

Journal of the Senate

SIXTIETH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, May 6, 2010—11:00 a.m.

The Senate was called to order by President Stephen Morris.

The roll was called with forty senators present.

Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Today You will be called on
by millions everywhere;
Once more we are observing
The National Day of Prayer.

From Seattle to Miami,
From L.A. to Bangor, Maine,
Your faithful ones will bow their head,
And pray for God to reign.

We pray for troops in combat,
And for missionaries, too;
We pray for all those persecuted
For simply worshiping You,

Help us cleanse our nation, Lord,
Of all its sordid sin,
And restore our founders' faith.
Help us begin again.

On the east steps of our capital
Less than an hour from now,
Many will be gathering
In humility to bow.

Even as our legislature
Struggles for solutions
May our prayer for wisdom
Make a contribution.

Let us not forget
That power comes from You,
Remind us that what we pray
Will make a difference, too.

I pray in the Name of Jesus Christ,
AMEN

The Pledge of Allegiance was led by President Stephen Morris.

MESSAGE FROM THE HOUSE

The House concurs in Senate amendments to **Senate Substitute for HB 2226** and requests the Senate to return the bill.

The House adopts the conference committee report on **House Substitute for SB 306**.

ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **H Sub for SB 306; SB 368; HB 2482, HB 2486, HB 2554.**

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 306**, 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 as HOUSE Substitute for SENATE Bill No. 306, as follows:

On page 2, in line 36, by striking “subsections (a)(10) and” and inserting “subsection”;
On page 3, in line 3, by striking “and” and inserting “or”; in line 5, by striking “and” where it appears for the first time and inserting “or”; in line 6, by striking “and” where it appears for the first time and inserting “or”;

On page 7, in line 13, by striking “\$125” and inserting “\$132.50”; in line 15, by striking “consist” and inserting “be in the form of two cashier’s checks, personal checks or money orders”; in line 16, by striking “\$25” and inserting “\$32.50”;

On page 8, in line 41, by striking “\$100” and inserting “\$75”; in line 42, by striking “\$40” and inserting “\$25”; in line 43, by striking “\$60” and inserting “\$50”;

On page 10, in line 17, before “act” by inserting “Kansas judicial review”; also in line 17, by striking “for”; in line 18, by striking all before “shall”; in line 22, by striking “arrested” and inserting “charged”;

On page 15, by striking all in line 32; in line 33, by striking all before the period and inserting “shall be revoked for a minimum of one year for a first offense and three years for a second or subsequent offense”;

On page 18, in line 30, by striking “(e)” and inserting “(c)”; after line 31, by inserting the following:

“(k) The provisions of K.S.A. 8-1023 and 8-1024, and amendments thereto, shall be applicable and followed during any administration or enforcement of this section.

“Sec. 11. K.S.A. 2009 Supp. 75-7c13 is hereby amended to read as follows: 75-7c13.

(a) All moneys received by the attorney general pursuant to this act shall be remitted to the state treasurer who shall deposit the entire amount in the state treasury and credit it to the concealed ~~weapon handgun~~ licensure fund, which is hereby created in the state treasury.

(b) Moneys in the concealed ~~weapon handgun~~ licensure fund shall be used only for: (1) Payment of the expenses of administration of the personal and family protection act; and (2) transfers to the county law enforcement equipment fund and to the forensic laboratory and materials fee fund as provided by subsection (e).

(c) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the concealed ~~weapon handgun~~ licensure fund the amount of money certified by the pooled money investment board in accordance with this subsection. Prior to the 10th day of each month, the pooled money investment board shall certify to the director of accounts and reports the amount of money equal to the proportionate amount of all the interest credited to the state general fund for the preceding month, pursuant to K.S.A. 75-4210a, and amendments thereto, that is attributable to moneys in the concealed ~~weapon handgun~~ licensure fund. Such amount of money shall be determined by the pooled money investment board based on: (1) The average daily balance of moneys in the concealed ~~weapon handgun~~ licensure fund for the preceding month; and (2) the net earnings for the pooled money investment portfolio for the preceding month.

(d) All expenditures from the concealed ~~weapon handgun~~ licensure 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 attorney general for the purposes set forth in this section.

(e) The attorney general shall certify to the director of accounts and reports on each July 1 and January 1 after moneys are first credited to the concealed ~~weapons~~ handgun licensure fund the amount of moneys in such fund needed to administer this act. On or before the 15th day of each month after moneys are first credited to the concealed ~~weapons~~ handgun licensure fund, the director of accounts and reports shall transfer moneys in the concealed ~~weapons~~ handgun licensure fund as follows: (1) Of the amount in excess of the amount certified by the attorney general, 20% shall be credited to the county law enforcement equipment fund; and (2) the remaining 80% shall be credited to a separate account in the forensic laboratory and materials fee fund cited in K.S.A. 28-176, and amendments thereto, to be used solely to assist city and county law enforcement agencies to obtain prompt laboratory services from the bureau. Moneys credited to the forensic laboratory and materials fee fund as provided by this subsection shall be used to supplement existing appropriations and shall not be used to supplant general fund appropriations to the attorney general.

Sec. 12. K.S.A. 2009 Supp. 75-7c15 is hereby amended to read as follows: 75-7c15. The committee on surety bonds and insurance, within the limitations of appropriations made therefor, shall purchase such liability insurance as it deems necessary for the protection of persons engaged in conducting an approved ~~weapons~~ handgun safety and training course against any liability for injuries or damages arising from the conducting of such course of instruction by such persons.

Sec. 13. K.S.A. 2009 Supp. 75-7c17 is hereby amended to read as follows: 75-7c17. (a) The legislature finds as a matter of public policy and fact that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed ~~weapons~~ handguns for self-defense and finds it necessary to occupy the field of regulation of the bearing of concealed ~~weapons~~ handguns for self-defense to ensure that no honest, law-abiding person who qualifies under the provisions of this act is subjectively or arbitrarily denied the person's rights. No city, county or other political subdivision of this state shall regulate, restrict or prohibit the carrying of concealed ~~weapons~~ handguns by persons licensed under this act except as provided in ~~subsections (a)(1) and (a)(2) of K.S.A. 2009 Supp. 75-7c11~~ subsection (b) of K.S.A. 2009 Supp. 75-7c10, and amendments thereto, and subsection (f) of K.S.A. 21-4218, and amendments thereto. Any existing or future law, ordinance, rule, regulation or resolution enacted by any city, county or other political subdivision of this state that regulates, restricts or prohibits the carrying of concealed ~~weapons~~ handguns by persons licensed under this act except as provided in ~~subsections (a)(1) and (a)(2) of K.S.A. 2009 Supp. 75-7c11~~ subsection (b) of K.S.A. 2009 Supp. 75-7c10, and amendments thereto, and subsection (f) of K.S.A. 21-4218, and amendments thereto, shall be null and void.

(b) Prosecution of any person licensed under the personal and family protection act, and amendments thereto, for violating any restrictions on licensees will be done through the district court.

(c) The legislature does not delegate to the attorney general the authority to regulate or restrict the issuing of licenses provided for in this act, beyond those provisions of this act pertaining to licensing and training. Subjective or arbitrary actions or rules and regulations which encumber the issuing process by placing burdens on the applicant beyond those sworn statements and specified documents detailed in this act or which create restrictions beyond those specified in this act are in conflict with the intent of this act and are prohibited.

(d) This act shall be liberally construed. This act is supplemental and additional to existing constitutional rights to bear arms and nothing in this act shall impair or diminish such rights.”;

And by renumbering the remaining sections accordingly;

On page 19, in line 7, before the semicolon, by inserting “. This subsection shall not prohibit any ordinary pocket knife which has a spring, detent or other device which creates a bias towards closure of the blade and which requires hand pressure applied to such spring, detent or device through the blade of the knife to overcome the bias towards closure to assist in the opening of the knife”;

On page 21, in line 39, by striking “or” and inserting a comma; in line 40, before “or” by inserting “or any violation of any provision of the uniform controlled substances act prior to July 1, 2009.”;

On page 22, in line 1, by striking “or” and inserting a comma; in line 2, after the comma, by inserting “or any violation of any provision of the uniform controlled substances act prior to July 1, 2009.”; in line 17, by striking all after “Supp.” and inserting “21-36a03, 21-3a05, 21-36a06, 21-36a07 or 21-36a09, and amendments thereto; K.S.A. 65-4127a, 65-4127b, 65-4159 through 65-4165 or 65-7006, prior to such section’s repeal; an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of any such felony.”;

On page 26, in line 3, by striking “21-4204,” and inserting “21-4201, as amended by section 1 of 2010 Senate Bill No. 497, 21-4204, 21-4204, as amended by section 3 of 2010 Substitute for Senate Bill No. 67, 21-4204, as amended by section 7 of 2010 House Bill No. 2661, 21-4204, as amended by section 6 of 2010 Senate Bill No. 586.”; in line 4, after “75-7c04,” by inserting “75-7c04, as amended by section 16 of 2010 House Bill No. 2661.”; also in line 4, after “75-7c07,” by inserting “75-7c07, as amended by section 193 of 2010 Senate Bill No. 376.”; in line 5, after “75-7c12” by inserting “, 75-7c13, 75-7c15, 75-7c17”;

In the title, in line 11, after “75-7c12” by inserting “, 75-7c13, 75-7c15, 75-7c17”; in line 13, after “Supp.” by inserting “21-4201, as amended by section 1 of 2010 Senate Bill No. 497, 21-4204, as amended by section 3 of 2010 Substitute for Senate Bill No. 67, 21-4204, as amended by section 7 of 2010 House Bill No. 2661, 21-4204, as amended by section 6 of 2010 Senate Bill No. 586, 75-7c04, as amended by section 16 of 2010 House Bill No. 2661, 75-7c07, as amended by section 193 of 2010 Senate Bill No. 376 and”;

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

MELVIN NEUFELD

MIKE KIEGERL

Conferees on part of House

PETE BRUNGARDT

ROGER P. REITZ

OLETHA FAUST-GOUDEAU

Conferees on part of Senate

Senator Brungardt moved the Senate adopt the Conference Committee Report on **H Sub for SB 306**.

On roll call, the vote was: Yeas 37, Nays 2, Present and Passing 1, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Faust-Goudeau, Reitz.

Present and Passing: Francisco.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 368**, submits the following report:

The House recedes from all of its 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 39, by striking “, then restrict the person’s driving privi-”; by striking all in line 40; in line 41, by striking all before the semicolon and inserting “and at the end of the suspension, restrict the person’s driving privileges for one year to driving only a motor vehicle equipped with an ignition interlock device”;

On page 2, after line 32, by inserting the following:

“(3) Whenever a person’s driving privileges have been restricted to driving only a motor vehicle equipped with an ignition interlock device, proof of the installation of such device,

for the entire restriction period, shall be provided to the division before the person's driving privileges are fully reinstated.”;

On page 4, in line 4, by striking “subsection (b)(1) of K.S.A. 8-1014” and inserting “subsection (f) of K.S.A. 8-1567a”; after line 16, by inserting “Prior to issuing such restricted license, the division shall receive proof of the installation of such device.”; in line 17, by striking “one-year” and inserting “applicable”; in line 18, by striking “subsection (b)(2)” and inserting “subsection (b)”; in line 19, by striking “for”; in line 20, by striking “one year” and inserting “pursuant to subsection (b) of K.S.A. 8-1014, and amendments thereto.”; after line 24, by inserting “Proof of the installation of such device, for the entire restriction period, shall be provided to the division before the person's driving privileges are fully reinstated.”;

On page 14, in line 11, by striking “and 8-1015” and inserting “, 8-1015 and 8-1567, as amended by section 1 of 2010 Senate Bill No. 586.”;

In the title, in line 14, before the period by inserting “and K.S.A. 2009 Supp. 8-1567, as amended by section 1 of 2010 Senate Bill No. 586”;

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

LANCE KINZER
JEFF WHITHAM
JANICE L. PAULS
Conferees on part of House

THOMAS C. OWENS
JOHN VRATIL
LAURA KELLY
Conferees on part of Senate

Senator Owens moved the Senate adopt the Conference Committee Report on **HB 368**.

Senator Bruce made a substitute motion to not adopt the Conference Committee Report and a new conference committee be appointed.

The motion carried.

President Morris appointed Senators Owens, Vratil and Kelly as third conferees on the part of the Senate on **HB 368**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2482**, 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 4, in line 42, by striking all following “notice”; by striking all in lines 43;

On page 5, by striking all in lines 1 and 2; in line 3, by striking “thereto” and inserting “a written explanation of substantial changes to traffic regulations enacted by the legislature”; in line 35, by striking “and a written exami-”; by striking all in lines 36 and 37; in line 38, by striking “this state”; in line 41, by striking “examinations” and inserting “examination”; in line 42, by striking “examinations” and inserting “examination”;

On page 6, by striking all in lines 1 and 2; in line 3, by striking all preceding the period; by striking all in lines 16 through 19; in line 20, by striking “(4)”; in line 22, by striking all preceding “suffi-” and inserting “eyesight examination or report is”; in line 24, by striking “either or both”; in line 25, by striking all preceding “insufficient” and inserting “the eyesight examination or report is”; in line 30, by striking “(5)” and inserting “(4)”; by striking all in lines 37 through 41; in line 42, by striking “(6)” and inserting “(5)”;

On page 7, in line 5, by striking “(7)” and inserting “(6)”; in line 13, by striking “(7)” and inserting “(6)”;

On page 9, following line 3, by inserting the following:

“(i) The director of the division of vehicles shall submit a report to the legislature at the beginning of the regular session in 2012 regarding the impact of not requiring a written test for the renewal of a driver's license, including any cost savings to the division.”;

Also on page 9, in line 31, by striking all following “religious” and inserting “worship service”;

On page 13, in line 33, by striking all following “religious” and inserting “worship service”;
 On page 14, in line 24, by striking all following “religious” and inserting “worship service”;
 And your committee on conference recommends the adoption of this report.

DWAYNE UMBARGER
 BOB MARSHALL
 KELLY KULTALA
Conferees on part of Senate

GARY K. HAYZLETT
 JENE VICKREY
 MARGARET LONG
Conferees on part of House

Senator Umbarger moved the Senate adopt the Conference Committee Report on **HB 2482**.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 1, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Present and Passing: Francisco.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2486**, 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 amendments, as follows:

On page 1, by striking all in lines 14 through 43 and inserting the following:

“Section 1. K.S.A. 2009 Supp. 65-3225 is hereby amended to read as follows: 65-3225.

(a) Subject to K.S.A. 2009 Supp. 65-3227, and amendments thereto, a donor or other person authorized to make an anatomical gift under K.S.A. 2009 Supp. 65-3223, and amendments thereto, may amend or revoke an anatomical gift by:

(1) A record signed by:

(A) The donor;

(B) the other person; or

(C) subject to subsection (b), another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or

(2) a later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

(b) A record signed pursuant to subsection (a)(1)(C) must:

(1) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(2) state that it has been signed and witnessed as provided in paragraph (1).

(c) Subject to K.S.A. 2009 Supp. 65-3227, and amendments thereto, a donor or other person authorized to make an anatomical gift under K.S.A. 2009 Supp. 65-3223, and amendments thereto, may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

(d) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(e) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection (a).

(f) A donor may revoke or amend an anatomical gift made by placing such individual's name on the first person consent organ and tissue donor registry by directly accessing the registry website or notifying the Kansas federally designated organ procurement organization to request the amendment or revocation. Withdrawal of such individual's consent to be listed in the registry does not constitute a refusal to make an anatomical gift of the individual's body or part.

Sec. 2. K.S.A. 2009 Supp. 65-3239 is hereby amended to read as follows: 65-3239. (a) Information obtained under K.S.A. 8-247 and 8-1325, and amendments thereto, from the division of vehicles by the Kansas federally designated organ procurement organization shall be used for the purpose of establishing a statewide organ and tissue donor registry accessible to in-state recognized cadaveric organ and cadaveric tissue agencies for the recovery or placement of organs and tissue and to procurement agencies in another state when a Kansas resident is a donor of an anatomical gift and is not located in Kansas at the time of death or immediately before the death of the donor. No organ or tissue donation organization may obtain information from the organ and tissue donor registry for the purposes of fund-raising. Organ and tissue donor registry information shall not be further disseminated unless authorized in this section or by federal law. Dissemination of organ and tissue donor registry information may be made by the Kansas federally designated organ procurement organization to a recognized in-state procurement agency for other tissue recovery, or an out-of-state federally designated organ procurement agency. *An individual who agrees to have such individual's name in the first person consent organ and tissue donor registry has given full legal consent to the donation of any of such individual's organs or tissues upon such individual's death as recorded in the registry.*

(b) The Kansas federally designated organ procurement organization may acquire donor information from sources other than the division of vehicles.

(c) All costs associated with the creation and maintenance of the organ and tissue donor registry shall be paid by the Kansas federally designated organ procurement organization. Such organization shall also pay the costs of providing and maintaining the written information and educational materials required to be distributed under subsection (g) of K.S.A. 8-247, and amendments thereto, and under subsection (b) of K.S.A. 8-1325, and amendments thereto.

(d) An individual does not need to participate in the organ and tissue donor registry to be a donor of organs or tissue. The registry is to facilitate organ and tissue donations and not inhibit Kansans from being donors upon death.

(e) This section shall be a part of and supplemental to the revised uniform anatomical gift act.

Sec. 3. K.S.A. 2009 Supp. 65-3225 and 65-3239 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.”;

On page 1, in the title, by striking all in lines 10 and 11 and inserting the following: “AN ACT concerning anatomical gifts; relating to first person donor registry; amending K.S.A. 2009 Supp. 65-3225 and 65-3239 and repealing the existing sections.”;

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

DWAYNE UMBARGER
BOB MARSHALL
KELLY KULTALA
Conferees on part of Senate

GARY K. HAYZLETT
JENE VICKREY
MARGARET LONG
Conferees on part of House

Senator Umbarger moved the Senate adopt the Conference Committee Report on **HB 2486**.

On roll call, the vote was: Yeas 36, Nays 4, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Huelskamp, Masterson, Pilcher-Cook, Pyle.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2554**, 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 amendments, as follows:

On page 3, in line 37, by striking all after “thereto”; in line 38, by striking all before the period;

On page 7, by striking all in line 1 and inserting the following:

“Sec. 2. K.S.A. 2009 Supp. 74-50,210 is hereby amended to read as follows: 74-50,210.

(a) The provisions of K.S.A. 2009 Supp. 74-50,210 through 74-50,216, and amendments thereto, shall be known and may be cited as the promoting employment across Kansas act.

(b) It shall be the intent of this act to foster economic development and the creation of new jobs and opportunities for the citizens of Kansas ~~through incentivizing the repatriation of business facilities, other operations and jobs from foreign countries and to incentivize the relocation~~ *location* of business facilities, other operations and jobs ~~from other states to in~~ Kansas. The primary objective of this legislation is economic development for Kansas. ~~The state of Kansas, the secretary of the department of commerce and the department of commerce shall solicit and approve applications by qualified companies pursuant to this act.~~

Sec. 3. K.S.A. 2009 Supp. 74-50,211 is hereby amended to read as follows: 74-50,211. As used in this act, unless the context otherwise requires:

(a) “Act” means the provisions of K.S.A. 2009 Supp. 74-50,210 through 74-50,216, and amendments thereto.

(b) “County ~~average~~ *median* wage” means the ~~average~~ *median* wage paid to employees located in the county where the qualified company intends to employ new employees as reported by the department of labor in its annual report for the previous year.

(c) “Department” means the department of commerce.

(d) “*Expanding business*” means the *expansion of an existing business facility, office, department or other operation located in the state of Kansas and locating in Kansas the jobs directly related to such business facility, office, department or other operation.*

~~(e)~~ (e) “High-impact project” means a business development project for which the qualified company shall meet the requirements of subsection (c) of K.S.A. 2009 Supp. 74-50,212, and amendments thereto.

~~(c)~~ “NAICS” means the North American industry classification system.

(f) “Metropolitan county” means the county of Douglas, Johnson, *Leavenworth*, Sedgwick, Shawnee or Wyandotte.

(g) “NAICS” means the North American industry classification system.

(h) “NAICS code industry average wage” means the average wage paid to employees of companies classified in the same NAICS code as the qualified company for the region in which the qualified company intends to employ new employees as reported by the department of labor in its annual report for the previous year.

(i) “*New business*” means a facility, plant, division, office, department, production line, production shift or other business operations of a company that was not doing business in Kansas prior to the submission of an application for benefits under this act and that provides documentation of such to the satisfaction of the secretary.

~~(g)~~ (j) “New employee” means a person newly employed by the qualified company in the qualified company’s business operating in Kansas during the taxable year for which benefits are sought under K.S.A. 2009 Supp. 74-50,212, and amendments thereto. A person shall be deemed to be so engaged if such person performs duties in Kansas in connection with the operation of the Kansas business on: (1) A regular, full-time basis; or (2) a part-

time basis, provided such person is customarily performing such duties at least 20 hours per week throughout the taxable year. Employees ~~acquired or relocated to Kansas from another state through an expansion or relocation of a business operation to Kansas from another state performing functions directly related to a relocating, expanding, or new business facility, office, department or other operation~~ shall be considered as new employees.

~~(k)~~ (k) “Non-metropolitan county” means any county that is not a metropolitan county.

~~(l)~~ (l) (1) “Qualified company” means any *for-profit* corporation, partnership or other entity, ~~organized for profit~~ making available to its full-time employees adequate health insurance coverage and paying at least 50% of the premium for such health insurance, which meets the requirements of K.S.A. 2009 Supp. 74-50,212, and amendments thereto, *and submits an application for benefits meeting requirements established by the secretary.*

(2) “Qualified company” shall not include any corporation, partnership or other entity: (A) Which is identified by any of the following NAICS code groups, sectors or subsectors:

- (i) Industry group 7132 or 8131;
- (ii) sectors 44, 45, 61, 92 or 221 (including water and sewer services); or
- (iii) subsector 722;

(B) which is a bioscience company, as defined in K.S.A. 2009 Supp. 74-99b33, and amendments thereto;

(C) which is delinquent in the payment of any nonprotested taxes or any other amounts due to the federal government, the state of Kansas or any other political taxing subdivision; or

(D) which has filed for or has publicly announced its intention to file for bankruptcy protection.

(3) Notwithstanding any provision of this subsection, except for paragraphs (2)(B), (C) and (D), a company may be deemed a qualified company if such company’s headquarters or administrative offices located in this state serve an international or multi-state territory and such company meets the requirements of K.S.A. 2009 Supp. 74-50,212, and amendments thereto.

~~(m)~~ (m) “Secretary” means the secretary of the department of commerce.

Sec. 4. K.S.A. 2009 Supp. 74-50,212 is hereby amended to read as follows: 74-50,212.

(a) In order to qualify for benefits under this act a qualified company shall:

(1) Relocate *to Kansas* an existing business facility, office, department or other operation ~~located doing business~~ outside the state of Kansas, ~~whether located in a foreign country or another state~~, and locate the jobs ~~from~~ *directly related to such relocated* business facility, office, department or other operation ~~to~~ *in Kansas*; or

(2) *locate a new business facility, office, department or other operation in Kansas and locate the jobs directly related to such business facility, office, department or other operation in Kansas*; or

(3) *expand a business facility, office, department or other operation located in the state of Kansas and locate the jobs directly related to such business facility, office, department or other operation in Kansas, except that no payroll withholding taxes shall be retained prior to January 1, 2012.*

A qualified company may contract with an unrelated third party to perform services whereby the third party serves as the legal employer of the new employees providing services to the qualified company and such services are performed in Kansas and the third party and the new employees are subject to Kansas state withholding.

(b) Any qualified company, *approved by the secretary for benefits pursuant to paragraph (a)*, that locates its business operation in a metropolitan county and will hire at least 10 new employees within two years from the date the qualified company enters into an agreement with the secretary pursuant to K.S.A. 2009 Supp. 74-50,213, and amendments thereto, or any qualified company, *approved by the secretary for benefits pursuant to paragraph (a)*, that locates its business operation in a non-metropolitan county and will hire at least five new employees within two years from the date the qualified company enters into an agreement with the secretary pursuant to K.S.A. 2009 Supp. 74-50,213, and amendments thereto, shall: (1) Be eligible to retain 95% of the qualified company’s Kansas payroll withholding taxes for such new employees *being paid the county median wage or higher* for a period of up to:

~~(1) Five years if the new employees are compensated at a rate equal to at least 100% of the county average wage;~~

~~(2) six years if the new employees are compensated at a rate equal to at least 110% of the county average wage, or~~

~~(3) seven years if the new employees are compensated at a rate equal to at least 120% of the county average wage.~~

~~(A) Five years if the median wage paid to the new employees is equal to at least 100% of the county median wage;~~

~~(B) six years if the median wage paid to the new employees is equal to at least 110% of the county median wage;~~

~~(C) seven years if the median wage paid to the new employees is equal to at least 120% of the county median wage; or~~

~~(2) be eligible to retain 95% of the qualified company's Kansas payroll withholding taxes for such new employees being paid the county median wage or higher for a period of up to five years if the median wage paid to the new employees is equal to at least 100% of the NAICS code industry average wage.~~

(c) Any qualified company, approved by the secretary for benefits pursuant to paragraph (a), that engages in a high-impact project whereby the qualified company will hire at least 100 new employees within ~~five~~ two years from the date the qualified company enters into an agreement with the secretary pursuant to K.S.A. 2009 Supp. 74-50,213, and amendments thereto, shall be eligible to retain 95% of the qualified company's Kansas payroll withholding taxes for such new employees being paid the county median wage or higher for a period of up to:

~~(1) Seven years if the new employees are compensated at a rate equal to at least 100% of the county average wage;~~

~~(2) eight years if the new employees are compensated at a rate equal to at least 110% of the county average wage;~~

~~(3) nine years if the new employees are compensated at a rate equal to at least 120% of the county average wage; or~~

~~(4) ten years if the new employees are compensated at a rate equal to at least 140% of the county average wage.~~

~~(1) Seven years if the median wage paid to the new employees is equal to at least 100% of the county median wage;~~

~~(2) eight years if the median wage paid to the new employees is equal to at least 110% of the county median wage;~~

~~(3) nine years if the median wage paid to the new employees is equal to at least 120% of the county median wage; or~~

~~(4) ten years if the median wage paid to the new employees is equal to at least 140% of the county median wage.~~

(d) In the event that a qualified company contracts with a third party as described in paragraphs (a)(3) and (4) subsection (a), the third party shall remit payments equal to the amount of Kansas payroll withholding taxes the qualified company is eligible to retain under this section to the qualified company, and report such amount to the department of revenue as required pursuant to subsection (a) of K.S.A. 2009 Supp. 74-50,214, and amendments thereto.

Sec. 5. K.S.A. 2009 Supp. 74-50,213 is hereby amended to read as follows: 74-50,213.

(a) Any qualified company meeting the requirements of K.S.A. 2009 Supp. 74-50,212, and amendments thereto, may apply to the secretary for benefits under this act. The application shall be submitted on a form and in a manner prescribed by the secretary, and shall include: (1) Evidence that the applicant is a qualified company; and (2) evidence that the applicant meets the requirements of K.S.A. 2009 Supp. 74-50,212, and amendments thereto.

(b) The secretary ~~shall~~ may either approve or disapprove the application. Any qualified company whose application is approved shall be eligible to receive benefits under this act as of the date such qualified company enters into an agreement with the secretary in accordance with this section.

(c) Upon approval of an application for benefits under this act, the secretary may enter into an agreement with the qualified company for benefits under this act. If necessary, the

secretary may also enter into an agreement with any third party described in subsection (a) of K.S.A. 2009 Supp. 74-50,212, and amendments thereto, or such third party may be a party to the agreement between the qualified company and the secretary. The agreement shall commit the secretary to certify to the secretary of revenue: (1) That the qualified company is eligible to receive benefits under this act; (2) the number of new employees hired by the qualified company; and (3) the amount of gross wages being paid to each new employee.

(d) The agreement between the qualified company and the secretary shall be entered into before any benefits may be provided under this act, and shall specify that should the qualified company fail to comply with the terms and conditions set forth in the agreement, or fails to comply with the provisions set forth in this act, the secretary may terminate the agreement, and the qualified company shall not be entitled to any further benefits provided under this act and shall be required to remit to the state an amount equal to the aggregate Kansas payroll withholding taxes retained by the qualified company, or remitted to the qualified company by a third party, pursuant to this act as of the date the agreement is terminated.

(e) A qualified company that is already receiving benefits pursuant to this act may apply to the secretary for additional benefits if the qualified company meets the requirements of K.S.A. 2009 Supp. 74-50,212, and amendments thereto.

(f) A qualified company seeking benefits shall ~~not~~ be allowed to participate in the IMPACT program, ~~or any program~~ pursuant to K.S.A. 74-50,102 *et seq.*, and amendments thereto, ~~or but shall not be allowed to participate in~~ any other program in which any portion of such qualified company's Kansas payroll withholding taxes have been pledged to finance indebtedness or transferred to or for the benefit of such company. A qualified company shall not be allowed to claim any credits under K.S.A. 79-32,153, 79-32,160a or 79-32,182b, and amendments thereto, if such credits would otherwise be earned for the hiring of new employees and the qualified company has retained any Kansas payroll withholding taxes from wages of such employees. *A qualified company shall not be eligible to receive benefits under K.S.A. 2009 Supp. 74-50,212, and amendments thereto, and under K.S.A. 74-50,102 et seq., and amendments thereto, for the same new employees.*

(g) *Under no circumstances shall the total amount of benefits authorized or granted to the aggregate of all expanding businesses, as such term is defined in K.S.A. 2009 Supp. 74-50,211, and amendments thereto, under this act exceed \$4,800,000 in any fiscal year commencing on or after July 1, 2011.*

(h) The secretary shall adopt rules and regulations necessary to implement and administer the provisions of this act.

Sec. 6. K.S.A. 2009 Supp. 74-50,214 is hereby amended to read as follows: 74-50,214. (a) Any qualified company eligible to receive benefits pursuant to K.S.A. 2009 Supp. 74-50,212, and amendments thereto, shall complete and submit to the department of revenue:

(1) The amount of Kansas payroll withholding tax being retained by the qualified company pursuant to this act in a manner prescribed by the director of taxation; *and*

(2) *a form designed by the secretary of revenue pursuant to section 12, and amendments thereto.*

The completed form shall be submitted electronically or in the manner prescribed by the secretary of revenue.

(b) The secretary of revenue ~~shall~~ *may* adopt rules and regulations necessary to implement and administer the provisions of this ~~act~~ *section*. The secretary of revenue and the secretary of commerce shall work together to coordinate a set of procedures to implement the provisions of this act.

Sec. 7. K.S.A. 2009 Supp. 74-50,103 is hereby amended to read as follows: 74-50,103. As used in the IMPACT act unless the context clearly requires otherwise:

(a) "Act" means the Kansas investments in major projects and comprehensive training act.

(b) "Agreement" means the agreement among an employer, an educational institution and the secretary of commerce concerning a SKILL project or a combined SKILL project and major project investment and the agreement between an employer and the secretary of commerce concerning a major project investment.

- (c) "Bond" means a public purpose bond issued for IMPACT projects by the Kansas development finance authority.
- (d) "Date of commencement of the project" means the date of the agreement.
- (e) "Educational institution" means a community college, as defined by K.S.A. 71-701, and amendments thereto, an area vocational school or area vocational-technical school, as defined by K.S.A. 72-4412, and amendments thereto, a university, as defined by K.S.A. 72-6501, and amendments thereto, a state educational institution, as defined by K.S.A. 76-711, and amendments thereto, or a technical college as established by K.S.A. 72-4468, and amendments thereto.
- (f) "Employee" means a person employed in a new or retained job.
- (g) "Employer" means a Kansas basic enterprise providing new jobs or retaining existing jobs in conjunction with a project.
- (h) "IMPACT program" or "program" means the major project investments and SKILL projects undertaken by the department of commerce in accordance with the provisions of this act for a new or expanding Kansas basic enterprise.
- (i) "IMPACT project" or "project" means a SKILL project, major project investment or a combination of the two.
- (j) "Kansas basic enterprise" means any enterprise:
 - (1) Which is located or principally based in Kansas; and
 - (2) which can provide demonstrable evidence that:
 - (A) It is primarily engaged in any one or more of the Kansas basic industries; or
 - (B) it is primarily engaged in the development or production of goods or the provision of services for out-of-state sale; or
 - (C) it is primarily engaged in the production of goods or the provision of services which will attract out-of-state buyers or consumers into the state; or
 - (D) it is primarily engaged in the production of raw materials, ingredients, or components for other enterprises which export the majority of their products from the state; or
 - (E) it is a national or regional enterprise which is primarily engaged in interstate commerce or an affiliated management company of such an enterprise; or
 - (F) it is primarily engaged in the production of goods or the provision of services which will supplant goods or services which would be imported into the state; or
 - (G) it is the corporate or regional headquarters of a multistate enterprise which is primarily engaged in out-of-state industrial activities.
- (k) "Kansas basic industry" means:
 - (1) Agriculture;
 - (2) mining;
 - (3) manufacturing;
 - (4) interstate transportation;
 - (5) wholesale trade which is primarily multistate in activity or which has a major import supplanting effect within the state;
 - (6) financial services which are provided primarily for interstate or international transactions;
 - (7) business services which are provided primarily in out-of-state markets;
 - (8) research and development of new products, processes, or technologies; or
 - (9) tourism activities which are primarily engaged in for the purpose of attracting out-of-state tourists.
- (l) "Major project investment" or "investment" means financial assistance to an employer to defray business costs including, but not limited to, relocation expenses, building and equipment purchases, labor recruitment and job retention.
- (m) "New job" means a job in a new or expanding Kansas basic enterprise not including jobs of recalled workers, or existing jobs that are vacant or other jobs that formerly existed in the Kansas basic enterprise in Kansas.
- (n) "Primarily engaged" means engagement in an activity by an enterprise to the extent that not less than 51% of the gross income of the enterprise is derived from such engagement.

(o) "Program costs" means all necessary and incidental costs of providing program services, except that program costs shall not include: (1) Any costs for purchase or lease of training equipment that exceed 50% of total program costs for the project, (2) any costs for administrative expenses that exceed 10% of total program costs for the project, and (3) any costs for direct investments in education and related workforce development institutions, for improvements to workforce development, human capital, training expertise and infrastructure that exceed 10% of total program costs.

(p) "Program services" means:

(1) New jobs training, including training development costs, except that the actual training period for any new job shall not exceed 36 months from the date the job is first filled by an employee;

(2) adult basic education and job-related instruction;

(3) vocational and skill-assessment services and testing;

(4) training equipment for education institutions;

(5) material and supplies;

(6) administrative expenses of educational institutions for new jobs training programs;

(7) subcontracted services with other educational institutions, private colleges or universities or other federal, state or local agencies;

(8) contracted or professional service;

(9) major project investments; ~~and~~

(10) direct investments in educational and related workforce development institutions, for improvements to workforce development, human capital, training expertise and infrastructure;

(11) *independent evaluation of the effectiveness of economic development incentives, including analysis of the return on investment at both the state and local levels, as determined necessary by the secretary of commerce after consultation with the secretary of revenue; and*

(12) *economic impact and economic incentive program analysis and related services as determined necessary by the secretary of commerce.*

(q) "Retained job" means an existing job which will be lost without participation by the employer under the provisions of the IMPACT program.

(r) "Secretary" means the secretary of commerce.

(s) "SKILL project" means a training arrangement which is the subject of an agreement entered into between the educational institution and an employer to provide program services.

Sec. 8. K.S.A. 2009 Supp. 79-3234 is hereby amended to read as follows: 79-3234. (a) All reports and returns required by this act shall be preserved for three years and thereafter until the director orders them to be destroyed.

(b) Except in accordance with proper judicial order, or as provided in subsection (c) or in K.S.A. 17-7511, subsection (g) of K.S.A. 46-1106, K.S.A. 46-1114, or K.S.A. 79-32,153a, and amendments thereto, it shall be unlawful for the secretary, the director, any deputy, agent, clerk or other officer, employee or former employee of the department of revenue or any other state officer or employee or former state officer or employee to divulge, or to make known in any way, the amount of income or any particulars set forth or disclosed in any report, return, federal return or federal return information required under this act; and it shall be unlawful for the secretary, the director, any deputy, agent, clerk or other officer or employee engaged in the administration of this act to engage in the business or profession of tax accounting or to accept employment, with or without consideration, from any person, firm or corporation for the purpose, directly or indirectly, of preparing tax returns or reports required by the laws of the state of Kansas, by any other state or by the United States government, or to accept any employment for the purpose of advising, preparing material or data, or the auditing of books or records to be used in an effort to defeat or cancel any tax or part thereof that has been assessed by the state of Kansas, any other state or by the United States government.

(c) The secretary or the secretary's designee may: (1) Publish statistics, so classified as to prevent the identification of particular reports or returns and the items thereof;

(2) allow the inspection of returns by the attorney general or other legal representatives of the state;

(3) provide the post auditor access to all income tax reports or returns in accordance with and subject to the provisions of subsection (g) of K.S.A. 46-1106 or K.S.A. 46-1114, and amendments thereto;

(4) disclose taxpayer information from income tax returns to persons or entities contracting with the secretary of revenue where the secretary has determined disclosure of such information is essential for completion of the contract and has taken appropriate steps to preserve confidentiality;

(5) disclose to the secretary of commerce the following: (A) Specific taxpayer information related to financial information previously submitted by the taxpayer to the secretary of commerce concerning or relevant to any income tax credits, for purposes of verification of such information or evaluating the effectiveness of any tax credit or *economic incentive* program administered by the secretary of commerce; ~~and~~ (B) *the amount of payroll withholding taxes an employer is retaining pursuant to K.S.A. 2009 Supp. 74-50,212, and amendments thereto;* (C) *information received from businesses completing the form required by section 12, and amendments thereto;* and (D) findings related to a compliance audit conducted by the department of revenue upon the request of the secretary of commerce pursuant to K.S.A. 2009 Supp. 74-50,215, and amendments thereto;

(6) disclose income tax returns to the state gaming agency to be used solely for the purpose of determining qualifications of licensees of and applicants for licensure in tribal gaming. Any information received by the state gaming agency shall be confidential and shall not be disclosed except to the executive director, employees of the state gaming agency and members and employees of the tribal gaming commission;

(7) disclose the taxpayer's name, last known address and residency status to the department of wildlife and parks to be used solely in its license fraud investigations;

(8) disclose the name, residence address, employer or Kansas adjusted gross income of a taxpayer who may have a duty of support in a title IV-D case to the secretary of the Kansas department of social and rehabilitation services for use solely in administrative or judicial proceedings to establish, modify or enforce such support obligation in a title IV-D case. In addition to any other limits on use, such use shall be allowed only where subject to a protective order which prohibits disclosure outside of the title IV-D proceeding. As used in this section, "title IV-D case" means a case being administered pursuant to part D of title IV of the federal social security act (42 U.S.C. §651 et seq.) and amendments thereto. Any person receiving any information under the provisions of this subsection shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (e);

(9) permit the commissioner of internal revenue of the United States, or the proper official of any state imposing an income tax, or the authorized representative of either, to inspect the income tax returns made under this act and the secretary of revenue may make available or furnish to the taxing officials of any other state or the commissioner of internal revenue of the United States or other taxing officials of the federal government, or their authorized representatives, information contained in income tax reports or returns or any audit thereof or the report of any investigation made with respect thereto, filed pursuant to the income tax laws, as the secretary may consider proper, but such information shall not be used for any other purpose than that of the administration of tax laws of such state, the state of Kansas or of the United States;

(10) communicate to the executive director of the Kansas lottery information as to whether a person, partnership or corporation is current in the filing of all applicable tax returns and in the payment of all taxes, interest and penalties to the state of Kansas, excluding items under formal appeal, for the purpose of determining whether such person, partnership or corporation is eligible to be selected as a lottery retailer;

(11) communicate to the executive director of the Kansas racing commission as to whether a person, partnership or corporation has failed to meet any tax obligation to the state of Kansas for the purpose of determining whether such person, partnership or corporation is eligible for a facility owner license or facility manager license pursuant to the Kansas parimutuel racing act;

(12) provide such information to the executive director of the Kansas public employees retirement system for the purpose of determining that certain individuals' reported

compensation is in compliance with the Kansas public employees retirement act at K.S.A. 74-4901 et seq., and amendments thereto; and

(13) provide taxpayer information of persons suspected of violating K.S.A. 2009 Supp. 44-766, and amendments thereto, to the staff attorneys of the department of labor for the purpose of determining compliance by any person with the provisions of K.S.A. 2009 Supp. 44-766, and amendments thereto, which information shall be limited to withholding tax and payroll information, the identity of any person that has been or is currently being audited or investigated in connection with the administration and enforcement of the withholding and declaration of estimated tax act, K.S.A. 79-3294 et seq., as amended, and the results or status of such audit or investigation.

(d) Any person receiving information under the provisions of subsection (c) shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (e).

(e) Any violation of subsection (b) or (c) is a class A nonperson misdemeanor and, if the offender is an officer or employee of the state, such officer or employee shall be dismissed from office.

(f) Nothing in this section shall be construed to allow disclosure of the amount of income or any particulars set forth or disclosed in any report, return, federal return or federal return information, where such disclosure is prohibited by the federal internal revenue code as in effect on September 1, 1996, and amendments thereto, related federal internal revenue rules or regulations, or other federal law.

Sec. 9. K.S.A. 2009 Supp. 79-32,153 is hereby amended to read as follows: 79-32,153.

(a) For taxable years commencing after December 31, 1997, any taxpayer who shall invest in a qualified business facility, as defined in subsection (b) of K.S.A. 79-32,154, and amendments thereto, *and effective for tax years commencing after December 31, 2010, located in an area other than a metropolitan county as defined in either K.S.A. 2009 Supp. 74-50,114 or 74-50,211, and amendments thereto*, shall be allowed a credit for such investment, in an amount determined under subsection (b) 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 net income of financial institutions imposed pursuant to chapter 79, article 11 of the Kansas Statutes Annotated for the taxable year during which commencement of commercial operations, as defined in subsection (f) of K.S.A. 79-32,154, and amendments thereto, occurs at such qualified business facility, and for each of the nine succeeding taxable years. No credit shall be allowed under this section unless the number of qualified business facility employees, as determined under subsection (d) of K.S.A. 79-32,154, and amendments thereto, engaged or maintained in employment at the qualified business facility as a direct result of the investment by the taxpayer for the taxable year for which the credit is claimed equals or exceeds two. Where an employee performs services for the taxpayer outside the qualified business facility, the employee shall be considered engaged or maintained in employment at the qualified business facility if (1) the employee's service performed outside the qualified business facility is incidental to the employee's service inside the qualified business facility, or (2) the base of operations or, the place from which the service is directed or controlled, is at the qualified business facility.

(b) The credit allowed by subsection (a) for any taxpayer who invests in a qualified business facility shall be a portion of the tax, but not in excess of 50% of such tax, otherwise imposed on or measured by the taxpayer's qualified business facility income, as defined in subsection (g) of K.S.A. 79-32,154, and amendments thereto, for the taxable year for which such credit is allowed. Such portion shall be an amount equal to the sum of the following:

(1) One hundred dollars for each qualified business facility employee determined under K.S.A. 79-32,154, and amendments thereto; plus

(2) one hundred dollars for each \$100,000, or major fraction thereof (which shall be deemed to be 51% or more), in qualified business facility investment as determined under K.S.A. 79-32,154, and amendments thereto.

(c) For tax years commencing after December 31, 2005, any taxpayer claiming credits pursuant to this section, as a condition for claiming and qualifying for such credits, shall provide information pursuant to K.S.A. 2009 Supp. 79-32,243, and amendments thereto, as

part of the tax return in which such credits are claimed. Such credits shall not be denied solely on the basis of the contents of the information provided by the taxpayer pursuant to K.S.A. 2009 Supp. 79-32,243, and amendments thereto.

(d) No credit shall be allowed under this section for investment in a public utility, as such term is defined in K.S.A. 66-104, and amendments thereto.

Sec. 10. K.S.A. 2009 Supp. 79-32,160a is hereby amended to read as follows: 79-32,160a. (a) For taxable years commencing after December 31, 1999, any taxpayer who shall invest in a qualified business facility, as defined in subsection (b) of K.S.A. 79-32,154, and amendments thereto, *and effective for tax years commencing after December 31, 2010, located in an area other than a metropolitan county as defined in either K.S.A. 2009 Supp. 74-50,114 or 74-50,211, and amendments thereto*, and also meets the definition of a business in subsection (b) of K.S.A. 74-50,114, and amendments thereto, shall be allowed a credit for such investment, in an amount determined under subsection (b) or (c), as the case requires, against the tax imposed by the Kansas income tax act or where the qualified business facility is the principal place from which the trade or business of the taxpayer is directed or managed and the facility has facilitated the creation of at least 20 new full-time positions, against the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or as measured by the net income of financial institutions imposed pursuant to chapter 79, article 11 of the Kansas Statutes Annotated, for the taxable year during which commencement of commercial operations, as defined in subsection (f) of K.S.A. 79-32,154, and amendments thereto, occurs at such qualified business facility. In the case of a taxpayer who meets the definition of a manufacturing business in subsection (d) of K.S.A. 74-50,114, and amendments thereto, no credit shall be allowed under this section unless the number of qualified business facility employees, as determined under subsection (d) of K.S.A. 79-32,154, and amendments thereto, engaged or maintained in employment at the qualified business facility as a direct result of the investment by the taxpayer for the taxable year for which the credit is claimed equals or exceeds two. In the case of a taxpayer who meets the definition of a nonmanufacturing business in subsection (f) of K.S.A. 74-50,114, and amendments thereto, no credit shall be allowed under this section unless the number of qualified business facility employees, as determined under subsection (d) of K.S.A. 79-32,154, and amendments thereto, engaged or maintained in employment at the qualified business facility as a direct result of the investment by the taxpayer for the taxable year for which the credit is claimed equals or exceeds five. Where an employee performs services for the taxpayer outside the qualified business facility, the employee shall be considered engaged or maintained in employment at the qualified business facility if (1) the employee's service performed outside the qualified business facility is incidental to the employee's service inside the qualified business facility, or (2) the base of operations or, the place from which the service is directed or controlled, is at the qualified business facility.

(b) The credit allowed by subsection (a) for any taxpayer who invests in a qualified business facility which is located in a designated nonmetropolitan region established under K.S.A. 74-50,116, and amendments thereto, on or after the effective date of this act, shall be a portion of the income tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income, 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 chapter 79, article 11 of the Kansas Statutes Annotated, for the taxable year for which such credit is allowed, but in the case where the qualified business facility investment was made prior to January 1, 1996, not in excess of 50% of such tax. Such portion shall be an amount equal to the sum of the following:

(1) Two thousand five hundred dollars for each qualified business facility employee determined under K.S.A. 79-32,154, and amendments thereto; plus

(2) one thousand dollars for each \$100,000, or major fraction thereof, which shall be deemed to be 51% or more, in qualified business facility investment, as determined under K.S.A. 79-32,154, and amendments thereto.

(c) The credit allowed by subsection (a) for any taxpayer who invests in a qualified business facility, which is not located in a nonmetropolitan region established under K.S.A. 74-50,116, and amendments thereto, *and effective for tax years commencing after December 31, 2010, located in an area other than a metropolitan county as defined in either K.S.A.*

2009 *Supp. 74-50,114 or 74-50,211, and amendments thereto*, and which also meets the definition of business in subsection (b) of K.S.A. 74-50,114, and amendments thereto, on or after the effective date of this act, shall be a portion of the income tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income, 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 chapter 79, article 11 of the Kansas Statutes Annotated, for the taxable year for which such credit is allowed, but in the case where the qualified business facility investment was made prior to January 1, 1996, not in excess of 50% of such tax. Such portion shall be an amount equal to the sum of the following:

(1) One thousand five hundred dollars for each qualified business facility employee as determined under K.S.A. 79-32,154, and amendments thereto; and

(2) one thousand dollars for each \$100,000, or major fraction thereof, which shall be deemed to be 51% or more, in qualified business facility investment as determined under K.S.A. 79-32,154, and amendments thereto.

(d) The credit allowed by subsection (a) for each qualified business facility employee and for qualified business facility investment shall be a one-time credit. If the amount of the credit allowed under subsection (a) exceeds the tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income, the premium tax and 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 chapter 79, article 11 of the Kansas Statutes Annotated for the taxable year, or in the case where the qualified business facility investment was made prior to January 1, 1996, 50% of such tax imposed upon the amount which exceeds such tax liability or such portion thereof may be carried over for credit in the same manner in the succeeding taxable years until the total amount of such credit is used. Except that, before the credit is allowed, a taxpayer, who meets the definition of a manufacturing business in subsection (d) of K.S.A. 74-50,114, and amendments thereto, shall recertify annually that the net increase of a minimum of two qualified business facility employees has continued to be maintained and a taxpayer, who meets the definition of a nonmanufacturing business in subsection (f) of K.S.A. 74-50,114, and amendments thereto, shall recertify annually that the net increase of a minimum of five qualified business employees has continued to be maintained.

(e) Notwithstanding the foregoing provisions of this section, any taxpayer qualified and certified under the provisions of K.S.A. 74-50,131, and amendments thereto; which, prior to making a commitment to invest in a qualified Kansas business, has filed a certificate of intent to invest in a qualified business facility in a form satisfactory to the secretary of commerce; and that has received written approval from the secretary of commerce for participation and has participated, during the tax year for which the exemption is claimed, in the Kansas industrial training, Kansas industrial retraining or the state of Kansas investments in lifelong learning program or is eligible for the tax credit established in K.S.A. 74-50,132, and amendments thereto, shall be entitled to a credit in an amount equal to 10% of that portion of the qualified business facility investment which exceeds \$50,000 in lieu of the credit provided in subsection (b)(2) or (c)(2) without regard to the number of qualified business facility employees engaged or maintained in employment at the qualified business facility. The credit allowed by this subsection shall be a one-time credit. If the amount thereof exceeds the tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income or the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by net income of financial institutions imposed pursuant to chapter 79, article 11 of the Kansas Statutes Annotated for the taxable year, the amount thereof which exceeds such tax liability may be carried forward for credit in the succeeding taxable year or years until the total amount of the tax credit is used, except that no such tax credit shall be carried forward for deduction after the 10th taxable year succeeding the taxable year in which such credit initially was claimed and no carry forward shall be allowed for deduction in any succeeding taxable year unless the taxpayer continued to be qualified and was recertified for such succeeding taxable year pursuant to K.S.A. 74-50,131, and amendments thereto.

(f) For tax years commencing after December 31, 2005, any taxpayer claiming credits pursuant to this section, as a condition for claiming and qualifying for such credits, shall provide information pursuant to K.S.A. 2009 Supp. 79-32,243, and amendments thereto, as part of the tax return in which such credits are claimed. Such credits shall not be denied solely on the basis of the contents of the information provided by the taxpayer pursuant to K.S.A. 2009 Supp. 79-32,243, and amendments thereto.

(g) This section and K.S.A. 79-32,160b, and amendments thereto, shall be part of and supplemental to the job expansion and investment credit act of 1976 and acts amendatory thereof and supplemental thereto.

Sec. 11. K.S.A. 2009 Supp. 79-32,243 is hereby amended to read as follows: 79-32,243.

(a) For tax years commencing after December 31, 2005, any taxpayer claiming credits pursuant to K.S.A. 74-50,132, 79-32,153 or 79-32,160a, and amendments thereto, as a condition for claiming and qualifying for such credits, shall provide the following information as part of the tax return, in which such credits are claimed, which shall be used by the department of revenue in evaluating the effectiveness of such tax credit programs, pursuant to K.S.A. 2009 Supp. 74-99b35, and amendments thereto:

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

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

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

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

(5) additional sales generated as a direct result of the expenditures on which such credit claim is based, if the taxpayer has previously submitted an estimate of additional sales generated to the department of commerce as a part of applying for certification for program participation; ~~and~~

(6) total employment and payroll at the end of the tax year in which the credits are claimed; *and*

(7) *such further information as shall be required by the secretary of revenue.*

(b) Such credits specified in subsection (a) shall not be denied solely on the basis of the information provided by the taxpayer pursuant to subsections (a)(1) through ~~(a)(6)~~ (a) (7).

New Sec. 12. The secretary of revenue in consultation with the secretary of commerce shall develop a form which must be completed annually by any business that received any tax benefit pursuant to the promoting employment across Kansas act and amendments thereto. Such form shall be developed no later than December 31, 2010, and shall request, at a minimum, the information required by paragraphs (1), (2), (3), (4), (5) and (6) of subsection (a) of K.S.A. 79-32,243, and amendments thereto, and such other information as shall be required by the secretary of revenue and the secretary of commerce. Upon completion of the form, the business completing the form shall file the form electronically with the secretary of revenue or submit the form in the manner prescribed by the secretary of revenue. The contents of the completed form shall be confidential except as provided in K.S.A. 79-3234 and amendments thereto.

New Sec. 13. The legislative post auditor shall conduct an audit of the promoting employment across Kansas act under this section in accordance with the provisions of the legislative post audit act. The audit shall focus on the effectiveness of the act in fostering economic growth, creating new jobs and promoting the location of business facilities, other operations and jobs in Kansas. Such audit shall be submitted to the legislature at the

beginning of the regular session of the legislature held during 2015. The audit shall make a recommendation on the retention or adjustment of the limitation described in subsection (g) of K.S.A. 2009 Supp. 74-50,213, and amendments thereto.

New Sec. 14. No person who was a member of the legislature on the effective date of this act may avail themselves of the benefits under the provisions of K.S.A. 2009 Supp. 74-50,210 through 74-50,216, and amendments thereto, until after July 1, 2015.

Sec. 15. K.S.A. 2009 Supp. 74-50,103, 74-50,136, 74-50,210, 74-50,211, 74-50,212, 74-50,213, 74-50,214, 79-3234, 79-32,153, 79-32,160a and 79-32,243 are hereby repealed.”;

And by renumbering the sections accordingly;

In the title, in line 12, by striking all after “ACT”; by striking all in lines 13 through 15 and inserting “concerning economic development; pertaining to the economic revitalization and investment act; authorizing the issuance of bonds for certain economic development projects; pertaining to the promoting employment across Kansas act; pertaining to qualifications for benefits under such act; duties of secretary of revenue; reporting requirements; amending K.S.A. 2009 Supp. 74-50,103, 74-50,136, 74-50,210, 74-50,211, 74-50,212, 74-50,213, 74-50,214, 79-3234, 79-32,153, 79-32,160a and 79-32,243 and repealing the existing sections.”;

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

KARIN BROWNLEE

JULIA LYNN

TOM HOLLAND

Conferees on part of Senate

LANA GORDON

OWEN DONOHOE

Conferees on part of House

Senator Brownlee moved the Senate adopt the Conference Committee Report on **HB 2554**.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The Conference Committee report was adopted.

CHANGE OF CONFERENCE

The President announced the appointment of Senator Haley as a member of the Conference Committee on **SB 368** to replace Senator Kelly.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Morris, D. Schmidt and Hensley introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1878—

A RESOLUTION congratulating and commending Mary Galligan.

WHEREAS, Mary Galligan retired on December 25, 2009, after serving the Kansas Legislature for 27 years through her outstanding efforts in the Kansas Legislative Research Department; and

WHEREAS, Mary received her Bachelor of Science in Education degree from Southwest Missouri State University, a Master of Arts degree from the University of Arkansas and a Master of Public Administration degree from the University of Kansas; and

WHEREAS, Mary commenced working for the Kansas Legislative Research Department as a Fiscal Analyst on August 30, 1982 and was promoted to a Principal Analyst on June 18, 1986. She was promoted again to Assistant Director for Information Management on August 15, 2004; and

WHEREAS, Mary served the Kansas Legislature as one of the eminent legislative research experts in the state policy areas of gambling, death penalty, alcohol and drugs, public health, Regents' institutions funding, energy and utilities and throughout her tenure answered innumerable questions on these and other topics; and

WHEREAS, Mary served the Kansas Legislature and the State of Kansas by being the lead staff person on redistricting efforts for the development of districts for the Senate, the House of Representatives, the U.S. Congressional Districts and the State Board of Education in 1989, 1992 and 2002, all of which resulted in the Kansas Supreme Court determining that those plans were valid and met the constitutional test of fair redistricting; and

WHEREAS, Mary was instrumental in assisting in the ongoing success of the University of Kansas Legislative Intern Program, where she provided her sage wisdom and was a mentor to hundreds of university students on the legislative process; and

WHEREAS, Mary was intricately involved in numerous computer and computerization efforts for the Kansas Research Department and the Kansas Legislature; and

WHEREAS, Mary was active in numerous redistricting seminars and continuing education activities through the National Conference of State Legislatures and served as staff for the National Conference of State Legislatures' committees; and

WHEREAS, Mary married Allan Foster, also a valued legislative employee, on March 14, 1975; and

WHEREAS, Mary plans on enjoying her retirement through gardening, reading, educating others concerning the legislative process, volunteering for the Multiple Sclerosis Society and other charities, as well as traveling; Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Mary Galligan for her 27 years of devoted service to the State of Kansas and extend our best wishes for her continued success and happiness in the future; and

Be it further resolved: That the Secretary of the Senate be directed to send an enrolled copy of this resolution to Mary Galligan, 6321 SW 25th St., Topeka, KS 66614.

On emergency motion of Senator Hensley **SR 1878** was adopted unanimously.

Senators Morris, D. Schmidt and Hensley introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1879—

A RESOLUTION congratulating and commending Theresia (Terri) M. Weber.

WHEREAS, Terri Weber retired on March 30, 2010, after serving the Kansas Legislature for 11 years through her outstanding efforts in the Kansas Legislative Research Department and the Legislative Division of Post Audit, as well as six additional years of service in the Kansas Commission on Alcohol and Kansas Corporation Commission, for a total of 17 years of dedicated service to the State of Kansas; and

WHEREAS, Terri received her Bachelor of Arts in Sociology from Fort Hays State University and a Master's Degree in Public Administration from the University of Kansas; and

WHEREAS, Terri commenced working for the Kansas Commission on Alcoholism as a Community Service Representative in 1974, joining the Legislative Division of Post Audit as an Audit Manager in 1975 and serving there until 1980. She then served as a Director of the Research and Energy Analysis Division for the Kansas Corporation Commission from 1980 until 1985, then after several years of service out-of-state, she returned to Kansas and joined the Legislative Research Department as a Principal Analyst on January 14, 2004; and

WHEREAS, Terri served the Legislature as one of the eminent legislative research experts in the state policy areas of health and social services and children's programs and provided outstanding research and insight to legislative policy-makers in the area of public health at both the state and federal level. She was always valued for her ability to build team spirit within the staff of the Legislative Research Department; and

WHEREAS, Terri is the proud mother of a daughter, Traci Wilson, and an extra-proud grandmother of five grandchildren, Joshua, Alexander, Nicholas, Joseph and Remington Wilson; and

WHEREAS, Terri plans on enjoying her retirement through spending time with her grandchildren, polka dancing and dazzling the Lawrence community with her vocal skills: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Terri Weber for her 17 years of devoted service to the State of Kansas and extend our best wishes for her continued success and happiness in the future; and

Be it further resolved: That the Secretary of the Senate be directed to send two enrolled copies of this resolution, one each to: Terri Weber, 4927 Stoneback Place, Lawrence, KS 66047; and Traci and Jim Wilson, 1205 Randall, Lawrence, KS 66049.

On emergency motion of Senator Barnett **SR 1879** was adopted unanimously.

Senator Morris introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1880—

A RESOLUTION congratulating and commending Joyce Lundgren.

WHEREAS, Joyce Lundgren retired on December 12, 2009, after serving the Kansas Legislature for 25 years through her outstanding efforts in the Kansas Legislative Research Department, as well as four additional years of service in the Kansas Department of Education for a total of 29 years of dedicated service to the State of Kansas; and

WHEREAS, Joyce commenced working for the Kansas Department of Education in September of 1973, leaving in May of 1977, then returning to the department in September of 1982 until December of 1984. She joined the Legislative Research Department as a Secretary III on December 3, 1984, and ended her career as Head Secretary on December 12, 2009; and

WHEREAS, Joyce was well-known throughout the Research Department for her outstanding clerical skills, especially in proofreading and editing documents, working with spreadsheets, working on the *Legislative Budget Analysis* publication and finalizing legislative supplemental notes. She had the unique ability to work late into the night to ensure that legislative supplemental notes would be sent to the State Printer so they could be available the next morning for the Legislature; and

WHEREAS, Joyce is the proud mother of Sarah Ragsdale; and

WHEREAS, Joyce is an avid reader and plans on reading many novels during her retirement: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Joyce Lundgren for her 29 years of devoted service to the State of Kansas and extend our best wishes for her continued success and happiness in the future; and

Be it further resolved: That the Secretary of the Senate be directed to send two enrolled copies of this resolution, one each to: Joyce Lundgren, 5466 SW 12th Terrace, No. 2, Topeka, KS 66604; and Sarah Ragsdale, 1625 SW 37th Terrace, Apt. No. 407, Topeka, KS 66609.

On emergency motion of Senator V. Schmidt **SR 1880** was adopted unanimously.

Senator Morris introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1881—

A RESOLUTION congratulating and commending Jerry Ann Donaldson.

WHEREAS, Jerry Ann Donaldson retired on March 19, 2010, after serving the Kansas Legislature for 26 years through her outstanding efforts in the Kansas Legislative Research Department, as well as three additional years of service in the Kansas Department of Education, for a total of 29 years of dedicated service to the State of Kansas; and

WHEREAS, Jerry received her Bachelor's degree from the University of Kansas in 1962, a Master's degree from the Indiana University at Bloomington in 1963, did Doctor of Philosophy work at Temple University in Philadelphia, Pennsylvania and the University of Iowa and received her Juris Doctorate degree from Washburn Law School in 1983; and

WHEREAS, Jerry commenced working for the Kansas Department of Education as a Law Clerk in November of 1980 through November of 1983. She joined the Legislative Research Department as a Research Assistant in November of 1983 and because of her

outstanding research and legal skills, was promoted to a Research Analyst in June of 1985 and promoted again in June of 1988 to a Principal Analyst; and

WHEREAS, Jerry served the Legislature as a research expert in the state policy areas of labor and industry, judiciary, workers compensation, corrections and public employer-employee relations. She staffed countless legislative committee meetings and responded to legislative inquiries for over 26 years; and

WHEREAS, Jerry is the proud mother of three daughters, Tracy Diane Moss, Katherine Mary Wunnenberg and Molly Elizabeth Mahoney. She is also the proud grandmother of ten grandchildren, Amanda, Nate and Eli Moss; David, Emily and Paul Wunnenberg; and Sam, Max, Abe and Lily Mahoney; and

WHEREAS, Jerry is an avid reader and plans on reading many novels during her retirement, as well as spending time with her grandchildren: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Jerry Ann Donaldson for her 29 years of devoted service to the State of Kansas and extend our best wishes for her continued success and happiness in the future; and

Be it further resolved: That the Secretary of the Senate be directed to send four enrolled copies of this resolution, one each to: Jerry Ann Donaldson, 935 NE Brian Rd., Topeka, KS 66617; Tracy and Steve Moss, 5628 Meadow Lane, Parkville, MO 64152; Katherine and Vern Wunnenberg, 2683 Whitetail Lane, O'Fallon, MO 63368; and Molly and Dean Mahoney, 1105 S. Lennox Dr., Olathe, KS 66062.

On emergency motion of Senator V. Schmidt **SR 1881** was adopted unanimously.

REPORT ON ENROLLED BILLS

SCR 1622 reported correctly enrolled, properly signed and presented to the Secretary of State on May 4, 2010.

On motion of Senator D. Schmidt, the Senate recessed until 2:30 p.m.

AFTERNOON-SESSION

The Senate met pursuant to recess with President Morris in the chair.

MESSAGE FROM THE GOVERNOR

May 5, 2010

Message to the Senate of the State of Kansas:

Enclosed herewith is Executive Order No. 10-03 for your information.

MARK PARKINSON
Governor

The President announced Executive Order No. 10-03, offering an award of five thousand dollars (\$5,000) for information leading to the arrest and conviction of the individual or individuals who committed the homicide of Jesus Aaron Lerma, is on file in the office of the Secretary of the Senate and is available for review at any time.

COMMUNICATIONS FROM STATE OFFICERS

KANSAS DEPARTMENT OF LABOR

May 5, 2010

Jim Garner, Kansas Secretary of Labor, submitted the Workers Compensation 35th Annual Statistical Report, the 2009 Kansas Economic Report, the 2010 Workplace Safety Annual Report, the Unemployment Insurance Reference Guide and the Kansas Department of Labor 2009 Annual Report.

The President announced the above reports are on file in the office of the Secretary of the Senate and are available for review at any time.

CONFIRMATION OF APPOINTMENTS

In accordance with Senate Rule 56, the following appointments, submitted by the Governor, the Kansas Health Policy Authority, the Minority Leader of the Senate and the State Board of Healing Arts to the senate for confirmation, were considered.

Senator D. Schmidt moved the following appointments be confirmed as recommended by the Standing Senate Committees:

By the Governor:

On the appointment to the:

Pooled money investment Board:

John W. Lehman, to serve a four year term ending March 15, 2014.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

State Banking Board:

Richard L. Fish, to serve a three year term ending March 15, 2012.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

State Public Trust:

Gene Bicknell, term expires March 15, 2014.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

State Public Trust:

James J. Dahmen, term expires March 15, 2014.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

State Public Trust:

John O. Delmont, term expires March 15, 2011.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

State Public Trust:

Eddie L. Hamilton, term expires March 15, 2012.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

State Public Trust:

Betty J. McBride, term expires March 15, 2013.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The appointment was confirmed.

By the Kansas Health Policy Authority:

On the appointment to the:

Inspector General:

Nicholas M. Kramer, term expires January 15, 2013.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The appointment was confirmed.

By the State Board of Healing Arts:

On the appointment to the:

Executive Director of State Board of Healing Arts:

Kathleen Jo Selzler Lippert, serves at the pleasure of the State Board of Healing Arts.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The appointment was confirmed.

COMMITTEE OF THE WHOLE

On motion of Senator D. Schmidt, the Senate resolved itself into Committee of the Whole, for consideration of bills on the calendar under the heading of General Orders with Senator Brungardt the chair.

On motion of Senator Brungardt the following report was adopted:

S Sub for HB 2360 be amended by adoption of the committee amendments, be further amended by motion of Senator Emler on page 20, in line 36, by striking “and” and inserting a comma; also in line 36, after “(d)” and inserting “and (e)”;

On page 21, in line 28, by striking “11.333%” and inserting “11.427%”;

On page 23, in line 35, by striking “and” and inserting a comma; also in line 35, after “(d)” by inserting “and (e)”

On page 24, in line 20, by striking “11.333%” and inserting “11.427%”

S Sub for HB 2360 be further amended by Senator Huelskamp on page 8, by striking all in lines 16 through 43;

By striking all on pages 9 through 14;

On page 15, by striking all in lines 1 through 22;

And by renumbering sections accordingly;

On page 29, in line 10, by striking “79-”; in line 11, by striking “32,117, 79-32,138,”; in line 15, by striking “Kansas register” and inserting “statute book”;

On page 1, in the title, in line 12, by striking “, adjusted gross income”; in line 14, by striking “79-32,117, 79-32,138,”

Upon the showing of five hands a roll call was requested:

On roll call, the vote was: Yeas 33, Nays 5, Present and Passing 2, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Faust-Goudeau, Haley, Hensley, Holland, Huelskamp, Huntington, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Wagle.

Nays: Emler, Kelly, Owens, Reitz, Vratil.

Present and Passing: Francisco, Morris.

The motion carried and the amendment was adopted.

S Sub for HB 2360 be further amended by Senator Marshall on page 29, after line 9, by inserting the following:

“New Sec. 10. If any contractor has entered into a written binding contract prior to May 1, 2010, for the original construction, reconstruction, restoration, remodeling, renovation, repair or replacement of a building, facility or residential structure, or for the construction, reconstruction, restoration, replacement or repair of a bridge or highway, the state sales tax applicable to such contracts shall be remitted at the rate in effect prior to the state sales tax increase scheduled to take effect on July 1, 2010, if the contractor gives notice and proof of such contract to the director of taxation on or before July 10, 2010, which notice and proof shall be in such form and of such sufficiency as the director shall prescribe.”;

And by renumbering sections accordingly;

On page 1, in the title, in line 12, after “food” by inserting “, procedure for certain contracts”

Upon the showing of five hands a roll call was requested: On roll call, the vote was: Yeas 34, Nays 0, Present and Passing 5, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Faust-Goudeau, Francisco, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Present and Passing: Brungardt, Emler, Haley, Owens, Reitz.

Absent or Not Voting: Lee.

The motion carried and the amendment was adopted.

S Sub for HB 2360 be further amended by Senator Lee on page 29, before line 10, by inserting the following:

“Sec. 10. K.S.A. 2009 Supp. 74-72,123 is hereby amended to read as follows: 74-72,123.

(a) As used in the Kansas taxpayer transparency act:

(1) “Searchable website” means a website that allows the public to search and aggregate the information identified in subsection (b) including requirements that the website offer the public the ability to efficiently search and display data, and ascertain the total amounts

of revenues and expenditures (A) of funds established within the state treasury in an aggregate or summary form in a manner determined by the secretary of administration, (B) of compensation paid to public employees employed by state agencies, and (C) of bond debt as specified in this act.

(2) "Agency" means any entity or instrumentality of the state of Kansas as defined in K.S.A. 75-3701, and amendments thereto, and any other entity or instrumentality delegated statutory authority by the legislature to issue bonds and to collect revenue for the purpose of repaying bonds issued under authority delegated by statute.

(3) "Board" means the public finance transparency board.

(b) No later than March 1, 2009, the secretary of administration shall develop and operate a single, searchable website accessible by the public at no cost to access, that includes:

(1) Annual expenditures, as determined by the secretary of administration and as available within the central accounting system and state payroll system, shall include, but not be limited to:

(A) Disbursements by any state agency from funds established within the state treasury;
 (B) bond debt payments;
 (C) salaries and wages including, but not limited to, compensation paid to individual employees of state agencies;

(D) contractual services including, but not limited to, amounts paid to individual vendors;

(E) commodities including, but not limited to, amounts paid to individual vendors;

(F) capital outlay including, but not limited to, amounts paid to individual vendors;

(G) debt service including, but not limited to, amounts of bond interest paid and sources of funds paid for individual bond issues;

(H) aid to local units including, but not limited to, amounts paid to individual units of government for individually identifiable aid programs;

(I) other assistance and benefits; ~~and~~

(J) capital improvements including, but not limited to, amounts of bond principal paid and sources of funds paid for individual bond issues; *and*

(K) *tax expenditures as reported by the secretary of revenue in the annual tax expenditure report.*

(2) Annual revenues, as determined by the secretary of administration and as available within the central accounting system, shall include, but not be limited to:

(A) Receipts or deposits by any state agency into funds established within the state treasury;

(B) taxes including, but not limited to, compulsory contributions imposed by the state for the purpose of financing services;

(C) agency earnings including, but not limited to, amounts collected by each agency for merchandise sold, services performed, licenses and permits issued, or regulation;

(D) revenue for the use of money and property including, but not limited to, amounts received for compensation for the use of state-owned money and property;

(E) gifts, donations and federal grants including, but not limited to, amounts received from public and private entities to aid in support of a specific function or other governmental activity;

(F) other revenue including, but not limited to, receipts not classified elsewhere; and

(G) non-revenue receipts including, but not limited to, all receipts that do not constitute revenue.

(3) Annual bonded indebtedness which shall include, but not be limited to the amount of the total original obligation stated in terms of principal and interest, the term of the obligation, the source of funding for repayment of the obligation, the amounts of principal and interest previously paid to reduce the obligation, the balance remaining of the obligation, any refinancing of the obligation, and the cited statutory authority to issue such bonds.

(4) Any other relevant information specified by the secretary of administration after consulting with and seeking the advice of the public finance transparency board as established in K.S.A. 2009 Supp. 74-72,124, and amendments thereto.

(c) The single website provided for in subsection (b) of this section shall include data for fiscal year 2003 and each fiscal year thereafter. The website shall be designed so that such data shall be retained on the single website for not less than 10 years and shall include data

for the most recent fiscal years. Data that is available in the central accounting system and state payroll system shall be on the single website as soon as possible, but not later than 45 days after the last day of the preceding fiscal year. The secretary of administration shall develop policies and procedures to make data available from any other source. Nothing in this act shall require the secretary of administration to provide information on the website that is not available in the central accounting system and the state payroll system at the time of initial implementation of the website. After implementation of the initial website, the public finance transparency board shall advise the secretary of administration on incorporating additional information described by this act from any other source of information available to the secretary of administration including information submitted by state agencies pursuant to subsection (d) of this section.

(d) Any state agency shall provide, at the request of the secretary of administration, such information as is necessary to accomplish the purposes of this act.

(e) Nothing in this act shall permit or require the disclosure of information which is considered confidential by state or federal law.”;

And by renumbering sections accordingly;

Also on page 29, in line 10, after “Supp.” by inserting “74-72,123,”;

On page 1, in the title, in line 13, before “amending” by inserting “Kansas taxpayer transparency act,”; in line 14, after “Supp.” by inserting “74-72,123,”

S Sub for HB 2360 be further amended by Senator Schodorf on page 29, after line 9, by inserting the following:

“Sec. 10. K.S.A. 2009 Supp. 79-32,205 is hereby amended to read as follows: 79-32,205.

(a) There shall be allowed as a credit against the tax liability of a resident individual imposed under the Kansas income tax act an amount equal to ~~17%~~ 18% for tax year ~~2007~~ 2010, and all tax years thereafter, of the amount of the earned income credit allowed against such taxpayer’s federal income tax liability pursuant to section 32 of the federal internal revenue code for the taxable year in which such credit was claimed against the taxpayer’s federal income tax liability.

(b) If the amount of the credit allowed by subsection (a) exceeds the taxpayer’s income tax liability imposed under the Kansas income tax act, such excess amount shall be refunded to the taxpayer.”;

And by renumbering sections accordingly;

Also on page 29, in line 11, before “79-” by inserting “79-32,205,”;

On page 1, in the title, in line 13, before the semicolon, by inserting “, credits”; in line 15, before “79-3603,” by inserting “79-32,205,”

Senator Francisco moved to further amend **S Sub for HB 2360** as amended by Senate Committee, and further amended by Senate Committee of the Whole, on May 6, 2010, by amendment designated FAH2360t28, by striking section 10 which amends K.S.A. 2009 Supp. 79-32,205, and by inserting the following:

“Sec. 10. K.S.A. 2009 Supp. 79-32,205 is hereby amended to read as follows: 79-32,205.

(a) There shall be allowed as a credit against the tax liability of a resident individual imposed under the Kansas income tax act an amount equal to ~~17%~~ 18% for tax year ~~2007~~ years 2010 through 2012, and an amount equal to 17% for tax year 2013, and all tax years thereafter, of the amount of the earned income credit allowed against such taxpayer’s federal income tax liability pursuant to section 32 of the federal internal revenue code for the taxable year in which such credit was claimed against the taxpayer’s federal income tax liability. (b) If the amount of the credit allowed by subsection (a) exceeds the taxpayer’s income tax liability imposed under the Kansas income tax act, such excess amount shall be refunded to the taxpayer.” and **S Sub for HB 2360** passed as further amended.

S Sub for HB 2360 be further amended by Senator Bruce on page 29, after line 9, by inserting the following:

“Sec. 10. K.S.A. 2009 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. 2009 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, nonindustrial 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;

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

(24) the Kansas fairgrounds foundation for the purpose of the preservation, renovation and beautification of the Kansas state fairgrounds;

(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 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 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;

(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;

(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;

(dddd) all sales of tangible personal property or services purchased by or on behalf of Goodwill Industries or Easter Seals of Kansas, Inc., both of which are exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing education, training and employment opportunities for people with disabilities and other barriers to employment;

(eeee) all sales of tangible personal property or services purchased by or on behalf of All American Beef Battalion, Inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of educating, promoting and participating as a contact group through the beef cattle industry in order to carry out such projects that provide support and morale to members of the United States armed forces and military services; ~~and~~

(ffff) all sales of tangible personal property and services purchased by sheltered living, inc., 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 residential and day services for people with developmental disabilities or mental retardation, or both, and all sales of any such property by or on behalf of sheltered living, inc. for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of rehabilitating, constructing, maintaining, repairing, enlarging, furnishing or remodeling homes and facilities for sheltered living, inc. for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by sheltered living, inc. 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 homes and facilities for sheltered living, inc. When sheltered living, inc. contracts for the purpose of rehabilitating, constructing, maintaining, repairing, enlarging, furnishing or remodeling such homes and 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 sheltered living, inc. 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, sheltered living, inc. 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; *and*

(gggg) all sales of firearms purchased on and after July 2, but before July 7, in any year. For purposes of this subsection, "firearm" shall have the same meaning ascribed to in K.S.A. 21-3110, and amendments thereto.;

And by renumbering sections accordingly;

Also on page 29, in line 12, after "3603," by inserting "79-3606,";

On page 1, in the title, in line 11, before “distribution” by inserting “exemptions,”; in line 15, after “79-3603,” by inserting “79-3606,”

Upon the showing of five hands a roll call was requested.

On roll call, the vote was: Yeas 19, Nays 16, Present and Passing 5, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Huelskamp, Kelsey, Lynn, Marshall, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schodorf, Taddiken, Wagle.

Nays: Brungardt, Emler, Faust-Goudeau, Francisco, Hensley, Huntington, Kelly, Kultala, Lee, McGinn, Morris, Owens, Reitz, Schmidt V, Umbarger, Vratil.

Present and Passing: Donovan, Haley, Holland, Steineger, Teichman.

The motion carried and the amendment was adopted.

Having voted on the prevailing side, Senator Schodorf moved to reconsider its action on Senator Bruce’s previous amendment on **S Sub for HB 2360**.

Upon the showing of five hands a roll call was requested.

On roll call, the vote was: Yeas 21, Nays 19, Present and Passing 0, Absent or Not Voting 0.

Yeas: Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kultala, Lee, McGinn, Morris, Owens, Reitz, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil.

Nays: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Huelskamp, Kelsey, Lynn, Marshall, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt D, Taddiken, Wagle.

The motion carried.

The Senate returned to discussion on Senator Bruce’s amendment and a voice vote was taken. Upon a showing of five hands a roll call was requested.

On roll call, the vote was: Yeas 20, Nays 20, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Huelskamp, Kelsey, Lynn, Marshall, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schodorf, Taddiken, Wagle.

Nays: Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kultala, Lee, McGinn, Morris, Owens, Reitz, Schmidt V, Steineger, Teichman, Umbarger, Vratil.

The motion failed and the amendment was rejected.

A motion by Senator Bruce to amend **S Sub for HB 2360** failed and the following amendment was rejected: page 15, in line 28, by striking “2013” and inserting “2012”;

On page 21, in line 37, after “fund” by inserting “, as well as such revenue collected and received at the rate of 6.3%, after June 30, 2012”; in line 38, by striking “11.233%” and inserting “18.421%”; in line 40, by striking “6.3%” and inserting “5.7%”; in line 42, by striking all after “fund”; in line 43, by striking all before the period;

On page 22, by striking all in lines 1 through 5;

On page 23, in line 17, by striking “2013” and inserting “2012”;

On page 24, in line 29, after “fund” by inserting “, as well as such revenue collected and received at the rate of 6.3%, after June 30, 2013”; in line 30, by striking “11.233%” and inserting “18.421%”; in line 32, by striking “6.3%” and inserting “5.7%”; in line 34, by striking all after “fund”; by striking all before the period; by striking all in lines 36 through 40;

On page 26, in line 28, after “\$35,000” by inserting “or for tax years commencing after December 31, 2011, \$31,900,”;

On page 27, in line 29, after “\$90” by inserting “, except that for calendar year 2012 and thereafter, income of \$15,950 or less, an amount equal to \$88”; in line 32, after “\$45”, by inserting “, or for calendar year 2012, and thereafter, \$15,950 but not more than \$31,900, an amount equal to \$44”; in line 35, after “\$90” by inserting “, or for calendar year 2012, and thereafter, \$44 or \$88”;

On page 28, in lines 1 and 5, after “\$90” by inserting “or for taxable years commencing after December 31, 2011, \$44 or \$88”

Upon the showing of five hands a roll call was requested

Pursuant to Rule 40, President Morris moved to allow upon unanimous consent Senator Marshall to cast his vote on **S Sub for HB 2360** after the roll call was closed and prior to adjournment for the day.

On roll call, the vote was: Yeas 15, Nays 20, Present and Passing 5, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Huelskamp, Kelsey, Lynn, Marshall, Masterson, Ostmeyer, Pilcher-Cook, Pyle, Wagle.

Nays: Brungardt, Emler, Faust-Goudeau, Hensley, Huntington, Kelly, Kultala, Lee, McGinn, Morris, Owens, Petersen, Reitz, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil.

Present and Passing: Donovan, Francisco, Haley, Holland, Schmidt D.

The motion failed and the amendment was rejected.

A motion by Senator Bruce to amend **S Sub for HB 2360** failed and the following amendment was rejected: page 29, after line 9, by inserting the following:

“Sec. 10. K.S.A. 2009 Supp. 79-32,121 is hereby amended to read as follows: 79-32,121. An individual shall be allowed a Kansas exemption of \$2,250 for tax ~~year 1998~~ *years 2010 through 2012, and, for tax year 2013*, and all tax years thereafter, *a Kansas exemption equal to the amount of the exemption for which such individual is entitled to pursuant to section 151 et seq. of the federal internal revenue code of 1986*, for each exemption for which such individual is entitled to a deduction for the taxable year for federal income tax purposes. In addition to the exemptions authorized in the foregoing provision, an individual filing a federal income tax return under the status of head of household, as the same is defined by 26 U.S.C. 2(b), shall be allowed an additional Kansas exemption of \$2,250 for tax year 1998.”;

And by renumbering sections accordingly;

Also on page 29, in line 11, after “32,117,” by inserting “79-32,121,”;

On page 1, in the title, in line 13, before the semicolon by inserting “, personal exemption”; in line 14, after “79-32,117,” by inserting “79-32,121,”

Upon the showing of five hands a roll call was requested.

On roll call, the vote was: Yeas 18, Nays 21, Present and Passing 1, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Huelskamp, Kelsey, Lynn, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Steineger, Taddiken, Wagle.

Nays: Brungardt, Emler, Faust-Goudeau, Francisco, Hensley, Holland, Huntington, Kelly, Kultala, Lee, Marshall, McGinn, Morris, Owens, Reitz, Schmidt D, Schmidt V, Schodorf, Teichman, Umbarger, Vratil.

Present and Passing: Haley.

The motion failed and the amendment was rejected.

A motion by Senator Brownlee to amend **S Sub for HB 2360** and the following amendment was rejected: page 10, after line 42, by inserting the following:

“(xx) The amount of any depreciation deduction claimed on the federal income tax return for property that has been expensed for Kansas income tax purposes pursuant to subparagraph (xi) of subsection (c) of this section.”;

On page 13, after line 37, by inserting the following:

“(xxi) The amount of any expense deduction that could have been claimed and allowed pursuant to section 179 of the federal internal revenue code, as it appeared on the effective date of this act, for property placed in service after December 31, 2009, to the extent that such amount is included in federal adjusted gross income. In no circumstance shall any taxpayer be allowed to claim a deduction pursuant to this paragraph which exceeds \$125,000, and such deduction shall be reduced, but not below zero, by the amount by which the cost of such property placed in service during such taxable year exceeds \$500,000.”

Upon the showing of five hands a roll call was requested

On roll call, the vote was: Yeas 18, Nays 21, Present and Passing 1, Absent or Not Voting 0.

Yeas: Abrams, Barnett, Brownlee, Bruce, Colyer, Donovan, Faust-Goudeau, Huelskamp, Kelsey, Lynn, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schodorf, Taddiken, Wagle.

Nays: Apple, Brungardt, Emler, Francisco, Hensley, Holland, Huntington, Kelly, Kultala, Lee, Marshall, McGinn, Morris, Owens, Reitz, Schmidt D, Schmidt V, Steineger, Teichman, Umbarger, Vratil.

Present and Passing: Haley.

The motion failed and the amendment was rejected.

A motion by Senator Colyer to amend **S Sub for HB 2360** failed and the following amendment was rejected: page 29, after line 9, by inserting the following:

“Sec. 10. K.S.A. 2009 Supp. 79-32,105 is hereby amended to read as follows: 79-32,105.

(a) The director shall remit the entire amount collected under the provisions of this act and from the income tax imposed upon individuals, corporations, estates or trusts pursuant to the “Kansas income tax act” less amounts withheld as provided in subsection (b) and any amounts credited to the IMPACT program repayment fund or the IMPACT program services fund under K.S.A. 74-50,107 and amendments thereto 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 general fund.

(b) A revolving fund, designated as “income tax refund fund” not to exceed \$4,000,000 shall be set apart and maintained by the director from income tax collections, franchise tax collections, withholding tax collections, and estimated tax collections and held by the state treasurer for prompt payment of all income tax refunds and franchise tax refunds, for the payment of interest as provided in subsection (e), for payment of homestead property tax refunds in accordance with the homestead property tax refund act and for payment of property tax refunds allowed pursuant to the provisions of K.S.A. 2009 Supp. 79-255, and amendments thereto. The fund shall be in such amount, within the limit set by this section, as the director determines is necessary to meet current refunding requirements under this act.

(c) If the director discovers from the examination of the return, or upon claim duly filed by the taxpayer or upon final judgment of the court that the income tax, withholding tax, declaration of estimated tax or any penalty or interest paid by or credited to any taxpayer is in excess of the amount legally due for such tax or any other tax owed the state of Kansas, *within 30 days of the date the return was filed by the taxpayer, except that such time requirement shall not apply to any return filed by a taxpayer if the director determines that further examination and information is necessary to determine facts and issues related to the tax liability of the taxpayer*, the director shall certify to the director of accounts and reports the name of the taxpayer, the amount of refund and such other information as the director may require. ~~Upon~~ *Within 10 days of* receipt of such certification the director of accounts and reports shall issue a warrant on the state treasurer for the payment to the taxpayer out of the fund provided in subsection (b), except that no refund shall be made for a sum less than \$5, but such amount may be claimed by the taxpayer as a credit against the taxpayer’s tax liability in the taxpayer’s next succeeding taxable year.

(d) When a resident taxpayer dies, and the director determines that a refund is due the claimant not in excess of \$100, the director shall certify to the director of accounts and reports the name and address of the claimant entitled to the refund and the amount of the refund. A refund may be made upon a claim duly made on behalf of the estate of the deceased or in the absence of any such claim upon a claim by a surviving spouse and if none upon the claim by any heir at law. Upon receipt of such certification the director of accounts and reports shall issue a warrant on the state treasurer for the payment to the claimant out of the fund provided in subsection (b).

(e) Interest shall be allowed and paid at the rate of 12% per annum upon any overpayment of the income tax imposed upon individuals, corporations, estates or trusts pursuant to the Kansas income tax act for any period prior to January 1, 1995, 6% per annum for the period commencing on January 1, 1995, and ending on December 31, 1997, and at the rate prescribed and determined pursuant to K.S.A. 79-2968, and amendments thereto, for any period thereafter.

For the purposes of this subsection:

(1) Any return filed before the last day prescribed for the filing thereof shall be considered as filed on such last day, determined without regard to any extension of time granted the taxpayer;

(2) any tax paid by the taxpayer before the last day prescribed for its payment, any income tax withheld from the taxpayer during any calendar year and any amount paid by the taxpayer as estimated income tax for a taxable year shall be deemed to have been paid on the last day prescribed for filing the return for the taxable year to which such amount constitutes a credit or payment, determined without regard to any extension of time granted the taxpayer;

(3) if any overpayment of tax results from a carryback of a net operating loss or net capital loss, such overpayment shall be deemed not to have been made prior to the close of the taxable year in which such net operating loss or net capital loss arises. For purposes of this paragraph, the return for the loss year shall not be deemed to be filed before claim for such overpayment is filed;

(4) in the case of a credit, interest shall be allowed and paid from the date of the overpayment to the due date of the amount against which the credit is taken, except that if any overpayment of income tax is claimed as a credit against estimated tax for the succeeding taxable year, such amount shall be considered as a payment of the income tax for the succeeding taxable year, whether or not claimed as a credit in the return of estimated tax for such succeeding taxable year, and no interest shall be allowed or paid in such overpayment for the taxable year in which the overpayment arises;

(5) in the case of a tax return which is filed after the last date prescribed for filing such return, determined with regard to extensions, no interest shall be allowed or paid for any period before the date on which the return is filed;

(6) in the case of a refund, interest shall be allowed and paid from the date of the overpayment to a date preceding the date of the refund check by not more than 30 days, as determined by the director, whether or not such refund check is accepted by the taxpayer after tender of such check to the taxpayer, but acceptance of such check shall be without prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon; and

(7) if any overpayment is refunded within two months after the last date prescribed, or permitted by extension of time, for filing the return of such tax, or within two months after the return was filed, whichever is later, no interest shall be allowed or paid. For the purposes of this section, an overpayment shall be deemed to have been refunded at the time the refund check in the amount of the overpayment, plus any interest due thereon, is deposited in the United States mail.”;

And by renumbering sections accordingly;

Also on page 29, in line 10, after “Supp.” by inserting “79-32,105,”; in line 15, by striking “Kansas register” and inserting “statute book”;

On page 1, in the title, in line 12, before the stricken material by inserting “, refunds”; in line 14, after “Supp.” by inserting “79-32,105,”;

On roll call, the vote was: Yeas 19, Nays 19, Present and Passing 2, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Huelskamp, Kelsey, Lynn, Marshall, Masterson, Ostmeier, Petersen, Pilcher-Cook, Pyle, Schmidt D, Taddiken, Wagle.

Nays: Brungardt, Emler, Faust-Goudeau, Francisco, Hensley, Huntington, Kelly, Kultala, Lee, McGinn, Morris, Owens, Reitz, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil.

Present and Passing: Haley, Holland.

The motion failed and the amendment was rejected.

A motion by Senator Donovan to amend **S Sub for HB 2360** failed and the following amendment was rejected: on page 29, after line 9, by inserting the following:

“Sec. 10. K.S.A. 2009 Supp. 79-32,160a is hereby amended to read as follows: 79-32,160a.

(a) For taxable years commencing after December 31, 1999, any taxpayer who shall invest in a qualified business facility, as defined in subsection (b) of K.S.A. 79-32,154, and amendments thereto, and also meets the definition of a business in subsection (b) of K.S.A. 74-50,114, and amendments thereto, shall be allowed a credit for such investment, in an

amount determined under subsection (b) or (c), as the case requires, against the tax imposed by the Kansas income tax act or where the qualified business facility is the principal place from which the trade or business of the taxpayer is directed or managed and the facility has facilitated the creation of at least 20 new full-time positions, against the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or as measured by the net income of financial institutions imposed pursuant to chapter 79, article 11 of the Kansas Statutes Annotated, for the taxable year during which commencement of commercial operations, as defined in subsection (f) of K.S.A. 79-32,154, and amendments thereto, occurs at such qualified business facility. In the case of a taxpayer who meets the definition of a manufacturing business in subsection (d) of K.S.A. 74-50,114, and amendments thereto, no credit shall be allowed under this section unless the number of qualified business facility employees, as determined under subsection (d) of K.S.A. 79-32,154, and amendments thereto, engaged or maintained in employment at the qualified business facility as a direct result of the investment by the taxpayer for the taxable year for which the credit is claimed equals or exceeds two. In the case of a taxpayer who meets the definition of a nonmanufacturing business in subsection (f) of K.S.A. 74-50,114, and amendments thereto, no credit shall be allowed under this section unless the number of qualified business facility employees, as determined under subsection (d) of K.S.A. 79-32,154, and amendments thereto, engaged or maintained in employment at the qualified business facility as a direct result of the investment by the taxpayer for the taxable year for which the credit is claimed equals or exceeds five. Where an employee performs services for the taxpayer outside the qualified business facility, the employee shall be considered engaged or maintained in employment at the qualified business facility if (1) the employee's service performed outside the qualified business facility is incidental to the employee's service inside the qualified business facility, or (2) the base of operations or, the place from which the service is directed or controlled, is at the qualified business facility.

(b) The credit allowed by subsection (a) for any taxpayer who invests in a qualified business facility which is located in a designated nonmetropolitan region established under K.S.A. 74-50,116, and amendments thereto, on or after the effective date of this act, shall be a portion of the income tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income, 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 chapter 79, article 11 of the Kansas Statutes Annotated, for the taxable year for which such credit is allowed, but in the case where the qualified business facility investment was made prior to January 1, 1996, not in excess of 50% of such tax. Such portion shall be an amount equal to the sum of the following:

- (1) Two thousand five hundred dollars for each qualified business facility employee determined under K.S.A. 79-32,154, and amendments thereto; plus
- (2) one thousand dollars for each \$100,000, or major fraction thereof, which shall be deemed to be 51% or more, in qualified business facility investment, as determined under K.S.A. 79-32,154, and amendments thereto.

(c) The credit allowed by subsection (a) for any taxpayer who invests in a qualified business facility, which is not located in a nonmetropolitan region established under K.S.A. 74-50,116, and amendments thereto, and which also meets the definition of business in subsection (b) of K.S.A. 74-50,114, and amendments thereto, on or after the effective date of this act, shall be a portion of the income tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income, 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 chapter 79, article 11 of the Kansas Statutes Annotated, for the taxable year for which such credit is allowed, but in the case where the qualified business facility investment was made prior to January 1, 1996, not in excess of 50% of such tax. Such portion shall be an amount equal to the sum of the following:

- (1) One thousand five hundred dollars for each qualified business facility employee as determined under K.S.A. 79-32,154, and amendments thereto; and
- (2) one thousand dollars for each \$100,000, or major fraction thereof, which shall be deemed to be 51% or more, in qualified business facility investment as determined under K.S.A. 79-32,154, and amendments thereto.

(d) The credit allowed by subsection (a) for each qualified business facility employee and for qualified business facility investment shall be a one-time credit. If the amount of the credit allowed under subsection (a) exceeds the tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income, the premium tax and 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 chapter 79, article 11 of the Kansas Statutes Annotated for the taxable year, or in the case where the qualified business facility investment was made prior to January 1, 1996, 50% of such tax imposed upon the amount which exceeds such tax liability or such portion thereof may be carried over for credit in the same manner in the succeeding taxable years until the total amount of such credit is used. Except that, before the credit is allowed, a taxpayer, who meets the definition of a manufacturing business in subsection (d) of K.S.A. 74-50,114, and amendments thereto, shall recertify annually that the net increase of a minimum of two qualified business facility employees has continued to be maintained and a taxpayer, who meets the definition of a nonmanufacturing business in subsection (f) of K.S.A. 74-50,114, and amendments thereto, shall recertify annually that the net increase of a minimum of five qualified business employees has continued to be maintained.

(e) Notwithstanding the foregoing provisions of this section, any taxpayer qualified and certified under the provisions of K.S.A. 74-50,131, and amendments thereto; which, prior to making a commitment to invest in a qualified Kansas business, has filed a certificate of intent to invest in a qualified business facility in a form satisfactory to the secretary of commerce; and that has received written approval from the secretary of commerce for participation and has participated, during the tax year for which the exemption is claimed, in the Kansas industrial training, Kansas industrial retraining or the state of Kansas investments in lifelong learning program or is eligible for the tax credit established in K.S.A. 74-50,132, and amendments thereto, shall be entitled to a credit in an amount equal to 10% of that portion of the qualified business facility investment which exceeds \$50,000 in lieu of the credit provided in subsection (b)(2) or (c)(2) without regard to the number of qualified business facility employees engaged or maintained in employment at the qualified business facility. The credit allowed by this subsection shall be a one-time credit. If the amount thereof exceeds the tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income or the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by net income of financial institutions imposed pursuant to chapter 79, article 11 of the Kansas Statutes Annotated for the taxable year, the amount thereof which exceeds such tax liability may be carried forward for credit in the succeeding taxable year or years until the total amount of the tax credit is used, except that no such tax credit shall be carried forward for deduction after the ~~10th~~ 15th taxable year succeeding the taxable year in which such credit initially was claimed and no carry forward shall be allowed for deduction in any succeeding taxable year unless the taxpayer continued to be qualified and was recertified for such succeeding taxable year pursuant to K.S.A. 74-50,131, and amendments thereto. *In no event shall any tax credit allowed under this section that expired during any taxable year prior to the taxable year commencing January 1, 2010, be revived hereunder.*

(f) For tax years commencing after December 31, 2005, any taxpayer claiming credits pursuant to this section, as a condition for claiming and qualifying for such credits, shall provide information pursuant to K.S.A. 2009 Supp. 79-32,243, and amendments thereto, as part of the tax return in which such credits are claimed. Such credits shall not be denied solely on the basis of the contents of the information provided by the taxpayer pursuant to K.S.A. 2009 Supp. 79-32,243, and amendments thereto.

(g) This section and K.S.A. 79-32,160b, and amendments thereto, shall be part of and supplemental to the job expansion and investment credit act of 1976 and acts amendatory thereof and supplemental thereto.”;

And by renumbering sections accordingly;

Also on page 29, in line 11, after the stricken material by inserting “79-32,160a.”;

On page 1, in the title, in line 12, before the stricken material by inserting “, credit carry forward periods.”; in line 14, after “79-32,138,” by inserting “79-32,160a.”

A motion by Senator Pilcher-Cook to amend **S Sub for HB 2360** failed and the following amendment was rejected: on page 15, by striking all in lines 23 through 43;

By striking all on pages 16 through 25;

On page 26, by striking all in lines 1 and 2;

And by renumbering sections accordingly;

On page 29, after line 9, by inserting the following:

“Sec. 10. K.S.A. 2009 Supp. 79-3603 is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of 5.3%, *and commencing July 1, 2010, at the rate of 6.2%, and commencing July 1, 2013, at the rate of 5.6%*. Within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

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

(b) the gross receipts from intrastate, interstate or international telecommunications services and any ancillary services sourced to this state in accordance with K.S.A. 2009 Supp. 79-3673, and amendments thereto, except that telecommunications service does not include: (1) Any interstate or international 800 or 900 service; (2) any interstate or international private communications service as defined in K.S.A. 2009 Supp. 79-3673, and amendments thereto; (3) any value-added nonvoice data service; (4) any telecommunication service to a provider of telecommunication services which will be used to render telecommunications services, including carrier access services; or (5) any service or transaction defined in this section among entities classified as members of an affiliated group as provided by section 1504 of the federal internal revenue code of 1986, as in effect on January 1, 2001;

(c) the gross receipts from the sale or furnishing of gas, water, electricity and heat, which sale is not otherwise exempt from taxation under the provisions of this act, and whether furnished by municipally or privately owned utilities, except that, on and after January 1, 2006, for sales of gas, electricity and heat delivered through mains, lines or pipes to residential premises for noncommercial use by the occupant of such premises, and for agricultural use and also, for such use, all sales of propane gas, the state rate shall be 0%; and for 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, the state rate shall be 0%, but such tax shall not be levied and collected upon the gross receipts from: (1) The sale of a rural water district benefit unit; (2) a water system impact fee, system enhancement fee or similar fee collected by a water supplier as a condition for establishing service; or (3) connection or reconnection fees collected by a water supplier;

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

(e) the gross receipts from the sale of admissions to any place providing amusement, entertainment or recreation services including admissions to state, county, district and local fairs, but such tax shall not be levied and collected upon the gross receipts received from sales of admissions to any cultural and historical event which occurs triennially;

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

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

(h) the gross receipts from the service of renting or leasing of tangible personal property except such tax shall not apply to the renting or leasing of machinery, equipment or other

personal property owned by a city and purchased from the proceeds of industrial revenue bonds issued prior to July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, and any city or lessee renting or leasing such machinery, equipment or other personal property purchased with the proceeds of such bonds who shall have paid a tax under the provisions of this section upon sales made prior to July 1, 1973, shall be entitled to a refund from the sales tax refund fund of all taxes paid thereon;

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

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

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

(l) (1) except as otherwise provided by paragraph (2), the gross receipts received from the sales of tangible personal property to all contractors, subcontractors or repairmen for use by them in erecting structures, or building on, or otherwise improving, altering, or repairing real or personal property.

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

(m) the gross receipts received from fees and charges by public and private clubs, drinking establishments, organizations and businesses for participation in sports, games and other recreational activities, but such tax shall not be levied and collected upon the gross receipts received from: (1) Fees and charges by any political subdivision, by any organization exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-201, and amendments thereto, or by any youth recreation organization exclusively providing services to persons 18 years of age or younger which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for participation in sports, games and other recreational activities; and (2) entry fees and charges for participation in a special event or tournament sanctioned by a national sporting association to which spectators are charged an admission which is taxable pursuant to subsection (e);

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

(o) the gross receipts received from the isolated or occasional sale of motor vehicles or trailers but not including: (1) The transfer of motor vehicles or trailers by a person to a corporation or limited liability company solely in exchange for stock securities or membership interest in such corporation or limited liability company; or (2) the transfer of motor vehicles or trailers by one corporation or limited liability company to another when all of the assets of such corporation or limited liability company are transferred to such other corporation or limited liability company; or (3) the sale of motor vehicles or trailers which are subject to taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and amendments thereto, by an immediate family member to another immediate family member. For the purposes of clause (3), immediate family member means lineal ascendants or descendants, and their spouses. Any amount of sales tax paid pursuant to the Kansas retailers sales tax act on the isolated or occasional sale of motor vehicles or trailers on and after July 1, 2004, which the base for computing the tax was the value pursuant to subsections (a), (b)(1) and (b)(2) of K.S.A. 79-5105, and amendments thereto, when such amount was higher than the

amount of sales tax which would have been paid under the law as it existed on June 30, 2004, shall be refunded to the taxpayer pursuant to the procedure prescribed by this section. Such refund shall be in an amount equal to the difference between the amount of sales tax paid by the taxpayer and the amount of sales tax which would have been paid by the taxpayer under the law as it existed on June 30, 2004. Each claim for a sales tax refund shall be verified and submitted not later than six months from the effective date of this act 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 tax paid as provided by this act. All such 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 of taxation or the director's designee. No refund for an amount less than \$10 shall be paid pursuant to this act. In determining the base for computing the tax on such isolated or occasional sale, the fair market value of any motor vehicle or trailer traded in by the purchaser to the seller may be deducted from the selling price;

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

For the purposes of this subsection:

(1) "Original construction" shall mean the first or initial construction of a new building or facility. The term "original construction" shall include the addition of an entire room or floor to any existing building or facility, the completion of any unfinished portion of any existing building or facility and the restoration, reconstruction or replacement of a building, facility or utility structure damaged or destroyed by fire, flood, tornado, lightning, explosion, windstorm, ice loading and attendant winds, terrorism or earthquake, but such term, except with regard to a residence, shall not include replacement, remodeling, restoration, renovation or reconstruction under any other circumstances;

(2) "building" shall mean only those enclosures within which individuals customarily are employed, or which are customarily used to house machinery, equipment or other property, and including the land improvements immediately surrounding such building;

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

(4) "residence" shall mean only those enclosures within which individuals customarily live;

(5) "utility structure" shall mean transmission and distribution lines owned by an independent transmission company or cooperative, the Kansas electric transmission authority or natural gas or electric public utility; and

(6) "windstorm" shall mean straight line winds of at least 80 miles per hour as determined by a recognized meteorological reporting agency or organization;

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

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

(s) on and after January 1, 2005, the gross receipts received from the sale of prewritten computer software and the sale of the services of modifying, altering, updating or maintaining prewritten computer software, whether the prewritten computer software is installed or delivered electronically by tangible storage media physically transferred to the purchaser or by load and leave;

(t) the gross receipts received for telephone answering services;

(u) the gross receipts received from the sale of prepaid calling service and prepaid wireless calling service as defined in K.S.A. 2009 Supp. 79-3673, and amendments thereto; ~~and~~

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

(w) *the gross receipts from the rendering of abortion services. For the purposes of this subsection, "abortion services" means those services used to intentionally terminate a pregnancy except for the purpose of causing a live birth. The term "abortion services" does not include: (1) The use of any drug or device that inhibits or prevents ovulation, fertilization or the implantation of an embryo; or (2) disposition of the product of in vitro fertilization prior to implantation.*

Sec. 11. K.S.A. 2009 Supp. 79-3620 is hereby amended to read as follows: 79-3620. (a) All revenue collected or received by the director of taxation from the taxes imposed by this act shall be 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, less amounts withheld as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

(b) A refund fund, designated as "sales tax refund fund" not to exceed \$100,000 shall be set apart and maintained by the director from sales tax collections and estimated tax collections and held by the state treasurer for prompt payment of all sales tax refunds including refunds authorized under the provisions of K.S.A. 79-3635, and amendments thereto. Such fund shall be in such amount, within the limit set by this section, as the director shall determine is necessary to meet current refunding requirements under this act. In the event such fund as established by this section is, at any time, insufficient to provide for the payment of refunds due claimants thereof, the director shall certify the amount of additional funds required to the director of accounts and reports who shall promptly transfer the required amount from the state general fund to the sales tax refund fund, and notify the state treasurer, who shall make proper entry in the records.

(c) (1) The state treasurer shall credit $\frac{5}{100}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 4.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) The state treasurer shall credit $\frac{5}{100}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.3%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(3) On July 1, 2006, the state treasurer shall credit $\frac{19}{200}$ of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(4) On July 1, 2007, the state treasurer shall credit $\frac{13}{100}$ of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(5) *On July 1, 2010, the state treasurer shall credit 11.556% of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of*

6.2%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(6) On July 1, 2011, the state treasurer shall credit 11.397% of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 6.2%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(7) On July 1, 2012, the state treasurer shall credit 11.370% of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 6.2%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund, as well as such revenue collected and received at the rate of 6.2%, after June 30, 2013.

(8) On July 1, 2013, and thereafter, the state treasurer shall credit 18.75% of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.6%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a STAR bond project district occupied by a STAR bond project or taxpayers doing business with such entity financed by a STAR bond project as defined in K.S.A. 2009 Supp. 12-17,162, and amendments thereto, that was determined by the secretary of commerce to be of statewide as well as local importance or will create a major tourism area for the state or the project was designated as a STAR bond project as defined in K.S.A. 2009 Supp. 12-17,162, and amendments thereto, to the city bond finance fund, which fund is hereby created. The provisions of this subsection shall expire when the total of all amounts credited hereunder and under subsection (d) of K.S.A. 79-3710, and amendments thereto, is sufficient to retire the special obligation bonds issued for the purpose of financing all or a portion of the costs of such STAR bond project.

(e) All revenue certified by the director of taxation as having been collected or received from the tax imposed by subsection (c) of K.S.A. 79-3603, and amendments thereto, on the sale or furnishing of gas, water, electricity and heat for use or consumption within the intermodal facility district described in this subsection, shall be credited by the state treasurer to the state highway fund. Such revenue may be transferred by the secretary of transportation to the rail service improvement fund pursuant to law. The provisions of this subsection shall take effect upon certification by the secretary of transportation that a notice to proceed has been received for the construction of the improvements within the intermodal facility district, but not later than December 31, 2010, and shall expire when the secretary of revenue determines that the total of all amounts credited hereunder and pursuant to subsection (e) of K.S.A. 79-3710, and amendments thereto, is equal to \$53,300,000, but not later than December 31, 2045. Thereafter, all revenues shall be collected and distributed in accordance with applicable law. For all tax reporting periods during which the provisions of this subsection are in effect, none of the exemptions contained in K.S.A. 79-3601 et seq., and amendments thereto, shall apply to the sale or furnishing of any gas, water, electricity and heat for use or consumption within the intermodal facility district. As used in this subsection, "intermodal facility district" shall consist of an intermodal transportation area as defined by subsection (oo) of K.S.A. 12-1770a, and amendments thereto, located in Johnson county within the polygonal-shaped area having Waverly Road as the eastern boundary, 191st Street as the southern boundary, Four Corners Road as the western boundary, and Highway 56 as the northern boundary, and the polygonal-shaped area having Poplar Road as the eastern boundary, 183rd Street as the southern boundary, Waverly Road as the western boundary, and the BNSF mainline track as the northern boundary, that includes capital investment in an amount exceeding \$150 million for the construction of an intermodal facility to handle the transfer, storage and distribution of freight through railway and trucking operations.

Sec. 12. K.S.A. 2009 Supp. 79-3703 is hereby amended to read as follows: 79-3703. There is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using, storing, or consuming within this state any article of tangible personal property. Such tax shall be levied and collected in an amount equal to the

consideration paid by the taxpayer multiplied by the rate of 5.3%, and commencing July 1, 2010, at the rate of 6.2%, and commencing July 1, 2013, at the rate of 5.6%. Within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax of 2% until the earlier of: (1) The date the bonds issued to finance or refinance the redevelopment project undertaken in the district have been paid in full; or (2) the final scheduled maturity of the first series of bonds issued to finance the redevelopment project. All property purchased or leased within or without this state and subsequently used, stored or consumed in this state shall be subject to the compensating tax if the same property or transaction would have been subject to the Kansas retailers' sales tax had the transaction been wholly within this state.

Sec. 13. K.S.A. 2009 Supp. 79-3710 is hereby amended to read as follows: 79-3710. (a) All revenue collected or received by the director under the provisions of this act shall be 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, less amounts set apart as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

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

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

(2) The state treasurer shall credit 5/106 of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.3%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(3) On July 1, 2006, the state treasurer shall credit 19/265 of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(4) On July 1, 2007, the state treasurer shall credit 13/106 of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(5) On July 1, 2010, the state treasurer shall credit 11.556% of the revenue collected and received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 6.2%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(6) On July 1, 2011, the state treasurer shall credit 11.397% of the revenue collected and received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 6.2%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(7) On July 1, 2012, the state treasurer shall credit 11.370% of the revenue collected and received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 6.2%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund, as well as such revenue collected and received at the rate of 6.2%, after June 30, 2013.

(8) On July 1, 2013, and thereafter, the state treasurer shall credit 18.75% of the revenue collected and received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.6%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a redevelopment district occupied by a redevelopment project that was determined by the secretary of commerce to be of statewide as well as local importance or will create a major tourism area for the state as defined in K.S.A. 12-1770a, and amendments thereto, to the city bond finance fund created by subsection (d) of K.S.A. 79-3620, and amendments thereto. The provisions of this subsection shall expire when the total of all amounts credited hereunder and under subsection (d) of K.S.A. 79-3620, and amendments thereto, is sufficient to retire the special obligation bonds issued for the purpose of financing all or a portion of the costs of such redevelopment project.

This subsection shall not apply to a project designated as a special bond project as defined in subsection (z) of K.S.A. 12-1770a, and amendments thereto.

(e) All revenue certified by the director of taxation as having been collected or received from the tax imposed by subsection (c) of K.S.A. 79-3603, and amendments thereto, on the sale or furnishing of gas, water, electricity and heat for use or consumption within the intermodal facility district described in this subsection, shall be credited by the state treasurer to the state highway fund. Such revenue may be transferred by the secretary of transportation to the rail service improvement fund pursuant to law. The provisions of this subsection shall take effect upon certification by the secretary of transportation that a notice to proceed has been received for the construction of the improvements within the intermodal facility district, but not later than December 31, 2010, and shall expire when the secretary of revenue determines that the total of all amounts credited hereunder and pursuant to subsection (e) of K.S.A. 79-3620, and amendments thereto, is equal to \$53,300,000, but not later than December 31, 2045. Thereafter, all revenues shall be collected and distributed in accordance with applicable law. For all tax reporting periods during which the provisions of this subsection are in effect, none of the exemptions contained in K.S.A. 79-3601 et seq., and amendments thereto, shall apply to the sale or furnishing of any gas, water, electricity and heat for use or consumption within the intermodal facility district. As used in this subsection, "intermodal facility district" shall consist of an intermodal transportation area as defined by subsection (oo) of K.S.A. 12-1770a, and amendments thereto, located in Johnson county within the polygonal-shaped area having Waverly Road as the eastern boundary, 191st Street as the southern boundary, Four Corners Road as the western boundary, and Highway 56 as the northern boundary, and the polygonal-shaped area having Poplar Road as the eastern boundary, 183rd Street as the southern boundary, Waverly Road as the western boundary, and the BNSF mainline track as the northern boundary, that includes capital investment in an amount exceeding \$150 million for the construction of an intermodal facility to handle the transfer, storage and distribution of freight through railway and trucking operations.";

And by renumbering sections accordingly

Upon the showing of five hands a roll call was requested.

On roll call, the vote was: Yeas 17, Nays 22, Present and Passing 1, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Huelskamp, Kelsey, Lynn, Marshall, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Wagle.

Nays: Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kultala, Lee, Morris, Owens, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil.

Present and Passing: McGinn.

The motion failed and the amendment was rejected.

A motion by Senator Reitz to amend **S Sub for HB 2360** failed and the following amendment was rejected:

On page 29, before line 10, by inserting the following:

"Sec. 10. K.S.A. 2009 Supp. 79-3301 is hereby amended to read as follows: 79-3301. As used in this act:

(a) "Carrier" means one who transports cigarettes from a manufacturer to a wholesale dealer or from one wholesale dealer to another.

(b) "Carton" means the container used by the manufacturer of cigarettes in which no more than 10 packages of cigarettes are placed prior to shipment from such manufacturer.

(c) "Cigar" means any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco other than any roll of tobacco which is a cigarette as defined in this section.

(d) "Cigarette" means any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape, and irrespective of tobacco being flavored, adulterated or mixed with any other ingredient ~~if the wrapper is in greater part made of any material except tobacco wrapped in paper or any substance not containing tobacco or any roll of tobacco wrapped in any substance containing tobacco that because of appearance, the type of tobacco used in the filler, or packaging and labeling, is likely to be offered to, or purchased by consumers as a cigarette as described in this subsection. Cigarettes include little cigars.~~

(e) "Consumer" means the person purchasing or receiving cigarettes or tobacco products for final use.

(f) "Dealer" means any person who engages in the sale or manufacture of cigarettes in the state of Kansas, and who is required to be licensed under the provisions of this act.

(g) "Dealer establishment" means any location or premises, other than vending machine locations, at or from which cigarettes are sold, and where records are kept.

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

(i) "Distributor" means: (1) Any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from ~~without~~ outside the state any tobacco products for sale; (2) any person who makes, manufactures, fabricates or stores tobacco products in this state for sale in this state; or (3) any person engaged in the business of selling tobacco products ~~without~~ outside this state who ships or transports tobacco products to any person in the business of selling tobacco products in this state.

(j) "Division" means the division of taxation.

(k) "License" means, ~~in addition to~~ the privilege of a licensee to sell cigarettes or tobacco products in the state of Kansas, ~~and the written evidence of such authority or privilege to so operate as evidenced by any license issued by the director of taxation.~~

(l) "Licensee" means any person holding a current license issued pursuant to this act.

(m) "Little cigar" means any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco and as to which 1,000 units weigh not more than three pounds.

(n) "Manufacturer's salesperson" means a person employed by a cigarette manufacturer who sells cigarettes, manufactured by such employer and procured from wholesale dealers.

(o) "Meter imprints" means tax indicia applied by means of ink printing machines.

(p) (1) "Package" means a container in which no more than 25 individual cigarettes are wrapped and sealed by the manufacturer of cigarettes prior to shipment to a wholesale dealer.

(2) For the purposes of subsections (u), (v) and (w) of K.S.A. 79-3321, and amendments thereto, "package" ~~shall have the meaning ascribed thereto~~ means the same as provided in 15 U.S.C. §1332(4).

(q) "Person" means any individual, partnership, society, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity whether appointed by a court or otherwise and any combination of individuals.

(r) "Received" means the coming to rest of cigarettes for sale by any dealer in the state of Kansas.

(s) "Retail dealer" means a person, other than a vending machine operator, in possession of cigarettes for the purpose of sale to a consumer.

(t) "Sale" means any transfer of title or possession or both, exchange, barter, distribution or gift of cigarettes or tobacco products, with or without consideration.

(u) "Sample" means cigarettes or tobacco products distributed to members of the general public at no cost for purposes of promoting the product.

(v) "Self-service display" means a display that contains cigarettes or tobacco products and is located in an area openly accessible to a retail dealer's consumers, and from which such consumers can readily access cigarettes or tobacco products without the assistance of a

salesperson. A display case that holds cigarettes or tobacco products behind locked doors does not constitute a self-service display.

~~(t)~~ (w) "Stamps" means tax indicia applied either by means of water applied gummed paper or heat process.

~~(t)~~ (x) "Tax indicia" means visible evidence of tax payment in the form of stamps or meter imprints.

~~(t)~~ (y) "Tobacco products" means cigars, cheroots, stogies, periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, *cigarette wrappers made of tobacco* and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking. Tobacco products ~~does~~ do not include cigarettes or little cigars.

(z) "*Tobacco specialty store*" means a dealer establishment that derives at least 75% of such dealer establishment's revenue from cigarette or tobacco products.

~~(w)~~ (aa) "Vending machine" means any coin operated machine, contrivance or device, by means of which merchandise may be sold.

~~(x)~~ (bb) "Vending machine distributor" means any person who sells cigarette vending machines to a vending machine operator operating vending machines in the state of Kansas.

~~(y)~~ (cc) "Vending machine operator" means any person who places a vending machine, owned, leased or operated by such person, at locations where cigarettes are sold from ~~the~~ such vending machine. The owner or lessee of the premises upon which a vending machine is placed shall not be considered the operator of the machine, nor shall the owner or lessee, or any employee or agent of the owner or lessee be considered an authorized agent of the vending machine operator, if the owner or lessee does not own or lease the machine and the owner's or lessee's sole remuneration from the machine is a flat rental fee or commission based upon the number or value of cigarettes sold from the machine, or a combination of both.

~~(z)~~ (dd) "Wholesale dealer" means any person who sells cigarettes to other wholesale dealers, retail dealers, vending machine operators and manufacturer's salespersons for the purpose of resale in the state of Kansas.

~~(aa)~~ (ee) "Wholesale sales price" means the original net invoice price for which a manufacturer sells a tobacco product to a distributor, as shown by the manufacturer's original invoice.

~~(bb)~~ (ff) "Importer" ~~shall have the same meaning ascribed thereto means the same as provided in 26 U.S.C. §5702~~(k).

~~(cc)~~ (gg) "Manufacturer" ~~shall have the same meaning ascribed thereto means the same as provided in 26 U.S.C. §5702~~(d).

Sec. 11. K.S.A. 2009 Supp. 79-3310 is hereby amended to read as follows: 79-3310. There is imposed a tax upon all cigarettes sold, distributed or given away within the state of Kansas. ~~On and after July 1, 2002, and before January 1, 2003, the rate of such tax shall be \$.70 on each 20 cigarettes or fractional part thereof or \$.875 on each 25 cigarettes, as the case requires. On and after January 1, 2003~~ July 1, 2010, the rate of such tax shall be ~~\$.79~~ \$1.79 on each 20 cigarettes or fractional part thereof or ~~\$.99~~ \$2.24 on each 25 cigarettes, as the case requires. Such tax shall be collected and paid to the director as provided in this act. Such tax shall be paid only once and shall be paid by the wholesale dealer first receiving the cigarettes as herein provided.

The taxes imposed by this act are hereby levied upon all sales of cigarettes made to any department, institution or agency of the state of Kansas, and to the political subdivisions thereof and their departments, institutions and agencies.

Sec. 12. K.S.A. 2009 Supp. 79-3310c is hereby amended to read as follows: 79-3310c. ~~(t)~~ On or before July 30, ~~2002~~ 2010, each wholesale dealer, retail dealer and vending machine operator shall file a report with the director in such form as the director may prescribe showing cigarettes, cigarette stamps and meter imprints on hand at 12:01 a.m. on July 1, ~~2002~~ 2010. A tax of ~~\$.46~~ \$1.00 on each 20 cigarettes or fractional part thereof or ~~\$.575~~ \$1.25 on each 25 cigarettes, as the case requires and ~~\$.46~~ or ~~\$.575~~ \$1.00 or \$1.25, as the case requires upon all tax stamps and all meter imprints purchased from the director and not

affixed to cigarettes prior to July 1, ~~2002~~ 2010, is hereby imposed and shall be due and payable in equal installments on or before July 30, ~~2002~~ 2010, on or before September 30, ~~2002~~ 2010, and on or before December 30, ~~2002~~ 2010. The tax imposed upon such cigarettes, tax stamps and meter imprints shall be imposed only once under this act. The director shall remit all moneys collected pursuant to this section to the state treasurer who shall credit the entire amount thereof to the state general fund.

~~(2) On or before January 30, 2003, each wholesale dealer, retail dealer and vending machine operator shall file a report with the director in such form as the director may prescribe showing cigarettes, cigarette stamps and meter imprints on hand at 12:01 a.m. on January 1, 2003. A tax of \$.09 on each 20 cigarettes or fractional part thereof or \$.115 on each 25 cigarettes, as the case requires and \$.09 or \$.115, as the case requires upon all tax stamps and all meter imprints purchased from the director and not affixed to cigarettes prior to January 1, 2003, is hereby imposed and shall be due and payable in equal installments on or before January 30, 2003, on or before March 30, 2003, and on or before June 30, 2003. The tax imposed upon such cigarettes, tax stamps and meter imprints shall be imposed only once under this act. The director shall remit all moneys collected pursuant to this section to the state treasurer who shall credit the entire amount thereof to the state general fund.~~

Sec. 13. K.S.A. 2009 Supp. 79-3311 is hereby amended to read as follows: 79-3311. The director shall design and designate indicia of tax payment to be affixed to each package of cigarettes as provided by this act. The director shall sell water applied stamps only to licensed wholesale dealers in the amounts of 1,000 or multiples thereof. Stamps applied by the heat process shall be sold only in amounts of 30,000 or multiples thereof, except that such stamps which are suitable for packages containing 25 cigarettes each shall be sold in amounts prescribed by the director. Meter imprints shall be sold only in amounts of 10,000 or multiples thereof. Water applied stamps in amounts of 10,000 or multiples thereof and stamps applied by the heat process and meter imprints shall be supplied to wholesale dealers at a discount ~~of .90% rate to be determined by the secretary of revenue based on statutory changes in tax rates and the collection responsibility placed on wholesale dealers, timeliness of filing returns and remittance of tax by wholesale dealers, completeness and accuracy of returns by wholesale dealers, and compliance with Kansas department of revenue and attorney general reporting requirements by wholesale dealers,~~ on and after July 1, ~~2002~~ 2010, ~~and before January 1, 2003, and .80% thereafter~~ from the face value thereof, and shall be deducted at the time of purchase or from the remittance therefor as hereinafter provided. Any wholesale cigarette dealer who shall file with the director a bond, of acceptable form, payable to the state of Kansas with a corporate surety authorized to do business in Kansas, shall be permitted to purchase stamps, and remit therefor to the director within 30 days after each such purchase, up to a maximum outstanding at any one time of 85% of the amount of the bond. Failure on the part of any wholesale dealer to remit as herein specified shall be cause for forfeiture of such dealer's bond. All revenue received from the sale of such stamps or meter imprints shall be 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. The state treasurer shall first credit such amount as the director shall order to the cigarette tax refund fund and shall credit the remaining balance to the state general fund. A refund fund designated the cigarette tax refund fund not to exceed \$10,000 at any time shall be set apart and maintained by the director from taxes collected under this act and held by the state treasurer for prompt payment of all refunds authorized by this act. Such cigarette tax refund fund shall be in such amount as the director shall determine is necessary to meet current refunding requirements under this act.

The wholesale cigarette dealer shall affix to each package of cigarettes stamps or tax meter imprints required by this act prior to the sale of cigarettes to any person, by such dealer or such dealer's agent or agents, within the state of Kansas. The director is empowered to authorize wholesale dealers to affix revenue tax meter imprints upon original packages of cigarettes and is charged with the duty of regulating the use of tax meters to secure payment of the proper taxes. No wholesale dealer shall affix revenue tax meter imprints to original packages of cigarettes without first having obtained permission from the director to employ

this method of affixation. If the director approves the wholesale dealer's application for permission to affix revenue tax meter imprints to original packages of cigarettes, the director shall require such dealer to file a suitable bond payable to the state of Kansas executed by a corporate surety authorized to do business in Kansas. The director may, to assure the proper collection of taxes imposed by the act, revoke or suspend the privilege of imprinting tax meter imprints upon original packages of cigarettes. All meters shall be under the direct control of the director, and all transfer assignments or anything pertaining thereto must first be authorized by the director. All inks used in the stamping of cigarettes must be of a special type devised for use in connection with the machine employed and approved by the director. All repairs to the meter are strictly prohibited except by a duly authorized representative of the director. Requests for service shall be directed to the director. Meter machine ink imprints on all packages shall be clear and legible. If a wholesale dealer continuously issues illegible cigarette tax meter imprints, it shall be considered sufficient cause for revocation of such dealer's permit to use a cigarette tax meter. *Cigarette stamps and meter imprints shall be affixed in a manner reasonably intended to preserve legibility of the serial numbers and other identifying characteristics of the stamp.*

A licensed wholesale dealer may, for the purpose of sale in another state, transport cigarettes not bearing Kansas indicia of tax payment through the state of Kansas provided such cigarettes are contained in sealed and original cartons.

Sec. 14. K.S.A. 2009 Supp. 79-3312 is hereby amended to read as follows: 79-3312. The director shall redeem any unused stamps or meter imprints that any wholesale dealer presents for redemption within six months after the purchase thereof, at the face value less ~~.90% a discount rate to be determined by the secretary of revenue based on statutory changes in tax rates and the collection responsibility placed on wholesale dealers, timeliness of filing returns and remittance of tax by wholesale dealers, completeness and accuracy of returns by wholesale dealers, and compliance with Kansas department of revenue and attorney general reporting requirements by wholesale dealers,~~ on and after July 1, ~~2002~~ 2010, ~~and before January 1, 2003, and .80% thereafter thereof~~ if such stamps or meter imprints have been purchased from the director. The director shall prepare a voucher showing the net amount of such refund due, and the director of accounts and reports shall draw a warrant on the state treasurer for the same. Wholesale dealers shall be entitled to a refund of the tax paid on cigarettes which have become unfit for sale upon proof thereof less ~~.90% such discount~~ on and after July 1, ~~2002~~, and before January 1, 2003, and ~~.80% thereafter~~ 2010, of such tax.

Sec. 15. K.S.A. 79-3371 is hereby amended to read as follows: 79-3371. A tax is hereby imposed upon the privilege of selling or dealing in tobacco products in this state by any person engaged in business as a distributor thereof, at the rate of ~~ten percent (10%)~~ 70% of the wholesale sales price of such tobacco products. Such tax shall be imposed at the time the distributor: (a) Brings or causes to be brought into this state from without the state tobacco products for sale; (b) makes, manufactures, or fabricates tobacco products in this state for sale in this state; or (c) ships or transports tobacco products to retailers in this state to be sold by those retailers.

New Sec. 16. On or before July 31, 2010, each distributor and retail business selling tobacco products having a place of business in this state shall file a report with the director in such form as the director may prescribe, showing the tobacco products on hand at 12:01 a.m. on July 1, 2010. For distributors, a tax at a rate equal to 60% of the wholesale sales price of such tobacco products, and for a retail business selling tobacco products, a tax rate equal to 15% of the retail invoice price to the consumer, is hereby imposed upon such tobacco products and shall be due and payable on or before July 31, 2010. The tax upon such tobacco products shall be imposed only once under this act. The director shall remit all moneys collected pursuant to this section to the state treasurer who shall credit the entire amount thereof to the state general fund.

Sec. 17. K.S.A. 79-3378 is hereby amended to read as follows: 79-3378. On or before the ~~twentieth~~ 20th day of each calendar month every distributor with a place of business in this state shall file a return with the director showing the quantity and wholesale sales price of each tobacco product (1) brought, or caused to be brought, into this state for sale; and (2) made, manufactured, or fabricated in this state for sale in this state during the preceding

calendar month. Every licensed distributor outside this state shall in like manner file a return showing the quantity and wholesale sales price of each tobacco product shipped or transported to retailers in this state to be sold by those retailers, during the preceding calendar month. Returns shall be made upon forms furnished and prescribed by the director. Each return shall be accompanied by a remittance for the full tax liability shown therein, less ~~four percent (4%)~~ *a percentage* of such liability as compensation to reimburse the distributor for ~~his or her~~ expenses incurred in the administration of this act *to be determined by the secretary of revenue based on statutory changes in tax rates and the collection responsibility placed on distributors, timeliness of filing returns and remittance of tax by distributors, completeness and accuracy of returns by wholesale dealer and compliance with Kansas department of revenue and attorney general reporting requirement by distributors.* As soon as practicable after any return is filed, the director shall examine the return. If the director finds that, in ~~his or her~~ *the director's* judgment, the return is incorrect and any amount of tax is due from the distributor and unpaid, ~~he or she~~ *the director* shall notify the distributor of the deficiency. If a deficiency disclosed by the director's examination cannot be allocated by ~~him~~ *the director* to a particular month or months, ~~he or she~~ *the director* may nevertheless notify the distributor that a deficiency exists and state the amount of tax due. Such notice shall be given to the distributor by registered or certified mail.”;

And by renumbering sections accordingly;

Also on page 29, in line 10, before “K.S.A.” by inserting “K.S.A. 79-3371 and 79-3378 and”; in line 11, after the stricken material by inserting “79-3301, 79-3310, 79-3310c, 79-3311, 79-3312.”; in line 13, before the period, by inserting “; and also repealing K.S.A. 2008 Supp. 79-3301, as amended in section 9 of 2010 house bill 2221”; in line 15, by striking “Kansas register” and inserting “statute book”;

On page 1, in the title, in line 13, before “amending” by inserting “tax upon cigarettes and tobacco products, rates;”; in line 14, before “K.S.A.” by inserting “K.S.A. 79-3371 and 79-3378 and”; in line 15, before “79-3603” by inserting “79-3301, 79-3310, 79-3310c, 79-3311, 79-3312,” in line 17, before the period, by inserting “; and also repealing K.S.A. 2008 Supp. 79-3301, as amended in section 9 of 2010 House Bill 2221”

On roll call, the vote was: Yeas 3, Nays 32, Present and Passing 5, Absent or Not Voting 0.

Yeas: Donovan, Owens, Reitz.

Nays: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Emler, Faust-Goudeau, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Present and Passing: Brungardt, Francisco, Haley, Lee, Schmidt V.

The motion failed and the amendment was rejected.

Senator Vratil withdrew an amendment on **S Sub for HB 2360**.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a ¾ constitutional majority, and **S Sub for HB 2360** was advanced to Final Action and roll call.

S Sub for HB 2360, An act concerning taxation; relating to rate of sales taxation, distribution of revenue, refunds on sales of food, procedure for certain contracts; income taxation, credits; Kansas taxpayer transparency act; amending K.S.A. 2009 Supp. 74-72,123, 79-32,205, 79-3603, 79-3620, 79-3633, 79-3635, 79-3703 and 79-3710 and repealing the existing sections.

Pursuant to Senate Rule 40, President Morris moved to allow upon unanimous consent Senator Ostmeyer to cast his vote on S Sub for HB 2360 after the roll was closed and prior to adjournment for the day.

On roll call, the vote was: Yeas 23, Nays 17, Present and Passing 0, Absent or Not Voting 0.

Yeas: Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kultala, Lee, Marshall, McGinn, Morris, Ostmeyer, Owens, Reitz, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil.

Nays: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Huelskamp, Kelsey, Lynn, Masterson, Petersen, Pilcher-Cook, Pyle, Schmidt D, Steineger, Wagle.
The substitute bill passed, as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Ways and Means** recommends **SENATE Substitute for Substitute for HB 2320** be amended by substituting a new bill to be designated as "SENATE Substitute for SENATE Substitute for Substitute for HOUSE BILL No. 2320," as follows:

"SENATE Substitute for SENATE Substitute for Substitute for
HOUSE BILL No. 2320

By Committee on Ways and Means

"AN ACT providing for assessments on certain nursing facilities; prescribing powers, duties and functions for the Kansas health policy authority; creating the quality care assessment fund; providing for implementation and administration."; and the substitute bill be passed.

MESSAGE FROM THE HOUSE

The House accedes to the request of the Senate for a conference on **SB 368** and has appointed Representatives Kinzer, Whitham and Pauls as third conferees on the part of the House.

On motion of Senator D. Schmidt the Senate adjourned until 11:00 a.m., Friday, May 7, 2010.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks.*
PAT SAVILLE, *Secretary of the Senate.*

