

SENATE BILL No. 213

By Committee on Assessment and Taxation

1-29

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.

19

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.