

Journal of the Senate

SIXTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS
Monday, May 9, 2011, 2:00 p.m.

The Senate was called to order by President Stephen Morris.
The roll was called with thirty-nine Senators present.
Senator Donovan was excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Yesterday some worshiped
And prayed for new insight
To loosen up the logjam,
And shed some needed light.

Many think that we've examined
Every combination
Of pro and con solutions
Which ended in frustration.

But we have seen it happen
When we thought there was no way,
One of us had a brainstorm
Which brightened up our day.

And most of the Republicans
And most of the Democrats
Would say, "It isn't perfect
But we can live with that."

So please bestow a brainstorm
On one of us today,
And hopefully it won't be long
Until we're on our way!

I request this in Name of Jesus Christ, AMEN

The Pledge of Allegiance was led by President Stephen Morris.

MESSAGE FROM THE HOUSE

Announcing passage of **SB 247**.

The House appoints Representatives Aurand, Huebert and Ward to replace Representatives Rhoades, Kelley and Feuerborn as conferees on **House Substitute for Substitute SB 111**.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Vratil and Owens introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1861—

A RESOLUTION congratulating and commending Randy Hearrell.

WHEREAS, Randy Hearrell retired from the Kansas judicial council in December 2010 from his position as executive director. He has also served as director of the judicial performance commission since its inception in 2006; and

WHEREAS, During Mr. Hearrell's tenure, the council was instrumental in redrafting the civil code, criminal code, sentencing statutes and probate code, as well as numerous other statutes every year. He was also actively involved in the creation of the Kansas judicial report card; and

WHEREAS, Mr. Hearrell was born on August 12, 1945 in Joplin, Missouri. His parents lived in Baxter Springs, Kansas, but at that time, the nearest hospital was in Joplin. His family moved to Topeka in 1957; and

WHEREAS, Mr. Hearrell graduated from Washburn University in 1966 and Washburn law school in 1970. While in law school he received a fellowship that exposed him to the legislative process and ultimately led him down the path of working for the judicial council; and

WHEREAS, Mr. Hearrell has been married to his wife, Carla Nordstrom, for 46 years. They have two sons, York and Zack; and

WHEREAS, Mr. Hearrell is widely respected for his years of service and dedication to the judicial council: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Randy Hearrell for his many years of service to the Kansas judicial council and extend our best wishes for his continued success and happiness; and

Be it further resolved: That the Secretary of the Senate shall send three enrolled copies of this resolution to Senator Vratil.

On emergency motion of Senator Vratil **SR 1861** was adopted unanimously.

Senator Vratil introduced and congratulated Randy Hearrell upon his retirement from the Kansas judicial council as executive director. He also served as director of the judicial performance commission since its inception. His wife Carla was also introduced. The Senate acknowledged Randy with a standing ovation.

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

SENATE RESOLUTION No. 1862—

A RESOLUTION congratulating and commending Victor Ortiz for becoming the World Boxing Council (WBC) welterweight champion of the world.

WHEREAS, On April 16th, 2011 Victor “Vicious” Ortiz defeated Andre Berto by unanimous decision to become the WBC welterweight champion of the world at Foxwoods, Connecticut; and

WHEREAS, Shortly after his birth in Liberal, Kansas, Victor Ortiz moved to and grew up in Garden City, Kansas where he attended the Garden City Unified School District No. 457 from kindergarten through the ninth grade; and

WHEREAS, Victor Ortiz has developed his "Vicious" nickname and fighting style by attacking challenges head-on. He has overcome trying circumstances and difficult obstacles to achieve his goal of becoming a world champion. He was forced to grow up without his mother from age 7 and without his father from age 12. He would later become the guardian for his younger brother, Temo, juggling a demanding training schedule with his newly assumed responsibilities as a father figure; and

WHEREAS, Victor Ortiz started his boxing training and career in Garden City, Kansas under the tutelage of Ignacio “Bucky” Avila at the Garden City Boxing Club, who not only trained Victor how to box, but also how to be a man; and

WHEREAS, Victor Ortiz found a support system inside the Garden City Boxing Club and also with tutor and mentor Sharon Ford, who took Victor into her home when his family life disintegrated; and

WHEREAS, Victor Ortiz won a Silver Glove Championship and was a two-time Golden Glove Champion; and

WHEREAS, Victor Ortiz eventually became a seven-time national amateur boxing champion; and

WHEREAS, Regardless of Victor's travels, his heart HAS remained in Kansas. A KU Jayhawk fan since age 5, he enjoys frequent trips to Lawrence to visit friends on the KU campus. During his title fight against Berto, Victor sported a pair of boxing trunks with the official Jayhawk logo on the back; and

WHEREAS, Victor Ortiz has always called Garden City, Kansas “home”; and

WHEREAS, Victor Ortiz is proud to serve as a role model exemplifying hard work and commitment, especially for the Hispanic and Latino communities: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Victor Ortiz for becoming the WBC welterweight boxing champion of the world. His determination and perseverance in the face of numerous hardships and challenges serve as inspiration to all Kansans. We wish him continued success in and out of the ring and all happiness in the future; and

Be it further resolved: That the Secretary of the Senate shall send two enrolled copies of this resolution to Senator Morris.

On emergency motion of Senator Morris **SR 1862** was adopted unanimously.

Senator Morris introduced and congratulated Victor Ortiz for becoming the World Boxing Council welterweight champion of the world. Also introduced were guests: Elias Garcia and Eloy Gallegos. The Senate acknowledged Victor with a standing ovation for his achievements.

On motion of Senator Emler, the Senate recessed until 2:55 p.m.

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

REPORTS OF STANDING COMMITTEES

Committee on **Ways and Means** recommends **SB 248** be passed.

REPORT ON ENGROSSED BILLS

SB 10, SB 93, SB 97 reported correctly engrossed May 9, 2011.

Also **SB 124** correctly re-engrossed May 9, 2011.

ORIGINAL MOTION

Senator Emler 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 HB 37; SB 193; S Sub for HB 2071; Sub HB 2191; S Sub for HB 2194.**

On motion of Senator Emler the Senate stood at ease for 30 minutes

The Senate met at the sound of the gavel with President Morris in the chair.

MESSAGE FROM THE HOUSE

The House adopts the Conference Committee report on **House Substitute for SB 63.**

The House adopts the Conference Committee report on **SB 143.**

The House appoints Representative Johnson to replace Representative Grange on the Conference Committee on **Senate Substitute HB 2194.**

ORIGINAL MOTION

Senator Emler 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 bill: **SB 77.**

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Holland moved the Senate concur in House amendments to **SB 77.**

SB 77, AN ACT concerning the employment security act; creating an assessment for the payment of interest on advances received from the federal government; removing the waiting week extension; pertaining to benefits; allowing withholding of taxes from unemployment compensation; amending K.S.A. 2010 Supp. 44-703, 44-704a, 44-705, 44-706, 44-710, 44-710a, 44-712, 44-717 and 44-718 and repealing the existing sections.

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

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

Nays: Abrams, Apple, Bruce, Kelsey, King, Love, Lynn, Masterson, Merrick, Olson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Steineger, Taddiken, Wagle.

Absent or Not Voting: Donovan.

The Senate concurred.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 37** submits the following report:

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

On page 9, following line 28, by inserting the following:

"(A) Upon a first conviction, a severity level 6, person felony;"

And by redesignating subparagraphs accordingly;

Also on page 9, in line 30, by striking "first or";

On page 19, in line 1, following "offender," by inserting "including a violent offender or drug offender who is also a sex offender,"; in line 5, following "offender," by inserting "report in person four times each year to the registering law enforcement agency in the county or location of jurisdiction in which the offender resides, maintains employment or is attending a school, except that,"; by striking all in lines 6 through 11; in line 12, by striking "incapacitated" and inserting "one of the four required reports may be conducted by certified letter"; also in line 12, following "sent" by inserting "by the registering law enforcement agency"; in line 14, following "respond" by inserting "by returning the letter"; also in line 14, by striking "with" and inserting "within 10 days, by certified mail, indicating"; in line 15, by striking "within 10 days";

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

PAT COLLOTON

MELODY McCRAY-MILLER

Conferees on part of House

THOMAS C. OWENS

JEFF KING

DAVID HALEY

Conferees on part of Senate

Senator Owens moved the Senate adopt the Conference Committee Report on **H Sub for SB 37**.

On roll call, the vote was: Yeas 6, Nays 33, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Faust-Goudeau, Francisco, Haley, King, Wagle.

Nays: Abrams, Bruce, Brungardt, Emler, Hensley, Holland, Huntington, Kelly, Kelsey, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeier, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steinger, Taddiken, Teichman, Umbarger, Vratil.

Absent or Not Voting: Donovan.

The Conference Committee report was not adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to SB 193 submits the following report:

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

On page 1, in line 8, by striking "deduction or";

On page 5, after line 20, by inserting the following:

"Sec. 6. K.S.A. 2010 Supp. 19-1207 is hereby amended to read as follows: 19-1207. (a) The register of deeds also shall keep a well-bound book, in which shall be kept all maps and plats of cities, subdivisions or additions to the same within the county, together with the description, acknowledgment or other writing thereon. The register shall keep an index to such book of plats. Such index shall contain the name or names of the proprietor or proprietors of such cities, subdivisions or addition and the name of the cities, subdivisions or addition. No register of deeds shall be bound to perform any of the duties required to be performed by this act, for which a fee is allowed, unless such fee has been paid or tendered.

(b) The register of deeds shall not record any plat, replat, plat of survey pursuant to the apartment ownership act, K.S.A. 58-3101 et seq., and amendments thereto, or plat of survey pursuant to the townhouse ownership act, K.S.A. 58-3701 et seq., and amendments thereto, unless such document is accompanied by a receipt from the county treasurer for all real estate taxes *and assessments* on the land legally described in such document for any year past due and unpaid ~~and: (1) Payment of at least the first half of all real estate taxes on such land if such document is presented for recording between December 20 and May 10 of the next year; or (2) payment of all such real estate taxes if such document is presented for recording on and after May 10 but before December 20 of the same year.~~ *up to and including the tax year prior to the first tax year affected by the plat recording. If the amount of ad valorem tax to be levied by a taxing subdivision has not been certified to the county treasurer, the county treasurer shall calculate and collect an aggregate amount which shall be deposited with the county treasurer in the manner described in subsection (d).*

(c) The record of plats and indexes required by this section may be kept in the manner provided by K.S.A. 19-1204, and amendments thereto or as otherwise authorized by statute.

(d) For the purposes of subsection (b), the aggregate amount collected shall include the amount of the assessment to be certified by the clerk and a sum equal to the product of the assessed value directly related to the county appraiser's latest certified valuation conducted pursuant to K.S.A. 79-1466, and amendments thereto, on the property multiplied by the current year's tax levy rate. After the tax roll has been certified to the county treasurer, the treasurer shall then allocate so much of the sum collected as will pay the taxes and assessments on the property. In the case in which the sum collected is in excess of the amount necessary for the payment of the taxes and assessments, the treasurer shall return the amount of excess to the depositing party. In the case in which the sum collected is insufficient to pay the taxes and assessments, the treasurer shall credit the sum so collected ratably to the funds for which such taxes and assessments were levied and notify the owner of record of the balance due and unpaid. The unpaid portion shall become due in full on or before December 20 and any amount still remaining due and unpaid after that date shall accrue interest at the rate prescribed by K.S.A. 79-2968, and amendments thereto.

Sec. 7. K.S.A. 2010 Supp. 58-3115 is hereby amended to read as follows: 58-3115.

(a) The declaration, any amendment or amendments thereof, any instrument by which the provisions of this act may be waived, and every instrument affecting the property or any apartment or condominium unit shall be entitled to be recorded. Neither the declaration nor any amendment thereof shall be valid unless duly recorded.

(b) In addition to records and indexes required to be maintained by the recording officer, the recording officer shall maintain an index or indexes whereby the record of each declaration contains a reference to the record of each conveyance of an apartment or condominium unit affected by such declaration, and the record of each conveyance of an apartment or condominium unit contains a reference to the declaration of the property of which it is a part.

(c) There shall be recorded simultaneously with the declaration one or more plats of survey showing the legal description, the location and dimensions of the submitted land, any convertible lands within the submitted land and any additional land if the condominium is an expandable condominium. The plat of survey shall further show the location and dimensions of all existing condominium units and common areas and facility improvements of the submitted land. When converting all or any portion of any convertible land or adding additional land to an expandable condominium, the declarant shall record amended plats of survey which shall show the location and dimensions of all existing condominium units and common area and facility improvements upon the convertible or additional land.

(d) The register of deeds shall not record any plat of survey pursuant to this act unless such plat of survey is accompanied by a receipt from the county treasurer for real estate taxes *and assessments* on the submitted land in accordance with K.S.A. 19-1207(b), and amendments thereto.

Sec. 8. K.S.A. 2010 Supp. 58-3707 is hereby amended to read as follows: 58-3707.

(a) There shall be recorded simultaneously with the declaration, at the office of the register of deeds, one or more plats of survey showing the legal description, the location and dimensions of the submitted land, the location and description of any land which may be added to the townhouse project if such right is set forth in the declaration, and the location and dimensions of each townhouse unit and all common area improvements.

(b) The register of deeds shall not record any plat of survey pursuant to this act unless such plat of survey is accompanied by a receipt from the county treasurer for real estate taxes *and assessments* on the submitted land in accordance with K.S.A. 19-1207(b), and amendments thereto.

Sec. 9. K.S.A. 2010 Supp. 74-50,210 is hereby amended to read as follows: 74-

50,210. (a) The provisions of K.S.A. 2010 Supp. 74-50,210 through ~~74-50,216~~ 74-50,219, 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 and to incentivize the location of business facilities, other operations and jobs in Kansas. The primary objective of this legislation is economic development for Kansas.

Sec. 10. K.S.A. 2010 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. 2010 Supp. 74-50,210 through ~~74-50,216~~ 74-50,219, and amendments thereto.

(b) "County median wage" means the 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) "High-impact project" means a business development project for which the qualified company shall meet the requirements of subsection (c) of K.S.A. 2010 Supp. 74-50,212, and amendments thereto.

(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.

(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. 2010 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 performing functions directly related to a relocating, expanding, or new business facility, office, department or other operation shall be considered new employees.

(k) "Non-metropolitan county" means any county that is not a metropolitan county.

(l) (1) (A) "Qualified company" means any for-profit corporation, partnership or other entity 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. 2010 Supp. 74-50,212, and amendments thereto, and submits an application for benefits meeting requirements established by the secretary.

(B) *"Qualified company" also includes any not-for-profit corporation which locates within the state of Kansas a regional, national or international headquarters and which meets the requirements of subparagraph (A).*

(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. 2010 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. 2010 Supp. 74-50,212, and amendments thereto.

(m) *"Retained job" means an existing job which will be lost without participation by the employer under the provisions of the promoting employment across Kansas act.*

(n) *"Secretary" means the secretary of the department of commerce.*

Sec. 11. K.S.A. 2010 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 doing business outside the state of Kansas and locate the jobs directly related to such relocated business facility, office, department or other operation 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~~ *an existing* 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 *utilize or contract with an unrelated a third-party employer* to perform services whereby the third-party *employer* 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 *employer* and the new employees are subject to *the Kansas state withholding and declaration of estimated tax act.*

(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. 2010 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. 2010 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:

(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 two years from the date the qualified company enters into an agreement with the secretary pursuant to K.S.A. 2010 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 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 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. 2010 Supp. 74-50,214, and amendments thereto.

(e) Commencing January 1, 2013, and ending December 31, 2014, any company, which meets the criteria provided pursuant to the provisions of K.S.A. 2010 Supp. 74-50,211, and amendments thereto, that retains the employees of an existing business unit located in Kansas and enters into an agreement with the secretary pursuant to K.S.A. 2010 Supp. 74-50,213, and amendments thereto, shall be eligible to retain 95% of the qualified company's Kansas payroll withholding taxes for such employees for a period of up to five years.

(f) (1) Commencing January 1, 2013, and ending December 31, 2014, pursuant to the provisions of subsection (e), the secretary of commerce, in the secretary's sole determination, may provide the benefits of the promoting employment across Kansas act for situations where it is deemed necessary by the secretary that the state of Kansas provide incentives for a company or its operations currently located in Kansas to remain in Kansas so as to keep its retained jobs. The secretary shall establish and verify that a prospective company has competitive alternatives that it is seriously considering and that a company's relocation may be imminent. Furthermore, the secretary shall assess:

(A) Whether the retention of the company or its operations is important to the economic vitality of the state;

(B) the area where such company or operations is located; or

(C) whether the retention of the company or its operations is important to a particular industry in the state due to any number of factors including, but not limited

to, the quantity, quality or wages of the retained jobs involved.

(2) Effective January 1, 2013, and ending December 31, 2014, the secretary may use the promoting employment across Kansas act in conjunction with other economic development programs to develop a retention package.

(g) The provisions of this act as in effect prior to the effective date of this act shall apply to employers who have entered into agreements with the secretary prior to July 1, 2011. The provisions of this act shall apply to employers who enter into agreements with the secretary on and after July 1, 2011.

Sec. 12. K.S.A. 2010 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. 2010 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. 2010 Supp. 74-50,212, and amendments thereto.

(b) The secretary 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. 2010 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. 2010 Supp. 74-50,212, and amendments thereto.

(f) A qualified company seeking benefits shall be allowed to participate in the IMPACT program pursuant to K.S.A. 74-50,102 et seq., and amendments thereto, 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. 2010 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) (1) 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. 2010 Supp. 74-50,211, and amendments thereto, under this act exceed \$4,800,000 in ~~any~~ the fiscal year commencing on ~~or after~~ July 1, 2011, and \$6,000,000 in any fiscal year commencing on or after July 1, 2012.

(2) Under no circumstances shall the total amount of benefits authorized or granted to the aggregate of businesses under subsections (e) or (f) of K.S.A. 2010 Supp. 74-50,212, and amendments thereto, exceed \$1,200,000 in the fiscal year commencing on July 1, 2012, \$2,400,000 in the fiscal year commencing on July 1, 2013, and \$1,200,000 in the fiscal year commencing on July 1, 2014.

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

New Sec. 13. (a) For taxable years commencing after December 31, 2010, there shall be allowed as a credit against the tax liability of a resident individual taxpayer an amount equal to 95% of the resident individual's income tax liability under the provisions of the Kansas income tax act for Kansas source income received from a qualified company that is business income attributable to business activities conducted at the business facility, office, department or other operation relocated to Kansas when the taxpayer owns such qualified company and materially participates in such business activities conducted at such relocated business facility, office, department or other operation of such qualified company which qualified for benefits under the provisions of subsection (a)(1) of K.S.A. 74-50,212, and amendments thereto. A taxpayer shall be treated as materially participating in such qualified company's business activities conducted at such business facility, office, department or other operation relocated to Kansas only if the taxpayer is involved in such business activities of such qualified company on a basis which is regular, continuous and substantial. A taxpayer may claim the credit authorized by this section during any tax year in which the qualified company owned by the taxpayer qualifies for benefits under provisions of K.S.A. 74-50,212, and amendments thereto.

(b) Business income attributable to the business activities conducted at the business facility, office, department or other operation relocated to Kansas of a qualified company which qualified for benefits under the provisions of subsection (a)(1) of K.S.A. 74-50,212, and amendments thereto, shall be determined by multiplying the business income of the company apportioned to this state by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three. For purposes of this subsection, the property factor is a fraction, the numerator of which is the average value of the company's real and tangible personal property owned or rented and used during the tax period at such relocated facility, office, department or other relocated operation in Kansas, and the denominator of which is the average value of the company's real and tangible personal property owned or rented and used within this state during the tax period. The payroll factor is a fraction, the numerator of which is the total amount paid during the tax period by the

company for compensation at such relocated facility, office, department or other relocated operation in Kansas, and the denominator of which is the total compensation paid by the company in this state during the tax period. The sales factor is a fraction, the numerator of which is the total sales of the relocated facility, office, department or other relocated operation in this state during the tax period, and the denominator of which is the total sales of the company in this state during the tax period.

(c) The secretary of revenue shall adopt rules and regulations regarding the filing of documents that support the qualifications of the taxpayer for the credit claimed pursuant to this section.

Sec. 14. K.S.A. 2010 Supp. 79-32,160a is hereby amended to read as follows: 70-32,160a. (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. 2010 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 *article 11 of chapter 79, article H* 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 article 11 of 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. 2010 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 *article 11 of 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 *article 11 of 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 *article 11 of 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~~ *16th* 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~~, and no carryforward shall be allowed for deduction in any succeeding taxable year unless the taxpayer certifies under oath that the taxpayer continues to meet the requirements of K.S.A. 74-50,131, and amendments thereto, and this act. In no event shall any credit allowed under this section that expired during any taxable year prior to the taxable year commencing January 1, 2011, be revived under the provisions of this act.

(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. 2010 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. 2010 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 amendments thereto.~~

Sec. 15. K.S.A. 2010 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. 2010 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 game birds for which the primary purpose is use in hunting.";

By renumbering the remaining sections accordingly;

Also on page 5, in line 21, after "Supp." by inserting "19-1207, 58-3115, 58-3707, 74-50,210, 74-50,211, 74-50,212, 74-50,213, 79-32,160a,"; in line 22, after "79-3221" by inserting "and 79-3606";

On page 1, in the title, in line 2, after "returns" by inserting "and credits"; in line 3, before "amending" by inserting: "recording of plats, payment of taxes and assessments; promoting employment across Kansas act, qualifications for benefits; high performance incentive program; sales tax exemptions;"; in line 4, after "Supp." by inserting "19-1207, 58-3115, 58-3707, 74-50,210, 74-50,211, 74-50,212, 74-50,213,"; also in line 4, after "79-3221" by inserting "and 79-3606";

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

RICHARD CARLSON

MARVIN G. KLEEB

NILE DILLMORE

Conferees on part of House

PAT APPLE

JEFF KING

G. THOMAS HOLLAND II

Conferees on part of Senate

Senator Apple moved the Senate adopt the Conference Committee Report on **SB 193**.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Francisco.

Present and Passing: Love.

Absent or Not Voting: Donovan.

The Conference Committee Report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: When I first arrived in Topeka, I found there were a few things that just didn't make sense. One of these things involved certain welfare-type programs where individuals receive money depending on the number of children they have. The problem is there is nothing stopping them from stating they have 7, 8 or 9 children....even if they don't. There is no way to verify that they are telling the truth. That's why I introduced a bill along with Rep. Terry Calloway that will fix that by requiring verification in these programs and will end several million dollars of wasteful spending. This bill unanimously passed our body a couple months ago. It will verify that the right amount of money goes to the people who really need it. This is a bill that will increase government accountability and is one of the many creative solutions that will help get our state going in the right direction.

Once the bill arrived in conference committee, many other bills became a part of this bill, **SB 193**. I support these added provisions which will help grow our state and create a more business friendly environment in Kansas, including the HPIP and PEAK provisions. Due to a conflict of interest in regards to a hunting business I will soon be opening in Western Kansas and the game bird exemption added in conference committee, I will be abstaining from voting on **SB 193**. —GARRETT LOVE

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2071** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed as Senate Substitute for House Bill No. 2071, as follows:

On page 1, by striking all in lines 6 through 36;

By striking all on pages 2 through 4;

On page 5, by striking all in lines 1 through 29 and inserting "New Section 1. (a) Whenever a person civilly committed pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, files a petition pursuant to K.S.A. 60-1501 et seq., and amendments thereto, relating to such commitment, the costs incurred, including, but not limited to, costs of appointed counsel fees and expenses, witness fees and expenses, expert fees and expenses, and other expenses related to the prosecution and defense of such petition shall be taxed to the county responsible for the costs. Any district court receiving a statement of costs from another district court shall forthwith approve the

same for payment out of the general fund of its county except that it may refuse to approve the same for payment only on the ground that it is not the county responsible for the costs. If the claim for costs is not paid within 120 days, an action may be maintained thereon by the claimant county in the district court of the claimant county against the debtor county.

(b) The county responsible for the costs incurred pursuant to subsection (a) shall be reimbursed for such costs by the office of the attorney general from the sexually violent predator expense fund. The attorney general shall develop and implement a procedure to provide such reimbursements. If there are no moneys available in such fund to pay any such reimbursements, the county may file a claim against the state pursuant to article 9 of chapter 46, of the Kansas Statutes Annotated, and amendments thereto.

(c) As used in this section, "county responsible for the costs" means the county where the person was determined to be a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto.

Sec. 2. K.S.A. 2010 Supp. 59-29a04a is hereby amended to read as follows: 59-29a04a. (a) There is hereby created in the state treasury the sexually violent predator expense fund which shall be administered by the attorney general. All moneys credited to such fund shall be used to reimburse counties under:

(1) K.S.A. 59-29a04, *anson filing a petition pursuant to K.S.A. 60-1501 et seq., and amendments thereto*, responsible for the costs related to determining whether a person may be a sexually violent predator; *and*

(2) *section 1, and amendments thereto, for the costs related to a per amendments thereto, relating to the civil commitment pursuant to K.S.A. 59-29a01 et seq., and amendments thereto.*

(b) All expenditures from the sexually violent predator expense 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 or the attorney general's designee.

Sec. 3. K.S.A. 59-29a06 is hereby amended to read as follows: 59-29a06. (a) Within 60 days after the completion of any hearing held pursuant to K.S.A. 59-29a05, and amendments thereto, the court shall conduct a trial to determine whether the person is a sexually violent predator. The trial may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the due administration of justice, and when the respondent will not be substantially prejudiced.

(b) At all stages of the proceedings under K.S.A. 59-29a01 et seq., and amendments thereto, any person subject to K.S.A. 59-29a01 et seq., and amendments thereto, shall be entitled to the assistance of counsel, and if the person is indigent, the court shall appoint counsel to assist such person. Whenever any person is subjected to an examination under K.S.A. 59-29a01 et seq., and amendments thereto, such person may retain experts or professional persons to perform an examination of such person's behalf. When the person wishes to be examined by a qualified expert or professional person of such person's own choice, such examiner shall be permitted to have reasonable access to the person for the purpose of such examination, as well as to all relevant medical and psychological records and reports. In the case of a person who is indigent, the court, upon the person's request, shall determine whether the services are necessary and reasonable compensation for such services. If the court determines that the services are necessary and the expert or professional person's requested

compensation for such services is reasonable, the court shall assist the person in obtaining an expert or professional person to perform an examination or participate in the trial on the person's behalf. The court shall approve payment for such services upon the filing of a certified claim for compensation supported by a written statement specifying the time expended, services rendered, expenses incurred on behalf of the person and compensation received in the same case or for the same services from any other source.

(c) Notwithstanding K.S.A. 60-456, and amendments thereto, at any trial conducted under K.S.A. 59-29a01 et seq., and amendments thereto, the parties shall be permitted to call expert witnesses. The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to the expert at or before the hearing. If the facts or data are of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, such facts and data need not be admissible in evidence in order for the opinion or inference to be admitted.

~~(d)~~ (d) The person, the attorney general, or the judge shall have the right to demand that the trial be before a jury. Such demand for the trial to be before a jury shall be filed, in writing, at least four days prior to trial. Number and selection of jurors shall be determined as provided in K.S.A. 22-3403, and amendments thereto. If no demand is made, the trial shall be before the court.

~~(e)~~ (e) A jury shall consist of 12 jurors unless the parties agree in writing with the approval of the court that the jury shall consist of any number of jurors less than 12 jurors. The person and the attorney general shall each have eight peremptory challenges, or in the case of a jury of less than 12 jurors, a proportionally equal number of peremptory challenges.

~~(f)~~ (f) The provisions of this section are not jurisdictional, and failure to comply with such provisions in no way prevents the attorney general from proceeding against a person otherwise subject to the provision of K.S.A. 59-29a01 et seq., and amendments thereto.

Sec. 4 K.S.A. 59-29a06 and K.S.A. 2010 Supp. 59-29a04a are hereby repealed.";

On page 1, in the title, by striking lines 1 through 3 and inserting: "AN ACT concerning sexually violent predators; relating to habeas corpus; relating to expert testimony; amending K.S.A. 59-29a06 and K.S.A. 2010 Supp. 59-29a04a and repealing the existing sections.";

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

THOMAS C. OWENS

JEFF KING

DAVID HALEY

Conferees on part of Senate

LANCE KINZER

JOE PATTON

JANICE L. PAULS

Conferees on part of House

Senator Owens moved the Senate adopt the Conference Committee Report on **S Sub for HB 2071**.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **Substitute HB 2191** 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 2, by striking all in lines 34 through 43;

On page 3, by striking all in line 1 and inserting the following:

"(2) A school district offering a contract pursuant to this subsection shall prepare a written plan of assistance for the teacher being offered such contract and shall submit such plan of assistance to the teacher at the time such contract is offered. Prior to signing or rejecting a contract, the teacher shall have not less than 48 hours from the time the contract is offered to review and consider the contract and the plan of assistance. The plan of assistance shall be written to address those areas of teacher performance where the school district believes the teacher's performance is less than satisfactory.";

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

JEAN KURTIS SCHODORF

JOHN VRATIL

ANTHONY HENSLEY

Conferees on part of Senate

CLAY AURAND

STEVE HUEBERT

JIM WARD

Conferees on part of House

Senator Schodorf moved the Senate adopt the Conference Committee Report on **Sub HB 2191**.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2194** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed as Senate Substitute for House Bill No. 2194, as follows:

On page 1, in line 29, by striking "and"; in line 30, after the first comma, by inserting "an amount not to exceed more than 0.9% of the amount of the immediately preceding fiscal year; (c) for the fiscal year commencing in calendar year 2014, an amount not to exceed more than 1% of the amount of the immediately preceding fiscal year; (d) for the fiscal year commencing in calendar year 2015, an amount not to exceed more than 1.1% of the amount of the immediately preceding fiscal year; and (e) for the fiscal year commencing in calendar year 2016,"; in line 31, by striking "1.1%" and inserting "1.2%";

On page 2, in line 25, after "and" by inserting ", subject to any election made pursuant to the provisions of section 8, and amendments thereto, 1.4% or"; by inserting in line 27, after the period, "If the federal internal revenue service refuses to grant an approval or issues an adverse decision as described in section 8, and amendments thereto, the amount for participating service earned on and after January 1, 2014, shall be 1.85% of the members final average salary multiplied by the number of years of participating service earned on and after January 1, 2014.";

On page 4, in line 25, before "Each" by inserting "Subject to any election made pursuant to the provisions of section 8, and amendments thereto,"; in line 28, after "(a)" by inserting "Commencing January 1, 2014, for members who elected to receive an amount for participating service equal to the total of 1.4% of such member's final average salary, 4% of such member's compensation as employee contributions, and (b)"; in line 29, after "2014," by inserting "for members who elected to receive an amount for participating service equal to the total of 1.85% of such member's final average salary, who did not make an election pursuant to section 8, and amendments thereto, or if the federal internal revenue service refuses to grant an approval or issues an adverse decision as described in section 8, and amendments thereto,"; also in line 29, by striking "; and"; in line 30, by striking "(b)" and inserting ", and";

On page 7 in line 29, by striking "and" the first time it appears; also in line 29, after "2013," by inserting "an amount not to exceed more than 0.9% of the amount of the immediately preceding fiscal year; (C) for the fiscal year commencing in calendar year 2014, an amount not to exceed more than 1% of the amount of the immediately preceding fiscal year; (D) for the fiscal year commencing in calendar year 2015, an amount not to exceed more than 1.1% of the amount of the immediately preceding fiscal year; and (E) for the fiscal year commencing in calendar year 2016,"; in line 31, by striking "1.1%" and inserting "1.2%";

On page 8, in line 9, by striking "and"; in line 10, after "2014," by inserting "an amount not to exceed more than 0.9% of the amount of the immediately preceding fiscal year; (C) for the fiscal year commencing in calendar year 2015, an amount not to exceed more than 1% of the amount of the immediately preceding fiscal year; (D) for the fiscal year commencing in calendar year 2016, an amount not to exceed more than 1.1% of the amount of the immediately preceding fiscal year; and (E) for the fiscal year

commencing in calendar year 2017,"; in line 11, by striking "1.1%" and inserting "1.2%";

On page 10, in line 20, after the comma by inserting "subject to any election made pursuant to the provisions of section 8, and amendments thereto,"; in line 24, after "to" by inserting "any election made pursuant to "; in line 25, by striking "1.85%" and inserting "1.4%"; in line 28, after "benefit" by inserting ", except that if the federal internal revenue services refuses to grant an approval or issues an adverse decision as described in section 8, and amendments thereto, the amount for participating service earned on and after January 1, 2014, shall be 1.75% of the member's final average salary multiplied by the number of years of participating service earned on and after January 1, 2014" also in line 28, by striking "Notwithstanding"; by striking all in lines 29 through 43;

On page 11, by striking all in lines 1 through 13;

And renumbering section 7 as section 6;

Also on page 11, after line 36, by inserting the following:

"Sec. 7 K.S.A. 2010 Supp. 75-6609 is hereby amended to read as follows: 75-6609.

(a) When used in this section, "surplus real estate" means real estate which is no longer needed by the state agency which owns such real estate as determined in accordance with this section.

(b) (1) The secretary of administration shall develop criteria for the identification of surplus real estate, including but not limited to, a review of any legal restrictions associated with the real estate and the reasons for the state agency to keep the real estate. In accordance with such criteria, the secretary shall assist state agencies in the identification of surplus real estate. The secretary of administration shall periodically review the status of all real estate of state agencies subject to this section to determine if any of the real estate owned by state agencies is potentially surplus real estate. If any real estate owned by a state agency is determined by the secretary of administration, in consultation with the head of the state agency, to be surplus real estate in accordance with the criteria developed under subsection (a), then the secretary of administration shall recommend to the governor that such real estate be sold under the procedures prescribed by this section.

(2) The secretary of administration shall develop guidelines for the sale of surplus real estate. In accordance with such guidelines and upon the approval of the governor, after consultation with the head of the state agency which owns such surplus real estate, after consultation with the joint committee on state building construction and after approval by the state finance council under subsection (c), the secretary may offer such property for sale by one of the following means: (A) Public auction; (B) by listing the surplus property with a licensed real estate broker or salesperson; or (C) by sealed bid. Subject to the approval of the state finance council as required by subsection (c), the secretary of administration may sell surplus real estate and any improvements thereon on behalf of the state agency which owns such property.

(c) Prior to the sale of any surplus real estate under subsection (b), the state finance council shall approve the sale, which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711, and amendments thereto. The matter may be submitted to the state finance council for approval at any time, including periods of time during which the legislature is in session.

(d) Prior to offering any real estate for sale, such property shall be appraised pursuant to K.S.A. 75-3043a, and amendments thereto, unless the appraisal is waived as provided in this subsection. The secretary of administration may waive the requirement for appraisal for any parcel of surplus real estate that is to be sold at public auction under this section if the secretary of administration determines that it is in the best interests of the state to waive the requirement for appraisal for such parcel of surplus real estate. The costs of any such appraisal may be paid from the proceeds of the sale.

(e) Conveyance of title in surplus real estate offered for sale by the secretary of administration shall be executed on behalf of the state agency by the secretary of administration. The deed for the conveyance may be by warranty deed or by quitclaim deed as determined to be in the best interests of the state by the secretary of administration in consultation with the head of the state agency which owns the surplus real estate.

(f) (1) Any proceeds from the sale of surplus real estate and any improvements thereon, after deduction of the expenses of such sale and any cost of appraisal of the surplus real estate, shall be deposited in the state treasury as prescribed by this subsection, unless otherwise authorized by law. On and after ~~the effective date of this act~~ *July 1, 2012*, 20% of the proceeds from each such sale deposited in the state treasury shall be credited to the surplus real estate fund or another appropriate special revenue fund of the state agency which owned the surplus real estate, as is prescribed by law or as may be determined by the state agency, unless otherwise required by state or federal law or by the limitations or restrictions of the state's title to the real estate being sold. In the case of proceeds from the sale of surplus real estate at a state mental health institution or a state mental retardation institution, such portion of the proceeds shall be credited to the client benefit fund of such institution or to another special revenue fund of such institution for: (A) Rehabilitation and repair or other capital improvements for such institution; ; or (B) one-time expenditures for community mental health organizations if the real estate sold was at a state mental health institution or for community developmental disabilities organizations if the real estate sold was at a state mental retardation institution, and, in any such case, shall be expended in accordance with the provisions of appropriation acts. The remaining 80% of the proceeds from each such sale deposited in the state treasury shall be credited to the ~~state general fund~~ *Kansas public employees retirement fund to be applied to the payment, in full or in part, of the unfunded actuarial pension liability as directed by the Kansas public employees retirement system. As used in this section, "unfunded actuarial pension liability" means the unfunded actuarially accrued liability of the state for the state of Kansas and participating employers under K.S.A. 74-4931, and amendments thereto, portion of such liability of the Kansas public employees retirement system, determined as of the later of December 31, 2011, or the end of the most recent calendar year for which an actuarial valuation report is available.*

(2) The amount of expenses and the cost of appraisal for each sale of surplus real estate pursuant to this section shall be transferred and credited to the property contingency fund created under K.S.A. 75-3652, and amendments thereto, and may be expended for any operations of the department of administration.

(3) Any state agency owning real estate may apply to the director of accounts and reports to establish a surplus real estate special revenue fund in the state treasury.

Subject to the provisions of appropriation acts, moneys in a surplus real estate special revenue fund may be expended for the operating expenditures of the state agency.

(g) Any sale of property by the secretary of transportation pursuant to K.S.A. 68-413, and amendments thereto, shall not be subject to the provisions of this section. The provisions of this section shall not be applicable to real estate given as an endowment, bequest, or gift to a state educational institution as defined in subsection (g) of K.S.A. 72-4412, and amendments thereto, or to the university of Kansas medical center.

(h) Sale of the Olathe travel information center shall not be subject to the provisions of this section.";

On page 12, by striking all in lines 3 through 34, and by inserting the following:

"(b) Except as otherwise provided in this act, a member of the system under the provisions of K.S.A. 74-4901 et seq., and amendments thereto, on July 1, 2013, may elect to: (1) Contribute, commencing January 1, 2014, 5% of such member's compensation as employee contributions, and commencing January 1, 2015, and in each subsequent calendar year, 6% of such member's compensation as employee contributions, and to receive an amount for participating service equal to the total of 1.85% of such member's final average salary; or (2) continue to contribute 4% of such member's compensation as employee contributions, and to receive an amount for participating service equal to the total of 1.4% of such member's final average salary. Members shall make such election within a 90-day period established by the board.

(c) Except as otherwise provided in this act, a member of the system under the provisions of the Kansas public employees retirement act of 2009, on July 1, 2013, may elect to: (1) Continue to contribute, commencing January 1, 2014, 6% of such member's compensation as employee contributions pursuant to K.S.A. 74-49,210, and amendments thereto, receive an annual cost-of-living adjustment pursuant to K.S.A. 2010 Supp. 74-49,213, and amendments thereto, and receive an amount for participating service equal to the total of 1.4% of the member's final average salary; or (2) continue to contribute 6% of such member's compensation as employee contributions and not be eligible to receive an annual cost-of-living adjustment pursuant to K.S.A. 2010 Supp. 74-49,213, and amendments thereto. Members who make this election to contribute at the 6% amount pursuant to this subsection and not be eligible to receive an annual cost-of-living adjustment shall receive an amount for participating service equal to the total of 1.75% of the member's final average salary. Members shall make such election within a 90-day period established by the board.

(d) (1) Elections made pursuant to this section shall be made on a form and in a manner prescribed by the board.

(2) A member failing to make an election pursuant to subsection (b) shall contribute 6% of such member's compensation as employee contributions, and shall receive an amount for participating service equal to the total of 1.85% of the member's final average salary.

(3) A member failing to make an election pursuant to subsection (c) shall contribute 6% of such member's compensation as employee contribution, shall not receive an annual cost-of-living adjustment pursuant to K.S.A. 2010 Supp. 74-49,213, and amendments thereto, and shall receive an amount for participating service equal to the total of 1.75% of the member's final average salary.

(4) An election under this section, including the default election pursuant to subsection (d)(2) or (d)(3), is a one-time irrevocable election.

(e) The provisions of this section shall take effect July 1, 2012, and upon the date of publication in the Kansas register of the notice prescribed in section 10.;"

Also on page 12, in line 42, by striking "11" and inserting "13"; in line 43, by striking "11" and inserting "13";

On page 13, in line 11, by striking "three" and inserting "five"; in line 32, by striking "December 15,,"; in line 33, by striking "2011" and inserting "January 6, 2012"; in line 35, by striking "necessary" and inserting a period; also in line 35, after "commission" by inserting ", one bill shall be introduced in the senate and one bill shall be introduced in the house of representatives, which such bills shall contain the exact same provisions, during the 2012 legislative session"; in line 43, by striking all after "shall";

On page 14, by striking all in lines 1 and 2; in line 3, by striking "commission" and inserting "mean at least one house of the legislature holding one or more public hearings in one or more committees and voting on final action by any such committee on a bill prescribed by subsection (g) of section 9, and amendments thereto, or a bill containing the exact same provisions of any such bill prescribed by subsection (g) of section 9, and amendments thereto, and the other house of the legislature voting on final action in committee of the whole on a bill prescribed by subsection (g) of section 9, and amendments thereto, or a bill containing the exact same provisions of any such bill prescribed by subsection (g) of section 9, and amendments thereto"; after line 4, by inserting the following:

"New Sec. 11.

KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM

(a) On and after July 1, 2011, during the fiscal year ending June 30, 2012, in addition to other purposes for which expenditures may be made by the above agency from the agency operations account of the Kansas public employees retirement fund for fiscal year 2012 as authorized by any appropriation act of the 2011 regular session of the legislature, notwithstanding the provisions of any other statute, expenditures shall be made by the above agency to provide actuarial services for the KPERS study commission. All such expenditures shall be in addition to any other expenditure limitation imposed on expenditures from the agency operations account of the Kansas public employees retirement fund for fiscal year 2012, except that such expenditures shall not exceed \$60,000.;"

And by renumbering sections accordingly;

Also on page 14, in line 7, by striking "74-49,210"; in line 8, by striking "and"; also in line 8, after "74-49,213" by inserting "and 75-6609";

On page 1, in the title, in line 3, before "KPERS" by inserting "sale of real estate of state agencies, disposition of certain proceeds to Kansas public employees retirement fund,,"; in line 4, before "amending" by inserting "making certain appropriations for fiscal year 2012,,"; in line 5, by striking "74-49,210 and"; also in line 5, after "74-49,213" by inserting "and 75-6609";

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

JEFF KING

JEFF LONGBINE

ANTHONY HENSLEY

Conferees on part of Senate

MITCH HOLMES

JOHN C. GRANGE

LOUIS E. RUIZ

Conferees on part of House

Senator King moved the Senate adopt the Conference Committee Report on **S Sub for HB 2194**.

On roll call, the vote was: Yeas 31, Nays 7, Present and Passing 1, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Francisco, Haley, Hensley, Holland, Huntington, Kelly, King, Kultala, Longbine, Love, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt A, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Kelsey, Lynn, Merrick, Olson, Pilcher-Cook, Pyle, Steineger.

Present and Passing: Faust-Goudeau.

Absent or Not Voting: Donovan.

The Conference Committee Report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: As I considered my vote on **S Sub for HB 2194**, I considered four primary groups and the impact of **S Sub for HB 2194** on each. I asked the committee for clarification of how **S Sub for HB 2194** affected each group. The answers that I received convinced me that voting for **S Sub for HB 2194** to shore up KPERS with projected solvency by 2019 was a responsible way to protect all four groups and provide a way to share in the solution among employers, employees and the Legislature. I also would like to acknowledge that employees have always kept their part of the contract and will continue to do so. The Legislature and State of Kansas should do no less once this crisis of underfunding is mitigated through the effort of all involved.—ALLEN C. SCHMIDT

REPORTS OF STANDING COMMITTEES

Committee on **Ways and Means** recommends **HB 2383** be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL NO. 2383," as follows:

"SENATE Substitute for HOUSE BILL NO. 2383

By Committee on Ways and Means

"AN ACT making and concerning appropriations for fiscal years ending June 30, 2011, June 30, 2012, June 30, 2013, June 30, 2014, June 30, 2015, and June 30, 2016, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, reducing compensation for state officers, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing; amending K.S.A. 2010 Supp. 2-223, 12-5256, 55-193, 72-8814, 74-99b34, 75-2319, 75-6702, 76-775, 76-783, 76-7,107, 79-2959, 79-2964, 79-3425i, 79-34,156, 79-34,171 and 82a-953a and repealing the existing sections; also repealing section 138 of chapter 165 of the 2010 Session Laws of Kansas.";

And the substitute bill be passed.

On motion of Senator Emler the Senate adjourned until 10:00 a.m., Tuesday, May 10, 2011.

MAY 9, 2011

755

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

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