 property would be includable in the decedent's gross estate under sec-
38 tions 20 through 23, and amendments thereto. For purposes of this par-
39 agraph, the power of appointment shall be considered to exist on the date
40 of the decedent's death even though the exercise of the power is subject
41 to a precedent giving of notice or even though the exercise of the power
42 takes effect only on the expiration or a stated period after its exercise,
43 whether or not on or before the date of the decedent's death notice has

1 been given or the power has been exercised;

2 (2) to the extent of any property with respect to which the decedent
3 by will, or by a disposition which is of such nature that if it were a transfer
4 of property owned by the decedent such property would be includable
5 in the decedent's gross estate under section 20, 21 or 22, and amendments
6 thereto, exercises a power of appointment by creating another power of
7 appointment which under the applicable local law can be validly exercised
8 so as to postpone the vesting of any estate or interest in such property,
9 or suspend the absolute ownership or power of alienation of such prop-
10 erty, for a period ascertainable without regard to the date of the creation
11 of the first power.

12 (b) For purposes of subsection (a):

13 (1) The term "general power of appoint" means a power which is ex-
14 ercisable in favor of the decedent, the decedent's estate, the decedent's
15 creditors or the creditors of the decedent's estate, except that:

16 (A) A power to consume, invade or appropriate property for the ben-
17 efit of the decedent which is limited by an ascertainable standard relating
18 to the health, education, support or maintenance of the decedent shall
19 not be deemed a general power of appointment.

20 (B) In the case of a power of appointment, which is exercisable by
21 the decedent only in conjunction with another person:

22 (i) If the power is not exercisable by the decedent except in conjunc-
23 tion with the creator of the power, such power shall not be deemed a
24 general power of appointment.

25 (ii) If the power is not exercisable by the decedent except in con-
26 junction with a person having a substantial interest in the property, sub-
27 ject to the power, which is adverse to exercise of the power in favor of
28 the decedent, such power shall not be deemed a general power of ap-
29 pointment. For the purposes of this clause a person who, after the death
30 of the decedent, may be possessed of a power of appointment, with re-
31 spect to the property subject to the decedent's power, which the person
32 may exercise in such person's favor shall be deemed as having an interest
33 in the property and such interest shall be deemed adverse to such exercise
34 of the decedent's power.

35 (iii) If, after the application of clauses (i) and (ii), the power is a
36 general power of appointment and is exercisable in favor of such other
37 person, such power shall be deemed a general power of appointment only
38 in respect of a fractional part of the property subject to such power, such
39 part to be determined by dividing the value of such property by the num-
40 ber of such persons, including the decedent, in favor of whom such power
41 is exercisable.

42 For the purposes of clauses (ii) and (iii), a power shall be deemed to
43 be exercisable in favor of a person if it is exercisable in favor of such

1 person, the person's estate, the person's creditors or the creditors of the
2 person's estate.

3 (2) The lapse of a power of appointment during the life of the indi-
4 vidual possessing the power shall be considered a release of such power.
5 The preceding sentence shall apply with respect to the lapse of powers
6 during any calendar year only to the extent that the property, which could
7 have been appointed by exercise of such lapsed powers, exceeded in
8 value, at the time of such lapse, the greater, of the following amounts:

9 (A) \$5,000; or

10 (B) five percent of the aggregate value, at the time of such lapse, of
11 the assets out of which, or the proceeds of which, the exercise of the
12 lapsed powers could have been satisfied.

13 New Sec. 27. The value of the gross estate shall include the value of
14 all property:

15 (a) To the extent of the amount receivable by the personal represen-
16 tative as insurance under policies on the life of the decedent; and

17 (b) to the extent of the amount receivable by all other beneficiaries
18 as insurance under policies on the life of the decedent with respect to
19 which the decedent possessed at death any of the incidents of ownership,
20 exercisable either alone or in conjunction with any other person. For
21 purposes of the preceding sentence, the term "incident of ownership"
22 includes a reversionary interest, whether arising by the express terms of
23 the policy or other instrument or by operation of law, only if the value of
24 such reversionary interest exceeded 5% of the value of the policy im-
25 mediately before the death of the decedent. As used in this paragraph,
26 the term "reversionary interest" includes a possibility that the policy, or
27 the proceeds of the policy, may return to the decedent or the decedent's
28 estate, or may be subject to a power of disposition by the decedent. The
29 value of a reversionary interest at any time shall be determined without
30 regard to the fact of the decedent's death by usual methods of valuation,
31 including the use of tables of mortality and actuarial principles, pursuant
32 to rules and regulations prescribed by the secretary. In determining the
33 value of a possibility that the policy or proceeds thereof may be subject
34 to power of disposition by the decedent, such possibility shall be valued
35 as if it were a possibility that such policy or proceeds may return to the
36 decedent or the decedent's estate.

37 New Sec. 28. (a) If any one of the transfers, trusts, interests, rights
38 or powers enumerated and described in sections 20 through 23 and sec-
39 tion 26, and amendments thereto, is made, created, exercised or relin-
40 quished for a consideration in money or money's worth, but is not a bona
41 fide sale for an adequate and full consideration in money or money's
42 worth, there shall be included in the gross estate only the excess of the
43 fair market value at the time of death of the property otherwise to be

1 included on account of such transaction, over the value of the consider-
2 ation received therefor by the decedent.

3 (b) For purposes of this act, a relinquishment or promised relinquish-
4 ment of a statutory estate created in lieu of dower or curtesy, or of other
5 marital rights in the decedent's property or estate, shall not be considered
6 to any extent a consideration in money or money's worth.

7 New Sec. 29. (a) The value of the gross estate shall include the value
8 of any property in which the decedent had a qualifying income interest
9 for life where the property was the subject of the election described in
10 section 3, and amendments thereto, in the estate of the prior decedent
11 who created the qualified interest in the decedent.

12 (b) For purposes of this act, property includible in the gross estate
13 of the decedent under subsection (a) shall be treated as property passing
14 from the decedent.

15 New Sec. 30. The value of the adjusted gross estate of a decedent
16 shall be determined by deducting from the value of the gross estate of
17 such decedent the following:

18 (a) (1) The value of all property included therein having a tax situs
19 which is not within the jurisdiction of the state of Kansas.

20 (2) For purposes of this subsection, the phrase "tax situs" relates to
21 the location of property for the purpose of imposing tax under section 2,
22 and amendments thereto. Real estate or tangible personal property in-
23 cluded in the gross estate shall be considered to have a tax situs within
24 Kansas if, at the time of the decedent's death, the property is physically
25 located within the state of Kansas. Oil and gas leases on lands in this state
26 and all interests created thereby, or arising therefrom, shall be considered
27 tangible personal property having a tax situs in this state. Intangible prop-
28 erty included in the gross estate shall be presumed to have a tax situs
29 within this state if the decedent was domiciled in the state of Kansas at
30 the time of death.

31 (b) The value of all insurance included therein which is payable ab-
32 solutely to or in trust for a beneficiary other than the decedent or the
33 decedent's estate.

34 (c) The value of all property included therein which is specifically
35 exempt from inheritance taxation by the laws of this state or the laws of
36 the United States.

37 (d) Subject to the limitations provided in subsection (c)(1) of section
38 32, and amendments thereto, the value of any unpaid mortgages on or
39 any indebtedness in respect of property where the value of the decedent's
40 interest in such property, undiminished by such mortgage or indebted-
41 ness, is included in the value of the gross estate.

42 (e) The value of any losses incurred during the settlement of estates
43 arising from fires, storms, shipwrecks, or other casualties, or from theft,

1 when such losses are not compensated for by insurance or otherwise, in
2 respect of property where the value of the decedent's interest therein,
3 undiminished by such losses is included therein.

4 New Sec. 31. (a) The value of the distributable estate of a decedent
5 shall be determined by deducting from the adjusted gross estate a per-
6 centage of the total amount authorized as deductions pursuant to sections
7 32 and 34, and amendments thereto.

8 (b) For purposes of section 32, and amendments thereto, the per-
9 centage referred to in subsection (a) shall be determined by a fraction
10 the numerator of which is the value of the adjusted gross estate subject
11 to debts and the denominator of which is the value of the gross estate
12 subject to debts.

13 (c) For purposes of section 34, and amendments thereto, the per-
14 centage referred to in subsection (a) shall be determined by a fraction
15 the numerator of which is the value of the Kansas gross estate less the
16 value of any deductions allowable under subsections (a), (b) and (c) of
17 section 30, and amendments thereto, and the denominator of which is
18 the value of the total gross estate for federal estate tax purposes.

19 New Sec. 32. (a) For purposes of section 31, and amendments
20 thereto, there shall be authorized as a deduction in determining the value
21 of the distributable estate of a decedent amounts allowable as:

- 22 (1) Funeral expenses;
- 23 (2) administration expenses; and
- 24 (3) claims against the estate.

25 (b) Subject to subsection (c)(1), there shall be authorized as a de-
26 duction for purposes of section 31, and amendments thereto, in deter-
27 mining the value of the distributable estate amounts representing ex-
28 penses incurred in administering property not subject to claims which is
29 included in the gross estate to the same extent such amounts would be
30 allowable as a deduction under subsection (a) if such property were sub-
31 ject to claims, and such amounts are paid before the expiration of the
32 period of limitation for assessment provided in section 47, and amend-
33 ments thereto.

34 (c) (1) (A) The deduction allowed by this section in the case of
35 claims against the estate, unpaid mortgages or any indebtedness, when
36 founded on a promise or agreement, shall be limited to the extent that
37 they were contracted bona fide and for an adequate and full consideration
38 in money or money's worth except that in any case in which any such
39 claim is founded on a promise or agreement of the decedent to make a
40 contribution or gift to or for the use of any donee described in section 6,
41 and amendments thereto, for the purposes specified therein, the deduc-
42 tion for such claims shall not be so limited, but shall be limited to the
43 extent that it would be allowable as a deduction under section 6, and

1 amendments thereto, if such promise or agreement constituted a bequest.

2 (B) Any income taxes on income received after the death of the de-
3 cedent, or property taxes not accrued before the decedent's death or any
4 estate, succession, legacy or inheritance taxes, shall not be deductible
5 under this section.

6 (2) In the case of the amounts described in subsection (a), there shall
7 be disallowed the amount by which the deductions specified therein ex-
8 ceed the value, at the time of the decedent's death, of property subject
9 to claims, except to the extent that such deductions represent amounts
10 paid before the date prescribed for the filing of the inheritance tax return.
11 For purposes of this section, the term "property subject to claims" means
12 property includable in the gross estate of the decedent which, or the avails
13 of which, would bear the burden of the payment of such deductions in
14 the final adjustment and settlement of the estate, except that the value
15 of the property shall be reduced by the amount of the deduction under
16 subsection (e) of section 30, and amendments thereto, attributable to such
17 property.

18 New Sec. 33. Amounts allowable under subsections (d) and (e) of
19 section 30, and amendments thereto, as a deduction in computing the
20 adjusted gross estate of a decedent or under section 32, and amendments
21 thereto, as a deduction in computing the distributable estate of a de-
22 cedent shall not be allowed as a deduction, or as an offset against the sales
23 price of property in determining gain or loss, in computing the taxable
24 income of the estate or the taxable income of any other person, unless
25 there is filed, within the time and in the manner and form prescribed by
26 rules and regulations adopted by the secretary, a statement that the
27 amounts have not been allowed as deductions under subsections (d) and
28 (e) of section 30 or section 32, and amendments thereto, and a waiver of
29 the right to have such amounts allowed at any time as deductions under
30 subsections (d) and (e) of section 30 or section 32, and amendments
31 thereto. This section shall not apply with respect to deductions allowed
32 pursuant to law relating to income in respect of decedents.

33 New Sec. 34. For purposes of section 31, and amendments thereto,
34 there shall be authorized as a deduction in determining the value of the
35 distributable estate of a decedent the amount of federal tax imposed on
36 the transfer of the decedent's federal taxable estate.

37 New Sec. 35. (a) The value of the distributive shares of a decedent's
38 estate shall be determined by allocating to each distributee that portion
39 of the distributable estate to which each succeeds, whether each succeeds
40 to the ownership of their respective share by reason of the provisions of
41 a will, or trust, or under the laws of intestate succession, or as a surviving
42 joint tenant, or by deed, grant or gift, (whether or not made in contem-
43 plation of death, or made or intended to take effect in possession or

1 enjoyment after the death of the grantor to any person, absolutely or in
2 trust) or whether the transfer from the decedent to the distributee is
3 made in any other manner recognized under Kansas law.

4 (b) When any property or interest thereon, or income therefrom, to
5 be distributed to each distributee shall pass or be limited for the life of
6 another, or for a term of years, or to terminate on the expiration of certain
7 period, the value of the life estate, term of years or period of limitation
8 shall be fixed according to rules and regulations adopted by the secretary.
9 The value of the remainder in such property so limited shall be ascer-
10 tained by deducting the value of the life estate, term of years or period
11 of limitation, from the value of the property included in the distributable
12 estate.

13 New Sec. 36. (a) Except as hereinafter provided, the executor or ad-
14 ministrator of the estate of every decedent whose death gives rise to a tax
15 liability under the provisions of this act, within nine months following the
16 death of the decedent, shall make and file in the office of the director a
17 return on forms prepared and furnished by the secretary.

18 (b) In those estates in which no executor or administrator has been
19 appointed, the deemed executor shall make and file such return. In the
20 event there is more than one deemed executor, all deemed executors
21 shall be jointly responsible for completing and filing one return reporting
22 all of the assets of the estate except as hereinafter provided.

23 (c) If, after exercising due diligence, the personal representative mak-
24 ing and filing such return is unable to make a complete return as to any
25 part of the gross estate of the decedent, such personal representative shall
26 make and file a return reporting all information as to the estate assets,
27 including a description thereof and the name of any person holding a
28 legal or beneficial interest in the assets to the best of such personal rep-
29 resentative's knowledge.

30 (d) The taxes imposed under the provisions of this act shall be paid
31 at the expiration of nine months after the death of the decedent. Such
32 taxes shall be payable from the assets of the estate or proceeds therefrom,
33 in order, so far as practicable, that each distributive share of the estate
34 shall bear a just and equitable proportion of such taxes unless otherwise
35 directed by the will of the decedent or trust agreement.

36 (1) The executor or administrator of the estate of every decedent who
37 is required to file a return shall pay to the director all taxes imposed under
38 this act. In the event the tax imposed against the shares of the decedent's
39 estate exceeds the value of the assets or the proceeds therefrom which
40 were in the custody or control of the executor or administrator, the ex-
41 ecutor or administrator shall pay the tax imposed to the extent of the
42 value of the amount or the proceeds therefrom within such executor's or
43 administrator's custody or control and the balance of the taxes may be

1 stayed upon application to and approval by the director. Such application
2 shall be made at the time the return is filed upon forms prescribed by
3 the secretary. Upon approval of such application payment of the taxes
4 shall be stayed for a period not to exceed one year and the executor or
5 administrator shall have a right to proceed against the individual distri-
6 butee or distributees receiving such taxable shares and may perfect a lien
7 therefor under the provisions of section 42, and amendments thereto.

8 (2) Except as hereinafter provided, the deemed executor or deemed
9 executors of the estate of every decedent who are required to file a return
10 shall pay to the director all of the taxes imposed by this act. To the extent
11 that all deemed executors do not join in the filing of the return, the
12 deemed executors who jointly file shall pay only that portion of the taxes
13 representing the aggregate tax liability imposed upon the distributive
14 shares of those so filing.

15 (3) Where an asset not within the custody or control of a personal
16 representative gives rise to a tax liability and such personal representative
17 is required to pay such tax or has voluntarily paid such tax from the assets
18 within such personal representative's custody or control, the personal rep-
19 resentative shall have a right to proceed against the individual distributee
20 receiving such share and may perfect a lien therefor under the provisions
21 of section 42, and amendments thereto. For the purpose of this para-
22 graph: (1) With respect to the tax liability caused without consideration
23 of sections 9 and 10, and amendments thereto, the personal representa-
24 tive shall be entitled to recover from the distributee the amount by which
25 the total tax liability of the decedent's estate resulting from such assets
26 outside the control of the personal representative and received by the
27 distributee exceeds the total tax liability which would have been payable
28 if the value of such property had not been included in the decedent's
29 gross estate; and (2) with respect to any additional tax liability resulting
30 from the application of sections 9 and 10, and amendments thereto, the
31 personal representative shall be entitled to recover from the distributee
32 that portion of the total tax liability caused by such application equal to
33 the ratio that the value of such assets outside the control of the personal
34 representative received by the distributee bears to the total value of such
35 assets outside the control of the personal representative.

36 (4) Whenever the personal representative is required to pay the taxes
37 imposed upon an asset not within the personal representative's custody
38 or control and pays the taxes imposed thereon from assets or proceeds
39 therefrom of the estate within the personal representative's custody or
40 control and thereafter fails to collect the taxes attributable to the distri-
41 butive shares of the decedent's estate which were not within the personal
42 representative's custody or control, the personal representative shall be
43 entitled to a refund of the taxes attributable to such shares which were

1 paid from assets or proceeds therefrom within the personal representa-
2 tive's custody or control upon application to the director. The application
3 for refund shall be filed on forms prescribed by the secretary within the
4 time allowed for refunds pursuant to section 47, and amendments
5 thereto. Upon being satisfied that the personal representative has exer-
6 cised due diligence in attempting to recover the taxes attributable to the
7 distributive shares of the decedent's estate which were not within such
8 personal representative's custody or control, the director shall refund the
9 same.

10 (5) The director shall issue a receipt acknowledging payment of such
11 taxes whenever the taxes as shown to be due on the return or any addi-
12 tional taxes assessed by the director have been paid by a personal rep-
13 resentative and (A) such executor or administrator has requested a cash
14 receipt in order to be subrogated to the state's right to proceed in col-
15 lecting the tax against a distributee; or (B) such executor or administrator
16 has received a stay of payment from the director. Such a receipt shall be
17 issued only under circumstances described in clauses (A) or (B) of this
18 subsection and shall not constitute evidence that a final determination of
19 taxes pursuant to section 44, and amendments thereto, has been made.

20 (e) If the taxes contemplated by this act are not paid when due, in-
21 terest at the rate prescribed by subsection (b) of K.S.A. 79-2968, and
22 amendments thereto, shall be charged and collected commencing at the
23 time the same become payable. When the filing of the return is delayed
24 beyond nine months after the death of the decedent and the director
25 finds that such delay was due to the inability of the personal represen-
26 tative to determine the distributive shares of an estate or the proper
27 recipients thereof, or to litigation, interest shall commence at the time
28 the return is filed.

29 (f) At the election of the personal representative, the taxes imposed
30 by this act may be determined by the director. Such election shall be
31 made by filing a return disclosing all information necessary for the de-
32 termination of the taxes imposed by this act. Upon receipt of all necessary
33 information, the director shall determine the taxes due and owing and
34 shall notify the personal representative of the tax liability by registered or
35 certified mail. Notwithstanding any election made pursuant to this sec-
36 tion, the taxes shall be due and payable at the same time and in the same
37 manner as if the taxes had been determined by the personal represen-
38 tative. If the election pursuant to this subsection is made before the ex-
39 piration of the nine-month period after the death of the decedent, interest
40 shall be charged and collected commencing 10 days after notice of the
41 tax liability has been received by the personal representative, or at the
42 expiration of the nine-month period after the decedent's death, whichever
43 is later. If the election pursuant to this subsection is not timely made and

1 the director shall find that the delay was not due to the circumstances set
2 forth in subsection (e), interest shall be charged and collected commencing
3 at the expiration of the nine-month period after the decedent's death.

4 New Sec. 37. The personal representative of any decedent, the
5 shares of whose estate are not taxable under the provisions of this act,
6 may obtain a determination of the director that no tax liability exists
7 thereon by filing an affidavit with the director stating that such shares of
8 the decedent's estate are not taxable. Any such affidavit shall be in such
9 form as prescribed by the secretary to show the condition of the estate
10 and the shares thereof to the extent that the director may make such
11 determination. Upon being satisfied of the information contained in such
12 affidavit, the director shall issue a certificate that the shares of the decedent's
13 estate are not taxable under the provisions of this act to the
14 person making such affidavit, and when the estate is involved in proceedings
15 before a district court, to the judge of such court for recording
16 in full in the journal of such court. Release of the lien imposed by section
17 42, and amendments thereto, may be provided by filing notice of release
18 in the office of the register of deeds in any county where any such real
19 property included in the gross estate is located or, when the estate is
20 involved in proceedings before a district court, with the court. Any such
21 notice of release shall be in such form as prescribed by the secretary and
22 may include use of or reference to the certificate issued by the director
23 or may be included as part of that certificate.

24 New Sec. 38. (a) If the value of an interest in a closely held business
25 which is included in determining the gross estate of a decedent who was,
26 at the date of death, a resident of this state, exceeds either 35% of the
27 value of the gross estate of such decedent, or 50% of the Kansas taxable
28 estate of such decedent, the person filing the return pursuant to section
29 36, and amendments thereto, may elect to pay part or all of the tax imposed
30 by this act in two or more but not exceeding 10 equal installments.
31 Any such election shall be made not later than the time prescribed by
32 section 36, and amendments thereto, for filing the return of such tax and
33 shall be made in such manner as the secretary shall prescribe by rules
34 and regulations.

35 (b) The maximum amount of tax which may be paid in installments
36 as provided in this section shall be an amount which bears the same ratio
37 to the tax imposed by this act as the value of the interest in the closely
38 held business which qualifies under subsection (a) bears to the value of
39 the gross estate.

40 (c) For purposes of this section, the term "interest in a closely held
41 business" means:

42 (1) An interest as a proprietor in a trade or business carried on as a
43 proprietorship;

1 (2) an interest as a partner in a partnership carrying on a trade or
2 business, if:

3 (A) Twenty percent or more of the total capital interest in such part-
4 nership is included in determining the gross estate of the decedent; or

5 (B) such partnership had 10 or less partners;

6 (3) stock in a corporation carrying on a trade or business, if:

7 (A) Twenty percent or more in value of the voting stock of such cor-
8 poration is included in determining the gross estate of the decedent; or

9 (B) such corporation had 10 or less shareholders.

10 For purposes of this subsection, determinations shall be made as of the
11 time immediately before the decedent's death.

12 (d) For purposes of subsections (a), (b) and (h)(1), interests in two
13 or more closely held businesses, with respect to each of which there is
14 included in determining the value of the decedent's gross estate more
15 than 50% of the total value of each such business, shall be treated as an
16 interest in a single closely held business.

17 (e) If an election is made under subsection (a), the first installment
18 shall be paid on or before the date prescribed by section 36, and amend-
19 ments thereto, and each succeeding installment shall be paid on or before
20 the date which is one year after the date prescribed by this subsection
21 for payment of the preceding installment.

22 (f) If an election is made under subsection (a) to pay any part of the
23 tax imposed by this act in installments and a deficiency has been assessed,
24 the deficiency, subject to the limitation provided by subsection (b), shall
25 be prorated to such installments. The part of the deficiency so prorated
26 to any installment the date for payment of which has arrived shall be paid
27 upon notice and demand from the director. This subsection shall not
28 apply if the deficiency is due to negligence, to intentional disregard of
29 rules and regulations or to fraud with intent to evade tax.

30 (g) If the time for payment of any amount of tax has been extended
31 under this section, interest at the rate prescribed by subsection (b) of
32 K.S.A. 79-2968, and amendments thereto, on any unpaid portion of such
33 amount shall be paid annually at the same time as, and as a part of, each
34 installment payment of the tax. Interest, on that part of a deficiency pro-
35 rated under this section to any installment the date for payment of which
36 has not arrived, for the period before the date fixed for the last installment
37 preceding the assessment of the deficiency, shall be paid upon notice and
38 demand from the director.

39 (h) If: (1) Aggregate withdrawals of money and other property from
40 the trade or business, an interest in which qualifies under subsection (a),
41 made with respect to such interest, equal or exceed 50% of the value of
42 such trade or business, or (2) fifty percent or more in value of an interest
43 in a closely held business which qualifies under subsection (a) is distrib-

1 uted, sold, exchanged or otherwise disposed of, then the extension of time
2 for payment of tax provided in this section shall cease to apply, and any
3 unpaid portion of the tax payable in installments shall be paid upon notice
4 and demand from the director.

5 New Sec. 39. In every case where the Kansas adjusted gross estate
6 includes the value of a transfer of property or an interest in property
7 which was made or intended to take effect in possession or enjoyment
8 after the death of the grantor, to take effect in possession or come into
9 actual enjoyment after the expiration of one or more life estates or a term
10 of years, a vested estate in remainder whether conditional upon the hap-
11 pening of a contingency or dependent upon the exercise of a discretion
12 or subject to a power of appointment or otherwise, the tax on any shares
13 including any of such property shall be due and payable to the director
14 at the time prescribed by section 36, and amendments thereto, and such
15 tax shall remain a lien upon the entire property of the respective shares
16 until paid. Vested estates in remainder, as used herein, shall include all
17 estates where the remainderman, being alive, would take at once if the
18 life tenant were to die. Notwithstanding the foregoing provision, any per-
19 sonal representative charged with such tax may elect not to pay the same
20 until the right to come into actual possession or enjoyment of such estate
21 accrues, and in such cases the person shall give bond to the state of Kansas
22 as hereinafter provided. Such bond shall be in a penal sum of 125% of
23 the amount of the tax arising from such property. The personal repre-
24 sentative may give to the state of Kansas a personal bond securing pay-
25 ment of the aggregate tax liability on all such bequests or grants. Any
26 bond given under the provisions of this section shall be conditioned for
27 the payment of such tax and interest thereon at the rate prescribed by
28 subsection (b) of K.S.A. 79-2968, and amendments thereto, until such
29 time or period as the distributee or the distributee's representative comes
30 into actual possession or enjoyment of such estates, but the tax may be
31 paid at any time, in which case the obligation of the bond shall be dis-
32 charged. The bond shall be filed in the office of the director and shall
33 discharge the lien of such tax. Every such bond shall be renewed every
34 five years, and in default of the renewal thereof the conditions of such
35 bond shall be deemed to be broken, and the recovery of the tax secured
36 thereby may be obtained by an action on the bond without awaiting the
37 distributee or the distributee's representative to come into possession or
38 enjoyment of such estate.

39 New Sec. 40. (a) Upon estates or interest in expectancy which are
40 contingent, the rates of tax imposed by this act shall be determined upon
41 the value of such estates or interests at the time when the persons entitled
42 thereto shall come into the beneficial enjoyment or possession thereof,
43 without such value being diminished for or on account of any valuation

1 theretofore made of the particular estates for the purpose of taxation upon
2 which such estates or interests in expectancy may have been limited.

3 (b) In case it is desired to pay the tax upon such future estates or
4 interests immediately, the director, with the approval of the attorney gen-
5 eral, may effect such settlement of the tax as deemed in the best interests
6 of the state, and the payment of the tax so agreed upon shall be in full
7 satisfaction of the tax lien against any such interest. In such cases the
8 settlement may be based upon the residue of the total value of the estate
9 as determined at the time authorized under the provisions of section 15,
10 and amendments thereto, after the deduction therefrom of the value of
11 the particular estates upon which such future contingent interests are
12 limited.

13 New Sec. 41. (a) A personal representative holding property subject
14 to tax shall deduct the tax therefrom or collect it from the distributee,
15 and the personal representative shall not deliver property or a specific
16 legacy subject to such tax until the personal representative has collected
17 the tax thereon. A personal representative shall collect taxes due upon
18 real property which is subject to tax under the provisions hereof from the
19 heirs or devisees entitled thereto, and the personal representative may
20 be authorized to sell such real property as authorized by this section, if
21 the distributees refuse or neglect to pay such taxes. In the event the
22 distributees entitled to real property of the decedent refuse or neglect to
23 pay the taxes thereon, the district court of the proper county may au-
24 thorize the personal representative to sell the real property of a decedent
25 for the payment of such tax in the same manner as it may authorize them
26 to sell real property for the payment of debts.

27 (b) Whenever a devise or grant of real property is conditioned on the
28 payment of a legacy subject to the taxes imposed by this act, the distri-
29 butee succeeding to such real property shall deduct the taxes due on such
30 legacy and pay it to the personal representative before paying the legacy.
31 The tax due on such legacy shall remain a lien upon the real property, or
32 the proceeds therefrom in the event of the disposition of such real prop-
33 erty, until the same is paid. Payment of the tax due on such legacy may
34 be enforced by the personal representative in the same manner as the
35 payment of the legacy itself could be enforced.

36 New Sec. 42. (a) Subject to the provisions of subsection (b), property
37 of which a decedent died seized or possessed, subject to the taxes imposed
38 by this act, in whatever form of investment it may happen to be shall be
39 charged with a lien for all taxes and interest thereon which are or may
40 become due on such property; but the lien shall not affect any property
41 after it has been sold or disposed of for value by the executors or admin-
42 istrators in accordance with law, and no consent to transfer issued by the
43 director shall be required to release such lien, but in all such cases a lien

1 shall attach to the proceeds realized from any such sale or other dispo-
2 sition for all taxes and interest thereon which are or may be due on such
3 property. That portion of the decedent's property which is used for the
4 payment of charges against the estate and expenses of its administration,
5 allowed by any court having jurisdiction thereof, shall be divested of such
6 lien. The lien on any property subject to the inheritance tax act by virtue
7 of the provisions of this subsection shall be divested after 10 years from
8 the date of the decedent's death.

9 (b) If the taxes imposed under this act are not paid when due, the
10 spouse, transferee, surviving tenant, person in possession of the property
11 by reason of the exercise, nonexercise, or release of a power of appoint-
12 ment, or beneficiary, who receives, or has on the date of the decedent's
13 death, property included in the gross estate under sections 19 through
14 24, and amendments thereto, and sections 26 through 28, and amend-
15 ments thereto, to the extent of the value of such property at the time of
16 the decedent's death shall be personally liable for such tax. Any part of
17 such property transferred by, or transferred by a transferee of such
18 spouse, transferee, trustee, surviving tenant, person in possession or ben-
19 eficiary to a purchaser or holder of a security interest shall be divested of
20 the lien provided for in subsection (a) and a similar lien shall then attach
21 to all the property of such spouse, transferee, trustee, surviving tenant,
22 person in possession, beneficiary or transferee of any such person, except
23 any part transferred to a purchaser or a holder of a security interest.

24 (c) Upon issuance of a receipt for taxes paid pursuant to subsection
25 (d)(5) of section 36, and amendments thereto, to a personal representative
26 who has paid the taxes imposed by this act or an approved application for
27 stay filed pursuant to subsection (d)(1) of section 36, and amendments
28 thereto, the personal representative shall be subrogated to the right to
29 proceed against any real or personal property in which a distributee has
30 an interest which the state might have had. The issuance of a receipt for
31 taxes paid by the director after payment of the taxes or approved appli-
32 cation for stay shall be deemed an assignment by the state to the personal
33 representative of the right to proceed against the real and personal prop-
34 erty in which a distributee has an interest and shall be conclusive evidence
35 thereof. A right to proceed shall arise and a lien shall be perfected to aid
36 the personal representative in the right to proceed against property of a
37 distributee only if the personal representative files a notice of lien with
38 the register of deeds. The lien shall be effective only against property of
39 a distributee located in the county where the notice of lien is filed. Such
40 notice of lien may be filed in any county wherein any real or personal
41 property in which the distributee has an interest is located. The notice of
42 lien shall be made on forms prescribed by the secretary. Upon satisfaction
43 of the lien, a release shall be issued by such personal representative on

1 forms prescribed by the secretary.

2 (d) If the personal representative has requested and received a re-
3 fund of taxes paid pursuant to subsection (d)(4) of section 36, and amend-
4 ments thereto, or whenever the personal representative fails to collect
5 the tax pursuant to subsection (d)(4) of section 36, and amendments
6 thereto, or is not required to pay the tax imposed by this act or the taxes
7 imposed by this act are not paid at the expiration of nine months after
8 the death of the decedent, the director shall enforce the director's lien
9 by the issuance of a warrant under the director's hand and official seal,
10 directed to the sheriff of any county of the state, commanding such sheriff
11 to levy upon and sell the real and personal property of the distributee
12 found within the sheriff's county for the payment of the amount thereof,
13 with the added interest and the cost of executing the warrant, and to
14 return such warrant to the director and pay to the director the money
15 collected by virtue thereof not more than 60 days from the date of the
16 warrant. The sheriff shall within five days after the receipt of the warrant,
17 file with the clerk of the district court of the sheriff's county a copy
18 thereof, and thereupon the clerk shall enter in the appearance docket in
19 appropriate columns, the name of the distributee named in the warrant,
20 the amount of the tax or portion thereof and interest for which the warrant
21 is issued and the date such copy is filed. The amount of such warrant so
22 docketed shall thereupon become a lien upon the title to, and interest in,
23 the real property of the distributee against whom it is issued in the same
24 manner, as a judgment duly docketed in the office of such clerk. The
25 sheriff shall proceed in the same manner and with like effect as prescribed
26 by law with respect to executions issued against property upon judgments
27 of a court of record, and shall be entitled to the same fees for the sheriff's
28 services to be collected in the same manner.

29 The court in which the warrant is docketed shall have jurisdiction over
30 all subsequent proceedings as fully as though a judgment had been ren-
31 dered in the court. In the discretion of the director, a warrant of like
32 terms, force and effect may be issued and directed to any officer or em-
33 ployee of the director, and in the execution thereof such officer or em-
34 ployee shall have all the powers conferred by laws upon sheriffs, and the
35 subsequent proceedings thereunder shall be the same as provided where
36 the warrant is issued directly to the sheriff. The distributee shall have the
37 right to redeem the real estate within a period of 18 months from the
38 date of such sale. If a warrant be returned, unsatisfied in full, the director
39 shall have the same remedies to enforce the claim for taxes as if the state
40 of Kansas had recovered judgment against the distributee for the amount
41 of the tax. No law exempting any goods and chattels, land and tenements
42 from forced sale under execution shall apply to a levy and sale under any
43 such warrants or upon any execution issued upon any judgment rendered

1 in any action for inheritance taxes. The director shall have the right at
2 any time after the warrant has been returned unsatisfied or satisfied only
3 in part, to issue alias warrants until the full amount of the tax is collected.

4 New Sec. 43. No final account of a personal representative shall be
5 allowed by the district court unless such account shows, and the judge of
6 such court finds, that all taxes imposed by the provisions of this act upon
7 any property or interest therein belonging to the estate to be settled by
8 such account and already payable have been paid, and that all taxes which
9 may become due on such estate have been paid or settled as hereinbefore
10 provided, or that the payment thereof to the state is secured by bond.

11 New Sec. 44. (a) As soon as practicable after the return is filed and
12 the taxes paid, the director shall issue a closing letter. Such closing letter
13 shall be issued upon the director being satisfied that there has been a
14 final determination of all taxes due and that all such taxes have been paid.
15 The director shall issue such closing letter to the personal representative,
16 and when the estate is involved in probate proceedings before a district
17 court, a copy of such closing letter shall be forwarded to the judge of
18 such court for recording in full in the journal of such court.

19 (b) In the event that all deemed executors do not join in the filing of
20 a return, or in the event the personal representative is unable to make a
21 complete return as to any part of the gross estate of the decedent, upon
22 the director being satisfied that a final determination of the taxes due on
23 that portion of the estate reported has been made and all taxes due
24 thereon have been paid, the director shall issue a closing letter as to that
25 portion of the gross estate which has actually been reported.

26 (c) The closing letter shall be applicable only to assets reported in the
27 return filed with the director. To the extent the gross assets of the de-
28 cedent were reported, the issuance of a closing letter shall be conclusive
29 evidence that all taxes have been determined and paid and shall release
30 any lien which attached to the decedent's property and that of any
31 deemed executor or distributee unless such lien has been subrogated,
32 assigned and perfected pursuant to section 42, and amendments thereto.
33 The closing letter may contain a legal description of the real property so
34 reported.

35 (d) Release of the lien imposed by section 42, and amendments
36 thereto, may be provided by filing notice of release in the office of the
37 register of deeds in any county where any such real property included in
38 the gross estate is located or, when the estate is involved in proceedings
39 before the district court, with the court. Any such notice of release shall
40 be in such form as prescribed by the secretary and may include use of or
41 reference to the closing letter issued by the director or may be included
42 as part of that closing letter.

43 New Sec. 45. (a) Assets belonging to the estate of a deceased non-

1 resident, other than intangible assets of a decedent who at the time of
2 death resided in the United States but outside this state, shall not be
3 delivered or transferred to a foreign personal representative of such de-
4 cedent without serving notice upon the director of taxation of the time
5 and place of such intended delivery or transfer at least seven days before
6 the time of such delivery or transfer. The director or the director's rep-
7 resentative may examine such assets prior to the time of such delivery or
8 transfer. Failure to serve such notice or to allow such examination or a
9 delivery or transfer of such assets against the objection of the director
10 shall render the person, association, or corporation making the delivery
11 or transfer liable for the payment of the tax and interest due upon such
12 assets, in an action brought by the department of revenue in the name
13 of the state.

14 (b) A foreign or Kansas person, corporation, partnership or other as-
15 sociation of persons may release or transfer intangible assets of a nonres-
16 ident decedent upon receipt of a sworn affidavit from the personal rep-
17 resentative of the decedent's estate, stating that the decedent was not a
18 resident of the state of Kansas at the time of the decedent's death but
19 that such decedent was a resident of another state in the United States.

20 New Sec. 46. If a distributee who has paid tax afterward surrenders
21 a portion of the property on which it was paid, or if it is judicially deter-
22 mined that the whole or any part of such tax ought not to have been paid,
23 such tax, or the due proportion thereof, shall be repaid to the distributee
24 by the personal representative.

25 New Sec. 47. (a) Except as otherwise provided in this section, the
26 amount of any tax imposed by this act shall be assessed within three years
27 after the return or affidavit was filed, whether or not such return was
28 filed on or after the date prescribed, or the tax as shown to be due on
29 such return was paid, whichever is the later date, and no proceedings in
30 court for the collection of such taxes shall be begun after the expiration
31 of such period. Where the assessment of any inheritance tax imposed
32 under this act has been made within the period of limitation properly
33 applicable thereto, such tax may be collected by distraint or by a pro-
34 ceeding in court but only if begun within one year after the period of
35 limitation as provided in this act. The foregoing provisions of this section
36 shall not apply in those cases where the time for the payment of the tax
37 has been extended pursuant to section 39, and amendments thereto. In
38 those cases where the director has retained jurisdiction over the estate
39 pursuant to assessment of taxes or proceedings to collect taxes may be
40 made or commenced within three years after notice of the death of the
41 life tenant. In those cases where a bond has been given guaranteeing the
42 payment of the tax pursuant to section 39, and amendments thereto,
43 assessment of taxes or proceedings for collection of the tax must be made

1 or commenced within three years after the date of the expiration of the
2 last bond so given.

3 (b) For the purposes of this section, a return of tax required under
4 this act filed before the last day prescribed by law shall be deemed to be
5 filed on such last day and any tax shown to be due on such return and
6 paid before the last day prescribed by law shall be deemed to be paid on
7 such last day.

8 (c) In the case of a false or fraudulent return or affidavit with intent
9 to evade tax or in the case of failure to file a return, the tax may be
10 assessed, or a proceeding in court for collection of such tax may be begun
11 at any time. If the personal representative omits from the gross estate
12 items includable in such gross estate as exceed 25% of the gross estate
13 stated in the return or affidavit, the tax may be assessed or a proceeding
14 in court for collection of such tax may be begun at any time within six
15 years after the return or affidavit was filed. In determining the items
16 omitted from the gross estate, there shall not be taken into account any
17 item which is omitted from the gross estate if such item is disclosed in
18 the return or affidavit, in a manner adequate to apprise the director of
19 the nature and amount or such item.

20 (d) No refund or credit shall be allowed by the director after three
21 years from the date the return was filed, or one year after an assessment
22 is made, whichever is the later date, unless before the expiration of such
23 period a claim therefor is filed by the personal representative.

24 (e) In case a personal representative has made claim for a refund,
25 such personal representative shall have the right to commence a suit for
26 the recovery of the same at the expiration of six months after the filing
27 of the claim for refund, if no action has been taken by the director.

28 (f) Any personal representative of an estate of a decedent who has
29 been notified of any adjustment by the internal revenue service shall
30 notify the director within 90 days of the date such adjustment is agreed
31 to or becomes final between the estate and the internal revenue service.
32 Such adjustments shall be reported by filing an amended return and a
33 copy of the revenue agent's report detailing such adjustments, along with
34 any other statements or documents as may be necessary to explain and
35 support the adjustments.

36 (1) Notwithstanding the provisions of subsection (a) or (d), additional
37 tax may be assessed and proceedings in court for collection of such taxes
38 may be commenced and any refund or credit may be allowed by the
39 director of taxation within 180 days following receipt of any such report
40 of adjustments by the Kansas department of revenue. No assessment shall
41 be made nor shall any refund or credit shall be allowed under the pro-
42 visions of this paragraph except to the extent the same is attributable to
43 changes in the estate due to adjustments indicated by such report.

1 (2) In the event of failure to comply with the provisions of this sub-
2 section, the statute of limitations shall be tolled.

3 New Sec. 48. As soon as practicable after the return or affidavit is
4 filed the director shall make an examination thereof and shall issue final
5 determinations of tax liability hereunder in the manner prescribed by
6 K.S.A. 79-3226, and amendments thereto. If the tax found due is less
7 than the amount paid, the excess paid shall be refunded to the personal
8 representative who paid the tax. If the tax found due shall be greater than
9 the amount previously paid, or if a claim for a refund is denied, notice
10 shall be mailed to the person filing the return by registered or certified
11 mail. An order finding additional tax shall be accompanied by a notice
12 and demand for payment. The tax shall be paid within 30 days thereafter,
13 together with interest on the additional tax from the date the tax was due
14 unless an appeal is taken in the manner provided by K.S.A. 74-2438, and
15 amendments thereto. No additional tax shall be assessed for less than
16 \$25.

17 New Sec. 49. Subject to the right of any personal representative to
18 apply for review as provided for in this act, the director shall hear and
19 determine all questions relative to such tax. The attorney for the director,
20 at the request of the director, shall represent the state in any court pro-
21 ceedings brought to review any action of the director. If any district court
22 shall find that any such tax remains due and that proper proceedings have
23 not been taken before the director for abatement thereof, it shall order
24 the personal representative to pay the same, with interest, and costs, and
25 no question regarding the validity of such tax shall be heard in such court.
26 If it appears that there are no goods or assets of the estate in the personal
27 representative's hands, the court may assess the amount of the tax against
28 the personal representative, as if for the personal representative's own
29 debt, and may enforce compliance with such order; but the personal
30 representatives shall be personally liable only for such taxes as shall be
31 payable while they continue in such offices or have custody or control of
32 decedent's property. In the cases where the tax is due and payable by and
33 collectible from the distributee, all actions shall be prosecuted by the
34 attorney for the director in the name of the state, and such actions may
35 be brought in the same courts as other actions for money.

36 New Sec. 50. The director shall pay to the state treasurer on Monday
37 of each week the entire amount of revenue collected or received during
38 the previous week from the tax imposed by this act less amounts withheld
39 as provided in section 51, and amendments thereto, which amount shall
40 be credited to the state general fund, and shall be applicable to such
41 purposes as the legislature by law may direct.

42 New Sec. 51. A refund clearing fund, designated inheritance tax
43 abatement refund, not to exceed \$50,000 shall be set apart and main-

1 tained by the director of taxation from inheritance tax collections and
2 held by the state treasurer for the prompt payment of all abatements and
3 refunds. If the director of taxation finds that a claim for refund duly filed
4 by a personal representative pursuant to sections 36, 47 and 48, and
5 amendments thereto, should be allowed, or if a court upon a final judg-
6 ment shall find that the inheritance tax or interest paid by a personal
7 representative is in excess of the amount legally due, then the director of
8 taxation shall issue the director's vouchers to the director of accounts and
9 reports for the refund to the personal representative of such tax or interest
10 together with interest provided for hereinafter. Upon receipt of such
11 voucher properly executed and endorsed, the director of accounts and
12 reports shall issue the director's warrants to the state treasurer for the
13 payment to the personal representative out of the inheritance tax abate-
14 ment refund fund. The director of taxation shall file a duplicate of such
15 voucher and also a statement which shall set forth the reasons why such
16 abatement or refund was allowed. Upon allowance of an abatement or
17 refund of any tax or interest paid, interest shall be allowed and paid on
18 the amount of such abatement or refund at the rate of 12% per annum
19 from the date such tax or interest was paid to the date the refund or
20 abatement of inheritance taxes is made. No refunds in an amount of less
21 than \$25 shall be made.

22 New Sec. 52. (a) The director of taxation shall fix and charge an
23 amount pursuant to K.S.A. 45-218 and 45-219, and amendments thereto
24 for furnishing certified copies of returns or affidavits.

25 (b) All fees collected hereunder shall be remitted to the state trea-
26 surer at least monthly. Upon receipt of each such remittance, the state
27 treasurer shall deposit the entire amount thereof in the state treasury and
28 the same shall be credited to the state general fund.

29 New Sec. 53. The secretary of revenue shall adopt such rules and
30 regulations as may be deemed necessary to carry out the purposes of this
31 act.

32 New Sec. 54. The provisions of this act shall be applicable to the
33 estates of all decedents dying after May 31, 2002. The provisions of K.S.A.
34 2001 Supp. 79-15,100 through 79-15,126, and amendments thereto, in
35 effect immediately before the effective date of this act shall be applicable
36 to the estates of all decedents dying before June 1, 2002.

37 New Sec. 55. (a) All reports and returns required under the provi-
38 sions of the Kansas inheritance tax act shall be preserved for three years
39 and thereafter until the director of taxation orders them to be destroyed.

40 (b) Except in accordance with proper judicial order, or as provided
41 in subsection (c) of this section, subsection (g) of K.S.A. 17-7511, and
42 amendments thereto, or 46-1106, and amendments thereto, it shall be
43 unlawful for the director of taxation, or any deputy, agent, clerk or other

1 officer, employee or former employee of the department of revenue or
2 any other state officer or employee or former state officer or employee
3 to divulge, or to make known in any way, the value of any estate or any
4 particulars set forth or disclosed in any report, return, federal return or
5 federal return information required under the provisions of the Kansas
6 inheritance tax act; and it shall be unlawful for the director of taxation,
7 any deputy, agent, clerk or other officer or employee of the department
8 of revenue engaged in the administration of the Kansas inheritance tax
9 act to engage in the business or profession of tax accounting or to accept
10 employment, with or without consideration, from any person, firm or
11 corporation for the purpose, directly or indirectly, of preparing tax returns
12 or reports required by the laws of the state of Kansas, by any other state
13 or by the United States government, or to accept any employment for
14 the purpose of advising, preparing material or data, or the auditing of
15 books or records to be used in an effort to defeat or cancel any tax or
16 part thereof that has been assessed by the state of Kansas, any other state
17 or by the United States government.

18 (c) Nothing herein shall be construed to prohibit the publication of
19 statistics, so classified as to prevent the identification of particular reports
20 or returns and the items thereof, or the inspection of returns by the
21 attorney general or other legal representatives of the state. Nothing in
22 this section shall prohibit the post auditor from access to all inheritance
23 tax reports or returns in accordance with and subject to the provisions of
24 subsection (g) of K.S.A. 46-1106, and amendments thereto. Nothing in
25 this section shall be construed to prohibit the disclosure of the taxpayer's
26 name, social security number, last known address and total tax liability,
27 including penalty and interest, from inheritance tax returns to a debt
28 collection agency contracting with the secretary of revenue pursuant to
29 K.S.A. 75-5140 to 75-5143, inclusive, and amendments thereto. Any per-
30 son receiving any information under the provisions of this subsection shall
31 be subject to the confidentiality provisions of subsection (b) of this section
32 and to the penalty provisions of subsection (d) of this section.

33 (d) Any violation of subsections (b) or (c) of this section shall be a
34 class B misdemeanor; and if the offender be an officer or employee of
35 the state, such officer or employee shall be dismissed from office.

36 (e) Notwithstanding the provisions of this section, the secretary of
37 revenue may permit the commissioner of internal revenue of the United
38 States, or the proper official of any state imposing an inheritance tax, or
39 the authorized representative of either, to inspect the inheritance tax
40 returns made under the provisions of the Kansas inheritance tax act and
41 the secretary of revenue may make available or furnish to the taxing of-
42 ficials of any other state or the commissioner of internal revenue of the
43 United States or other taxing officials of the federal government, or their

1 authorized representatives, information contained in inheritance tax re-
2 ports or returns or any audit thereof or the report of any investigation
3 made with respect thereto, filed pursuant to the Kansas inheritance tax
4 act, as the secretary may consider proper, but such information shall not
5 be used for any other purpose than that of the administration of the tax
6 laws of such state, the state of Kansas or of the United States.

7 (f) Notwithstanding the provisions of this section, the inheritance tax
8 return filed with respect to the estate of a decedent, upon written request,
9 shall be open to inspection by or disclosure to: (1) The administrator,
10 executor or trustee of such decedent’s estate, and (2) any heir at law, next
11 of kin or beneficiary under the will of such decedent or a donee or dis-
12 tributee of the decedent’s property, but only if the secretary of revenue
13 finds that such heir at law, next of kin, beneficiary, donee or distributee
14 has a material interest which will be affected by information contained
15 therein.

16 New Sec. 56. The title of sections 1 through 56, and amendments
17 thereto, shall be the Kansas inheritance tax act.

18 Sec. 57. K.S.A. 40-252 is hereby amended to read as follows: 40-252.
19 Every insurance company or fraternal benefit society organized under the
20 laws of this state or doing business in this state shall pay to the commis-
21 sioner of insurance fees and taxes specified in the following schedule:

22 A

23 *Insurance companies organized under the laws of this state:*

24	1. Capital stock insurance companies and mutual legal reserve life insurance companies:	
25	Filing application for sale of stock or certificates of indebtedness	\$25
26	Admission fees:	
27	Examination of charter and other documents	500
28	Filing annual statement	100
29	Certificate of authority	10
30	Annual fees:	
31	Filing annual statement	100
32	Continuation of certificate of authority	10
33	2. Mutual life, accident and health associations:	
34	Admission fees:	
35	Examination of charter and other documents	\$500
36	Filing annual statement	100
37	Certificate of authority	10
38	Annual fees:	
39	Filing annual statement	100
40	Continuation of certificate of authority	10
41	3. Mutual fire, hail, casualty and multiple line insurers and reciprocal or interinsurance	
42	exchanges:	
43	Admission fees:	

1	Examination of charter and other documents	\$500
2	Filing annual statement	100
3	Certificate of authority	10
4	Annual fees:	
5	Filing annual statement	100
6	Continuation of certificate of authority	10

7 In addition to the above fees and as a condition precedent to the con-
 8 tinuation of the certificate of authority provided in this code, all such
 9 companies shall pay a fee of \$2 for each agent certified by the company
 10 and shall also pay a tax annually upon all premiums received on risk lo-
 11 cated in this state at the rate of ~~1% for tax year 1997, and 2%~~ 2.55% for
 12 tax year 2002, and for all tax years thereafter per annum less (1) for tax
 13 years prior to 1984, any taxes paid on business in this state pursuant to
 14 the provisions of K.S.A. 40-1701 to 40-1707, inclusive, and 75-1508 and
 15 amendments thereto and (2) for tax years 1984 and thereafter, any taxes
 16 paid on business in this state pursuant to the provisions of K.S.A. 75-1508
 17 and amendments thereto and the amount of the firefighters relief tax
 18 credit determined by the commissioner of insurance. The amount of the
 19 firefighters relief tax credit for a company for the current tax year shall
 20 be determined by the commissioner of insurance by dividing (A) the total
 21 amount of credits against the tax imposed by this section for taxes paid
 22 by all such companies on business in this state under K.S.A. 40-1701 to
 23 40-1707, inclusive, and amendments thereto for tax year 1983, by (B) the
 24 total amount of taxes paid by all such companies on business in this state
 25 under K.S.A. 40-1703 and amendments thereto for the tax year imme-
 26 diately preceding the current tax year, and by multiplying the result so
 27 obtained by (C) the amount of taxes paid by the company on business in
 28 this state under K.S.A. 40-1703 and amendments thereto for the current
 29 tax year.

30 In the computation of the gross premiums all such companies shall be
 31 entitled to deduct any premiums returned on account of cancellations,
 32 including funds accepted before January 1, 1997, and declared and taxed
 33 as annuity premiums which, on or after January 1, 1997, are withdrawn
 34 before application to the purchase of annuities, all premiums received for
 35 reinsurance from any other company authorized to do business in this
 36 state, dividends returned to policyholders and premiums received in con-
 37 nection with the funding of a pension, deferred compensation, annuity
 38 or profit-sharing plan qualified or exempt under sections 401, 403, 404,
 39 408, 457 or 501 of the United States internal revenue code of 1986. Funds
 40 received by life insurers for the purchase of annuity contracts and funds
 41 applied by life insurers to the purchase of annuities shall not be deemed
 42 taxable premiums or be subject to tax under this section for tax years
 43 commencing on or after January 1, 1997.

B

Fraternal benefit societies organized under the laws of this state:

3	Admission fees:	
4	Examination of charter and other documents	\$500
5	Filing annual statement	100
6	Certificate of authority	10
7	Annual fees:	
8	Filing annual statement	100
9	Continuation of certificate of authority	10

C

Mutual nonprofit hospital service corporations, nonprofit medical service corporations, nonprofit dental service corporations, nonprofit optometric service corporations and nonprofit pharmacy service corporations organized under the laws of this state:

14	1. Mutual nonprofit hospital service corporations:	
15	Admission fees:	
16	Examination of charter and other documents	\$500
17	Filing annual statement	100
18	Certificate of authority	10
19	Annual fees:	
20	Filing annual statement	100
21	Continuation of certificate of authority	10
22	2. Nonprofit medical service corporations:	
23	Admission fees:	
24	Examination of charter and other documents	\$500
25	Filing annual statement	100
26	Certificate of authority	10
27	Annual fees:	
28	Filing annual statement	100
29	Continuation of certificate of authority	10
30	3. Nonprofit dental service corporations:	
31	Admission fees:	
32	Examination of charter and other documents	\$500
33	Filing annual statement	100
34	Certificate of authority	10
35	Annual fees:	
36	Filing annual statement	100
37	Continuation of certificate of authority	10
38	4. Nonprofit optometric service corporations:	
39	Admission fees:	
40	Examination of charter and other documents	\$500
41	Filing annual statement	100
42	Certificate of authority	10
43	Annual fees:	

1 Filing annual statement 100
 2 Continuation of certificate of authority 10
 3 5. Nonprofit pharmacy service corporations:
 4 Admission fees:
 5 Examination of charter and other documents \$500
 6 Filing annual statement 100
 7 Certificate of authority 10

8 Annual fees:
 9 Filing annual statement 100
 10 Continuation of certificate of authority 10

11 In addition to the above fees and as a condition precedent to the con-
 12 tinuation of the certificate of authority, provided in this code, every cor-
 13 poration or association shall pay annually to the commissioner of insur-
 14 ance a tax in an amount equal to ~~1% for tax year 1997, and 2% 2.55% for~~
 15 ~~tax year 2002, and~~ for all tax years thereafter per annum of the total of
 16 all premiums, subscription charges, or any other term which may be used
 17 to describe the charges made by such corporation or association to sub-
 18 scribers for hospital, medical or other health services or indemnity re-
 19 ceived during the preceding year. In such computations all such corpo-
 20 rations or associations shall be entitled to deduct any premiums or
 21 subscription charges returned on account of cancellations and dividends
 22 returned to members or subscribers.

23 D

24 *Insurance companies organized under the laws of any other state, territory or country:*

25 1. Capital stock insurance companies and mutual legal reserve life insurance companies:

26 Filing application for sale of stock or certificates of indebtedness \$25

27 Admission fees:
 28 Examination of charter and other documents 500
 29 Filing annual statement 100
 30 Certificate of authority 10
 31 Annual fees:
 32 Filing annual statement 100
 33 Continuation of certificate of authority 10

34 In addition to the above fees all such companies shall pay \$5 for each
 35 agent certified by the company, except as otherwise provided by law.

36 As a condition precedent to the continuation of the certificate of au-
 37 thority, provided in this code, every company organized under the laws
 38 of any other state of the United States or of any foreign country shall pay
 39 a tax upon all premiums received during the preceding year at the rate
 40 of ~~2% 2.55%~~ per annum *for tax year 2002, and all tax years thereafter.*

41 In the computation of the gross premiums all such companies shall be
 42 entitled to deduct any premiums returned on account of cancellations,
 43 including funds accepted before January 1, 1997, and declared and taxed

1 as annuity premiums which, on or after January 1, 1997, are withdrawn
 2 before application to the purchase of annuities, dividends returned to
 3 policyholders and all premiums received for reinsurance from any other
 4 company authorized to do business in this state and premiums received
 5 in connection with the funding of a pension, deferred compensation, an-
 6 nuity or profit-sharing plan qualified or exempt under sections 401, 403,
 7 404, 408, 457 or 501 of the United States internal revenue code of 1986.
 8 Funds received by life insurers for the purchase of annuity contracts and
 9 funds applied by life insurers to the purchase of annuities shall not be
 10 deemed taxable premiums or be subject to tax under this section for tax
 11 years commencing on or after January 1, 1997.

12 2. Mutual life, accident and health associations:

13 Admission fees:

14 Examination of charter and other documents	\$500
15 Filing annual statement	100
16 Certificate of authority	10

17 Annual fees:

18 Filing annual statement	100
19 Continuation of certificate of authority	10

20 In addition to the above fees, every such company organized under the
 21 laws of any other state of the United States shall pay \$5 for each agent
 22 certified by the company, and shall pay a tax annually upon all premiums
 23 received at the rate of ~~2%~~ 2.55% per annum *for tax year 2002, and all*
 24 *tax years thereafter.*

25 In the computation of the gross premiums all such companies shall be
 26 entitled to deduct any premiums returned on account of cancellations,
 27 including funds accepted before January 1, 1997, and declared and taxed
 28 as annuity premiums which, on or after January 1, 1997, are withdrawn
 29 before application to the purchase of annuities, dividends returned to
 30 policyholders and all premiums received for reinsurance from any other
 31 company authorized to do business in this state and premiums received
 32 in connection with the funding of a pension, deferred compensation, an-
 33 nuity or profit-sharing plan qualified or exempt under sections 401, 403,
 34 404, 408, 457 or 501 of the United States internal revenue code of 1986.
 35 Funds received by life insurers for the purchase of annuity contracts and
 36 funds applied by life insurers to the purchase of annuities shall not be
 37 deemed taxable premiums or be subject to tax under this section for tax
 38 years commencing on or after January 1, 1997.

39 3. Mutual fire, casualty and multiple line insurers and reciprocal or interinsurance ex-
 40 changes:

41 Admission fees:

42 Examination of charter and other documents and issuance of certificate 43 of authority	\$500
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1 Filing annual statement 100
 2 Certificate of authority 10
 3 Annual fees:
 4 Filing annual statement 100
 5 Continuation of certificate of authority 10

6 In addition to the above fees, every such company or association or-
 7 ganized under the laws of any other state of the United States shall pay
 8 a fee of \$5 for each agent certified by the company and shall also pay a
 9 tax annually upon all premiums received at the rate of ~~2%~~ 2.55% per
 10 annum *for tax year 2002, and all tax years thereafter.*

11 For tax years 1998 and thereafter, the annual tax shall be reduced by
 12 the “applicable percentage” of (1) any taxes paid on business in this state
 13 pursuant to the provisions of K.S.A. 75-1508 and amendments thereto
 14 and (2) the amount of the firefighters relief tax credit determined by the
 15 commissioner of insurance. The amount of the firefighters relief tax credit
 16 for a company taxable under this subsection for the current tax year shall
 17 be determined by the commissioner of insurance by dividing (A) the total
 18 amount of taxes paid by all such companies on business in this state under
 19 K.S.A. 40-1701 to 40-1707 and amendments thereto for tax year 1983 as
 20 then in effect, by (B) the total amount of taxes paid by all such companies
 21 on business in this state under K.S.A. 40-1703 and amendments thereto
 22 for the tax year immediately preceding the current tax year, and by mul-
 23 tiplying the result so obtained by (C) the amount of taxes paid by the
 24 company on business in this state under K.S.A. 40-1703 and amendments
 25 thereto for the current tax year. The “applicable percentage” shall be as
 26 follows:

27 Tax Year	Applicable Percentage
28 1998	10%
29 1999	20%
30 2000	30%
31 2001	40%
32 2002	50%
33 2003	60%
34 2004	70%
35 2005	80%
36 2006	90%
37 2007 and thereafter	100%

38 In the computation of the gross premiums all such companies shall be
 39 entitled to deduct any premiums returned on account of cancellations, all
 40 premiums received for reinsurance from any other company authorized
 41 to do business in this state, and dividends returned to policyholders.
 42
 43

E

Fraternal benefit societies organized under the laws of any other state, territory or country:

Admission fees:	
Examination of charter and other documents	\$500
Filing annual statement	100
Certificate of authority	10
Annual fees:	
Filing annual statement	100
Continuation of certificate of authority	10

F

Mutual nonprofit hospital service corporations, nonprofit medical service corporations, nonprofit dental service corporations, nonprofit optometric service corporations and nonprofit pharmacy service corporations organized under the laws of any other state, territory or country:

1. Mutual nonprofit hospital service corporations:	
Admission fees:	
Examination of charter and other documents	\$500
Filing annual statement	100
Certificate of authority	10
Annual fees:	
Filing annual statement	100
Continuation of certificate of authority	10
2. Nonprofit medical service corporations, nonprofit dental service corporations, nonprofit optometric service corporations and nonprofit pharmacy service corporations:	
Admission fees:	
Examination of charter and other documents	\$500
Filing annual statement	100
Certificate of authority	10
Annual fees:	
Filing annual statement	100
Continuation of certificate of authority	10

In addition to the above fees and as a condition precedent to the continuation of the certificate of authority, provided in this code, every corporation or association shall pay annually to the commissioner of insurance a tax in an amount equal to ~~2%~~ 2.55% per annum *for tax year 2002, and all tax years thereafter*, of the total of all premiums, subscription charges, or any other term which may be used to describe the charges made by such corporation or association to subscribers in this state for hospital, medical or other health services or indemnity received during the preceding year. In such computations all such corporations or associations shall be entitled to deduct any premiums or subscription charges returned on account of cancellations and dividends returned to members or subscribers.

G

Payment of Taxes.

For the purpose of insuring the collection of the tax upon premiums, assessments and charges as set out in subsection A, C, D or F, every insurance company, corporation or association shall at the time it files its annual statement, as required by the provisions of K.S.A. 40-225, and amendments thereto, make a return, verified by affidavits of its president and secretary or other chief officers, to the commissioner of insurance, stating the amount of all premiums, assessments and charges received by the companies or corporations in this state, whether in cash or notes, during the year ending on the December 31 next preceding.

Commencing in 1985 and annually thereafter the estimated taxes shall be paid as follows: On or before June 15 and December 15 of such year an amount equal to 50% of the full amount of the prior year's taxes as reported by the company shall be remitted to the commissioner of insurance. As used in this paragraph, "prior year's taxes" includes (1) taxes assessed pursuant to this section for the prior calendar year, (2) fees and taxes assessed pursuant to K.S.A. 40-253, and amendments thereto, for the prior calendar year, and (3) taxes paid for maintenance of the department of the state fire marshal pursuant to K.S.A. 75-1508, and amendments thereto, for the prior calendar year.

Upon the receipt of such returns the commissioner of insurance shall verify the same and assess the taxes upon such companies, corporations or associations on the basis and at the rate provided herein and the balance of such taxes shall thereupon become due and payable giving credit for amounts paid pursuant to the preceding paragraph, or the commissioner shall make a refund if the taxes paid in the prior June and December are in excess of the taxes assessed.

H

The fee prescribed for the examination of charters and other documents shall apply to each company's initial application for admission and shall not be refundable for any reason.

Sec. 58. K.S.A. 2001 Supp. 79-1107 is hereby amended to read as follows: 79-1107. Every national banking association and state bank located or doing business within the state shall pay to the state for the privilege of doing business within the state a tax according to or measured by its net income for the next preceding taxable year to be computed as provided in this act. Such tax shall consist of a normal tax and a surtax and shall be computed as follows:

(a) The normal tax shall be an amount equal to ~~2 1/4%~~ 3.25% of such net income; and

(b) the surtax shall be an amount equal to ~~2 1/4%~~ 3.25% of such net income in excess of ~~\$25,000~~ \$50,000.

1 The tax levied shall be in lieu of ad valorem taxes which might otherwise
2 be imposed by the state or political subdivisions thereof upon shares of
3 capital stock or the intangible assets of national banking associations and
4 state banks.

5 Sec. 59. K.S.A. 2001 Supp. 79-1108 is hereby amended to read as
6 follows: 79-1108. Every trust company and savings and loan association
7 located or doing business within the state shall pay to the state for the
8 privilege of doing business within the state a tax according to or measured
9 by its net income for the next preceding taxable year to be computed as
10 provided in this act. Such tax shall consist of a normal tax and a surtax
11 and shall be computed as follows:

12 (a) The normal tax on every trust company and savings and loan as-
13 sociation shall be an amount equal to ~~2.44%~~ 3.25% of such net income;
14 and

15 (b) the surtax on every trust company and savings and loan association
16 shall be an amount equal to ~~2.44%~~ 3.25% of such net income in excess of
17 ~~\$25,000~~ \$50,000.

18 The tax levied shall be in lieu of ad valorem taxes which might otherwise
19 be imposed by the state or political subdivision thereof upon shares of
20 capital stock or other intangible assets of trust companies and savings and
21 loan associations.

22 Sec. 60. K.S.A. 2001 Supp. 79-32,110 is hereby amended to read as
23 follows: 79-32,110. (a) *Resident Individuals*. Except as otherwise provided
24 by subsection (a) of K.S.A. 79-3220, and amendments thereto, a tax is
25 hereby imposed upon the Kansas taxable income of every resident indi-
26 vidual, which tax shall be computed in accordance with the following tax
27 schedules:

28 (1) *Married individuals filing joint returns.*

If the taxable income is:	The tax is:
Not over \$30,000	3.5% of Kansas taxable income
Over \$30,000 but not over \$60,000	\$1,050 plus 6.25% of excess over \$30,000
Over \$60,000	\$2,925 plus 6.45% of excess over \$60,000
Over \$60,000 but not over \$110,000	\$2,925 plus 6.45% of excess over \$60,000
Over \$110,000 but not over \$240,000	\$6,150 plus 7% of excess over \$110,000
Over \$240,000	\$15,250 plus 7.5% of excess over \$240,000

36 (2) *All other individuals.*

37 ~~(A) For tax year 1997:~~

If the taxable income is:	The tax is:
Not over \$20,000	4.1% of Kansas taxable income
Over \$20,000 but not over \$30,000	\$920 plus 7.5% of excess over \$20,000
Over \$30,000	\$1,570 plus 7.75% of excess over \$30,000

42 ~~(B) For tax year 1998, and all tax years thereafter:~~

43

1 If the taxable income is:	The tax is:
2 Not over \$15,000	3.5% of Kansas taxable income
3 Over \$15,000 but not over \$30,000	\$525 plus 6.25% of excess over \$15,000
4 Over \$30,000	\$1,462.50 plus 6.45% of excess over \$30,000
5 <i>Over \$30,000 but not over \$55,000</i>	<i>\$1,462.50 plus 6.45% of excess over \$30,000</i>
6 <i>Over \$55,000 but not over \$120,000</i>	<i>\$3,075 plus 7% of excess over \$55,000</i>
7 <i>Over \$120,000</i>	<i>\$7,625 plus 7.5% of excess over \$120,000</i>

8 (b) *Nonresident Individuals.* A tax is hereby imposed upon the Kansas
 9 taxable income of every nonresident individual, which tax shall be an
 10 amount equal to the tax computed under subsection (a) as if the nonres-
 11 ident were a resident multiplied by the ratio of modified Kansas source
 12 income to Kansas adjusted gross income.

13 (c) *Corporations.* A tax is hereby imposed upon the Kansas taxable
 14 income of every corporation doing business within this state or deriving
 15 income from sources within this state. Such tax shall consist of a normal
 16 tax and a surtax and shall be computed as follows:

17 (1) The normal tax shall be in an amount equal to 4% of the Kansas
 18 taxable income of such corporation; and

19 (2) the surtax shall be in an amount equal to ~~3.35%~~ 4% of the Kansas
 20 taxable income of such corporation in excess of \$50,000.

21 (d) *Fiduciaries.* A tax is hereby imposed upon the Kansas taxable
 22 income of estates and trusts at the rates provided in paragraph (2) of
 23 subsection (a) hereof.

24 New Sec. 61. The provisions of sections 58 through 60, and amend-
 25 ments thereto, shall be applicable to all taxable years commencing after
 26 December 31, 2001.

27 Sec. 62. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3603 is
 28 hereby amended to read as follows: 79-3603. For the privilege of engaging
 29 in the business of selling tangible personal property at retail in this state
 30 or rendering or furnishing any of the services taxable under this act, there
 31 is hereby levied and there shall be collected and paid a tax at the rate of
 32 ~~4.9%~~ 5.65% and, within a redevelopment district established pursuant to
 33 K.S.A. 74-8921, and amendments thereto, there is hereby levied and
 34 there shall be collected and paid an additional tax at the rate of 2% until
 35 the earlier of the date the bonds issued to finance or refinance the re-
 36 development project have been paid in full or the final scheduled maturity
 37 of the first series of bonds issued to finance any part of the project upon:

38 (a) The gross receipts received from the sale of tangible personal
 39 property at retail within this state;

40 (b) (1) the gross receipts from intrastate telephone or telegraph serv-
 41 ices; (2) the gross receipts received from the sale of interstate telephone
 42 or telegraph services, which (A) originate within this state and terminate
 43 outside the state and are billed to a customer's telephone number or

1 account in this state; or (B) originate outside this state and terminate
2 within this state and are billed to a customer's telephone number or ac-
3 count in this state except that the sale of interstate telephone or telegraph
4 service does not include: (A) Any interstate incoming or outgoing wide
5 area telephone service or wide area transmission type service which en-
6 titles the subscriber to make or receive an unlimited number of com-
7 munications to or from persons having telephone service in a specified
8 area which is outside the state in which the station provided this service
9 is located; (B) any interstate private communications service to the per-
10 sons contracting for the receipt of that service that entitles the purchaser
11 to exclusive or priority use of a communications channel or group of
12 channels between exchanges; (C) any value-added nonvoice service in
13 which computer processing applications are used to act on the form, con-
14 tent, code or protocol of the information to be transmitted; (D) any tel-
15 ecommunication service to a provider of telecommunication services
16 which will be used to render telecommunications services, including car-
17 rier access services; or (E) any service or transaction defined in this sec-
18 tion among entities classified as members of an affiliated group as pro-
19 vided by section 1504 of the federal internal revenue code of 1986, as in
20 effect on January 1, 2001. For the purposes of this subsection the term
21 gross receipts does not include purchases of telephone, telegraph or tel-
22 ecommunications using a prepaid telephone calling card or prepaid au-
23 thorization number. As used in this subsection, a prepaid telephone call-
24 ing card or prepaid authorization number means the right to exclusively
25 make telephone calls, paid for in advance, with the prepaid value meas-
26 ured in minutes or other time units, that enables the origination of calls
27 using an access number or authorization code or both, whether manually
28 or electronically dialed; and (3) the gross receipts from the provision of
29 services taxable under this subsection which are billed on a combined
30 basis with nontaxable services, shall be accounted for and the tax remitted
31 as follows: The taxable portion of the selling price of those combined
32 services shall include only those charges for taxable services if the selling
33 price for the taxable services can be readily distinguishable in the retailer's
34 books and records from the selling price for the nontaxable services. Oth-
35 erwise, the gross receipts from the sale of both taxable and nontaxable
36 services billed on a combined basis shall be deemed attributable to the
37 taxable services included therein. Within 90 days of billing taxable services
38 on a combined basis with nontaxable services, the retailer shall enter into
39 a written agreement with the secretary identifying the methodology to be
40 used in determining the taxable portion of the selling price of those com-
41 bined services. The burden of proving that any receipt or charge is not
42 taxable shall be upon the retailer. Upon request from the customer, the
43 retailer shall disclose to the customer the selling price for the taxable

1 services included in the selling price for the taxable and nontaxable serv-
2 ices billed on a combined basis;

3 (c) the gross receipts from the sale or furnishing of gas, water, elec-
4 tricity and heat, which sale is not otherwise exempt from taxation under
5 the provisions of this act, and whether furnished by municipally or pri-
6 vately owned utilities but such tax shall not be levied and collected upon
7 the gross receipts from: (1) The sale of a rural water district benefit unit;
8 (2) a water system impact fee, system enhancement fee or similar fee
9 collected by a water supplier as a condition for establishing service; or (3)
10 connection or reconnection fees collected by a water supplier;

11 (d) the gross receipts from the sale of meals or drinks furnished at
12 any private club, drinking establishment, catered event, restaurant, eating
13 house, dining car, hotel, drugstore or other place where meals or drinks
14 are regularly sold to the public;

15 (e) the gross receipts from the sale of admissions to any place pro-
16 viding amusement, entertainment or recreation services including admis-
17 sions to state, county, district and local fairs, but such tax shall not be
18 levied and collected upon the gross receipts received from sales of ad-
19 missions to any cultural and historical event which occurs triennially;

20 (f) the gross receipts from the operation of any coin-operated device
21 dispensing or providing tangible personal property, amusement or other
22 services except laundry services, whether automatic or manually operated;

23 (g) the gross receipts from the service of renting of rooms by hotels,
24 as defined by K.S.A. 36-501 and amendments thereto, or by accommo-
25 dation brokers, as defined by K.S.A. 12-1692, and amendments thereto;

26 (h) the gross receipts from the service of renting or leasing of tangible
27 personal property except such tax shall not apply to the renting or leasing
28 of machinery, equipment or other personal property owned by a city and
29 purchased from the proceeds of industrial revenue bonds issued prior to
30 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through
31 12-1749, and amendments thereto, and any city or lessee renting or leas-
32 ing such machinery, equipment or other personal property purchased
33 with the proceeds of such bonds who shall have paid a tax under the
34 provisions of this section upon sales made prior to July 1, 1973, shall be
35 entitled to a refund from the sales tax refund fund of all taxes paid
36 thereon;

37 (i) the gross receipts from the rendering of dry cleaning, pressing,
38 dyeing and laundry services except laundry services rendered through a
39 coin-operated device whether automatic or manually operated;

40 (j) the gross receipts from the rendering of the services of washing
41 and washing and waxing of vehicles;

42 (k) the gross receipts from cable, community antennae and other sub-
43 scriber radio and television services;

1 (l) (1) except as otherwise provided by paragraph (2), the gross re-
2 cepts received from the sales of tangible personal property to all con-
3 tractors, subcontractors or repairmen for use by them in erecting struc-
4 tures, or building on, or otherwise improving, altering, or repairing real
5 or personal property.

6 (2) Any such contractor, subcontractor or repairman who maintains
7 an inventory of such property both for sale at retail and for use by them
8 for the purposes described by paragraph (1) shall be deemed a retailer
9 with respect to purchases for and sales from such inventory, except that
10 the gross receipts received from any such sale, other than a sale at retail,
11 shall be equal to the total purchase price paid for such property and the
12 tax imposed thereon shall be paid by the deemed retailer;

13 (m) the gross receipts received from fees and charges by public and
14 private clubs, drinking establishments, organizations and businesses for
15 participation in sports, games and other recreational activities, but such
16 tax shall not be levied and collected upon the gross receipts received from:

17 (1) Fees and charges by any political subdivision, by any organization
18 exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-
19 201, and amendments thereto, or by any youth recreation organization
20 exclusively providing services to persons 18 years of age or younger which
21 is exempt from federal income taxation pursuant to section 501(c)(3) of
22 the federal internal revenue code of 1986, for participation in sports,
23 games and other recreational activities; and (2) entry fees and charges for
24 participation in a special event or tournament sanctioned by a national
25 sporting association to which spectators are charged an admission which
26 is taxable pursuant to subsection (e);

27 (n) the gross receipts received from dues charged by public and pri-
28 vate clubs, drinking establishments, organizations and businesses, pay-
29 ment of which entitles a member to the use of facilities for recreation or
30 entertainment, but such tax shall not be levied and collected upon the
31 gross receipts received from: (1) Dues charged by any organization ex-
32 empt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of
33 K.S.A. 79-201, and amendments thereto; and (2) sales of memberships
34 in a nonprofit organization which is exempt from federal income taxation
35 pursuant to section 501 (c)(3) of the federal internal revenue code of
36 1986, and whose purpose is to support the operation of a nonprofit zoo;

37 (o) the gross receipts received from the isolated or occasional sale of
38 motor vehicles or trailers but not including: (1) The transfer of motor
39 vehicles or trailers by a person to a corporation or limited liability com-
40 pany solely in exchange for stock securities or membership interest in
41 such corporation or limited liability company; or (2) the transfer of motor
42 vehicles or trailers by one corporation or limited liability company to
43 another when all of the assets of such corporation or limited liability

1 company are transferred to such other corporation or limited liability
2 company; or (3) the sale of motor vehicles or trailers which are subject
3 to taxation pursuant to the provisions of K.S.A. 79-5101 *et seq.*, and
4 amendments thereto, by an immediate family member to another im-
5 mediate family member. For the purposes of clause (3), immediate family
6 member means lineal ascendants or descendants, and their spouses. In
7 determining the base for computing the tax on such isolated or occasional
8 sale, the fair market value of any motor vehicle or trailer traded in by the
9 purchaser to the seller may be deducted from the selling price;

10 (p) the gross receipts received for the service of installing or applying
11 tangible personal property which when installed or applied is not being
12 held for sale in the regular course of business, and whether or not such
13 tangible personal property when installed or applied remains tangible
14 personal property or becomes a part of real estate, except that no tax shall
15 be imposed upon the service of installing or applying tangible personal
16 property in connection with the original construction of a building or
17 facility, the original construction, reconstruction, restoration, remodeling,
18 renovation, repair or replacement of a residence or the construction, re-
19 construction, restoration, replacement or repair of a bridge or highway.

20 For the purposes of this subsection:

21 (1) "Original construction" shall mean the first or initial construction
22 of a new building or facility. The term "original construction" shall include
23 the addition of an entire room or floor to any existing building or facility,
24 the completion of any unfinished portion of any existing building or fa-
25 cility and the restoration, reconstruction or replacement of a building or
26 facility damaged or destroyed by fire, flood, tornado, lightning, explosion
27 or earthquake, but such term, except with regard to a residence, shall not
28 include replacement, remodeling, restoration, renovation or reconstruc-
29 tion under any other circumstances;

30 (2) "building" shall mean only those enclosures within which individ-
31 uals customarily are employed, or which are customarily used to house
32 machinery, equipment or other property, and including the land improve-
33 ments immediately surrounding such building;

34 (3) "facility" shall mean a mill, plant, refinery, oil or gas well, water
35 well, feedlot or any conveyance, transmission or distribution line of any
36 cooperative, nonprofit, membership corporation organized under or sub-
37 ject to the provisions of K.S.A. 17-4601 *et seq.*, and amendments thereto,
38 or of any municipal or quasi-municipal corporation, including the land
39 improvements immediately surrounding such facility; and

40 (4) "residence" shall mean only those enclosures within which indi-
41 viduals customarily live;

42 (q) the gross receipts received for the service of repairing, servicing,
43 altering or maintaining tangible personal property, except computer soft-

1 ware described in subsection (s), which when such services are rendered
2 is not being held for sale in the regular course of business, and whether
3 or not any tangible personal property is transferred in connection there-
4 with. The tax imposed by this subsection shall be applicable to the services
5 of repairing, servicing, altering or maintaining an item of tangible personal
6 property which has been and is fastened to, connected with or built into
7 real property;

8 (r) the gross receipts from fees or charges made under service or
9 maintenance agreement contracts for services, charges for the providing
10 of which are taxable under the provisions of subsection (p) or (q);

11 (s) the gross receipts received from the sale of computer software,
12 and the sale of the services of modifying, altering, updating or maintaining
13 computer software. As used in this subsection, "computer software"
14 means information and directions loaded into a computer which dictate
15 different functions to be performed by the computer. Computer software
16 includes any canned or prewritten program which is held or existing for
17 general or repeated sale, even if the program was originally developed
18 for a single end user as custom computer software. The sale of computer
19 software or services does not include: (1) The initial sale of any custom
20 computer program which is originally developed for the exclusive use of
21 a single end user; or (2) those services rendered in the modification of
22 computer software when the modification is developed exclusively for a
23 single end user only to the extent of the modification and only to the
24 extent that the actual amount charged for the modification is separately
25 stated on invoices, statements and other billing documents provided to
26 the end user. The services of modification, alteration, updating and main-
27 tenance of computer software shall only include the modification, alter-
28 ation, updating and maintenance of computer software taxable under this
29 subsection whether or not the services are actually provided;

30 (t) the gross receipts received for telephone answering services, in-
31 cluding mobile phone services, beeper services and other similar services;

32 (u) the gross receipts received from the sale of prepaid telephone
33 calling cards or prepaid authorization numbers and the recharge of such
34 cards or numbers. A prepaid telephone calling card or prepaid authori-
35 zation number means the right to exclusively make telephone calls, paid
36 for in advance, with the prepaid value measured in minutes or other time
37 units, that enables the origination of calls using an access number or
38 authorization code or both, whether manually or electronically dialed. If
39 the sale or recharge of such card or number does not take place at the
40 vendor's place of business, it shall be conclusively determined to take
41 place at the customer's shipping address; if there is no item shipped then
42 it shall be the customer's billing address; and

43 (v) the gross receipts received from the sales of bingo cards, bingo

1 faces and instant bingo tickets by licensees under K.S.A. 79-4701, *et seq.*,
2 and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1,
3 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before
4 July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo
5 faces and instant bingo tickets by licensees under K.S.A. 79-4701 *et seq.*,
6 and amendments thereto, shall be exempt from taxes imposed pursuant
7 to this section.

8 Sec. 63. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3606 is
9 hereby amended to read as follows: 79-3606. The following shall be ex-
10 empt from the tax imposed by this act:

11 (a) All sales of motor-vehicle fuel or other articles upon which a sales
12 or excise tax has been paid, not subject to refund, under the laws of this
13 state except cigarettes as defined by K.S.A. 79-3301 and amendments
14 thereto, cereal malt beverages and malt products as defined by K.S.A. 79-
15 3817 and amendments thereto, including wort, liquid malt, malt syrup
16 and malt extract, which is not subject to taxation under the provisions of
17 K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant
18 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to
19 K.S.A. 65-3424d, and amendments thereto, and drycleaning and laundry
20 services taxed pursuant to K.S.A. 2001 Supp. 65-34,150, and amendments
21 thereto;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (p) all sales of drugs, as defined by K.S.A. 65-1626 and amendments
29 thereto, dispensed pursuant to a prescription order, as defined by K.S.A.
30 65-1626 and amendments thereto, by a licensed practitioner or a mid-
31 level practitioner as defined by K.S.A. 65-1626, and amendments thereto;

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

35 (r) all sales of prosthetic and orthopedic appliances prescribed in
36 writing by a person licensed to practice the healing arts, dentistry or
37 optometry. For the purposes of this subsection, the term prosthetic and
38 orthopedic appliances means any apparatus, instrument, device, or equip-
39 ment used to replace or substitute for any missing part of the body; used
40 to alleviate the malfunction of any part of the body; or used to assist any
41 disabled person in leading a normal life by facilitating such person's mo-
42 bility; such term shall include accessories attached or to be attached to
43 motor vehicles, but such term shall not include motor vehicles or personal

1 property which when installed becomes a fixture to real property;

2 (s) except as provided in K.S.A. 2001 Supp. 82a-2101, and amend-
3 ments thereto, all sales of tangible personal property or services pur-
4 chased directly or indirectly by a groundwater management district or-
5 ganized or operating under the authority of K.S.A. 82a-1020 *et seq.* and
6 amendments thereto, by a rural water district organized or operating un-
7 der the authority of K.S.A. 82a-612, and amendments thereto, or by a
8 water supply district organized or operating under the authority of K.S.A.
9 19-3501 *et seq.*, 19-3522 *et seq.* or 19-3545, and amendments thereto,
10 which property or services are used in the construction activities, opera-
11 tion or maintenance of the district;

12 (t) all sales of farm machinery and equipment or aquaculture ma-
13 chinery and equipment, repair and replacement parts therefor and serv-
14 ices performed in the repair and maintenance of such machinery and
15 equipment. For the purposes of this subsection the term “farm machinery
16 and equipment or aquaculture machinery and equipment” shall include
17 machinery and equipment used in the operation of Christmas tree farm-
18 ing but shall not include any passenger vehicle, truck, truck tractor, trailer,
19 semitrailer or pole trailer, other than a farm trailer, as such terms are
20 defined by K.S.A. 8-126 and amendments thereto. Each purchaser of
21 farm machinery and equipment or aquaculture machinery and equipment
22 exempted herein must certify in writing on the copy of the invoice or
23 sales ticket to be retained by the seller that the farm machinery and
24 equipment or aquaculture machinery and equipment purchased will be
25 used only in farming, ranching or aquaculture production. Farming or
26 ranching shall include the operation of a feedlot and farm and ranch work
27 for hire and the operation of a nursery;

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

31 (v) all sales of food products to any contractor for use in preparing
32 meals for delivery to homebound elderly persons over 60 years of age and
33 to homebound disabled persons or to be served at a group-sitting at a
34 location outside of the home to otherwise homebound elderly persons
35 over 60 years of age and to otherwise homebound disabled persons, as
36 all or part of any food service project funded in whole or in part by
37 government or as part of a private nonprofit food service project available
38 to all such elderly or disabled persons residing within an area of service
39 designated by the private nonprofit organization, and all sales of food
40 products for use in preparing meals for consumption by indigent or home-
41 less individuals whether or not such meals are consumed at a place des-
42 ignated for such purpose;

43 (w) all sales of natural gas, electricity, heat and water delivered

1 through mains, lines or pipes: (1) To residential premises for noncom-
2 mercial use by the occupant of such premises; (2) for agricultural use and
3 also, for such use, all sales of propane gas; (3) for use in the severing of
4 oil; and (4) to any property which is exempt from property taxation pur-
5 suant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph,
6 “severing” shall have the meaning ascribed thereto by subsection (k) of
7 K.S.A. 79-4216, and amendments thereto;

8 (x) all sales of propane gas, LP-gas, coal, wood and other fuel sources
9 for the production of heat or lighting for noncommercial use of an oc-
10 cupant of residential premises;

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

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

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

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

29 (cc) all sales of tangible personal property or services purchased for
30 the purpose of and in conjunction with constructing, reconstructing, en-
31 larging or remodeling a business or retail business which meets the
32 requirements established in K.S.A. 74-50,115 and amendments thereto,
33 and the sale and installation of machinery and equipment purchased for
34 installation at any such business or retail business. When a person shall
35 contract for the construction, reconstruction, enlargement or remodeling
36 of any such business or retail business, such person shall obtain from the
37 state and furnish to the contractor an exemption certificate for the project
38 involved, and the contractor may purchase materials, machinery and
39 equipment for incorporation in such project. The contractor shall furnish
40 the number of such certificates to all suppliers from whom such purchases
41 are made, and such suppliers shall execute invoices covering the same
42 bearing the number of such certificate. Upon completion of the project
43 the contractor shall furnish to the owner of the business or retail business

1 a sworn statement, on a form to be provided by the director of taxation,
2 that all purchases so made were entitled to exemption under this subsec-
3 tion. All invoices shall be held by the contractor for a period of five years
4 and shall be subject to audit by the director of taxation. Any contractor
5 or any agent, employee or subcontractor thereof, who shall use or oth-
6 erwise dispose of any materials, machinery or equipment purchased under
7 such a certificate for any purpose other than that for which such a
8 certificate is issued without the payment of the sales or compensating tax
9 otherwise imposed thereon, shall be guilty of a misdemeanor and, upon
10 conviction therefor, shall be subject to the penalties provided for in sub-
11 section (g) of K.S.A. 79-3615 and amendments thereto. As used in this
12 subsection, “business” and “retail business” have the meanings respec-
13 tively ascribed thereto by K.S.A. 74-50,114 and amendments thereto;

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

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

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

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

27 (hh) all sales of medical supplies and equipment purchased directly
28 by a nonprofit skilled nursing home or nonprofit intermediate nursing
29 care home, as defined by K.S.A. 39-923, and amendments thereto, for
30 the purpose of providing medical services to residents thereof. This ex-
31 emption shall not apply to tangible personal property customarily used
32 for human habitation purposes;

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

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

1 3307b and amendments thereto. This exemption shall not apply to tan-
2 gible personal property customarily used for human habitation purposes;

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

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

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

10 (2) For purposes of this subsection:

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

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

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

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

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

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

33 (F) “primary” or “primarily” mean more than 50% of the time.

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

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

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

43 (C) to act upon, effect, promote or otherwise facilitate a physical

- 1 change to the property undergoing manufacturing or processing;
- 2 (D) to guide, control or direct the movement of property undergoing
- 3 manufacturing or processing;
- 4 (E) to test or measure raw materials, the property undergoing man-
- 5 ufacturing or processing or the finished product, as a necessary part of
- 6 the manufacturer's integrated production operations;
- 7 (F) to plan, manage, control or record the receipt and flow of inven-
- 8 tories of raw materials, consumables and component parts, the flow of
- 9 the property undergoing manufacturing or processing and the manage-
- 10 ment of inventories of the finished product;
- 11 (G) to produce energy for, lubricate, control the operating of or oth-
- 12 erwise enable the functioning of other production machinery and equip-
- 13 ment and the continuation of production operations;
- 14 (H) to package the property being manufactured or processed in a
- 15 container or wrapping in which such property is normally sold or trans-
- 16 ported;
- 17 (I) to transmit or transport electricity, coke, gas, water, steam or sim-
- 18 ilar substances used in production operations from the point of genera-
- 19 tion, if produced by the manufacturer or processor at the plant site, to
- 20 that manufacturer's production operation; or, if purchased or delivered
- 21 from offsite, from the point where the substance enters the site of the
- 22 plant or facility to that manufacturer's production operations;
- 23 (J) to cool, heat, filter, refine or otherwise treat water, steam, acid,
- 24 oil, solvents or other substances that are used in production operations;
- 25 (K) to provide and control an environment required to maintain cer-
- 26 tain levels of air quality, humidity or temperature in special and limited
- 27 areas of the plant or facility, where such regulation of temperature or
- 28 humidity is part of and essential to the production process;
- 29 (L) to treat, transport or store waste or other byproducts of produc-
- 30 tion operations at the plant or facility; or
- 31 (M) to control pollution at the plant or facility where the pollution is
- 32 produced by the manufacturing or processing operation.
- 33 (4) The following machinery, equipment and materials shall be
- 34 deemed to be exempt even though it may not otherwise qualify as ma-
- 35 chinery and equipment used as an integral or essential part of an inte-
- 36 grated production operation: (A) Computers and related peripheral
- 37 equipment that are utilized by a manufacturing or processing business
- 38 for engineering of the finished product or for research and development
- 39 or product design; (B) machinery and equipment that is utilized by a
- 40 manufacturing or processing business to manufacture or rebuild tangible
- 41 personal property that is used in manufacturing or processing operations,
- 42 including tools, dies, molds, forms and other parts of qualifying machinery
- 43 and equipment; (C) portable plants for aggregate concrete, bulk cement

1 and asphalt including cement mixing drums to be attached to a motor
2 vehicle; (D) industrial fixtures, devices, support facilities and special foun-
3 dations necessary for manufacturing and production operations, and ma-
4 terials and other tangible personal property sold for the purpose of fab-
5 ricating such fixtures, devices, facilities and foundations. An exemption
6 certificate for such purchases shall be signed by the manufacturer or
7 processor. If the fabricator purchases such material, the fabricator shall
8 also sign the exemption certificate; and (E) a manufacturing or processing
9 business' laboratory equipment that is not located at the plant or facility,
10 but that would otherwise qualify for exemption under subsection (3)(E).

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

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

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

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

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

29 (E) furniture and other furnishings;

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

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

36 (H) machinery and equipment used for general plant heating, cooling
37 and lighting;

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

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

43 (6) Subsections (3) and (5) shall not be construed as exclusive listings

1 of the machinery and equipment that qualify or do not qualify as an
2 integral or essential part of an integrated production operation. When
3 machinery or equipment is used as an integral or essential part of pro-
4 duction operations part of the time and for nonproduction purpose at
5 other times, the primary use of the machinery or equipment shall deter-
6 mine whether or not such machinery or equipment qualifies for exemp-
7 tion.

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

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

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

18 (nn) except as otherwise provided in this act, all sales of services ren-
19 dered by an advertising agency or licensed broadcast station or any mem-
20 ber, agent or employee thereof;

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

24 (pp) all sales of drill bits and explosives actually utilized in the explo-
25 ration and production of oil or gas;

26 (qq) all sales of tangible personal property and services purchased by
27 a nonprofit museum or historical society or any combination thereof, in-
28 cluding a nonprofit organization which is organized for the purpose of
29 stimulating public interest in the exploration of space by providing edu-
30 cational information, exhibits and experiences, which is exempt from fed-
31 eral income taxation pursuant to section 501(c)(3) of the federal internal
32 revenue code of 1986;

33 (rr) all sales of tangible personal property which will admit the pur-
34 chaser thereof to any annual event sponsored by a nonprofit organization
35 which is exempt from federal income taxation pursuant to section
36 501(c)(3) of the federal internal revenue code of 1986;

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

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

1 War memorial;

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

5 (vv) all sales of tangible personal property purchased by any of the
6 following organizations which are exempt from federal income taxation
7 pursuant to section 501 (c)(3) of the federal internal revenue code of
8 1986, for the following purposes, and all sales of any such property by or
9 on behalf of any such organization for any such purpose:

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

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

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

20 (4) the American Diabetes Association Kansas Affiliate, Inc. for the
21 purpose of eliminating diabetes through medical research, public edu-
22 cation focusing on disease prevention and education, patient education
23 including information on coping with diabetes, and professional education
24 and training;

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

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

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

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

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

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

1 a nonprofit zoo which is exempt from federal income taxation pursuant
2 to section 501(c)(3) of the federal internal revenue code of 1986, or on
3 behalf of such zoo by an entity itself exempt from federal income taxation
4 pursuant to section 501(c)(3) of the federal internal revenue code of 1986
5 contracted with to operate such zoo and all sales of tangible personal
6 property or services purchased by a contractor for the purpose of con-
7 structing, equipping, reconstructing, maintaining, repairing, enlarging,
8 furnishing or remodeling facilities for any nonprofit zoo which would be
9 exempt from taxation under the provisions of this section if purchased
10 directly by such nonprofit zoo or the entity operating such zoo. Nothing
11 in this subsection shall be deemed to exempt the purchase of any con-
12 struction machinery, equipment or tools used in the constructing, equip-
13 ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-
14 modeling facilities for any nonprofit zoo. When any nonprofit zoo shall
15 contract for the purpose of constructing, equipping, reconstructing, main-
16 taining, repairing, enlarging, furnishing or remodeling facilities, it shall
17 obtain from the state and furnish to the contractor an exemption certifi-
18 cate for the project involved, and the contractor may purchase materials
19 for incorporation in such project. The contractor shall furnish the number
20 of such certificate to all suppliers from whom such purchases are made,
21 and such suppliers shall execute invoices covering the same bearing the
22 number of such certificate. Upon completion of the project the contractor
23 shall furnish to the nonprofit zoo concerned a sworn statement, on a form
24 to be provided by the director of taxation, that all purchases so made were
25 entitled to exemption under this subsection. All invoices shall be held by
26 the contractor for a period of five years and shall be subject to audit by
27 the director of taxation. If any materials purchased under such a certifi-
28 cate are found not to have been incorporated in the building or other
29 project or not to have been returned for credit or the sales or compen-
30 sating tax otherwise imposed upon such materials which will not be so
31 incorporated in the building or other project reported and paid by such
32 contractor to the director of taxation not later than the 20th day of the
33 month following the close of the month in which it shall be determined
34 that such materials will not be used for the purpose for which such cer-
35 tificate was issued, the nonprofit zoo concerned shall be liable for tax on
36 all materials purchased for the project, and upon payment thereof it may
37 recover the same from the contractor together with reasonable attorney
38 fees. Any contractor or any agent, employee or subcontractor thereof,
39 who shall use or otherwise dispose of any materials purchased under such
40 a certificate for any purpose other than that for which such a certificate
41 is issued without the payment of the sales or compensating tax otherwise
42 imposed upon such materials, shall be guilty of a misdemeanor and, upon
43 conviction therefor, shall be subject to the penalties provided for in sub-

1 section (g) of K.S.A. 79-3615, and amendments thereto;

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

5 (zz) all sales of machinery and equipment purchased by over-the-air,
6 free access radio or television station which is used directly and primarily
7 for the purpose of producing a broadcast signal or is such that the failure
8 of the machinery or equipment to operate would cause broadcasting to
9 cease. For purposes of this subsection, machinery and equipment shall
10 include, but not be limited to, that required by rules and regulations of
11 the federal communications commission, and all sales of electricity which
12 are essential or necessary for the purpose of producing a broadcast signal
13 or is such that the failure of the electricity would cause broadcasting to
14 cease;

15 (aaa) all sales of tangible personal property and services purchased
16 by a religious organization which is exempt from federal income taxation
17 pursuant to section 501(c)(3) of the federal internal revenue code, and
18 used exclusively for religious purposes, and all sales of tangible personal
19 property or services purchased by a contractor for the purpose of con-
20 structing, equipping, reconstructing, maintaining, repairing, enlarging,
21 furnishing or remodeling facilities for any such organization which would
22 be exempt from taxation under the provisions of this section if purchased
23 directly by such organization. Nothing in this subsection shall be deemed
24 to exempt the purchase of any construction machinery, equipment or
25 tools used in the constructing, equipping, reconstructing, maintaining,
26 repairing, enlarging, furnishing or remodeling facilities for any such or-
27 ganization. When any such organization shall contract for the purpose of
28 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
29 ing, furnishing or remodeling facilities, it shall obtain from the state and
30 furnish to the contractor an exemption certificate for the project involved,
31 and the contractor may purchase materials for incorporation in such pro-
32 ject. The contractor shall furnish the number of such certificate to all
33 suppliers from whom such purchases are made, and such suppliers shall
34 execute invoices covering the same bearing the number of such certifi-
35 cate. Upon completion of the project the contractor shall furnish to such
36 organization concerned a sworn statement, on a form to be provided by
37 the director of taxation, that all purchases so made were entitled to ex-
38 emption under this subsection. All invoices shall be held by the contractor
39 for a period of five years and shall be subject to audit by the director of
40 taxation. If any materials purchased under such a certificate are found
41 not to have been incorporated in the building or other project or not to
42 have been returned for credit or the sales or compensating tax otherwise
43 imposed upon such materials which will not be so incorporated in the

1 building or other project reported and paid by such contractor to the
2 director of taxation not later than the 20th day of the month following
3 the close of the month in which it shall be determined that such materials
4 will not be used for the purpose for which such certificate was issued,
5 such organization concerned shall be liable for tax on all materials pur-
6 chased for the project, and upon payment thereof it may recover the same
7 from the contractor together with reasonable attorney fees. Any contrac-
8 tor or any agent, employee or subcontractor thereof, who shall use or
9 otherwise dispose of any materials purchased under such a certificate for
10 any purpose other than that for which such a certificate is issued without
11 the payment of the sales or compensating tax otherwise imposed upon
12 such materials, shall be guilty of a misdemeanor and, upon conviction
13 therefor, shall be subject to the penalties provided for in subsection (g)
14 of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after
15 July 1, 1998, but prior to the effective date of this act upon the gross
16 receipts received from any sale exempted by the amendatory provisions
17 of this subsection shall be refunded. Each claim for a sales tax refund
18 shall be verified and submitted to the director of taxation upon forms
19 furnished by the director and shall be accompanied by any additional
20 documentation required by the director. The director shall review each
21 claim and shall refund that amount of sales tax paid as determined under
22 the provisions of this subsection. All refunds shall be paid from the sales
23 tax refund fund upon warrants of the director of accounts and reports
24 pursuant to vouchers approved by the director or the director's designee;

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

31 (ccc) on and after July 1, 1999, all sales of tangible personal property
32 and services purchased by a primary care clinic or health center the pri-
33 mary purpose of which is to provide services to medically underserved
34 individuals and families, and which is exempt from federal income taxa-
35 tion pursuant to section 501 (c)(3) of the federal internal revenue code,
36 and all sales of tangible personal property or services purchased by a
37 contractor for the purpose of constructing, equipping, reconstructing,
38 maintaining, repairing, enlarging, furnishing or remodeling facilities for
39 any such clinic or center which would be exempt from taxation under the
40 provisions of this section if purchased directly by such clinic or center.
41 Nothing in this subsection shall be deemed to exempt the purchase of
42 any construction machinery, equipment or tools used in the constructing,
43 equipping, reconstructing, maintaining, repairing, enlarging, furnishing

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

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

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

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

21 (ggg) all sales of tangible personal property and services purchased
22 by or on behalf of the Kansas Academy of Science which is exempt from
23 federal income taxation pursuant to section 501(c)(3) of the federal in-
24 ternal revenue code of 1986, and used solely by such academy for the
25 preparation, publication and dissemination of education materials; *and*

26 (hhh) *all sales of food for human consumption. As used in this sub-*
27 *section, "food for human consumption" means only that food which is*
28 *eligible for purchase with food stamps issued by the United States de-*
29 *partment of agriculture pursuant to regulations in effect on January 1,*
30 *2002, regardless of whether the retailer from which the food is purchased*
31 *is participating in the food stamp program. Such phrase shall not include:*
32 *(1) Meals prepared for immediate consumption on or off the premises of*
33 *the retailer; or (2) food sold through vending machines.*

34 Sec. 64. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3620 is
35 hereby amended to read as follows: 79-3620. (a) All revenue collected or
36 received by the director of taxation from the taxes imposed by this act
37 shall be remitted to the state treasurer in accordance with the provisions
38 of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
39 remittance, the state treasurer shall deposit the entire amount in the state
40 treasury, less amounts withheld as provided in subsection (b) and amounts
41 credited as provided in subsection (c) and (d), to the credit of the state
42 general fund.

43 (b) A refund fund, designated as "sales tax refund fund" not to exceed

1 \$100,000 shall be set apart and maintained by the director from sales tax
2 collections and estimated tax collections and held by the state treasurer
3 for prompt payment of all sales tax refunds including refunds authorized
4 under the provisions of K.S.A. 79-3635, and amendments thereto. Such
5 fund shall be in such amount, within the limit set by this section, as the
6 director shall determine is necessary to meet current refunding require-
7 ments under this act. In the event such fund as established by this section
8 is, at any time, insufficient to provide for the payment of refunds due
9 claimants thereof, the director shall certify the amount of additional funds
10 required to the director of accounts and reports who shall promptly trans-
11 fer the required amount from the state general fund to the sales tax refund
12 fund, and notify the state treasurer, who shall make proper entry in the
13 records.

14 (c) (1) The state treasurer shall credit $\frac{5}{98}$ of the revenue collected
15 or received from the tax imposed by K.S.A. 79-3603, and amendments
16 thereto, at the rate of 4.9%, and deposited as provided in subsection (a),
17 exclusive of amounts credited pursuant to subsection (d), in the state
18 highway fund.

19 (2) *The state treasurer shall credit $\frac{5}{113}$ of the revenue collected or re-*
20 *ceived from the tax imposed by K.S.A. 79-3603, and amendments thereto,*
21 *at the rate of 5.65%, and deposited as provided by subsection (a), exclusive*
22 *of amounts credited pursuant to subsection (d), in the state highway fund.*

23 (d) The state treasurer shall credit all revenue collected or received
24 from the tax imposed by K.S.A. 79-3603, and amendments thereto, as
25 certified by the director, from taxpayers doing business within that por-
26 tion of a redevelopment district occupied by a redevelopment project that
27 was determined by the secretary of commerce and housing to be of state-
28 wide as well as local importance or will create a major tourism area for
29 the state as defined in K.S.A. 12-1770a, and amendments thereto, to the
30 city bond finance fund, which fund is hereby created. The provisions of
31 this subsection shall expire when the total of all amounts credited here-
32 under and under subsection (d) of K.S.A. 79-3710, and amendments
33 thereto, is sufficient to retire the special obligation bonds issued for the
34 purpose of financing all or a portion of the costs of such redevelopment
35 project.

36 Sec. 65. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3703 is
37 hereby amended to read as follows: 79-3703. There is hereby levied and
38 there shall be collected from every person in this state a tax or excise for
39 the privilege of using, storing, or consuming within this state any article
40 of tangible personal property. Such tax shall be levied and collected in an
41 amount equal to the consideration paid by the taxpayer multiplied by the
42 rate of ~~4.9%~~ 5.65%. Within a redevelopment district established pursuant
43 to K.S.A. 2001 Supp. 74-8921, and amendments thereto, there is hereby

1 levied and there shall be collected and paid an additional tax of 2% until
2 the earlier of: (1) The date the bonds issued to finance or refinance the
3 redevelopment project undertaken in the district have been paid in full;
4 or (2) the final scheduled maturity of the first series of bonds issued to
5 finance the redevelopment project. All property purchased or leased
6 within or without this state and subsequently used, stored or consumed
7 in this state shall be subject to the compensating tax if the same property
8 or transaction would have been subject to the Kansas retailers' sales tax
9 had the transaction been wholly within this state.

10 Sec. 66. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3710 is
11 hereby amended to read as follows: 79-3710. (a) All revenue collected or
12 received by the director under the provisions of this act shall be remitted
13 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,
14 and amendments thereto. Upon receipt of each such remittance, the state
15 treasurer shall deposit the entire amount in the state treasury, less
16 amounts set apart as provided in subsection (b) and amounts credited as
17 provided in subsection (c) and (d), to the credit of the state general fund.

18 (b) A revolving fund, designated as "compensating tax refund fund"
19 not to exceed \$10,000 shall be set apart and maintained by the director
20 from compensating tax collections and estimated tax collections and held
21 by the state treasurer for prompt payment of all compensating tax refunds.
22 Such fund shall be in such amount, within the limit set by this section,
23 as the director shall determine is necessary to meet current refunding
24 requirements under this act.

25 (c) (1) The state treasurer shall credit $\frac{5}{98}$ of the revenue collected
26 or received from the tax imposed by K.S.A. 79-3703, and amendments
27 thereto, at the rate of 4.9%, and deposited as provided in subsection (a),
28 exclusive of amounts credited pursuant to subsection (d), in the state
29 highway fund.

30 (2) *The state treasurer shall credit $\frac{5}{113}$ of the revenue collected or*
31 *received from the tax imposed by K.S.A. 79-3703, and amendments*
32 *thereto, at the rate of 5.65%, and deposited as provided by subsection (a),*
33 *exclusive of amount credited pursuant to subsection (d), in the state high-*
34 *way fund.*

35 (d) The state treasurer shall credit all revenue collected or received
36 from the tax imposed by K.S.A. 79-3703, and amendments thereto, as
37 certified by the director, from taxpayers doing business within that por-
38 tion of a redevelopment district occupied by a redevelopment project that
39 was determined by the secretary of commerce and housing to be of state-
40 wide as well as local importance or will create a major tourism area for
41 the state as defined in K.S.A. 12-1770a, and amendments thereto, to the
42 city bond finance fund created by subsection (d) of K.S.A. 79-3620, and
43 amendments thereto. The provisions of this subsection shall expire when

1 the total of all amounts credited hereunder and under subsection (d) of
2 K.S.A. 79-3620, and amendments thereto, is sufficient to retire the special
3 obligation bonds issued for the purpose of financing all or a portion of
4 the costs of such redevelopment project.

5 Sec. 67. On and after June 1, 2002, K.S.A. 2001 Supp. 79-2959 is
6 hereby amended to read as follows: 79-2959. (a) There is hereby created
7 the local ad valorem tax reduction fund. All moneys transferred or cred-
8 ited to such fund under the provisions of this act or any other law shall
9 be apportioned and distributed in the manner provided herein.

10 (b) On January 15 and on July 15 of each year, the director of ac-
11 counts and reports shall make transfers in equal amounts which in the
12 aggregate equal 4.5% of the total retail sales and compensating taxes
13 credited to the state general fund pursuant to articles 36 and 37 of chapter
14 79 of Kansas Statutes Annotated and acts amendatory thereof and sup-
15 plemental thereto during the preceding calendar year from the state gen-
16 eral fund to the local ad valorem tax reduction fund, except that: (1) The
17 transfers on January 15 and July 15 of each year shall be in equal amounts
18 which in the aggregate equal 3.630% of such taxes credited to the state
19 general fund during the preceding calendar year; ~~and~~ (2) the amount of
20 the transfer on each such date during state fiscal year ~~2002~~ 2003 shall be
21 ~~\$27,340,335.50~~ \$31,369,000; (3) *the amount of the transfer on each such*
22 *date during state fiscal year 2004 shall be \$32,462,000; (4) the amount of*
23 *the transfer on each such date during state fiscal year 2005 shall be*
24 *\$33,502,000; (5) the amount of the transfer on each such date during state*
25 *fiscal year 2006 shall be \$34,643,000; and (6) the amount of the transfer*
26 *on each such date during state fiscal year 2007 shall be \$35,884,000.* All
27 such transfers are subject to reduction under K.S.A. 75-6704 and amend-
28 ments thereto. All transfers made in accordance with the provisions of
29 this section shall be considered to be demand transfers from the state
30 general fund, except that all such transfers during the fiscal year ending
31 June 30, 2002, shall be considered revenue transfers from the state gen-
32 eral fund.

33 (c) The state treasurer shall apportion and pay the amounts trans-
34 ferred under subsection (b) to the several county treasurers on January
35 15 and on July 15 in each year as follows: (1) Sixty-five percent of the
36 amount to be distributed shall be apportioned on the basis of the popu-
37 lation figures of the counties certified to the secretary of state pursuant
38 to K.S.A. 11-201 and amendments thereto on July 1 of the preceding
39 year; and (2) thirty-five percent of such amount shall be apportioned on
40 the basis of the equalized assessed tangible valuations on the tax rolls of
41 the counties on November 1 of the preceding year as certified by the
42 director of property valuation.

43 Sec. 68. On and after June 1, 2002, K.S.A. 2001 Supp. 79-2964 is

1 hereby amended to read as follows: 79-2964. There is hereby created the
2 county and city revenue sharing fund. All moneys transferred or credited
3 to such fund under the provisions of this act or any other law shall be
4 allocated and distributed in the manner provided herein. The director of
5 accounts and reports in each year on July 15 and December 10, shall
6 make transfers in equal amounts which in the aggregate equal 3.5% of
7 the total retail sales and compensating taxes credited to the state general
8 fund pursuant to articles 36 and 37 of chapter 79 of the Kansas Statutes
9 Annotated and acts amendatory thereof and supplemental thereto during
10 the preceding calendar year from the state general fund to the county
11 and city revenue sharing fund, except that: (a) The transfers on July 15
12 and December 10 of each year shall be in equal amounts which in the
13 aggregate equal 2.823% of such taxes credited to the state general fund
14 during the preceding calendar year; ~~and~~ (b) the amount of the transfer
15 on each such date during state fiscal year ~~2002~~ 2003 shall be
16 ~~\$17,438,174.50~~ \$23,934,000; (c) *the amount of the transfer on each such*
17 *date during state fiscal year 2004 shall be \$24,857,000; (d) the amount of*
18 *the transfer on each such date during state fiscal year 2005 shall be*
19 *\$25,633,000; (e) the amount of the transfer on each such date during state*
20 *fiscal year 2006 shall be \$26,475,000; and (f) the amount of the transfer*
21 *on each such date during state fiscal year 2007 shall be \$27,407,000.* All
22 such transfers are subject to reduction under K.S.A. 75-6704 and amend-
23 ments thereto. All transfers made in accordance with the provisions of
24 this section shall be considered to be demand transfers from the state
25 general fund, except that all such transfers during the fiscal year ending
26 June 30, 2002, shall be considered revenue transfers from the state gen-
27 eral fund.

28 Sec. 69. On and after June 1, 2002, K.S.A. 2001 Supp. 79-34,147 is
29 hereby amended to read as follows: 79-34,147. (a) (1) On July 1, 1999,
30 and quarterly thereafter the secretary of revenue shall certify to the di-
31 rector of accounts and reports the amount equal to 7.628% of the total
32 revenues received by the secretary from the taxes imposed under the
33 Kansas retailers' sales tax act and deposited in the state treasury and
34 credited to the state general fund during the preceding three calendar
35 months.

36 (2) On July 1, 2001, and quarterly thereafter, the secretary of revenue
37 shall certify to the director of accounts and reports the amount equal to
38 9.5% of the total revenues received by the secretary from the taxes im-
39 posed under the Kansas retailers' sales tax act and deposited in the state
40 treasury and credited to the state general fund during the preceding three
41 calendar months.

42 (3) On July 1, 2002, and quarterly thereafter, the secretary of revenue
43 shall certify to the director of accounts and reports the amount equal to

1 ~~11%~~ 11.898% of the total revenues received by the secretary from the
2 taxes imposed under the Kansas retailers' sales tax act and deposited in
3 the state treasury and credited to the state general fund during the pre-
4 ceding three calendar months.

5 (4) On July 1, 2003, and quarterly thereafter, the secretary of revenue
6 shall certify to the director of accounts and reports the amount equal to
7 ~~11.25%~~ 12.181% of the total revenues received by the secretary from the
8 taxes imposed under the Kansas retailers' sales tax act and deposited in
9 the state treasury and credited to the state general fund during the pre-
10 ceding three calendar months.

11 (5) On July 1, 2004, and quarterly thereafter, the secretary of revenue
12 shall certify to the director of accounts and reports the amount equal to
13 ~~12%~~ 12.94% of the total revenues received by the secretary from the
14 taxes imposed under the Kansas retailers' sales tax act and deposited in
15 the state treasury and credited to the state general fund during the pre-
16 ceding three calendar months.

17 (b) Upon receipt of each certification under subsection (a), the di-
18 rector of accounts and reports shall transfer from the state general fund
19 to the state highway fund an amount equal to the amount so certified, on
20 each July 1, October 1, January 1 and April 1, except that the amount of
21 the transfer on each such date during state fiscal year 2002 shall not
22 exceed \$30,277,162. All transfers made pursuant to this section are sub-
23 ject to reduction under K.S.A. 75-6704, and amendments thereto.

24 (c) All transfers made in accordance with the provisions of this section
25 shall be considered to be demand transfers from the state general fund.

26 Sec. 70. K.S.A. 75-6702 is hereby amended to read as follows: 75-
27 6702. (a) The last appropriation bill passed in any regular session of the
28 legislature shall be the omnibus reconciliation spending limit bill. Each
29 bill which is passed during a regular session of the legislature and which
30 appropriates or transfers money from the state general fund for the en-
31 suing fiscal year shall contain a provision that such bill shall take effect
32 and be in force from and after the effective date of the omnibus recon-
33 ciliation spending limit bill for that regular session of the legislature or
34 from and after such effective date and a subsequent date or an event
35 occurring after such effective date.

36 (b) The maximum amount of expenditures and demand transfers
37 from the state general fund that may be authorized by act of the legisla-
38 ture during the ~~1994~~ 2002 regular session of the legislature and each
39 regular session of the legislature thereafter, is hereby fixed so that there
40 will be an ending balance in the state general fund for the ensuing fiscal
41 year that is equal to ~~7½%~~ 5% or more of the total amount authorized to
42 be expended or transferred by demand transfer from the state general
43 fund in such fiscal year.

1 New Sec. 71. On January 1, 2003, the director of accounts and re-
2 ports shall transfer \$94,872,000 from the state general fund to the state
3 school district finance fund.

4 Sec. 72. On and after June 1, 2002, K.S.A. 2001 Supp. 79-15,100
5 through 79-15,126, 79-2959, 79-2964, 79-34,147, 79-3603, 79-3603b, 79-
6 3606, 79-3620, 79-3703 and 79-3710 are hereby repealed.

7 Sec. 73. On and after January 1, 2003, K.S.A. 79-3632, 79-3634 and
8 79-3636 through 79-3638 and K.S.A. 2001 Supp. 79-3633, 79-3635 and
9 79-3639 are hereby repealed.

10 Sec. 74. K.S.A. 40-252 and 75-6702 and K.S.A. 2001 Supp. 79-1107,
11 79-1108 and 79-32,110 are hereby repealed.

12 Sec. 75. This act shall take effect and be in force from and after its
13 publication in the Kansas register.

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