

## HOUSE BILL No. 2170

By Committee on Taxation

1-23

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9 AN ACT concerning taxation; amending K.S.A. 40-253a, 65-1,194 and  
10 74-8945 and K.S.A. 2006 Supp. 79-32,110, 79-32,111, 79-32,117, 79-  
11 32,243, 79-3606 and 79-5401 and repealing the existing sections; also  
12 repealing K.S.A. 39-7,132, 74-50,113, 74-50,116, 74-50,117, 74-  
13 50,118, 74-50,119, 74-50,135, 74-50,135a, 75-4275, 79-32,155, 79-  
14 32,156, 79-32,157, 79-32,158, 79-32,159, 79-32,159a, 79-32,159b, 79-  
15 32,159c, 79-32,160, 79-32,160b, 79-32,160c, 79-32,200 and 79-32,203  
16 and K.S.A. 2006 Supp. 74-50,114, 74-50,115, 74-50,131, 74-50,132, 74-  
17 50,133, 74-50,134, 79-1126a, 79-3269, 79-32,1171, 79-32,153, 79-  
18 32,154, 79-32,160a, 79-32,181a, 79-32,204 and 79-32,207.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 or

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

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

42 (i) “same or substantially identical revenue producing enterprise”  
43 means a revenue producing enterprise in which the products produced

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (c) If the tax credit amount thereof exceeds the tax imposed, the tax  
43 credit amount thereof which exceeds the eligible taxpayer's tax liability

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (c) "Kansas job credit taxpayer" means any business entity authorized  
41 to do business in the state of Kansas which is subject to the state income  
42 tax imposed by the provisions of the Kansas income tax act, any national  
43 banking association, state bank, trust company or savings and loan asso-

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



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

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

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

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

41 (c) If the amount of the tax credit exceeds the tax imposed, the  
42 amount thereof which exceeds such tax liability may be carried forward  
43 for credit in the succeeding taxable year or years until the total amount

1 of the tax credit is used. In the event the taxpayer does not continue to  
2 employ the required minimum number of employees, any credit remain-  
3 ing will be forfeited and no longer available for carry forward.

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

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

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

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

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

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

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

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

42 Sec. 16. K.S.A. 65-1,194 is hereby amended to read as follows: 65-  
43 1,194. (a) A qualified swine facility, ~~as defined by K.S.A. 2002 Supp. 79-~~

1 ~~32-204~~, that expands to an animal unit capacity of 3,725 or more shall be  
2 subject to the provisions of this act applicable to a swine facility having  
3 an animal unit capacity of 1,000 to 3,724 if:

4 ~~(a)~~ (1) The department determines that the swine waste management  
5 system of such facility on the effective date of this act has the capacity to  
6 accommodate the expanded capacity;

7 ~~(b)~~ (2) the expansion is located within the perimeter from which sep-  
8 aration distances are determined pursuant to subsection (k) of K.S.A. 65-  
9 171d and amendments thereto or the written agreements required by  
10 subsection (i)(1) of K.S.A. 65-171d and amendments thereto are obtained;  
11 and

12 ~~(c)~~ (3) the expansion does not exceed the lesser of:

13 ~~(A)~~ (A) An animal unit capacity that is 1/3 greater than the capacity of  
14 such facility on the effective date of this act; or

15 ~~(B)~~ (B) an animal unit capacity of 4,499.

16 (b) As used in this section, "qualified swine facility" means a swine  
17 facility that: (1) Is owned and operated by a sole proprietorship or part-  
18 nership or by a family farm corporation, authorized farm corporation,  
19 limited liability agricultural company, family farm limited liability agri-  
20 cultural company, limited agricultural partnership, family trust, author-  
21 ized trust or testamentary trust, as defined by K.S.A. 17-5903, and amend-  
22 ments thereto; and (2) is utilizing its swine waste management system on  
23 January 1, 1998.

24 Sec. 17. K.S.A. 74-8945 is hereby amended to read as follows: 74-  
25 8945. The establishment shall not be allowed credits pursuant to K.S.A.  
26 ~~79-32,160~~ the Kansas investment credit act, and amendments thereto,  
27 for any amount of investment related to or computed on the basis of any  
28 investment of the proceeds of obligations issued pursuant to this act.

29 Sec. 18. K.S.A. 2006 Supp. 79-32,110 is hereby amended to read as  
30 follows: 79-32,110. (a) *Resident Individuals*. Except as otherwise provided  
31 by subsection (a) of K.S.A. 79-3220, and amendments thereto, a tax is  
32 hereby imposed upon the Kansas taxable income of every resident indi-  
33 vidual, which tax shall be computed in accordance with the following tax  
34 schedules:

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

36	If the taxable income is:	The tax is:
37	Not over \$30,000 .....	3.5% of Kansas taxable income
38	Over \$30,000 but not over \$60,000 .....	\$1,050 plus 6.25% of excess over \$30,000
39	Over \$60,000 .....	\$2,925 plus 6.45% of excess over \$60,000

40 (2) *All other individuals*.

41 (A) For tax year 1997:

42	If the taxable income is:	The tax is:
43	Not over \$20,000 .....	4.1% of Kansas taxable income

1	Over \$20,000 but not over \$30,000 .....	\$820 plus 7.5% of excess over \$20,000
2	Over \$30,000 .....	\$1,570 plus 7.75% of excess over \$30,000
3	(B) For tax year 1998, and all tax years thereafter:	
4	If the taxable income is:	The tax is:
5	Not over \$15,000.....	3.5% of Kansas taxable income
6	Over \$15,000 but not over \$30,000 .....	\$525 plus 6.25% of excess over \$15,000
7	Over \$30,000.....	\$1,462.50 plus 6.45% of excess over \$30,000

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

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

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

19 (2) (A) *for the tax year 2007*, the surtax shall be in an amount equal  
20 to 3.35% of the Kansas taxable income of such corporation in excess of  
21 \$50,000;

22 (B) *for tax year 2008*, the surtax shall be in an amount equal to 2.95%  
23 of the Kansas taxable income of such corporation in excess of \$50,000; or

24 (C) *for tax year 2009, and all tax years thereafter*, the surtax shall be  
25 in an amount equal to 2.75% of the Kansas taxable income of such cor-  
26 poration in excess of \$50,000.

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

30 Sec. 19. K.S.A. 2006 Supp. 79-32,111 is hereby amended to read as  
31 follows: 79-32,111. ~~(a)~~ The amount of income tax paid to another state  
32 by a resident individual, resident estate or resident trust on income de-  
33 rived from sources in another state shall be allowed as a credit against  
34 the tax computed under the provisions of this act. Such credit shall not  
35 be greater in proportion to the tax computed under this act than the  
36 adjusted gross income for such year derived in another state while such  
37 taxpayer is a resident of this state is to the total Kansas adjusted gross  
38 income of the taxpayer. As used in this subsection, state shall have the  
39 meaning ascribed thereto by subsection (h) of K.S.A. 79-3271, and  
40 amendments thereto. The credit allowable hereunder for income tax paid  
41 to a foreign country or political subdivision thereof shall not exceed the  
42 difference of such income tax paid less the credit allowable for such in-  
43 come tax paid by the federal internal revenue code. No redetermination

1 of income tax paid for the purposes of determining the credit allowed by  
2 this subsection shall be required for the taxable year for which an income  
3 tax refund payment pursuant to the provisions of section 18 of article 10  
4 of the Missouri constitution is made, but the income tax paid allowable  
5 for credit in the next following taxable year shall be reduced by the  
6 amount of such refund amount, except that, for tax year 1998, the income  
7 tax paid allowable for credit shall be reduced by the amount of such  
8 refunds made for all taxable years prior to tax year 1998.

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

14 Sec. 20. K.S.A. 2006 Supp. 79-32,117 is hereby amended to read as  
15 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual  
16 means such individual's federal adjusted gross income for the taxable year,  
17 with the modifications specified in this section.

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

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

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

37 (iii) The federal net operating loss deduction.

38 (iv) Federal income tax refunds received by the taxpayer if the de-  
39 duction of the taxes being refunded resulted in a tax benefit for Kansas  
40 income tax purposes during a prior taxable year. Such refunds shall be  
41 included in income in the year actually received regardless of the method  
42 of accounting used by the taxpayer. For purposes hereof, a tax benefit  
43 shall be deemed to have resulted if the amount of the tax had been de-

- 1 ducted in determining income subject to a Kansas income tax for a prior  
2 year regardless of the rate of taxation applied in such prior year to the  
3 Kansas taxable income, but only that portion of the refund shall be in-  
4 cluded as bears the same proportion to the total refund received as the  
5 federal taxes deducted in the year to which such refund is attributable  
6 bears to the total federal income taxes paid for such year. For purposes  
7 of the foregoing sentence, federal taxes shall be considered to have been  
8 deducted only to the extent such deduction does not reduce Kansas tax-  
9 able income below zero.
- 10 (v) The amount of any depreciation deduction or business expense  
11 deduction claimed on the taxpayer's federal income tax return for any  
12 capital expenditure in making any building or facility accessible to the  
13 handicapped, for which expenditure the taxpayer claimed the credit al-  
14 lowed by K.S.A. 79-32,177, and amendments thereto.
- 15 (vi) Any amount of designated employee contributions picked up by  
16 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,  
17 and amendments to such sections.
- 18 (vii) The amount of any charitable contribution made to the extent  
19 the same is claimed as the basis for the credit allowed pursuant to K.S.A.  
20 79-32,196, and amendments thereto.
- 21 ~~(viii) The amount of any costs incurred for improvements to a swine~~  
22 ~~facility, claimed for deduction in determining federal adjusted gross in-~~  
23 ~~come, to the extent the same is claimed as the basis for any credit allowed~~  
24 ~~pursuant to K.S.A. 2006 Supp. 79-32,204 and amendments thereto.~~
- 25 ~~(ix) The amount of any ad valorem taxes and assessments paid and~~  
26 ~~the amount of any costs incurred for habitat management or construction~~  
27 ~~and maintenance of improvements on real property, claimed for deduc-~~  
28 ~~tion in determining federal adjusted gross income, to the extent the same~~  
29 ~~is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203~~  
30 ~~and amendments thereto.~~
- 31 ~~(x) Amounts received as nonqualified withdrawals, as defined by~~  
32 ~~K.S.A. 2006 Supp. 75-643, and amendments thereto, if, at the time of~~  
33 ~~contribution to a family postsecondary education savings account, such~~  
34 ~~amounts were subtracted from the federal adjusted gross income pur-~~  
35 ~~suant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amend-~~  
36 ~~ments thereto, or if such amounts are not already included in the federal~~  
37 ~~adjusted gross income.~~
- 38 ~~(xi) (ix)~~ (ix) The amount of any contribution made to the same extent the  
39 same is claimed as the basis for the credit allowed pursuant to K.S.A.  
40 2006 Supp. 74-50,154, and amendments thereto.
- 41 ~~(xii) (x)~~ (x) For taxable years commencing after December 31, 2004,  
42 amounts received as withdrawals not in accordance with the provisions  
43 of K.S.A. 2006 Supp. 74-50,204, and amendments thereto, if, at the time

1 of contribution to an individual development account, such amounts were  
2 subtracted from the federal adjusted gross income pursuant to paragraph  
3 (xiii) of subsection (c), or if such amounts are not already included in the  
4 federal adjusted gross income.

5 ~~(xiii)~~ (xi) The amount of any expenditures claimed for deduction in  
6 determining federal adjusted gross income, to the extent the same is  
7 claimed as the basis for any credit allowed pursuant to K.S.A. 2006 Supp.  
8 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

9 ~~(xiv)~~ (xii) The amount of any amortization deduction claimed in de-  
10 termining federal adjusted gross income to the extent the same is claimed  
11 for deduction pursuant to K.S.A. 2006 Supp. 79-32,221, and amendments  
12 thereto.

13 ~~(xv)~~ (xiii) The amount of any expenditures claimed for deduction in  
14 determining federal adjusted gross income, to the extent the same is  
15 claimed as the basis for any credit allowed pursuant to K.S.A. 2006 Supp.  
16 79-32,223 through 79-32,226, and amendments thereto.

17 ~~(xvi)~~ (xiv) The amount of any amortization deduction claimed in de-  
18 termining federal adjusted gross income to the extent the same is claimed  
19 for deduction pursuant to K.S.A. 2006 Supp. 79-32,227, and amendments  
20 thereto.

21 ~~(xvii)~~ (xv) The amount of any expenditures claimed for deduction in  
22 determining federal adjusted gross income, to the extent the same is  
23 claimed as the basis for any credit allowed pursuant to K.S.A. 2006 Supp.  
24 79-32,228 through 79-32,231, and amendments thereto.

25 ~~(xviii)~~ (xvi) The amount of any amortization deduction claimed in  
26 determining federal adjusted gross income to the extent the same is  
27 claimed for deduction pursuant to K.S.A. 2006 Supp. 79-32,232, and  
28 amendments thereto.

29 ~~(xix)~~ (xvii) The amount of any expenditures claimed for deduction in  
30 determining federal adjusted gross income, to the extent the same is  
31 claimed as the basis for any credit allowed pursuant to K.S.A. 2006 Supp.  
32 79-32,233 through 79-32,236, and amendments thereto.

33 ~~(xx)~~ (xviii) The amount of any amortization deduction claimed in de-  
34 termining federal adjusted gross income to the extent the same is claimed  
35 for deduction pursuant to K.S.A. 2006 Supp. 79-32,237, and amendments  
36 thereto.

37 ~~(xxi)~~ (xix) The amount of any expenditures claimed for deduction in  
38 determining federal adjusted gross income, to the extent the same is  
39 claimed as the basis for any credit allowed pursuant to K.S.A. 2006 Supp.  
40 79-32,238 through 79-32,241, and amendments thereto.

41 (c) There shall be subtracted from federal adjusted gross income:  
42 (i) Interest or dividend income on obligations or securities of any  
43 authority, commission or instrumentality of the United States and its pos-

1 sessions less any related expenses directly incurred in the purchase of  
2 such obligations or securities, to the extent included in federal adjusted  
3 gross income but exempt from state income taxes under the laws of the  
4 United States.

5 (ii) Any amounts received which are included in federal adjusted  
6 gross income but which are specifically exempt from Kansas income tax-  
7 ation under the laws of the state of Kansas.

8 (iii) The portion of any gain or loss from the sale or other disposition  
9 of property having a higher adjusted basis for Kansas income tax purposes  
10 than for federal income tax purposes on the date such property was sold  
11 or disposed of in a transaction in which gain or loss was recognized for  
12 purposes of federal income tax that does not exceed such difference in  
13 basis, but if a gain is considered a long-term capital gain for federal in-  
14 come tax purposes, the modification shall be limited to that portion of  
15 such gain which is included in federal adjusted gross income.

16 (iv) The amount necessary to prevent the taxation under this act of  
17 any annuity or other amount of income or gain which was properly in-  
18 cluded in income or gain and was taxed under the laws of this state for a  
19 taxable year prior to the effective date of this act, as amended, to the  
20 taxpayer, or to a decedent by reason of whose death the taxpayer acquired  
21 the right to receive the income or gain, or to a trust or estate from which  
22 the taxpayer received the income or gain.

23 (v) The amount of any refund or credit for overpayment of taxes on  
24 or measured by income or fees or payments in lieu of income taxes im-  
25 posed by this state, or any taxing jurisdiction, to the extent included in  
26 gross income for federal income tax purposes.

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

30 (vii) Amounts received as annuities under the federal civil service  
31 retirement system from the civil service retirement and disability fund  
32 and other amounts received as retirement benefits in whatever form  
33 which were earned for being employed by the federal government or for  
34 service in the armed forces of the United States.

35 (viii) Amounts received by retired railroad employees as a supple-  
36 mental annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1)  
37 et seq.

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

43 (x) For taxable years beginning after December 31, 1976, the amount



1 of the federal tentative jobs tax credit disallowance under the provisions  
2 of 26 U.S.C. 280 C. For taxable years ending after December 31, 1978,  
3 the amount of the targeted jobs tax credit and work incentive credit dis-  
4 allowances under 26 U.S.C. 280 C.

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

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

11 (xiii) For taxable years beginning after December 31, 2004, amounts  
12 contributed to and the amount of income earned on contributions de-  
13 posited to an individual development account under K.S.A. 2006 Supp.  
14 74-50,201, et seq., and amendments thereto.

15 (xiv) For all taxable years commencing after December 31, 1996, that  
16 portion of any income of a bank organized under the laws of this state or  
17 any other state, a national banking association organized under the laws  
18 of the United States, an association organized under the savings and loan  
19 code of this state or any other state, or a federal savings association or-  
20 ganized under the laws of the United States, for which an election as an  
21 S corporation under subchapter S of the federal internal revenue code is  
22 in effect, which accrues to the taxpayer who is a stockholder of such  
23 corporation and which is not distributed to the stockholders as dividends  
24 of the corporation.

25 (xv) For all taxable years beginning after December 31, ~~1999~~ 2004,  
26 amounts not exceeding ~~\$2,000, or \$4,000~~ \$3,000 or \$6,000 for a married  
27 couple filing a joint return, for each designated beneficiary which are  
28 contributed to a family postsecondary education savings account estab-  
29 lished under the Kansas postsecondary education savings program for the  
30 purpose of paying the qualified higher education expenses of a designated  
31 beneficiary at an institution of postsecondary education. For all taxable  
32 years beginning after December 31, ~~2004~~ 2006, amounts not exceeding  
33 \$3,000, or \$6,000 for a married couple filing a joint return, for each des-  
34 ignated beneficiary which are contributed to a ~~family postsecondary ed-~~  
35 ~~ucation savings account established under the Kansas postsecondary ed-~~  
36 ~~ucation savings program~~ *qualified tuition program established and*  
37 *maintained by another state or agency or instrumentality thereof pursu-*  
38 *ant to section 529 of the internal revenue code of 1986, as amended,* for  
39 the purpose of paying the qualified higher education expenses of a des-  
40 ignated beneficiary at an institution of postsecondary education. The  
41 terms and phrases used in this paragraph shall have the meaning respec-  
42 tively ascribed thereto by the provisions of K.S.A. 2006 Supp. 75-643, and  
43 amendments thereto, and the provisions of such section are hereby in-

1 incorporated by reference for all purposes thereof.

2 (xvi) For the tax year beginning after December 31, 2004, an amount  
3 not exceeding \$500; for the tax year beginning after December 31, 2005,  
4 an amount not exceeding \$600; for the tax year beginning after December  
5 31, 2006, an amount not exceeding \$700; for the tax year beginning after  
6 December 31, 2007, an amount not exceeding \$800; for the tax year  
7 beginning December 31, 2008, an amount not exceeding \$900; and for  
8 all taxable years commencing after December 31, 2009, an amount not  
9 exceeding \$1,000 of the premium costs for qualified long-term care in-  
10 surance contracts, as defined by subsection (b) of section 7702B of public  
11 law 104-191.

12 (xvii) For all taxable years beginning after December 31, 2004,  
13 amounts received by taxpayers who are or were members of the armed  
14 forces of the United States, including service in the Kansas army and air  
15 national guard, as a recruitment, sign up or retention bonus received by  
16 such taxpayer as an incentive to join, enlist or remain in the armed services  
17 of the United States, including service in the Kansas army and air national  
18 guard, and amounts received for repayment of educational or student  
19 loans incurred by or obligated to such taxpayer and received by such  
20 taxpayer as a result of such taxpayer's service in the armed forces of the  
21 United States, including service in the Kansas army and air national guard.

22 (xviii) For all taxable years beginning after December 31, 2004,  
23 amounts received by taxpayers who are eligible members of the Kansas  
24 army and air national guard as a reimbursement pursuant to K.S.A. 48-  
25 281, and amendments thereto, and amounts received for death benefits  
26 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to sec-  
27 tion 1 or section 2 of chapter 207 of the 2005 session laws of Kansas, and  
28 amendments thereto, to the extent that such death benefits are included  
29 in federal adjusted gross income of the taxpayer.

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

34 (e) The amount of modifications required to be made under this sec-  
35 tion by a partner which relates to items of income, gain, loss, deduction  
36 or credit of a partnership shall be determined under K.S.A. 79-32,131,  
37 and amendments thereto, to the extent that such items affect federal  
38 adjusted gross income of the partner.

39 Sec. 21. K.S.A. 2006 Supp. 79-32,243 is hereby amended to read as  
40 follows: 79-32,243. (a) For tax years commencing after December 31,  
41 2005, any taxpayer claiming credits pursuant to K.S.A. 74-50,132, 79-  
42 32,153 or 79-32,160a, and amendments thereto, *and the Kansas invest-*  
43 *ment credit act and the Kansas jobs credit act, and amendments thereto,*

1 as a condition for claiming and qualifying for such credits, shall provide  
2 the following information as part of the tax return, in which such credits  
3 are claimed, which shall be used by the department of revenue in eval-  
4 uating the effectiveness of such tax credit programs, pursuant to K.S.A.  
5 2006 Supp. 74-99b35, and amendments thereto:

6 (1) Actual jobs created as a direct result of the expenditures on which  
7 such credit claim is based, if the taxpayer has previously submitted an  
8 estimate of such number of actual jobs created to the department of  
9 commerce as a part of applying for certification for such program partic-  
10 ipation;

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

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

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

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

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

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

35 Sec. 22. K.S.A. 2006 Supp. 79-3606 is hereby amended to read as  
36 follows: 79-3606. The following shall be exempt from the tax imposed by  
37 this act:

38 (a) All sales of motor-vehicle fuel or other articles upon which a sales  
39 or excise tax has been paid, not subject to refund, under the laws of this  
40 state except cigarettes as defined by K.S.A. 79-3301 and amendments  
41 thereto, cereal malt beverages and malt products as defined by K.S.A. 79-  
42 3817 and amendments thereto, including wort, liquid malt, malt syrup  
43 and malt extract, which is not subject to taxation under the provisions of

1 K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant  
2 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to  
3 K.S.A. 65-3424d, and amendments thereto, drycleaning and laundry serv-  
4 ices taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and  
5 gross receipts from regulated sports contests taxed pursuant to the Kansas  
6 professional regulated sports act, and amendments thereto;

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

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

30 (d) all sales of tangible personal property or services purchased by a  
31 contractor for the purpose of constructing, equipping, reconstructing,  
32 maintaining, repairing, enlarging, furnishing or remodeling facilities for  
33 any public or private nonprofit hospital or public hospital authority, public  
34 or private elementary or secondary school or a public or private nonprofit  
35 educational institution, which would be exempt from taxation under the  
36 provisions of this act if purchased directly by such hospital or public hos-  
37 pital authority, school or educational institution; and all sales of tangible  
38 personal property or services purchased by a contractor for the purpose  
39 of constructing, equipping, reconstructing, maintaining, repairing, en-  
40 larging, furnishing or remodeling facilities for any political subdivision of  
41 the state or district described in subsection (s), the total cost of which is  
42 paid from funds of such political subdivision or district and which would  
43 be exempt from taxation under the provisions of this act if purchased

1 directly by such political subdivision or district. Nothing in this subsection  
2 or in the provisions of K.S.A. 12-3418 and amendments thereto, shall be  
3 deemed to exempt the purchase of any construction machinery, equip-  
4 ment or tools used in the constructing, equipping, reconstructing, main-  
5 taining, repairing, enlarging, furnishing or remodeling facilities for any  
6 political subdivision of the state or any such district. As used in this sub-  
7 section, K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds  
8 of a political subdivision" shall mean general tax revenues, the proceeds  
9 of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used  
10 for the purpose of constructing, equipping, reconstructing, repairing, en-  
11 larging, furnishing or remodeling facilities which are to be leased to the  
12 donor. When any political subdivision of the state, district described in  
13 subsection (s), public or private nonprofit hospital or public hospital au-  
14 thority, public or private elementary or secondary school or public or  
15 private nonprofit educational institution shall contract for the purpose of  
16 constructing, equipping, reconstructing, maintaining, repairing, enlarg-  
17 ing, furnishing or remodeling facilities, it shall obtain from the state and  
18 furnish to the contractor an exemption certificate for the project involved,  
19 and the contractor may purchase materials for incorporation in such pro-  
20 ject. The contractor shall furnish the number of such certificate to all  
21 suppliers from whom such purchases are made, and such suppliers shall  
22 execute invoices covering the same bearing the number of such certifi-  
23 cate. Upon completion of the project the contractor shall furnish to the  
24 political subdivision, district described in subsection (s), hospital or public  
25 hospital authority, school or educational institution concerned a sworn  
26 statement, on a form to be provided by the director of taxation, that all  
27 purchases so made were entitled to exemption under this subsection. As  
28 an alternative to the foregoing procedure, any such contracting entity may  
29 apply to the secretary of revenue for agent status for the sole purpose of  
30 issuing and furnishing project exemption certificates to contractors pur-  
31 suant to rules and regulations adopted by the secretary establishing con-  
32 ditions and standards for the granting and maintaining of such status. All  
33 invoices shall be held by the contractor for a period of five years and shall  
34 be subject to audit by the director of taxation. If any materials purchased  
35 under such a certificate are found not to have been incorporated in the  
36 building or other project or not to have been returned for credit or the  
37 sales or compensating tax otherwise imposed upon such materials which  
38 will not be so incorporated in the building or other project reported and  
39 paid by such contractor to the director of taxation not later than the 20th  
40 day of the month following the close of the month in which it shall be  
41 determined that such materials will not be used for the purpose for which  
42 such certificate was issued, the political subdivision, district described in  
43 subsection (s), hospital or public hospital authority, school or educational

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

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

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

- 1 commerce;
- 2 (g) sales of aircraft including remanufactured and modified aircraft  
3 sold to persons using directly or through an authorized agent such aircraft  
4 as certified or licensed carriers of persons or property in interstate or  
5 foreign commerce under authority of the laws of the United States or any  
6 foreign government or sold to any foreign government or agency or in-  
7 strumentality of such foreign government and all sales of aircraft for use  
8 outside of the United States and sales of aircraft repair, modification and  
9 replacement parts and sales of services employed in the remanufacture,  
10 modification and repair of aircraft;
- 11 (h) all rentals of nonsectarian textbooks by public or private elemen-  
12 tary or secondary schools;
- 13 (i) the lease or rental of all films, records, tapes, or any type of sound  
14 or picture transcriptions used by motion picture exhibitors;
- 15 (j) meals served without charge or food used in the preparation of  
16 such meals to employees of any restaurant, eating house, dining car, hotel,  
17 drugstore or other place where meals or drinks are regularly sold to the  
18 public if such employees' duties are related to the furnishing or sale of  
19 such meals or drinks;
- 20 (k) any motor vehicle, semitrailer or pole trailer, as such terms are  
21 defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and  
22 delivered in this state to a bona fide resident of another state, which motor  
23 vehicle, semitrailer, pole trailer or aircraft is not to be registered or based  
24 in this state and which vehicle, semitrailer, pole trailer or aircraft will not  
25 remain in this state more than 10 days;
- 26 (l) all isolated or occasional sales of tangible personal property, serv-  
27 ices, substances or things, except isolated or occasional sale of motor  
28 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.  
29 79-3603 and amendments thereto;
- 30 (m) all sales of tangible personal property which become an ingre-  
31 dient or component part of tangible personal property or services pro-  
32 duced, manufactured or compounded for ultimate sale at retail within or  
33 without the state of Kansas; and any such producer, manufacturer or  
34 compounder may obtain from the director of taxation and furnish to the  
35 supplier an exemption certificate number for tangible personal property  
36 for use as an ingredient or component part of the property or services  
37 produced, manufactured or compounded;
- 38 (n) all sales of tangible personal property which is consumed in the  
39 production, manufacture, processing, mining, drilling, refining or com-  
40 pounding of tangible personal property, the treating of by-products or  
41 wastes derived from any such production process, the providing of serv-  
42 ices or the irrigation of crops for ultimate sale at retail within or without  
43 the state of Kansas; and any purchaser of such property may obtain from

1 the director of taxation and furnish to the supplier an exemption certifi-  
2 cate number for tangible personal property for consumption in such pro-  
3 duction, manufacture, processing, mining, drilling, refining, compound-  
4 ing, treating, irrigation and in providing such services;

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

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

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

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



- 1 (s) except as provided in K.S.A. 2006 Supp. 82a-2101, and amend-  
2 ments thereto, all sales of tangible personal property or services pur-  
3 chased directly or indirectly by a groundwater management district or-  
4 ganized or operating under the authority of K.S.A. 82a-1020 et seq. and  
5 amendments thereto, by a rural water district organized or operating un-  
6 der the authority of K.S.A. 82a-612, and amendments thereto, or by a  
7 water supply district organized or operating under the authority of K.S.A.  
8 19-3501 et seq., 19-3522 et seq. or 19-3545, and amendments thereto,  
9 which property or services are used in the construction activities, opera-  
10 tion or maintenance of the district;
- 11 (t) all sales of farm machinery and equipment or aquaculture ma-  
12 chinery and equipment, repair and replacement parts therefor and serv-  
13 ices performed in the repair and maintenance of such machinery and  
14 equipment. For the purposes of this subsection the term “farm machinery  
15 and equipment or aquaculture machinery and equipment” shall include  
16 a work-site utility vehicle, as defined in K.S.A. 8-126, and amendments  
17 thereto, and is equipped with a bed or cargo box for hauling materials,  
18 and shall also include machinery and equipment used in the operation of  
19 Christmas tree farming but shall not include any passenger vehicle, truck,  
20 truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer,  
21 as such terms are defined by K.S.A. 8-126 and amendments thereto. Each  
22 purchaser of farm machinery and equipment or aquaculture machinery  
23 and equipment exempted herein must certify in writing on the copy of  
24 the invoice or sales ticket to be retained by the seller that the farm ma-  
25 chinery and equipment or aquaculture machinery and equipment pur-  
26 chased will be used only in farming, ranching or aquaculture production.  
27 Farming or ranching shall include the operation of a feedlot and farm  
28 and ranch work for hire and the operation of a nursery;
- 29 (u) all leases or rentals of tangible personal property used as a dwell-  
30 ing if such tangible personal property is leased or rented for a period of  
31 more than 28 consecutive days;
- 32 (v) all sales of tangible personal property to any contractor for use in  
33 preparing meals for delivery to homebound elderly persons over 60 years  
34 of age and to homebound disabled persons or to be served at a group-  
35 sitting at a location outside of the home to otherwise homebound elderly  
36 persons over 60 years of age and to otherwise homebound disabled per-  
37 sons, as all or part of any food service project funded in whole or in part  
38 by government or as part of a private nonprofit food service project avail-  
39 able to all such elderly or disabled persons residing within an area of  
40 service designated by the private nonprofit organization, and all sales of  
41 tangible personal property for use in preparing meals for consumption by  
42 indigent or homeless individuals whether or not such meals are consumed  
43 at a place designated for such purpose, and all sales of food products by

1 or on behalf of any such contractor or organization for any such purpose;  
2 (w) all sales of natural gas, electricity, heat and water delivered  
3 through mains, lines or pipes: (1) To residential premises for noncom-  
4 mercial use by the occupant of such premises; (2) for agricultural use and  
5 also, for such use, all sales of propane gas; (3) for use in the severing of  
6 oil; and (4) to any property which is exempt from property taxation pur-  
7 suant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph,  
8 “severing” shall have the meaning ascribed thereto by subsection (k) of  
9 K.S.A. 79-4216, and amendments thereto. For all sales of natural gas,  
10 electricity and heat delivered through mains, lines or pipes pursuant to  
11 the provisions of subsection (w)(1) and (w)(2), the provisions of this sub-  
12 section shall expire on December 31, 2005;

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

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

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

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

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

34 (cc) all sales of tangible personal property or services purchased for  
35 the purpose of and in conjunction with constructing, reconstructing, en-  
36 larging or remodeling a ~~business or retail business which meets the~~  
37 ~~requirements established in K.S.A. 74-50,115 and amendments thereto~~  
38 *Kansas business facility*, and the sale and installation of machinery and  
39 equipment purchased for installation at any such ~~business or retail busi-~~  
40 ~~ness~~ *Kansas business facility*. When a ~~person shall contract~~ *Kansas jobs*  
41 *or opportunity zone credit taxpayer, as defined in section 10, and amend-*  
42 *ments thereto, or an eligible taxpayer, as defined in section 2, and amend-*  
43 *ments thereto, purchases machinery and equipment or contracts for the*

1 construction, reconstruction, enlargement or remodeling of any such  
2 ~~business or retail business~~ *Kansas business facility*, such ~~person~~ *taxpayer*  
3 shall obtain from the state and furnish to the contractor an exemption  
4 certificate for the project involved, and the contractor may purchase ma-  
5 terials, machinery and equipment for incorporation in such project. *Such*  
6 *exemption certificate shall not extend beyond two years from the date of*  
7 *the application for the exemption certificate. Extensions may be granted*  
8 *under proper circumstances.* The contractor shall furnish the number of  
9 such certificates to all suppliers from whom such purchases are made,  
10 and such suppliers shall execute invoices covering the same bearing the  
11 number of such certificate. Upon completion of the project the contractor  
12 shall furnish to the ~~owner of the business or retail business~~ *taxpayer* a  
13 sworn statement, on a form to be provided by the director of taxation,  
14 that all purchases so made were entitled to exemption under this subsec-  
15 tion. All invoices shall be held by the contractor for a period of five years  
16 and shall be subject to audit by the director of taxation. Any contractor  
17 or any agent, employee or subcontractor thereof, who shall use or oth-  
18 erwise dispose of any materials, machinery or equipment purchased un-  
19 der such a certificate for any purpose other than that for which such a  
20 certificate is issued without the payment of the sales or compensating tax  
21 otherwise imposed thereon, shall be guilty of a misdemeanor and, upon  
22 conviction therefor, shall be subject to the penalties provided for in sub-  
23 section (g) of K.S.A. 79-3615 and amendments thereto. ~~As used in this~~  
24 ~~subsection, "business" and "retail business" have the meanings respec-~~  
25 ~~tively ascribed thereto by K.S.A. 74-50,114 and amendments thereto~~ *Any*  
26 *person constructing, reconstructing, remodeling or enlarging a facility*  
27 *which will be leased in whole or in part for a period of five years or more,*  
28 *to a Kansas jobs or opportunity zone credit taxpayer as defined in section*  
29 *10, and amendments thereto, or an eligible taxpayer as defined in section*  
30 *2, and amendments thereto, that would be eligible for a sales tax exemp-*  
31 *tion under the provisions of this subsection, if such taxpayer had con-*  
32 *structed, reconstructed, enlarged or remodeled such facility or portion*  
33 *thereof itself shall be entitled to the sales tax exemption under the provi-*  
34 *sions of this subsection. When such person leases less than the total facility*  
35 *to such taxpayer, a project exemption certificate may be granted on: (1)*  
36 *The total cost of constructing, reconstructing, remodeling or enlarging,*  
37 *the facility multiplied by a fraction given by dividing the number of leased*  
38 *square feet eligible for the sales tax exemption by the total square feet*  
39 *being constructed, reconstructed, remodeled or enlarged; or (2) the actual*  
40 *cost of constructing, reconstructing, remodeling or enlarging that portion*  
41 *of the facility to be occupied by such taxpayer, as the person may elect;*  
42 (dd) all sales of tangible personal property purchased with food  
43 stamps issued by the United States department of agriculture;

- 1 (ee) all sales of lottery tickets and shares made as part of a lottery  
2 operated by the state of Kansas;
- 3 (ff) on and after July 1, 1988, all sales of new mobile homes or man-  
4 ufactured homes to the extent of 40% of the gross receipts, determined  
5 without regard to any trade-in allowance, received from such sale. As used  
6 in this subsection, “mobile homes” and “manufactured homes” shall have  
7 the meanings ascribed thereto by K.S.A. 58-4202 and amendments  
8 thereto;
- 9 (gg) all sales of tangible personal property purchased in accordance  
10 with vouchers issued pursuant to the federal special supplemental food  
11 program for women, infants and children;
- 12 (hh) all sales of medical supplies and equipment, including durable  
13 medical equipment, purchased directly by a nonprofit skilled nursing  
14 home or nonprofit intermediate nursing care home, as defined by K.S.A.  
15 39-923, and amendments thereto, for the purpose of providing medical  
16 services to residents thereof. This exemption shall not apply to tangible  
17 personal property customarily used for human habitation purposes. As  
18 used in this subsection, “durable medical equipment” means equipment  
19 including repair and replacement parts for such equipment, but does not  
20 include mobility enhancing equipment as defined in subsection (r) which  
21 can withstand repeated use, is primarily and customarily used to serve a  
22 medical purpose, generally is not useful to a person in the absence of  
23 illness or injury and is not worn in or on the body;
- 24 (ii) all sales of tangible personal property purchased directly by a non-  
25 profit organization for nonsectarian comprehensive multidiscipline youth  
26 development programs and activities provided or sponsored by such or-  
27 ganization, and all sales of tangible personal property by or on behalf of  
28 any such organization. This exemption shall not apply to tangible personal  
29 property customarily used for human habitation purposes;
- 30 (jj) all sales of tangible personal property or services, including the  
31 renting and leasing of tangible personal property, purchased directly on  
32 behalf of a community-based mental retardation facility or mental health  
33 center organized pursuant to K.S.A. 19-4001 et seq., and amendments  
34 thereto, and licensed in accordance with the provisions of K.S.A. 75-  
35 3307b and amendments thereto and all sales of tangible personal property  
36 or services purchased by contractors during the time period from July,  
37 2003, through June, 2006, for the purpose of constructing, equipping,  
38 maintaining or furnishing a new facility for a community-based mental  
39 retardation facility or mental health center located in Riverton, Cherokee  
40 County, Kansas, which would have been eligible for sales tax exemption  
41 pursuant to this subsection if purchased directly by such facility or center.  
42 This exemption shall not apply to tangible personal property customarily  
43 used for human habitation purposes;

- 1 (kk) (1) (A) all sales of machinery and equipment which are used in  
2 this state as an integral or essential part of an integrated production op-  
3 eration by a manufacturing or processing plant or facility;
- 4 (B) all sales of installation, repair and maintenance services per-  
5 formed on such machinery and equipment; and
- 6 (C) all sales of repair and replacement parts and accessories pur-  
7 chased for such machinery and equipment.
- 8 (2) For purposes of this subsection:
- 9 (A) "Integrated production operation" means an integrated series of  
10 operations engaged in at a manufacturing or processing plant or facility  
11 to process, transform or convert tangible personal property by physical,  
12 chemical or other means into a different form, composition or character  
13 from that in which it originally existed. Integrated production operations  
14 shall include: (i) Production line operations, including packaging opera-  
15 tions; (ii) preproduction operations to handle, store and treat raw mate-  
16 rials; (iii) post production handling, storage, warehousing and distribution  
17 operations; and (iv) waste, pollution and environmental control opera-  
18 tions, if any;
- 19 (B) "production line" means the assemblage of machinery and equip-  
20 ment at a manufacturing or processing plant or facility where the actual  
21 transformation or processing of tangible personal property occurs;
- 22 (C) "manufacturing or processing plant or facility" means a single,  
23 fixed location owned or controlled by a manufacturing or processing busi-  
24 ness that consists of one or more structures or buildings in a contiguous  
25 area where integrated production operations are conducted to manufac-  
26 ture or process tangible personal property to be ultimately sold at retail.  
27 Such term shall not include any facility primarily operated for the purpose  
28 of conveying or assisting in the conveyance of natural gas, electricity, oil  
29 or water. A business may operate one or more manufacturing or proc-  
30 essing plants or facilities at different locations to manufacture or process  
31 a single product of tangible personal property to be ultimately sold at  
32 retail;
- 33 (D) "manufacturing or processing business" means a business that  
34 utilizes an integrated production operation to manufacture, process, fab-  
35 ricate, finish, or assemble items for wholesale and retail distribution as  
36 part of what is commonly regarded by the general public as an industrial  
37 manufacturing or processing operation or an agricultural commodity  
38 processing operation. (i) Industrial manufacturing or processing opera-  
39 tions include, by way of illustration but not of limitation, the fabrication  
40 of automobiles, airplanes, machinery or transportation equipment, the  
41 fabrication of metal, plastic, wood, or paper products, electricity power  
42 generation, water treatment, petroleum refining, chemical production,  
43 wholesale bottling, newspaper printing, ready mixed concrete production,

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

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

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

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

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

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

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

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

1 manufacturing or processing;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (E) furniture and other furnishings;

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

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

34 (H) machinery and equipment used for general plant heating, cooling  
35 and lighting;

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

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

41 (6) Subsections (3) and (5) shall not be construed as exclusive listings  
42 of the machinery and equipment that qualify or do not qualify as an  
43 integral or essential part of an integrated production operation. When



- 1 machinery or equipment is used as an integral or essential part of pro-  
2 duction operations part of the time and for nonproduction purpose at  
3 other times, the primary use of the machinery or equipment shall deter-  
4 mine whether or not such machinery or equipment qualifies for exemp-  
5 tion.
- 6 (7) The secretary of revenue shall adopt rules and regulations nec-  
7 essary to administer the provisions of this subsection;
- 8 (ll) all sales of educational materials purchased for distribution to the  
9 public at no charge by a nonprofit corporation organized for the purpose  
10 of encouraging, fostering and conducting programs for the improvement  
11 of public health;
- 12 (mm) all sales of seeds and tree seedlings; fertilizers, insecticides,  
13 herbicides, germicides, pesticides and fungicides; and services, purchased  
14 and used for the purpose of producing plants in order to prevent soil  
15 erosion on land devoted to agricultural use;
- 16 (nn) except as otherwise provided in this act, all sales of services ren-  
17 dered by an advertising agency or licensed broadcast station or any mem-  
18 ber, agent or employee thereof;
- 19 (oo) all sales of tangible personal property purchased by a community  
20 action group or agency for the exclusive purpose of repairing or weath-  
21 erizing housing occupied by low income individuals;
- 22 (pp) all sales of drill bits and explosives actually utilized in the explo-  
23 ration and production of oil or gas;
- 24 (qq) all sales of tangible personal property and services purchased by  
25 a nonprofit museum or historical society or any combination thereof, in-  
26 cluding a nonprofit organization which is organized for the purpose of  
27 stimulating public interest in the exploration of space by providing edu-  
28 cational information, exhibits and experiences, which is exempt from fed-  
29 eral income taxation pursuant to section 501(c)(3) of the federal internal  
30 revenue code of 1986;
- 31 (rr) all sales of tangible personal property which will admit the pur-  
32 chaser thereof to any annual event sponsored by a nonprofit organization  
33 which is exempt from federal income taxation pursuant to section  
34 501(c)(3) of the federal internal revenue code of 1986;
- 35 (ss) all sales of tangible personal property and services purchased by  
36 a public broadcasting station licensed by the federal communications  
37 commission as a noncommercial educational television or radio station;
- 38 (tt) all sales of tangible personal property and services purchased by  
39 or on behalf of a not-for-profit corporation which is exempt from federal  
40 income taxation pursuant to section 501(c)(3) of the federal internal rev-  
41 enue code of 1986, for the sole purpose of constructing a Kansas Korean  
42 War memorial;
- 43 (uu) all sales of tangible personal property and services purchased by

- 1 or on behalf of any rural volunteer fire-fighting organization for use ex-  
2 clusively in the performance of its duties and functions;
- 3 (vv) all sales of tangible personal property purchased by any of the  
4 following organizations which are exempt from federal income taxation  
5 pursuant to section 501 (c)(3) of the federal internal revenue code of  
6 1986, for the following purposes, and all sales of any such property by or  
7 on behalf of any such organization for any such purpose:
- 8 (1) The American Heart Association, Kansas Affiliate, Inc. for the  
9 purposes of providing education, training, certification in emergency car-  
10 diac care, research and other related services to reduce disability and  
11 death from cardiovascular diseases and stroke;
- 12 (2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of  
13 advocacy for persons with mental illness and to education, research and  
14 support for their families;
- 15 (3) the Kansas Mental Illness Awareness Council for the purposes of  
16 advocacy for persons who are mentally ill and to education, research and  
17 support for them and their families;
- 18 (4) the American Diabetes Association Kansas Affiliate, Inc. for the  
19 purpose of eliminating diabetes through medical research, public edu-  
20 cation focusing on disease prevention and education, patient education  
21 including information on coping with diabetes, and professional education  
22 and training;
- 23 (5) the American Lung Association of Kansas, Inc. for the purpose of  
24 eliminating all lung diseases through medical research, public education  
25 including information on coping with lung diseases, professional educa-  
26 tion and training related to lung disease and other related services to  
27 reduce the incidence of disability and death due to lung disease;
- 28 (6) the Kansas chapters of the Alzheimer's Disease and Related Dis-  
29 orders Association, Inc. for the purpose of providing assistance and sup-  
30 port to persons in Kansas with Alzheimer's disease, and their families and  
31 caregivers;
- 32 (7) the Kansas chapters of the Parkinson's disease association for the  
33 purpose of eliminating Parkinson's disease through medical research and  
34 public and professional education related to such disease;
- 35 (8) the National Kidney Foundation of Kansas and Western Missouri  
36 for the purpose of eliminating kidney disease through medical research  
37 and public and private education related to such disease;
- 38 (9) the heartstrings community foundation for the purpose of provid-  
39 ing training, employment and activities for adults with developmental  
40 disabilities;
- 41 (10) the Cystic Fibrosis Foundation, Heart of America Chapter, for  
42 the purposes of assuring the development of the means to cure and con-  
43 trol cystic fibrosis and improving the quality of life for those with the

1 disease;

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

6 (12) the CHWC, Inc., for the purpose of rebuilding urban core neigh-  
7 borhoods through the construction of new homes, acquiring and reno-  
8 vating existing homes and other related activities, and promoting eco-  
9 nomic development in such neighborhoods;

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

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

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

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

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

27 (xx) all sales of tangible personal property and services purchased by  
28 a nonprofit zoo which is exempt from federal income taxation pursuant  
29 to section 501(c)(3) of the federal internal revenue code of 1986, or on  
30 behalf of such zoo by an entity itself exempt from federal income taxation  
31 pursuant to section 501(c)(3) of the federal internal revenue code of 1986  
32 contracted with to operate such zoo and all sales of tangible personal  
33 property or services purchased by a contractor for the purpose of con-  
34 structing, equipping, reconstructing, maintaining, repairing, enlarging,  
35 furnishing or remodeling facilities for any nonprofit zoo which would be  
36 exempt from taxation under the provisions of this section if purchased  
37 directly by such nonprofit zoo or the entity operating such zoo. Nothing  
38 in this subsection shall be deemed to exempt the purchase of any con-  
39 struction machinery, equipment or tools used in the constructing, equip-  
40 ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-  
41 modeling facilities for any nonprofit zoo. When any nonprofit zoo shall  
42 contract for the purpose of constructing, equipping, reconstructing, main-  
43 taining, repairing, enlarging, furnishing or remodeling facilities, it shall

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

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

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

42 (aaa) all sales of tangible personal property and services purchased  
43 by a religious organization which is exempt from federal income taxation

1 pursuant to section 501(c)(3) of the federal internal revenue code, and  
2 used exclusively for religious purposes, and all sales of tangible personal  
3 property or services purchased by a contractor for the purpose of con-  
4 structing, equipping, reconstructing, maintaining, repairing, enlarging,  
5 furnishing or remodeling facilities for any such organization which would  
6 be exempt from taxation under the provisions of this section if purchased  
7 directly by such organization. Nothing in this subsection shall be deemed  
8 to exempt the purchase of any construction machinery, equipment or  
9 tools used in the constructing, equipping, reconstructing, maintaining,  
10 repairing, enlarging, furnishing or remodeling facilities for any such or-  
11 ganization. When any such organization shall contract for the purpose of  
12 constructing, equipping, reconstructing, maintaining, repairing, enlarg-  
13 ing, furnishing or remodeling facilities, it shall obtain from the state and  
14 furnish to the contractor an exemption certificate for the project involved,  
15 and the contractor may purchase materials for incorporation in such pro-  
16 ject. The contractor shall furnish the number of such certificate to all  
17 suppliers from whom such purchases are made, and such suppliers shall  
18 execute invoices covering the same bearing the number of such certifi-  
19 cate. Upon completion of the project the contractor shall furnish to such  
20 organization concerned a sworn statement, on a form to be provided by  
21 the director of taxation, that all purchases so made were entitled to ex-  
22 emption under this subsection. All invoices shall be held by the contractor  
23 for a period of five years and shall be subject to audit by the director of  
24 taxation. If any materials purchased under such a certificate are found  
25 not to have been incorporated in the building or other project or not to  
26 have been returned for credit or the sales or compensating tax otherwise  
27 imposed upon such materials which will not be so incorporated in the  
28 building or other project reported and paid by such contractor to the  
29 director of taxation not later than the 20th day of the month following  
30 the close of the month in which it shall be determined that such materials  
31 will not be used for the purpose for which such certificate was issued,  
32 such organization concerned shall be liable for tax on all materials pur-  
33 chased for the project, and upon payment thereof it may recover the same  
34 from the contractor together with reasonable attorney fees. Any contrac-  
35 tor or any agent, employee or subcontractor thereof, who shall use or  
36 otherwise dispose of any materials purchased under such a certificate for  
37 any purpose other than that for which such a certificate is issued without  
38 the payment of the sales or compensating tax otherwise imposed upon  
39 such materials, shall be guilty of a misdemeanor and, upon conviction  
40 therefor, shall be subject to the penalties provided for in subsection (g)  
41 of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after  
42 July 1, 1998, but prior to the effective date of this act upon the gross  
43 receipts received from any sale exempted by the amendatory provisions

1 of this subsection shall be refunded. Each claim for a sales tax refund  
2 shall be verified and submitted to the director of taxation upon forms  
3 furnished by the director and shall be accompanied by any additional  
4 documentation required by the director. The director shall review each  
5 claim and shall refund that amount of sales tax paid as determined under  
6 the provisions of this subsection. All refunds shall be paid from the sales  
7 tax refund fund upon warrants of the director of accounts and reports  
8 pursuant to vouchers approved by the director or the director's designee;

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

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

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

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

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

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

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

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

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

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



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

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

- 1 (lll) all sales of tangible personal property and services purchased by  
2 special olympics Kansas, inc. for the purpose of providing year-round  
3 sports training and athletic competition in a variety of olympic-type sports  
4 for individuals with intellectual disabilities by giving them continuing op-  
5 portunities to develop physical fitness, demonstrate courage, experience  
6 joy and participate in a sharing of gifts, skills and friendship with their  
7 families, other special olympics athletes and the community, and activities  
8 provided or sponsored by such organization, and all sales of tangible per-  
9 sonal property by or on behalf of any such organization;
- 10 (mmm) all sales of tangible personal property purchased by or on  
11 behalf of the Marillac Center, Inc., which is exempt from federal income  
12 taxation pursuant to section 501(c)(3) of the federal internal revenue  
13 code, for the purpose of providing psycho-social-biological and special  
14 education services to children, and all sales of any such property by or on  
15 behalf of such organization for such purpose;
- 16 (nnn) all sales of tangible personal property and services purchased  
17 by the West Sedgwick County-Sunrise Rotary Club and Sunrise Char-  
18 itable Fund for the purpose of constructing a boundless playground which  
19 is an integrated, barrier free and developmentally advantageous play en-  
20 vironment for children of all abilities and disabilities;
- 21 (ooo) all sales of tangible personal property by or on behalf of a public  
22 library serving the general public and supported in whole or in part with  
23 tax money or a not-for-profit organization whose purpose is to raise funds  
24 for or provide services or other benefits to any such public library;
- 25 (ppp) all sales of tangible personal property and services purchased  
26 by or on behalf of a homeless shelter which is exempt from federal income  
27 taxation pursuant to section 501(c)(3) of the federal income tax code of  
28 1986, and used by any such homeless shelter to provide emergency and  
29 transitional housing for individuals and families experiencing homeles-  
30 ness, and all sales of any such property by or on behalf of any such home-  
31 less shelter for any such purpose;
- 32 (qqq) all sales of tangible personal property and services purchased  
33 by TLC for children and families, inc., hereinafter referred to as TLC,  
34 which is exempt from federal income taxation pursuant to section  
35 501(c)(3) of the federal internal revenue code of 1986, and which such  
36 property and services are used for the purpose of providing emergency  
37 shelter and treatment for abused and neglected children as well as meet-  
38 ing additional critical needs for children, juveniles and family, and all sales  
39 of any such property by or on behalf of TLC for any such purpose; and  
40 all sales of tangible personal property or services purchased by a contrac-  
41 tor for the purpose of constructing, maintaining, repairing, enlarging, fur-  
42 nishing or remodeling facilities for the operation of services for TLC for  
43 any such purpose which would be exempt from taxation under the pro-

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

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

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

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

1 payment of the sales or compensating tax otherwise imposed upon such  
2 materials, shall be guilty of a misdemeanor and, upon conviction therefor,  
3 shall be subject to the penalties provided for in subsection (g) of K.S.A.  
4 79-3615, and amendments thereto;

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

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

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

1 KCSL 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 Sec. 23. K.S.A. 2006 Supp. 79-5401 is hereby amended to read as  
12 follows: 79-5401. (a) (1) For any foreign or domestic for profit corpora-  
13 tion, or professional corporation or association, duly registered and au-  
14 thorized to do business in Kansas by the secretary of state and which has  
15 taxable equity attributable to Kansas of ~~\$100,000~~ \$1,000,000 or more,  
16 such entity shall pay an annual franchise tax to the secretary of revenue  
17 at the rate of .125% of such entity's taxable equity attributable to Kansas,  
18 except that such annual franchise tax for any such entity shall not exceed  
19 \$20,000.

20 (2) For any foreign or domestic limited liability company, foreign or  
21 domestic limited partnership or foreign or domestic limited liability part-  
22 nership duly registered and authorized to do business in Kansas by the  
23 secretary of state and which has net capital accounts located in or used  
24 in this state at the end of the taxable year as required to be reported on  
25 the federal partnership return of income of ~~\$100,000~~ \$1,000,000 or more,  
26 such entity shall pay an annual franchise tax to the secretary of revenue  
27 at the rate of .125% of the net capital accounts located in or used in this  
28 state at the end of the taxable year as required to be reported on the  
29 federal partnership return of income, or for a one-member LLC taxed as  
30 a sole proprietorship which has net book value of the LLC as calculated  
31 on an income tax basis located in or used in this state at the end of the  
32 taxable year of ~~\$100,000~~ \$1,000,000 or more, .125% of net book value of  
33 the LLC as calculated on an income tax basis located in or used in this  
34 state at the end of the taxable year, except that such annual franchise tax  
35 for any such entity shall not exceed \$20,000.

36 (3) For any business trust duly registered and authorized to do busi-  
37 ness in Kansas by the secretary of state and which has corpus as shown  
38 on its balance sheet at the end of the taxable year as required to be  
39 reported to the secretary of revenue of ~~\$100,000~~ \$1,000,000 or more,  
40 such entity shall pay an annual franchise tax to the secretary of revenue  
41 at the rate of .125% of the corpus as shown on its balance sheet at the  
42 end of the taxable year as required to be reported to the secretary of  
43 revenue or in the case of a foreign business trust which has a corpus

1 which is located in or which it uses or intends to use in this state as shown  
2 on its balance sheet at the end of the taxable year as required to be  
3 reported to the secretary of revenue of ~~\$100,000~~ \$1,000,000 or more,  
4 .125% of that portion of the corpus which is located in or which it uses  
5 or intends to use in this state as shown on its balance sheet at the end of  
6 the taxable year as required to be reported to the secretary of revenue,  
7 except that the annual franchise tax for any such entity shall not exceed  
8 \$20,000. Such balance sheet shall be as of the end of the tax period,  
9 certified by the trustee, fairly and truly reflecting the trust assets and  
10 liabilities and specifically setting out its corpus, and, in the case of a for-  
11 eign business trust, fairly and truly reflecting an allocation of its moneys  
12 and other assets as between those located, used or to be used, in this  
13 state and those located, used or to be used elsewhere.

14 (b) (1) Every corporation or association, business trust, limited li-  
15 ability company, limited partnership or limited liability partnership subject  
16 to taxation under this act, regardless of whether such entity has a franchise  
17 tax liability, shall make a return, stating specifically such information as  
18 may be required by the forms, rules and regulations of the secretary of  
19 revenue, which return shall include a balance sheet listing all assets and  
20 liabilities as of the end of the tax year, as reported in the federal income  
21 tax return on form 1120 or, if no such federal return is required to be  
22 filed, such balance sheet information as otherwise required by the sec-  
23 retary, and such further information showing the allocation or apportion-  
24 ment calculations in computing the amount of the franchise tax. The  
25 return of a corporation or association shall be signed by the president,  
26 vice-president, treasurer, assistant treasurer, chief accounting officer or  
27 any other officer so authorized to act. The fact that an individual's name  
28 is signed on a return shall be *prima facie* evidence that such individual is  
29 authorized to sign such return on behalf of such corporation. In cases  
30 where receivers, trustees in bankruptcy or assignees are operating the  
31 property or business of corporations, such receivers, trustees, or assignees  
32 shall make returns for such corporations in the same manner and form  
33 as corporations are required to make returns. Any tax due on the basis of  
34 such returns shall be collected in the same manner as if collected from  
35 the corporation for which the return is made. The returns of a limited  
36 liability partnership shall be signed by a partner of the limited liability  
37 partnership. The returns of a limited liability company shall be signed by  
38 a member of the limited liability company.

39 (2) All returns shall be filed in the office of the director of taxation  
40 on or before the 15th day of the fourth month following the close of the  
41 taxable year, except as provided in subsection (b) (3).

42 (3) The director of taxation may grant a reasonable extension of time  
43 for filing returns in accordance with rules and regulations of the secretary



1 of revenue. Whenever any such extension of time to file is requested by  
2 a taxpayer and granted by the director, no penalty authorized by K.S.A.  
3 79-3228, and amendments thereto, shall be imposed if 90% of the liability  
4 is paid on or before the original due date.

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

10 (2) The director of taxation may extend the time for payment of the  
11 tax, or any installment thereof, for a reasonable period of time not to  
12 exceed six months from the date fixed for payment thereof. Such exten-  
13 sion may exceed six months in the case of a taxpayer who is abroad.  
14 Interest shall be charged at the rate prescribed by K.S.A. 79-2968, and  
15 amendments thereto, for the period of such extension.

16 (d) The provisions of K.S.A. 79-3226, 79-3228, 79-3228a, 79-3229,  
17 79-3230, 79-3233, 79-3233a, 79-3233b, 79-3233g, 79-3233h, 79-3233i,  
18 79-3234, 79-3235 and 79-3236, and amendments thereto, shall apply to  
19 the administration and enforcement of this section.

20 (e) All taxes paid pursuant to the provisions of this act shall be  
21 rounded off to the nearest \$1, and unless other disposition is specifically  
22 provided by law, the taxes collected under the provisions of this act and  
23 all overpayments which may not be refunded under this section shall be  
24 remitted to the state treasurer in accordance with the provisions of K.S.A.  
25 75-4215, and amendments thereto. Upon receipt of each such remittance,  
26 the state treasurer shall deposit the entire amount in the state treasury  
27 to the credit of the state general fund. The secretary of revenue shall not  
28 refund any overpayment of franchise taxes which is equal to \$5 or less,  
29 shall not credit any domestic corporation or foreign corporation, associ-  
30 ation, business trust, limited liability company, limited partnership or lim-  
31 ited liability partnership with any amount which may not be refunded  
32 under this section, and shall not require reimbursement for any under-  
33 payment of franchise taxes which is less than \$5. Franchise tax refunds  
34 shall be paid to the claimant from the income tax refund fund upon war-  
35 rants of the director of accounts and reports pursuant to vouchers ap-  
36 proved by the director of taxation, but no warrant issued hereunder shall  
37 be drawn in an amount less than \$5. No interest shall be allowed on any  
38 payment made to a claimant pursuant to this act.

39 (f) As used in this section: (1) "Act" means the Kansas franchise tax  
40 act;

41 (2) "net book value as calculated on an income tax basis located in or  
42 used in this state" means the net book value of a limited liability company  
43 multiplied by a percentage which is the average of the following three

1 percentages: (A) The average value of the limited liability company's real  
2 and tangible personal property owned or rented and used in this state  
3 during the tax period divided by the average total value of the limited  
4 liability company's real and tangible personal property owned or rented  
5 and used during the tax period; (B) the total amount of compensation  
6 paid by the limited liability company in this state during the tax period  
7 divided by the total amount of compensation paid everywhere by the  
8 limited liability company during the tax period; and (C) the total sales of  
9 the limited liability company in this state during the tax period divided  
10 by the total sales of the limited liability company everywhere during the  
11 tax period. If a limited liability company has no real and tangible property  
12 owned or rented and used, compensation paid or sales made for the tax  
13 period, then the average percentage shall be determined by using only  
14 those percentages for property, compensation and sales which reflect  
15 property or activity;

16 (3) "net capital accounts located in or used in this state" means the  
17 net capital accounts of a limited partnership or limited liability partner-  
18 ship as stated on the federal income tax return multiplied by a percentage  
19 which is the average of the following three percentages: (A) The average  
20 value of such entity's real and tangible personal property owned or rented  
21 and used in this state during the tax period divided by the average total  
22 value of such entity's real and tangible personal property owned or rented  
23 and used during the tax period; (B) the total amount of compensation  
24 paid by such entity in this state during the tax period divided by the total  
25 amount of compensation paid everywhere by such entity during the tax  
26 period; and (C) the total sales of such entity in this state during the tax  
27 period divided by the total sales of such entity everywhere during the tax  
28 period. If such entity has no real and tangible personal property owned  
29 or rented and used, compensation paid or sales made for the tax period,  
30 then the average percentage shall be determined by using only those  
31 percentages for property, compensation and sales which reflect property  
32 or activity;

33 (4) "shareholder's equity" means the sum of: (1) Paid-in capital stock,  
34 except that paid-in capital stock shall not include any capital stock issued  
35 by a corporation and reacquired by such corporation through gift, pur-  
36 chase or otherwise and available for resale or retirement; (2) capital paid  
37 in, in excess of par; and (3) retained earnings, all as stated on such cor-  
38 poration's federal income tax return;

39 (5) "shareholder's equity attributable to Kansas" means the share-  
40 holder's equity of a corporation multiplied by a percentage which is the  
41 average of the following three percentages: (A) The average value of the  
42 corporation's real and tangible personal property owned or rented and  
43 used in this state during the tax period divided by the average total value

1 of the corporation's real and tangible personal property owned or rented  
2 and used during the tax period; (B) the total amount of compensation  
3 paid by the corporation in this state during the tax period divided by the  
4 total amount of compensation paid everywhere by the corporation during  
5 the tax period; and (C) the total sales of the corporation in this state during  
6 the tax period divided by the total sales of the corporation everywhere  
7 during the tax period. If a corporation has no real and tangible personal  
8 property owned or rented and used, compensation paid or sales made for  
9 the tax period, then the average percentage shall be determined by using  
10 only those percentages for property, compensation and sales which reflect  
11 property or activity; and

12 (6) "taxable equity attributable to Kansas" means shareholder's equity  
13 attributable to Kansas.

14 (g) The provisions of this section shall apply to all tax years com-  
15 mencing after December 31, ~~2003~~ 2006.

16 (h) The provisions of this section shall be known and may be cited as  
17 the Kansas franchise tax act.

18 Sec. 24. K.S.A. 39-7,132, 40-253a, 65-1,194, 74-50,113, 74-50,116,  
19 74-50,117, 74-50,118, 74-50,119, 74-50,135, 74-50,135a, 74-8945, 79-  
20 32,155, 79-32,156, 79-32,157, 79-32,158, 79-32,159, 79-32,159a, 79-  
21 32,159b, 79-32,159c, 79-32,160, 79-32,160b, 79-32,160c, 79-32,200 and  
22 79-32,203 and K.S.A. 2006 Supp. 74-50,114, 74-50,115, 74-50,131, 74-  
23 50,132, 74-50,133, 74-50,134, 75-4275, 79-1126a, 79-3269, 79-32,110, 79-  
24 32,111, 79-32,117, 79-32,117l, 79-32,153, 79-32,154, 79-32,160a, 79-  
25 32,181a, 79-32,204, 79-32,207, 79-32,243, 79-3606 and 79-5401 are  
26 hereby repealed.

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