

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 2004

## HOUSE BILL No. 2544

By Representative Barbieri-Lightner

1-21

12 AN ACT concerning sales taxation; relating to [computer software;]  
13 exemptions for certain nonprofit corporations; [time for returns and  
14 payment of sales tax; franchise tax and franchise fees;] amending  
15 [K.S.A. 17-1513, 17-1618, 17-7510, 17-7511, 17-7512 and 56-  
16 1a608 and] K.S.A. 2003 Supp. [17-2036, 17-2718, 17-4634, 17-  
17 4677, 17-7503, 17-7504, 17-7505, 17-7507, 17-7509, 17-76,125,  
18 17-76,139, 45-221, 56-1a606, 56-1a607, 56a-1201, 56a-1202,  
19 56a-1203,] [79-3603 and] 79-3606 [and 79-3607] and repealing the  
20 existing section [sections; also repealing K.S.A. 2003 Supp. 17-  
21 7508]; also repealing K.S.A. 2003 Supp. 79-3603c].  
22

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

24 [Section 1. K.S.A. 2003 Supp. 79-3603 is hereby amended to  
25 read as follows: 79-3603. For the privilege of engaging in the busi-  
26 ness of selling tangible personal property at retail in this state or  
27 rendering or furnishing any of the services taxable under this act,  
28 there is hereby levied and there shall be collected and paid a tax  
29 at the rate of 5.3% on and after July 1, 2002, and before July 1,  
30 2004, 5.2% on and after July 1, 2004, and before July 1, 2005 2006, and  
31 5% on and after July 1, 2005 2006, and, within a redevelopment  
32 district established pursuant to K.S.A. 74-8921, and amendments  
33 thereto, there is hereby levied and there shall be collected and  
34 paid an additional tax at the rate of 2% until the earlier of the date  
35 the bonds issued to finance or refinance the redevelopment pro-  
36 ject have been paid in full or the final scheduled maturity of the  
37 first series of bonds issued to finance any part of the project upon:  
38 (a) The gross receipts received from the sale of tangible per-  
39 sonal property at retail within this state;  
40 (b) (1) the gross receipts from intrastate telephone or tele-  
41 graph services; (2) the gross receipts received from the sale of in-  
42 terstate telephone or telegraph services, which (A) originate within  
43 this state and terminate outside the state and are billed to a cus-

1 tomer's telephone number or account in this state; or (B) originate  
2 outside this state and terminate within this state and are billed to  
3 a customer's telephone number or account in this state except that  
4 the sale of interstate telephone or telegraph service does not in-  
5 clude: (A) Any interstate incoming or outgoing wide area tele-  
6 phone service or wide area transmission type service which entitles  
7 the subscriber to make or receive an unlimited number of com-  
8 munications to or from persons having telephone service in a spec-  
9 ified area which is outside the state in which the station provided  
10 this service is located; (B) any interstate private communications  
11 service to the persons contracting for the receipt of that service  
12 that entitles the purchaser to exclusive or priority use of a com-  
13 munications channel or group of channels between exchanges; (C)  
14 any value-added nonvoice service in which computer processing  
15 applications are used to act on the form, content, code or protocol  
16 of the information to be transmitted; (D) any telecommunication  
17 service to a provider of telecommunication services which will be  
18 used to render telecommunications services, including carrier ac-  
19 cess services; or (E) any service or transaction defined in this sec-  
20 tion among entities classified as members of an affiliated group as  
21 provided by section 1504 of the federal internal revenue code of  
22 1986, as in effect on January 1, 2001; and (3) the gross receipts  
23 from the provision of services taxable under this subsection which  
24 are billed on a combined basis with nontaxable services, shall be  
25 accounted for and the tax remitted as follows: The taxable portion  
26 of the selling price of those combined services shall include only  
27 those charges for taxable services if the selling price for the taxable  
28 services can be readily distinguishable in the retailer's books and  
29 records from the selling price for the nontaxable services. Other-  
30 wise, the gross receipts from the sale of both taxable and nontax-  
31 able services billed on a combined basis shall be deemed attrib-  
32 utable to the taxable services included therein. Within 90 days of  
33 billing taxable services on a combined basis with nontaxable serv-  
34 ices, the retailer shall enter into a written agreement with the sec-  
35 retary identifying the methodology to be used in determining the  
36 taxable portion of the selling price of those combined services. The  
37 burden of proving that any receipt or charge is not taxable shall  
38 be upon the retailer. Upon request from the customer, the retailer  
39 shall disclose to the customer the selling price for the taxable serv-  
40 ices included in the selling price for the taxable and nontaxable  
41 services billed on a combined basis;

42 [(c) the gross receipts from the sale or furnishing of gas, water,  
43 electricity and heat, which sale is not otherwise exempt from tax-

1 ation under the provisions of this act, and whether furnished by  
2 municipally or privately owned utilities, except that, on and after  
3 January 1, 2006, for sales of gas, electricity and heat delivered  
4 through mains, lines or pipes to residential premises for noncom-  
5 mercial use by the occupant of such premises, and for agricultural  
6 use and also, for such use, all sales of propane gas, the state rate  
7 shall be 0%; and for all sales of propane gas, LP gas, coal, wood  
8 and other fuel sources for the production of heat or lighting for  
9 noncommercial use of an occupant of residential premises, the  
10 state rate shall be 0%, but such tax shall not be levied and collected  
11 upon the gross receipts from: (1) The sale of a rural water district  
12 benefit unit; (2) a water system impact fee, system enhancement  
13 fee or similar fee collected by a water supplier as a condition for  
14 establishing service; or (3) connection or reconnection fees col-  
15 lected by a water supplier;

16 [(d) the gross receipts from the sale of meals or drinks fur-  
17 nished at any private club, drinking establishment, catered event,  
18 restaurant, eating house, dining car, hotel, drugstore or other  
19 place where meals or drinks are regularly sold to the public;

20 [(e) the gross receipts from the sale of admissions to any place  
21 providing amusement, entertainment or recreation services in-  
22 cluding admissions to state, county, district and local fairs, but such  
23 tax shall not be levied and collected upon the gross receipts re-  
24 ceived from sales of admissions to any cultural and historical event  
25 which occurs triennially;

26 [(f) the gross receipts from the operation of any coin-operated  
27 device dispensing or providing tangible personal property, amuse-  
28 ment or other services except laundry services, whether automatic  
29 or manually operated;

30 [(g) the gross receipts from the service of renting of rooms by  
31 hotels, as defined by K.S.A. 36-501 and amendments thereto, or  
32 by accommodation brokers, as defined by K.S.A. 12-1692, and  
33 amendments thereto but such tax shall not be levied and collected  
34 upon the gross receipts received from sales of such service to the  
35 federal government and any agency, officer or employee thereof  
36 in association with the performance of official government duties;

37 [(h) the gross receipts from the service of renting or leasing of  
38 tangible personal property except such tax shall not apply to the  
39 renting or leasing of machinery, equipment or other personal  
40 property owned by a city and purchased from the proceeds of in-  
41 dustrial revenue bonds issued prior to July 1, 1973, in accordance  
42 with the provisions of K.S.A. 12-1740 through 12-1749, and amend-  
43 ments thereto, and any city or lessee renting or leasing such ma-

1 chinery, equipment or other personal property purchased with the  
2 proceeds of such bonds who shall have paid a tax under the pro-  
3 visions of this section upon sales made prior to July 1, 1973, shall  
4 be entitled to a refund from the sales tax refund fund of all taxes  
5 paid thereon;

6 [(i) the gross receipts from the rendering of dry cleaning,  
7 pressing, dyeing and laundry services except laundry services ren-  
8 dered through a coin-operated device whether automatic or man-  
9 ually operated;

10 [(j) the gross receipts from the rendering of the services of  
11 washing and washing and waxing of vehicles;

12 [(k) the gross receipts from cable, community antennae and  
13 other subscriber radio and television services;

14 [(l) (1) except as otherwise provided by paragraph (2), the  
15 gross receipts received from the sales of tangible personal prop-  
16 erty to all contractors, subcontractors or repairmen for use by  
17 them in erecting structures, or building on, or otherwise improv-  
18 ing, altering, or repairing real or personal property.

19 [(2) Any such contractor, subcontractor or repairman who  
20 maintains an inventory of such property both for sale at retail and  
21 for use by them for the purposes described by paragraph (1) shall  
22 be deemed a retailer with respect to purchases for and sales from  
23 such inventory, except that the gross receipts received from any  
24 such sale, other than a sale at retail, shall be equal to the total  
25 purchase price paid for such property and the tax imposed thereon  
26 shall be paid by the deemed retailer;

27 [(m) the gross receipts received from fees and charges by pub-  
28 lic and private clubs, drinking establishments, organizations and  
29 businesses for participation in sports, games and other recrea-  
30 tional activities, but such tax shall not be levied and collected upon  
31 the gross receipts received from: (1) Fees and charges by any po-  
32 litical subdivision, by any organization exempt from property tax-  
33 ation pursuant to paragraph *Ninth* of K.S.A. 79-201, and amend-  
34 ments thereto, or by any youth recreation organization exclusively  
35 providing services to persons 18 years of age or younger which is  
36 exempt from federal income taxation pursuant to section 501(c)(3)  
37 of the federal internal revenue code of 1986, for participation in  
38 sports, games and other recreational activities; and (2) entry fees  
39 and charges for participation in a special event or tournament  
40 sanctioned by a national sporting association to which spectators  
41 are charged an admission which is taxable pursuant to subsection  
42 (e);

43 [(n) the gross receipts received from dues charged by public

1 and private clubs, drinking establishments, organizations and busi-  
2 nesses, payment of which entitles a member to the use of facilities  
3 for recreation or entertainment, but such tax shall not be levied  
4 and collected upon the gross receipts received from: (1) Dues  
5 charged by any organization exempt from property taxation pur-  
6 suant to paragraphs *Eighth* and *Ninth* of K.S.A. 79-201, and amend-  
7 ments thereto; and (2) sales of memberships in a nonprofit or-  
8 ganization which is exempt from federal income taxation pursuant  
9 to section 501 (c)(3) of the federal internal revenue code of 1986,  
10 and whose purpose is to support the operation of a nonprofit zoo;

11 [(o) the gross receipts received from the isolated or occasional  
12 sale of motor vehicles or trailers but not including: (1) The transfer  
13 of motor vehicles or trailers by a person to a corporation or limited  
14 liability company solely in exchange for stock securities or mem-  
15 bership interest in such corporation or limited liability company;  
16 or (2) the transfer of motor vehicles or trailers by one corporation  
17 or limited liability company to another when all of the assets of  
18 such corporation or limited liability company are transferred to  
19 such other corporation or limited liability company; or (3) the sale  
20 of motor vehicles or trailers which are subject to taxation pursuant  
21 to the provisions of K.S.A. 79-5101 *et seq.*, and amendments  
22 thereto, by an immediate family member to another immediate  
23 family member. For the purposes of clause (3), immediate family  
24 member means lineal ascendants or descendants, and their  
25 spouses. In determining the base for computing the tax on such  
26 isolated or occasional sale, the fair market value of any motor ve-  
27 hicle or trailer traded in by the purchaser to the seller may be  
28 deducted from the selling price;

29 [(p) the gross receipts received for the service of installing or  
30 applying tangible personal property which when installed or ap-  
31 plied is not being held for sale in the regular course of business,  
32 and whether or not such tangible personal property when installed  
33 or applied remains tangible personal property or becomes a part  
34 of real estate, except that no tax shall be imposed upon the service  
35 of installing or applying tangible personal property in connection  
36 with the original construction of a building or facility, the original  
37 construction, reconstruction, restoration, remodeling, renovation,  
38 repair or replacement of a residence or the construction, recon-  
39 struction, restoration, replacement or repair of a bridge or  
40 highway.

41 [For the purposes of this subsection:

42 [(1) “Original construction” shall mean the first or initial con-  
43 struction of a new building or facility. The term “original construc-

1 tion” shall include the addition of an entire room or floor to any  
2 existing building or facility, the completion of any unfinished por-  
3 tion of any existing building or facility and the restoration, recon-  
4 struction or replacement of a building or facility damaged or de-  
5 stroyed by fire, flood, tornado, lightning, explosion or earthquake,  
6 but such term, except with regard to a residence, shall not include  
7 replacement, remodeling, restoration, renovation or reconstruc-  
8 tion under any other circumstances;

9 [(2) “building” shall mean only those enclosures within which  
10 individuals customarily are employed, or which are customarily  
11 used to house machinery, equipment or other property, and in-  
12 cluding the land improvements immediately surrounding such  
13 building;

14 [(3) “facility” shall mean a mill, plant, refinery, oil or gas well,  
15 water well, feedlot or any conveyance, transmission or distribution  
16 line of any cooperative, nonprofit, membership corporation or-  
17 ganized under or subject to the provisions of K.S.A. 17-4601 et  
18 seq., and amendments thereto, or of any municipal or quasi-mu-  
19 nicipal corporation, including the land improvements immediately  
20 surrounding such facility; and

21 [(4) “residence” shall mean only those enclosures within which  
22 individuals customarily live;

23 [(q) the gross receipts received for the service of repairing,  
24 servicing, altering or maintaining tangible personal property  
25 which when such services are rendered is not being held for sale  
26 in the regular course of business, and whether or not any tangible  
27 personal property is transferred in connection therewith. The tax  
28 imposed by this subsection shall be applicable to the services of  
29 repairing, servicing, altering or maintaining an item of tangible  
30 personal property which has been and is fastened to, connected  
31 with or built into real property;

32 [(r) the gross receipts from fees or charges made under service  
33 or maintenance agreement contracts for services, charges for the  
34 providing of which are taxable under the provisions of subsection  
35 (p) or (q);

36 [(s) *on and after July 1, 2004, the gross receipts received from*  
37 *the sale of prewritten computer software, the sale of the service of*  
38 *providing computer software other than prewritten computer software*  
39 *and the sale of the services of modifying, altering, updating or*  
40 *maintaining prewritten computer software, whether the prewritten*  
41 *computer software is installed or delivered electronically by tan-*  
42 *gible storage media physically transferred to the purchaser or by*  
43 *load and leave;*

1     **[(t) the gross receipts received for telephone answering serv-**  
2 **ices, mobile telecommunication services, beeper services and**  
3 **other similar services. On and after August 1, 2002, the provisions**  
4 **of the federal mobile telecommunications sourcing act as in effect**  
5 **on January 1, 2002, shall be applicable to all sales of mobile tele-**  
6 **communication services taxable pursuant to this subsection. The**  
7 **secretary of revenue is hereby authorized and directed to perform**  
8 **any act deemed necessary to properly implement such provisions;**

9     **[(u) the gross receipts received from the sale of prepaid calling**  
10 **service as defined in K.S.A. 2003 Supp. 79-3673, and amendments**  
11 **thereto; and**

12     **[(v) the gross receipts received from the sales of bingo cards,**  
13 **bingo faces and instant bingo tickets by licensees under K.S.A. 79-**  
14 **4701, et seq., and amendments thereto, shall be taxed at a rate of:**  
15 **(1) 4.9% on July 1, 2000, and before July 1, 2001; and (2) 2.5% on**  
16 **July 1, 2001, and before July 1, 2002. From and after July 1, 2002,**  
17 **all sales of bingo cards, bingo faces and instant bingo tickets by**  
18 **licensees under K.S.A. 79-4701 et seq., and amendments thereto,**  
19 **shall be exempt from taxes imposed pursuant to this section.]**

20     ~~Section 1~~ **[Sec. 2.]** K.S.A. 2003 Supp. 79-3606 is hereby amended  
21 to read as follows: 79-3606. The following shall be exempt from the tax  
22 imposed by this act:

23     (a) All sales of motor-vehicle fuel or other articles upon which a sales  
24 or excise tax has been paid, not subject to refund, under the laws of this  
25 state except cigarettes as defined by K.S.A. 79-3301 and amendments  
26 thereto, cereal malt beverages and malt products as defined by K.S.A. 79-  
27 3817 and amendments thereto, including wort, liquid malt, malt syrup  
28 and malt extract, which is not subject to taxation under the provisions of  
29 K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant  
30 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to  
31 K.S.A. 65-3424d, and amendments thereto, and drycleaning and laundry  
32 services taxed pursuant to K.S.A. 65-34,150, and amendments thereto;

33     (b) all sales of tangible personal property or service, including the  
34 renting and leasing of tangible personal property, purchased directly by  
35 the state of Kansas, a political subdivision thereof, other than a school or  
36 educational institution, or purchased by a public or private nonprofit hos-  
37 pital or public hospital authority or nonprofit blood, tissue or organ bank  
38 and used exclusively for state, political subdivision, hospital or public hos-  
39 pital authority or nonprofit blood, tissue or organ bank purposes, except  
40 when: (1) Such state, hospital or public hospital authority is engaged or  
41 proposes to engage in any business specifically taxable under the provi-  
42 sions of this act and such items of tangible personal property or service  
43 are used or proposed to be used in such business, or (2) such political

1 subdivision is engaged or proposes to engage in the business of furnishing  
2 gas, electricity or heat to others and such items of personal property or  
3 service are used or proposed to be used in such business;

4 (c) all sales of tangible personal property or services, including the  
5 renting and leasing of tangible personal property, purchased directly by  
6 a public or private elementary or secondary school or public or private  
7 nonprofit educational institution and used primarily by such school or  
8 institution for nonsectarian programs and activities provided or sponsored  
9 by such school or institution or in the erection, repair or enlargement of  
10 buildings to be used for such purposes. The exemption herein provided  
11 shall not apply to erection, construction, repair, enlargement or equip-  
12 ment of buildings used primarily for human habitation;

13 (d) all sales of tangible personal property or services purchased by a  
14 contractor for the purpose of constructing, equipping, reconstructing,  
15 maintaining, repairing, enlarging, furnishing or remodeling facilities for  
16 any public or private nonprofit hospital or public hospital authority, public  
17 or private elementary or secondary school or a public or private nonprofit  
18 educational institution, which would be exempt from taxation under the  
19 provisions of this act if purchased directly by such hospital or public hos-  
20 pital authority, school or educational institution; and all sales of tangible  
21 personal property or services purchased by a contractor for the purpose  
22 of constructing, equipping, reconstructing, maintaining, repairing, en-  
23 larging, furnishing or remodeling facilities for any political subdivision of  
24 the state or district described in subsection (s), the total cost of which is  
25 paid from funds of such political subdivision or district and which would  
26 be exempt from taxation under the provisions of this act if purchased  
27 directly by such political subdivision or district. Nothing in this subsection  
28 or in the provisions of K.S.A. 12-3418 and amendments thereto, shall be  
29 deemed to exempt the purchase of any construction machinery, equip-  
30 ment or tools used in the constructing, equipping, reconstructing, main-  
31 taining, repairing, enlarging, furnishing or remodeling facilities for any  
32 political subdivision of the state or any such district. As used in this sub-  
33 section, K.S.A. 12-3418 and 79-3640, and amendments thereto, “funds  
34 of a political subdivision” shall mean general tax revenues, the proceeds  
35 of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used  
36 for the purpose of constructing, equipping, reconstructing, repairing, en-  
37 larging, furnishing or remodeling facilities which are to be leased to the  
38 donor. When any political subdivision of the state, district described in  
39 subsection (s), public or private nonprofit hospital or public hospital au-  
40 thority, public or private elementary or secondary school or public or  
41 private nonprofit educational institution shall contract for the purpose of  
42 constructing, equipping, reconstructing, maintaining, repairing, enlarg-  
43 ing, furnishing or remodeling facilities, it shall obtain from the state and



1 furnish to the contractor an exemption certificate for the project involved,  
2 and the contractor may purchase materials for incorporation in such pro-  
3 ject. The contractor shall furnish the number of such certificate to all  
4 suppliers from whom such purchases are made, and such suppliers shall  
5 execute invoices covering the same bearing the number of such certifi-  
6 cate. Upon completion of the project the contractor shall furnish to the  
7 political subdivision, district described in subsection (s), hospital or public  
8 hospital authority, school or educational institution concerned a sworn  
9 statement, on a form to be provided by the director of taxation, that all  
10 purchases so made were entitled to exemption under this subsection. As  
11 an alternative to the foregoing procedure, any such contracting entity may  
12 apply to the secretary of revenue for agent status for the sole purpose of  
13 issuing and furnishing project exemption certificates to contractors pur-  
14 suant to rules and regulations adopted by the secretary establishing con-  
15 ditions and standards for the granting and maintaining of such status. All  
16 invoices shall be held by the contractor for a period of five years and shall  
17 be subject to audit by the director of taxation. If any materials purchased  
18 under such a certificate are found not to have been incorporated in the  
19 building or other project or not to have been returned for credit or the  
20 sales or compensating tax otherwise imposed upon such materials which  
21 will not be so incorporated in the building or other project reported and  
22 paid by such contractor to the director of taxation not later than the 20th  
23 day of the month following the close of the month in which it shall be  
24 determined that such materials will not be used for the purpose for which  
25 such certificate was issued, the political subdivision, district described in  
26 subsection (s), hospital or public hospital authority, school or educational  
27 institution concerned shall be liable for tax on all materials purchased for  
28 the project, and upon payment thereof it may recover the same from the  
29 contractor together with reasonable attorney fees. Any contractor or any  
30 agent, employee or subcontractor thereof, who shall use or otherwise  
31 dispose of any materials purchased under such a certificate for any pur-  
32 pose other than that for which such a certificate is issued without the  
33 payment of the sales or compensating tax otherwise imposed upon such  
34 materials, shall be guilty of a misdemeanor and, upon conviction therefor,  
35 shall be subject to the penalties provided for in subsection (g) of K.S.A.  
36 79-3615, and amendments thereto;

37 (e) all sales of tangible personal property or services purchased by a  
38 contractor for the erection, repair or enlargement of buildings or other  
39 projects for the government of the United States, its agencies or instru-  
40 mentalities, which would be exempt from taxation if purchased directly  
41 by the government of the United States, its agencies or instrumentalities.  
42 When the government of the United States, its agencies or instrumen-  
43 talities shall contract for the erection, repair, or enlargement of any build-

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

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

28 (g) sales of aircraft including remanufactured and modified aircraft;  
29 ~~sales of aircraft repair, modification and replacement parts and sales of~~  
30 ~~services employed in the remanufacture, modification and repair of air-~~  
31 ~~craft sold to persons using directly or through an authorized agent such~~  
32 ~~aircraft and aircraft repair, modification and replacement parts as certified~~  
33 or licensed carriers of persons or property in interstate or foreign com-  
34 merce under authority of the laws of the United States or any foreign  
35 government or sold to any foreign government or agency or instrumen-  
36 tality of such foreign government and all sales of aircraft, ~~aircraft parts,~~  
37 ~~replacement parts and services employed in the remanufacture, modifi-~~  
38 cation and repair of aircraft for use outside of the United States [**and**  
39 **sales of aircraft repair, modification and replacement parts and**  
40 **sales of services employed in the remanufacture, modification and**  
41 **repair of aircraft**];

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

- 1 (i) the lease or rental of all films, records, tapes, or any type of sound  
2 or picture transcriptions used by motion picture exhibitors;
- 3 (j) meals served without charge or food used in the preparation of  
4 such meals to employees of any restaurant, eating house, dining car, hotel,  
5 drugstore or other place where meals or drinks are regularly sold to the  
6 public if such employees' duties are related to the furnishing or sale of  
7 such meals or drinks;
- 8 (k) any motor vehicle, semitrailer or pole trailer, as such terms are  
9 defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and  
10 delivered in this state to a bona fide resident of another state, which motor  
11 vehicle, semitrailer, pole trailer or aircraft is not to be registered or based  
12 in this state and which vehicle, semitrailer, pole trailer or aircraft will not  
13 remain in this state more than 10 days;
- 14 (l) all isolated or occasional sales of tangible personal property, serv-  
15 ices, substances or things, except isolated or occasional sale of motor  
16 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.  
17 79-3603 and amendments thereto;
- 18 (m) all sales of tangible personal property which become an ingre-  
19 dient or component part of tangible personal property or services pro-  
20 duced, manufactured or compounded for ultimate sale at retail within or  
21 without the state of Kansas; and any such producer, manufacturer or  
22 compounder may obtain from the director of taxation and furnish to the  
23 supplier an exemption certificate number for tangible personal property  
24 for use as an ingredient or component part of the property or services  
25 produced, manufactured or compounded;
- 26 (n) all sales of tangible personal property which is consumed in the  
27 production, manufacture, processing, mining, drilling, refining or com-  
28 pounding of tangible personal property, the treating of by-products or  
29 wastes derived from any such production process, the providing of serv-  
30 ices or the irrigation of crops for ultimate sale at retail within or without  
31 the state of Kansas; and any purchaser of such property may obtain from  
32 the director of taxation and furnish to the supplier an exemption certifi-  
33 cate number for tangible personal property for consumption in such pro-  
34 duction, manufacture, processing, mining, drilling, refining, compound-  
35 ing, treating, irrigation and in providing such services;
- 36 (o) all sales of animals, fowl and aquatic plants and animals, the pri-  
37 mary purpose of which is use in agriculture or aquaculture, as defined in  
38 K.S.A. 47-1901, and amendments thereto, the production of food for  
39 human consumption, the production of animal, dairy, poultry or aquatic  
40 plant and animal products, fiber or fur, or the production of offspring for  
41 use for any such purpose or purposes;
- 42 (p) all sales of drugs dispensed pursuant to a prescription order by a  
43 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-

1 1626, and amendments thereto. As used in this subsection, “drug” means  
2 a compound, substance or preparation and any component of a com-  
3 pound, substance or preparation, other than food and food ingredients,  
4 dietary supplements or alcoholic beverages, recognized in the official  
5 United States pharmacopoeia, official homeopathic pharmacopoeia of the  
6 United States or official national formulary, and supplement to any of  
7 them, intended for use in the diagnosis, cure, mitigation, treatment or  
8 prevention of disease or intended to affect the structure or any function  
9 of the body;

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

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

33 (s) except as provided in K.S.A. 2003 Supp. 82a-2101, and amend-  
34 ments thereto, all sales of tangible personal property or services pur-  
35 chased directly or indirectly by a groundwater management district or-  
36 ganized or operating under the authority of K.S.A. 82a-1020 *et seq.* and  
37 amendments thereto, by a rural water district organized or operating un-  
38 der the authority of K.S.A. 82a-612, and amendments thereto, or by a  
39 water supply district organized or operating under the authority of K.S.A.  
40 19-3501 *et seq.*, 19-3522 *et seq.* or 19-3545, and amendments thereto,  
41 which property or services are used in the construction activities, opera-  
42 tion or maintenance of the district;

43 (t) all sales of farm machinery and equipment or aquaculture ma-

1 chinery and equipment, repair and replacement parts therefor and serv-  
2 ices performed in the repair and maintenance of such machinery and  
3 equipment. For the purposes of this subsection the term “farm machinery  
4 and equipment or aquaculture machinery and equipment” shall include  
5 machinery and equipment used in the operation of Christmas tree farm-  
6 ing but shall not include any passenger vehicle, truck, truck tractor, trailer,  
7 semitrailer or pole trailer, other than a farm trailer, as such terms are  
8 defined by K.S.A. 8-126 and amendments thereto. Each purchaser of  
9 farm machinery and equipment or aquaculture machinery and equipment  
10 exempted herein must certify in writing on the copy of the invoice or  
11 sales ticket to be retained by the seller that the farm machinery and  
12 equipment or aquaculture machinery and equipment purchased will be  
13 used only in farming, ranching or aquaculture production. Farming or  
14 ranching shall include the operation of a feedlot and farm and ranch work  
15 for hire and the operation of a nursery;

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

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

33 (w) all sales of natural gas, electricity, heat and water delivered  
34 through mains, lines or pipes: (1) To residential premises for noncom-  
35 mercial use by the occupant of such premises; (2) for agricultural use and  
36 also, for such use, all sales of propane gas; (3) for use in the severing of  
37 oil; and (4) to any property which is exempt from property taxation pur-  
38 suant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph,  
39 “severing” shall have the meaning ascribed thereto by subsection (k) of  
40 K.S.A. 79-4216, and amendments thereto. For all sales of natural gas,  
41 electricity and heat delivered through mains, lines or pipes pursuant to  
42 the provisions of subsection (w)(1) and (w)(2), the provisions of this sub-  
43 section shall expire on December 31, 2005;

- 1 (x) all sales of propane gas, LP-gas, coal, wood and other fuel sources  
2 for the production of heat or lighting for noncommercial use of an oc-  
3 cupant of residential premises occurring prior to January 1, 2006;
- 4 (y) all sales of materials and services used in the repairing, servicing,  
5 altering, maintaining, manufacturing, remanufacturing, or modification of  
6 railroad rolling stock for use in interstate or foreign commerce under  
7 authority of the laws of the United States;
- 8 (z) all sales of tangible personal property and services purchased di-  
9 rectly by a port authority or by a contractor therefor as provided by the  
10 provisions of K.S.A. 12-3418 and amendments thereto;
- 11 (aa) all sales of materials and services applied to equipment which is  
12 transported into the state from without the state for repair, service, al-  
13 teration, maintenance, remanufacture or modification and which is sub-  
14 sequently transported outside the state for use in the transmission of  
15 liquids or natural gas by means of pipeline in interstate or foreign com-  
16 merce under authority of the laws of the United States;
- 17 (bb) all sales of used mobile homes or manufactured homes. As used  
18 in this subsection: (1) “Mobile homes” and “manufactured homes” shall  
19 have the meanings ascribed thereto by K.S.A. 58-4202 and amendments  
20 thereto; and (2) “sales of used mobile homes or manufactured homes”  
21 means sales other than the original retail sale thereof;
- 22 (cc) all sales of tangible personal property or services purchased for  
23 the purpose of and in conjunction with constructing, reconstructing, en-  
24 larging or remodeling a business or retail business which meets the  
25 requirements established in K.S.A. 74-50,115 and amendments thereto,  
26 and the sale and installation of machinery and equipment purchased for  
27 installation at any such business or retail business. When a person shall  
28 contract for the construction, reconstruction, enlargement or remodeling  
29 of any such business or retail business, such person shall obtain from the  
30 state and furnish to the contractor an exemption certificate for the project  
31 involved, and the contractor may purchase materials, machinery and  
32 equipment for incorporation in such project. The contractor shall furnish  
33 the number of such certificates to all suppliers from whom such purchases  
34 are made, and such suppliers shall execute invoices covering the same  
35 bearing the number of such certificate. Upon completion of the project  
36 the contractor shall furnish to the owner of the business or retail business  
37 a sworn statement, on a form to be provided by the director of taxation,  
38 that all purchases so made were entitled to exemption under this subsec-  
39 tion. All invoices shall be held by the contractor for a period of five years  
40 and shall be subject to audit by the director of taxation. Any contractor  
41 or any agent, employee or subcontractor thereof, who shall use or oth-  
42 erwise dispose of any materials, machinery or equipment purchased un-  
43 der such a certificate for any purpose other than that for which such a

1 certificate is issued without the payment of the sales or compensating tax  
2 otherwise imposed thereon, shall be guilty of a misdemeanor and, upon  
3 conviction therefor, shall be subject to the penalties provided for in sub-  
4 section (g) of K.S.A. 79-3615 and amendments thereto. As used in this  
5 subsection, “business” and “retail business” have the meanings respec-  
6 tively ascribed thereto by K.S.A. 74-50,114 and amendments thereto;

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

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

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

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

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

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

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

1 **property or services purchased by contractors during the time pe-**  
2 **riod from July, 2003, through June, 2004, for the purpose of con-**  
3 **structing, equipping, maintaining or furnishing a new facility for**  
4 **a community-based mental retardation facility or mental health**  
5 **center located in Riverton, Cherokee County, Kansas, which would**  
6 **have been eligible for sales tax exemption pursuant to this subsec-**  
7 **tion if purchased directly by such facility or center].** This exemption  
8 shall not apply to tangible personal property customarily used for human  
9 habitation purposes;

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

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

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

17 (2) For purposes of this subsection:

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

28 (B) “production line” means the assemblage of machinery and equip-  
29 ment at a manufacturing or processing plant or facility where the actual  
30 transformation or processing of tangible personal property occurs;

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

42 (D) “manufacturing or processing business” means a business that  
43 utilizes an integrated production operation to manufacture, process, fab-



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

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

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

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

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

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

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

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

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

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

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

36 (E) furniture and other furnishings;

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

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

43 (H) machinery and equipment used for general plant heating, cooling

1 and lighting;

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

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

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

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

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

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

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

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

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

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

40 (rr) all sales of tangible personal property which will admit the pur-  
41 chaser thereof to any annual event sponsored by a nonprofit organization  
42 which is exempt from federal income taxation pursuant to section  
43 501(c)(3) of the federal internal revenue code of 1986;

- 1 (ss) all sales of tangible personal property and services purchased by  
2 a public broadcasting station licensed by the federal communications  
3 commission as a noncommercial educational television or radio station;
- 4 (tt) all sales of tangible personal property and services purchased by  
5 or on behalf of a not-for-profit corporation which is exempt from federal  
6 income taxation pursuant to section 501(c)(3) of the federal internal revenue  
7 code of 1986, for the sole purpose of constructing a Kansas Korean  
8 War memorial;
- 9 (uu) all sales of tangible personal property and services purchased by  
10 or on behalf of any rural volunteer fire-fighting organization for use ex-  
11 clusively in the performance of its duties and functions;
- 12 (vv) all sales of tangible personal property purchased by any of the  
13 following organizations which are exempt from federal income taxation  
14 pursuant to section 501 (c)(3) of the federal internal revenue code of  
15 1986, for the following purposes, and all sales of any such property by or  
16 on behalf of any such organization for any such purpose:
- 17 (1) The American Heart Association, Kansas Affiliate, Inc. for the  
18 purposes of providing education, training, certification in emergency car-  
19 diac care, research and other related services to reduce disability and  
20 death from cardiovascular diseases and stroke;
- 21 (2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of  
22 advocacy for persons with mental illness and to education, research and  
23 support for their families;
- 24 (3) the Kansas Mental Illness Awareness Council for the purposes of  
25 advocacy for persons who are mentally ill and to education, research and  
26 support for them and their families;
- 27 (4) the American Diabetes Association Kansas Affiliate, Inc. for the  
28 purpose of eliminating diabetes through medical research, public edu-  
29 cation focusing on disease prevention and education, patient education  
30 including information on coping with diabetes, and professional education  
31 and training;
- 32 (5) the American Lung Association of Kansas, Inc. for the purpose of  
33 eliminating all lung diseases through medical research, public education  
34 including information on coping with lung diseases, professional educa-  
35 tion and training related to lung disease and other related services to  
36 reduce the incidence of disability and death due to lung disease;
- 37 (6) the Kansas chapters of the Alzheimer's Disease and Related Dis-  
38 orders Association, Inc. for the purpose of providing assistance and sup-  
39 port to persons in Kansas with Alzheimer's disease, and their families and  
40 caregivers;
- 41 (7) the Kansas chapters of the Parkinson's disease association for the  
42 purpose of eliminating Parkinson's disease through medical research and  
43 public and professional education related to such disease; ~~and~~

1 (8) the National Kidney Foundation of Kansas and Western Missouri  
2 for the purpose of eliminating kidney disease through medical research  
3 and public and private education related to such disease; ~~and~~

4 ~~—(9) the miniature fantasies, inc., for the purpose of raising and do-~~  
5 ~~minating money for charitable purposes and promotion of miniature artisan~~

6 ~~crafts~~ **the heartstrings community foundation for the purpose of**  
7 **providing training, employment and activities for adults with de-**  
8 **velopmental disabilities;**

9 **(10) the Cystic Fibrosis Foundation, Heart of America Chap-**  
10 **ter, for the purposes of assuring the development of the means to**  
11 **cure and control cystic fibrosis and improving the quality of life**  
12 **for those with the disease; and**

13 **(11) the spina bifida association of Kansas for the purpose of**  
14 **providing financial, educational and practical aid to families and**  
15 **individuals with spina bifida. Such aid includes, but is not limited**  
16 **to, funding for medical devices, counseling and medical educa-**  
17 **tional opportunities;**

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

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

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

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

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

36 (aaa) all sales of tangible personal property and services purchased  
37 by a religious organization which is exempt from federal income taxation  
38 pursuant to section 501(c)(3) of the federal internal revenue code, and  
39 used exclusively for religious purposes, and all sales of tangible personal  
40 property or services purchased by a contractor for the purpose of con-  
41 structing, equipping, reconstructing, maintaining, repairing, enlarging,  
42 furnishing or remodeling facilities for any such organization which would  
43 be exempt from taxation under the provisions of this section if purchased

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



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

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

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

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

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

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

42 (ggg) all sales of tangible personal property and services purchased  
43 by or on behalf of the Kansas Academy of Science which is exempt from

1 federal income taxation pursuant to section 501(c)(3) of the federal in-  
2 ternal revenue code of 1986, and used solely by such academy for the  
3 preparation, publication and dissemination of education materials; **and**  
4 **(hhh) all sales of tangible personal property and services pur-**  
5 **chased by or on behalf of all domestic violence shelters that are**  
6 **member agencies of the Kansas coalition against sexual and do-**  
7 **estic violence.**

8 Sec. 2. K.S.A. 2003 Supp. [79-3603, 79-3603c and] 79-3606 is  
9 [are] hereby repealed.

10 [Sec. 3. K.S.A. 2003 Supp. 79-3607 is hereby amended to read  
11 as follows: 79-3607. (a) Retailers shall make returns to the director  
12 at the times prescribed by this section upon forms prescribed and  
13 furnished by the director stating: (1) The name and address of the  
14 retailer; (2) the total amount of gross sales of all tangible personal  
15 property and taxable services rendered by the retailer during the  
16 period for which the return is made; (3) the total amount received  
17 during the period for which the return is made on charge and time  
18 sales of tangible personal property made and taxable services ren-  
19 dered prior to the period for which the return is made; (4) deduc-  
20 tions allowed by law from such total amount of gross sales and from  
21 total amount received during the period for which the return is  
22 made on such charge and time sales; (5) receipts during the period  
23 for which the return is made from the total amount of sales of  
24 tangible personal property and taxable services rendered during  
25 such period in the course of such business, after deductions al-  
26 lowed by law have been made; (6) receipts during the period for  
27 which the return is made from charge and time sales of tangible  
28 personal property made and taxable services rendered prior to  
29 such period in the course of such business, after deductions al-  
30 lowed by law have been made; (7) gross receipts during the period  
31 for which the return is made from sales of tangible personal prop-  
32 erty and taxable services rendered in the course of such business  
33 upon the basis of which the tax is imposed. The return shall include  
34 such other pertinent information as the director may require. In  
35 making such return, the retailer shall determine the market value  
36 of any consideration, other than money, received in connection  
37 with the sale of any tangible personal property in the course of the  
38 business and shall include such value in the return. Such value  
39 shall be subject to review and revision by the director as herein-  
40 after provided. Refunds made by the retailer during the period for  
41 which the return is made on account of tangible personal property  
42 returned to the retailer shall be allowed as a deduction under sub-  
43 division (4) of this section in case the retailer has theretofore in-

1 cluded the receipts from such sale in a return made by such re-  
2 tailer and paid taxes therein imposed by this act. The retailer shall,  
3 at the time of making such return, pay to the director the amount  
4 of tax herein imposed, except as otherwise provided in this section.  
5 The director may extend the time for making returns and paying  
6 the tax required by this act for any period not to exceed 60 days  
7 under such rules and regulations as the secretary of revenue may  
8 prescribe. When the total tax for which any retailer is liable under  
9 this act, does not exceed the sum of \$80 in any calendar year, the  
10 retailer shall file an annual return on or before January 25 of the  
11 following year. When the total tax liability does not exceed ~~\$1,600~~  
12 ~~\$3,200~~ in any calendar year, the retailer shall file returns quarterly  
13 on or before the 25th day of the month following the end of each  
14 calendar quarter. When the total tax liability exceeds ~~\$1,600~~ ~~\$3,200~~  
15 in any calendar year, the retailer shall file a return for each month  
16 on or before the 25th day of the following month. When the total  
17 tax liability exceeds \$32,000 in any calendar year, the retailer shall  
18 be required to pay the sales tax liability for the first 15 days of each  
19 month to the director on or before the 25th day of that month.  
20 Any such payment shall accompany the return filed for the pre-  
21 ceding month. A retailer will be considered to have complied with  
22 the requirements to pay the first 15 days' liability for any month  
23 if, on or before the 25th day of that month, the retailer paid 90%  
24 of the liability for that fifteen-day period, or 50% of such retailer's  
25 liability in the immediate preceding calendar year for the same  
26 month as the month in which the fifteen-day period occurs com-  
27 puted at the rate applicable in the month in which the fifteen-day  
28 period occurs, and, in either case, paid any underpayment with the  
29 payment required on or before the 25th day of the following  
30 month. Such retailers shall pay their sales tax liabilities for the  
31 remainder of each such month at the time of filing the return for  
32 such month. Determinations of amounts of liability in a calendar  
33 year for purposes of determining filing requirements shall be  
34 made by the director upon the basis of amounts of liability by those  
35 retailers during the preceding calendar year or by estimates in  
36 cases of retailers having no previous sales tax histories. The direc-  
37 tor is hereby authorized to modify the filing schedule for any re-  
38 tailer when it is apparent that the original determination was  
39 inaccurate.

40 [(b) All model 1, model 2 and model 3 sellers are required to  
41 file returns electronically. Any model 1, model 2 or model 3 seller  
42 may submit its sales and use tax returns in a simplified format  
43 approved by the director. Any seller that is registered under the

1 agreement, which does not have a legal requirement to register in  
2 this state, and is not a model 1, model 2 or model 3 seller, may  
3 submit its sales and use tax returns as follows: (1) Upon registra-  
4 tion, the director shall provide to the seller the returns required;

5 [(2) seller shall file a return anytime within one year of the  
6 month of initial registration, and future returns are required on  
7 an annual basis in succeeding years; and

8 [(3) in addition to the returns required in subsection (b)(2),  
9 sellers are required to submit returns in the month following any  
10 month in which they have accumulated state and local sales tax  
11 funds for this state in the amount of \$1,600 or more.

12 [New Sec. 4. (a) (1) For any foreign or domestic for profit cor-  
13 poration, or professional corporation or association, duly regis-  
14 tered and authorized to do business in Kansas by the secretary of  
15 state and which has taxable equity attributable to Kansas of  
16 \$1,000,000 or more, such entity shall pay an annual franchise tax  
17 to the secretary of revenue at the rate of .1% of such entity's tax-  
18 able equity attributable to Kansas, except that such annual franch-  
19 ise tax for such entity shall not exceed \$25,000.

20 [(2) For any foreign or domestic limited liability company, for-  
21 eign or domestic limited partnership or foreign or domestic lim-  
22 ited liability partnership duly registered and authorized to do busi-  
23 ness in Kansas by the secretary of state and which has net capital  
24 accounts located or used in this state at the end of the preceding  
25 taxable year as required to be reported on the federal partnership  
26 return of income of \$1,000,000 or more, such entity shall pay an  
27 annual franchise tax to the secretary of revenue at the rate of .1%  
28 of the net capital accounts located in or used in this state at the  
29 end of the preceding taxable year as required to be reported on  
30 the federal partnership return of income, or for a one-member  
31 LLC taxed as a sole proprietorship which has net book value of  
32 the LLC as calculated on an income tax basis located in or used in  
33 this state at the end of the preceding taxable year of \$1,000,000  
34 or more, .1% of net book value of the LLC as calculated on an  
35 income tax basis located in or used in this state at the end of the  
36 preceding taxable year, except that such annual franchise tax for  
37 such entities shall not exceed \$25,000.

38 [(3) For any business trust duly registered and authorized to  
39 do business in Kansas by the secretary of state which has corpus  
40 as shown on its balance sheet at the end of the preceding taxable  
41 year as required to be reported on its annual report filed with the  
42 secretary of state pursuant to K.S.A. 17-2036, and amendments  
43 thereto, of \$1,000,000 or more, such entity shall pay an annual

1 franchise tax to the secretary of revenue at the rate of .1% of the  
2 corpus as shown on its balance sheet at the end of the preceding  
3 taxable year as required to be reported on its annual report filed  
4 with the secretary of state pursuant to K.S.A. 17-2036, and amend-  
5 ments thereto, or in the case of a foreign business trust which has  
6 a corpus which is located in or which it uses or intends to use in  
7 this state as shown on its balance sheet at the end of the preceding  
8 taxable year as required to be reported on the annual report filed  
9 with the secretary of state pursuant to K.S.A. 17-2036, and amend-  
10 ments thereto, of \$1,000,000 or more, .1% of the corpus which is  
11 located in or which it uses or intends to use in this state as shown  
12 on its balance sheet at the end of the preceding taxable year as  
13 required to be reported on the annual report filed with the sec-  
14 retary of state pursuant to K.S.A. 17-2036, and amendments  
15 thereto, except that the annual franchise tax for such entities shall  
16 not exceed \$25,000.

17 [(b) (1) Every corporation or association, business trust, lim-  
18 ited liability company, limited partnership or limited liability part-  
19 nership subject to taxation under this act, shall make a return,  
20 stating specifically such information as may be required by the  
21 forms, rules and regulations of the secretary of revenue, which  
22 return shall include a balance sheet listing all assets and liabilities  
23 as of the end of the tax year, as reported with the federal income  
24 tax return or as otherwise required by the secretary, and such fur-  
25 ther information showing the allocation or apportionment of such  
26 assets and liabilities to Kansas used in computing the amount of  
27 the franchise tax. The return of a corporation or association shall  
28 be signed by the president, vice-president, treasurer, assistant  
29 treasurer, chief accounting officer or any other officer so author-  
30 ized to act. The fact that an individual's name is signed on a return  
31 shall be *prima facie* evidence that such individual is authorized to  
32 sign such return on behalf of such corporation. In cases where  
33 receivers, trustees in bankruptcy or assignees are operating the  
34 property or business of corporations, such receivers, trustees, or  
35 assignees shall make returns for such corporations in the same  
36 manner and form as corporations are required to make returns.  
37 Any tax due on the basis of such returns shall be collected in the  
38 same manner as if collected from the corporation for which the  
39 return is made. The returns of a limited liability partnership shall  
40 be signed by a partner of the limited liability partnership. The  
41 returns of a limited liability company shall be signed by a member  
42 of the limited liability partnership.

43 [(2) All returns shall be filed in the office of the director of

1 taxation on or before the 15th day of the fourth month following  
2 the close of the taxable year, except as provided in subsection (b)  
3 (3).

4 [(3) The director of taxation may grant a reasonable extension  
5 of time for filing returns in accordance with rules and regulations  
6 of the secretary of revenue. Whenever any such extension of time  
7 to file is requested by a taxpayer and granted by the director, no  
8 penalty authorized by K.S.A. 79-3228, and amendments thereto,  
9 shall be imposed if 90% of the liability is paid on or before the  
10 original due date.

11 [(c) (1) All taxes imposed under the provisions of the Kansas  
12 franchise tax act shall be paid on the 15th day of the fourth month  
13 following the close of the taxable year. When the tax as shown to  
14 be due on a return is less than \$5, such tax shall be canceled and  
15 no payment need be remitted by the taxpayer.

16 [(2) The director of taxation may extend the time for payment  
17 of the tax, or any installment thereof, for a reasonable period of  
18 time not to exceed six months from the date fixed for payment  
19 thereof. Such extension may exceed six months in the case of a  
20 taxpayer who is abroad. Interest shall be charged at the rate pre-  
21 scribed by K.S.A. 79-2968, and amendments thereto, for the period  
22 of such extension.

23 [(d) The provisions of K.S.A. 79-3226, 79-3228, 79-3228a, 79-  
24 3229, 79-3230, 79-3233, 79-3233a, 79-3233b, 79-3233g, 79-3233h,  
25 79-3233i, 79-3234, 79-3235 and 79-3236, and amendments  
26 thereto, shall apply to the administration and enforcement of this  
27 section.

28 [(e) All taxes paid pursuant to the provisions of this act shall be  
29 rounded off to the nearest \$1, and unless other disposition is spe-  
30 cifically provided by law, the taxes collected under the provisions  
31 of this act and all overpayments which may not be refunded under  
32 this section shall be remitted to the state treasurer in accordance  
33 with the provisions of K.S.A. 75-4215, and amendments thereto.  
34 Upon receipt of each such remittance, the state treasurer shall  
35 deposit the entire amount in the state treasury to the credit of the  
36 state general fund. The secretary of revenue shall not refund any  
37 overpayment of franchise taxes which is equal to \$5 or less, shall  
38 not credit any domestic corporation or foreign corporation with  
39 any amount which may not be refunded under this section, and  
40 shall not require reimbursement for any underpayment of fran-  
41 chise taxes which is less than \$5.

42 [(f) As used in this section: (1) “Act” means the Kansas fran-  
43 chise tax act;

1 [(2) “net book value of an LLC as calculated on an income tax  
2 basis located in or used in this state” means the net book value of  
3 an LLC as calculated on an income tax basis located in or used in  
4 this state;

5 [(3) “net capital accounts located in or used in this state” means  
6 the net capital accounts located in or used in this state;

7 [(4) “net book value as calculated on an income tax basis lo-  
8 cated in or used in this state” means the net book value of a limited  
9 liability company multiplied by a percentage which is the average  
10 of the following three percentages: (A) The average value of the  
11 limited liability company’s real and tangible personal property  
12 owned or rented and used in this state during the next preceding  
13 tax period divided by the average total value of the limited liability  
14 company’s real and tangible personal property owned or rented  
15 and used during the next preceding tax period; (B) the total  
16 amount of compensation paid by the limited liability company in  
17 this state during the next preceding tax period divided by the total  
18 amount of compensation paid everywhere by the limited liability  
19 company during the next preceding tax period; and (C) the total  
20 sales of the limited liability company in this state during the next  
21 preceding tax period divided by the total sales of the limited li-  
22 ability company everywhere during the next preceding tax period.  
23 If a limited liability company has no property or activity mentioned  
24 in one of the above factors, the appropriate percentage for that  
25 factor is 100%;

26 [(5) “net capital accounts located in or used in this state” means  
27 the net capital accounts of a limited partnership or limited liability  
28 partnership as stated on the federal income tax return multiplied  
29 by a percentage which is the average of the following three per-  
30 centages: (A) The average value of such entity’s real and tangible  
31 personal property owned or rented and used in this state during  
32 the next preceding tax period divided by the average total value  
33 of such entity’s real and tangible personal property owned or  
34 rented and used during the next preceding tax period; (B) the total  
35 amount of compensation paid by such entity in this state during  
36 the next preceding tax period divided by the total amount of com-  
37 pensation paid everywhere by such entity during the next preced-  
38 ing tax period; and (C) the total sales of such entity in this state  
39 during the next preceding tax period divided by the total sales of  
40 such entity everywhere during the next preceding tax period. If  
41 such entity has no property or activity mentioned in one of the  
42 about factors, the appropriate percentage for that factor is 100%;

43 [(6) “shareholder’s equity” means the sum of: (1) Paid-in cap-



1 ital stock, except that paid-in capital stock shall not include any  
2 capital stock issued by a corporation and reacquired by such cor-  
3 poration through gift, purchase or otherwise and available for re-  
4 sale or retirement; (2) capital paid in, in excess of par; and (3)  
5 retained earnings, all as stated on such corporation's federal in-  
6 come tax return; and

7 [(7) "taxable equity attributable to Kansas" means share-  
8 holder's equity attributable to Kansas.

9 [(g) The provisions of this section shall be known and may be  
10 cited as the Kansas franchise tax act.

11 [Sec. 5. K.S.A. 17-1513 is hereby amended to read as follows:  
12 17-1513. Each corporation organized under the provisions of this  
13 act shall make an annual report to the secretary of state, and pay  
14 the annual franchise ~~tax~~ fee, as prescribed by K.S.A. 17-7503 and  
15 amendments thereto.

16 [Sec. 6. K.S.A. 17-1618 is hereby amended to read as follows:  
17 17-1618. Each association formed under this act, or acts amenda-  
18 tory thereto, shall prepare and make an annual report to the sec-  
19 retary of state, and pay the annual franchise ~~tax~~ fee, as prescribed  
20 by K.S.A. 17-7504 and amendments thereto, except that the report  
21 shall be filed at the time prescribed by law for filing the associa-  
22 tion's annual Kansas income tax return. If any such association  
23 shall apply for an extension of time for filing its annual income tax  
24 return pursuant to the internal revenue code or subsection (c) of  
25 K.S.A. 79-3221 and amendments thereto, such association shall  
26 also apply, not more than 90 days after the due date of its annual  
27 report, to the secretary of state for an extension of time for filing  
28 the annual report. Such application for an extension of time for  
29 filing the annual report shall include a copy of the application for  
30 extension for filing its annual income tax return filed pursuant to  
31 the internal revenue code or K.S.A. 79-3221 and amendments  
32 thereto.

33 [Sec. 7. K.S.A. 2003 Supp. 17-2036 is hereby amended to read  
34 as follows: 17-2036. Every business trust shall make an annual re-  
35 port in writing to the secretary of state, showing its financial con-  
36 dition at the close of business on the last day of its tax period under  
37 the Kansas income tax act next preceding the date of filing, but if  
38 a business trust's tax period is other than the calendar year, it shall  
39 give notice thereof to the secretary of state prior to December 31  
40 of the year it commences such tax period. The reports shall be  
41 made on forms provided by the secretary of state and shall be filed  
42 at the time prescribed by law for filing the business trust's annual  
43 Kansas income tax return, except that if any such business trust

1 shall receive an extension of time for filing its annual income tax  
2 return from the internal revenue service or pursuant to subsection  
3 (c) of K.S.A. 79-3221, and amendments thereto, the time for filing  
4 the report hereunder shall be extended, correspondingly, upon  
5 filing with the secretary of state a copy of the extension granted  
6 by the internal revenue service or the director of taxation. The  
7 report shall contain the following:

8 [(a) Executed copies of all amendments to the instrument by  
9 which the business trust was created, or to prior amendments  
10 thereto, which have been adopted and have not theretofore been  
11 filed under K.S.A. 17-2033, and amendments thereto, and accom-  
12 panied by the fee prescribed therein for each such amendment;

13 [(b) a verified list of the names and addresses of its trustees as  
14 of the end of its tax period; and

15 [(c) a balance sheet as of the end of its tax period, certified by  
16 the trustee, fairly and truly reflecting its assets and liabilities and  
17 specifically setting out its corpus, and, in the case of a foreign busi-  
18 ness trust, fairly and truly reflecting an allocation of its moneys  
19 and other assets as between those located, used, or to be used in  
20 this state and those located, used or to be used elsewhere.

21 [At the time of filing its annual report, the business trust shall  
22 pay to the secretary of state an annual franchise ~~tax~~ fee in an  
23 amount equal to \$2 for each \$1,000 of its corpus as shown by its balance  
24 sheet, or, in the case of a foreign business trust, in an amount equal to  
25 \$2 for each \$1,000 of that portion of its corpus which is located in or  
26 which it uses or intends to use in this state as shown by its balance sheet,  
27 except that in any case no such tax shall be less than \$40 nor more than  
28 \$5,000 *not to exceed* \$40.

29 [The failure of any domestic or foreign business trust to file its  
30 annual report and pay its annual franchise ~~tax~~ fee within 90 days  
31 from the date on which they are due, as aforesaid, shall work a  
32 forfeiture of its authority to transact business in this state and all  
33 of the remedies, procedures, and penalties specified in K.S.A. 17-  
34 7509 and 17-7510, and amendments thereto, with respect to a cor-  
35 poration which fails to file its annual report or pay its annual fran-  
36 chise ~~tax~~ fee within 90 days after they are due, shall be applicable  
37 to such business trust.

38 [Sec. 8. K.S.A. 2003 Supp. 17-2718 is hereby amended to read  
39 as follows: 17-2718. (a) Each professional corporation organized  
40 under the laws of this state shall file with the secretary of state an  
41 annual report in writing and a copy or duplicate thereof, stating  
42 the prescribed information concerning the corporation at the close  
43 of business on the last day of its tax period next preceding the date

1 of filing, but if any such corporation's tax period is other than the  
2 calendar year it shall give notice thereof to the secretary of state  
3 prior to December 31 of the year it commences such tax period.  
4 The report shall be filed at the time prescribed by law for filing  
5 the corporation's annual Kansas income tax return, except that  
6 such corporation may apply to the secretary of state not more than  
7 90 days after the due date of its annual report for an extension of  
8 the time for filing the report, and an extension shall be granted  
9 for a period of time corresponding to that granted under the in-  
10 ternal revenue code or K.S.A. 79-3221, and amendments thereto.  
11 The report shall be made on a form provided by the secretary of  
12 state, containing the following information:

13 [(1) The names and residence addresses of all officers, direc-  
14 tors and shareholders of the professional corporation;

15 [(2) a statement that each officer, director and shareholder is  
16 or is not a qualified person as defined in K.S.A. 17-2707, and  
17 amendments thereto, and setting forth the date on which any  
18 shares of the corporation were no longer owned by a qualified  
19 person; and

20 [(3) the amount of capital stock issued.

21 [(b) The report shall be signed by its president, secretary, trea-  
22 surer or other officer duly authorized so to act, or by any two of  
23 its directors, or by an incorporator in the event its board of direc-  
24 tors shall not have been elected. The fact that an individual's name  
25 is signed on such report shall be prima facie evidence that such  
26 individual is authorized to sign the report on behalf of the corpo-  
27 ration; however, the official title or position of the individual sign-  
28 ing the report shall be designated. This report will be dated and  
29 subscribed by the person as true, under penalty of perjury. The  
30 copy of the annual report or the duplicate original copy of the  
31 annual report shall be forwarded to the regulatory board which  
32 licenses the shareholders described in the report. At the time of  
33 filing its annual report, each professional corporation shall pay the  
34 annual franchise ~~tax~~ *fee* prescribed by K.S.A. 17-7503, and amend-  
35 ments thereto.

36 [Sec. 9. K.S.A. 2003 Supp. 17-4634 is hereby amended to read  
37 as follows: 17-4634. (a) Every corporation organized under the  
38 electric cooperative act of this state shall make an annual report  
39 in writing to the secretary of state, showing the financial condition  
40 of the corporation at the close of business on the last day of its tax  
41 period next preceding the date of filing, but if any such corpora-  
42 tion's tax period is other than the calendar year, it shall give notice  
43 thereof to the secretary of state prior to December 31 of the year

1 it commences such tax period. The report shall be filed on or be-  
2 fore the fifteenth day of the fourth month following the close of  
3 the tax year of the electric cooperative. An extension for filing the  
4 annual report may be granted upon the filing of a written appli-  
5 cation with the secretary of state prior to the due date of the re-  
6 port, except that no such extension may be granted for a period of  
7 more than ~~ninety (90)~~ 90 days. The report shall be made on a form  
8 provided by the secretary of state, containing the following  
9 information:

10 [(1) The name of the corporation;

11 [(2) the location of the principal office;

12 [(3) the name of the president, secretary and treasurer and the  
13 names of directors with the residence address of each;

14 [(4) the number of memberships issued;

15 [(5) a balance sheet showing the financial condition of the cor-  
16 poration at the close of business on the last day of its tax period  
17 next preceding the date of filing; and

18 [(6) the change or changes, if any, in the particulars made since  
19 the last annual report.

20 [(b) Such reports shall be signed by the president, vice-presi-  
21 dent or secretary of the corporation, sworn to before an officer  
22 duly authorized to administer oaths and forwarded to the secretary  
23 of state. At the time of filing such annual report, each such cor-  
24 poration shall pay an annual franchise ~~tax of~~ fee in an amount not to  
25 exceed \$40.

26 [Sec. 10. K.S.A. 2003 Supp. 17-4677 is hereby amended to  
27 read as follows: 17-4677. (a) Every cooperative organized under  
28 the renewable energy electric generation cooperative act shall  
29 make an annual report in writing to the secretary of state, showing  
30 the financial condition of the cooperative at the close of business  
31 on the last day of its tax period next preceding the date of filing,  
32 but if any such cooperative's tax period is other than the calendar  
33 year, it shall give notice thereof to the secretary of state prior to  
34 December 31 of the year it commences such tax period. The report  
35 shall be filed on or before the 15th day of the fourth month fol-  
36 lowing the close of the tax year of the electric cooperative. An  
37 extension for filing the annual report may be granted upon the  
38 filing of a written application with the secretary of state prior to  
39 the due date of the report, except that no such extension may be  
40 granted for a period of more than 90 days. The report shall be  
41 made on a form provided by the secretary of state, containing the  
42 following information:

43 [(1) The name of the cooperative;

- 1     **[(2) the location of the principal office of the cooperative;**  
2     **[(3) the names and addresses of the president, secretary, trea-**  
3     **surer and directors of the cooperative;**  
4     **[(4) the number of members of the cooperative;**  
5     **[(5) a balance sheet showing the financial condition of the co-**  
6     **operative at the close of business on the last day of its tax period**  
7     **next preceding the date of filing; and**  
8     **[(6) the change or changes, if any, in the particulars made since**  
9     **the last annual report.**
- 10    **[(b) The annual report shall be signed by the president, vice-**  
11    **president or secretary of the cooperative, sworn to before an of-**  
12    **ficer duly authorized to administer oaths, and forwarded to the**  
13    **secretary of state. At the time of filing such annual report, the**  
14    **cooperative shall pay an annual franchise tax of \$20 fee in an amount**  
15    *not to exceed \$40.*
- 16    **[Sec. 11. K.S.A. 2003 Supp. 17-7503 is hereby amended to**  
17    **read as follows: 17-7503. (a) Every domestic corporation organized**  
18    **for profit shall make an annual report in writing to the secretary**  
19    **of state, stating the prescribed information concerning the cor-**  
20    **poration at the close of business on the last day of its tax period**  
21    **next preceding the date of filing, but if a corporation's tax period**  
22    **is other than the calendar year, it shall give notice thereof to the**  
23    **secretary of state prior to December 31 of the year it commences**  
24    **such tax period. The reports shall be made on forms prescribed by**  
25    **the secretary of state. The report shall be filed at the time pre-**  
26    **scribed by law for filing the corporation's annual Kansas income**  
27    **tax return, except that if any such corporation shall apply for an**  
28    **extension of time for filing its annual income tax return under the**  
29    **internal revenue service or under subsection (c) of K.S.A. 79-3221,**  
30    **and amendments thereto, such corporation shall also apply, not**  
31    **more than 90 days after the due date of its annual report, to the**  
32    **secretary of state for an extension of the time for filing the report**  
33    **and an extension shall be granted for a period of time correspond-**  
34    **ing to that granted under the internal revenue code or K.S.A. 79-**  
35    **3221, and amendments thereto. Such application shall include a**  
36    **copy of the application to income tax authorities. The report shall**  
37    **contain the following information:**
- 38    **[(1) The name of the corporation;**  
39    **[(2) the location of the principal office;**  
40    **[(3) the names of the president, secretary, treasurer and mem-**  
41    **bers of the board of directors, with the residence address of each;**  
42    **[(4) the number of shares of capital stock issued and the**  
43    **amount of capital stock paid up;**

1 [(5) the nature and kind of business in which the corporation  
2 is engaged; and

3 [(6) a list of stockholders owning at least 5% of the capital stock  
4 of the corporation, with the post office address of each.

5 [(b) Every corporation subject to the provisions of this section  
6 which holds agricultural land, as defined in K.S.A. 17-5903, and  
7 amendments thereto, within this state shall show the following ad-  
8 ditional information on the report:

9 [(1) The acreage and location listed by section, range, township  
10 and county of each lot, tract or parcel of agricultural land in this  
11 state owned or leased by or to the corporation;

12 [(2) the purposes for which such agricultural land is owned or  
13 leased and, if leased, to whom such agricultural land is leased;

14 [(3) the value of the nonagricultural assets and the agricultural  
15 assets, stated separately, owned and controlled by the corporation  
16 both within and without the state of Kansas and where situated;

17 [(4) the total number of stockholders of the corporation;

18 [(5) the number of acres owned or operated by the corpora-  
19 tion, the number of acres leased by the corporation and the num-  
20 ber of acres leased to the corporation;

21 [(6) the number of acres of agricultural land, held and reported  
22 in each category under provision (5), state separately, being irri-  
23 gated; and

24 [(7) whether any of the agricultural land held and reported un-  
25 der this subsection was acquired after July 1, 1981.

26 [(c) The report shall be signed by its president, secretary, trea-  
27 surer or other officer duly authorized so to act, or by any two of  
28 its directors, or by an incorporator in the event its board of direc-  
29 tors shall not have been elected. The fact that an individual's name  
30 is signed on such report shall be prima facie evidence that such  
31 individual is authorized to sign the report on behalf of the corpo-  
32 ration; however, the official title or position of the individual sign-  
33 ing the report shall be designated. This report will be dated and  
34 subscribed by the person as true, under penalty of perjury. At the  
35 time of filing such annual report it shall be the duty of each do-  
36 mestic corporation organized for profit to pay to the secretary of  
37 state an annual franchise tax *fee* in an amount equal to \$2 for each  
38 \$1,000 of the corporation's shareholder's equity attributable to Kansas,  
39 except that no such tax shall be less than \$40 or more than \$5,000. The  
40 amount of any such franchise tax paid by the corporation to the secretary  
41 as provided by this subsection shall not be disclosed by the secretary *not*  
42 *to exceed \$40.*

43 [Sec. 12. K.S.A. 2003 Supp. 17-7504 is hereby amended to

1 read as follows: 17-7504. (a) Every corporation organized not for  
2 profit shall make an annual report in writing to the secretary of  
3 state, stating the prescribed information concerning the corpora-  
4 tion at the close of business on the last day of its tax period next  
5 preceding the date of filing, but if a corporation's tax period is  
6 other than the calendar year, it shall give notice thereof to the  
7 secretary of state prior to December 31 of the year it commences  
8 such tax period. The reports shall be made on forms prescribed by  
9 the secretary of state. The report shall be filed on the 15th day of  
10 the sixth month following the close of the taxable year, except that  
11 such corporation may apply to the secretary of state not more than  
12 90 days after the due date of its annual report for an extension of  
13 the time for filing the report, and an extension shall be granted  
14 for a period of time corresponding to that granted under the in-  
15 ternal revenue code or K.S.A. 79-3221, and amendments thereto.  
16 The report shall contain the following information:

- 17 [(1) The name of the corporation;
- 18 [(2) the location of the principal office;
- 19 [(3) the names of the president, secretary and treasurer, and  
20 the members of the board of directors, with the residence address  
21 of each;
- 22 [(4) the number of memberships or the number of shares of  
23 capital stock issued and the amount of capital stock paid up.
- 24 [(b) Every corporation subject to the provisions of this section  
25 which holds agricultural land, as defined in K.S.A. 17-5903, and  
26 amendments thereto, within this state shall show the following ad-  
27 ditional information on the report:
  - 28 [(1) The acreage and location listed by section, range, township  
29 and county of each lot, tract or parcel of agricultural land in this  
30 state owned or leased by or to the corporation;
  - 31 [(2) the purposes for which such agricultural land is owned or  
32 leased and, if leased, to whom such agricultural land is leased;
  - 33 [(3) the value of the nonagricultural assets and the agricultural  
34 assets, stated separately, owned and controlled by the corporation  
35 both within and without the state of Kansas and where situated;
  - 36 [(4) the total number of stockholders of the corporation;
  - 37 [(5) the number of acres owned or operated by the corpora-  
38 tion, the number of acres leased by the corporation and the num-  
39 ber of acres leased to the corporation;
  - 40 [(6) the number of acres of agricultural land, held and reported  
41 in each category under paragraph (5) of this subsection (b), stated  
42 separately, being irrigated; and
  - 43 [(7) whether any of the agricultural land held and reported un-

1 der this subsection was acquired after July 1, 1981.

2 [(c) The report shall be signed by its president, secretary, treas-  
3 urer or other officer duly authorized so to act, or by any two of  
4 its directors, or by an incorporator in the event its board of direc-  
5 tors shall not have been elected. The fact that an individual's name  
6 is signed on such report shall be prima facie evidence that such  
7 individual is authorized to sign the report on behalf of the corpo-  
8 ration; however, the official title or position of the individual sign-  
9 ing the report shall be designated. This report will be dated and  
10 subscribed by the person as true, under penalty of perjury. At the  
11 time of filing such report, each nonprofit corporation shall pay an  
12 annual ~~privilege franchise fee of \$40~~ *in an amount not to exceed \$20* for  
13 all tax years commencing after December 31, ~~2001~~ 2003.

14 [Sec. 13. K.S.A. 2003 Supp. 17-7505 is hereby amended to  
15 read as follows: 17-7505. (a) Every foreign corporation organized  
16 for profit, or organized under the cooperative type statutes of the  
17 state, territory or foreign country of incorporation, now or here-  
18 after doing business in this state, and owning or using a part or all  
19 of its capital in this state, and subject to compliance with the laws  
20 relating to the admission of foreign corporations to do business in  
21 Kansas, shall make an annual report in writing to the secretary of  
22 state, stating the prescribed information concerning the corpora-  
23 tion at the close of business on the last day of its tax period next  
24 preceding the date of filing, but if a corporation operates on a  
25 fiscal year other than the calendar year it shall give written notice  
26 thereof to the secretary of state prior to December 31 of the year  
27 commencing such fiscal year. The report shall be made on a form  
28 prescribed by the secretary of state. The report shall be filed at  
29 the time prescribed by law for filing the corporation's annual Kan-  
30 sas income tax return, except that if any such corporation shall  
31 apply for an extension of time for filing its annual income tax re-  
32 turn under the internal revenue service or under subsection (c) of  
33 K.S.A. 79-3221, and amendments thereto, such corporation shall  
34 also apply, not more than 90 days after the due date of its annual  
35 report, to the secretary of state for an extension of the time for  
36 filing the report and an extension shall be granted for a period of  
37 time corresponding to that granted under the internal revenue  
38 code or K.S.A. 79-3221, and amendments thereto. Such application  
39 shall include a copy of the application to income tax authorities.  
40 The report shall contain the following facts:

41 [(1) The name of the corporation and under the laws of what  
42 state or country organized;

43 [(2) the location of its principal office;



1 [(3) the names of the president, secretary, treasurer and mem-  
2 bers of the board of directors, with the residence address of each;

3 [(4) the number of shares of capital stock issued and the  
4 amount of capital stock paid up;

5 [(5) the nature and kind of business in which the company is  
6 engaged and its place or places of business both within and without  
7 the state of Kansas;

8 [(6) the value of the property owned and used by the company  
9 in Kansas, where situated, and the value of the property owned  
10 and used outside of Kansas and where situated; and

11 [(7) the corporation's shareholder's equity attributable to  
12 Kansas.

13 (b) Every corporation subject to the provisions of this section  
14 which holds agricultural land, as defined in K.S.A. 17-5903, and  
15 amendments thereto, within this state shall show the following ad-  
16 ditional information on the report:

17 [(1) The acreage and location listed by section, range, township  
18 and county of each lot, tract or parcel of agricultural land in this  
19 state owned or leased by or to the corporation;

20 [(2) the purposes for which such agricultural land is owned or  
21 leased and, if leased, to whom such agricultural land is leased;

22 [(3) the value of the nonagricultural assets and the agricultural  
23 assets, stated separately, owned and controlled by the corporation  
24 both within and without the state of Kansas and where situated;

25 [(4) the total number of stockholders of the corporation;

26 [(5) the number of acres owned or operated by the corpora-  
27 tion, the number of acres leased by the corporation and the num-  
28 ber of acres leased to the corporation;

29 [(6) the number of acres of agricultural land, held and reported  
30 in each category under paragraph (5) of this subsection (b), stated  
31 separately, being irrigated; and

32 [(7) whether any of the agricultural land held and reported un-  
33 der this subsection was acquired after July 1, 1981.

34 [The report shall be signed by its president, secretary, treasurer  
35 or other officer duly authorized so to act, or by any two of its  
36 directors, or by an incorporator in the event its board of directors  
37 shall not have been elected. The fact that an individual's name is  
38 signed on such report shall be prima facie evidence that such in-  
39 dividual is authorized to sign the report on behalf of the corpo-  
40 ration; however, the official title or position of the individual sign-  
41 ing the report shall be designated. This report will be dated and  
42 subscribed by the person as true, under penalty of perjury. At the  
43 time of filing its annual report, each such foreign corporation shall

1 ~~pay to the secretary of state an annual franchise tax fee in an~~  
2 ~~amount equal to \$2 for each \$1,000 of the corporation's shareholder's~~  
3 ~~equity attributable to Kansas, except that no such tax shall be less than~~  
4 ~~\$40 or more than \$5,000. The amount of any such franchise tax paid by~~  
5 ~~the foreign corporation to the secretary as provided by this subsection~~  
6 ~~shall not be disclosed by the secretary not to exceed \$40.~~

7 **[Sec. 14. K.S.A. 2003 Supp. 17-7507 is hereby amended to**  
8 **read as follows: 17-7507. No corporation shall be required to file**  
9 **its first annual report under this act, or pay any annual franchise**  
10 **tax fee required to accompany such report, unless such corporation**  
11 **has filed its articles of incorporation or certificate of good standing**  
12 **at least six months prior to the last day of its tax period. If any**  
13 **corporation shall file with the secretary of state a notice of change in its**  
14 **tax period, and the next annual report filed by such corporation subse-**  
15 **quent to such notice is based on a tax period of less than 12 months. The**  
16 **annual tax liability shall be determined by multiplying the annual fran-**  
17 **chise tax liability for such year by a fraction the numerator of which is**  
18 **the number of months, or any portion thereof, covered by the annual**  
19 **report and the denominator of which is 12. Notwithstanding the forego-**  
20 **ing, the minimum annual franchise tax shall be \$40.**

21 **[Sec. 15. K.S.A. 2003 Supp. 17-7509 is hereby amended to**  
22 **read as follows: 17-7509. (a) In case any corporation organized for**  
23 **profit which is required to file an annual report and pay the annual**  
24 **franchise tax fee prescribed by this act shall fail or neglect to make**  
25 **such report at the time prescribed, such corporation shall be sub-**  
26 **ject to a penalty of \$75. Such penalty and the annual tax or taxes fee**  
27 **or fees required to be paid by this act may be recovered by an action**  
28 **in the name of the state, and all moneys recovered shall be remit-**  
29 **ted to the state treasurer in accordance with the provisions of**  
30 **K.S.A. 75-4215, and amendments thereto. Upon receipt of each**  
31 **such remittance, the state treasurer shall deposit the entire**  
32 **amount in the state treasury to the credit of the state general fund.**

33 ~~[(b) On complaint of the secretary of state that any corporation has~~  
34 ~~failed to pay the annual taxes prescribed by this act, it shall be the duty~~  
35 ~~of the county or district attorney, or the attorney general, to institute such~~  
36 ~~action in the district court of Shawnee county, Kansas, or of any county~~  
37 ~~in which such corporation has an office or place of business.~~

38 ~~—[(c) The penalties provided for in subsection (a) also may be~~  
39 ~~assessed against any corporation for the reason that such corpo-~~  
40 ~~ration has been canceled or its existence forfeited pursuant to the~~  
41 ~~Kansas general corporation code. No penalty shall be charged pur-~~  
42 ~~suant to this subsection, if a corporation is assessed penalties pur-~~  
43 ~~suant to grounds specified in subsection (a).~~

1 [Sec. 16. K.S.A. 17-7510 is hereby amended to read as follows:  
2 **17-7510. (a) In addition to any other penalties, the failure of any**  
3 **domestic corporation to file the annual report in accordance with**  
4 **the provisions of this act or to pay the annual ~~taxes herein~~ franchise**  
5 **fee provided for within 90 days of the time for filing and paying**  
6 **the same shall work the forfeiture of the articles of incorporation**  
7 **of such domestic corporation. Within 60 days after the date such**  
8 **annual report and ~~taxes~~ fee are due, the secretary of state, by mail,**  
9 **shall notify any corporation that has failed to submit such report**  
10 **and ~~taxes~~ fee when due that its articles of incorporation shall be**  
11 **forfeited unless the annual report is filed and the ~~taxes thereon~~ are**  
12 **fee is paid within 90 days from the date such report and ~~taxes~~ fee**  
13 **were due. Any corporation that fails to submit such report and ~~taxes~~**  
14 **fee within such time shall forfeit its articles of incorporation, and**  
15 **the secretary of state shall notify the attorney general that the**  
16 **articles of incorporation of such corporation have been forfeited.**

17 [(b) In addition to any other penalties, the failure of any for-  
18 eign corporation to file the annual report or pay the annual fran-  
19 chise ~~taxes~~ fee prescribed by this act within 90 days from the time  
20 provided for filing and paying the same shall work a forfeiture of  
21 its right or authority to do business in this state. Within 60 days  
22 after the date such annual report and ~~taxes~~ fee are due, the secre-  
23 tary of state, by mail, shall notify any corporation that has failed  
24 to submit such report and ~~taxes~~ fee when due that its authority to  
25 do business in this state shall be forfeited unless the annual report  
26 and ~~taxes thereon~~ are fee is paid within 90 days from the date such  
27 report and ~~taxes~~ fee were due. Any corporation that fails to submit  
28 such report and ~~taxes~~ fees within such time shall forfeit its authority  
29 to do business in this state, and the secretary of state shall publish  
30 a notice of such forfeiture in the Kansas register.

31 [This section shall not be construed to restrict the state from  
32 invoking any other remedies provided by law.

33 [Sec. 17. K.S.A. 17-7511 is hereby amended to read as follows:  
34 **17-7511. Pursuant to the authority granted by subsection (c) of**  
35 **K.S.A. 79-3234, the secretary of state, as a legal representative of**  
36 **the state, may inspect the annual Kansas income tax return of any**  
37 **corporation for the purpose of verifying any information contained**  
38 **in the annual report filed by such corporation with the secretary**  
39 **of state pursuant to this act. The secretary of state shall not disclose**  
40 **any information obtained from any such return, except as may be**  
41 **necessary to commence an appropriate administrative or judicial**  
42 **proceeding against the corporation filing the same, and shall dis-**  
43 **close to the secretary of revenue any information and allow the secretary**

1 *to inspect as necessary the annual report for purposes of verifying any*  
2 *information contained on the franchise tax return as provided in section*  
3 *1 and amendments thereto.*

4 [Sec. 18. K.S.A. 17-7512 is hereby amended to read as follows:  
5 **17-7512. The provisions of this act relating to the filing of annual**  
6 **reports and the payment of franchise ~~taxes~~ *fees* shall not apply to**  
7 **banking, insurance or savings and loan corporations or associa-**  
8 **tions or to credit unions or any firemen's relief association under**  
9 **the jurisdiction and supervision of the insurance commissioner or**  
10 **to Kansas Venture Capital, Inc. or to venture capital companies**  
11 **certified by the secretary of commerce pursuant to article 83 of**  
12 **chapter 74 of the Kansas Statutes Annotated and amendments**  
13 **thereto.**

14 [Sec. 19. K.S.A. 2003 Supp. 17-76,125 is hereby amended to  
15 read as follows: 17-76,125. A foreign limited liability company may  
16 cancel its registration by filing with the secretary of state a certifi-  
17 cate of cancellation executed by the members, together with the  
18 fee required by this act and the annual report and franchise ~~tax~~ *fee*  
19 for any tax period which has ended. A cancellation does not ter-  
20 minate the authority of the secretary of state to accept service of  
21 process on the foreign limited liability company with respect to  
22 causes of action arising out of the doing of business in the state of  
23 Kansas.

24 [Sec. 20. K.S.A. 2003 Supp. 17-76,139 is hereby amended to  
25 read as follows: 17-76,139. (a) Every limited liability company or-  
26 ganized under the laws of this state shall make an annual report  
27 in writing to the secretary of state, stating the prescribed infor-  
28 mation concerning the limited liability company at the close of  
29 business on the last day of its tax period next preceding the date  
30 of filing. If the limited liability company's tax period is other than  
31 the calendar year, it shall give notice of its different tax period in  
32 writing to the secretary of state prior to December 31 of the year  
33 it commences the different tax period. The annual report shall be  
34 filed at the time prescribed by law for filing the limited liability  
35 company's annual Kansas income tax return. If the limited liability  
36 company applies for an extension of time for filing its annual in-  
37 come tax return under the internal revenue code, the limited lia-  
38 bility company shall also apply, not more than 90 days after the  
39 due date of its annual report, to the secretary of state for an ex-  
40 tension of the time for filing its report and an extension shall be  
41 granted for a period of time corresponding to that granted under  
42 the internal revenue code. The application shall include a copy of  
43 the application to income tax authorities. The annual report shall

1 be made on a form prescribed by the secretary of state. The report  
2 shall contain the following information:

3 [(1) The name of the limited liability company; and

4 [(2) a list of the members owning at least 5% of the capital of  
5 the company, with the post office address of each.

6 [(b) Every foreign limited liability company shall make an annual  
7 report in writing to the secretary of state, stating the prescribed  
8 information concerning the limited liability company at the close of  
9 business on the last day of its tax period next preceding the date of  
10 filing. If the limited liability company's tax period is other than the  
11 calendar year, it shall give notice in writing of its different tax period  
12 to the secretary of state prior to December 31 of the year it commences  
13 the different tax period. The annual report shall be filed at the time  
14 prescribed by law for filing the limited liability company's annual  
15 Kansas income tax return. If the limited liability company applies for  
16 an extension of time for filing its annual income tax return under the  
17 internal revenue code, the limited liability company also shall apply,  
18 not more than 90 days after the due date of its annual report, to the  
19 secretary of state for an extension of the time for filing its report and  
20 an extension shall be granted for a period of time corresponding to that  
21 granted under the internal revenue code. The application shall include a  
22 copy of the application to income tax authorities. The annual report  
23 shall be made on a form prescribed by the secretary of state. The  
24 report shall contain the name of the limited liability company.

25 [(c) The annual report required by this section shall be signed  
26 by a member of the limited liability company and forwarded to the  
27 secretary of state. At the time of filing the report, the limited liability  
28 company shall pay to the secretary of state an annual franchise tax  
29 fee in an amount equal to \$2 for each \$1,000 of the net capital  
30 accounts located in or used in this state at the end of the preceding  
31 taxable year as required to be reported on the federal partnership return  
32 of income, or for a one member LLC taxed as a sole proprietorship, \$2  
33 for each \$1,000 of net book value of the LLC as calculated on an income  
34 tax basis located in or used in this state at the end of the preceding  
35 taxable year, except that no annual tax shall be less than \$40 or more  
36 than \$5,000. The amount of any such franchise tax paid by the limited  
37 liability company to the secretary as provided by this subsection shall  
38 not be disclosed by the secretary *not to exceed \$40.*

39 [(d) The provisions of K.S.A. 17-7509, and amendments  
40 thereto, relating to penalties for failure of a corporation to file an  
41 annual report or pay the required franchise tax fee, and the provisions  
42 of subsection (a) of K.S.A. 17-7510 and amendments  
43

1 thereto, relating to penalties for failure of a corporation to file an  
2 annual report or pay the required franchise ~~tax~~ *fee*, shall be appli-  
3 cable to the articles of organization of any domestic limited liability  
4 company or to the authority of any foreign limited liability com-  
5 pany which fails to file its annual report or pay the franchise ~~tax~~  
6 *fee* within 90 days of the time prescribed in this section for filing  
7 and paying the same. Whenever the articles of organization of a  
8 domestic limited liability company or the authority of any foreign  
9 limited liability company are forfeited for failure to file an annual  
10 report or to pay the required franchise ~~tax~~ *fee*, the domestic limited  
11 liability company or the authority of a foreign limited liability com-  
12 pany may be reinstated by filing a certificate of reinstatement, in  
13 the manner and form to be prescribed by the secretary of state  
14 and paying to the secretary of state all fees and ~~taxes~~, including any  
15 penalties thereon, due to the state. The fee for filing a certificate  
16 of reinstatement shall be the same as that prescribed by K.S.A. 17-  
17 7506, and amendments thereto, for filing a certificate of extension,  
18 restoration, renewal or revival of a corporation's articles of  
19 incorporation.

20 [(e) When reinstatement is effective, it relates back to and  
21 takes effect as of the effective date of the forfeiture and the com-  
22 pany may resume its business as if the forfeiture had never  
23 occurred.

24 [(f) No limited liability company shall be required to file its first  
25 annual report under this act, or pay any annual franchise ~~tax~~ *fee*  
26 required to accompany such report, unless such limited liability  
27 company has filed its articles of organization or application for  
28 authority at least six months prior to the last day of its tax period.  
29 If any limited liability company files with the secretary of state a notice  
30 of change in its tax period and the next annual report filed by such limited  
31 liability company subsequent to such notice is based on a tax period of  
32 less than 12 months, the annual tax liability shall be determined by mul-  
33 tiplying the annual franchise tax liability for such year by a fraction, the  
34 numerator of which is the number of months or any portion thereof cov-  
35 ered by the annual report and the denominator of which is 12, except  
36 that the tax shall not be less than \$40.

37 [Sec. 21. K.S.A. 2003 Supp. 45-221 is hereby amended to read  
38 as follows: 45-221. (a) Except to the extent disclosure is otherwise  
39 required by law, a public agency shall not be required to disclose:

40 [(1) Records the disclosure of which is specifically prohibited  
41 or restricted by federal law, state statute or rule of the Kansas  
42 supreme court or the disclosure of which is prohibited or restricted  
43 pursuant to specific authorization of federal law, state statute or

1 rule of the Kansas supreme court to restrict or prohibit disclosure.

2 [(2) Records which are privileged under the rules of evidence,  
3 unless the holder of the privilege consents to the disclosure.

4 [(3) Medical, psychiatric, psychological or alcoholism or drug  
5 dependency treatment records which pertain to identifiable  
6 patients.

7 [(4) Personnel records, performance ratings or individually  
8 identifiable records pertaining to employees or applicants for em-  
9 ployment, except that this exemption shall not apply to the names,  
10 positions, salaries and lengths of service of officers and employees  
11 of public agencies once they are employed as such.

12 [(5) Information which would reveal the identity of any under-  
13 cover agent or any informant reporting a specific violation of law.

14 [(6) Letters of reference or recommendation pertaining to the  
15 character or qualifications of an identifiable individual.

16 [(7) Library, archive and museum materials contributed by pri-  
17 vate persons, to the extent of any limitations imposed as conditions  
18 of the contribution.

19 [(8) Information which would reveal the identity of an individ-  
20 ual who lawfully makes a donation to a public agency, if anonymity  
21 of the donor is a condition of the donation.

22 [(9) Testing and examination materials, before the test or ex-  
23 amination is given or if it is to be given again, or records of indi-  
24 vidual test or examination scores, other than records which show  
25 only passage or failure and not specific scores.

26 [(10) Criminal investigation records, except that the district  
27 court, in an action brought pursuant to K.S.A. 45-222, and amend-  
28 ments thereto, may order disclosure of such records, subject to  
29 such conditions as the court may impose, if the court finds that  
30 disclosure:

31 [(A) Is in the public interest;

32 [(B) would not interfere with any prospective law enforcement  
33 action;

34 [(C) would not reveal the identity of any confidential source or  
35 undercover agent;

36 [(D) would not reveal confidential investigative techniques or  
37 procedures not known to the general public;

38 [(E) would not endanger the life or physical safety of any per-  
39 son; and

40 [(F) would not reveal the name, address, phone number or any  
41 other information which specifically and individually identifies the  
42 victim of any sexual offense in article 35 of chapter 21 of the Kansas  
43 Statutes Annotated, and amendments thereto.

1 [(11) Records of agencies involved in administrative adjudica-  
2 tion or civil litigation, compiled in the process of detecting or in-  
3 vestigating violations of civil law or administrative rules and reg-  
4 ulations, if disclosure would interfere with a prospective  
5 administrative adjudication or civil litigation or reveal the identity  
6 of a confidential source or undercover agent.

7 [(12) Records of emergency or security information or proce-  
8 dures of a public agency, or plans, drawings, specifications or re-  
9 lated information for any building or facility which is used for pur-  
10 poses requiring security measures in or around the building or  
11 facility or which is used for the generation or transmission of  
12 power, water, fuels or communications, if disclosure would jeop-  
13 ardize security of the public agency, building or facility.

14 [(13) The contents of appraisals or engineering or feasibility  
15 estimates or evaluations made by or for a public agency relative  
16 to the acquisition of property, prior to the award of formal con-  
17 tracts therefor.

18 [(14) Correspondence between a public agency and a private  
19 individual, other than correspondence which is intended to give  
20 notice of an action, policy or determination relating to any regu-  
21 latory, supervisory or enforcement responsibility of the public  
22 agency or which is widely distributed to the public by a public  
23 agency and is not specifically in response to communications from  
24 such a private individual.

25 [(15) Records pertaining to employer-employee negotiations,  
26 if disclosure would reveal information discussed in a lawful exec-  
27 utive session under K.S.A. 75-4319, and amendments thereto.

28 [(16) Software programs for electronic data processing and  
29 documentation thereof, but each public agency shall maintain a  
30 register, open to the public, that describes:

31 [(A) The information which the agency maintains on computer  
32 facilities; and

33 [(B) the form in which the information can be made available  
34 using existing computer programs.

35 [(17) Applications, financial statements and other information  
36 submitted in connection with applications for student financial as-  
37 sistance where financial need is a consideration for the award.

38 [(18) Plans, designs, drawings or specifications which are pre-  
39 pared by a person other than an employee of a public agency or  
40 records which are the property of a private person.

41 [(19) Well samples, logs or surveys which the state corporation  
42 commission requires to be filed by persons who have drilled or  
43 caused to be drilled, or are drilling or causing to be drilled, holes



1 for the purpose of discovery or production of oil or gas, to the  
2 extent that disclosure is limited by rules and regulations of the  
3 state corporation commission.

4 [(20) Notes, preliminary drafts, research data in the process of  
5 analysis, unfunded grant proposals, memoranda, recommenda-  
6 tions or other records in which opinions are expressed or policies  
7 or actions are proposed, except that this exemption shall not apply  
8 when such records are publicly cited or identified in an open meet-  
9 ing or in an agenda of an open meeting.

10 [(21) Records of a public agency having legislative powers,  
11 which records pertain to proposed legislation or amendments to  
12 proposed legislation, except that this exemption shall not apply  
13 when such records are:

14 [(A) Publicly cited or identified in an open meeting or in an  
15 agenda of an open meeting; or

16 [(B) distributed to a majority of a quorum of any body which  
17 has authority to take action or make recommendations to the pub-  
18 lic agency with regard to the matters to which such records  
19 pertain.

20 [(22) Records of a public agency having legislative powers,  
21 which records pertain to research prepared for one or more mem-  
22 bers of such agency, except that this exemption shall not apply  
23 when such records are:

24 [(A) Publicly cited or identified in an open meeting or in an  
25 agenda of an open meeting; or

26 [(B) distributed to a majority of a quorum of any body which  
27 has authority to take action or make recommendations to the pub-  
28 lic agency with regard to the matters to which such records  
29 pertain.

30 [(23) Library patron and circulation records which pertain to  
31 identifiable individuals.

32 [(24) Records which are compiled for census or research pur-  
33 poses and which pertain to identifiable individuals.

34 [(25) Records which represent and constitute the work product  
35 of an attorney.

36 [(26) Records of a utility or other public service pertaining to  
37 individually identifiable residential customers of the utility or serv-  
38 ice, except that information concerning billings for specific indi-  
39 vidual customers named by the requester shall be subject to dis-  
40 closure as provided by this act.

41 [(27) Specifications for competitive bidding, until the specifi-  
42 cations are officially approved by the public agency.

43 [(28) Sealed bids and related documents, until a bid is accepted

1 or all bids rejected.

2 [(29) Correctional records pertaining to an identifiable inmate  
3 or release, except that:

4 [(A) The name; photograph and other identifying information;  
5 sentence data; parole eligibility date; custody or supervision level;  
6 disciplinary record; supervision violations; conditions of supervi-  
7 sion, excluding requirements pertaining to mental health or sub-  
8 stance abuse counseling; location of facility where incarcerated or  
9 location of parole office maintaining supervision and address of a  
10 releasee whose crime was committed after the effective date of  
11 this act shall be subject to disclosure to any person other than  
12 another inmate or releasee, except that the disclosure of the lo-  
13 cation of an inmate transferred to another state pursuant to the  
14 interstate corrections compact shall be at the discretion of the sec-  
15 retary of corrections;

16 [(B) the ombudsman of corrections, the attorney general, law  
17 enforcement agencies, counsel for the inmate to whom the record  
18 pertains and any county or district attorney shall have access to  
19 correctional records to the extent otherwise permitted by law;

20 [(C) the information provided to the law enforcement agency  
21 pursuant to the sex offender registration act, K.S.A. 22-4901, *et*  
22 *seq.*, and amendments thereto, shall be subject to disclosure to any  
23 person, except that the name, address, telephone number or any  
24 other information which specifically and individually identifies the  
25 victim of any offender required to register as provided by the Kan-  
26 sas offender registration act, K.S.A. 22-4901 *et seq.* and amend-  
27 ments thereto, shall not be disclosed; and

28 [(D) records of the department of corrections regarding the  
29 financial assets of an offender in the custody of the secretary of  
30 corrections shall be subject to disclosure to the victim, or such  
31 victim's family, of the crime for which the inmate is in custody as  
32 set forth in an order of restitution by the sentencing court.

33 [(30) Public records containing information of a personal na-  
34 ture where the public disclosure thereof would constitute a clearly  
35 unwarranted invasion of personal privacy.

36 [(31) Public records pertaining to prospective location of a  
37 business or industry where no previous public disclosure has been  
38 made of the business' or industry's interest in locating in, relocat-  
39 ing within or expanding within the state. This exception shall not  
40 include those records pertaining to application of agencies for per-  
41 mits or licenses necessary to do business or to expand business  
42 operations within this state, except as otherwise provided by law.

43 [(32) Engineering and architectural estimates made by or for

1 any public agency relative to public improvements.

2 [(33) Financial information submitted by contractors in quali-  
3 fication statements to any public agency.

4 [(34) Records involved in the obtaining and processing of in-  
5 tellectual property rights that are expected to be, wholly or par-  
6 tially vested in or owned by a state educational institution, as de-  
7 fined in K.S.A. 76-711, and amendments thereto, or an assignee of  
8 the institution organized and existing for the benefit of the  
9 institution.

10 [(35) Any report or record which is made pursuant to K.S.A.  
11 65-4922, 65-4923 or 65-4924, and amendments thereto, and which  
12 is privileged pursuant to K.S.A. 65-4915 or 65-4925, and amend-  
13 ments thereto.

14 [(36) Information which would reveal the precise location of  
15 an archeological site.

16 [(37) Any financial data or traffic information from a railroad  
17 company, to a public agency, concerning the sale, lease or reha-  
18 bilitation of the railroad's property in Kansas.

19 [(38) Risk-based capital reports, risk-based capital plans and  
20 corrective orders including the working papers and the results of  
21 any analysis filed with the commissioner of insurance in accord-  
22 ance with K.S.A. 40-2c20 and 40-2d20 and amendments thereto.

23 [(39) Memoranda and related materials required to be used to  
24 support the annual actuarial opinions submitted pursuant to sub-  
25 section (b) of K.S.A. 40-409, and amendments thereto.

26 [(40) Disclosure reports filed with the commissioner of insur-  
27 ance under subsection (a) of K.S.A. 40-2,156, and amendments  
28 thereto.

29 [(41) All financial analysis ratios and examination synopses con-  
30 cerning insurance companies that are submitted to the commis-  
31 sioner by the national association of insurance commissioners' in-  
32 surance regulatory information system.

33 [(42) Any records the disclosure of which is restricted or pro-  
34 hibited by a tribal-state gaming compact.

35 [(43) Market research, market plans, business plans and the  
36 terms and conditions of managed care or other third party con-  
37 tracts, developed or entered into by the university of Kansas med-  
38 ical center in the operation and management of the university hos-  
39 pital which the chancellor of the university of Kansas or the  
40 chancellor's designee determines would give an unfair advantage  
41 to competitors of the university of Kansas medical center.

42 [(44) The amount of franchise tax paid to the *secretary of revenue*  
43 *or the secretary of state* by domestic corporations, foreign corpo-

1 rations, domestic limited liability companies, foreign limited li-  
2 bility companies, domestic limited partnership, foreign limited  
3 partnership, domestic limited liability partnerships and foreign  
4 limited liability partnerships.

5 [(45) Records the disclosure of which would pose a substantial  
6 likelihood of revealing security measures that protect: (A) Systems,  
7 facilities or equipment used in the production, transmission or dis-  
8 tribution of energy, water or communications services; or (B)  
9 sewer or wastewater treatment systems, facilities or equipment.  
10 For purposes of this paragraph, security means measures that pro-  
11 tect against criminal acts intended to intimidate or coerce the ci-  
12 vilian population, influence government policy by intimidation or  
13 coercion or to affect the operation of government by disruption of  
14 public services, mass destruction, assassination or kidnapping.

15 [(46) Any information or material received by the secretary of  
16 state pursuant to subsection (b) of K.S.A. 2003 Supp. 44-1518, and  
17 amendments thereto, except when such information is required to  
18 be submitted in an application pursuant to K.S.A. 2003 Supp. 44-  
19 1520, and amendments thereto.

20 [(b) Except to the extent disclosure is otherwise required by  
21 law or as appropriate during the course of an administrative pro-  
22 ceeding or on appeal from agency action, a public agency or officer  
23 shall not disclose financial information of a taxpayer which may be  
24 required or requested by a county appraiser or the director of  
25 property valuation to assist in the determination of the value of  
26 the taxpayer's property for ad valorem taxation purposes; or any  
27 financial information of a personal nature required or requested  
28 by a public agency or officer, including a name, job description or  
29 title revealing the salary or other compensation of officers, em-  
30 ployees or applicants for employment with a firm, corporation or  
31 agency, except a public agency. Nothing contained herein shall be  
32 construed to prohibit the publication of statistics, so classified as  
33 to prevent identification of particular reports or returns and the  
34 items thereof.

35 [(c) As used in this section, the term "cited or identified" shall  
36 not include a request to an employee of a public agency that a  
37 document be prepared.

38 [(d) If a public record contains material which is not subject to  
39 disclosure pursuant to this act, the public agency shall separate or  
40 delete such material and make available to the requester that ma-  
41 terial in the public record which is subject to disclosure pursuant  
42 to this act. If a public record is not subject to disclosure because  
43 it pertains to an identifiable individual, the public agency shall

1 delete the identifying portions of the record and make available  
2 to the requester any remaining portions which are subject to dis-  
3 closure pursuant to this act, unless the request is for a record per-  
4 taining to a specific individual or to such a limited group of indi-  
5 viduals that the individuals' identities are reasonably  
6 ascertainable, the public agency shall not be required to disclose  
7 those portions of the record which pertain to such individual or  
8 individuals.

9 [(e) The provisions of this section shall not be construed to ex-  
10 empt from public disclosure statistical information not descriptive  
11 of any identifiable person.

12 [(f) Notwithstanding the provisions of subsection (a), any public  
13 record which has been in existence more than 70 years shall be  
14 open for inspection by any person unless disclosure of the record  
15 is specifically prohibited or restricted by federal law, state statute  
16 or rule of the Kansas supreme court or by a policy adopted pur-  
17 suant to K.S.A. 72-6214, and amendments thereto.

18 [Sec. 22. K.S.A. 2003 Supp. 56-1a606 is hereby amended to  
19 read as follows: 56-1a606. (a) Every limited partnership organized  
20 under the laws of this state shall make an annual report in writing  
21 to the secretary of state, stating the prescribed information con-  
22 cerning the limited partnership at the close of business on the last  
23 day of its tax period next preceding the date of filing. If the limited  
24 partnership's tax period is other than the calendar year, it shall  
25 give notice of its different tax period to the secretary of state prior  
26 to December 31 of the year it commences the different tax period.  
27 The annual report shall be filed at the time prescribed by law for  
28 filing the limited partnership's annual Kansas income tax return.  
29 If the limited partnership applies for an extension of time for filing  
30 its annual income tax return under the internal revenue code or  
31 under K.S.A. 79-3221 and amendments thereto, the limited part-  
32 nership shall also apply, not more than 90 days after the due date  
33 of its annual report, to the secretary of state for an extension of  
34 the time for filing its report and an extension shall be granted for  
35 a period of time corresponding to that granted under the internal  
36 revenue code or K.S.A. 79-3221 and amendments thereto. The ap-  
37 plication shall include a copy of the application to income tax  
38 authorities.

39 [(b) The annual report shall be made on a form prescribed by  
40 the secretary of state. The report shall contain the following  
41 information:

42 [(1) The name of the limited partnership; and

43 [(2) a list of the partners owning at least 5% of the capital of

1 the partnership, with the post office address of each.

2 [(c) Every limited partnership subject to the provisions of this  
3 section which is a limited corporate partnership, as defined in  
4 K.S.A. 17-5903 and amendments thereto, and which holds agri-  
5 cultural land, as defined in K.S.A. 17-5903 and amendments  
6 thereto, within this state shall show the following additional infor-  
7 mation on the report:

8 [(1) The number of acres and location, listed by section, range,  
9 township and county of each lot, tract or parcel of agricultural land  
10 in this state owned or leased by the limited partnership; and

11 [(2) whether any of the agricultural land held and reported un-  
12 der subsection (c)(1) was acquired after July 1, 1981.

13 [(d) The annual report shall be signed by the general partner  
14 or partners of the limited partnership, sworn to before an officer  
15 duly authorized to administer oaths and forwarded to the secretary  
16 of state. At the time of filing the report, the limited partnership  
17 shall pay to the secretary of state an annual franchise ~~tax~~ fee in an  
18 amount equal to \$2 for each \$1,000 of the partners' net capital accounts  
19 located in or used in this state at the end of the preceding taxable year  
20 as required to be reported on the federal partnership return of income,  
21 except that no annual tax shall be less than \$40 or more than \$5,000. The  
22 amount of any such franchise tax paid by the limited partnership to the  
23 secretary as provided by this subsection shall not be disclosed by the  
24 secretary ~~not to exceed \$40.~~

25 [(e) The provisions of K.S.A. 17-7509 and amendments thereto,  
26 relating to penalties for failure of a corporation to file an annual  
27 report or pay the required franchise ~~tax~~ fee, and the provisions of  
28 subsection (a) of K.S.A. 17-7510 and amendments thereto, relating  
29 to forfeiture of a domestic corporation's articles of incorporation  
30 for failure to file an annual report or pay the required franchise  
31 ~~tax~~ fee, shall be applicable to the certificate of partnership of any  
32 limited partnership which fails to file its annual report or pay the  
33 franchise ~~tax~~ fee within 90 days of the time prescribed in this section  
34 for filing and paying the same. Whenever the certificate of part-  
35 nership of a limited partnership is forfeited for failure to file an  
36 annual report or to pay the required franchise ~~tax~~ fee, the limited  
37 partnership may be reinstated by filing a certificate of reinstatement,  
38 in the manner and form to be prescribed by the secretary  
39 of state and paying to the secretary of state all fees and ~~taxes~~, in-  
40 cluding any penalties thereon, due to the state. The fee for filing  
41 a certificate of reinstatement shall be the same as that prescribed  
42 by K.S.A. 17-7506 and amendments thereto for filing a certificate  
43 of extension, restoration, renewal or revival of a corporation's ar-

1 ticles of incorporation.

2 [Sec. 23. K.S.A. 2003 Supp. 56-1a607 is hereby amended to  
3 read as follows: 56-1a607. (a) Every foreign limited partnership  
4 shall make an annual report in writing to the secretary of state,  
5 stating the prescribed information concerning the limited part-  
6 nership at the close of business on the last day of its tax period  
7 next preceding the date of filing. If the limited partnership's tax  
8 period is other than the calendar year, it shall give notice of its  
9 different tax period to the secretary of state prior to December 31  
10 of the year it commences the different tax period. The annual re-  
11 port shall be filed at the time prescribed by law for filing the lim-  
12 ited partnership's annual Kansas income tax return. If the limited  
13 partnership applies for an extension of time for filing its annual  
14 income tax return under the internal revenue code or under K.S.A.  
15 79-3221 and amendments thereto, the limited partnership shall  
16 also apply, not more than 90 days after the due date of its annual  
17 report, to the secretary of state for an extension of the time for  
18 filing its report and an extension shall be granted for a period of  
19 time corresponding to that granted under the internal revenue  
20 code or K.S.A. 79-3221 and amendments thereto. The application  
21 shall include a copy of the application to income tax authorities.

22 [(b) The annual report shall be made on a form prescribed by  
23 the secretary of state. The report shall contain the name of the  
24 limited partnership.

25 [(c) Every foreign limited partnership subject to the provisions  
26 of this section which is a limited corporate partnership, as defined  
27 in K.S.A. 17-5903 and amendments thereto, and which holds ag-  
28 ricultural land, as defined in K.S.A. 17-5903 and amendments  
29 thereto, within this state shall show the following additional infor-  
30 mation on the report:

31 [(1) The number of acres and location, listed by section, range,  
32 township and county of agricultural land in this state owned or  
33 leased by the limited partnership; and

34 [(2) whether any of the agricultural land held and reported un-  
35 der subsection (c)(1) was acquired after July 1, 1981.

36 [(d) The annual report shall be signed by the general partner  
37 or partners of the limited partnership, sworn to before an officer  
38 duly authorized to administer oaths and forwarded to the secretary  
39 of state. At the time of filing the report, the foreign limited part-  
40 nership shall pay to the secretary of state an annual franchise tax  
41 fee in an amount equal to \$2 for each \$1,000 of the partners' net capital  
42 accounts located in or used in this state at the end of the preceding taxable  
43 year as required to be reported on the federal partnership return of in-

1 come, except that no annual tax shall be less than \$40 or more than  
2 \$5,000. The amount of any such franchise tax paid by the limited part-  
3 nership to the secretary as provided by this subsection shall not be dis-  
4 closed by the secretary *not to exceed \$40.*

5 **[(e) The provisions of K.S.A. 17-7509 and amendments thereto,**  
6 **relating to penalties for failure of a corporation to file an annual**  
7 **report or pay the required franchise tax fee, and the provisions of**  
8 **subsection (b) of K.S.A. 17-7510 and amendments thereto, relating**  
9 **to forfeiture of a foreign corporation's authority to do business in**  
10 **this state for failure to file an annual report or pay the required**  
11 **franchise tax fee, shall be applicable to the authority of any foreign**  
12 **limited partnership which fails to file its annual report or pay the**  
13 **franchise tax fee within 90 days of the time prescribed in this section**  
14 **for filing and paying the same. Whenever the authority of a foreign**  
15 **limited partnership to do business in this state is forfeited for fail-**  
16 **ure to file an annual report or to pay the required franchise tax fee,**  
17 **the foreign limited partnership's authority to do business in this**  
18 **state may be reinstated by filing a certificate of reinstatement, in**  
19 **the manner and form to be prescribed by the secretary of state**  
20 **and paying to the secretary of state all fees and taxes, including any**  
21 **penalties thereon, due to the state. The fee for filing a certificate**  
22 **of reinstatement shall be the same as that prescribed by K.S.A. 17-**  
23 **7506 and amendments thereto for filing a certificate of extension,**  
24 **restoration, renewal or revival of a corporation's articles of**  
25 **incorporation.**

26 **[Sec. 24. K.S.A. 56-1a608 is hereby amended to read as fol-**  
27 **lows: 56-1a608. No limited partnership shall be required to file its**  
28 **first annual report under this act, or pay any annual franchise tax**  
29 **fee required to accompany such report, unless such limited part-**  
30 **nership has filed its certificate of limited partnership or certificate**  
31 **of good standing at least six months prior to the last day of its tax**  
32 **period. If any limited partnership files with the secretary of state a notice**  
33 **of change in its tax period and the next annual report filed by such limited**  
34 **partnership subsequent to such notice is based on a tax period of less**  
35 **than 12 months, there shall be no reduction or proration of the annual**  
36 **tax required to accompany such report.**

37 **[Sec. 25. K.S.A. 2003 Supp. 56a-1201 is hereby amended to**  
38 **read as follows: 56a-1201. (a) Every limited liability partnership**  
39 **organized under the laws of this state shall make an annual report**  
40 **in writing to the secretary of state, stating the prescribed infor-**  
41 **mation concerning the limited liability partnership at the close of**  
42 **business on the last day of its tax period next preceding the date**  
43 **of filing. If the limited liability partnership's tax period is other**



1 than the calendar year, it shall give notice of its different tax period  
2 in writing to the secretary of state prior to December 31 of the  
3 year it commences the different tax period. The annual report shall  
4 be filed at the time prescribed by law for filing the limited liability  
5 partnership's annual Kansas income tax return. If the limited li-  
6 ability partnership applies for an extension of time for filing its an-  
7 nual income tax return under the internal revenue code, the lim-  
8 ited liability partnership shall also apply, not more than 90 days  
9 after the due date of its annual report, to the secretary of state for  
10 an extension of the time for filing its report and an extension shall  
11 be granted for a period of time corresponding to that granted un-  
12 der the internal revenue code. The application shall include a copy  
13 of the application to income tax authorities.

14 [(b) The annual report shall be made on a form prescribed by  
15 the secretary of state. The report shall contain the following  
16 information:

17 [(1) The name of the limited liability partnership; and

18 [(2) a list of the partners owning at least 5% of the capital of  
19 the partnership, with the post office address of each.

20 [(c) The annual report shall be signed by a partner of the lim-  
21 ited liability partnership and forwarded to the secretary of state.  
22 At the time of filing the report, the limited liability partnership  
23 shall pay to the secretary of state an annual franchise ~~tax~~ *fee* in an  
24 amount equal to \$2 for each \$1,000 of the net capital accounts located  
25 in or used in this state at the end of the preceding taxable year as required  
26 to be reported on the federal partnership return of income, except that  
27 no annual tax shall be less than \$40 or more than \$5,000. The amount of  
28 any such franchise tax paid by the limited liability partnership to the  
29 secretary as provided by this subsection shall not be disclosed by the  
30 secretary ~~not to exceed \$40.~~

31 [(d) The provisions of K.S.A. 17-7509, and amendments  
32 thereto, relating to penalties for failure of a corporation to file an  
33 annual report or pay the required franchise ~~tax~~ *fee*, and the pro-  
34 visions of subsection (a) of K.S.A. 17-7510 and amendments  
35 thereto, relating to penalties for failure of a corporation to file an  
36 annual report or pay the required franchise ~~tax~~ *fee*, shall be appli-  
37 cable to the statement of qualification of any limited liability part-  
38 nership which fails to file its annual report or pay the franchise ~~tax~~  
39 *fee* within 90 days of the time prescribed in this section for filing  
40 and paying the same. Whenever the statement of qualification of  
41 a limited liability partnership is forfeited for failure to file an an-  
42 nual report or to pay the required franchise ~~tax~~ *fee*, the limited  
43 liability partnership may be reinstated by filing a certificate of re-

1 instatement, in the manner and form to be prescribed by the sec-  
2 retary of state and paying to the secretary of state all fees and taxes,  
3 including any penalties thereon, due to the state. The fee for filing  
4 a certificate of reinstatement shall be the same as that prescribed  
5 by K.S.A. 17-7506, and amendments thereto, for filing a certificate  
6 of extension, restoration, renewal or revival of a corporation's ar-  
7 ticles of incorporation.

8 [Sec. 26. K.S.A. 2003 Supp. 56a-1202 is hereby amended to  
9 read as follows: 56a-1202. (a) Every foreign limited liability part-  
10 nership shall make an annual report in writing to the secretary of  
11 state, stating the prescribed information concerning the foreign  
12 limited liability partnership at the close of business on the last day  
13 of its tax period next preceding the date of filing. If the foreign  
14 limited liability partnership's tax period is other than the calendar  
15 year, it shall give notice in writing of its different tax period to the  
16 secretary of state prior to December 31 of the year it commences  
17 the different tax period. The annual report shall be filed at the  
18 time prescribed by law for filing the foreign limited liability part-  
19 nership's annual Kansas income tax return. If the foreign limited  
20 liability partnership applies for an extension of time for filing its  
21 annual income tax return under the internal revenue code, the  
22 foreign limited liability partnership shall also apply, not more than  
23 90 days after the due date of its annual report, to the secretary of  
24 state for an extension of the time for filing its report and an exten-  
25 sion shall be granted for a period of time corresponding to that  
26 granted under the internal revenue code. The application shall  
27 include a copy of the application to income tax authorities.

28 [(b) The annual report shall be made on a form prescribed by  
29 the secretary of state. The report shall contain the name of the  
30 foreign limited liability partnership.

31 [(c) The annual report shall be signed by a partner of the fore-  
32 eign limited liability partnership and forwarded to the secretary  
33 of state. At the time of filing the report, the foreign limited liability  
34 partnership shall pay to the secretary of state an annual franchise  
35 tax fee in an amount equal to \$2 for each \$1,000 of the net capital  
36 accounts located in or used in this state at the end of the preceding taxable  
37 year as required to be reported on the federal partnership return of in-  
38 come, except that no annual tax shall be less than \$40 or more than  
39 \$5,000. The amount of any such franchise tax paid by the foreign limited  
40 liability partnership to the secretary as provided by this subsection shall  
41 not be disclosed by the secretary *not to exceed \$40.*

42 [(d) The provisions of K.S.A. 17-7509, and amendments  
43 thereto, relating to penalties for failure of a corporation to file an

1 annual report or pay the required franchise ~~tax~~ *fee*, and the pro-  
2 visions of subsection (a) of K.S.A. 17-7510, and amendments  
3 thereto, relating to penalties for failure of a corporation to file an  
4 annual report or pay the required franchise ~~tax~~ *fee*, shall be appli-  
5 cable to the statement of foreign qualification of any foreign lim-  
6 ited liability partnership which fails to file its annual report or pay  
7 the franchise ~~tax~~ *fee* within 90 days of the time prescribed in this  
8 section for filing and paying the same. Whenever the statement of  
9 foreign qualification of a foreign limited liability partnership is  
10 forfeited for failure to file an annual report or to pay the required  
11 franchise ~~tax~~ *fee*, the statement of foreign qualification of the for-  
12 eign limited liability partnership may be reinstated by filing a cer-  
13 tificate of reinstatement, in the manner and form to be prescribed  
14 by the secretary of state and paying to the secretary of state all  
15 fees and taxes, including any penalties thereon, due to the state.  
16 The fee for filing a certificate of reinstatement shall be the same  
17 as that prescribed by K.S.A. 17-7506, and amendments thereto, for  
18 filing a certificate of extension, restoration, renewal or revival of  
19 a corporation's articles of incorporation.

20 [Sec. 27. K.S.A. 2003 Supp. 56a-1203 is hereby amended to  
21 read as follows: 56a-1203. No limited liability partnership or for-  
22 eign limited liability partnership shall be required to file its first  
23 annual report under this act, or pay any annual franchise ~~tax~~ *fee*  
24 required to accompany such report, unless such partnership has  
25 filed its statement of qualification or foreign qualification at least  
26 six months prior to the last day of its tax period. If any such part-  
27 nership files with the secretary of state a notice of change in its tax period  
28 and the next annual report filed by such partnership subsequent to such  
29 notice is based on a tax period of less than 12 months, the annual tax  
30 liability shall be determined by multiplying the annual franchise tax lia-  
31 bility for such year by a fraction, the numerator of which is the number  
32 of months or any portion thereof covered by the annual report and the  
33 denominator of which is 12, except that the tax shall not be less than \$40.

34 [New Sec. 28. The secretary of state shall remit all moneys re-  
35 ceived from franchise fees, to the state treasurer in accordance  
36 with the provisions of K.S.A. 75-4215, and amendments thereto.  
37 Upon receipt of each such remittance, the state treasurer shall  
38 deposit the entire amount in the state treasury to the credit of the  
39 state general fund.

40 [Sec. 29. K.S.A. 17-1513, 17-1618, 17-7510, 17-7511, 17-7512  
41 and 56-1a608 and K.S.A. 2003 Supp. 17-2036, 17-2718, 17-4634,  
42 17-4677, 17-7503, 17-7504, 17-7505, 17-7507, 17-7508, 17-7509,  
43 17-76,125, 17-76,139, 45-221, 56-1a606, 56-1a607, 56a-1201, 56a-

- 1 **1202, 56a-1203, 79-3606 and 79-3607 are hereby repealed.]**
- 2     Sec. ~~3~~. [30.] This act shall take effect and be in force from and after
- 3 **January 1, 2005, and** its publication in the statute book.