

Journal of the House

SIXTY-FIFTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Wednesday, May 7, 2008, 10:00 a.m.

The House met pursuant to recess with Speaker pro tem Dahl in the chair.
The roll was called with 124 members present.
Rep. Kelley was excused on excused absence by the Speaker.

Prayer by Chaplain Brubaker:

Dear Lord,
In Psalm 13, the Psalmist cries out, "how long oh Lord . . ."
Perhaps many are asking this question
and praying that the answer isn't
"with the Lord a day is like a thousand years."
But, in all seriousness, Lord,
help us to remember that we are still making decisions
that affect thousands of lives, and to rush these decisions in light
of our personal schedules and interest
would prove us to be irresponsible leaders.
So grant us patience, wisdom and direction
in order to keep the respect and confidence of the people
who have placed us in leadership.
In Christ's name I pray, Amen.

The Pledge of Allegiance was led by Rep. Owens.

MESSAGE FROM THE SENATE

The President announced the appointment of Senator Francisco as a member of the conference committee on **SB 586** to replace Senator Lee.

On motion of Rep. Merrick, the House recessed until 11:00 p.m.

LATE MORNING SESSION

The House met pursuant to recess with Speaker pro tem Dahl in the chair.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2412**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as SENATE Substitute for HOUSE BILL No. 2412, as follows:

On page 2, by striking all in lines 39 through 42 and inserting the following:

“(d) For the purposes of this section, the term “small business employer” means any person, firm, corporation, partnership or association that employs not more than 100 employees, the majority of whom are employed within this state.

New Sec. 3. The secretary of transportation is hereby authorized to establish an intermodal transportation revolving fund to provide assistance to governmental units for intermodal transportation projects.

New Sec. 4. As used in sections 3 through 9, and amendments thereto:

(a) “Cost” means as applied to any qualified project, any or all costs, whenever incurred, approved by the department, for carrying out a qualified project;

(b) “department” means the department of transportation, established under K.S.A. 75-5001, and amendments thereto;

(c) “fund” means the Kansas intermodal transportation revolving fund established by section 6, and amendments thereto;

(d) “governmental unit” means any town, city, district, county, commission, agency, authority, board or other instrumentality of the state or of any of its political subdivisions, including any combination thereof, which has a qualified project located within the boundaries of such entity or within the jurisdiction of such entity;

(e) “intermodal facility” means land, improvements, personal property and fixtures developed primarily to handle the transfer, storage and distribution of freight through railway and trucking operations with a cost in excess of \$150,000,000;

(f) “intermodal transportation area” means an area including an intermodal facility and such additional area certified by the secretary to be impacted by such intermodal facility;

(g) “intermodal transportation project” means any bridge, culvert, highway, road, street, underpass, railroad crossing or combination thereof located within an intermodal transportation area;

(h) “private enterprise” means a private person or entity that has entered into a contract with a governmental unit to design, finance, construct or operate a qualified project that is within the jurisdiction of such public authority;

(i) “project costs” means all costs or expenses which are necessary or incident to a qualified project and which are directly attributable thereto, including, but not limited to, land acquisition;

(j) “qualified borrower” means any governmental unit or private enterprise which is authorized to construct, operate or own a qualified project;

(k) “qualified project” means any public or private intermodal transportation project, including, without limitation, the construction, reconstruction, resurfacing, restoration, rehabilitation or replacement of public or private intermodal transportation projects within the state, that is determined by the secretary to be of statewide as well as local importance and by the city or county in which the qualified project is located to be of local importance;

(l) “revenues” means when used with respect to the department, any receipts, fees, revenues or other payments received or to be received by the department under sections 3 through 9, and amendments thereto; and

(m) “secretary” means the secretary of the department of transportation.

New Sec. 5. (a) The secretary shall administer the provisions of sections 3 through 9, and amendments thereto, and shall be responsible for the administration and management of the fund, and shall have the power to enter into agreements and contracts and to transfer money between the state highway fund and the fund as required to effect the purposes of sections 3 through 9, and amendments thereto.

(b) The secretary shall adopt rules and regulations, to carry out the purposes and provisions of sections 3 through 9, and amendments thereto.

New Sec. 6. (a) There is hereby established in the state treasury a fund to be known as the Kansas intermodal transportation revolving fund which shall consist of the following:

(1) Amounts appropriated or otherwise made available by the legislature for the purposes of the fund;

(2) the proceeds, if any, from the sale of bonds issued pursuant to section 7, and amendments thereto, for the purposes of the fund to the extent provided in any agreement entered into between the secretary and the Kansas development finance authority;

(3) amounts of repayments made by qualified borrowers of loans received under sections 3 through 9, and amendments thereto, together with payments of interest thereon, in accordance with agreements entered into between such qualified borrowers and the secretary;

(4) amounts earned on moneys in the fund;

(5) amounts contributed or otherwise made available by any public or private entity for use in effectuating the purposes of the fund;

(6) amounts transferred by order of the secretary from the state highway fund; and

(7) any other amounts as may be made available for purposes of the fund.

(b) Subject to the provisions of sections 3 through 9, and amendments thereto, expenditures from the fund shall be made for the following purposes:

(1) For the payment of the principal, including sinking fund payments of and premium, if any, and interest on bonds issued pursuant to sections 3 through 9, and amendments thereto;

(2) for providing financial assistance to qualified borrowers to finance qualified projects;

(3) for the maintenance of, or provision for, any reserves, additional security, insurance or other form of credit enhancement to secure such bonds required or provided for in any trust agreement entered into pursuant to sections 3 through 9, and amendments thereto;

(4) to guarantee, purchase insurance or provide other credit enhancement for bonds of qualified borrowers issued to finance the costs of qualified projects;

(5) to provide reserves for or otherwise secure bonds issued pursuant to sections 3 through 9, and amendments thereto, and to provide insurance or other credit enhancement for such bonds;

(6) to provide reserves for, or to otherwise secure, amounts payable by qualified borrowers on loans made by and leases with the department in the event of default by a particular qualified borrower or, on a parity basis, by any qualified borrower;

(7) to provide a subsidy for, or to otherwise assist, qualified borrowers in the payment of debt service costs on loans made by the department hereunder;

(8) for administrative costs of the fund or for any of the foregoing;

(9) the transfer of money by order of the secretary to the state highway fund; and

(10) the transfer of money by order of the secretary to the state general fund.

New Sec. 7. (a) The activities of the department in administering and performing the powers, duties and functions prescribed by the provisions of sections 3 through 9, and amendments thereto, are hereby approved for the purposes of subsection (b) of K.S.A. 74-8905, and amendments thereto, and the authorization of issuance of bonds by the Kansas development finance authority in accordance with that statute. The provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto, shall not prohibit the issuance of bonds for such purposes when so authorized and any such issuance of bonds is exempt from the provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto.

(b) The debt service for any bonds issued pursuant to this section shall be paid from revenues, including loan repayments received from qualified borrowers under agreements entered into pursuant to sections 3 through 9, and amendments thereto, or from any other amounts available in the Kansas intermodal transportation revolving fund pursuant to section 6, and amendments thereto, including appropriations of moneys from the state general fund.

(c) Neither the state nor the department shall have the power to pledge the full faith and credit or taxing power of the state of Kansas for such purposes and any payment by the department for such purpose shall be subject to and dependent on appropriations by the legislature. Any obligation of the state or the department for payment of debt service on bonds issued pursuant to this section shall not be considered a debt or obligation of the state for the purpose of section 6 of article 11 of the Kansas constitution.

(d) No governmental unit is authorized to pledge its full faith and credit or its taxing power for the purpose of repayment of any loan under this act.

New Sec. 8. (a) Qualified borrowers which desire assistance in the form of a loan, credit enhancement or grant under sections 3 through 9, and amendments thereto, shall submit an application therefor to the secretary. Applications shall be in such form and shall include such information as the secretary shall require and shall be submitted in a manner and at a time to be determined by the secretary.

(b) The secretary may enter into agreements with any qualified borrower for payment of all or a part of project costs. All moneys received by the secretary pursuant to such agreements shall be deposited in the Kansas intermodal transportation revolving fund.

(c) The secretary shall provide any governmental unit, upon its request, with technical advice and assistance regarding a qualified project or an application for assistance. The secretary may assess reasonable fees for providing such assistance.

(d) Any governmental unit may enter into agreements with the secretary and may accept assistance as provided in this section when so authorized by its governing body.

New Sec. 9. (a) Upon the failure of a governmental unit to meet the repayment terms and conditions of an agreement, the secretary may order the state treasurer to pay to the fund such portion of the governmental unit's share of the special city and county highway fund as may be necessary to meet the terms of the agreement.

(b) Any loans received by a governmental unit under the provisions of sections 3 through 9, and amendments thereto, shall be construed to be bonds for the purposes of K.S.A. 10-1116, and amendments thereto, and the amount of such loans shall not be included within any limitation on the bonded indebtedness of the governmental unit.

Sec. 10. K.S.A. 2007 Supp. 79-3279 is hereby amended to read as follows: 79-3279. (a) All business income of railroads and interstate motor carriers of persons or property for-hire shall be apportioned to this state by multiplying the business income by a fraction, in the case of railroads, the numerator of which is the freight car miles in this state and the denominator of which is the freight car miles everywhere, and, in the case of interstate motor carriers, the numerator of which is the total number of miles operated in this state and the denominator of which is the total number of miles operated everywhere.

(b) All business income of any other taxpayer shall be apportioned to this state by one of the following methods:

(1) By multiplying the business income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three; or

(2) at the election of a qualifying taxpayer, by multiplying the business income by a fraction, the numerator of which is the property factor plus the sales factor, and the denominator of which is two.

(A) For purposes of this subsection (b)(2), a qualifying taxpayer is any taxpayer whose payroll factor for a taxable year exceeds 200% of the average of the property factor and the sales factor. Whenever two or more corporations are engaged in a unitary business and required to file a combined report, the fraction comparison provided by this subsection (b)(2) shall be calculated by using the payroll factor, property factor and sales factor of the combined group of unitary corporations.

(B) An election under this subsection (b)(2) shall be made by including a statement with the original tax return indicating that the taxpayer elects to apply the apportionment method under this subsection (b)(2). The election shall be effective and irrevocable for the taxable year of the election and the following nine taxable years. The election shall be binding on all members of a unitary group of corporations. Notwithstanding the above, the secretary of revenue may upon the request of the taxpayer, grant permission to terminate the election under this subsection (b)(2) prior to expiration of the ten-year period.

(3) At the election of a qualifying telecommunications company, by multiplying the business income by a fraction, the numerator of which is the information carrying capacity of wire and fiber optic cable available for use in this state, and the denominator of which is the information carrying capacity of wire and fiber optic cable available for use everywhere during the tax year.

(A) For purposes of this subsection (b)(3), a qualifying telecommunications company is a telecommunications company that is a qualifying taxpayer under paragraph (A) of subsection (b)(2).

(B) A qualifying telecommunications company shall make the election under this subsection (b)(3) in the same manner as provided under paragraph (B) of subsection (b)(2).

(4) At the election of a distressed area taxpayer, by multiplying the business income by the sales factor. The election shall be made by including a statement with the original tax return indicating that the taxpayer elects to apply this apportionment method. The election

may be made only once, it must be made on or before December 31, 1999 and it shall be effective for the taxable year of the election and the following nine taxable years for so long as the taxpayer maintains the payroll amount prescribed by subsection (j) of K.S.A. 79-3271.

(5) At the election of the taxpayer made at the time of filing of the original return, the qualifying business income of any investment funds service corporation organized as a corporation or S corporation which maintains its primary headquarters and operations or is a branch facility that employs at least 100 individuals on a full-time equivalent basis in this state and has any investment company fund shareholders resided in this state shall be apportioned to this state as provided in this subsection, as follows:

(A) By multiplying the investment funds service corporation's qualifying business income from administration, distribution and management services provided to each investment company by a fraction, the numerator of which shall be the average of the number of shares owned by the investment company's fund shareholders resided in this state at the beginning of and at the end of the investment company's taxable year that ends with or within the investment funds service corporation's taxable year, and the denominator of which shall be the average of the number of shares owned by the investment company's fund shareholders everywhere at the beginning of and at the end of the investment company's taxable year that ends with or within the investment funds service corporation's taxable year.

(B) A separate computation shall be made to determine the qualifying business income from each fund of each investment company. The qualifying business income from each investment company shall be multiplied by the fraction calculated pursuant to paragraph (A) for each fund of such investment company.

(C) The qualifying portion of total business income of an investment funds service corporation shall be determined by multiplying such total business income by a fraction, the numerator of which is the gross receipts from the provision of management, distribution and administration services to or on behalf of an investment company, and the denominator of which is the gross receipts of the investment funds service company. To the extent an investment funds service corporation has business income that is not qualifying business income, such business income shall be apportioned to this state pursuant to subsection (b)(1).

(D) For tax year 2002, the tax liability of an investment funds service corporation that has elected to apportion its business income pursuant to paragraph (5) shall be increased by an amount equal to 50% of the difference of the amount of such tax liability if determined pursuant to subsection (b)(1) less the amount of such tax liability determined with regard to paragraph (5).

(E) When an investment funds service corporation is part of a unitary group, the business income of the unitary group attributable to the investment funds service corporation shall be determined by multiplying the business income of the unitary group by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three. The property factor is a fraction, the numerator of which is the average value of the investment funds service corporation's real and tangible personal property owned or rented and used during the tax period and the denominator of which is the average value of the unitary group's real and tangible personal property owned or rented and used during the tax period. The payroll factor is a fraction, the numerator of which is the total amount paid during the tax period by the investment funds service corporation for compensation, and the denominator of which is the total compensation paid by the unitary group during the tax period. The sales factor is a fraction, the numerator of which is the total sales of the investment funds service corporation during the tax period, and the denominator of which is the total sales of the unitary group during the tax period.

(F) A taxpayer seeking to make the election available pursuant to subsection (b)(5) of K.S.A. 79-3279, and amendments thereto, shall only be eligible to continue to make such election if the taxpayer maintains at least 95% of the Kansas employees in existence at the time the taxpayer first makes such an election.

(6) At the election of a qualifying taxpayer, by multiplying such taxpayer's business income by the sales factor. The election shall be made by including a statement with the original tax return indicating that the taxpayer elects to apply this apportionment method. The election may be made only once and must be made on or before the last day of the taxable year

during which the investment described in paragraph (A) is placed in service, but not later than December 31, ~~2009~~ 2014, and it shall be effective for the taxable year of the election and the following nine taxable years or for so long as the taxpayer maintains the wage requirements set forth in paragraph (A). If the qualifying taxpayer is a member of a unitary group of corporations, all other members of the unitary group doing business within this state shall apportion their business income to this state pursuant to subsection (b)(1).

(A) For purposes of this subsection, a qualifying taxpayer is any taxpayer making an investment of \$100,000,000 for construction in Kansas of a new business facility identified under the North American industry classification system (NAICS) subsectors of 31-33, as assigned by the secretary of the department of labor, employing 100 or more new employees at such facility after July 1, 2007, and prior to December 31, ~~2009~~ 2014, and meeting the following requirements for paying such employees higher-than-average wages within the wage region for such facility:

(i) The taxpayer's new Kansas business facility with 500 or fewer full-time equivalent employees will provide an average wage that is above the average wage paid by all Kansas business facilities that share the same assigned NAICS category used to develop wage thresholds and that have reported 500 or fewer employees to the Kansas department of labor on the quarterly wage reports;

(ii) the taxpayer's new Kansas business facility with 500 or fewer full-time equivalent employees is the sole facility within its assigned NAICS category that has reported wages for 500 or fewer employees to the Kansas department of labor on the quarterly wage reports;

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

(iv) the taxpayer's new Kansas business facility with more than 500 full-time equivalent employees is the sole facility within its assigned NAICS category that has reported wages for more than 500 employees to the Kansas department of labor on the quarterly wage reports, in which event it shall either provide an average wage that is above the average wage paid by all Kansas business facilities that share the same assigned NAICS category and that have reported wages for 500 or fewer employees to the Kansas department of labor on the quarterly wage reports, or be the sole Kansas business facility within its assigned NAICS category that has reported wages to the Kansas department of labor on the quarterly wage reports;

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

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

(vii) alternatively, a taxpayer may wage-qualify its new Kansas business facility if, after excluding the headcount and wages reported on the quarterly wage reports to the Kansas department of labor for employees at that new Kansas business facility who own five percent or more equity in the taxpayer, the average wage calculated for the taxpayer's new Kansas business facility is greater than or equal to 1.5 times the aggregate state-wide average wage paid by industries covered by the employment security law based on data maintained by the secretary of labor.

(B) For the purposes of the wage requirements in paragraph (A), the number of full-time equivalent employees shall be determined by dividing the number of hours worked by part-time employees during the pertinent measurement interval by an amount equal to the corresponding multiple of a 40-hour work week and adding the quotient to the average number of full-time employees.

(C) When the qualifying taxpayer is part of a unitary group, the business income of the unitary group attributable to the qualifying taxpayer shall be determined by multiplying the business income of the unitary group by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three. The property factor is a fraction, the numerator of which is the average value of the qualifying taxpayer's real and tangible personal property owned or rented and used during the

tax period and the denominator of which is the average value of the unitary group's real and tangible personal property owned or rented and used during the tax period. The payroll factor is a fraction, the numerator of which is the total amount paid during the tax period by the qualifying taxpayer for compensation, and the denominator of which is the total compensation paid by the unitary group during the tax period. The sales factor is a fraction, the numerator of which is the total sales of the qualifying taxpayer during the tax period, and the denominator of which is the total sales of the unitary group during the tax period.

New Sec. 11. (a) Any pulverized coal electricity generating facility which is constructed in Kansas after the effective date of this act, has 1400 megawatts or more nameplate capacity and is co-located with an existing coal-fired electric generating unit in western Kansas that has greater than 325 megawatts nameplate capacity shall meet the following emission limits: (1) Nitrogen oxides, an annual rate of 0.050 lbs/mmBtu; and (2) sulfur dioxide, an annual rate of 0.065 lbs/mmBtu for low-sulfur coal (coal having a scrubber inlet emission rate less than 0.9 lb/mmBtu) or 0.085 lbs/mmBtu for high-sulfur coal (coal having a scrubber inlet emission rate equal to or greater than 0.9 lb/mmBtu).

(b) The emission limits in this section shall be set forth in the construction permit pursuant to the Kansas air quality act.

New Sec. 12. (a) As used in this section "public utility" means an electric public utility, as defined in K.S.A. 66-101a, and amendments thereto, but does not include any municipally owned or operated electric utility.

(b) Each public utility selling energy at retail shall, no later than July 1, 2009, develop and submit to the state corporation commission for approval a retail tariff providing for the purchase by the utility's retail customers of energy from a commercial wind generation resource. Such wind generation resource shall be either owned by the public utility or owned by another generator from which the public utility or its member-owned wholesale provider purchases the energy. If a public utility selling energy at retail does not own wind generation and does not purchase wind energy from a commercial wind generator, and if the utility's member-owned wholesale provider, if any, owns no wind generation, the public utility shall not be required to submit such tariff for approval.

(c) Each public utility shall develop energy efficiency and load management programs which provide information, technical assistance and incentives to each type of customer and customer class to control energy use. No later than July 1, 2010, each public utility shall submit to the state corporation commission a report setting forth the elements of the utility's energy efficiency and load management programs.

(d) Each public utility shall develop, or work with regional or local organizations to develop, and implement a voluntary conservation program to assist businesses and institutions in: (1) Inventorying and assessing the emissions of greenhouse gases from purchased electricity, heat or steam and, where feasible, indirect emissions from activities of the business or institution; and (2) developing methods and practices to reduce such emissions while taking into consideration the economic impact of such methods and practices.

New Sec. 13. (a) As used in this section:

(1) "Electric cooperative utility" means any corporation which sells electric energy at retail and which is organized under the electric cooperative act, K.S.A. 17-4601 et seq., and amendments thereto, or becomes subject to the electric cooperative act in the manner in such act.

(2) "Generation and transmission utility" means any public utility operating a pulverized coal electricity generating facility which is constructed in Kansas after the effective date of this act, has 1,400 megawatts or more nameplate capacity and is co-located with an existing coal-fired electric generating unit in western Kansas that has greater than 325 megawatts nameplate capacity.

(3) "Municipal utility" means any Kansas municipality which owns or operates an electric utility and sells electric energy at retail.

(4) "Public utility" means an electric public utility as defined in K.S.A. 66-101a, and amendments thereto.

(b) Upon request by any municipal utility or any electric cooperative utility to purchase electric energy from a generation and transmission utility, the generation and transmission utility shall make application to the southwest power pool to make a determination of the

transmission line upgrades necessary to deliver the purchased electricity to such municipal utility or electric cooperative utility and the appropriate cost recovery mechanism under southwest power pool tariffs and rules. Costs of studies or upgrades, if any, shall be the responsibility of the requesting municipal utility or electric cooperative utility.

New Sec. 14. As used in sections 14 through 18, and amendments thereto:

(a) "ASHRAE" means American society of heating, refrigerating and air-conditioning engineers, Inc. standard 90.1-2004.

(b) "Energy star" means the joint program of the United States environmental protection agency and the United States department of energy which labels certain products that meet energy efficiency standards adopted for such products.

(c) "IECC" means the 2006 international energy conservation code.

(d) "New state building" means any building or structure which is constructed by the state or any agency of the state and the construction of which commences on or after July 1, 2009.

New Sec. 15. The secretary of administration shall adopt rules and regulations for state agencies for the purchase of products and equipment, including, but not limited to, appliances, lighting fixtures and bulbs, and computers, which meet energy efficiency guidelines which are not less than the guidelines adopted for such products to qualify as an energy star product if the projected cost savings for the useful life of such products and equipment is equal to or greater than the additional cost compared to functionally equivalent such products and equipment of lower efficiency.

New Sec. 16. (a) The department of administration shall collect data on energy consumption and costs for all state-owned and leased real property and the secretary of administration shall submit a written report to the legislature on or before the first day of the 2009 regular session of the legislature and on or before the first day of each ensuing regular session of the legislature identifying state-owned or leased real property locations in which an excessive amount of energy is being used in accordance with rules and regulations adopted by the secretary of administration concerning energy efficiency performance standards for state-owned or leased real property.

(b) The secretary of administration shall not approve a new lease or a renewal or extension of an existing lease of non-state owned real property unless the lessor has submitted an energy audit for such real property that is the subject of such lease. The secretary of administration shall adopt rules and regulations establishing energy efficiency performance standards which shall apply to leased space and improvements which the lessor shall be required to address based on such energy audit.

New Sec. 17. (a) Within the limitations of appropriations therefor, the Kansas energy office of the state corporation commission shall develop and increase the participation of school districts and local governments in the facilities conservation improvements program (FCIP) pursuant to K.S.A. 75-37,125, and amendments thereto.

(b) The state corporation commission shall strongly encourage state agencies which operate and maintain state-owned buildings that are not participating in the FCIP to participate in the FCIP pursuant to K.S.A. 75-37,125, and amendments thereto, on or before December 1, 2010.

New Sec. 18. The secretary of administration shall adopt rules and regulations prescribing energy efficiency performance standards requiring that all new construction and, to the extent possible, renovated state-owned buildings, be designed and constructed to achieve energy consumption levels that are at least 10% below the levels established under the ASHRAE standard or the IECC, as appropriate, if such levels of energy consumption are life-cycle cost-effective for such buildings and also recommending that new and, to the extent possible, renovated school and municipal buildings meet the same requirements.

New Sec. 19. (a) There is hereby established the Kansas electric generation, science and technology commission. The commission shall be made up of the following 15 members:

(1) Chairperson of the house committee on energy and utilities, or the chairperson's appointee, to be appointed from the house committee on energy and utilities, or its successor, for the appointee's legislative term;

(2) vice-chairperson of the house committee on energy and utilities, or the vice-chairperson's appointee, to be appointed from the house committee on energy and utilities, or its successor, for the appointee's legislative term;

(3) ranking minority member of the house committee on energy and utilities, or the ranking minority member's appointee, to be appointed from the house committee on energy and utilities, or its successor, for the appointee's legislative term;

(4) chairperson of the senate committee on utilities, or the chairperson's appointee, to be appointed from the senate committee on utilities, or its successor, for the appointee's legislative term;

(5) vice-chairperson of the senate committee on utilities, or the vice-chairperson's appointee, to be appointed from the senate committee on utilities, or its successor, for the appointee's legislative term;

(6) ranking minority member of the senate committee on utilities, or the ranking minority member's appointee, to be appointed from the senate committee on utilities, or its successor, for the appointee's legislative term;

(7) chief of energy operations of the state corporation commission who shall serve as a nonvoting member of the commission;

(8) director of the division of environment in the Kansas department of health and environment who shall serve as a nonvoting member of the commission;

(9) one member appointed by the governor;

(10) two members appointed by the speaker of the house of representatives;

(11) one member appointed by the minority leader of the house of representatives;

(12) two members appointed by the president of the senate; and

(13) one member appointed by the minority leader of the senate.

(b) Appointments made in (a)(9) through (a)(13) shall have one of the following qualifications, but no more than two members appointed shall fall into any one qualification category:

(1) Expertise in global greenhouse gas regulation or practices or climatology;

(2) expertise in energy conservation;

(3) expertise in baseload generation and regulation; or

(4) expertise in renewable energy resources.

(c) The chairperson of the house committee on energy and utilities, or its successor, or the chairperson's appointee, shall call the first meeting, at which time the members shall elect the chairperson and vice-chairperson of the commission. The commission shall meet at least four times a year on call of the chairperson. A majority of the members of the commission or their appointees shall constitute a quorum for the exercise of powers conferred upon the commission.

(d) The commission is hereby granted such specific powers as are necessary to carry out the functions enumerated in this section. The commission shall examine issues related to electric service in this state, including, but not limited to:

(1) The actions of federal and regional entities regarding electric generation and transmission;

(2) the obligations of all entities that generate, transmit or distribute electricity;

(3) the economic impact of generation, transmission and distribution of electricity on community economic development and on electric rates for various classes of customers;

(4) the impact of electric generation and transmission on the state's environment and types of remediation that may be required to limit undesirable impacts;

(5) the social impact on Kansas residents of various methods of generation and transmission of electricity;

(6) the impact on state and local tax revenues of the various means of generating and transmitting electricity;

(7) the adequacy of the state's capacity to generate electricity in light of current and future needs of the state, region and nation;

(8) the impact of conservation on the need for expansion of electric generation capacity in the short and long term;

(9) the fuel portfolio balance of the state's electric generation facilities;

(10) the effectiveness of existing incentives for renewable energy investment;

(11) other states' existing incentives for renewable energy investment; and
(12) the reports and recommendations of the electricity committee of the Kansas energy council.

(e) The commission shall submit a preliminary written report of the activities and recommendations of the commission to the house committee on energy and utilities and the senate committee on utilities on or before the first day of the 2009 regular session of the legislature and shall submit subsequent written reports on or before the first day of each subsequent regular session of the legislature. The commission shall submit a final written report of its activities and recommendations on or before the first day of the 2012 regular session of the legislature. The final written report of the commission shall include, but not be limited to, recommendations for:

- (1) New incentives for development of a diversified electricity generation portfolio;
- (2) an appropriate energy generation portfolio goal, or series of goals, taking into consideration regional and national markets;
- (3) laws, rules and regulations, and policies needed to facilitate diversification of the electricity generation portfolio; and
- (4) any additional studies related to the commission's charge that might appropriately be undertaken by the Kansas research universities.

(f) The commission may receive and expend moneys appropriated to the commission from the public service regulation fund created by K.S.A. 66-1a01, and amendments thereto, and moneys received from any other source, whether public or private, to further the purposes of this section.

(g) Commission members shall be paid compensation, subsistence allowances, mileage and other expenses as provided by K.S.A. 75-3223, and amendments thereto, for each day of actual attendance at any meeting of the commission or any subcommittee meeting approved by the commission.

(h) The state corporation commission shall provide assistance to the commission. Each other state agency shall provide assistance to the commission as may be requested by the commission.

(i) The provisions of this section shall expire on December 31, 2011, unless extended by statute.

New Sec. 20. As used in this section:

(a) (1) "Affected facility" means a coal-fired steam electricity generating unit commencing operation after January 1, 2008, of more than 250 million British thermal units per hour of heat input other than:

- (A) An affected facility owned or operated by the federal government; or
- (B) an affected facility on tribal lands.

(2) "Best available control technology" means an emissions limitation, including a visible emission standard, based on the maximum degree of reduction for each pollutant subject to regulation under this section which would be emitted from any proposed major stationary source or major modification which the secretary, on a case-by-case basis, taking into account energy, environmental and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 C.F.R. parts 60 and 61. If the secretary determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

(b) In the event rules and regulations regulating the emission of carbon dioxide from affected facilities are established in accordance with subsection (b)(1) of K.S.A. 65-3005, and amendments thereto, the owner or operator of an affected facility shall engage in the

capture or reduction of carbon dioxide using the best available control technology, or such other means or methodology proven to mitigate the emission of carbon dioxide from the affected facility. If best available control technology is applied, the owner or operator shall not be required to reapply best available control technology thereafter unless otherwise required because of a major modification to the affected facility. The issuance of any air permit shall not be delayed or deferred pending the establishment of any rules and regulations regulating carbon dioxide.

New Sec. 21. (a) (1) By the year 2012, for each public utility, the nameplate capacity of the renewable electric generation facilities included in the public utility's generation portfolio, whether owned by the public utility or contracted for energy purchase by the public utility, shall be no less than 10% of the public utility's peak load, expressed in megawatts, in the state of Kansas, for a three-year average for the 2008, 2009 and 2010 calendar years.

(2) By the year 2016, for each public utility, the nameplate capacity of the renewable electric generation facilities included in the public utility's generation portfolio, whether owned by the public utility or contracted for energy purchase by the public utility, shall be no less than 15% of the public utility's peak load, expressed in megawatts, in the state of Kansas, for a three-year average for the 2012, 2013 and 2014 calendar years.

(3) By the year 2020, for each public utility, the nameplate capacity of the renewable electric generation facilities included in the public utility's generation portfolio, whether owned by the public utility or contracted for energy purchase by the public utility, shall be no less than 20% of the public utility's peak load, expressed in megawatts, in the state of Kansas, for a three-year average for the 2016, 2017 and 2018 calendar years.

(b) The state corporation commission shall establish rules and regulations to govern reporting requirements and prevention of duplication of the application of the requirements of this section.

(c) As used in this section:

(1) "Public utility" means an electric public utility, as defined in K.S.A. 66-101a, and amendments thereto, but does not include any portion of any municipally owned or operated electric utility; and

(2) "renewable electric generation facilities" means facilities generating electricity utilizing renewable energy resources or technologies, as defined in K.S.A. 79-201, and amendments thereto, and the capacity of all net metering systems operating under the net metering and easy connection act.

New Sec. 22. Sections 22 through 38, and amendments thereto, shall be known and may be cited as the net metering and easy connection act.

New Sec. 23. As used in the net metering and easy connection act:

(a) "Avoided energy cost" means the current average cost of fuel and purchased energy for the preceding 12 months for the utility, or in the case of a non-generating utility, for such utility's wholesale power supplier, as defined by the governing body with jurisdiction over any municipal electric utility, electric cooperative utility or electric public utility.

(b) "Commission" means the state corporation commission.

(c) "Customer-generator" means the owner or operator of a qualified electric energy generation unit which:

- (1) Is powered by solar thermal sources or photovoltaic cells and panels;
- (2) has an electrical generating system with a capacity of not more than 100 kilowatts;
- (3) is located on a premises owned, operated, leased or otherwise controlled by the customer-generator;
- (4) is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by such retail electric supplier;
- (5) is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;
- (6) meets all applicable safety, performance, interconnection and reliability standards established by the national electrical code, the national electrical safety code, the institute of electrical and electronics engineers, underwriters laboratories, the federal energy regulatory commission and any local governing authorities; and

(7) contains a mechanism accessible by electric utility personnel that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted.

(d) "Net metering" means using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period.

(e) "Retail electric supplier" means any municipal electric utility, electric cooperative utility or electric public utility which provides retail electric service in this state.

New Sec. 24. A retail electric supplier shall:

(a) Make net metering available to customer-generators on a first-come, first-served basis, subject to the following: (1) A supplier shall not be required to make net metering available in a calendar year if total rated generating capacity of all applications for interconnection already approved by the supplier in the calendar year equals or exceeds 1% of the supplier's single-hour peak load for the previous calendar year; and (2) a supplier shall not be required to make net metering available to a customer-generator if the total rated generating capacity of net metering systems equals: (A) 5% of the supplier's Kansas single-hour peak load during the previous year; or (B) such higher percentage as specified by the commission, for a public utility, or the governing body, for any other utility, once the total rated generating capacity of net metering systems has reach 5% of the supplier's single-hour peak load during the previous year;

(b) offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(c) disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

New Sec. 25. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier and any amount equal to not more than the total costs plus a reasonable interest charge may be recovered from the customer-generator over the course of not more than 12 billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

New Sec. 26. The utility will supply, own and maintain all necessary meters and associated equipment utilized for billing. In addition, and for the purposes of monitoring customer generation and load, the utility may install at its expense, load research metering. The customer shall supply, at no expense to the utility, a suitable location for meters and associated equipment used for billing and for load research.

New Sec. 27. Consistent with the provisions of the net metering and easy connection act, the net electrical energy measurement shall be calculated in the following manner:

(a) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, by employing multiple meters that separately measure the customer-generator's consumption and production of electricity or by employing an alternative technology.

(b) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the

net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class.

(c) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with section 24, and amendments thereto, and shall be credited an amount at least equal to 150% of the avoided energy cost for the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period.

(d) Any credits granted pursuant to this section shall expire without any compensation at the earlier of either 12 months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier.

(e) For any electric cooperative utility or municipal electric utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

New Sec. 28. (a) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection and reliability standards established by any local code authorities, the national electrical code, the national electrical safety code, the institute of electrical and electronics engineers and underwriters laboratories for distributed generation. No supplier shall impose any fee, charge or other requirement not specifically authorized by the net metering and easy connection act or the rules and regulations promulgated under such act unless the fee, charge or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system.

(b) For systems of 10 kilowatts or less, a customer-generator whose system meets the standards specified by subsection (a) shall not be required to install additional controls, perform or pay for additional tests or distribution equipment or purchase additional liability insurance beyond what is required under subsection (a) and section 25, and amendments thereto.

(c) For customer-generator systems of greater than 10 kilowatts, the commission for public utilities and the governing body for other utilities, by rule or equivalent formal action by each respective governing body, shall:

- (1) Set forth safety, performance and reliability standards and requirements; and
- (2) establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment or purchase additional liability insurance.

New Sec. 29. (a) Applications by a customer-generator for interconnection of the qualified generation unit to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including, but not limited to, a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within 30 days after receipt for systems of 10 kilowatts or less and within 90 days after receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subsection (a) of section 28, and amendments thereto. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(b) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under this section.

New Sec. 30. Each retail electric supplier regulated by the commission shall submit an annual net metering report to the commission and each other retail electric supplier shall

submit the same report to its respective governing body. For data collection purposes only, non-regulated electric suppliers shall submit the same report to the commission. The report shall include the following information for the previous calendar year: The total number of customer-generator facilities, the total estimated generating capacity of its net-metered customer-generators and the total estimated net kilowatt-hours received from customer-generators. The supplier shall make such report available to any consumer of the supplier upon request.

New Sec. 31. Within nine months after the effective date of the net metering and easy connection act, the commission shall adopt rules and regulations necessary for the administration of such act for electric public utilities, which shall include rules and regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of 10 kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures and a brief set of terms and conditions.

New Sec. 32. Within nine months after the effective date of the net metering and easy connection act, the governing body of an electric cooperative utility or electric municipal utility shall adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of 10 kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures and a brief set of terms and conditions.

New Sec. 33. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

New Sec. 34. The estimated generating capacity of all net metering systems operating under the provisions of the net metering and easy connection act shall count towards accomplishment by the respective retail electric supplier, or the wholesale generator supplying electric energy to the retail electric supplier, of any renewable energy portfolio target or mandate adopted by the Kansas legislature.

New Sec. 35. Any costs incurred under the net metering and easy connection act by a retail electric supplier shall be recoverable in the utility's rate structure.

New Sec. 36. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by such supplier that all of the requirements under subsection (a) of section 29, and amendments thereto, have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of such consumer and terminate such consumer's electric service.

New Sec. 37. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

New Sec. 38. The seller, installer or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

Sec. 39. K.S.A. 2007 Supp. 66-1,184 is hereby amended to read as follows: 66-1,184. (a) Except as provided in subsection (b), every public utility which provides retail electric services in this state shall enter into a contract for parallel generation service with any person who is a customer of such utility, upon request of such customer, whereby such customer may attach or connect to the utility's delivery and metering system an apparatus or device for the purpose of feeding excess electrical power which is generated by such customer's energy producing system into the utility's system. No such apparatus or device shall either cause damage to the public utility's system or equipment or present an undue hazard to utility personnel. Every such contract shall include, but need not be limited to, provisions relating to fair and equitable compensation on such customer's monthly bill for energy supplied to the utility by such customer.

(b) (1) For purposes of this subsection:

(A) "Utility" means an electric public utility, as defined by K.S.A. 66-101a, and amendments thereto, any cooperative, as defined by K.S.A. 17-4603, and amendments thereto, or a nonstock member-owned electric cooperative corporation incorporated in this state, or a municipally owned or operated electric utility;

(B) "school" means Cloud county community college and Dodge City community college; and

(C) "*avoided energy cost*" means the average cost of fuel and purchased energy for the preceding 12 months for the utility, or in the case of a non-generating utility, such utility's wholesale power supplier, as defined by the governing body with jurisdiction over any electric cooperative utility or electric public utility.

(2) Every utility which provides retail electric services in this state shall enter into a contract for parallel generation service with any person who is a customer of such utility, if such customer is a residential customer of the utility and owns a renewable generator with a capacity of 25 kilowatts or less, or is a commercial customer of the utility and owns a renewable generator with a capacity of 200 kilowatts or less or is a school and owns a renewable generator with a capacity of 1.5 megawatts or less. Such generator shall be appropriately sized for such customer's anticipated electric load. A commercial customer who uses the operation of a renewable generator in connection with irrigation pumps shall not request more than 10 irrigation pumps connected to renewable generators be attached or connected to the utility's system. At the customer's delivery point on the customer's side of the retail meter such customer may attach or connect to the utility's delivery and metering system an apparatus or device for the purpose of feeding excess electrical power which is generated by such customer's energy producing system into the utility's system. No such apparatus or device shall either cause damage to the utility's system or equipment or present an undue hazard to utility personnel. Every such contract shall include, but need not be limited to, provisions relating to fair and equitable compensation for energy supplied to the utility by such customer. Such compensation shall be not less than 100% of the utility's monthly system average cost of energy per kilowatt hour avoided energy cost except that in the case of renewable generators with a capacity of 200 kilowatts or less, such compensation shall be not less than 150% of the utility's monthly system average cost of energy per kilowatt hour avoided energy cost. A utility may credit such compensation to the customer's account or pay such compensation to the customer at least annually or when the total compensation due equals \$25 or more.

(3) A customer-generator, as defined by section 23, and amendments thereto, shall have the option of entering into a contract pursuant to this subsection (b) or utilizing the net metering and easy connection act. The customer-generator shall exercise the option in writing, filed with the utility and shall not be entitled to change the option once it is filed.

(c) The following terms and conditions shall apply to contracts entered into under subsection (a) or (b):

(1) The utility will supply, own, and maintain all necessary meters and associated equipment utilized for billing. In addition, and for the purposes of monitoring customer generation and load, the utility may install at its expense, load research metering. The customer shall supply, at no expense to the utility, a suitable location for meters and associated equipment used for billing and for load research;

(2) for the purposes of insuring the safety and quality of utility system power, the utility shall have the right to require the customer, at certain times and as electrical operating conditions warrant, to limit the production of electrical energy from the generating facility to an amount no greater than the load at the customer's facility of which the generating facility is a part;

(3) the customer shall furnish, install, operate, and maintain in good order and repair and without cost to the utility, such relays, locks and seals, breakers, automatic synchronizer, and other control and protective apparatus as shall be designated by the utility as being required as suitable for the operation of the generator in parallel with the utility's system. In any case where the customer and the utility cannot agree to terms and conditions of any such contract, the state corporation commission shall establish the terms and conditions for such contract. In addition, the utility may install, own, and maintain a disconnecting device located near the electric meter or meters. Interconnection facilities between the customer's

and the utility's equipment shall be accessible at all reasonable times to utility personnel. Upon notification by the customer of the customer's intent to construct and install parallel generation, the utility shall provide the customer a written estimate of all costs that will be incurred by the utility and billed to the customer to accommodate the interconnection. The customer may be required to reimburse the utility for any equipment or facilities required as a result of the installation by the customer of generation in parallel with the utility's service. The customer shall notify the utility prior to the initial energizing and start-up testing of the customer-owned generator, and the utility shall have the right to have a representative present at such test;

(4) the utility may require a special agreement for conditions related to technical and safety aspects of parallel generation; and

(5) the utility may limit the number and size of renewable generators to be connected to the utility's system due to the capacity of the distribution line to which such renewable generator would be connected, and in no case shall the utility be obligated to purchase an amount greater than 4% of such utility's peak power requirements.

(d) Service under any contract entered into under subsection (a) or (b) shall be subject to either the utility's rules and regulations on file with the state corporation commission, which shall include a standard interconnection process and requirements for such utility's system, or the current federal energy regulatory commission interconnection procedures and regulations.

(e) In any case where the owner of the renewable generator and the utility cannot agree to terms and conditions of any contract provided for by this section, the state corporation commission shall establish the terms and conditions for such contract.

(f) The governing body of any school desiring to proceed under this section shall, prior to taking any action permitted by this section, make a finding that either: (1) Net energy cost savings will accrue to the school from such renewable generation over a 20-year period; or (2) that such renewable generation is a science project being conducted for educational purposes and that such project may not recoup the expenses of the project through energy cost savings. Any school proceeding under this section may contract or enter into a finance, pledge, loan or lease-purchase agreement with the Kansas development finance authority as a means of financing the cost of such renewable generation.

(g) For the purpose of meeting the ~~governor's stated goal of producing 10% of the state's electricity by wind power by 2010 and 20% by 2020; requirements of sections 21 and 51, and amendments thereto,~~ the parallel generation of electricity provided for in this section shall be included as part of the state's *renewable energy generation by wind power*.

(h) *The provisions of the net metering and easy connection act shall not preclude the state corporation commission from approving net metering tariffs upon request of an electric utility for other methods of renewable generation not prescribed in subsection (c)(1) of section 23, and amendments thereto.*

Sec. 40. K.S.A. 2007 Supp. 65-3005 is hereby amended to read as follows: 65-3005. (a) The secretary shall have the power to:

~~(a)~~ (1) Adopt, amend and repeal rules and regulations implementing and consistent with this act.

~~(b)~~ (2) Hold hearings relating to any aspect of or matter in the administration of this act concerning air quality control, and in connection therewith, compel the attendance of witnesses and the production of evidence.

~~(c)~~ (3) Issue such orders, permits and approvals as may be necessary to effectuate the purposes of this act and enforce the same by all appropriate administrative and judicial proceedings.

~~(d)~~ (4) Require access to records relating to emissions which cause or contribute to air pollution.

~~(e)~~ (5) Prepare and develop a comprehensive plan or plans for the prevention, abatement and control of air pollution originating in Kansas that affects air quality in Kansas or in other states or both.

~~(f)~~ (6) Adopt rules and regulations governing such public notification and comment procedures as authorized by this act.

~~(g)~~ (7) Encourage voluntary cooperation by persons or affected groups to achieve the purposes of this act.

~~(h)~~~~(1)~~ (8) (A) Encourage local units of government to handle air pollution problems within their respective jurisdictions and on a cooperative basis; ~~(2)~~ (B) provide technical and consultative assistance therefor; and ~~(3)~~ (C) enter into agreements with local units of government to administer all or part of the provisions of the Kansas air quality act in the units' respective jurisdictions.

~~(i)~~ (9) Encourage and conduct studies, investigations and research relating to air contamination and air pollution and their causes, effects, prevention, abatement and control.

~~(j)~~ (10) Encourage air contaminant emission sources to voluntarily implement strategies, including the development and use of innovative technologies, market-based principles and other private initiatives to reduce or prevent pollution.

~~(k)~~ (11) Determine by means of field studies and sampling the degree of air contamination and air pollution in the state and the several parts thereof.

~~(l)~~ (12) Establish ambient air quality standards for the state as a whole or for any part thereof.

~~(m)~~ (13) Collect and disseminate information and conduct educational and training programs relating to air contamination and air pollution.

~~(n)~~ (14) Advise, consult and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, and the federal government, and with interested persons or groups.

~~(o)~~ (15) Accept, receive and administer grants or other funds or gifts from public and private entities, including the federal government, for the purpose of carrying out any of the functions of this act. Such funds received by the secretary pursuant to this section shall be deposited in the state treasury to the account of the department of health and environment.

~~(p)~~ (16) Enter into contracts and agreements with other state agencies or subdivisions, local governments, other states, interstate agencies, the federal government or its agencies or private entities as is necessary to accomplish the purposes of the Kansas air quality act.

~~(q)~~ (17) Conduct or participate in intrastate or interstate emissions trading programs or other programs that demonstrate equivalent air quality benefits for the prevention, abatement and control of air pollution in Kansas or in other states or both.

~~(r)~~ (18) Prepare and adopt a regional haze plan as may be necessary to prevent, abate and control air pollution originating in Kansas that affects air quality in Kansas or in other states or both. Any regional haze plan prepared by the secretary shall be no more stringent than is required by 42 U.S.C. 7491.

~~(s)~~ (19) Participate in the activities of any visibility transport commission established under 42 U.S.C. 7492. The secretary shall report to the governor and the legislature on the activities of any such visibility transport commission annually.

(b) It is the policy of this state to prevent the deterioration of air quality in accordance with the following:

(1) The secretary shall not in the exercise of powers and duties, except as provided below, promulgate any rule and regulation, or issue any order or take any other action under any provision of the Kansas air quality act or other provision of law, that is more stringent, restrictive or expansive than required by the federal clean air act (42 U.S.C. 7401 et seq.) or any rule and regulation adopted by the United States environmental protection agency under the federal clean air act, as amended. If the secretary determines that a more stringent, restrictive or expansive rule and regulation is necessary, the secretary may implement the rule and regulation only after approval by an act of the legislature. Nothing herein shall preclude the secretary and applicant or permittee from concurring with a more stringent, restrictive or expansive condition in a permit to construct or operate a stationary source.

(2) The restrictions of the secretary's powers herein shall not apply to: (A) Actions by the secretary to prevent designation of an area as a nonattainment area by the United States environmental protection agency; or (B) an implementation plan developed by the secretary to bring a nonattainment area into compliance or to maintain compliance as that plan is implemented within the nonattainment area.

(3) *For any application for a permit required by federal or state law, the secretary shall not deny or delay the issuance of such permit when the requirements of this act have been met.*

(c) In as much as K.S.A. 65-3012, and amendments thereto, does not now apply, nor has it ever been applicable, to the air quality permitting process, the secretary may not use the emergency powers granted by K.S.A. 65-3012, and amendments thereto, in the air quality permitting process, nor any powers or discretion under any other statute not strictly applicable to the air quality permitting process.

(d) Any action by the secretary on any application filed after January 1, 2006, and before the effective date of this act, which seeks the issuance, modification, amendment, revision or renewal of any approval or permit, and which is still the subject of any administrative or judicial review proceedings, shall be reconsidered by the secretary upon the applicant's or permittee's timely written request, which shall be filed no later than 60 days after the effective date of this act. Within 15 days after the applicant or permittee files a written request pursuant hereto, the secretary shall reconsider the secretary's decision, agency action or order and shall determine in accordance with the provisions of this act, as amended, whether the issuance, modification, amendment, revision or renewal of any approval or permit requested by the permittee or applicant should be issued, modified, amended, revised or renewed. If the applicant or permittee is aggrieved by the secretary's determination hereunder, the applicant or permittee shall be immediately entitled to judicial review of such agency action by filing a petition for judicial review in the court of appeals within 30 days from the date of the secretary's determination. If the secretary fails to act within the 15 days, the applicant or permittee immediately shall be entitled to seek a writ of mandamus compelling the secretary to act by filing for such writ in the court of appeals. Such proceedings shall be conducted in accordance with K.S.A. 77-601 et seq., and amendments thereto, however the applicant or permittee shall not be required to exhaust any other or additional administrative remedies available within the agency notwithstanding any other provision of law.

Sec. 41. K.S.A. 2007 Supp. 65-3008a is hereby amended to read as follows: 65-3008a. (a) No permit shall be issued, modified, renewed or reopened without first providing the public an opportunity to comment and request a public hearing on the proposed permit action. The request for a public hearing on the issuance of a permit shall set forth the basis for the request and a public hearing shall be held if, in the judgment of the secretary, there is sufficient reason.

(b) The secretary shall affirm, modify or reverse the decision on such permit after the public comment period or public hearing, *and shall affirm the issuance of any permit the terms and conditions of which comply with all requirements established by rules and regulations promulgated pursuant to the Kansas air quality act.* Any person who participated in the public comment process or the public hearing who otherwise would have standing under K.S.A. 77-611, and amendments thereto, shall have standing to obtain judicial review of the secretary's final action on the permit pursuant to the act for judicial review and civil enforcement of agency actions in the court of appeals. Any such person other than the applicant for or holder of the permit shall not be required to have exhausted administrative remedies in order to be entitled to review. The court of appeals shall have original jurisdiction to review any such final agency action. The record before the court of appeals shall be confined to the agency record for judicial review and consist of the documentation submitted to or developed by the secretary in making the final permit decision, including the permit application and any addenda or amendments thereto, the permit summary, the draft permit, all written comments properly submitted to the secretary, all testimony presented at any public hearing held on the permit application, all responses by the applicant or permit holder to any written comments or testimony, the secretary's response to the public comments and testimony and the final permit.

(c) When determined appropriate by the secretary, the procedures set out in subsection (a) may be required prior to the issuance, modification, renewal or reopening of an approval.

Sec. 42. K.S.A. 65-3008b is hereby amended to read as follows: 65-3008b. (a) The secretary may suspend or revoke an approval or a permit if the permittee has violated any provision of the approval or the permit, any provision of this act or any rule and regulation adopted under this act and applicable to the permitted source.

(b) As applicable to the source for which the approval or permit is sought, the secretary may deny an approval or permit, or a renewal thereof, if the applicant fails to: (1) Submit a complete application; or (2) submit an application fee.

(c) The secretary may deny a permit for any proposed new stationary source if the owner or operator of such a source fails to demonstrate to the satisfaction of the secretary that any other stationary source owned or operated by such person, or by any entity controlling, controlled by or under common control with such person, in this state is in compliance, or meeting a schedule for compliance, with all applicable emission limitations and standards under this act and the federal clean air act, and amendments thereto.

(d) The secretary may modify or reopen an approval or a permit for cause. The secretary shall reopen a permit whenever requirements under this act become applicable to a permitted source and three or more years remain on the original term of the permit. Any permit revision incorporating a requirement adopted by the secretary shall be effective as soon as practicable, but not later than 18 months after the promulgation of the requirement by the United States environmental protection agency.

(e) Within 15 days after the issuance of a notice of intent to take any action authorized by subsection (a), (b), (c) or (d), or within 15 days after the secretary's written decision to affirm, modify or reverse a permit decision pursuant to subsection (b) of K.S.A. 65-3008a, the permittee may file a request for a hearing with the secretary. Each such notice of intent shall specify the provision of this act or rule and regulation allegedly violated, the facts constituting the alleged violation and the secretary's intended action. Each notice of intent or written decision to affirm, modify or reverse a permit decision shall state the permittee's right to request a hearing. Such hearing shall be conducted in accordance with the Kansas administrative procedure act.

(f) The filing of a request by the permittee for an approval or permit modification, revocation or amendment, or the filing by the permittee of a notification of planned changes or anticipated noncompliance, does not stay any approval or permit condition.

~~(g) No permit shall be issued, modified, amended, revised or renewed unless the United States environmental protection agency has certified that such permit complies with the requirements of the federal clean air act, except that a permit may be issued if the United States environmental protection agency has not notified the secretary of the United States environmental protection agency's decision within 45 days after receipt of the proposed permit by such agency. For any operating permit issued in accordance with title V of the federal clean air act, a copy of a permit proposed to be issued and a copy of the application (and any application for a permit modification or renewal) or such portion thereof, including any compliance plan, shall be transmitted to the administrator of the United States environmental protection agency. Should the administrator of the United States environmental protection agency determine the proposed permit is not in compliance with the requirements of the federal clean air act, including the requirement of an applicable implementation plan, and within 45 days after receipt objects in writing to the issuance of the permit as not in compliance with such requirements, then in such event the secretary shall respond in writing to the administrator. If the administrator of the United States environmental protection agency does not object in writing within 45 days after receipt of the proposed permit, the secretary shall issue, amend, revise or renew the permit consistent with the provisions of this act.~~

(h) The secretary shall issue or deny the permit (including requests for modification or to reopen the permit):

(1) Within three years of the date the United States environmental protection agency approves the state permitting program pursuant to the provisions of the federal clean air act, as amended in November 1990, for permit applications submitted within the first full year after such date;

(2) pursuant to the time schedule provided by title IV (acid rain) of the 1990 amendments to the federal clean air act, for air contaminant emission sources subject to that title; or

(3) within 18 months after receiving a complete application, in all other cases.

(i) Failure of the secretary to issue or deny the permit, or grant or deny a request to modify or reopen the permit, within the period stated in subsection (h) shall not result in the default issuance of a permit, permit amendment, permit modification or permit renewal

nor shall such failure result in any other entity assuming jurisdiction to act on the permit or the request.

Sec. 43. K.S.A. 65-3012 is hereby amended to read as follows: 65-3012. (a) Notwithstanding any other provision of this act, the secretary may take such action *against any existing source* as may be necessary to protect the health of persons or the environment: (1) Upon receipt of information that the emission of air pollution presents ~~a~~ *an imminent and* substantial endangerment to the health of persons or to the environment; or (2) for an imminent or actual violation of this act, any rules and regulations adopted under this act, any orders issued under this act or any permit conditions required by this act.

(b) The action the secretary may take under subsection (a) includes but is not limited to:

(1) Issuing an order directing the owner or operator, or both, to take such steps as necessary to prevent the act or eliminate the practice. Such order may include, with respect to a facility or site, temporary cessation of operation.

(2) Commencing an action to enjoin acts or practices specified in subsection (a) or requesting the attorney general or appropriate county or district attorney to commence an action to enjoin those acts or practices. Upon a showing by the secretary that a person has engaged in those acts or practices, a permanent or temporary injunction, restraining order or other order may be granted by any court of competent jurisdiction. An action for injunction under this subsection shall have precedence over other cases in respect to order of trial.

(3) Applying to the district court in the county in which an order of the secretary under subsection (b)(1) will take effect, in whole or in part, for an order of that court directing compliance with the order of the secretary. Failure to obey the court order shall be punishable as contempt of the court issuing the order. The application under this subsection for a court order shall have precedence over other cases in respect to order of trial.

(c) In any civil action brought pursuant to this section in which a temporary restraining order or preliminary injunction is sought, it shall not be necessary to allege or prove at any stage of the proceeding that irreparable damage will occur should the temporary restraining order or preliminary injunction not be issued or that the remedy at law is inadequate, and the temporary restraining order or preliminary injunction shall issue without such allegations and without such proof.

(d) Any order of the secretary pursuant to subsection (b)(1) is subject to hearing and review in accordance with the Kansas administrative procedure act.

Sec. 44. K.S.A. 66-104d is hereby amended to read as follows: 66-104d. (a) As used in this section, "cooperative" means any cooperative, as defined by K.S.A. 17-4603, and amendments thereto, which has fewer than 15,000 customers and which provides power principally ~~at retail~~ *corporation organized under the electric cooperative act, K.S.A. 17-4601 et seq., and amendments thereto, or which becomes subject to the electric cooperative act in the manner therein provided; or any limited liability company or corporation providing electric service at wholesale in the state of Kansas that is owned by four or more electric cooperatives that provide retail service in the state of Kansas; or any customer-owned corporation formed prior to 2004.*

(b) Except as otherwise provided in subsection (f), a cooperative may elect to be exempt from the jurisdiction, regulation, supervision and control of the state corporation commission by complying with the provisions of subsection (c).

(c) To be exempt under subsection (b), a cooperative shall poll its members as follows:

(1) An election under this subsection may be called by the board of trustees or shall be called not less than 180 days after receipt of a valid petition signed by not less than 10% of the members of the cooperative.

(2) The proposition for deregulation shall be presented to a meeting of the members, the notice of which shall set forth the proposition for deregulation and the time and place of the meeting. Notice to the members shall be written and delivered not less than 21 nor more than 45 days before the date of the meeting.

(3) If the cooperative mails information to its members regarding the proposition for deregulation other than notice of the election and the ballot, the cooperative shall also include in such mailing any information in opposition to the proposition that is submitted by petition signed by not less than 1% of the cooperative's members. All expenses incidental

to mailing the additional information, including any additional postage required to mail such additional information, must be paid by the signatories to the petition.

(4) If the proposition for deregulation is approved by the affirmative vote of not less than a majority of the members voting on the proposition, the cooperative shall notify the state corporation commission in writing of the results within 10 days after the date of the election.

(5) Voting on the proposition for deregulation shall be by mail ballot.

(d) A cooperative exempt under this section may elect to terminate its exemption in the same manner as prescribed in subsection (c).

(e) An election under subsection (c) or (d) may be held not more often than once every two years.

(f) Nothing in this section shall be construed to affect the single certified service territory of a cooperative or the authority of the state corporation commission, as otherwise provided by law, over a cooperative with regard to service territory; charges, *fees or tariffs* for transmission services; sales of power for resale, *other than sales between a cooperative, as defined in subsection (a), that does not provide retail electric service and an owner of such cooperative; and* wire stringing and transmission line siting, pursuant to K.S.A. 66-131, 66-183, 66-1,170 et seq. or 66-1,177 et seq., and amendments thereto.

(g) (1) Notwithstanding a cooperative's election to be exempt under this section, the commission shall investigate all rates, joint rates, tolls, charges and exactions, classifications and schedules of rates of such cooperative if there is filed with the commission, not more than one year after a change in such cooperative's rates, joint rates, tolls, charges and exactions, classifications or schedules of rates, a petition, *in the case of a retail distribution cooperative, signed by not less than 5% of all the cooperative's customers or 3% of the cooperative's customers from any one rate class, or, in the case of a generation and transmission cooperative, not less than 20% of its members or 5% of the aggregate retail customers of its members.* If, after investigation, the commission finds that such rates, joint rates, tolls, charges or exactions, classifications or schedules of rates are unjust, unreasonable, unjustly discriminatory or unduly preferential, the commission shall have the power to fix and order substituted therefor such rates, joint rates, tolls, charges and exactions, classifications or schedules of rates as are just and reasonable.

(2) The cooperative's rates, joint rates, tolls, charges and exactions, classifications or schedules of rates complained of shall remain in effect subject to change or refund pending the state corporation commission's investigation and final order.

(3) Any customer of a cooperative wishing to petition the commission pursuant to subsection (g)(1) may request from the cooperative the names, addresses and rate classifications of all the cooperative's customers or of the cooperative's customers from any one or more rate classes. The cooperative, within 21 days after receipt of the request, shall furnish to the customer the requested names, addresses and rate classifications and may require the customer to pay the reasonable costs thereof.

(h) (1) If a cooperative is exempt under this section, not less than 10 days' notice of the time and place of any meeting of the board of trustees at which rate changes are to be discussed and voted on shall be given to all members of the cooperative and such meeting shall be open to all members.

(2) Violations of subsection (h)(1) shall be subject to civil penalties and enforcement in the same manner as provided by K.S.A. 75-4320 and 75-4320a, and amendments thereto, for violations of K.S.A. 75-4317 et seq. and amendments thereto.

(i) (1) Any cooperative exempt under this section shall maintain a schedule of rates and charges at the cooperative headquarters and shall make copies of such schedule of rates and charges available to the general public during regular business hours.

(2) Any cooperative which fails, neglects or refuses to maintain such copies of schedule of rates and charges under this subsection shall be subject to a civil penalty of not more than \$500.

New Sec. 45. (a) For taxable years 2008 and 2009, there shall be allowed tax credits against the income tax liability imposed upon a taxpayer pursuant to the Kansas income tax act, in an amount equal to the following:

(1) For nonowner occupied multiple family dwellings, \$100 per dwelling unit located immediately below the attic space where sufficient ceiling insulation is installed to achieve an insulation value of R-52; and

(2) for nonowner occupied multiple family dwellings, \$300 times the number of dwelling units served by the system for a newly installed heating and air conditioning system which replaces an existing system, has a separate temperature control for each dwelling unit and meets one or more of the following criteria:

- (A) Furnace or boiler must meet or exceed 92% AFUE;
- (B) split systems must meet or exceed SEER 14, EER of 11.5;
- (C) single package systems must meet or exceed SEER 14;
- (D) air source heat pumps must meet or exceed HSPF 8, SEER 14 and EER of 11.5;

and

(E) ground-source heat pumps must meet or exceed:
(i) Closed-loop systems 14.1 cooling EER and 3.3 heating coefficient of performance (COP);

- (ii) open-loop systems 16.2 EER and 3.6 COP;
- (iii) direct-expansion systems 15 EER and 3.5 COP; and
- (iv) all ground-source heat pumps must include a desuperheater, which preheats water for a water heater, or an integrated water heating system.

(b) If the amount of tax credits allowed pursuant to this section exceeds the taxpayer's income tax liability for the year in which the expenditures were incurred, the amount thereof which exceeds such tax liability may be carried over for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credits have been deducted from tax liability, except that no such tax credits shall be carried over for deduction after the fifth taxable year succeeding the taxable year in which the expenditures are made.

(c) The taxpayer claiming a credit pursuant to this section shall provide evidence of purchase and installation of the item or items for which the credit is claimed as required by rules and regulations of the secretary of revenue.

(d) The secretary of revenue shall adopt rules and regulations to implement the provisions of this section.

(e) The secretary of revenue shall submit a report to the legislature regarding utilization of credits claimed pursuant to this section, for purposes of evaluation of the program. Such report shall be due on or before the first day of the 2010 legislative session.

New Sec. 46. (a) In addition to the income tax credit allowed pursuant to section 45, and amendments thereto, for taxable years 2008 and 2009, a taxpayer shall be entitled to a deduction from Kansas adjusted gross income with respect to: (1) The amortization of the amortizable costs of a new heating and air conditioning system based upon a period of five years; plus (2) the costs of installation of such new system spread over five years. For the first taxable year in which such new system is in use, such deduction shall be an amount equal to 60% of the amortizable costs of such new system plus 60% of the costs of installation of such new system. For each of the next four taxable years, such deduction shall be an amount equal to 10% of the amortizable costs of such new system plus 10% of the costs of installation of such new system.

(b) The election of the taxpayer to claim the deduction allowed by subsection (a) shall be made by filing a statement of such election with the secretary of revenue in the manner and form and within the time prescribed by rules and regulations adopted by the secretary.

(c) The secretary of revenue shall adopt rules and regulations as deemed necessary to carry out the provisions of this section.

New Sec. 47. (a) As used in this section:

(1) "Affected unit" means any emissions unit which: (A) Commenced operation on or after January 1, 2008; (B) generates electricity in this state; (C) combusts coal in an amount greater than 10% of its total heat input on a rolling 12-month basis; and (D) is a new unit.

(2) "Inlet conditions" means the concentration of mercury in the flue gas exiting the combustion source prior to application of any air pollution control device as determined using the coal analysis procedures established in the United States environmental protection agency's mercury information collection request, as amended.

(3) "Mercury" means mercury and mercury compounds in either a gaseous or particulate form.

(b) The secretary of health and environment shall adopt rules and regulations requiring affected units to achieve 80% or greater reduction of mercury from the calculated inlet condition of the affected unit.

(c) This section shall be part of and supplemental to the Kansas air quality act.

Sec. 48. K.S.A. 2007 Supp. 74-616 is hereby amended to read as follows: 74-616. In addition to other powers and duties provided by law, in administering the provisions of this act the state corporation commission shall:

(a) Adopt rules and regulations necessary for the administration of this act;

(b) develop a comprehensive state energy conservation plan and the procedures for implementing the plan according to federal requirements;

(c) *allow, for commission approved energy efficiency, conservation and demand management programs, at the option of the requesting utility, the capitalization and addition to rate base of investments in and expenditures for such approved programs;*

(d) make requests for and accept funds and other assistance from federal agencies for energy conservation and other energy-related activities in this state, including, but not limited to, the state energy program;

~~(e)~~ (e) administer federal energy conservation programs in this state; *and*

~~(f)~~ (f) prepare an emergency management plan for natural gas and electric energy to be adopted during activation of emergency support function 12 of the Kansas response plan established under K.S.A. 48-920 et seq., and amendments thereto, which plan shall include the system of priorities for natural gas and electric energy allocation and curtailment of energy resources consumption established under K.S.A. 74-620, and amendments thereto.

New Sec. 49. The state corporation commission and the department of health and environment shall, on an annual basis, identify operators of electric utilities with coal-fired generating capacity greater than 350 MW located in Kansas with carbon dioxide emissions in excess of 110% of the statewide average emissions from coal-fired plants located in Kansas with a capacity greater than 350 MW.

New Sec. 50. Any electric public utility, as defined in K.S.A. 66-101a, and amendments thereto, which after the effective date of this act is developing a pulverized coal electricity generating facility in Kansas that is electrically connected to the eastern power grid and which is co-located with an existing coal-fired electric generating unit in western Kansas that has greater than 325 megawatts nameplate capacity shall provide to the board of public utilities of the city of Kansas City, Kansas (BPU), a first option to own up to 200 megawatts or enter into a power purchase agreement to purchase up to 200 megawatts of power, or a combination thereof, which is not presently dedicated to Kansas consumers, from the new pulverized coal electricity generating facility. If the facility developer proceeds with construction of such generating facility, BPU shall have six months from the date of issuance of the construction permit under the Kansas air quality act for such generating facility or nine months from the effective date of this act, whichever occurs first, to exercise the BPU's option by executing an agreement to purchase an ownership interest in or to enter into a power purchase agreement for up to 200 megawatts, or a combination thereof, from the facility developer upon the same terms and conditions as participants in the facility other than the facility developer. In addition thereto, if the facility developer proceeds with construction of such generating facility, the facility developer shall also provide to any municipally owned or operated electric utility in Kansas or corporation organized under the electric cooperative act, K.S.A. 17-4601, et seq., and amendments thereto, a secondary option to own or enter into a power purchase agreement, or a combination thereof, for any amount of the 200 megawatts of power not taken by BPU under its first option. The secondary option shall be exercised in the same manner as provided for BPU. The secondary option afforded municipal utilities and cooperatives to own or purchase power shall be for their own use and shall be upon the same terms and conditions as participants in the facility other than the facility developer. Subject to the prior option right of BPU, the municipal utilities and cooperatives shall have six months from the date of issuance of the construction permit under the Kansas air quality act for such generating facility or nine months from the effective date of this act, whichever occurs first, to exercise the secondary option. If more than one

municipal utility or cooperative exercises the secondary option, the available megawatts, in the absence of a mutual agreement otherwise, shall be allocated equally among the municipal utilities and cooperatives but no municipal utility or cooperative may exercise an option for less than 25 megawatts.

New Sec. 51. Notwithstanding the provisions of section 21, and amendments thereto, any electric public utility, as defined in K.S.A. 66-101a, and amendments thereto, which operates a pulverized coal electricity generating facility that is constructed in Kansas after the effective date of this act, has 1400 megawatts or more nameplate capacity and is co-located with an existing coal-fired electric generating unit in western Kansas that has greater than 325 megawatts nameplate capacity shall be required to meet the percentages set forth in such section at least four years before such utility would be otherwise required to meet such percentages. For purposes of this section, the percentage shall be based on the utility's peak load, expressed in megawatts, in the state of Kansas, for a three-year average for the 2nd, 3rd and 4th calendar years preceding the year such percentage is required to be met pursuant to this section.

New Sec. 52. Any electric public utility, as defined in K.S.A. 66-101a, and amendments thereto, which operates a pulverized coal electricity generating facility that is constructed in Kansas after the effective date of this act, has 1400 megawatts or more nameplate capacity and is co-located with an existing coal-fired electric generating unit in western Kansas that has greater than 325 megawatts nameplate capacity shall develop and implement not later than 2010 an enhanced energy efficiency and load management program which shall provide information, technical assistance and incentives to each customer and customer class, the annual cumulative effect of which shall have the potential to reduce such utility's total power generation requirements. To achieve the reduction, such utility shall consider the PAYS program authorized by the provisions of K.S.A. 2007 Supp. 66-1248, and amendments thereto, as well as other energy education and conservation promotion programs that are consistent with any goals which may be developed by the Kansas energy office of the state corporation commission.

New Sec. 53. Any electric public utility, as defined in K.S.A. 66-101a, and amendments thereto, which operates a pulverized coal electricity generating facility that is constructed in Kansas after the effective date of this act, has 1400 megawatts or more nameplate capacity and is co-located with an existing coal-fired electric generating unit in western Kansas which has greater than 325 megawatts nameplate capacity shall become a member of the climate registry (TCR) and prepare a carbon dioxide gas emissions inventory using the protocols developed by TCR that were in effect on October 29, 2007, at the unit level for electricity generating units owned by such utility. The completed inventory for all generating plants will be submitted to the legislature not later than December 1, 2008. If the TCR's October 29, 2007, general reporting protocols, principles, goals or mission change significantly, the public utility may withdraw from the TCR.

New Sec. 54. (a) Not later than January 12, 2009, the secretary of health and environment shall propose and submit to the legislature carbon dioxide air emission requirements.

(b) On and after January 10, 2011, the provisions of subsection (b)(1) of K.S.A. 65-3005, as amended by section 40, and amendments thereto, shall expire and be of no force or effect.

New Sec. 55. (a) The Kansas energy council, the Kansas bioscience authority, the state corporation commission, the secretary of health and environment or the Kansas electric generation, science and technology commission may request the school of engineering of any institution under the supervision and control of the state board of regents to evaluate any innovative renewable or distributive generation technology, or innovative transmission technology, patented by a Kansas resident. Upon such request, the school shall conduct an evaluation of the technology and report the technological feasibility of the technology to the requesting entity. If the school or authority identifies the technology as feasible, the requesting entity shall refer the technology to the department of commerce and to the Kansas technology enterprise corporation for possible commercial development.

(b) Annually on or before the first day of the regular legislative session, the school of engineering of each institution under the supervision and control of the state board of regents shall submit to the house standing committee on energy and utilities and the senate

standing committee on utilities, or their successors, a written report of all requests made to the school pursuant to this section and the school's report on the technological feasibility of the technology.

New Sec. 56. (a) There is hereby created the weatherization assistance program account within the state housing trust fund established by K.S.A. 2007 Supp. 74-8959, and amendments thereto. All moneys credited to the weatherization assistance program account shall be used to fund grants under the weatherization assistance program to increase housing energy efficiency and may be used to match federal moneys available for that purpose. If on January 1 of any year the unencumbered balance in the weatherization assistance program account exceeds \$3,000,000, the director of accounts and reports shall transfer the excess from the weatherization assistance program account to the state housing energy efficiency loan fund established by section 57, and amendments thereto.

(b) Persons eligible to receive assistance from the weatherization assistance program must be current in their utility bills, or current in a commission approved payment schedule.

(c) The head of the agency administering the weatherization assistance program shall submit a written annual accountability report to the senate committee on utilities and the house committee on energy and utilities, or their successors, on or before the first day of the 2009 regular session of the legislature, and on or before the first day of each ensuing regular session of the legislature through 2011. The report shall include, but not be limited to, the following: (1) The number of homes weatherized by each sub-grantee of the weatherization assistance program, and whether those homes were owner-occupied or rental properties; (2) whether actual utility usage was factored into the scoring that determined whether to grant assistance; (3) whether each county in the state has a waiting list for the weatherization assistance program, and the number on those waiting lists; and (4) the progress each sub-grantee has made in working with local utilities to identify applicants' homes with the highest usage, using the customer billing information waiver in the application for assistance.

New Sec. 57. (a) The state housing energy efficiency loan fund is hereby established in the state treasury.

(b) Moneys in the state housing energy efficiency loan fund shall be administered by the Kansas housing resources corporation. Such moneys shall be expended only for the purpose of making loans pursuant to the Kansas energy efficiency program of the corporation.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the state housing energy efficiency loan fund interest earnings based on: (1) The average daily balance of moneys in the state housing energy efficiency loan fund for the preceding month; and (2) the net earnings rate for the pooled money investment portfolio for the preceding month.

(d) All expenditures from the state housing energy efficiency loan fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the Kansas housing resources corporation or the president's designee for the purposes set forth in this section.

New Sec. 58. If an electric public utility elects to pay into the weatherization assistance program account within the state housing trust fund, the state corporation commission may authorize the utility to recover in rates an amount equal to two times the amount paid into the account, but not more than an amount equal to 5% of the utility's uncollectible customer bills.

New Sec. 59. (a) On and after January 1, 2009, and prior to January 1, 2013, each retail electric supplier, as defined in K.S.A. 66-1,170, and amendments thereto, is hereby assessed an amount equal to \$.02 per month for each retail meter in this state which connects to the supplier's delivery system. The supplier shall pay such amount to the state corporation commission on or before the 15th day of the month following the month the amount is assessed.

(b) The commission shall remit to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, all moneys received by the commission for assessments imposed by this section. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the weatherization assistance program account within the state housing trust fund.

New Sec. 60. (a) (1) Sales tax paid pursuant to K.S.A. 79-3603, and amendments thereto, on the sale of telecommunications machinery and equipment by a person providing services taxable pursuant to the provisions of subsection (b) of K.S.A. 79-3603, and amendments thereto, shall be refunded as follows:

(A) 20% of such tax paid by such person on the sale of telecommunications machinery and equipment during the period July 1, 2010, through June 30, 2011, shall be refunded;

(B) 40% of such tax paid by such person on the sale of telecommunications machinery and equipment during the period July 1, 2011, through June 30, 2012, shall be refunded;

(C) 60% of such tax paid by such person on the sale of telecommunications machinery and equipment during the period of July 1, 2012, through June 30, 2013, shall be refunded;

(D) 80% of such tax paid by such person on the sale of telecommunications machinery and equipment during the period of July 1, 2013, through June 30, 2014; and

(E) all of such tax paid by such person on the sale of telecommunications machinery and equipment on and after July 1, 2014, shall be refunded.

(2) Any claim for refund shall be submitted within one year from the date of payment of the tax. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund the amount of sales tax paid as determined under the provisions of this section. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee. No interest shall be paid on refunds granted pursuant to this section. In no event shall any city or county sales tax paid on the sale of telecommunications machinery and equipment be refunded pursuant to this section. The secretary of revenue is hereby authorized to adopt rules and regulations to administer the provisions of this section.

(b) For purposes of this section, "telecommunications machinery and equipment" means machinery, equipment and network software that is used directly and predominantly for the purpose of sending, receiving or storing voice or data communications and all equipment that is used to enable, facilitate, maintain or monitor such machinery, equipment and network software. "Telecommunications machinery and equipment" includes, but is not limited to: Antennas, towers, amplifiers, poles, wires, cables, fiber optic cable, rectifiers, duplexers, triplexers, multiplexers, receivers, repeaters, transmitters, power equipment, modems, routers, storage devices, closures, conduits, controllers, filters, input devices, insulators, microwave equipment, output devices, pedestals, power converters, radio channels, terminals, timing units, transformers, bridges, network computers, cross connects, plug in circuitry, oscillators, network software, servers, power transport equipment, test equipment, connectors, attenuators, circuit switches, analog electronic switches, digital electronic switches and switches for operator assistance.

(c) The provisions of this section shall be effective on and after July 1, 2008.

New Sec. 61. (a) This act shall be known and may be cited as the economic stimulus act of 2008.

(b) If any provision of this act, or the application of such provision to any person or circumstance is held invalid or unconstitutional, it shall be conclusively presumed that the legislature would not have enacted the remainder of this act without such invalid or unconstitutional provisions.

Sec. 62. K.S.A. 65-3008b, 65-3012 and 66-104d and K.S.A. 2007 Supp. 65-3005, 65-3008a, 66-1,184, 74-616, 74-50,104, 74-50,107 and 79-3279 are hereby repealed.

Sec. 63. This act shall take effect and be in force from and after its publication in the Kansas register.;

In the title, in line 9, by striking all after "ACT"; by striking all in lines 10 and 11, and inserting "enacting the economic stimulus act of 2008; encouraging certain commercial enterprises and creation of jobs; amending the Kansas investments in major products and comprehensive training act (IMPACT); relating to intermodal transportation and the financing thereof; providing for certain sales tax refunds; concerning energy conservation and efficiency, air emissions and electric generation and transmission; amending K.S.A. 65-3008b, 65-3012 and 66-104d and K.S.A. 2007 Supp. 65-3005, 65-3008a, 66-1,184, 74-616, 74-50,104, 74-50,107, and 79-3279 and repealing the existing sections.;"

And your committee on conference recommends the adoption of this report.

KARIN BROWNLEE
NICK JORDAN
JIM BARONE
Conferees on part of Senate

KENNY A. WILK
CARL DEAN HOLMES
Conferees on part of House

On motion of Rep. Wilk, the conference committee report on **S. Sub. for HB 2412** was adopted.

On roll call, the vote was: Yeas 76; Nays 48; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Carlson, Colyer, Craft, Crum, Dahl, Donohoe, Faber, Feuerborn, Fund, Gatewood, George, Goico, Gordon, Grange, Grant, Hayzlett, Hill, Hodge, C. Holmes, M. Holmes, Huebert, Humerickhouse, Johnson, Kelsey, Kiegerl, King, Kinzer, Knox, Landwehr, Light, Lukert, Mast, Masterson, McKinney, McLeland, Merrick, Jim Morrison, Moxley, Myers, Neufeld, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Powell, Powers, Proehl, Rhoades, Ruff, Schroeder, Schwartz, Shultz, Siegfried, Sloan, Swanson, Tafanelli, Vickrey, Watkins, Wetta, Whitham, Wilk, Williams, B. Wolf, Yoder.

Nays: Ballard, Burroughs, Carlin, Colloton, Crow, Davis, Dillmore, Faust-Goudeau, Flaherty, Flora, Frownfelter, Garcia, Goyle, Hawk, Henderson, Henry, Holland, Horst, Huntington, Kuether, Lane, Loganbill, Long, Mah, McCray-Miller, McLachlan, Menghini, Metsker, Judy Morrison, Neighbor, Owens, Pottorff, Quigley, Rardin, Roth, Ruiz, Sawyer, Spalding, Storm, Svaty, Swenson, Tietze, Treaster, Trimmer, Ward, Winn, K. Wolf, Worley.

Present but not voting: None.

Absent or not voting: Kelley.

EXPLANATIONS OF VOTE

MR. SPEAKER: I vote no on the conference report on **S. Sub. for HB 2412**. I have consistently voted for the bills supporting the coal plants which also included a number of "green" proposals. The Governor has subsequently vetoed both bills, neither of which was overridden. My concern is for the other economic entities which are bundled with the coal issue. The Governor is likely to veto this bill and we then risk losing the effort to bring the other economic development issues on board as well.—DEENA HORST

MR. SPEAKER: All parts of **S. Sub. for HB 2412** have a clear link to the creation of jobs, tax base, and overall health of the Kansas economy.

S. Sub. for HB 2412 aims to enhance transportation and energy infrastructure. Investments in conservation, renewable power, and coal generation directly create jobs while indirectly augmenting the economy through a reliable and affordable energy supply.

The bill also incents investment in key competitive industries which have high energy demands and which must obtain environmental regulation permits.

All parts of the bill have some type of link to the others and all are part of economic development which dominates the legislature's agenda.

Mr. Speaker, I vote yes.—DENNIS MCKINNEY

PROTEST

Pursuant to Article 2, Section 10 of the Kansas Constitution, we hereby protest the House action on **S. Sub. for HB 2412**.

Article 2, Section 16 of the Kansas Constitution provides that "No bill shall contain more than one subject, except appropriations bills and bills for revision or codification of statutes."

The Kansas Supreme Court has consistently invalidated laws containing two unrelated subjects. *State ex rel. Stephan v. Carlin*, 230 Kan 252 (1981) (section of appropriations bills amending School District Equalization Act violates State Constitution prohibiting bills containing more than one subject); *State ex rel. Stephan v. Thiessen*, 228 Kan 136 (1980) (bill concerning both criminal procedure and law enforcement training center violates State

Constitution prohibiting bills containing more than one subject and therefore declared invalid in its entirety); *State ex. rel. Fatzer v. Shanahan*, 178 Kan 400 (1955) (bill repealing unrelated statutes violates State Constitution prohibiting bills containing more than one subject).

S. Sub. for HB 2412 clearly contains multiple unrelated subjects in violation of Article 2, Section 16 of the Kansas Constitution. If this bill is passed, we believe it will be declared invalid by the Kansas Supreme Court. Regardless of your position on the Holcomb plant, we as elected representatives have a duty to uphold the Constitution of the State of Kansas. **S. Sub. for HB 2412** violates that duty and represents a reckless approach to crafting public policy for our state.—PAUL DAVIS, MARTI CROW, RAJ GOYLE

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **H. Sub. for SB 385**.

INTRODUCTION OF ORIGINAL MOTIONS

On emergency motion of Rep. Merrick, pursuant to House Rule 2311, **H. Sub. for SB 385** was advanced to Final Action on Bills and Concurrent Resolutions, subject to amendment, debate and roll call.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

Committee report recommending a substitute bill to **H. Sub. for SB 385** was adopted. There was no further action taken.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, to suspend the rules for the purpose of considering **H. Sub. for SB 169**, the motion was withdrawn.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **SB 586**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 586**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with House Committee amendments, as follows:

On page 2, by striking all in lines 36 through 43;

On page 3, by striking all in lines 1 through 18, and inserting the following:

“New Sec. 4. (a) There is hereby established a joint committee on energy and environmental policy which shall consist of six members of the house of representatives and five members of the senate. The house of representatives members shall be appointed by the speaker of the house and the minority leader. The senate members shall be appointed by the president and the minority leader. The two major political parties shall have proportional representation on such committee. In the event application of the preceding sentence results in a fraction, the party having a fraction exceeding .5 shall receive representation as though such fraction were a whole number. The speaker of the house of representatives shall designate a representative member to be chairperson or vice-chairperson of the joint committee as provided by this section. The president of the senate shall designate a senate member to be chairperson or vice-chairperson of the joint committee as provided by this section.

(b) Any vacancy in the membership of the joint committee on energy and environmental policy shall be filled by appointment in the manner prescribed by this section for the original appointment.

(c) All members of the joint committee on energy and environmental policy shall serve for terms of two years ending on the first day of the regular session of the legislature commencing in the first odd year after appointment, except that the initial members appointed on or after November 10, 2008, shall serve for terms ending on the first day of the regular session of the legislature commencing in 2009. For the initial term of members appointed on or after November 10, 2008, the chairperson of the joint committee shall be a senate member designated by the president of the senate. In the biennium commencing with the convening of the regular session of the legislature in 2009, and each two years thereafter, the chairperson of the joint committee shall be a senate member designated by the president of the senate. In the biennium commencing with the convening of the regular session of the legislature in 2011, and each two years thereafter, the chairperson of the joint committee shall be a representative member designated by the speaker of the house of representatives. If a vacancy occurs in the office of the chairperson, a member of the joint committee who is a member of the same house of the legislature as the member who vacated the office shall be appointed by the speaker of the house or president of the senate, depending on the house membership of the vacating member, to fill such vacancy.

(d) A quorum of the joint committee on energy and environmental policy shall be six. All actions of the joint committee shall be taken by a majority of all of the members of the joint committee.

(e) The joint committee on energy and environmental policy shall have the authority to meet at any time and at any place within the state on the call of the chairperson.

(f) The provisions of the acts contained in article 12 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, applicable to special committees shall apply to the joint committee on energy and environmental policy to the extent that the same do not conflict with the specific provisions of this act applicable to the joint committee.

(g) Members of the joint committee on energy and environmental policy shall receive compensation, travel expenses and subsistence expenses as provided in K.S.A. 75-3212, and amendments thereto, when attending meetings of the committee.

(h) The staff of the office of revisor of statutes, the legislative research department and other central legislative staff service agencies shall provide such assistance as may be requested by the joint committee.

(i) The joint committee on energy and environmental policy may introduce such legislation as it deems necessary in performing its functions.

(j) The joint committee on energy and environmental policy shall submit a report to the legislature and to the standing committees of the house of representatives and the senate which are assigned utility, energy, environment and natural resources issues before December 31 each year with any findings and recommendations concerning energy and environmental policy which such joint committee deems necessary.

(k) The provisions of this section shall not take effect if the provisions of 2008 House Bill No. 2412 are passed by the legislature and enacted into law.;

On page 5, in line 9, by striking "74-616,";

On page 1, in the title, in line 14, after "utilities;" by inserting "establishing the joint committee on energy and environmental policy;"; in line 15, by striking "74-616,";

And your committee on conference recommends the adoption of this report.

CARL DEAN HOLMES
DON MYERS
ANNIE KUETHER
Conferees on part of House

DEREK SCHMIDT
ROGER P. REITZ
MARCI FRANCISCO
Conferees on part of Senate

On motion of Rep. C. Holmes, the conference committee report on **SB 586** was adopted.

On roll call, the vote was: Yeas 101; Nays 22; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Carlin, Carlson, Colloton, Colyer, Craft, Crum, Dahl, Donohoe, Faber, Feuerborn, Fund, Gatewood, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelsey, Kiegerl, King, Kinzer, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McLachlan, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Patton, Peck, Pottorff, Powell, Powers, Proehl, Quigley, Rardin, Rhoades, Roth, Schroeder, Schwartz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treaster, Vickrey, Ward, Watkins, Whitham, Wilk, Williams, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Burroughs, Crow, Davis, Dillmore, Faust-Goudeau, Flaharty, Flora, Frownfelter, Garcia, Henderson, McCray-Miller, McKinney, Pauls, Peterson, Phelps, Ruff, Ruiz, Sawyer, Shultz, Trimmer, Wetta, Winn.

Present but not voting: None.

Absent or not voting: George, Kelley.

Upon unanimous consent, the House referred back to the regular order of business, Introduction of Bills and Concurrent Resolutions.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following concurrent resolution was thereupon introduced and read by title:

HOUSE CONCURRENT RESOLUTION No. 5044—

By Representatives Neufeld and McKinney

A CONCURRENT RESOLUTION relating to the adjournment of the Senate and House of Representatives for a period during the 2008 regular session of the legislature.

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That the legislature shall adjourn at the close of business of the daily session convened on May 7, 2008, and shall reconvene at 10:00 a.m. on May 29, 2008, at which time the legislature shall reconvene and shall continue in session until sine die adjournment at the close of business on May 29, 2008; and

Be it further resolved: That the chief clerk of the House of Representatives and the secretary of the Senate and employees specified by the Director of Legislative Administrative Services for such purpose shall attend their duties each day during such period of adjournment, Sundays excepted, for the purpose of receiving messages from the governor and conducting such other business as may be required; and

Be it further resolved: That members of the legislature shall not receive the per diem compensation and subsistence allowances provided for in subsections (a) and (b) of K.S.A. 46-137a, and amendments thereto, for any day within a period in which both houses of the legislature are adjourned for more than two days, Sundays excepted; and

Be it further resolved: That members of the legislature attending a legislative meeting of whatever nature when authorized pursuant to law, or by the Legislative Coordinating Council or by the President of the Senate or the Speaker of the House of Representatives during the period of adjournment for which members are not authorized per diem compensation and subsistence allowances pursuant to K.S.A. 46-137a, and amendments thereto, shall receive compensation and travel expenses or allowances as provided by K.S.A. 75-3212, and amendments thereto.

On motion of Rep. Merrick, the House recessed until 3:30 p.m.

AFTERNOON SESSION

The House met pursuant to recess with Speaker pro tem Dahl in the chair.

On motion of Rep. Merrick, the House recessed until 4:30 p.m.

LATE AFTERNOON SESSION

The House met pursuant to recess with Speaker pro tem Dahl in the chair.

MESSAGE FROM THE SENATE

The Senate adopts conference committee report on **SB 586**.

The Senate adopts conference committee report on **S. Sub. for HB 2434**.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **S. Sub. for HB 2440**.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Wilk, the House concurred in Senate amendments to **S. Sub. for HB 2440**, An act concerning cities; relating to the use of credit or debit cards by persons to pay certain taxes, fees and exactions.

(The House requested the Senate to return the bill, which was in conference).

On roll call, the vote was: Yeas 68; Nays 55; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Beamer, Bethell, Brown, Burgess, Burroughs, Carlson, Colloton, Craft, Crow, Crum, Dahl, Dillmore, Donohoe, Faber, Fund, George, Gordon, Grange, Hayzlett, Hill, Hodge, C. Holmes, M. Holmes, Horst, Humerickhouse, Huntington, Johnson, Kelsey, King, Landwehr, Light, Mast, Masterson, McLeland, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Otto, Owens, Pottorff, Powell, Proehl, Quigley, Rhoades, Roth, Schwartz, Siegfried, Sloan, Spalding, Storm, Swanson, Tafanelli, Vickrey, Watkins, Wetta, Whitham, Wilk, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Ballard, Bowers, Brunk, Carlin, Colyer, Davis, Faust-Goudeau, Feuerborn, Flaherty, Flora, Frownfelter, Garcia, Gatewood, Goico, Goyle, Grant, Hawk, Henderson, Henry, Holland, Huebert, Kinzer, Knox, Kuether, Lane, Loganbill, Long, Lukert, Mah, McCray-Miller, McKinney, McLachlan, Menghini, Olson, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Powers, Rardin, Ruff, Ruiz, Sawyer, Schroeder, Shultz, Svaty, Swenson, Tietze, Treaster, Trimmer, Ward, Williams, Winn.

Present but not voting: None.

Absent or not voting: Kelley, Kiegerl.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **S. Sub. for HB 2434**.

INTRODUCTION OF ORIGINAL MOTIONS

Pursuant to Joint Rule 3 (f), Rep. Merrick moved that the rules be suspended and that no copies be printed for distribution of the conference committee report on **S. Sub. for HB 2434**. The motion prevailed.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2434**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as Senate Substitute for House Bill No. 2434, as follows:

On page 2, in line 28, by inserting the following:

“(d) The provisions of this section shall be effective on and after July 1, 2008”;

On page 4, after line 4, by inserting the following:

“(c) The provisions of this section shall be effective on and after July 1, 2008.”;

Also on page 4, in line 13, after the period by inserting “The provisions of this section shall be effective on and after July 1, 2008.”; in lines 14 and 35, before “K.S.A.” by inserting “On and after July 1, 2008.”;

On page 5, by striking all in lines 8 and 9, and by inserting the following:

“New Sec. 6. (a) The following described property, to the extent specified by this section, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

First. Any property classified for property tax purposes pursuant to section 1 of article 11 of the constitution of the state of Kansas in subclass (6) of class 2 which, except for the operation of the provisions of this section, would be required to be listed for the purpose of taxation pursuant to K.S.A. 79-306, and amendments thereto, whose purchase price is \$750 or less.

(b) The provisions of this section shall apply to all taxable years commencing after December 31, 2008.

New Sec. 7. (a) The following described property, to the extent specified by this section, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

First. Any building constructed on property of the university of Kansas or a related endowment association, or both, owned or operated, or both, by a Kansas not-for-profit entity, for the purpose of a strategic technology acquisition and commercialization incubator, and any personal property located therein.

(b) The provisions of this section shall apply to all tax years commencing after December 31, 2008.

New Sec. 8. (a) Subject to limitations contained herein, for tax years 2008, 2009 and 2010, any taxpayer who makes a capital investment in a business which is located in the city of Chanute, Coffeyville, Erie, Fredonia, Greensburg, Independence, Iola, Neodesha or Osawatimie, Kansas, or within one mile of the city limits of any such city as long as such business is located in Kansas, when such investment is made within three years of the date of the occurrence of the disaster which is the subject of major disaster declaration DR 1699 or DR 1711 as the case may be shall be allowed a credit not to exceed 10% of such investment against the tax imposed by the Kansas income tax act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by the net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto. The total amount of credit allowed pursuant to this section for any one taxpayer shall not exceed \$100,000. In no event shall the total amount of credits or refunds allowed under this section exceed \$5,000,000 for any one fiscal year. The amount of credit allowed under this section shall be reduced by an amount equal to any assistance payment received by the taxpayer pursuant to the provisions of K.S.A. 75-3713e, and amendments thereto, or an assistance payment received by the taxpayer pursuant to the southeast Kansas business restoration assistance program as approved by the state finance council for the same investment as provided in this section. Notwithstanding any other provision of law, no taxpayer shall claim more than one credit allowed under this subsection for the same investment as provided in this section, except that nothing contained in this provision shall prevent a taxpayer from making a claim for and being allowed credit pursuant to this subsection in a subsequent tax year when such taxpayer was not allowed the credit in a previous tax year. If the amount of the tax credit determined under this section exceeds the income, privilege or premium tax liability for the taxpayer for any taxable year in which the qualified investment is made, the amount thereof which exceeds such tax liability may be carried over for deduction from such taxpayer's income, privilege or premium tax liability in the next succeeding year or years until the total amount of the credit has been deducted from tax liability, except that no such credit shall be carried over for deduction after the 10th taxable year succeeding the taxable year in which the qualified investment was made.

(b) (1) For tax years 2008, 2009 and 2010, a taxpayer may receive a refund of tax liability in lieu of the credit provided in this act. The refund shall be in an amount up to 50% of the credit earned by the taxpayer. The amount of refund allowed under this subsection shall be

reduced by an amount equal to any assistance payment received by the taxpayer pursuant to the provisions of K.S.A. 75-3713e, and amendments thereto, or an assistance payment received by the taxpayer pursuant to the southeast Kansas business restoration assistance program as approved by the state finance council for the same investment as provided in this section. Notwithstanding any other provision of law, no taxpayer shall claim more than one refund allowed under this subsection for the same investment, except that nothing contained in this provision shall prevent a taxpayer from electing to receive a refund and receiving such refund in a subsequent tax year when such taxpayer was not allowed such refund in a previous tax year.

(2) A claim for refund shall be made prior to the taxpayer claiming any credit on which the refund is based. Should the taxpayer elect to receive the cash in lieu of the credit, the remaining portion of the tax credit shall be lost. Any refund pursuant to this subsection shall be allowed against the tax liability imposed under the Kansas income tax act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, and the privilege tax as measured by net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated in the tax year the qualified investment is placed into service. The amount of such refund which exceeds such tax liability shall be refunded to the taxpayer.

(3) The secretary of revenue shall submit an annual report to the legislature detailing taxpayers that have been allowed a credit and that have made the election to receive a refund in lieu of the credit. The annual report shall provide the aggregate amount of such credits and refunds. Such report shall be due during the legislative session, commencing with the 2009 legislative session.

(c) As used in this section, "capital investment" means an investment in the construction, equipment, reconstruction, maintenance, repair, enlargement, furnishing or remodeling of real property, and the purchase, lease or repair of tangible personal property. A "capital investment" shall not include inventory or property held for sale in the ordinary course of business.

(d) The secretary of revenue shall adopt rules and regulations to carry out the provisions of this act.

New Sec. 9. (a) Subject to the requirements specified in K.S.A. 79-3220, and amendments thereto, the secretary of revenue may require a paid preparer to file some or all of the tax returns by electronic means whenever the department of revenue permits electronic filing.

(b) As used in this act: (1) "Electronic means" means computer generated electronic or magnetic media, web based applications or similar electronic, magnetic or computer based methods or applications;

(2) "paid preparer" means any person or business that prepares tax returns for compensation or employs or authorizes one or more persons to prepare such returns. The number of returns prepared per year shall be determined by including all returns prepared by the person or business, and by all employees or agents of the person or business, whether prepared at one location or multiple locations; and

(3) "tax returns" means returns or reports filed for any tax administered by the department of revenue including, but not limited to, income tax, sales and use tax, motor fuel tax, mineral tax and other excise taxes.

(c) The provisions of this section shall be effective on and after July 1, 2008.

New Sec. 10. In accordance with the provisions of section 1 of article 11 of the Constitution of the State of Kansas, a bed, body or box that is regularly used predominantly in a business or industry and is attached to a motor vehicle, except for a bed, body or box that is attached to the motor vehicle by the motor vehicle manufacturer, shall be classified for property tax purposes within subclass 5 of class 2 of section 1 of article 11 of the Constitution of the State of Kansas. All such property shall be valued in accordance with the provisions of subsection (b)(2)(E) of K.S.A. 79-1439, and amendments thereto. The provisions of this section shall be effective on and after July 1, 2008.

New Sec. 11. The following shall be exempt from the tax imposed under the Kansas retailers' sales tax act: All sales of tangible personal property or services purchased for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business facility that was previously located in any county declared or designated by the

president to be in a state of disaster emergency pursuant to major disaster declaration DR 1711, and that has been damaged or destroyed by flooding and other severe weather as a result of such disaster, and the sale and installation of machinery and equipment purchased for installation at any such business facility, including any fence, the purpose for which is to enclose land devoted to agricultural use. Any person constructing, reconstructing, remodeling or enlarging a business facility in any such county, who had leased such a facility to a business in any such county prior to the occurrence of such disaster, and that such business has been damaged or destroyed by flooding and other severe weather as a result of such disaster, and which such facility shall be leased in whole or in part, to a business that was previously located in any such county, prior to the occurrence of such disaster and that such business has been damaged by flooding and other severe weather as a result of such disaster, that would be eligible for a sales tax exemption hereunder if such business had constructed, reconstructed, enlarged or remodeled such facility or portion thereof itself shall be entitled to the sales tax exemption under the provisions of this section. When a person shall contract for the construction, reconstruction, enlargement or remodeling of any such business facility, such person shall obtain from the state prior to June 30, 2009, an exemption certificate for the project involved. The certificate shall be furnished to the contractor to purchase materials, machinery and equipment for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the person that obtained the exemption certificate, a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after the occurrence of the disaster provided for in this section, but prior to the effective date of this act upon the gross receipts received from any sale which would have been exempted by the provisions of this subsection had such sale occurred after the effective date of this act shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee. The provisions of this section shall be part of and supplemental to the Kansas retailers' sales tax act.

New Sec. 12. This act shall be known and may be cited as the selective assistance for effective senior relief (SAFESR). There shall be allowed as a credit against the tax liability of a taxpayer imposed under the Kansas income tax act, the following: (a) For tax years 2008, 2009 and 2010, an amount equal to 45% of the amount of property and ad valorem taxes actually and timely paid as described in this section; and (b) for tax year 2011 and all tax years thereafter, an amount equal to 75% of the amount of property and ad valorem taxes actually and timely paid by a taxpayer who is 65 years of age or older and who has household income equal to or less than 120% of the federal poverty level for two persons if such taxes were paid upon real or personal property used for residential purposes of such taxpayer which is the taxpayer's principal place of residence for the tax year in which the tax credit is claimed. The amount of any such credit for any such taxpayer shall not exceed the amount of property and ad valorem taxes paid by such taxpayer as specified in this section. A taxpayer shall not take the credit pursuant to this section if such taxpayer has received a homestead property tax refund pursuant to K.S.A. 79-4501 et seq., and amendments thereto, for such property for such tax year. Subject to the provisions of this section, if the amount of such tax credit exceeds the taxpayer's income tax liability for the taxable

year, the amount of such excess credit which exceeds such tax liability shall be refunded to the taxpayer. The secretary of revenue shall adopt rules and regulations regarding the filing of documents that support the amount of the credit claimed pursuant to this section. For purposes of this section, "household income" means all income, including payments received under the federal social security act, received by persons of a household in a calendar year while members of such household. The provisions of this act shall be part of and supplemental to the homestead property tax refund act.

Sec. 13. On and after July 1, 2008, K.S.A. 2007 Supp. 75-5151 is hereby amended to read as follows: 75-5151. The secretary of revenue may require, consistent with sound cash management policies, that any taxpayer whose total sales tax liability exceeds ~~\$100,000~~ \$45,000 in any calendar year, any taxpayer whose total withholding tax liability exceeds ~~\$100,000~~ \$45,000 in any calendar year, and any person owing any taxes or fees in connection with any return, report or document other than for sales tax or withholding tax liability, shall remit their tax liability by electronic funds transfer no later than the date required for such remittance except that the secretary may adopt rules and regulations prescribing alternative filing and payment dates not later than the last day of the month in which the tax was otherwise due. Electronic funds transfers may be made by wire transfers of funds through the federal reserve system or by any other means established by the secretary, with the approval of the state treasurer, which insures the availability of such funds to the state on the date of payment. Evidence of such payment shall be furnished to the secretary on or before the due date of the tax as established by law. Failure to timely make such payment in immediately available funds or failure to provide such evidence of payment in a timely manner shall subject the taxpayer to penalty and interest as provided by law for delinquent or deficient tax payments. All sales and use tax remittances from model 1, 2 and 3 sellers must be remitted electronically. Any data that accompanies a remittance must be formatted using uniform tax type and payment type codes approved by the secretary.

Sec. 14. On and after July 1, 2008, K.S.A. 2007 Supp. 79-201a is hereby amended to read as follows: 79-201a. The following described property, to the extent herein specified, shall be exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

First. All property belonging exclusively to the United States, except property which congress has expressly declared to be subject to state and local taxation.

Second. All property used exclusively by the state or any municipality or political subdivision of the state. All property owned, being acquired pursuant to a lease-purchase agreement or operated by the state or any municipality or political subdivision of the state, including property which is vacant or lying dormant, which is used or is to be used for any governmental or proprietary function and for which bonds may be issued or taxes levied to finance the same, shall be considered to be used exclusively by the state, municipality or political subdivision for the purposes of this section. The lease by a municipality or political subdivision of the state of any real property owned or being acquired pursuant to a lease-purchase agreement for the purpose of providing office space necessary for the performance of medical services by a person licensed to practice medicine and surgery or osteopathic medicine by the board of healing arts pursuant to K.S.A. 65-2801 et seq., and amendments thereto, dentistry services by a person licensed by the Kansas dental board pursuant to K.S.A. 65-1401 et seq., and amendments thereto, optometry services by a person licensed by the board of examiners in optometry pursuant to K.S.A. 65-1501 et seq., and amendments thereto, or K.S.A. 74-1501 et seq., and amendments thereto, podiatry services by a person licensed by the board of healing arts pursuant to K.S.A. 65-2001 et seq., and amendments thereto, or the practice of psychology by a person licensed by the behavioral sciences regulatory board pursuant to K.S.A. 74-5301 et seq., and amendments thereto, shall be construed to be a governmental function, and such property actually and regularly used for such purpose shall be deemed to be used exclusively for the purposes of this paragraph. The lease by a municipality or political subdivision of the state of any real property, or portion thereof, owned or being acquired pursuant to a lease-purchase agreement to any entity for the exclusive use by it for an exempt purpose, including the purpose of displaying or exhibiting personal property by a museum or historical society, if no portion of the lease payments include compensation for return on the investment in such leased property shall be deemed to be used exclusively for the purposes of this paragraph. All property leased,

other than property being acquired pursuant to a lease-purchase agreement, to the state or any municipality or political subdivision of the state by any private entity shall not be considered to be used exclusively by the state or any municipality or political subdivision of the state for the purposes of this section except that the provisions of this sentence shall not apply to any such property subject to lease on the effective date of this act until the term of such lease expires but property taxes levied upon any such property prior to tax year 1989, shall not be abated or refunded. Any property constructed or purchased with the proceeds of industrial revenue bonds issued prior to July 1, 1963, as authorized by K.S.A. 12-1740 to 12-1749, or purchased with proceeds of improvement district bonds issued prior to July 1, 1963, as authorized by K.S.A. 19-2776, or with proceeds of bonds issued prior to July 1, 1963, as authorized by K.S.A. 19-3815a and 19-3815b, or any property improved, purchased, constructed, reconstructed or repaired with the proceeds of revenue bonds issued prior to July 1, 1963, as authorized by K.S.A. 13-1238 to 13-1245, inclusive, or any property improved, reimproved, reconstructed or repaired with the proceeds of revenue bonds issued after July 1, 1963, under the authority of K.S.A. 13-1238 to 13-1245, inclusive, which had previously been improved, reconstructed or repaired with the proceeds of revenue bonds issued under such act on or before July 1, 1963, shall be exempt from taxation for so long as any of the revenue bonds issued to finance such construction, reconstruction, improvement, repair or purchase shall be outstanding and unpaid. Any property constructed or purchased with the proceeds of any revenue bonds authorized by K.S.A. 13-1238 to 13-1245, inclusive, 19-2776, 19-3815a and 19-3815b, and amendments thereto, issued on or after July 1, 1963, shall be exempt from taxation only for a period of 10 calendar years after the calendar year in which the bonds were issued. Any property, all or any portion of which is constructed or purchased with the proceeds of revenue bonds authorized by K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, issued on or after July 1, 1963 and prior to July 1, 1981, shall be exempt from taxation only for a period of 10 calendar years after the calendar year in which the bonds were issued. Except as hereinafter provided, any property constructed or purchased wholly with the proceeds of revenue bonds issued on or after July 1, 1981, under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, shall be exempt from taxation only for a period of 10 calendar years after the calendar year in which the bonds were issued. Except as hereinafter provided, any property constructed or purchased in part with the proceeds of revenue bonds issued on or after July 1, 1981, under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, shall be exempt from taxation to the extent of the value of that portion of the property financed by the revenue bonds and only for a period of 10 calendar years after the calendar year in which the bonds were issued. The exemption of that portion of the property constructed or purchased with the proceeds of revenue bonds shall terminate upon the failure to pay all taxes levied on that portion of the property which is not exempt and the entire property shall be subject to sale in the manner prescribed by K.S.A. 79-2301 et seq., and amendments thereto. Property constructed or purchased in whole or in part with the proceeds of revenue bonds issued on or after January 1, 1995, under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, and used in any retail enterprise identified under the standard industrial classification codes, major groups 52 through 59, inclusive, except facilities used exclusively to house the headquarters or back office operations of such retail enterprises identified thereunder, shall not be exempt from taxation. For the purposes of the preceding provision "standard industrial classification code" means a standard industrial classification code published in the Standard Industrial Classification manual, 1987, as prepared by the statistical policy division of the office of management and budget of the office of the president of the United States. "Headquarters or back office operations" means a facility from which the enterprise is provided direction, management, administrative services, or distribution or warehousing functions in support of transactions made by the enterprise. Property purchased, constructed, reconstructed, equipped, maintained or repaired with the proceeds of industrial revenue bonds issued under the authority of K.S.A. 12-1740 et seq., and amendments thereto, which is located in a redevelopment project area established under the authority of K.S.A. 12-1770 et seq., shall not be exempt from taxation. Property purchased, acquired, constructed, reconstructed, improved, equipped, furnished, repaired, enlarged or remodeled with all or any part of the

proceeds of revenue bonds issued under authority of K.S.A. 12-1740 to 12-1749a, inclusive, and amendments thereto for any poultry confinement facility on agricultural land which is owned, acquired, obtained or leased by a corporation, as such terms are defined by K.S.A. 17-5903 and amendments thereto, shall not be exempt from such taxation. Property purchased, acquired, constructed, reconstructed, improved, equipped, furnished, repaired, enlarged or remodeled with all or any part of the proceeds of revenue bonds issued under the authority of K.S.A. 12-1740 to 12-1749a, inclusive, and amendments thereto, for a rabbit confinement facility on agricultural land which is owned, acquired, obtained or leased by a corporation, as such terms are defined by K.S.A. 17-5903 and amendments thereto, shall not be exempt from such taxation.

Third. All works, machinery and fixtures used exclusively by any rural water district or township water district for conveying or production of potable water in such rural water district or township water district, and all works, machinery and fixtures used exclusively by any entity which performed the functions of a rural water district on and after January 1, 1990, and the works, machinery and equipment of which were exempted hereunder on March 13, 1995.

Fourth. All fire engines and other implements used for the extinguishment of fires, with the buildings used exclusively for the safekeeping thereof, and for the meeting of fire companies, whether belonging to any rural fire district, township fire district, town, city or village, or to any fire company organized therein or therefor.

Fifth. All property, real and personal, owned by county fair associations organized and operating under the provisions of K.S.A. 2-125 et seq., and amendments thereto.

Sixth. Property acquired and held by any municipality under the municipal housing law (K.S.A. 17-2337 et seq.) and amendments thereto, except that such exemption shall not apply to any portion of the project used by a nondwelling facility for profit making enterprise.

Seventh. All property of a municipality, acquired or held under and for the purposes of the urban renewal law (K.S.A. 17-4742 et seq.) and amendments thereto except that such tax exemption shall terminate when the municipality sells, leases or otherwise disposes of such property in an urban renewal area to a purchaser or lessee which is not a public body entitled to tax exemption with respect to such property.

Eighth. All property acquired and held by the Kansas armory board for armory purposes under the provisions of K.S.A. 48-317, and amendments thereto.

Ninth. All property acquired and used by the Kansas turnpike authority under the authority of K.S.A. 68-2001 et seq., and amendments thereto, K.S.A. 68-2030 et seq., and amendments thereto, K.S.A. 68-2051 et seq., and amendments thereto, and K.S.A. 68-2070 et seq., and amendments thereto.

Tenth. All property acquired and used for state park purposes by the Kansas department of wildlife and parks.

Eleventh. The state office building constructed under authority of K.S.A. 75-3607 et seq., and amendments thereto, and the site upon which such building is located.

Twelfth. All buildings erected under the authority of K.S.A. 76-6a01 et seq., and amendments thereto, and all other student union buildings and student dormitories erected upon the campus of any institution mentioned in K.S.A. 76-6a01, and amendments thereto, by any other nonprofit corporation.

Thirteenth. All buildings, as the same is defined in subsection (c) of K.S.A. 76-6a13, and amendments thereto, which are erected, constructed or acquired under the authority of K.S.A. 76-6a13 et seq., and amendments thereto, and building sites acquired therefor.

Fourteenth. All that portion of the waterworks plant and system of the city of Kansas City, Missouri, now or hereafter located within the territory of the state of Kansas pursuant to the compact and agreement adopted by K.S.A. 79-205, and amendments thereto.

Fifteenth. All property, real and personal, owned by a groundwater management district organized and operating pursuant to K.S.A. 82a-1020, and amendments thereto.

Sixteenth. All property, real and personal, owned by the joint water district organized and operating pursuant to K.S.A. 80-1616 et seq., and amendments thereto.

Seventeenth. All property, including interests less than fee ownership, acquired for the state of Kansas by the secretary of transportation or a predecessor in interest which is used

in the administration, construction, maintenance or operation of the state system of highways, regardless of how or when acquired.

Eighteenth. Any building used primarily as an industrial training center for academic or vocational education programs designed for and operated under contract with private industry, and located upon a site owned, leased or being acquired by or for an area vocational school, an area vocational-technical school, a technical college, or a community college, as defined by K.S.A. 72-4412, and amendments thereto, and the site upon which any such building is located.

Nineteenth. For all taxable years commencing after December 31, 1997, all buildings of an area vocational school, an area vocational-technical school, a technical college or a community college, as defined by K.S.A. 72-4412, and amendments thereto, which are owned and operated by any such school or college as a student union or dormitory and the site upon which any such building is located.

Twentieth. For all taxable years commencing after December 31, 1997, all personal property which is contained within a dormitory that is exempt from property taxation and which is necessary for the accommodation of the students residing therein.

Twenty-First. All real property from and after the date of its transfer by the city of Olathe, Kansas, to the Kansas state university foundation, all buildings and improvements thereafter erected and located on such property, and all tangible personal property, which is held, used or operated for educational and research purposes at the Kansas state university Olathe innovation campus located in the city of Olathe, Kansas.

Twenty-Second. All real property, and all tangible personal property, owned by postsecondary educational institutions, as that term is defined in K.S.A. 2007 Supp. 74-3201b, and amendments thereto, or by the board of regents on behalf of the postsecondary educational institutions, which is leased by a for profit company and is actually and regularly used exclusively for research and development purposes so long as any rental income received by such postsecondary educational institution or the board of regents from such a company is used exclusively for educational or scientific purposes. Any such lease or occupancy described in this section shall be for a term of no more than five years.

Except as otherwise specifically provided, the provisions of this section shall apply to all taxable years commencing after December 31, 2000.

Sec. 15. On and after July 1, 2008, K.S.A. 2007 Supp. 79-201b is hereby amended to read as follows: 79-201b. The following described property, to the extent herein specified, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

First. All real property, and tangible personal property, actually and regularly used exclusively for hospital purposes by a hospital as the same is defined by K.S.A. 65-425, and amendments thereto, or a psychiatric hospital as the same was defined by K.S.A. 59-2902, and amendments thereto, as in effect on January 1, 1976, which hospital or psychiatric hospital is operated by a corporation organized not for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign, not-for-profit corporation, or a public hospital authority; and all intangible property including moneys, notes and other evidences of debt, and the income therefrom, belonging exclusively to such a corporation and used exclusively for hospital, psychiatric hospital or public hospital authority purposes. This exemption shall not be deemed inapplicable to property which would otherwise be exempt pursuant to this paragraph because any such hospital, psychiatric hospital or public hospital authority: (a) Uses such property for a nonexempt purpose which is minimal in scope and insubstantial in nature if such use is incidental to the exempt purpose enumerated in this paragraph; or (b) is reimbursed for the actual expense of using such property for the exempt purposes enumerated in this paragraph or paragraph second of K.S.A. 79-201, and amendments thereto; or (c) permits the use of such property for the exempt purposes enumerated in this paragraph or paragraph second of K.S.A. 79-201, and amendments thereto, by more than one agency or organization for one or more of such purposes.

Second. All real property, and tangible personal property, actually and regularly used exclusively for adult care home purposes by an adult care home as the same is defined by K.S.A. 39-923, and amendments thereto, which is operated by a corporation organized not

for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign, not-for-profit corporation, charges to residents for services of which produce an amount which in the aggregate is less than the actual cost of operation of the home or the services of which are provided to residents at the lowest feasible cost, taking into consideration such items as reasonable depreciation, interest on indebtedness, acquisition costs, interest and other expenses of financing acquisition costs, lease expenses and costs of services provided by a parent corporation at its costs and contributions to which are deductible under the Kansas income tax act; and all intangible property including moneys, notes and other evidences of debt, and the income therefrom, belonging exclusively to such corporation and used exclusively for adult care home purposes. For purposes of this paragraph and for all taxable years commencing after December 31, 1976, an adult care home which uses its property in a manner which is consistent with the federal internal revenue service ruling 72-124 issued pursuant to section 501(c)(3) of the federal internal revenue code, shall be deemed to be operating at the lowest feasible cost. The fact that real property or real or tangible personal property may be leased from a not-for-profit corporation, which is exempt from federal income taxation pursuant to section 501(c)(3) of the internal revenue code of 1986, and amendments thereto, and which is the parent corporation to the not-for-profit operator of an adult care home, shall not be grounds to deny exemption or deny that such property is actually and regularly used exclusively for adult care home purposes by an adult care home, nor shall the terms of any such lease be grounds for any such denial. For all taxable years commencing after December 31, 1995, such property shall be deemed to be used exclusively for adult care home purposes when used as a not-for-profit day care center for children which is licensed pursuant to K.S.A. 65-501 et seq., and amendments thereto.

Third. All real property, and tangible personal property, actually and regularly used exclusively for private children's home purposes by a private children's home as the same is defined by K.S.A. 75-3329, and amendments thereto, which is operated by a corporation organized not for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign, not-for-profit corporation, charges to residents for services of which produce an amount which in the aggregate is less than the actual cost of operation of the home or the services of which are provided to residents at the lowest feasible cost, taking into consideration such items as reasonable depreciation and interest on indebtedness, and contributions to which are deductible under the Kansas income tax act; and all intangible property including moneys, notes and other evidences of debt, and the income therefrom, belonging exclusively to such a corporation and used exclusively for children's home purposes.

Fourth. All real property and tangible personal property, actually and regularly used exclusively for: (a) Housing for elderly and handicapped persons having a limited or lower income, or used exclusively for cooperative housing for persons having a limited or low income, assistance for the financing of which was received under 12 U.S.C.A. 1701 et seq., or under 42 U.S.C.A. 1437 et seq., which is operated by a corporation organized not for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign, not-for-profit corporation; and (b) for all taxable years commencing after December 31, 2006, temporary housing of 24 months or less for limited or low income, single-parent families in need of financial assistance who are enrolled in a program to receive life training skills, which is operated by a charitable or religious organization; and all intangible property including moneys, notes and other evidences of debt, and the income therefrom, belonging exclusively to such a corporation and used exclusively for the purposes of such housing. For the purposes of this subsection, cooperative housing means those not-for-profit cooperative housing projects operating or established pursuant to sections 236 or 221(d)(3), or both, of the national housing act and which have been approved as a cooperative housing project pursuant to applicable federal housing administration and U.S. Department of Housing and Urban Development statutes, and rules and regulations, during such time as the use of such properties are: (1) Restricted pursuant to such act, or rules and regulations thereof; or (2) subject to affordability financing standards established pursuant to the national housing act

during such time that such not-for-profit corporation has adopted articles of incorporation or by-laws, or both, requiring such corporation to continue to operate in compliance with the United States department of housing and urban development affordability income guidelines established pursuant to sections 236 or 221(d)(3) of the national housing act or rules and regulations thereof.

Fifth. All real property and tangible personal property, actually and regularly used exclusively for housing for elderly persons, which is operated by a corporation organized not for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign, not-for-profit corporation, in which charges to residents produce an amount which in the aggregate is less than the actual cost of operation of the housing facility or the services of which are provided to residents at the lowest feasible cost, taking into consideration such items as reasonable depreciation and interest on indebtedness and contributions to which are deductible under the Kansas income tax act; and all intangible property including monies, notes and other evidences of debt, and the income therefrom, belonging exclusively to such corporation and used exclusively for the purpose of such housing. For purposes of this paragraph and for all taxable years commencing after December 31, 1976, an adult care home which uses its property in a manner which is consistent with the federal internal revenue service ruling 72-124 issued pursuant to section 501(c)(3) of the federal internal revenue code, shall be deemed to be operating at the lowest feasible cost. For all taxable years commencing after December 31, 1995, such property shall be deemed to be used exclusively for housing for elderly persons purposes when used as a not-for-profit day care center for children which is licensed pursuant to K.S.A. 65-501 et seq., and amendments thereto.

Sixth. All real property and tangible personal property actually and regularly used exclusively for the purpose of group housing of mentally ill or retarded and other handicapped persons which is operated by a corporation organized not for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign, not-for-profit corporation, in which charges to residents produce an amount which in the aggregate is less than the actual cost of operation of the housing facility or the services of which are provided to residents at the lowest feasible cost, taking into consideration such items as reasonable depreciation and interest on indebtedness and contributions to which are deductible under the Kansas income tax act, and which is licensed as a facility for the housing of mentally ill or retarded and other handicapped persons under the provisions of K.S.A. 75-3307b, and amendments thereto, or as a rooming or boarding house used as a facility for the housing of mentally retarded and other handicapped persons which is licensed as a lodging establishment under the provisions of K.S.A. 36-501 et seq., and amendments thereto.

The provisions of this section, except as otherwise specifically provided, shall apply to all taxable years commencing after December 31, 1998.

Sec. 16. On and after July 1, 2008, K.S.A. 2007 Supp. 79-201j is hereby amended to read as follows: 79-201j. The following described property, to the extent specified by this section, shall be exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

(a) All farm machinery and equipment. The term "farm machinery and equipment" means that personal property actually and regularly used in any farming or ranching operation. The term "farm machinery and equipment" shall include: (1) Machinery and equipment comprising a natural gas distribution system which is owned and operated by a nonprofit public utility described by K.S.A. 66-104c, and amendments thereto, and which is operated predominantly for the purpose of providing fuel for the irrigation of land devoted to agricultural use; ~~and~~ (2) any bed, body or box that is attached to a motor vehicle and is actually and regularly used in any farming or ranching operation, except for a bed, body or box that is attached to the motor vehicle by the motor vehicle manufacturer; and (3) any greenhouse which is not permanently affixed to real estate and which is used for a farming or ranching operation. The term "farming or ranching operation" shall include the operation of a feedlot, the performing of farm or ranch work for hire and the planting, cultivating and harvesting of nursery or greenhouse products, or both, for sale or resale. The term "farm machinery

and equipment” shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as the terms are defined by K.S.A. 8-126 and amendments thereto.

The provisions of this subsection shall apply to all taxable years commencing after December 31, ~~1999~~ 2007.

(b) (1) All aquaculture machinery and equipment. The term “aquaculture machinery and equipment” means that personal property actually and regularly used in any aquaculture operation. The term “aquaculture operation” shall include the feeding out of aquatic plants and animals; breeding, growing or rearing aquatic plants and animals; and selling or transporting aquatic plants and animals. The term “aquaculture machinery and equipment” shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer.

(2) All Christmas tree machinery and equipment. The term “Christmas tree machinery and equipment” means that personal property actually and regularly used in any Christmas tree operation. The term “Christmas tree operation” shall include the planting, cultivating and harvesting of Christmas trees; and selling or transporting Christmas trees. The term “Christmas tree machinery and equipment” shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer.

The provisions of this subsection shall apply to all taxable years commencing after December 31, 1992.

Sec. 17. On and after July 1, 2008, K.S.A. 2007 Supp. 79-213 is hereby amended to read as follows: 79-213. (a) Any property owner requesting an exemption from the payment of ad valorem property taxes assessed, or to be assessed, against their property shall be required to file an initial request for exemption, on forms approved by the board of tax appeals and provided by the county appraiser.

(b) The initial exemption request shall identify the property for which the exemption is requested and state, in detail, the legal and factual basis for the exemption claimed.

(c) The request for exemption shall be filed with the county appraiser of the county where such property is principally located.

(d) After a review of the exemption request, and after a preliminary examination of the facts as alleged, the county appraiser shall recommend that the exemption request either be granted or denied, and, if necessary, that a hearing be held. If a denial is recommended, a statement of the controlling facts and law relied upon shall be included on the form.

(e) The county appraiser, after making such written recommendation, shall file the request for exemption and the recommendations of the county appraiser with the board of tax appeals.

(f) Upon receipt of the request for exemption, the board shall docket the same and notify the applicant and the county appraiser of such fact.

(g) After examination of the request for exemption, and the county appraiser’s recommendation related thereto, the board may fix a time and place for hearing, and shall notify the applicant and the county appraiser of the time and place so fixed. A request for exemption pursuant to: (1) Section 13 of article 11 of the Kansas constitution; or (2) K.S.A. 79-201a *Second*, and amendments thereto, for property constructed or purchased, in whole or in part, with the proceeds of revenue bonds under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, prepared in accordance with instructions and assistance which shall be provided by the department of commerce, shall be deemed approved unless scheduled for hearing within 30 days after the date of receipt of all required information and data relating to the request for exemption, and such hearing shall be conducted within 90 days after such date. Such time periods shall be determined without regard to any extension or continuance allowed to either party to such request. In any case where a party to such request for exemption requests a hearing thereon, the same shall be granted. Hearings shall be conducted in accordance with the provisions of the Kansas administrative procedure act. In all instances where the board sets a request for exemption for hearing, the county shall be represented by its county attorney or county counselor.

(h) Except as otherwise provided by subsection (g), in the event of a hearing, the same shall be originally set not later than 90 days after the filing of the request for exemption with the board.

(i) During the pendency of a request for exemption, no person, firm, unincorporated association, company or corporation charged with real estate or personal property taxes pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, on the tax books in the hands of the county treasurer shall be required to pay the tax from the date the request is filed with the county appraiser until the expiration of 30 days after the board issued its order thereon and the same becomes a final order. In the event that taxes have been assessed against the subject property, no interest shall accrue on any unpaid tax for the year or years in question nor shall the unpaid tax be considered delinquent from the date the request is filed with the county appraiser until the expiration of 30 days after the board issued its order thereon. In the event the board determines an application for exemption is without merit and filed in bad faith to delay the due date of the tax, the tax shall be considered delinquent as of the date the tax would have been due pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, and interest shall accrue as prescribed therein.

(j) In the event the board grants the initial request for exemption, the same shall be effective beginning with the date of first exempt use except that, with respect to property the construction of which commenced not to exceed 24 months prior to the date of first exempt use, the same shall be effective beginning with the date of commencement of construction.

(k) In conjunction with its authority to grant exemptions, the board shall have the authority to abate all unpaid taxes that have accrued from and since the effective date of the exemption. In the event that taxes have been paid during the period where the subject property has been determined to be exempt, the board shall have the authority to order a refund of taxes for the year immediately preceding the year in which the exemption application is filed in accordance with subsection (a).

(l) The provisions of this section shall not apply to: (1) Farm machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; (2) personal property exempted from ad valorem taxation by K.S.A. 79-215, and amendments thereto; (3) wearing apparel, household goods and personal effects exempted from ad valorem taxation by K.S.A. 79-201c, and amendments thereto; (4) livestock; (5) all property exempted from ad valorem taxation by K.S.A. 79-201d, and amendments thereto; (6) merchants' and manufacturers' inventories exempted from ad valorem taxation by K.S.A. 79-201m and amendments thereto; (7) grain exempted from ad valorem taxation by K.S.A. 79-201n, and amendments thereto; (8) property exempted from ad valorem taxation by K.S.A. 79-201a *Seventeenth* and amendments thereto, including all property previously acquired by the secretary of transportation or a predecessor in interest, which is used in the administration, construction, maintenance or operation of the state system of highways. The secretary of transportation shall at the time of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (9) property exempted from ad valorem taxation by K.S.A. 79-201a *Ninth*, and amendments thereto, including all property previously acquired by the Kansas turnpike authority which is used in the administration, construction, maintenance or operation of the Kansas turnpike. The Kansas turnpike authority shall at the time of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (10) aquaculture machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto. As used in this section, "aquaculture" has the same meaning ascribed thereto by K.S.A. 47-1901, and amendments thereto; (11) Christmas tree machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; (12) property used exclusively by the state or any municipality or political subdivision of the state for right-of-way purposes. The state agency or the governing body of the municipality or political subdivision shall at the time of acquisition of property for right-of-way purposes notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (13) machinery, equipment, materials and supplies exempted from ad valorem taxation by K.S.A. 79-201w, and amendments thereto; (14) vehicles owned by the state or by any political or taxing subdivision thereof and used exclusively for governmental purposes; (15) property used for residential purposes which is exempted pursuant to K.S.A. 79-201x

from the property tax levied pursuant to K.S.A. 72-6431, and amendments thereto; (16) from and after July 1, 1998, vehicles which are owned by an organization having as one of its purposes the assistance by the provision of transit services to the elderly and to disabled persons and which are exempted pursuant to K.S.A. 79-201 *Ninth*; (17) from and after July 1, 1998, motor vehicles exempted from taxation by subsection (e) of K.S.A. 79-5107, and amendments thereto; (18) commercial and industrial machinery and equipment exempted from property or ad valorem taxation by K.S.A. 2007 Supp. 79-223, and amendments thereto; ~~and~~ (19) telecommunications machinery and equipment and railroad machinery and equipment exempted from property or ad valorem taxation by K.S.A. 2007 Supp. 79-224, and amendments thereto; *and* (20) *property exempted from property or ad valorem taxation by section 6, and amendments thereto.*

(m) The provisions of this section shall apply to property exempt pursuant to the provisions of section 13 of article 11 of the Kansas constitution.

(n) The provisions of subsection (k) as amended by this act shall be applicable to all exemption applications filed in accordance with subsection (a) after December 31, 2001.

Sec. 18. On and after July 1, 2008, K.S.A. 2007 Supp. 79-223 is hereby amended to read as follows: 79-223.

(a) It is the purpose of this section to promote, stimulate, foster and encourage new investments in commercial and industrial machinery and equipment in the state of Kansas, to contribute to the economic recovery of the state, to enhance business opportunities in the state, to encourage the location of new businesses and industries in the state as well as the retention and expansion of existing businesses and industries and to promote the economic stability of the state by maintaining and providing employment opportunities, thereby contributing to the general welfare of the citizens of the state, by exempting from property taxation all newly purchased or leased commercial and industrial machinery and equipment, including machinery and equipment transferred into this state for the purpose of expanding an existing business or for the creation of a new business.

(b) The following described property, to the extent specified by this section, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

First. Commercial and industrial machinery and equipment acquired by qualified purchase or lease made or entered into after June 30, 2006, as the result of a bona fide transaction not consummated for the purpose of avoiding taxation.

Second. Commercial and industrial machinery and equipment transported into this state after June 30, 2006, for the purpose of expanding an existing business or creation of a new business.

(c) Any purchase, lease or transportation of commercial and industrial machinery and equipment consummated for the purpose of avoiding taxation shall subject the property to the penalty provisions of K.S.A. 79-1422 and 79-1427a, and amendments thereto. *The county appraiser shall not reclassify any property that is properly classified for property tax purposes within subclass (5) of class 2 of section 1 of article 11 of the constitution of the state of Kansas.*

(d) As used in this section:

(1) "Acquired" shall not include the transfer of property pursuant to an exchange for stock securities, or the transfer of assets from one going concern to another due to a merger, reorganization or other consolidation;

(2) "commercial and industrial machinery and equipment" means property classified for property tax purposes within subclass (5) of class 2 of section 1 of article 11 of the constitution of the state of Kansas;

(3) "qualified lease" means a lease of commercial and industrial machinery and equipment for not less than 30 days for fair and valuable consideration where such machinery and equipment is physically transferred to the lessee to be used in the lessee's business or trade; and

(4) "qualified purchase" means a purchase of commercial and industrial machinery and equipment for fair and valuable consideration where such machinery and equipment is physically transferred to the purchaser to be used in the purchaser's business or trade.

(e) The secretary of revenue is hereby authorized to adopt rules and regulations to administer the provisions of this section.

Sec. 19. On and after July 1, 2008, K.S.A. 79-3220 is hereby amended to read as follows: 79-3220. (a) (1) Each individual required to file a federal income tax return and any other individual whose gross income exceeds the sum of such individual's applicable Kansas standard deduction amount and Kansas personal exemption amount shall each make and sign a return or statement stating specifically such items as are required by the forms and rules and regulations of the secretary of revenue. ~~Such return may be filed by electronic means in a manner approved by the secretary of revenue.~~ If any individual is unable to make a return, the return shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer. Notwithstanding any provision of the Kansas income tax act to the contrary, all individuals not required to file a Kansas income tax return hereunder shall not be liable for any tax imposed pursuant to such act.

(2) *In accordance with the provisions of section 9, and amendments thereto, an individual who is required to file a return may file such return by electronic means in a manner approved by the secretary of revenue. A paid preparer who prepares 50 or more returns per year shall file by electronic means not less than 90% of such returns eligible for electronic filing. The requirements of this subsection may be waived by the secretary of revenue for a paid preparer if the paid preparer demonstrates a hardship in complying with the requirements of this subsection.*

(b) Every corporation subject to taxation under this act, including, but not limited to, all farmers, fruit growers, or like associations organized and operated on a cooperative basis, except electric cooperative exclusively engaged in the manufacture or distribution of electric power for their members, shall make a return, or statement stating specifically such items as may be required by the forms and regulations of the secretary of revenue. The return shall be signed by the president, vice-president, treasurer, assistant treasurer, chief accounting officer, or any other officer so authorized to act. The fact that an individual's name is signed on a return shall be prima facie evidence that such individual is authorized to sign such return on behalf of such corporation. In cases where receivers, trustees in bankruptcy or assignees are operating the property or business of corporations, such receivers, trustees, or assignees shall make returns for such corporations in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns shall be collected in the same manner as if collected from the corporation for which the return is made.

(c) Every fiduciary, except a receiver appointed by authority of law in possession of part only of the property of an individual shall make and sign a return for each of the individuals, estates, or trusts for which the fiduciary acts, when such returns are required by the provisions of this act, stating specifically such items as may be required by the forms and regulations of the secretary of revenue. In the case of joint fiduciaries, whether residents or nonresidents, a return may be made by any one and shall be sufficient compliance with the above requirements. Any fiduciary required to make a return under this act shall be subject to all of the provisions of law which apply to individuals.

(d) Every partnership shall make a return for each taxable year, stating specifically such items as may be required by the forms and regulations of the secretary of revenue. The returns shall be signed by any one of the partners.

Sec. 20. On and after July 1, 2008, K.S.A. 2007 Supp. 79-3271 is hereby amended to read as follows: 79-3271. As used in this act, unless the context otherwise requires: (a) *For tax years commencing prior to January 1, 2008*, "business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations, except that ~~for taxable years commencing after December 31, 1995~~; a taxpayer may elect that all income constitutes business income. *For tax years commencing after December 31, 2007*, "business income" means: (1) *Income arising from transactions and activity in the regular course of the taxpayer's trade or business*; (2) *income arising from transactions and activity involving tangible and intangible property or assets used in the*

operation of the taxpayer's trade or business; or (3) income of the taxpayer that may be apportioned to this state under the provisions of the Constitution of the United States and laws thereof, except that a taxpayer may elect that all income constitutes business income. ~~The election~~ Any election made under this subsection shall be effective and irrevocable for the taxable tax year of the election and the following nine taxable years. ~~The election in which the election is made and the following nine tax years and~~ shall be binding on all members of a unitary group of corporations.

(b) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(c) "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, or any type of insurance company, but such term shall not be deemed to include any business entity, other than those hereinbefore enumerated, whose primary business activity is making consumer loans or purchasing retail installment contracts from one or more sellers.

(e) "Nonbusiness income" means all income other than business income.

(f) "Public utility" means any business entity which owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications, transportation of goods or persons, or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, oil, oil products or gas.

(g) "Original return" means the first return filed to report the income of a taxpayer for a taxable year or period, irrespective of whether such return is filed on a single entity basis or a combined basis.

(h) "Sales" means, *except as otherwise provided in K.S.A. 79-3285, and amendments thereto*, all gross receipts of the taxpayer not allocated under K.S.A. 79-3274 through 79-3278, and amendments thereto.

(i) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(j) "Telecommunications company" means any business entity or unitary group of entities whose primary business activity is the transmission of communications in the form of voice, data, signals or facsimile communications by wire or fiber optic cable.

(k) "Distressed area taxpayer" means a corporation which: (1) Is located in a county which has a population of not more than 45,000 persons and which, as certified by the department of commerce, has sustained an adverse economic impact due to the closure of a state hospital in such county pursuant to the recommendations of the hospital closure commission; and (2) which has a total annual payroll of \$20,000,000 or more for employees employed within such county.

(l) For the purposes of this subsection and subsection (b)(5) of K.S.A. 79-3279, and amendments thereto, the following terms are defined:

(1) "Administration services" include clerical, fund or shareholder accounting, participant record keeping, transfer agency, bookkeeping, data processing, custodial, internal auditing, legal and tax services performed for an investment company;

(2) "distribution services" include the services of advertising, servicing, marketing, underwriting or selling shares of an investment company, but, in the case of advertising, servicing or marketing shares, only where such service is performed by a person who is, or in the case of a closed end company, was, either engaged in the services of underwriting or selling investment company shares or affiliated with a person who is engaged in the service of underwriting or selling investment company shares. In the case of an open end company, such service of underwriting or selling shares must be performed pursuant to a contract entered into pursuant to 15 U.S.C. §80a-15(b), as in effect on the effective date of this act;

(3) "investment company", means any person registered under the federal Investment Company Act of 1940, as in effect on the effective date of this act, or a company which would be required to register as an investment company under such act except that such person is exempt to such registration pursuant to §80a-3(c)(1) of such act;

(4) "investment funds service corporation" includes any corporation or S corporation headquartered in and doing business in this state which derives more than 50% of its gross income from the provision of management, distribution or administration services to or on behalf of an investment company or from trustees, sponsors and participants of employee benefit plans which have accounts in an investment company;

(5) "management services" include the rendering of investment advice to an investment company making determinations as to when sales and purchases of securities are to be made on behalf of the investment company, or the selling or purchasing of securities constituting assets of an investment company, and related activities, but only where such activity or activities are performed:

(A) Pursuant to a contract with the investment company entered into pursuant to 15 U.S.C. §80a-15(a), in effect on the effective date of this act; or

(B) for a person that has entered into such contract with the investment company;

(6) "qualifying business income" is business income derived from the provision of management, distribution or administration services to or on behalf of an investment company or from trustees, sponsors and participants of employee benefit plans which have accounts in an investment company; and

(7) "residence" is the fund shareholder's primary residence address.

Sec. 21. On and after July 1, 2008, K.S.A. 79-3285 is hereby amended to read as follows: 79-3285. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period. *For taxable years commencing after December 31, 2007, in the case of sales of business assets, other than sales of tangible personal property sold in the ordinary course of the taxpayer's trade or business, only the net gain from such sales shall be included in the sales factor.*

Sec. 22. On and after July 1, 2008, K.S.A. 2007 Supp. 79-32,110 is hereby amended to read as follows: 79-32,110. (a) *Resident Individuals.* Except as otherwise provided by subsection (a) of K.S.A. 79-3220, and amendments thereto, a tax is hereby imposed upon the Kansas taxable income of every resident individual, which tax shall be computed in accordance with the following tax schedules:

(1) *Married individuals filing joint returns.*

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

(2) *All other individuals.*

(A) For tax year 1997:

If the taxable income is:	The tax is:
Not over \$20,000	4.1% of Kansas taxable income
Over \$20,000 but not over \$30,000	\$820 plus 7.5% of excess over \$20,000
Over \$30,000	\$1,570 plus 7.75% of excess over \$30,000

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

If the taxable income is:	The tax is:
Not over \$15,000	3.5% of Kansas taxable income
Over \$15,000 but not over \$30,000	\$525 plus 6.25% of excess over \$15,000
Over \$30,000	\$1,462.50 plus 6.45% of excess over \$30,000

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

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

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

(2) (A) for tax year 2008, the surtax shall be in an amount equal to 3.1% of the Kansas taxable income of such corporation in excess of \$50,000;

(B) for tax years 2009 and 2010, the surtax shall be in an amount equal to 3.05% of the Kansas taxable income of such corporation in excess of \$50,000; and

(C) for tax year 2011, and all tax years thereafter, the surtax shall be in an amount equal to ~~3.35%~~ 3% of the Kansas taxable income of such corporation in excess of \$50,000.

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

Sec. 23. On and after July 1, 2008, K.S.A. 2007 Supp. 79-32,117 is hereby amended to read as follows: 79-32,117. (a) The Kansas adjusted gross income of an individual means such individual's federal adjusted gross income for the taxable year, with the modifications specified in this section.

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

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

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

(iii) The federal net operating loss deduction.

(iv) Federal income tax refunds received by the taxpayer if the deduction of the taxes being refunded resulted in a tax benefit for Kansas income tax purposes during a prior taxable year. Such refunds shall be included in income in the year actually received regardless of the method of accounting used by the taxpayer. For purposes hereof, a tax benefit shall be deemed to have resulted if the amount of the tax had been deducted in determining income subject to a Kansas income tax for a prior year regardless of the rate of taxation applied in such prior year to the Kansas taxable income, but only that portion of the refund shall be included as bears the same proportion to the total refund received as the federal taxes deducted in the year to which such refund is attributable bears to the total federal income taxes paid for such year. For purposes of the foregoing sentence, federal taxes shall be considered to have been deducted only to the extent such deduction does not reduce Kansas taxable income below zero.

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

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

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

(viii) The amount of any costs incurred for improvements to a swine facility, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2007 Supp. 79-32,204 and amendments thereto.

(ix) The amount of any ad valorem taxes and assessments paid and the amount of any costs incurred for habitat management or construction and maintenance of improvements on real property, claimed for deduction in determining federal adjusted gross income, to

to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203 and amendments thereto.

(x) Amounts received as nonqualified withdrawals, as defined by K.S.A. 2007 Supp. 75-643, and amendments thereto, if, at the time of contribution to a family postsecondary education savings account, such amounts were subtracted from the federal adjusted gross income pursuant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amendments thereto, or if such amounts are not already included in the federal adjusted gross income.

(xi) The amount of any contribution made to the same extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 2007 Supp. 74-50,154, and amendments thereto.

(xii) For taxable years commencing after December 31, 2004, amounts received as withdrawals not in accordance with the provisions of K.S.A. 2007 Supp. 74-50,204, and amendments thereto, if, at the time of contribution to an individual development account, such amounts were subtracted from the federal adjusted gross income pursuant to paragraph (xiii) of subsection (c), or if such amounts are not already included in the federal adjusted gross income.

(xiii) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2007 Supp. 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

(xiv) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2007 Supp. 79-32,221, and amendments thereto.

(xv) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2007 Supp. 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-32,248 or 79-32,251 through 79-32,254, and amendments thereto.

(xvi) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2007 Supp. 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments thereto.

(xvii) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2007 Supp. 79-32,256, and amendments thereto.

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

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

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

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

(iii) The portion of any gain or loss from the sale or other disposition of property having a higher adjusted basis for Kansas income tax purposes than for federal income tax purposes on the date such property was sold or disposed of in a transaction in which gain or loss was recognized for purposes of federal income tax that does not exceed such difference in basis, but if a gain is considered a long-term capital gain for federal income tax purposes, the

modification shall be limited to that portion of such gain which is included in federal adjusted gross income.

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

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

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

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

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

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

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

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

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

(xiii) For taxable years beginning after December 31, 2004, amounts contributed to and the amount of income earned on contributions deposited to an individual development account under K.S.A. 2007 Supp. 74-50,201, et seq., and amendments thereto.

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

(xv) For all taxable years beginning after December 31, 2006, amounts not exceeding \$3,000, or \$6,000 for a married couple filing a joint return, for each designated beneficiary which are contributed to a family postsecondary education savings account established under the Kansas postsecondary education savings program or a qualified tuition program established and maintained by another state or agency or instrumentality thereof pursuant to section 529 of the internal revenue code of 1986, as amended, for the purpose of paying the qualified higher education expenses of a designated beneficiary at an institution of postsecondary education. The terms and phrases used in this paragraph shall have the meaning respectively ascribed thereto by the provisions of K.S.A. 2007 Supp. 75-643, and amendments thereto, and the provisions of such section are hereby incorporated by reference for all purposes thereof.

(xvi) For the tax year beginning after December 31, 2004, an amount not exceeding \$500; for the tax year beginning after December 31, 2005, an amount not exceeding \$600; for the tax year beginning after December 31, 2006, an amount not exceeding \$700; for the tax

year beginning after December 31, 2007, an amount not exceeding \$800; for the tax year beginning December 31, 2008, an amount not exceeding \$900; and for all taxable years commencing after December 31, 2009, an amount not exceeding \$1,000 of the premium costs for qualified long-term care insurance contracts, as defined by subsection (b) of section 7702B of public law 104-191.

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

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

(xix) For the taxable year beginning after December 31, 2006, amounts received as benefits under the federal social security act which are included in federal adjusted gross income of a taxpayer with federal adjusted gross income of \$50,000 or less, whether such taxpayer's filing status is single, head of household, married filing separate or married filing jointly; and for all taxable years beginning after December 31, 2007, amounts received as benefits under the federal social security act which are included in federal adjusted gross income of a taxpayer with federal adjusted gross income of \$75,000 or less, whether such taxpayer's filing status is single, head of household, married filing separate or married filing jointly.

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

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

Sec. 24. On and after July 1, 2008, K.S.A. 2007 Supp. 79-3606 is hereby amended to read as follows: 79-3606. The following shall be exempt from the tax imposed by this act:

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

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

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

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

(d) all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school, a public or private nonprofit educational institution, state correctional institution including a privately constructed correctional institution contracted for state use and ownership, which would be exempt from taxation under the provisions of this act if purchased directly by such hospital or public hospital authority, school, educational institution or a state correctional institution; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state or district described in subsection (s), the total cost of which is paid from funds of such political subdivision or district and which would be exempt from taxation under the provisions of this act if purchased directly by such political subdivision or district. Nothing in this subsection or in the provisions of K.S.A. 12-3418 and amendments thereto, shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state or any such district. As used in this subsection, K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a political subdivision" shall mean general tax revenues, the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the purpose of constructing, equipping, reconstructing, repairing, enlarging, furnishing or remodeling facilities which are to be leased to the donor. When any political subdivision of the state, district described in subsection (s), public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school, public or private nonprofit educational institution, state correctional institution including a privately constructed correctional institution contracted for state use and ownership shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the political subdivision, district described in subsection (s), hospital or public hospital authority, school, educational institution or department of corrections concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the political subdivision, district described

in subsection (s), hospital or public hospital authority, school, educational institution or the contractor contracting with the department of corrections for a correctional institution concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

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

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

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

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

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

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

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

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

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

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

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

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

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

(r) all sales of oxygen delivery equipment, kidney dialysis equipment, enteral feeding systems, prosthetic devices and mobility enhancing equipment prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry, and in addition to such sales, all sales of hearing aids, as defined by subsection (c) of K.S.A. 74-5807, and amendments thereto, and repair and replacement parts therefor, including batteries, by a person licensed in the practice of dispensing and fitting hearing aids pursuant to the provisions of K.S.A. 74-5808, and amendments thereto. For the purposes of this subsection: (1) "Mobility enhancing equipment" means equipment including repair and replacement parts to same, but does not include durable medical equipment, which is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle; is not generally used by persons with normal mobility; and does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer; and (2) "prosthetic device" means a replacement, corrective or supportive device including repair and replacement parts for same worn on or in the body to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction or support a weak or deformed portion of the body;

(s) except as provided in K.S.A. 2007 Supp. 82a-2101, and amendments thereto, all sales of tangible personal property or services purchased directly or indirectly by a groundwater management district organized or operating under the authority of K.S.A. 82a-1020 et seq. and amendments thereto, by a rural water district organized or operating under the authority of K.S.A. 82a-612, and amendments thereto, or by a water supply district organized or operating under the authority of K.S.A. 19-3501 et seq., 19-3522 et seq. or 19-3545, and amendments thereto, which property or services are used in the construction activities, operation or maintenance of the district;

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

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

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

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

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

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

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

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

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

(cc) all sales of tangible personal property or services purchased for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business or retail business which meets the requirements established in K.S.A. 74-50,115 and amendments thereto, and the sale and installation of machinery and equipment purchased for installation at any such business or retail business. When a person shall contract for the construction, reconstruction, enlargement or remodeling of any such business or retail business, such person shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials, machinery and equipment for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the owner of the business or retail business a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto. As used in this subsection, "business" and "retail business" have the meanings respectively ascribed thereto by K.S.A. 74-50,114 and amendments thereto;

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

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

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

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

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

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

(jj) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly on behalf of a community-based mental retardation facility or mental health center organized pursuant to K.S.A. 19-4001 et seq., and

amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b and amendments thereto and all sales of tangible personal property or services purchased by contractors during the time period from July, 2003, through June, 2006, for the purpose of constructing, equipping, maintaining or furnishing a new facility for a community-based mental retardation facility or mental health center located in Riverton, Cherokee County, Kansas, which would have been eligible for sales tax exemption pursuant to this subsection if purchased directly by such facility or center. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

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

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

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

(2) For purposes of this subsection:

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

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

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

(D) "manufacturing or processing business" means a business that utilizes an integrated production operation to manufacture, process, fabricate, finish, or assemble items for wholesale and retail distribution as part of what is commonly regarded by the general public as an industrial manufacturing or processing operation or an agricultural commodity processing operation. (i) Industrial manufacturing or processing operations include, by way of illustration but not of limitation, the fabrication of automobiles, airplanes, machinery or transportation equipment, the fabrication of metal, plastic, wood, or paper products, electricity power generation, water treatment, petroleum refining, chemical production, wholesale bottling, newspaper printing, ready mixed concrete production, and the remanufacturing of used parts for wholesale or retail sale. Such processing operations shall include operations at an oil well, gas well, mine or other excavation site where the oil, gas, minerals, coal, clay, stone, sand or gravel that has been extracted from the earth is cleaned, separated, crushed, ground, milled, screened, washed, or otherwise treated or prepared before its transmission to a refinery or before any other wholesale or retail distribution. (ii) Agricultural commodity processing operations include, by way of illustration but not of limitation, meat packing, poultry slaughtering and dressing, processing and packaging farm and dairy products in sealed containers for wholesale and retail distribution, feed grinding, grain milling, frozen food processing, and grain handling, cleaning, blending, fumigation, drying and aeration operations engaged in by grain elevators or other grain storage facilities. (iii) Manufacturing or processing businesses do not include, by way of illustration but not of limitation, non-industrial businesses whose operations are primarily retail and that produce or process tangible

personal property as an incidental part of conducting the retail business, such as retailers who bake, cook or prepare food products in the regular course of their retail trade, grocery stores, meat lockers and meat markets that butcher or dress livestock or poultry in the regular course of their retail trade, contractors who alter, service, repair or improve real property, and retail businesses that clean, service or refurbish and repair tangible personal property for its owner;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) The following machinery, equipment and materials shall be deemed to be exempt even though it may not otherwise qualify as machinery and equipment used as an integral or essential part of an integrated production operation: (A) Computers and related peripheral equipment that are utilized by a manufacturing or processing business for engineering of the finished product or for research and development or product design; (B) machinery and equipment that is utilized by a manufacturing or processing business to manufacture or rebuild tangible personal property that is used in manufacturing or processing operations, including tools, dies, molds, forms and other parts of qualifying machinery and equipment;

(C) portable plants for aggregate concrete, bulk cement and asphalt including cement mixing drums to be attached to a motor vehicle; (D) industrial fixtures, devices, support facilities and special foundations necessary for manufacturing and production operations, and materials and other tangible personal property sold for the purpose of fabricating such fixtures, devices, facilities and foundations. An exemption certificate for such purchases shall be signed by the manufacturer or processor. If the fabricator purchases such material, the fabricator shall also sign the exemption certificate; and (E) a manufacturing or processing business' laboratory equipment that is not located at the plant or facility, but that would otherwise qualify for exemption under subsection (3)(E).

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

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

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

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

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

(E) furniture and other furnishings;

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

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

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

(I) motor vehicles that are registered for operation on public highways; or

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

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

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

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

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

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

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

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

(qq) all sales of tangible personal property and services purchased by a nonprofit museum or historical society or any combination thereof, including a nonprofit organization which is

organized for the purpose of stimulating public interest in the exploration of space by providing educational information, exhibits and experiences, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

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

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

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

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

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

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

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

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

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

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

(6) the Kansas chapters of the Alzheimer's Disease and Related Disorders Association, Inc. for the purpose of providing assistance and support to persons in Kansas with Alzheimer's disease, and their families and caregivers;

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

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

(9) the heartstrings community foundation for the purpose of providing training, employment and activities for adults with developmental disabilities;

(10) the Cystic Fibrosis Foundation, Heart of America Chapter, for the purposes of assuring the development of the means to cure and control cystic fibrosis and improving the quality of life for those with the disease;

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

(12) the CHWC, Inc., for the purpose of rebuilding urban core neighborhoods through the construction of new homes, acquiring and renovating existing homes and other related activities, and promoting economic development in such neighborhoods;

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

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

(15) the KSDS, Inc., for the purpose of promoting the independence and inclusion of people with disabilities as fully participating and contributing members of their communities and society through the training and providing of guide and service dogs to people with disabilities, and providing disability education and awareness to the general public;

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

(17) the Dream Factory, Inc., for the purpose of granting the dreams of children with critical and chronic illnesses;

(18) the Ottawa Suzuki Strings, Inc., for the purpose of providing students and families with education and resources necessary to enable each child to develop fine character and musical ability to the fullest potential;

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

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

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

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

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

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

(xx) all sales of tangible personal property and services purchased by a nonprofit zoo which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, or on behalf of such zoo by an entity itself exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986 contracted with to operate such zoo and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo which would be exempt from taxation under the provisions of this section if purchased directly by such nonprofit zoo or the entity operating such zoo. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo. When any nonprofit zoo shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the nonprofit zoo concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax

otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the nonprofit zoo concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

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

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

(aaa) all sales of tangible personal property and services purchased by a religious organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, and used exclusively for religious purposes, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales

tax paid on and after July 1, 1998, but prior to the effective date of this act upon the gross receipts received from any sale exempted by the amendatory provisions of this subsection shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

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

(ccc) on and after July 1, 1999, all sales of tangible personal property and services purchased by a primary care clinic or health center the primary purpose of which is to provide services to medically underserved individuals and families, and which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center which would be exempt from taxation under the provisions of this section if purchased directly by such clinic or center. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center. When any such clinic or center shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such clinic or center concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such clinic or center concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(ddd) on and after January 1, 1999, and before January 1, 2000, all sales of materials and services purchased by any class II or III railroad as classified by the federal surface transportation board for the construction, renovation, repair or replacement of class II or III railroad track and facilities used directly in interstate commerce. In the event any such track or facility for which materials and services were purchased sales tax exempt is not operational for five years succeeding the allowance of such exemption, the total amount of sales tax which would have been payable except for the operation of this subsection shall be recouped

in accordance with rules and regulations adopted for such purpose by the secretary of revenue;

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

(fff) all sales of material handling equipment, racking systems and other related machinery and equipment that is used for the handling, movement or storage of tangible personal property in a warehouse or distribution facility in this state; all sales of installation, repair and maintenance services performed on such machinery and equipment; and all sales of repair and replacement parts for such machinery and equipment. For purposes of this subsection, a warehouse or distribution facility means a single, fixed location that consists of buildings or structures in a contiguous area where storage or distribution operations are conducted that are separate and apart from the business' retail operations, if any, and which do not otherwise qualify for exemption as occurring at a manufacturing or processing plant or facility. Material handling and storage equipment shall include aeration, dust control, cleaning, handling and other such equipment that is used in a public grain warehouse or other commercial grain storage facility, whether used for grain handling, grain storage, grain refining or processing, or other grain treatment operation;

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

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

(iii) all sales of personal property and services purchased by an organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such personal property and services are used by any such organization in the collection, storage and distribution of food products to nonprofit organizations which distribute such food products to persons pursuant to a food distribution program on a charitable basis without fee or charge, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities used for the collection and storage of such food products for any such organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in such facilities or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in such facilities reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof

it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after July 1, 2005, but prior to the effective date of this act upon the gross receipts received from any sale exempted by the amendatory provisions of this subsection shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

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

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

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

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

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

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

(qqq) all sales of tangible personal property and services purchased by TLC for children and families, inc., hereinafter referred to as TLC, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing emergency shelter

and treatment for abused and neglected children as well as meeting additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of TLC for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for TLC for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by TLC. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for TLC. When TLC contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to TLC a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, TLC shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

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

(sss) all sales of tangible personal property and services purchased by catholic charities or youthville, hereinafter referred to as charitable family providers, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing emergency shelter and treatment for abused and neglected children as well as meeting additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of charitable family providers for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for charitable family providers for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by charitable family providers. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for charitable family providers. When charitable family providers contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute

invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to charitable family providers a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, charitable family providers shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(ttt) all sales of tangible personal property or services purchased by a contractor for a project for the purpose of restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility owned by a nonprofit museum which has been granted an exemption pursuant to subsection (qq), which such home or facility is located in a city which has been designated as a qualified hometown pursuant to the provisions of K.S.A. 75-5071, et seq., and amendments thereto, and which such project is related to the purposes of K.S.A. 75-5071, et seq., and amendments thereto, and which would be exempt from taxation under the provisions of this section if purchased directly by such nonprofit museum. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility for any such nonprofit museum. When any such nonprofit museum shall contract for the purpose of restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project, the contractor shall furnish to such nonprofit museum a sworn statement on a form to be provided by the director of taxation that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in a home or facility or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such nonprofit museum shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(uuu) all sales of tangible personal property and services purchased by Kansas children's service league, hereinafter referred to as KCSL, which is exempt from federal income tax-

ation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing for the prevention and treatment of child abuse and maltreatment as well as meeting additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of KCSL for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for KCSL for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by KCSL. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for KCSL. When KCSL contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to KCSL a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, KCSL shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

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

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

(xxx) all sales of personal property and services purchased by the booth theatre foundation, inc., an organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such personal property and services are used by any such organization in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling of the booth theatre, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling the booth theatre for such organization, which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any

such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in such facilities or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in such facilities reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after January 1, 2007, but prior to the effective date of this act upon the gross receipts received from any sale which would have been exempted by the provisions of this subsection had such sale occurred after the effective date of this act shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(yyy) all sales of tangible personal property and services purchased by TLC charities foundation, inc., hereinafter referred to as TLC charities, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of encouraging private philanthropy to further the vision, values, and goals of TLC for children and families, inc.; and all sales of such property and services by or on behalf of TLC charities for any such purpose and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for TLC charities for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by TLC charities. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for TLC charities. When TLC charities contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to TLC charities a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project

or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be incorporated into the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, TLC charities shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

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

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

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

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

Sec. 25. K.S.A. 2007 Supp. 79-3606e is hereby amended to read as follows: 79-3606e. The following shall be exempt from the tax imposed under the Kansas retailers' sales tax act: All sales of tangible personal property or services purchased for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business facility that was previously located in Kiowa County, Kansas, prior to May 4, 2007, and that has been damaged or destroyed by tornado and other severe weather on May 4, 2007, and the sale and installation of machinery and equipment purchased for installation at any such business facility, including any fence, the purpose for which is to enclose land devoted to agricultural use. Any person constructing, reconstructing, remodeling or enlarging a business facility in Kiowa County, Kansas, who had leased such a facility to a business in Kiowa County, Kansas, prior to May 4, 2007, and that such business has been damaged or destroyed by tornado and other severe weather on May 4, 2007, and which such facility shall be leased in whole or in part, to a business that was previously located in Kiowa County, Kansas, prior to May 4, 2007, and that such business has been damaged by tornado and other severe weather on May 4, 2007, that would be eligible for a sales tax exemption hereunder if such business had constructed, reconstructed, enlarged or remodeled such facility or portion thereof itself shall be entitled to the sales tax exemption under the provisions of this section. When a person shall contract for the construction, reconstruction, enlargement or remodeling of any such business facility, such person shall obtain from the state prior to June 30, ~~2008~~ 2009, an exemption certificate for the project involved. The certificate shall be furnished to the contractor to purchase materials, machinery and equipment for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering

the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the person that obtained the exemption certificate, a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. The provisions of this section shall be part of and supplemental to the Kansas retailers' sales tax act.

Sec. 26. On and after July 1, 2008, K.S.A. 2007 Supp. 79-4502 is hereby amended to read as follows: 79-4502. As used in this act, unless the context clearly indicates otherwise:

(a) "Income" means the sum of adjusted gross income under the Kansas income tax act, maintenance, support money, cash public assistance and relief, not including any refund granted under this act, the gross amount of any pension or annuity, including all monetary retirement benefits from whatever source derived, including but not limited to, all payments received under the railroad retirement act, except disability payments, payments received under the federal social security act, except that for determination of what constitutes income such amount shall not exceed 50% of any such social security payments *and shall not include any social security payments to a claimant who prior to attaining full retirement age had been receiving disability payments under the federal social security act in an amount not to exceed the amount of such disability payments or 50% of any such social security payments, whichever is greater*, all dividends and interest from whatever source derived not included in adjusted gross income, workers compensation and the gross amount of "loss of time" insurance. Income does not include gifts from nongovernmental sources or surplus food or other relief in kind supplied by a governmental agency, nor shall net operating losses and net capital losses be considered in the determination of income. Income does not include veterans disability pensions. Income does not include disability payments received under the federal social security act.

(b) "Household" means a claimant, a claimant and spouse who occupy the homestead or a claimant and one or more individuals not related as husband and wife who together occupy a homestead.

(c) "Household income" means all income received by all persons of a household in a calendar year while members of such household.

(d) "Homestead" means the dwelling, or any part thereof, whether owned or rented, which is occupied as a residence by the household and so much of the land surrounding it, as defined as a home site for ad valorem tax purposes, and may consist of a part of a multi-dwelling or multi-purpose building and a part of the land upon which it is built or a manufactured home or mobile home and the land upon which it is situated. "Owned" includes a vendee in possession under a land contract, a life tenant, a beneficiary under a trust and one or more joint tenants or tenants in common.

(e) "Claimant" means a person who has filed a claim under the provisions of this act and was, during the entire calendar year preceding the year in which such claim was filed for refund under this act, except as provided in K.S.A. 79-4503, and amendments thereto, both domiciled in this state and was: (1) A person having a disability; (2) a person who is 55 years of age or older or (3) a person other than a person included under (1) or (2) having one or more dependent children under 18 years of age residing at the person's homestead during the calendar year immediately preceding the year in which a claim is filed under this act.

When a homestead is occupied by two or more individuals and more than one of the individuals is able to qualify as a claimant, the individuals may determine between them as to whom the claimant will be. If they are unable to agree, the matter shall be referred to the secretary of revenue whose decision shall be final.

(f) "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest and charges for service, levied on a claimant's homestead in 1979 or any calendar year thereafter by the state of Kansas and the political and taxing subdivisions of

the state. When a homestead is owned by two or more persons or entities as joint tenants or tenants in common and one or more of the persons or entities is not a member of claimant's household, "property taxes accrued" is that part of property taxes levied on the homestead that reflects the ownership percentage of the claimant's household. For purposes of this act, property taxes are "levied" when the tax roll is delivered to the local treasurer with the treasurer's warrant for collection. When a claimant and household own their homestead part of a calendar year, "property taxes accrued" means only taxes levied on the homestead when both owned and occupied as a homestead by the claimant's household at the time of the levy, multiplied by the percentage of 12 months that the property was owned and occupied by the household as its homestead in the year. When a household owns and occupies two or more different homesteads in the same calendar year, property taxes accrued shall be the sum of the taxes allocable to those several properties while occupied by the household as its homestead during the year. Whenever a homestead is an integral part of a larger unit such as a multi-purpose or multi-dwelling building, property taxes accrued shall be that percentage of the total property taxes accrued as the value of the homestead is of the total value. For the purpose of this act, the word "unit" refers to that parcel of property covered by a single tax statement of which the homestead is a part.

(g) "Disability" means:

(1) Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, and an individual shall be determined to be under a disability only if the physical or mental impairment or impairments are of such severity that the individual is not only unable to do the individual's previous work but cannot, considering age, education and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which the individual lives or whether a specific job vacancy exists for the individual, or whether the individual would be hired if application was made for work. For purposes of the preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where the individual lives or in several regions of the country; for purposes of this subsection, a "physical or mental impairment" is an impairment that results from anatomical, physiological or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques; or

(2) blindness and inability by reason of blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which the individual has previously engaged with some regularity and over a substantial period of time.

(h) "Blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for the purpose of this paragraph as having a central visual acuity of 20/200 or less.

(i) "Rent constituting property taxes accrued" means 15% of the gross rent actually paid in cash or its equivalent in 2007 or any taxable year thereafter by a claimant and claimant's household solely for the right of occupancy of a Kansas homestead on which ad valorem property taxes were levied in full for that year. When a household occupies two or more different homesteads in the same calendar year, rent constituting property taxes accrued shall be computed by adding the rent constituting property taxes accrued for each property rented by the household while occupied by the household as its homestead during the year.

(j) "Gross rent" means the rental paid at arm's length solely for the right of occupancy of a homestead or space rental paid to a landlord for the parking of a mobile home, exclusive of charges for any utilities, services, furniture and furnishings or personal property appliances furnished by the landlord as a part of the rental agreement, whether or not expressly set out in the rental agreement. Whenever the director of taxation finds that the landlord and tenant have not dealt with each other at arms length and that the gross rent charge was excessive, the director may adjust the gross rent to a reasonable amount for the purposes of the claim.

Sec. 27. K.S.A. 2007 Supp. 79-3606e is hereby repealed.

Sec. 28. On and after July 1, 2008, K.S.A. 79-1803, 79-3220 and 79-3285 and K.S.A. 2007 Supp. 75-5151, 79-201a, 79-201b, 79-201j, 79-213, 79-223, 79-5a27, 79-3271, 79-32,110, 79-32,117, 79-3606 and 79-4502 are hereby repealed.”;

And by renumbering the remaining section accordingly;

Also on page 5, in line 11, by striking “statute book” and inserting “Kansas register”;

On page 1, in the title, in line 9, by striking “property”; in line 11, after the semicolon, by inserting “property tax exemptions; income tax credits, certain capital investment after disaster emergency and property taxes paid; electronic filing of tax returns; income tax, business income, apportionment and corporation surtax; sales tax exemptions; homestead property tax refund;”; in line 11, by striking all after “79-1803”; in line 12, by striking “5a27” and inserting “, 79-3220 and 79-3285 and K.S.A. 2007 Supp. 75-5151, 79-201a, 79-201b, 79-201j, 79-213, 79-223, 79-5a27, 79-3271, 79-32,110, 79-32,117, 79-3606, 79-3606e and 79-4502”;

And your committee on conference recommends the adoption of this report.

BARBARA P. ALLEN

DEREK SCHMIDT

JANIS K. LEE

Conferees on part of Senate

KENNY A. WILK

RICHARD CARLSON

G. THOMAS HOLLAND II

Conferees on part of House

On motion of Rep. Wilk, the conference committee report on **S. Sub. for HB 2434** was adopted.

On roll call, the vote was: Yeas 109; Nays 14; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Carlson, Coloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Faber, Faust-Goudeau, Feuerborn, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelsey, King, Kinzer, Knox, Landwehr, Lane, Light, Loganbill, Lukert, Mah, Mast, Masterson, McCray-Miller, McKinney, McLachlan, McLeland, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O’Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peck, Phelps, Pottorff, Powell, Powers, Proehl, Quigley, Rardin, Rhoades, Roth, Ruff, Sawyer, Schroeder, Schwartz, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Treaster, Trimmer, Vickrey, Watkins, Wetta, Whitham, Wilk, Williams, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Burroughs, Carlin, Donohoe, Flaharty, Flora, Henderson, Kuether, Long, Menghini, Peterson, Ruiz, Tietze, Ward, Winn.

Present but not voting: None.

Absent or not voting: Kelley, Kiegerl.

EXPLANATIONS OF VOTE

MR. SPEAKER: We have eliminated the business franchise tax, we have eliminated the tax on machinery and equipment. These same businesses received a huge federal tax cut and due to Kansas policy another \$87 million cut on top of that. Now after telling elderly, disabled, children and homebound there is no money — we are giving yet another corporate tax cut. This does not represent the Kansas value of civic responsibility. I vote no on **S. Sub. for HB 2434**.—JIM WARD, JULIE MENGhini

MR. SPEAKER: I vote no on **S. Sub. for HB 2434**. We are in competition with neighboring states to attract new business with the resultant tax revenues and jobs.

One of the main tools we can use to attract new business is a reduction of corporate income taxes. The reduction included in this bill is minimal and does little if anything to assist in attracting new business.

In addition the relief in corporate taxes for the multitude of small businesses in the state of Kansas, the backbone of our economic growth is unacceptable. Therefore, again, I vote no on this bill.—OWEN DONOHOE

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **H. Sub. for SB 365**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 365**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with House Committee of the Whole amendments, as follows:

On page 1, preceding line 20, by inserting the following:

“Section 1. (a) In the state of Kansas, long-term care services, including home and community based services, shall be provided through a comprehensive and coordinated system throughout the state.

(b) The system shall:

(1) Emphasize a delivery concept of self-direction, individual choice, home and community settings and privacy;

(2) ensure transparency, accountability, safety and high quality services;

(3) increase expedited eligibility determination;

(4) provide timely services;

(5) utilize informal services; and

(6) ensure the moneys follow the person into the community.

(c) All persons receiving services pursuant to this section shall be offered the appropriate services which are determined to be in aggregate the most economical available with regard to state general fund expenditures. For those persons moving from a nursing facility to the home and community based services, the nursing facility reimbursement shall follow the person into the community.

(d) The department on aging, the department of social and rehabilitation services and the Kansas health policy authority shall design and implement the system, in consultation with stakeholders and advocates related to long-term care services.

(e) The department on aging and the department of social and rehabilitation services, in consultation with the Kansas health policy authority, shall submit an annual report on the long-term care system to the governor and the legislature annually, during the first week of the regular session.”;

And by renumbering the remaining sections accordingly;

Also on page 1, in line 25, preceding “The” by inserting “The joint committee shall review the funding targets recommended by the interim report submitted for the 2007 legislature by the joint committee on legislative budget and use them as guidelines for the future funding planning and policy making.”; in line 28, following the comma, by inserting “and amendments thereto.”; in line 31, by striking “possible closure” and inserting “effectiveness of the program and cost-analysis”; in line 38, following the period by inserting “The joint committee shall review and ensure that any proceeds resulting from the successful transfer be applied to the system of provision of services for long-term care and home and community based services.”;

On page 2, in line 33, following “services” by inserting “including the average daily census in the state institutions and long-term care facilities”; also in line 33, by striking the comma, where it appears the second time, and inserting “certified by the secretary of social and rehabilitation services and the secretary of aging in a quarterly report filed in accordance with sections 2 and 3, and amendments thereto, and”; in line 35, by striking “and” where it appears for the third time; in line 36, by striking all preceding the period; in line 41, following “(a)” by inserting “(1)”;

On page 3, preceding line 7, by inserting the following:

“(2) Whenever an individual, who is residing in an institution, transfers to home and community based services, the secretary of social and rehabilitation services shall determine the savings attributable to such transfer and shall certify the amount or amounts of such savings to the director of accounts and reports. Upon receipt of each such certification, the director of accounts and reports shall transfer the amount or amounts specified in such certification from the funds and accounts specified to the home and community based services savings fund of the department of social and rehabilitation services in accordance with such certification. The secretary of social and rehabilitation services shall transmit a copy of each such certification to the director of the budget and to the director of legislative research.”;

Also on page 3, in line 14, following “(a)” by inserting “(1)”; preceding line 22, by inserting the following:

“(2) Whenever an individual, who is residing in an institution, transfers to home and community based services, the secretary of aging shall determine the savings attributable to such transfer and shall certify the amount or amounts of such savings to the director of accounts and reports. Upon receipt of each such certification, the director of accounts and reports shall transfer the amount or amounts specified in such certification from the funds and accounts specified to the home and community based services savings fund of the department on aging in accordance with such certification. The secretary of aging shall transmit a copy of each such certification to the director of the budget and to the director of legislative research.”;

Also on page 3, by striking all in lines 29 through 43;

By striking all on pages 4 through 7;

On page 8, by striking all in lines 1 through 20;

And by renumbering the remaining section accordingly;

In the title, in line 10, after “concerning” by inserting “long-term care services and”; in line 12, by striking all following “funds”; by striking all in lines 13 through 16; in line 17, by striking all preceding the period;

And your committee on conference recommends the adoption of this report.

SHARON SCHWARTZ
BOB BETHELL
JERRY HENRY
Conferees on part of House

DWAYNE UMBARGER
JAY SCOTT EMLER
LAURA KELLY
Conferees on part of Senate

On motion of Rep. Bethell, the conference committee report on **H. Sub. for SB 365** was adopted.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Donohoe, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelsey, King, Kinzer, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McCray-Miller, McKinney, McLachlan, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O’Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Powers, Proehl, Quigley, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.
Absent or not voting: Kelley, Kiegerl.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, to suspend the rules for the purpose of considering **S. Sub. for HB 2827**, the motion did not prevail.

MESSAGE FROM THE SENATE

The Senate adopts conference committee report on **S. Sub. for HB 2542**.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **S. Sub. for HB 2542**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2542**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee of the Whole amendments, as follows:

On page 1, by striking all in lines 22 through 43;

By striking all on pages 2 through 65 and inserting the following:

“New Section 1. There is hereby created in the state treasury the division of vehicles modernization fund. All moneys credited to the division of vehicles modernization fund shall be used by the department of revenue only for the purpose of funding the replacement of the work processes, computer hardware and software and related equipment associated with the division of vehicle’s functions related to titling, registration and tagging of vehicles, issuance of drivers’ licenses and other identification documents and supporting administrative processes, including maintenance and operation of such computer hardware, software and related equipment. All expenditures from the division of vehicles modernization fund shall be made in accordance with appropriation acts, upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the department of revenue.

New Sec. 2. (a) In addition to any registration fee prescribed under article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, all applicants for vehicle registration shall pay at the time of registration a nonrefundable division of vehicles modernization surcharge in the amount of \$4 for each vehicle being registered.

(b) The provisions of this section shall not apply to vehicles registered under K.S.A. 8-1,100 through 8-1,123 and K.S.A. 2007 Supp. 8-1,123a, and amendments thereto.

(c) The provisions of this section shall expire on January 1, 2013.

Sec. 3. K.S.A. 2007 Supp. 8-145 is hereby amended to read as follows: 8-145. (a) All registration and certificates of title fees shall be paid to the county treasurer of the county in which the applicant for registration resides or has an office or principal place of business within this state, and the county treasurer shall issue a receipt in triplicate, on blanks furnished by the division of vehicles, one copy of which shall be filed in the county treasurer’s office, one copy shall be delivered to the applicant and the original copy shall be forwarded to the director of vehicles.

(b) The county treasurer shall deposit \$.75 of each license application, \$.75 out of each application for transfer of license plate and \$2 out of each application for a certificate of title, collected by such treasurer under this act, in a special fund, which fund is hereby appropriated for the use of the county treasurer in paying for necessary help and expenses incidental to the administration of duties in accordance with the provisions of this law and extra compensation to the county treasurer for the services performed in administering the provisions of this act, which compensation shall be in addition to any other compensation provided by any other law, except that the county treasurer shall receive as additional com-

compensation for administering the motor vehicle title and registration laws and fees, a sum computed as follows: The county treasurer, during the month of December, shall determine the amount to be retained for extra compensation not to exceed the following amounts each year for calendar year 2006 or any calendar year thereafter: The sum of \$110 per hundred registrations for the first 5,000 registrations; the sum of \$90 per hundred registrations for the second 5,000 registrations; the sum of \$5 per hundred for the third 5,000 registrations; and the sum of \$2 per hundred registrations for all registrations thereafter. In no event, however, shall any county treasurer be entitled to receive more than \$15,000 additional annual compensation.

If more than one person shall hold the office of county treasurer during any one calendar year, such compensation shall be prorated among such persons in proportion to the number of weeks served. The total amount of compensation paid the treasurer together with the amounts expended in paying for other necessary help and expenses incidental to the administration of the duties of the county treasurer in accordance with the provisions of this act, shall not exceed the amount deposited in such special fund. Any balance remaining in such fund at the close of any calendar year shall be withdrawn and credited to the general fund of the county prior to June 1 of the following calendar year.

(c) The county treasurer shall remit the remainder of all such fees collected, together with the original copy of all applications, to the secretary of revenue. The secretary of revenue shall remit all such fees remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state highway fund, except as provided in subsection (d).

(d) (1) Three dollars and fifty cents of each certificate of title fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$3.50 to the Kansas highway patrol motor vehicle fund. Three dollars of each certificate of title fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$3 to the VIPS/CAMA technology hardware fund.

(2) For repossessed vehicles, \$3 of each certificate of title fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$3 to the repossessed certificates of title fee fund.

(3) Three dollars and fifty cents of each reassignment form fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$3.50 to the Kansas highway patrol motor vehicle fund. Three dollars of each reassignment form fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$3 to the VIPS/CAMA technology hardware fund.

(4) *Four dollars of each division of vehicles modernization surcharge collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$4 to the division of vehicles modernization fund.*

Sec. 4. K.S.A. 2007 Supp. 8-145 is hereby repealed.

Sec. 5. This act shall take effect and be in force from and after January 1, 2009, and its publication in the statute book.”;

In the title, by striking all in lines 10 through 19 and inserting the following:
 “AN ACT relating to the department of revenue; concerning the division of vehicles; establishing the division of vehicles modernization fund; amending K.S.A. 2007 Supp. 8-145 and repealing the existing section.”;

And your committee on conference recommends the adoption of this report.

DWAYNE UMBARGER
 JAY SCOTT EMLER
 LAURA KELLY
Conferees on part of Senate

SHARON SCHWARTZ
 LEE TAFANELLI
 BILL FEUERBORN
Conferees on part of House

On motion of Rep. Schwartz, the conference committee report on **S. Sub. for HB 2542** was adopted.

On roll call, the vote was: Yeas 72; Nays 50; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Beamer, Bethell, Bowers, Burgess, Carlin, Colloton, Craft, Crow, Faust-Goudeau, Feuerborn, Flaharty, Flora, Fund, Gatewood, George, Goico, Grange, Grant, Hawk, Haylett, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Humerickhouse, Huntington, Lane, Light, Loganbill, Long, Lukert, Mah, McKinney, McLachlan, Menghini, Metsker, Moxley, Neighbor, O'Neal, Olson, Otto, Owens, Pauls, Phelps, Pottorff, Proehl, Quigley, Rardin, Rhoades, Roth, Ruff, Schwartz, Siegfried, Sloan, Spalding, Svaty, Swanson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Wetta, Whitham, Wilk, Williams, K. Wolf, Worley.

Nays: Brown, Brunk, Burroughs, Carlson, Colyer, Crum, Dahl, Davis, Dillmore, Donohoe, Faber, Frownfelter, Garcia, Gordon, Goyle, Henderson, Hodge, Huebert, Johnson, Kelsey, Kinzer, Knox, Kuether, Landwehr, Mast, Masterson, McCray-Miller, McLeland, Merrick, Jim Morrison, Judy Morrison, Myers, Neufeld, Palmer, Patton, Peck, Peterson, Powell, Powers, Ruiz, Sawyer, Schroeder, Shultz, Storm, Swenson, Ward, Watkins, Winn, B. Wolf, Yoder.

Present but not voting: None.

Absent or not voting: Kelley, Kiegerl, King.

There being no objection, the following remarks of Rep. Ruff are spread upon the journal:
Sixteen Lessons in Sixteen Years

Knowing this would be my last session in the Kansas House, I began the year by sorting through the mountain of notes I started taking in January 1993. Having served 10 years as a journalist before being elected, I was familiar with attending meetings, taking lots of notes, and then writing news stories for my beloved *Leavenworth Times*. So once I arrived in Topeka, it was only natural to grab a yellow notebook and write.

Day to day, I began to chronicle my experiences in committee meetings, on the floor of the House and in my Democrat Caucus. Now, I have to admit that at the beginning of that first year I tried to keep it to the subjects at hand. Whether it was Indian gaming compacts or the water transfer act, I took notes, listened to conferees, and watched the experienced legislators ask questions. However, it didn't take long for my mind to wander.

And those meanderings comments began to fill my note pad. So when I began to reread them in January, I was struck by behaviors that repeated themselves. And so I have prepared a list of lessons learned and words of caution all gained in the Kansas Legislature.

1. After watching freshmen legislators for 16 years, the lesson is simple. Stay in your seat. You have been here 10 minutes and frankly we don't care to know your opinions. You see, your fellow legislators need to know who you are before we can care about what you say.
2. If you truly want your words to count, say them to just one person at a time, like your seat mate or someone who sits next to you in committee. Remember God gave you two ears and one mouth for a reason.
3. Pick your battles well. If you arrive here with a cause already established, stick to it. Learn all you can about its legislative history and try to serve on the committee providing oversight. Make friends with legislators and those on the outside who are associated with the issue.
4. Hold yourself open to new possibilities because you never know when an issue will present itself. I became involved in gun-rights legislation during the 1997 Session because two rape victims from my District asked me to support conceal carry legislation. Eleven years later and I'm Homecoming Queen of the NRA. Now, I ask you. How weird is that?
5. Your arms are too short to box with God. If your goal is to change years of educational policy or reform an entire state agency, think again. Once you become more intimately acquainted with the process and have a better understanding of how things progressed to this point, you may change your mind.

6. Don't get me wrong. There is nothing wrong with challenging the status quo and no harm comes from asking questions. Just don't show up convinced that your opinion is the best one because it probably isn't.
7. Theodore Roosevelt wanted to be the bride at every wedding and the corpse at every funeral. He was a United States president. You are not. So get over yourself. No one is an expert on every subject so limit your knowledge base. One or maybe two areas of expertise are enough for any legislator.
8. When it comes to offering amendments, follow the above rule.
9. When it comes to asking questions in committee, listen before you ask. Follow written testimony, pay attention to what has been said and what type questions are first asked. If you believe the answer to your question will benefit the entire committee, ask it. But limit your questions. Too much talk in committee has the same effect as too much talk at the Well.
10. If you attended Harvard Law School, keep it to yourself. If you own more than two homes, keep it to yourself. If you are a size six, keep it to yourself.
11. Being effective means being heard. If you make yourself a nuisance at the Well, no one pays attention when they see you are about to speak. Less talk is best.
12. Special interest groups and lobbyists are as much a part of this Legislature as you and me. Whether it's those who fight for Boeing or those who help the elderly, each has skin in the game. So get to know them. But remember, they have products to sell. Except for a very few non-profit groups, the vast majority of lobbyists are paid to be here.
13. If you begin to hear "it's for the children" more than ten times in one hour, you have entered the twilight light zone of public education funding. Face it, K through 12 and higher education take up over two-thirds of the state's purse. This is about history. When the state constitution was written at Wyandotte County in 1859, its first order of business was to establish public schools.
14. Learn who really has the brains in this business. You will find those who work for the non-partisan Legislative Research, the Revisor of Statutes and Legislative Post Audit are the most talented, educated and knowledgeable people in the State Capitol. They have institutional memory, hold master and doctorate degrees and most are lawyers. And that's a good thing. Because to be a legislator, you can be a talented eighth grader.
15. Make friends with those in the other political party. Take time to get acquainted. Learn if they have children, grandchildren or even dogs. Before the daily Session starts, go across the aisle and say Hello. No one declared war so there is no excuse to ignore your fellow lawmakers.
16. And finally, this is politics. Not Sunday School. The political process is messy, convoluted and sometimes downright mean. Get over it. As it was a hundred years ago, so is it today. Never was this lesson truer than on the issue of gambling. I would be reading about late 19th century Kansas History for a class I was taking at KU, when low and behold I would read the same rhetoric on the Prohibition Amendment that I was hearing in a legislative debate on gambling. Sin is sin. And in the eyes of some drinking and gambling are sins, but only if you abuse them. Or if you were born Southern Baptist. I just hope my Grandmother up there in heaven forgives me for voting for that gambling bill.

Rep. Wilk also addressed a few remarks to the members of the House concerning his retirement.

On motion of Rep. Merrick, the House recessed until 8:00 p.m.

EVENING SESSION

The House met pursuant to recess with Speaker pro tem Dahl in the chair.

MESSAGES FROM THE SENATE

The Senate adopts conference committee report on **H. Sub. for SB 365**.
Also, the Senate not adopts the conference committee report on **HB 2332**.
Also, announcing passage of **HB 2390**, as amended by **S. Sub. for HB 2390**.
The Senate adopts conference committee report on **S. Sub. for HB 2946**.
Announcing adoption of **SCR 1627**.

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

The following Senate concurrent resolution was thereupon introduced and read by title:
SCR 1627.

INTRODUCTION OF ORIGINAL MOTIONS

Pursuant to Joint Rule 3 (f), Rep. Merrick moved that the rules be suspended and that no copies be printed for distribution of the conference committee report on **S. Sub. for HB 2946**. The motion prevailed.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2946**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee of the Whole amendments, as follows:

On page 1, in line 20, by striking “and” where it first appears; also in line 20, preceding “appropriations” by inserting “and June 30, 2011,”;

On page 26, after line 17, by inserting the following:

“(d) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year or years specified, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

Reservoir storage beneficial use fund
For the fiscal year ending June 30, 2009..... No limit
Provided, That expenditures may be made by the above agency from the reservoir storage beneficial use fund to call water into service for beneficial uses, subject to the availability of moneys credited to the reservoir storage beneficial use fund.

(e) There is appropriated for the above agency from the state general fund for the fiscal year or years specified, the following:

Reservoir storage beneficial use fund
For the fiscal year ending June 30, 2009..... \$534,000”;

On page 27, in line 9, by striking “2008” and inserting “2007”;

On page 28, by striking all in lines 2 through 7 and inserting the following:

“Sec. 5.

GOVERNOR’S DEPARTMENT

(a) There is appropriated for the above agency from the state general fund for the fiscal year or years specified, the following:

Domestic violence prevention grants
For the fiscal year ending June 30, 2009..... \$500,000”;

Also on page 28, in following line 38, by inserting the following:

“Aid to local units — primary health projects
For the fiscal year ending June 30, 2009..... \$2,500,000

Provided, That the secretary of health and environment shall prepare and submit a report to the senate committee on ways and means and the house of representatives committee on appropriations prior to the beginning of the 2009 regular session of the legislature on the allocation of funding among primary care safety net clinics.

Coordinated school health program
For the fiscal year ending June 30, 2009..... \$550,000”;

On page 30, before line 1, by inserting the following:

“Sec. 9.

ATTORNEY GENERAL—KANSAS BUREAU OF INVESTIGATION

(a) There is appropriated for the above agency from the state general fund for the fiscal year or years specified, the following:

Operating expenditures

For the fiscal year ending June 30, 2009..... \$6,000
Provided, That, if 2008 House Bill No. 2727 is not passed by the legislature during the 2008 regular session and enacted into law, then, on July 1, 2008, the \$6,000 appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2009, by this subsection in the operating expenditures account is hereby lapsed.”;

And by renumbering the remaining sections accordingly;

Also on page 30, after line 2, by inserting the following:

“(a) There is appropriated for the above agency from the state general fund for the fiscal year or years specified, the following:

Operating expenditures

For the fiscal year ending June 30, 2009..... \$252,066”;

And by relettering the remaining subsections accordingly;

Also on page 30, after line 30, by inserting the following:

“(d) (1) On the effective date of this act, notwithstanding the provisions of chapter 167 or 201 of the 2007 Session Laws of Kansas, 2008 Senate Bill No. 534, or this or any other appropriation act or any other act of the 2008 regular session or any other statute and notwithstanding the provisions of state finance council resolution no. 07-572, the approval of the state finance council for the issuance of bonds by the Kansas development finance authority in accordance with K.S.A. 74-8905, and amendments thereto, for capital improvement projects to expand prison capacity, as set forth in state finance council resolution no. 07-572 pursuant to subsection (d) of section 185 of chapter 167 of the 2007 Session Laws of Kansas, and the authority of the Kansas development finance authority to issue any bonds on or after the effective date of this act to finance the cost of such capital improvement projects to expand prison capacity pursuant to such approval, are hereby modified as follows: (A) The limitation on the aggregate amount of revenue bonds authorized to be issued for capital improvement projects to expand prison capacity pursuant to subsection (d) of section 185 of chapter 167 of the 2007 Session Laws of Kansas is hereby decreased from \$39,525,000 to \$19,525,000, and (B) no moneys appropriated for the department of corrections or any correctional institution by chapter 167 or 201 of the 2007 Session Laws of Kansas, 2008 Senate Bill No. 534, or by this or any other appropriation act or any other act of the 2008 regular session of the legislature for the fiscal years ending June 30, 2008, or June 30, 2009, shall be expended to authorize or enter into any contract or other agreement to initiate, implement or administer any actual construction work for any such capital improvement project to expand prison capacity prior to July 1, 2009, or to authorize any expenditure of any bond proceeds for any actual construction work for any such capital improvement project to expand prison capacity prior to July 1, 2009, or to authorize, request or otherwise provide for the issuance of any revenue bonds to finance any actual construction work for any such capital improvement project to expand prison capacity to commence, prior to July 1, 2009: *Provided*, That no bonds shall be issued by the Kansas development finance authority to finance any actual construction work for any such capital improvement project to expand prison capacity prior to July 1, 2009, and no money received as proceeds for any such revenue for any actual construction work for any such capital improvement project to expand prison capacity bonds shall be expended prior to July 1, 2009: *Provided further*, That no such limitation on expenditures for any such capital improvement project to expand prison capacity or any provision of this subsection shall limit (i) any expenditures prior to July 1, 2009, for any planning, land or soil surveys or investigations, or other preparation for any such capital improvement project to expand prison capacity, or (ii) the authority to issue any bonds prior to July 1, 2009, to provide financing for the expenses of any planning, land or soil surveys or investigations, or other preparation for any such capital improvement project to expand prison capacity.

(2) The provisions of subsections (h) and (i) of section 185 of chapter 167 of the 2007 Session Laws of Kansas and subsection (c) of section 61 of chapter 201 of the 2007 Session Laws of Kansas are hereby declared to be null and void and shall have no force and effect.”;

And by renumbering the remaining sections accordingly;

Also on page 30, in line 36, by striking “\$18,940,528” and inserting “\$19,187,149”; in line 40, by striking “\$19,886,033” and inserting “\$19,611,033”;

On page 31, after line 14, by inserting the following:

“(b) On the effective date of this act, the expenditure limitation established by section 120(a) of 2008 Senate Bill No. 534 on the fire marshal fee fund is hereby increased from \$3,692,839 to \$3,834,146.”;

Also on page 31, by striking all in lines 17 through 21, and inserting the following:

“(a) There is appropriated for the above agency from the state general fund for the fiscal year or years specified, the following:

Operating expenditures

For the fiscal year ending June 30, 2009..... \$13,502

(b) There is hereby appropriated for the above agency from the state economic development initiatives fund for the fiscal year or years specified, the following:

Unmanned aerial vehicles and systems procurement

For the fiscal year ending June 30, 2009..... \$500,000

Provided, That expenditures from the unmanned aerial vehicles and system procurement account shall be made for the unmanned aerial vehicle (UAV) TEC program for procurement of unmanned aerial systems (UAS), payloads and support equipment to conduct the necessary research and flight testing of advanced technologies.”;

And by relettering the remaining subsections accordingly;

On page 32, in line 3, by striking “county,”; in line 4, by striking “, EMS service and any other organization”; in lines 6 and 8, by striking “entity” and inserting “council”; also in line 8, by striking “con-”; by striking all in line 9; in line 10, by striking all before the period; in line 12, by striking “such” both times it appears; in line 13, by striking “entity” and inserting “council”;

On page 33, by striking all in lines 5 through 27;

And by renumbering the remaining sections accordingly;

On page 34, after line 5, by inserting the following:

“(d) There is appropriated for the above agency from the state general fund for the fiscal year or years specified, the following:

Retiree one-time \$300 payment

For the fiscal year ending June 30, 2009..... \$7,060,000”;

On page 35, after line 7, by inserting the following:

“(d) (1) On July 1, 2008, or as soon thereafter as moneys are available therefor, the director of accounts and reports shall transfer \$7,060,000 from the expanded lottery act revenues fund to the state general fund for the purpose of reimbursing the state general fund for a portion of the cost of providing the KPERS bond debt service of \$36,146,303 for fiscal year 2009 as authorized by section 85(a) of 2008 Senate Bill No. 534.

(2) During the fiscal year ending June 30, 2009, in accordance with the provisions of K.S.A. 2007 Supp. 74-8768, and amendments thereto, the moneys transferred pursuant to the provisions of this subsection (d) from the expanded lottery act revenues fund to the state general fund are for the reduction of state debt by reimbursing the state general fund for a portion of the expenditures for the KPERS bond debt service of \$36,146,303 for fiscal year 2009 and paid from the state general fund as provided in section 85(a) of 2008 Senate Bill No. 534.

(3) During the fiscal year ending June 30, 2009, if moneys are not available in the expanded lottery act revenues fund for transfer to the state general fund during the fiscal year ending June 30, 2009, as prescribed by subsection (d)(1), then, effective on July 1, 2008, pursuant to a determination by the director of the budget that such moneys are not available in the expanded lottery act revenues fund for transfer to the state general fund during fiscal year 2009, the \$7,060,000 appropriated for the Kansas public employees retirement system for the fiscal year ending June 30, 2009, by section 18(d) from the state general fund in the retiree one-time \$300 payment account, is hereby lapsed.

(e) During fiscal year 2009 and fiscal year 2010, notwithstanding the provisions of any other statute, after making the transfers prescribed by subsection (i) for higher priority uses, whenever any amount of moneys are credited to the expanded lottery act revenues fund, the director of accounts and reports shall transfer one-third of such amount of moneys from the expanded lottery act revenues fund to the state property tax relief reserve fund, which is hereby established in the state treasury: *Provided*, That all moneys transferred from the expanded lottery act revenues fund to the state property tax relief reserve fund pursuant to this subsection shall be reserved for purposes to be prescribed by law: *Provided further*, That the state finance council shall have no authority to authorize or approve any expenditure of moneys from the state property tax relief reserve fund, or to increase any expenditure limitation on the state property tax relief reserve fund: *And provided further*, That no expenditures shall be authorized or made from the state property tax relief reserve fund by any state agency, except upon specific authorization therefor by appropriation act of the legislature: *Provided, however*, That, upon approval of the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed by subsection (c) of K.S.A. 75-3711c, and amendments thereto, except that such approval also may be given while the legislature is in session, the director of accounts and reports shall transfer the amount or amounts specified in such approval from the state property tax relief reserve fund to the fund or funds specified in such approval.

(f) During fiscal year 2009 and fiscal year 2010, notwithstanding the provisions of any other statute, after making the transfers prescribed by subsection (i) for higher priority uses, whenever any amount of moneys are credited to the expanded lottery act revenues fund, the director of accounts and reports shall transfer one-third of such amount of moneys from the expanded lottery act revenues fund to the state infrastructure reserve fund, which is hereby established in the state treasury: *Provided*, That all moneys transferred from the expanded lottery act revenues fund to the state infrastructure reserve fund pursuant to this subsection shall be reserved for purposes to be prescribed by law: *Provided further*, That the state finance council shall have no authority to authorize or approve any expenditure or transfer of moneys from the state infrastructure reserve fund, or to increase any expenditure limitation on the state infrastructure reserve fund: *And provided further*, That no expenditures or transfers shall be authorized or made from the state infrastructure reserve fund by any state agency, except upon specific authorization therefor by appropriation act of the legislature.

(g) During fiscal year 2009 and fiscal year 2010, notwithstanding the provisions of any other statute, after making the transfers prescribed by subsection (i) for higher priority uses, whenever any amount of moneys are credited to the expanded lottery act revenues fund, the director of accounts and reports shall transfer one-third of such amount of moneys from the expanded lottery act revenues fund to the state debt reduction reserve fund, which is hereby established in the state treasury: *Provided*, That all moneys transferred from the expanded lottery act revenues fund to the state debt reduction reserve fund pursuant to this subsection shall be reserved for purposes to be prescribed by law: *Provided further*, That the state finance council shall have no authority to authorize or approve any expenditure or transfer of moneys from the state debt reduction reserve fund, or to increase any expenditure limitation on the state debt reduction reserve fund: *And provided further*, That no expenditures or transfers shall be authorized or made from the state debt reduction reserve fund by any state agency, except upon specific authorization therefor by appropriation act of the legislature.

(h) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year or years specified, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures, other than refunds and transfers authorized by law, shall not exceed the following:

State property tax relief reserve fund	
For the fiscal year ending June 30, 2009.....	\$0
For the fiscal year ending June 30, 2010.....	\$0
For the fiscal year ending June 30, 2011.....	\$0

State infrastructure reserve fund	
For the fiscal year ending June 30, 2009.....	\$0
For the fiscal year ending June 30, 2010.....	\$0
For the fiscal year ending June 30, 2011.....	\$0
State debt reduction reserve fund	
For the fiscal year ending June 30, 2009.....	\$0
For the fiscal year ending June 30, 2010.....	\$0
For the fiscal year ending June 30, 2011.....	\$0

(i) During the fiscal year ending June 30, 2009, notwithstanding the provisions of 2008 Senate Bill No. 534 or this or any other appropriation act or any other act of the 2008 regular session of the legislature, or of any other statute, the director of accounts and reports shall transfer moneys from the expanded lottery act revenue fund strictly in accordance with the following priorities for the use of moneys credited to the expanded lottery act revenues fund:

FIRST, as prescribed in subsection (d) of this section, moneys shall be transferred from the expanded lottery act revenues fund to the state general fund for state debt reduction by reimbursing the state general fund for a portion of the expenditures for the KPERS bond debt service of \$36,146,303 for fiscal year 2009 and paid from the state general fund as provided in section 85(a) of 2008 Senate Bill No. 534;

SECOND, as provided in subsection (a) of section 34, moneys shall be appropriated or transferred from the expanded lottery act revenues fund for state debt reduction by payment of bond debt service for fiscal year 2009 for the bonds issued to finance the capital improvement project to construct and remodel the school of pharmacy for the university of Kansas as provided in an appropriation act or acts enacted in 2009;

THIRD, as provided in subsection (a) of section 34, moneys shall be appropriated or transferred from the expanded lottery act revenues fund for state debt reduction by payment of bond debt service for fiscal year 2010 for the bonds issued to finance the capital improvement project to construct and remodel the school of pharmacy for the university of Kansas as provided in an appropriation act or acts enacted in 2010;

FOURTH, as provided in subsection (d) of section 34, moneys in the expanded lottery act revenues fund shall be used for state infrastructure improvements by transferring moneys from the expanded lottery act revenues fund to the school of pharmacy expansion project fund of the university of Kansas for fiscal year 2011 for the capital improvement project to construct and remodel the school of pharmacy for the university of Kansas;

FIFTH, as provided in subsection (a) of section 34, moneys shall be appropriated or transferred from the expanded lottery act revenues fund for state debt reduction by payment of bond debt service for fiscal year 2010 for the bonds issued to finance the capital improvement project to construct and remodel the school of pharmacy for the university of Kansas as provided in an appropriation act or acts enacted in 2010;

SIXTH, as provided in subsection (d) of section 34, moneys in the expanded lottery act revenues fund shall be used for state infrastructure improvements by transferring moneys from the expanded lottery act revenues fund to the school of pharmacy expansion project fund of the university of Kansas for fiscal year 2011 for the capital improvement project to construct and remodel the school of pharmacy for the university of Kansas; and

SEVENTH, as provided in subsections (e), (f), and (g) of this section, any moneys remaining in the expanded lottery act revenues fund during fiscal year 2009, fiscal year 2010 and fiscal year 2011, after transferring the moneys from the expanded lottery act revenues fund in accordance with the preceding priorities, shall be transferred from the expanded lottery act revenues fund to the state property tax relief reserve fund, state infrastructure reserve fund and state property tax relief reserve fund.”;

On page 36, after line 12, by inserting the following:

“(g) During the fiscal year ending June 30, 2009, notwithstanding the provisions of section 132(b) of 2008 Senate Bill No. 534 to this or any other appropriation act of the 2008 regular session, or any other statute, no expenditures shall be made by the department of wildlife and parks from the state agricultural production fund to provide any financial support for the cabin program of the department of wildlife and parks.

(h) In addition to the other purposes for which expenditures may be made by the above agency from moneys appropriated for the fiscal year ending June 30, 2008, or June 30, 2009, from the state general fund or any special revenue fund or funds, the above agency shall make expenditures to purchase from the Kansas Army Ammunition Plant Parsons — Labette Redevelopment Planning Authority (KSAAP-LRPA) an option to purchase any portion of the former United States Army ammunition plant facility located near Parsons, Kansas, on or before December 1, 2008: *Provided*, That such option to purchase shall include a right of first refusal within one year of the date of the offer by KSAAP-LRPA to sell such property to the department of wildlife and parks: *Provided further*, That the purchase price paid for such option to purchase such property shall be \$750,000: *And provided further*, That prior to exercising the option to purchase such property, the secretary of wildlife and parks shall certify that the amount equal to the grant awarded by the department of commerce pursuant to section 13(b) of 2008 Senate Bill No. 534 to the KSAAP- LRPA has been paid to the state and deposited in the state treasury to the credit of the state economic development initiatives fund: *And provided further*, That the department of wildlife and parks is hereby authorized to purchase such property from KSAAP-LRPA for an amount of not to exceed the appraised value of such property: *And provided further*, That, if the department of wildlife and parks does not exercise the option to purchase such property within the allotted time period, then the KSAAP-LRPA may sell such property to another entity.”;

Also on page 36, after line 18, by inserting the following:

“(b) During the fiscal year ending June 30, 2009, notwithstanding the provisions of the state surplus property act, K.S.A. 75-6604, and amendments thereto, or any other statute or the provisions of this or any other appropriation act of the 2008 regular session of the legislature, all moneys received as proceeds from the sale of 123 vehicles of the department of transportation that are scheduled for replacement, including automobiles and light trucks, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and, upon receipt of each such remittance, shall be credited to the state general fund.”;

On page 37, in line 6, by striking “\$187,288” and inserting “\$189,672”;

On page 38, in line 27, by striking “No limit” and inserting “\$3,800,000”; in line 34, by striking “\$1,608,780” and inserting “\$1,773,780”;

On page 39, in line 14, by striking “\$250,000” and inserting “\$100,000”; after line 14, by inserting the following:

“(b) There is appropriated for the above agency from the state general fund for the fiscal year or years specified, the following:

Operating expenditures

For the fiscal year ending June 30, 2009..... \$34,969”;

Also on page 39, after line 24, by inserting the following:

“(b) On July 1, 2008, of the \$12,506,811 appropriated for the above agency for the fiscal year ending June 30, 2009, by section 92(a) of 2008 Senate Bill No. 534 from the state economic development initiatives fund in the operations, assistance and grants (including official hospitality) account, the sum of \$500,000 is hereby lapsed.”;

On page 40, after line 5, by inserting the following:

“(d) In addition to the other purposes for which expenditures may be made by the above agency from the KAN-ED operating expenditures account of the state general fund for fiscal year 2009 as authorized by section 116(a) of 2008 Senate Bill No. 534, notwithstanding the provisions of section 116(a) of 2008 Senate Bill No. 534, or any other statute, expenditures shall be made by the above agency from the KAN-ED operating expenditures account of the state general fund for fiscal year 2009 to research and identify alternative funding sources for KAN-ED for the fiscal year ending June 30, 2009, and each year thereafter: *Provided*, That the state board of regents shall send a copy of the report to each member of the joint committee on information technology no later than November 1, 2008, setting forth its recommendation for an alternative funding source for KAN-ED, which shall be reviewed by the joint committee prior to the beginning of the 2009 legislature: *And provided further*, That the joint committee on information technology shall report its recommendation on these matters to the legislature at the beginning of the 2009 regular session.”;

And by relettering subsection (d) as subsection (e);

Also on page 40, by striking all in lines 17 through 27 and inserting the following:

“(f) In addition to the other purposes for which expenditures may be made by the above agency from the postsecondary operating grant account of the state general fund for fiscal year 2009, as authorized by section 116(a) of 2008 Senate Bill No. 534, expenditures shall be made by the above agency from the postsecondary operating grant account of the state general fund for fiscal year 2009 for a bioscience summer institute at Emporia state university in an aggregate amount of not less than \$200,581; a professional science masters degree program at Fort Hays state university in an aggregate amount of not less than \$330,000; and a school of construction at Pittsburg state university in an aggregate amount of not less than \$1,393,400: *Provided*, That expenditures shall be made from the postsecondary operating grant account for these three projects equally in a ratio of the allocated amounts before funding any other projects or purposes when funding is available by this act of the 2008 regular session of the legislature: *Provided, however*, That no moneys shall be allocated for any such project unless additional funding is appropriated by this act for postsecondary operating grant funding for fiscal year 2009.”;

On page 41, by striking all in lines 3 through 40, and inserting the following:

“(a) In addition to the other purposes for which expenditures may be made by the university of Kansas for the moneys appropriated from the state general fund or any special revenue fund or funds for fiscal year 2009 or fiscal year 2010 as authorized by 2008 Senate Bill No. 534 or by this or any other appropriation act or any other act of the 2008 regular session of the legislature, expenditures shall be made by the university of Kansas from moneys appropriated from the state general fund or any special revenue fund or funds for fiscal year 2009 or for fiscal year 2010 to provide for the issuance of bonds by the Kansas development finance authority in accordance with K.S.A. 74-8905, and amendments thereto, for a capital improvement project to construct and remodel the school of pharmacy: *Provided*, That such capital improvement project is hereby approved for the university of Kansas for the purposes of subsection (b) of K.S.A. 74-8905, and amendments thereto, and the authorization of the issuance of bonds by the Kansas development finance authority in accordance with that statute: *Provided further*, That the university of Kansas may make expenditures from the moneys received from the issuance of any such bonds for such capital improvement project: *Provided, however*, That expenditures from the moneys received from the issuance of any such bonds for such capital improvement project shall not exceed \$20,000,000, plus all amounts required for costs of bond issuance, costs of interest on the bonds issued for such capital improvement project during the construction of such project and any required reserves for payment of principal and interest on the bonds: *And provided further*, That all moneys received from the issuance of any such bonds shall be deposited and accounted for as prescribed by applicable bond covenants: *And provided further*, That debt service for any such bonds for such capital improvement projects shall be financed by appropriations from the expanded lottery act revenues fund: *And provided further*, That if moneys are not available in the expanded lottery act revenues fund for such debt service, then expenditures shall be made by the university of Kansas for such debt service from moneys appropriated from the state general fund.

(b) On July 1, 2008, the \$5,000,000 appropriated for the above agency for the fiscal year ending June 30, 2009, by section 152(a) of 2008 Senate Bill No. 534 from the state general fund in the school of pharmacy expansion project account, is hereby lapsed.

(c)(1) The director of accounts and reports shall not make the transfer of \$5,000,000 from the state infrastructure reserve fund of the department of administration to the state general fund which was directed to be made on July 1, 2008, by section 152(d)(1) of 2008 Senate Bill No. 534 and, on the effective date of this act, the provisions of section 152(d)(1) of 2008 Senate Bill No. 534 are hereby declared to be null and void and shall have no force and effect.

(2) The director of accounts and reports shall not make the transfer of \$22,500,000 from the state infrastructure reserve fund of the department of administration to the state general fund which was directed to be made on July 1, 2009, by section 152(d)(2) of 2008 Senate Bill No. 534 and, on the effective date of this act, the provisions of section 152(d)(2) of 2008 Senate Bill No. 534 are hereby declared to be null and void and shall have no force and effect.

(3) The director of accounts and reports shall not make the transfer of \$22,500,000 from the state infrastructure reserve fund of the department of administration to the state general fund which was directed to be made on July 1, 2010, by section 152(d)(3) of 2008 Senate Bill No.534 and, on the effective date of this act, the provisions of section 152(d)(3) of 2008 Senate Bill No. 534 are hereby declared to be null and void and shall have no force and effect.

(d)(1) On July 1, 2009, or as soon as moneys are available therefor, the director of accounts and reports shall transfer \$15,000,000 from the expanded lottery act revenues fund to the school of pharmacy expansion project fund.

(2) On July 1, 2010, or as soon as moneys are available therefor, the director of accounts and reports shall transfer \$15,000,000 from the expanded lottery act revenues fund to the school of pharmacy expansion project fund.

(e) On July 1, 2009, the expenditure limitation established for the fiscal year ending June 30, 2010, by section 152(b) of 2008 Senate Bill No. 534 on the school of pharmacy expansion project fund is hereby decreased from \$22,500,000 to \$15,000,000.

(f) On July 1, 2010, the expenditure limitation established for the fiscal year ending June 30, 2011, by section 152(b) of 2008 Senate Bill No. 534 on the school of pharmacy expansion project fund is hereby decreased from \$22,500,000 to \$15,000,000.

Sec. 37.

UNIVERSITY OF KANSAS MEDICAL CENTER

(a) There is appropriated for the above agency from the state general fund for the fiscal year or years specified, the following:

Wichita center for graduate medical education
For the fiscal year ending June 30, 2009..... \$1,500,000

Provided, That \$7,100,000 has been requested by the Wichita center for graduate medical education from the Kansas bioscience authority for research-oriented grant funding: *Provided further*, That expenditures shall be made from the Wichita center for graduate medical education account for purposes of funding non-research needs such as offsite or rural rotations for which medicare funding has been terminated or for purposes of attaining adequate standards for accreditation of the WCGME residency program: *And provided further*, That, if 2008 Senate Bill No. 81 is passed by the legislature during the 2008 regular session and enacted into law, then, on July 1, 2008, the \$1,500,000 appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2009, by this subsection in the Wichita center for graduate medical education account is hereby lapsed.”;

And by renumbering the remaining sections accordingly;

On page 42, after line 5, by inserting the following:

“(b) There is appropriated for the above agency from the state general fund for the fiscal year or years specified, the following:

Operating expenditures
For the fiscal year ending June 30, 2009..... \$3,000

(c) On July 1, 2008, the expenditure limitation established for the fiscal year ending June 30, 2009, by section 23(c) of Senate Bill No. 534 on the governmental ethics commission fee fund is hereby decreased from \$161,223 to \$158,223.”;

Also on page 42, in line 13, by striking “\$1,900,000” and inserting “\$1,901,961”; in line 18, by striking “\$500,000” and inserting “\$2,939,740”; after line 21, by inserting the following:

“State operations
For the fiscal year ending June 30, 2009..... \$118,500
Osawatomie state hospital — operating expenditures
For the fiscal year ending June 30, 2009..... \$444,318
Mental health and retardation services aid and assistance
For the fiscal year ending June 30, 2009..... \$2,839,274”;

On page 43, after line 34, by inserting the following:

“(j) In addition to the other purposes for which expenditures may be made by the department of social and rehabilitation services from the moneys appropriated from the state general fund or from any special revenue fund for the department of social and rehabilitation services for fiscal year 2008 and fiscal year 2009, as authorized by chapter 167 or 201 of the

2007 Session Laws of Kansas or by this or any other appropriation act of the 2008 regular session of the legislature, expenditures shall be made by the department of social and rehabilitation services from moneys appropriated from the state general fund or from any special revenue fund for the department of social and rehabilitation services for fiscal year 2008 and fiscal year 2009 to study the feasibility and advantages of providing services and assistance by age groupings instead of providing services and assistance by the kind or category of condition, disability or other need for which service or assistance is provided, including autism: *Provided*, That the department of social and rehabilitation services shall prepare and present a report on the results of the study to the social services budget committee of the house of representatives and to the appropriate subcommittee of the ways and means committee of the senate at the beginning of the 2009 regular session of the legislature.

(k) (1) In addition to the other purposes for which expenditures may be made by the department of social and rehabilitation services from the moneys appropriated from the state general fund or from any special revenue fund for the department of social and rehabilitation services for fiscal year 2008 and fiscal year 2009, as authorized by chapter 167 or chapter 201 of the 2007 Session Laws of Kansas or by this or any other appropriation act of the 2008 regular session of the legislature, expenditures shall be made by the department of social and rehabilitation services from moneys appropriated from the state general fund or from any special revenue fund for the department of social and rehabilitation services for fiscal year 2008 and fiscal year 2009 to recruit and hire new employees to fill existing positions in job classes which provide required patient care or other services at the state hospitals, with the goal of eliminating overtime work hours currently provided by existing staff: *Provided*, That, in administering such recruiting and hiring of new employees, the department of social and rehabilitation services should place a high priority on hiring additional employees providing services for administrative units of each state hospital where the staff members work most overtime hours in order to provide the services required for the care of patients: *Provided further*, That the department of social and rehabilitation services shall prepare and present a report of the actions taken and resulting changes in staffing levels pursuant to this subsection and of the extent of any continued reliance on overtime work at each state hospital to the social services budget committee of the house of representatives and to the appropriate subcommittee of the ways and means committee of the senate at the beginning of the 2009 regular session of the legislature.

(2) As used in this subsection (k), "state hospital" means Larned state hospital, Osawatomie state hospital, Parsons state hospital and training center, Rainbow mental health facility and Kansas neurological institute.

(l) On the effective date of this act, the position limitation established for the fiscal year ending June 30, 2009, by section 134(a) of 2008 Senate Bill No. 534 for the Osawatomie state hospital is hereby increased from 478.40 to 491.20.";

Also on page 43, after line 41, by inserting the following:
 "LTC — medicaid assistance — HCBS/FE

For the fiscal year ending June 30, 2009.....	\$519,950
Administration	
For the fiscal year ending June 30, 2009.....	\$810,000

Provided, That the secretary of aging shall submit to the senate committee on ways and means and the house of representatives committee on appropriations at the beginning of the 2009 regular session of the legislature a report on how the additional funding for area agencies on aging was expended: *Provided further*, That the report shall include information regarding distribution of funding to each of the 11 area agencies on aging.";

On page 44, after line 28, by inserting the following:

"(d) On July 1, 2008, of the \$1,931,200 appropriated for the above agency for the fiscal year ending June 30, 2009, by section 97(a) of 2008 Senate Bill No. 534 from the state general fund in the nursing facilities regulation account, the sum of \$232,650 is hereby lapsed.";

Also on page 44, in line 35, by striking "\$13,577,000" and inserting "\$14,037,000"; after line 35, by inserting the following:

Provided, That, at the beginning of the 2009 regular session of the legislature, the Kansas health policy authority shall submit to the senate committee on ways and means and the

house of representatives committee on appropriations a report of the amount of savings achieved from the implementation of a preferred drug formulary for the MediKan program: *Provided further*, That the Kansas health policy authority shall not require an individual, who is currently prescribed medications for mental health purposes in the MediKan program, to change prescriptions under a preferred drug formulary during the fiscal year ending June 30, 2009: *And provided further*, That all prescriptions paid for by the MediKan program shall be filled pursuant to subsection (a) of K.S.A. 65-1637, and amendments thereto: *And provided further*, That the Kansas health policy authority shall follow the existing prior authorization protocol for reimbursement of prescriptions for the MediKan program for the fiscal year ending June 30, 2009.”;

Also on page 44, after line 40, by inserting the following:

“Sec. 43.

STATE LIBRARY

(a) There is hereby appropriated for the above agency from the state general fund for the fiscal year or years specified, the following:

Operating expenditures	
For the fiscal year ending June 30, 2009.....	\$29,000
Sec. 44.	

SECRETARY OF STATE

(a) There is appropriated for the above agency from the state general fund for the fiscal year or years specified, the following:

HAVA match	
For the fiscal year ending June 30, 2008.....	\$55,477

(b) On the effective date of this act, the \$55,477 appropriated for the above agency for the fiscal year ending June 30, 2008, by section 61(a) of 2008 Senate Bill No. 534 from the state general fund in the operating expenditures account, is hereby lapsed.

Sec. 45.

KANSAS LOTTERY

(a) On the effective date of this act, the amount to be transferred from the state gaming revenues fund to the state general fund in section 110 (c) of chapter 167 of the 2007 Session Laws of Kansas, on or before June 15, 2008, is hereby reduced by \$270,000 of the amount certified by the executive director of the Kansas lottery to be transferred from the lottery operating fund to the state gaming revenues fund that is attributed to the special veterans benefits game: *Provided*, That the director of accounts and reports shall transfer \$270,000 from the state gaming revenues fund to the national guard museum assistance fund of the adjutant general’s department for the purpose of providing assistance for an expansion of the 35th infantry division museum and education center facility as described in subsection (c)(3) K.S.A. 2007 Supp. 74-8724, as amended by section 6 of 2008 Senate Substitute for House Bill No. 2923.

Sec. 46.

STATE CORPORATION COMMISSION

(a) On July 1, 2008, the aggregate expenditure limitation established for the fiscal year ending June 30, 2009, by section 83(b) of 2008 Senate Bill No. 534, on expenditures from the public service regulation fund, the motor carrier license fees fund and the conservation fee fund, in the aggregate, is hereby increased from \$16,122,496 to \$16,472,496.

Sec. 47. (a) No moneys shall be appropriated for any state agency from the state general fund or from any special revenue fund to replace homeland security federal funds in future years.

Sec. 48. On the effective date of this act, K.S.A. 2007 Supp. 74-99b16 is hereby amended to read as follows: 74-99b16. (a) As used in this section, unless the context expressly provides otherwise:

(1) “Ancillary technical services” include, but shall not be limited to, geology services and other soil or subsurface investigation and testing services, surveying, adjusting and balancing of air conditioning, ventilating, heating and other mechanical building systems, testing and consultant services that are determined by the bioscience authority to be required for a project;

(2) “architectural services” means those services described by subsection (e) of K.S.A. 74-7003, and amendments thereto;

(3) “construction services” means the work performed by a construction contractor to commence and complete a project;

(4) “construction management at-risk services” means the services provided by a firm which has entered into a contract with the bioscience authority to be the construction manager at risk for the value and schedule of the contract for a project, which is to hold the trade contracts and execute the work for a project in a manner similar to a general contractor and which is required to solicit competitive bids for the trade packages developed for a project and to enter into the trade contracts for a project with the lowest responsible bidder therefor, and may include, but are not limited to, such services as scheduling, value analysis, systems analysis, constructability reviews, progress document reviews, subcontractor involvement and prequalification, subcontractor bonding policy, budgeting and price guarantees, and construction coordination;

(5) “division of facilities management” means the division of facilities management of the department of administration;

(6) “engineering services” means those services described by subsection (i) of K.S.A. 74-7003, and amendments thereto;

(7) “firm” means (A) with respect to architectural services, an individual, firm, partnership, corporation, association or other legal entity which is: (i) permitted by law to practice the profession of architecture; and (ii) maintaining an office in Kansas staffed by one or more architects who are licensed by the board of technical professions; or (iii) not maintaining an office in Kansas, but which is qualified to perform special architectural services that are required in special cases where in the judgment of the bioscience authority it is necessary to go outside the state to obtain such services; (B) with respect to engineering services or land surveying, an individual, firm, partnership, corporation, association or other legal entity permitted by law to practice the profession of engineering and provide engineering services or practice the profession of land surveying and provide land surveying services, respectively; (C) with respect to construction management at-risk services, a qualified individual, firm, partnership, corporation, association or other legal entity permitted by law to perform construction management at-risk services; (D) with respect to ancillary technical services or other services that are determined by the bioscience authority to be required for a project, a qualified individual, firm, partnership, corporation, association or other legal entity permitted by law to practice the required profession or perform the other required services, as determined by the bioscience authority; and (E) with respect to construction services, a qualified individual, firm, partnership, corporation, association, or other legal entity permitted by law to perform construction services for a project;

(8) “land surveying” means those services described in subsection (j) of K.S.A. 74-7003, and amendments thereto;

(9) “negotiating committee” means the board of directors of the subsidiary corporation formed under K.S.A. 2007 Supp. 76-781, and amendments thereto, *except that for the period of May 1, 2008, through May 1, 2009, the term shall have the meaning set forth in subsection (b) of K.S.A. 75-1251, and amendments thereto;*

(10) “project” means a project undertaken by the Kansas bioscience authority;

(11) “project services” means architectural services, engineering services, land surveying, construction management at-risk services, construction services, ancillary technical services or other construction-related services determined by the bioscience authority to be required for a project; and

(12) “state building advisory commission” means the state building advisory commission created by K.S.A. 75-3780, and amendments thereto.

(b) The bioscience authority, when acting under authority of this act, and each project authorized by the bioscience authority under this act are exempt from the provisions of K.S.A. 75-1269, 75-3738 through 75-3741b, 75-3742 through 75-3744, and 75-3783, and amendments thereto, except as otherwise specifically provided by this act.

(c) Notwithstanding the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto, or the provisions of any other statute to the contrary, all contracts for any supplies, materials or equipment for a project authorized by the bioscience authority under this act,

shall be entered into in accordance with procurement procedures determined by the bioscience authority, subject to the provisions of this section, except that, in the discretion of the bioscience authority, any such contract may be entered into in the manner provided in and subject to the provisions of any such statute otherwise applicable thereto. Notwithstanding the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto, if the bioscience authority does not obtain construction management at-risk services for a project, the construction services for such project shall be obtained pursuant to competitive bids and all contracts for construction services for such project shall be awarded to the lowest responsible bidder in accordance with procurement procedures determined and administered by the bioscience authority which shall be consistent with the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto.

(d) When it is necessary in the judgment of the bioscience authority to obtain project services for a particular project by conducting negotiations therefor, the bioscience authority shall publish a notice of the commencement of negotiations for the required project services at least 15 days prior to the commencement of such negotiations in the Kansas register in accordance with K.S.A. 75-430a, and amendments thereto, and in such other appropriate manner as may be determined by the bioscience authority.

(e) (1) Notwithstanding the provisions of subsection (b) of K.S.A. 75-1251, and amendments thereto, or the provisions of any other statute to the contrary, as used in K.S.A. 75-1250 through 75-1270, and amendments thereto, with respect to the procurement of architectural services for a project authorized by the bioscience authority under this act, "negotiating committee" shall mean the board of directors of the subsidiary corporation formed under K.S.A. 2007 Supp. 76-781, and amendments thereto, and such board of directors shall negotiate a contract with a firm to provide any required architectural services for the project in accordance with the provisions of K.S.A. 75-1250 through 75-1270, and amendments thereto, except that no limitation on the fees for architectural services for the project shall apply to the fees negotiated by the board of directors for such architectural services, *except that for the period of May 1, 2008, through May 1, 2009, the "negotiating committee" shall have the meaning set forth in subsection (b) of K.S.A. 75-1251, and amendments thereto, and the board of directors of the subsidiary corporation formed under K.S.A. 76-781, and amendments thereto, shall have no role in the procurement of architectural services for a project.*

(2) Notwithstanding the provisions of subsection (e) of K.S.A. 75-5802, and amendments thereto, or the provisions of any other statute to the contrary, as used in K.S.A. 75-5801 through 75-5807, and amendments thereto, with respect to the procurement of engineering services or land surveying services for a project authorized by the bioscience authority under this act, "negotiating committee" shall mean the board of directors of the subsidiary corporation formed under K.S.A. 2007 Supp. 76-781, and amendments thereto, and such board of directors shall negotiate a contract with a firm to provide any required engineering services or land surveying services for the project in accordance with the provisions of K.S.A. 75-5801 through 75-5807, and amendments thereto, *except that for the period of May 1, 2008, through May 1, 2009, the "negotiating committee" shall have the meaning set forth in subsection (b) of K.S.A. 75-1251, and amendments thereto, and the board of directors of the subsidiary corporation formed under K.S.A. 76-781, and amendments thereto, shall have no role in the procurement of engineering services or land surveying services for a project.*

(3) In any case of a conflict between the provisions of this section and the provisions of K.S.A. 75-1250 through 75-1270, or 75-5801 through 75-5807, and amendments thereto, with respect to a project authorized by the bioscience authority under this act, the provisions of this section shall govern.

(f) (1) For the procurement of construction management at-risk services for projects under this act, the secretary of administration shall encourage firms engaged in the performance of construction management at-risk services to submit annually to the secretary of administration and to the state building advisory commission a statement of qualifications and performance data. Each statement shall include data relating to (A) the firm's capacity and experience, including experience on similar or related projects, (B) the capabilities and other qualifications of the firm's personnel, and (C) performance data of all consultants the firm proposes to use.

(2) Whenever the bioscience authority determines that a construction manager at risk is required for a project under this act, the bioscience authority shall notify the state building advisory commission and the state building advisory commission shall prepare a list of at least three and not more than five firms which are, in the opinion of the state building advisory commission, qualified to serve as construction manager at risk for the project. Such list shall be submitted to the negotiating committee, without any recommendation of preference or other recommendation. The negotiating committee shall have access to statements of qualifications of and performance data on the firms listed by the state building advisory commission and all information and evaluations regarding such firms gathered and developed by the secretary of administration under K.S.A. 75-3783, and amendments thereto.

(3) The negotiating committee shall conduct discussions with each of the firms so listed regarding the project. The negotiating committee shall determine which construction management at-risk services are desired and then shall proceed to negotiate with and attempt to enter into a contract with the firm considered to be most qualified to serve as construction manager at risk for the project. The negotiating committee shall proceed in accordance with the same process with which negotiations are undertaken to contract with a firm to be a project architect under K.S.A. 75-1257, and amendments thereto, to the extent that such provisions can be made to apply. Should the negotiating committee be unable to negotiate a satisfactory contract with the firm considered to be most qualified, negotiations with that firm shall be terminated and shall undertake negotiations with the second most qualified firm, and so forth, in accordance with that statute.

(4) The contract to perform construction management at-risk services for a project shall be prepared by the division of facilities management and entered into by the bioscience authority with the firm contracting to perform such construction management at-risk services.

(g) (1) To assist in the procurement of construction services for projects under this act, the secretary of administration shall encourage firms engaged in the performance of construction services to submit annually to the secretary of administration and to the state building advisory commission a statement of qualifications and performance data. Each statement shall include data relating to (A) the firm's capacity and experience, including experience on similar or related projects, (B) the capabilities and other qualifications of the firm's personnel, (C) performance data of all subcontractors the firm proposes to use, and (D) such other information related to the qualifications and capability of the firm to perform construction services for projects as may be prescribed by the secretary of administration.

(2) The construction manager at risk shall publish a construction services bid notice in the Kansas register and in such other appropriate manner as may be determined by the bioscience authority. Each construction services bid notice shall include the request for bids and other bidding information prepared by the construction manager at risk and the state bioscience authority with the assistance of the division of facilities management. The current statements of qualifications of and performance data on the firms submitting bid proposals shall be made available to the construction manager at risk and the bioscience authority by the state building advisory commission along with all information and evaluations developed regarding such firms by the secretary of administration under K.S.A. 75-3783, and amendments thereto. Each firm submitting a bid proposal shall be bonded in accordance with K.S.A. 60-1111, and amendments thereto, and shall present evidence of such bond to the construction manager at risk prior to submitting a bid proposal. If a firm submitting a bid proposal fails to present such evidence, such firm shall be deemed unqualified for selection under this subsection. At the time for opening the bids, the construction manager at risk shall evaluate the bids and shall determine the lowest responsible bidder. The construction manager at risk shall enter into contracts with each firm performing the construction services for the project and make a public announcement of each firm selected in accordance with this subsection.

(h) The division of facilities management shall provide such information and assistance as may be requested by the bioscience authority or the negotiating committee for a project, including all or part of any project services as requested by the bioscience authority, and (1) shall prepare the request for proposals and publication information for each publication of notice under this section, subject to the provisions of this section, (2) shall prepare each

contract for project services for a project, including each contract for construction services for a project, (3) shall conduct design development reviews for each project, (4) shall review and approve all construction documents for a project prior to soliciting bids or otherwise soliciting proposals from construction contractors or construction service providers for a project, (5) shall obtain and maintain copies of construction documents for each project, and (6) shall conduct periodic inspections of each project, including jointly conducting the final inspection of each project.

(i) Notwithstanding the provisions of any other statute, the bioscience authority shall enter into one or more contracts with the division of facilities management for each project for the services performed by the division of facilities management for the project as required by this section or at the request of the bioscience authority. The division of facilities management shall receive fees from the bioscience authority to recover the costs incurred to provide such services pursuant to such contracts.

(j) Design development reviews and construction document reviews conducted by the division of facilities management shall be limited to ensuring only that the construction documents do not change the project description and that the construction documents comply with the standards established under K.S.A. 75-3783, and amendments thereto, by the secretary of administration for the planning, design and construction of buildings and major repairs and improvements to buildings for state agencies, including applicable building and life safety codes and appropriate and practical energy conservation and efficiency standards.

(k) Each project for a bioscience research institution shall receive a final joint inspection by the division of facilities management and the bioscience authority. Each such project shall be officially accepted by the bioscience authority before such project is occupied or utilized by the bioscience research institution, unless otherwise agreed to in writing by the contractor and the bioscience authority as to the satisfactory completion of the work on part of the project that is to be occupied and utilized, including any corrections of the work thereon.

(l) (1) The bioscience authority shall issue monthly reports of progress on each project and shall advise and consult with the joint committee on state building construction regarding each project. Change orders and changes of plans for a project shall be authorized or approved by the bioscience authority.

(2) No change order or change of plans for a project involving either cost increases of \$75,000 or more or involving a change in the proposed use of a project shall be authorized or approved by the bioscience authority without having first advised and consulted with the joint committee on state building construction.

(3) Change orders or changes in plans for a project involving a cost increase of less than \$75,000 and any change order involving a cost reduction, other than a change in the proposed use of the project, may be authorized or approved by the bioscience authority without prior consultation with the joint committee on state building construction. The bioscience authority shall report to the joint committee on state building construction all action relating to such change orders or changes in plans.

(4) If the bioscience authority determines that it is in the best interest of the state to authorize or approve a change order, a change in plans or a change in the proposed use of any project that the bioscience authority is required to first advise and consult with the joint committee on state building construction prior to issuing such approval and if no meeting of the joint committee is scheduled to take place within the next 10 business days, then the bioscience authority may use the procedure authorized by subsection (d) of K.S.A. 75-1264, and amendments thereto, in lieu of advising and consulting with the joint committee at a meeting. In any such case, the bioscience authority shall mail a summary description of the proposed change order, change in plans or change in the proposed use of any project to each member of the joint committee on state building construction and to the director of the legislative research department. If the bioscience authority provides notice and information to the members of the joint committee and to such director in the manner required and subject to the same provisions and conditions that apply to the secretary of administration under such statute, and if less than two members of the joint committee contact the director of the legislative research department within seven business days of the date the

summary description was mailed and request a presentation and review of any such proposed change order, change in plans or change in use at a meeting of the joint committee, then the bioscience authority shall be deemed to have advised and consulted with the joint committee about such proposed change order, change in plans or change in proposed use and may authorize or approve such proposed change order, change in plans or change in proposed use.

(m) The provisions of this section shall apply to each project authorized by the bioscience authority under this act and shall not apply to any other capital improvement project of the bioscience authority or bioscience research institution that is specifically authorized by any other statute.

Sec. 49. K.S.A. 2007 Supp. 74-99b16 is hereby repealed.”;

And by renumbering the remaining sections accordingly;

On page 1, in the title, in line 11, by striking “and”; also in line 11, preceding “for” by inserting “and June 30, 2011.”; in line 15, after “amending” by inserting “K.S.A. 2007 Supp. 74-99b16 and”; in line 16, by striking “section” and inserting “sections”;

And your committee on conference recommends the adoption of this report.

DWAYNE UMBARGER

JAY SCOTT EMLER

LAURA KELLY

Conferees on part of Senate

SHARON SCHWARTZ

LEE E. TAFANELLI

BILL FEUERBORN

Conferees on part of House

On motion of Rep. Schwartz, the conference committee report on **S. Sub. for HB 2946** was adopted.

On roll call, the vote was: Yeas 73; Nays 49; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Bethell, Bowers, Burgess, Carlson, Colloton, Craft, Davis, Faber, Faust-Goudeau, Feuerborn, Fund, George, Gordon, Goyle, Grange, Hawk, Hayzlett, Henderson, Hill, Holland, C. Holmes, M. Holmes, Horst, Humerickhouse, Huntington, Johnson, Kelsey, King, Lane, Light, Loganbill, Long, Mah, Masterson, McCray-Miller, Metsker, Jim Morrison, Moxley, Myers, Neighbor, Neufeld, Olson, Otto, Owens, Palmer, Peterson, Pottorff, Powell, Powers, Proehl, Quigley, Roth, Schroeder, Schwartz, Shultz, Siegfried, Sloan, Spalding, Storm, Swanson, Swenson, Tafanelli, Treaster, Vickrey, Whitham, Will, Williams, Winn, B. Wolf, K. Wolf, Worley.

Nays: Beamer, Brown, Brunk, Burroughs, Carlin, Colyer, Crow, Crum, Dahl, Dillmore, Donohoe, Flaharty, Flora, Frownfelter, Garcia, Gatewood, Goico, Grant, Henry, Hodge, Kinzer, Knox, Kuether, Landwehr, Lukert, Mast, McKinney, McLachlan, McLeland, Menghini, Merrick, Judy Morrison, O’Neal, Patton, Pauls, Peck, Phelps, Rardin, Rhoades, Ruff, Ruiz, Sawyer, Svaty, Tietze, Trimmer, Ward, Watkins, Wetta, Yoder.

Present but not voting: None.

Absent or not voting: Huebert, Kelley, Kiegerl.

EXPLANATIONS OF VOTE

MR. SPEAKER: There is plenty in this bill to dislike — a multitude of reasons to vote no. However, responsibility to the residents of Kansas demands we look at the unintended consequences of that action. Asking the providers of healthcare services to those in need to carry credit for the state by pending payments is unreasonable. Not providing services for those in need is unconscionable. To make the effort to add items that are of interest to our constituents, and then vote no because the budget is too large, is dishonest. For these reasons, Mr. Speaker, I vote yes on **S. Sub. for HB 2946**.—BOB BETHELL, SHARON SCHWARTZ, JIM MORRISON, BILL LIGHT, ARLEN SIEGFREID, KAY WOLF, SHERYL SPALDING, RON WORLEY, THOMAS C. (TIM) OWENS, MIKE BURGESS, JILL QUIGLEY, TERRIE HUNTINGTON, PAT COLLOTON, DICK KELSEY, BARBARA CRAFT, LEE TAFANELLI

MR. SPEAKER: I've been told of the dire consequences associated with not passing a omnibus bill.

On the other hand I've had numerous representatives comment on the Supreme Court's decision regarding education funding and regret the fact that they did not stand their ground. If we educate people to the fact that they can "pork barrel" up a omnibus bill, during an election cycle no less, and succeed, you can be assured that we are witnessing the beginning of a precedent, and a dangerous one at that. We only get one opportunity to do this right and this is the vote that ends that attempted precedent. I ask that you vote no on **S. Sub. for HB 2946**.—OWEN DONOHOE

PROTEST

Mr. Speaker: Pursuant to Article 2, Section 10, of the constitution of the State of Kansas, I protest the passage of **S. Sub. for HB 2946**.

- I committed to limiting the amount of increase in the state budget because we are spending more money than we are bringing in again!! This does not meet my goal.
- I was one of many who complained that our Governor was budgeting with money that did not exist by counting dollars for revenue from gambling that has not come in yet. This budget does that very thing!! I cannot agree with that.
- Our revenues are down and we are starting new programs and failing to take care of existing ones. Although I do support some of the funding such as added funding to community health clinics, I cannot support such things as unlimited expenditures for the Capitol Area Plaza Authority Planning Fund, the Pipeline Entrepreneurship Mentoring Program, and \$400,000 for flood repairs for the Cheyenne Bottoms.
- I am appalled that we continue to spend more money for gambling while no dollars are coming in. Last year, the supporters of this issue kept talking about how our state would prosper from this action and this budget appropriates \$2,000,000 more for the Gaming and Racing Commission.
- A final angst I have with this bill is the addition of 92.8 more state employees. At a time when we say we stand for less government, it makes little sense that we are adding more employees. Kansas already has a higher per capita % of state employees than most states. I cannot support adding more individuals to the payroll.—PEGGY MAST

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **S. Sub. for HB 2390**.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Schwartz, the House concurred in Senate amendments to **S. Sub. for HB 2390**. An act concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; postretirement benefit payment to certain retirants; amending K.S.A. 2007 Supp. 74-4920 and repealing the existing section.

On roll call, the vote was: Yeas 117; Nays 4; Present but not voting: 1; Absent or not voting: 3.

Yeas: Aurand, Ballard, Bethell, Bowers, Brunk, Burgess, Burroughs, Carlin, Carlson, Coloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Humerickhouse, Huntington, Johnson, Kelsey, King, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McCray-Miller, McKinney, McLachlan, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Powers, Proehl, Quigley, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Brown, Donohoe, Hodge, Kinzer.

Present but not voting: Beamer.
Absent or not voting: Huebert, Kelley, Kiegerl.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, pursuant to House Rule 2307, the following resolutions appearing on the calendar under the heading, Motions and Resolutions Offered on a Previous Day, were stricken from the calendar:

HCR 5042, HCR 5043.

Also, the following bills and resolutions appearing on the calendar under the heading, General Orders, were stricken from the calendar:

HB 2098; Sub. HB 2336; HB 2495; Sub. HB 2640; HB 2775, HB 2799, HB 2890; HCR 5031, HCR 5038; SB 127, SB 363; H. Sub. for SB 385; H. Sub. for SB 397; SB 656, SB 670, SB 672.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, **SCR 1627**, A concurrent resolution relating to the adjournment of the Senate and House of Representatives for a period during the 2008 regular session of the legislature, was adopted.

REPORT ON ENGROSSED BILLS

HB 2683; S. Sub. for HB 2412 reported correctly engrossed May 7, 2008.

HB 2707 reported correctly re-engrossed May 7, 2008.

On motion of Rep. Merrick, the House adjourned until 10:00 a.m., Thursday, May 29, 2008.

CHARLENE SWANSON, *Journal Clerk.*

JANET E. JONES, *Chief Clerk.*

MESSAGE FROM THE SENATE

Announcing the Senate herewith transmits the veto message from the Governor on **SB 534**, An act making and concerning appropriations for the fiscal years ending June 30, 2003, June 30, 2004, June 30, 2005, and June 30, 2007, June 30, 2008, June 30, 2009, and June 30, 2010, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2-223 and K.S.A. 2002 Supp. 55-193, 75- 2319, 76-775, 79-2959, as amended by section 21 of 2003 House Bill No. 2026, 79-2964, as amended by section 22 of 2003 House Bill No. 2026, 79-3425i, as amended by section 23 of 2003 House Bill No. 2026, 79-34,147, 79-4804 and 82a-953a and repealing the existing sections, which was received on April 21, 2008 and was read before the Senate on April 30, 2008.

Message to the Senate of the State of Kansas:

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I hereby return Senate Bill 534 with my signature approving the bill, except for the items enumerated below.

Department of Administration

Expanded Lottery Act Revenues Fund

Sections 85(t), 85(u), 85(v), and 85(w) have been line-item vetoed in their entirety.

This portion of the bill unnecessarily creates three new funds to receive monies from the Expanded Lottery Act Revenues Fund. Current law already defines how new receipts from gaming activity will be administered and how they can be spent. Creating additional funds and further stipulations would limit the flexibility of future Legislatures to target gaming

MAY 7, 2008

2619

receipts toward the most important and pressing needs of the state. For this reason, I find it necessary to veto this portion of the bill.

KATHLEEN SEBELIUS
Governor

Dated: April 21, 2008

There being no motion to reconsidered the line items vetoes on **SB 534**, the President ruled the line item vetoes sustained.

