

1 **[As Amended by House Committee of the Whole]**

2  
3 **As Amended by House Committee**

4 *Session of 2001*

5  
6 **HOUSE BILL No. 2458**

7  
8 By Committee on Taxation

9  
10 2-8

11  
12 AN ACT relating to sales taxation; exempting certain sales of hotel rental  
13 services **[and hospice purchases]**; amending K.S.A. 2000 Supp. 79-  
14 3603 **[and 79-3606]** and repealing the existing ~~section~~ **[sections]**.

15  
16 *Be it enacted by the Legislature of the State of Kansas:*

17 Section 1. K.S.A. 2000 Supp. 79-3603 is hereby amended to read as  
18 follows: 79-3603. For the privilege of engaging in the business of selling  
19 tangible personal property at retail in this state or rendering or furnishing  
20 any of the services taxable under this act, there is hereby levied and there  
21 shall be collected and paid a tax at the rate of 4.9% and, within a rede-  
22 velopment district established pursuant to K.S.A. 74-8921, and amend-  
23 ments thereto, there is hereby levied and there shall be collected and  
24 paid an additional tax at the rate of 2% until the earlier of the date the  
25 bonds issued to finance or refinance the redevelopment project have been  
26 paid in full or the final scheduled maturity of the first series of bonds  
27 issued to finance any part of the project upon:

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

30 (b) (1) the gross receipts from intrastate telephone or telegraph serv-  
31 ices and (2) the gross receipts received from the sale of interstate tele-  
32 phone or telegraph services, which (A) originate within this state and  
33 terminate outside the state and are billed to a customer's telephone num-  
34 ber or account in this state; or (B) originate outside this state and ter-  
35 minate within this state and are billed to a customer's telephone number  
36 or account in this state except that the sale of interstate telephone or  
37 telegraph service does not include: (A) Any interstate incoming or out-  
38 going wide area telephone service or wide area transmission type service  
39 which entitles the subscriber to make or receive an unlimited number of  
40 communications to or from persons having telephone service in a speci-  
41 fied area which is outside the state in which the station provided this  
42 service is located; (B) any interstate private communications service to  
43 the persons contracting for the receipt of that service that entitles the

1 purchaser to exclusive or priority use of a communications channel or  
2 group of channels between exchanges; (C) any value-added nonvoice  
3 service in which computer processing applications are used to act on the  
4 form, content, code or protocol of the information to be transmitted; (D)  
5 any telecommunication service to a provider of telecommunication serv-  
6 ices which will be used to render telecommunications services, including  
7 carrier access services; or (E) any service or transaction defined in this  
8 section among entities classified as members of an affiliated group as  
9 provided by federal law (26 U.S.C. Section 1504). For the purposes of  
10 this subsection the term gross receipts does not include purchases of  
11 telephone, telegraph or telecommunications using a prepaid telephone  
12 calling card or prepaid authorization number. As used in this subsection,  
13 a prepaid telephone calling card or prepaid authorization number means  
14 the right to exclusively make telephone calls, paid for in advance, with  
15 the prepaid value measured in minutes or other time units, that enables  
16 the origination of calls using an access number or authorization code or  
17 both, whether manually or electronically dialed;

18 (c) the gross receipts from the sale or furnishing of gas, water, elec-  
19 tricity and heat, which sale is not otherwise exempt from taxation under  
20 the provisions of this act, and whether furnished by municipally or pri-  
21 vately owned utilities;

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

26 (e) the gross receipts from the sale of admissions to any place pro-  
27 viding amusement, entertainment or recreation services including admis-  
28 sions to state, county, district and local fairs, but such tax shall not be  
29 levied and collected upon the gross receipts received from sales of ad-  
30 missions to any cultural and historical event which occurs triennially;

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

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

41 (h) the gross receipts from the service of renting or leasing of tangible  
42 personal property except such tax shall not apply to the renting or leasing  
43 of machinery, equipment or other personal property owned by a city and

1 purchased from the proceeds of industrial revenue bonds issued prior to  
2 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through  
3 12-1749, and amendments thereto, and any city or lessee renting or leas-  
4 ing such machinery, equipment or other personal property purchased  
5 with the proceeds of such bonds who shall have paid a tax under the  
6 provisions of this section upon sales made prior to July 1, 1973, shall be  
7 entitled to a refund from the sales tax refund fund of all taxes paid  
8 thereon;

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

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

14 (k) the gross receipts from cable, community antennae and other sub-  
15 scriber radio and television services;

16 (l) (1) except as otherwise provided by paragraph (2), the gross re-  
17 cepts received from the sales of tangible personal property to all con-  
18 tractors, subcontractors or repairmen for use by them in erecting struc-  
19 tures, or building on, or otherwise improving, altering, or repairing real  
20 or personal property.

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

28 (m) the gross receipts received from fees and charges by public and  
29 private clubs, drinking establishments, organizations and businesses for  
30 participation in sports, games and other recreational activities, but such  
31 tax shall not be levied and collected upon the gross receipts received from:  
32 (1) Fees and charges by any political subdivision, by any organization  
33 exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-  
34 201, and amendments thereto, or by any youth recreation organization  
35 exclusively providing services to persons 18 years of age or younger which  
36 is exempt from federal income taxation pursuant to section 501(c)(3) of  
37 the federal internal revenue code of 1986, for participation in sports,  
38 games and other recreational activities; and (2) entry fees and charges for  
39 participation in a special event or tournament sanctioned by a national  
40 sporting association to which spectators are charged an admission which  
41 is taxable pursuant to subsection (e);

42 (n) the gross receipts received from dues charged by public and pri-  
43 vate clubs, drinking establishments, organizations and businesses, pay-

1 ment of which entitles a member to the use of facilities for recreation or  
2 entertainment, but such tax shall not be levied and collected upon the  
3 gross receipts received from: (1) Dues charged by any organization ex-  
4 empt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of  
5 K.S.A. 79-201, and amendments thereto; and (2) sales of memberships  
6 in a nonprofit organization which is exempt from federal income taxation  
7 pursuant to section 501 (c)(3) of the federal internal revenue code of  
8 1986, and whose purpose is to support the operation of a nonprofit zoo;

9 (o) the gross receipts received from the isolated or occasional sale of  
10 motor vehicles or trailers but not including: (1) The transfer of motor  
11 vehicles or trailers by a person to a corporation solely in exchange for  
12 stock securities in such corporation; or (2) the transfer of motor vehicles  
13 or trailers by one corporation to another when all of the assets of such  
14 corporation are transferred to such other corporation; or (3) the sale of  
15 motor vehicles or trailers which are subject to taxation pursuant to the  
16 provisions of K.S.A. 79-5101 *et seq.*, and amendments thereto, by an im-  
17 mediate family member to another immediate family member. For the  
18 purposes of clause (3), immediate family member means lineal ascendants  
19 or descendants, and their spouses. In determining the base for computing  
20 the tax on such isolated or occasional sale, the fair market value of any  
21 motor vehicle or trailer traded in by the purchaser to the seller may be  
22 deducted from the selling price;

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

33 For the purposes of this subsection:

34 (1) "Original construction" shall mean the first or initial construction  
35 of a new building or facility. The term "original construction" shall include  
36 the addition of an entire room or floor to any existing building or facility,  
37 the completion of any unfinished portion of any existing building or fa-  
38 cility and the restoration, reconstruction or replacement of a building or  
39 facility damaged or destroyed by fire, flood, tornado, lightning, explosion  
40 or earthquake, but such term, except with regard to a residence, shall not  
41 include replacement, remodeling, restoration, renovation or reconstruc-  
42 tion under any other circumstances;

43 (2) "building" shall mean only those enclosures within which individ-

1 uals customarily are employed, or which are customarily used to house  
2 machinery, equipment or other property, and including the land improve-  
3 ments immediately surrounding such building;

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

10 (4) “residence” shall mean only those enclosures within which indi-  
11 viduals customarily live;

12 (q) the gross receipts received for the service of repairing, servicing,  
13 altering or maintaining tangible personal property, except computer soft-  
14 ware described in subsection (s), which when such services are rendered  
15 is not being held for sale in the regular course of business, and whether  
16 or not any tangible personal property is transferred in connection there-  
17 with. The tax imposed by this subsection shall be applicable to the services  
18 of repairing, servicing, altering or maintaining an item of tangible personal  
19 property which has been and is fastened to, connected with or built into  
20 real property;

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

24 (s) the gross receipts received from the sale of computer software,  
25 and the sale of the services of modifying, altering, updating or maintaining  
26 computer software. As used in this subsection, “computer software”  
27 means information and directions loaded into a computer which dictate  
28 different functions to be performed by the computer. Computer software  
29 includes any canned or prewritten program which is held or existing for  
30 general or repeated sale, even if the program was originally developed  
31 for a single end user as custom computer software. The sale of computer  
32 software or services does not include: (1) The initial sale of any custom  
33 computer program which is originally developed for the exclusive use of  
34 a single end user; or (2) those services rendered in the modification of  
35 computer software when the modification is developed exclusively for a  
36 single end user only to the extent of the modification and only to the  
37 extent that the actual amount charged for the modification is separately  
38 stated on invoices, statements and other billing documents provided to  
39 the end user. The services of modification, alteration, updating and main-  
40 tenance of computer software shall only include the modification, alter-  
41 ation, updating and maintenance of computer software taxable under this  
42 subsection whether or not the services are actually provided; and

43 (t) the gross receipts received for telephone answering services, in-

1 cluding mobile phone services, beeper services and other similar services;  
2 and

3 (u) the gross receipts received from the sale of prepaid telephone  
4 calling cards or prepaid authorization numbers and the recharge of such  
5 cards or numbers. A prepaid telephone calling card or prepaid authori-  
6 zation number means the right to exclusively make telephone calls, paid  
7 for in advance, with the prepaid value measured in minutes or other time  
8 units, that enables the origination of calls using an access number or  
9 authorization code or both, whether manually or electronically dialed. If  
10 the sale or recharge of such card or number does not take place at the  
11 vendor's place of business, it shall be conclusively determined to take  
12 place at the customer's shipping address; if there is no item shipped then  
13 it shall be the customer's billing address.

14 **[Sec. 2. K.S.A. 2000 Supp. 79-3606 is hereby amended to read**  
15 **as follows: 79-3606. The following shall be exempt from the tax**  
16 **imposed by this act:**

17 **[(a) All sales of motor-vehicle fuel or other articles upon which**  
18 **a sales or excise tax has been paid, not subject to refund, under**  
19 **the laws of this state except cigarettes as defined by K.S.A. 79-3301**  
20 **and amendments thereto, cereal malt beverages and malt products**  
21 **as defined by K.S.A. 79-3817 and amendments thereto, including**  
22 **wort, liquid malt, malt syrup and malt extract, which is not subject**  
23 **to taxation under the provisions of K.S.A. 79-41a02 and amend-**  
24 **ments thereto, motor vehicles taxed pursuant to K.S.A. 79-5117,**  
25 **and amendments thereto, tires taxed pursuant to K.S.A. 65-3424d,**  
26 **and amendments thereto, and drycleaning and laundry services**  
27 **taxed pursuant to K.S.A. 2000 Supp. 65-34,150, and amendments**  
28 **thereto;**

29 **[(b) all sales of tangible personal property or service, including**  
30 **the renting and leasing of tangible personal property, purchased**  
31 **directly by the state of Kansas, a political subdivision thereof, other**  
32 **than a school or educational institution, or purchased by a public**  
33 **or private nonprofit hospital ~~or~~, public hospital authority, hospice**  
34 **as described by K.S.A. 2000 Supp. 65-6207, and amendments thereto, or**  
35 **nonprofit blood, tissue or organ bank and used exclusively for**  
36 **state, political subdivision, hospital ~~or~~, public hospital authority,**  
37 **hospice or nonprofit blood, tissue or organ bank purposes, except**  
38 **when: (1) Such state, hospice, hospital or public hospital authority**  
39 **is engaged or proposes to engage in any business specifically tax-**  
40 **able under the provisions of this act and such items of tangible**  
41 **personal property or service are used or proposed to be used in**  
42 **such business, or (2) such political subdivision is engaged or pro-**  
43 **poses to engage in the business of furnishing gas, water, electricity**

1 or heat to others and such items of personal property or service  
2 are used or proposed to be used in such business;

3 [(c) all sales of tangible personal property or services, includ-  
4 ing the renting and leasing of tangible personal property, pur-  
5 chased directly by a public or private elementary or secondary  
6 school or public or private nonprofit educational institution and  
7 used primarily by such school or institution for nonsectarian pro-  
8 grams and activities provided or sponsored by such school or in-  
9 stitution or in the erection, repair or enlargement of buildings to  
10 be used for such purposes. The exemption herein provided shall  
11 not apply to erection, construction, repair, enlargement or equip-  
12 ment of buildings used primarily for human habitation;

13 [(d) all sales of tangible personal property or services pur-  
14 chased by a contractor for the purpose of constructing, equipping,  
15 reconstructing, maintaining, repairing, enlarging, furnishing or  
16 remodeling facilities for any public or private nonprofit hospital  
17 or public hospital authority, public or private elementary or sec-  
18 ondary school or a public or private nonprofit educational insti-  
19 tution, which would be exempt from taxation under the provisions  
20 of this act if purchased directly by such hospital or public hospital  
21 authority, school or educational institution; and all sales of tangible  
22 personal property or services purchased by a contractor for the  
23 purpose of constructing, equipping, reconstructing, maintaining,  
24 repairing, enlarging, furnishing or remodeling facilities for any  
25 political subdivision of the state, the total cost of which is paid from  
26 funds of such political subdivision and which would be exempt  
27 from taxation under the provisions of this act if purchased directly  
28 by such political subdivision. Nothing in this subsection or in the  
29 provisions of K.S.A. 12-3418 and amendments thereto, shall be  
30 deemed to exempt the purchase of any construction machinery,  
31 equipment or tools used in the constructing, equipping, recon-  
32 structing, maintaining, repairing, enlarging, furnishing or remodel-  
33 ing facilities for any political subdivision of the state. As used in  
34 this subsection, K.S.A. 12-3418 and 79-3640, and amendments  
35 thereto, "funds of a political subdivision" shall mean general tax  
36 revenues, the proceeds of any bonds and gifts or grants-in-aid.  
37 Gifts shall not mean funds used for the purpose of constructing,  
38 equipping, reconstructing, repairing, enlarging, furnishing or re-  
39 modeling facilities which are to be leased to the donor. When any  
40 political subdivision of the state, public or private nonprofit hos-  
41 pital or public hospital authority, public or private elementary or  
42 secondary school or public or private nonprofit educational insti-  
43 tution shall contract for the purpose of constructing, equipping,

1 reconstructing, maintaining, repairing, enlarging, furnishing or  
2 remodeling facilities, it shall obtain from the state and furnish to  
3 the contractor an exemption certificate for the project involved,  
4 and the contractor may purchase materials for incorporation in  
5 such project. The contractor shall furnish the number of such cer-  
6 tificate to all suppliers from whom such purchases are made, and  
7 such suppliers shall execute invoices covering the same bearing  
8 the number of such certificate. Upon completion of the project the  
9 contractor shall furnish to the political subdivision, hospital or  
10 public hospital authority, school or educational institution con-  
11 cerned a sworn statement, on a form to be provided by the director  
12 of taxation, that all purchases so made were entitled to exemption  
13 under this subsection. As an alternative to the foregoing proce-  
14 dure, any such contracting entity may apply to the secretary of  
15 revenue for agent status for the sole purpose of issuing and fur-  
16 nishing project exemption certificates to contractors pursuant to  
17 rules and regulations adopted by the secretary establishing con-  
18 ditions and standards for the granting and maintaining of such  
19 status. All invoices shall be held by the contractor for a period of  
20 five years and shall be subject to audit by the director of taxation.  
21 If any materials purchased under such a certificate are found not  
22 to have been incorporated in the building or other project or not  
23 to have been returned for credit or the sales or compensating tax  
24 otherwise imposed upon such materials which will not be so in-  
25 corporated in the building or other project reported and paid by  
26 such contractor to the director of taxation not later than the 20th  
27 day of the month following the close of the month in which it shall  
28 be determined that such materials will not be used for the purpose  
29 for which such certificate was issued, the political subdivision, hos-  
30 pital or public hospital authority, school or educational institution  
31 concerned shall be liable for tax on all materials purchased for the  
32 project, and upon payment thereof it may recover the same from  
33 the contractor together with reasonable attorney fees. Any con-  
34 tractor or any agent, employee or subcontractor thereof, who shall  
35 use or otherwise dispose of any materials purchased under such a  
36 certificate for any purpose other than that for which such a certifi-  
37 cate is issued without the payment of the sales or compensating  
38 tax otherwise imposed upon such materials, shall be guilty of a  
39 misdemeanor and, upon conviction therefor, shall be subject to the  
40 penalties provided for in subsection (g) of K.S.A. 79-3615, and  
41 amendments thereto;

42 [(e) all sales of tangible personal property or services pur-  
43 chased by a contractor for the erection, repair or enlargement of



1 buildings or other projects for the government of the United  
2 States, its agencies or instrumentalities, which would be exempt  
3 from taxation if purchased directly by the government of the  
4 United States, its agencies or instrumentalities. When the govern-  
5 ment of the United States, its agencies or instrumentalities shall  
6 contract for the erection, repair, or enlargement of any building  
7 or other project, it shall obtain from the state and furnish to the  
8 contractor an exemption certificate for the project involved, and  
9 the contractor may purchase materials for incorporation in such  
10 project. The contractor shall furnish the number of such certifi-  
11 cates to all suppliers from whom such purchases are made, and  
12 such suppliers shall execute invoices covering the same bearing  
13 the number of such certificate. Upon completion of the project the  
14 contractor shall furnish to the government of the United States, its  
15 agencies or instrumentalities concerned a sworn statement, on a  
16 form to be provided by the director of taxation, that all purchases  
17 so made were entitled to exemption under this subsection. As an  
18 alternative to the foregoing procedure, any such contracting entity  
19 may apply to the secretary of revenue for agent status for the sole  
20 purpose of issuing and furnishing project exemption certificates to  
21 contractors pursuant to rules and regulations adopted by the sec-  
22 retary establishing conditions and standards for the granting and  
23 maintaining of such status. All invoices shall be held by the con-  
24 tractor for a period of five years and shall be subject to audit by  
25 the director of taxation. Any contractor or any agent, employee or  
26 subcontractor thereof, who shall use or otherwise dispose of any  
27 materials purchased under such a certificate for any purpose other  
28 than that for which such a certificate is issued without the payment  
29 of the sales or compensating tax otherwise imposed upon such ma-  
30 terials, shall be guilty of a misdemeanor and, upon conviction  
31 therefor, shall be subject to the penalties provided for in subsec-  
32 tion (g) of K.S.A. 79-3615 and amendments thereto;

33 [(f) tangible personal property purchased by a railroad or pub-  
34 lic utility for consumption or movement directly and immediately  
35 in interstate commerce;

36 [(g) sales of aircraft including remanufactured and modified  
37 aircraft, sales of aircraft repair, modification and replacement  
38 parts and sales of services employed in the remanufacture, modi-  
39 fication and repair of aircraft sold to persons using directly or  
40 through an authorized agent such aircraft and aircraft repair,  
41 modification and replacement parts as certified or licensed carri-  
42 ers of persons or property in interstate or foreign commerce under  
43 authority of the laws of the United States or any foreign govern-

1 ment or sold to any foreign government or agency or instrumen-  
2 tality of such foreign government and all sales of aircraft, aircraft  
3 parts, replacement parts and services employed in the remanufac-  
4 ture, modification and repair of aircraft for use outside of the  
5 United States;

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

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

11 [(j) meals served without charge or food used in the prepara-  
12 tion of such meals to employees of any restaurant, eating house,  
13 dining car, hotel, drugstore or other place where meals or drinks  
14 are regularly sold to the public if such employees' duties are re-  
15 lated to the furnishing or sale of such meals or drinks;

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

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

27 [(m) all sales of tangible personal property which become an  
28 ingredient or component part of tangible personal property or  
29 services produced, manufactured or compounded for ultimate sale  
30 at retail within or without the state of Kansas; and any such pro-  
31 ducer, manufacturer or compounder may obtain from the director  
32 of taxation and furnish to the supplier an exemption certificate  
33 number for tangible personal property for use as an ingredient or  
34 component part of the property or services produced, manufac-  
35 tured or compounded;

36 [(n) all sales of tangible personal property which is consumed  
37 in the production, manufacture, processing, mining, drilling, re-  
38 fining or compounding of tangible personal property, the treating  
39 of by-products or wastes derived from any such production pro-  
40 cess, the providing of services or the irrigation of crops for ulti-  
41 mate sale at retail within or without the state of Kansas; and any  
42 purchaser of such property may obtain from the director of taxa-  
43 tion and furnish to the supplier an exemption certificate number

1 for tangible personal property for consumption in such produc-  
2 tion, manufacture, processing, mining, drilling, refining, com-  
3 pounding, treating, irrigation and in providing such services;

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

11 [(p) all sales of drugs, as defined by K.S.A. 65-1626 and amend-  
12 ments thereto, dispensed pursuant to a prescription order, as de-  
13 fined by K.S.A. 65-1626 and amendments thereto, by a licensed  
14 practitioner or a mid-level practitioner as defined by K.S.A. 65-  
15 1626, and amendments thereto;

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

20 [(r) all sales of prosthetic and orthopedic appliances prescribed  
21 in writing by a person licensed to practice the healing arts, den-  
22 tistry or optometry. For the purposes of this subsection, the term  
23 prosthetic and orthopedic appliances means any apparatus, instru-  
24 ment, device, or equipment used to replace or substitute for any  
25 missing part of the body; used to alleviate the malfunction of any  
26 part of the body; or used to assist any disabled person in leading  
27 a normal life by facilitating such person's mobility; such term shall  
28 include accessories attached or to be attached to motor vehicles,  
29 but such term shall not include motor vehicles or personal prop-  
30 erty which when installed becomes a fixture to real property;

31 [(s) all sales of tangible personal property or services pur-  
32 chased directly by a groundwater management district organized  
33 or operating under the authority of K.S.A. 82a-1020 *et seq.* and  
34 amendments thereto, which property or services are used in the  
35 operation or maintenance of the district;

36 [(t) all sales of farm machinery and equipment or aquaculture  
37 machinery and equipment, repair and replacement parts therefor  
38 and services performed in the repair and maintenance of such ma-  
39 chinery and equipment. For the purposes of this subsection the  
40 term "farm machinery and equipment or aquaculture machinery  
41 and equipment" shall include machinery and equipment used in  
42 the operation of Christmas tree farming but shall not include any  
43 passenger vehicle, truck, truck tractor, trailer, semitrailer or pole

1 trailer, other than a farm trailer, as such terms are defined by  
2 K.S.A. 8-126 and amendments thereto. Each purchaser of farm  
3 machinery and equipment or aquaculture machinery and equip-  
4 ment exempted herein must certify in writing on the copy of the  
5 invoice or sales ticket to be retained by the seller that the farm  
6 machinery and equipment or aquaculture machinery and equip-  
7 ment purchased will be used only in farming, ranching or aqua-  
8 culture production. Farming or ranching shall include the opera-  
9 tion of a feedlot and farm and ranch work for hire and the  
10 operation of a nursery;

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

14 [(v) all sales of food products to any contractor for use in pre-  
15 paring meals for delivery to homebound elderly persons over 60  
16 years of age and to homebound disabled persons or to be served  
17 at a group-sitting at a location outside of the home to otherwise  
18 homebound elderly persons over 60 years of age and to otherwise  
19 homebound disabled persons, as all or part of any food service  
20 project funded in whole or in part by government or as part of a  
21 private nonprofit food service project available to all such elderly  
22 or disabled persons residing within an area of service designated  
23 by the private nonprofit organization, and all sales of food prod-  
24 ucts for use in preparing meals for consumption by indigent or  
25 homeless individuals whether or not such meals are consumed at  
26 a place designated for such purpose;

27 [(w) all sales of natural gas, electricity, heat and water deliv-  
28 ered through mains, lines or pipes: (1) To residential premises for  
29 noncommercial use by the occupant of such premises; (2) for ag-  
30 ricultural use and also, for such use, all sales of propane gas; (3)  
31 for use in the severing of oil; and (4) to any property which is  
32 exempt from property taxation pursuant to K.S.A. 79-201b *Second*  
33 *through Sixth*. As used in this paragraph, “severing” shall have the  
34 meaning ascribed thereto by subsection (k) of K.S.A. 79-4216, and  
35 amendments thereto;

36 [(x) all sales of propane gas, LP-gas, coal, wood and other fuel  
37 sources for the production of heat or lighting for noncommercial  
38 use of an occupant of residential premises;

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

43 [(z) all sales of tangible personal property and services pur-

1 chased directly by a port authority or by a contractor therefor as  
2 provided by the provisions of K.S.A. 12-3418 and amendments  
3 thereto;

4 [(aa) all sales of materials and services applied to equipment  
5 which is transported into the state from without the state for re-  
6 pair, service, alteration, maintenance, remanufacture or modifi-  
7 cation and which is subsequently transported outside the state for  
8 use in the transmission of liquids or natural gas by means of pipe-  
9 line in interstate or foreign commerce under authority of the laws  
10 of the United States;

11 [(bb) all sales of used mobile homes or manufactured homes.  
12 As used in this subsection: (1) “Mobile homes” and “manufactured  
13 homes” shall have the meanings ascribed thereto by K.S.A. 58-  
14 4202 and amendments thereto; and (2) “sales of used mobile  
15 homes or manufactured homes” means sales other than the orig-  
16 inal retail sale thereof;

17 [(cc) all sales of tangible personal property or services pur-  
18 chased for the purpose of and in conjunction with constructing,  
19 reconstructing, enlarging or remodeling a business or retail busi-  
20 ness which meets the requirements established in K.S.A. 74-50,115  
21 and amendments thereto, and the sale and installation of machin-  
22 ery and equipment purchased for installation at any such business  
23 or retail business. When a person shall contract for the construc-  
24 tion, reconstruction, enlargement or remodeling of any such busi-  
25 ness or retail business, such person shall obtain from the state and  
26 furnish to the contractor an exemption certificate for the project  
27 involved, and the contractor may purchase materials, machinery  
28 and equipment for incorporation in such project. The contractor  
29 shall furnish the number of such certificates to all suppliers from  
30 whom such purchases are made, and such suppliers shall execute  
31 invoices covering the same bearing the number of such certificate.  
32 Upon completion of the project the contractor shall furnish to the  
33 owner of the business or retail business a sworn statement, on a  
34 form to be provided by the director of taxation, that all purchases  
35 so made were entitled to exemption under this subsection. All in-  
36 voices shall be held by the contractor for a period of five years and  
37 shall be subject to audit by the director of taxation. Any contractor  
38 or any agent, employee or subcontractor thereof, who shall use or  
39 otherwise dispose of any materials, machinery or equipment pur-  
40 chased under such a certificate for any purpose other than that for  
41 which such a certificate is issued without the payment of the sales  
42 or compensating tax otherwise imposed thereon, shall be guilty of  
43 a misdemeanor and, upon conviction therefor, shall be subject to

1 the penalties provided for in subsection (g) of K.S.A. 79-3615 and  
2 amendments thereto. As used in this subsection, “business” and  
3 “retail business” have the meanings respectively ascribed thereto  
4 by K.S.A. 74-50,114 and amendments thereto;

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

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

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

15 [(gg) all sales of tangible personal property purchased in ac-  
16 cordance with vouchers issued pursuant to the federal special sup-  
17 plemental food program for women, infants and children;

18 [(hh) all sales of medical supplies and equipment purchased  
19 directly by a nonprofit skilled nursing home or nonprofit inter-  
20 mediate nursing care home, as defined by K.S.A. 39-923, and  
21 amendments thereto, for the purpose of providing medical serv-  
22 ices to residents thereof. This exemption shall not apply to tangible  
23 personal property customarily used for human habitation  
24 purposes;

25 [(ii) all sales of tangible personal property purchased directly  
26 by a nonprofit organization for nonsectarian comprehensive mul-  
27 tidiscipline youth development programs and activities provided  
28 or sponsored by such organization, and all sales of tangible per-  
29 sonal property by or on behalf of any such organization. This ex-  
30 emption shall not apply to tangible personal property customarily  
31 used for human habitation purposes;

32 [(jj) all sales of tangible personal property or services, includ-  
33 ing the renting and leasing of tangible personal property, pur-  
34 chased directly on behalf of a community-based mental retardation  
35 facility or mental health center organized pursuant to K.S.A.  
36 19-4001 *et seq.*, and amendments thereto, and licensed in accord-  
37 ance with the provisions of K.S.A. 75-3307b and amendments  
38 thereto. This exemption shall not apply to tangible personal prop-  
39 erty customarily used for human habitation purposes;

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

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

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

5     **[(2) For purposes of this subsection:**

6     **[(A) “Integrated production operation” means an integrated**  
7 **series of operations engaged in at a manufacturing or processing**  
8 **plant or facility to process, transform or convert tangible personal**  
9 **property by physical, chemical or other means into a different**  
10 **form, composition or character from that in which it originally ex-**  
11 **isted. Integrated production operations shall include: (i) Produc-**  
12 **tion line operations, including packaging operations; (ii) prepro-**  
13 **duction operations to handle, store and treat raw materials; (iii)**  
14 **post production handling, storage, warehousing and distribution**  
15 **operations; and (iv) waste, pollution and environmental control op-**  
16 **erations, if any;**

17     **[(B) “production line” means the assemblage of machinery and**  
18 **equipment at a manufacturing or processing plant or facility where**  
19 **the actual transformation or processing of tangible personal prop-**  
20 **erty occurs;**

21     **[(C) “manufacturing or processing plant or facility” means a**  
22 **single, fixed location owned or controlled by a manufacturing or**  
23 **processing business that consists of one or more structures or**  
24 **buildings in a contiguous area where integrated production op-**  
25 **erations are conducted to manufacture or process tangible per-**  
26 **sonal property to be ultimately sold at retail. Such term shall not**  
27 **include any facility primarily operated for the purpose of convey-**  
28 **ing or assisting in the conveyance of natural gas, electricity, oil or**  
29 **water. A business may operate one or more manufacturing or proc-**  
30 **essing plants or facilities at different locations to manufacture or**  
31 **process a single product of tangible personal property to be ulti-**  
32 **mately sold at retail;**

33     **[(D) “manufacturing or processing business” means a business**  
34 **that utilizes an integrated production operation to manufacture,**  
35 **process, fabricate, finish, or assemble items for wholesale and re-**  
36 **tail distribution as part of what is commonly regarded by the gen-**  
37 **eral public as an industrial manufacturing or processing operation**  
38 **or an agricultural commodity processing operation. (i) Industrial**  
39 **manufacturing or processing operations include, by way of illus-**  
40 **tration but not of limitation, the fabrication of automobiles, air-**  
41 **planes, machinery or transportation equipment, the fabrication of**  
42 **metal, plastic, wood, or paper products, electricity power gener-**  
43 **ation, water treatment, petroleum refining, chemical production,**

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

27 **[(E) “repair and replacement parts and accessories” means all**  
28 **parts and accessories for exempt machinery and equipment, in-**  
29 **cluding, but not limited to, dies, jigs, molds, patterns and safety**  
30 **devices that are attached to exempt machinery or that are other-**  
31 **wise used in production, and parts and accessories that require**  
32 **periodic replacement such as belts, drill bits, grinding wheels,**  
33 **grinding balls, cutting bars, saws, refractory brick and other re-**  
34 **fractory items for exempt kiln equipment used in production**  
35 **operations;**

36 **[(F) “primary” or “primarily” mean more than 50% of the**  
37 **time.**

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

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

43 **[(B) to transport, convey, handle or store the property under-**



1 going manufacturing or processing at any point from the begin-  
2 ning of the production line through any warehousing or distribu-  
3 tion operation of the final product that occurs at the plant or  
4 facility;

5 [(C) to act upon, effect, promote or otherwise facilitate a phys-  
6 ical change to the property undergoing manufacturing or  
7 processing;

8 [(D) to guide, control or direct the movement of property un-  
9 dergoing manufacturing or processing;

10 [(E) to test or measure raw materials, the property undergoing  
11 manufacturing or processing or the finished product, as a neces-  
12 sary part of the manufacturer's integrated production operations;

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

17 [(G) to produce energy for, lubricate, control the operating of  
18 or otherwise enable the functioning of other production machin-  
19 ery and equipment and the continuation of production operations;

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

23 [(I) to transmit or transport electricity, coke, gas, water, steam  
24 or similar substances used in production operations from the point  
25 of generation, if produced by the manufacturer or processor at the  
26 plant site, to that manufacturer's production operation; or, if pur-  
27 chased or delivered from offsite, from the point where the sub-  
28 stance enters the site of the plant or facility to that manufacturer's  
29 production operations;

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

33 [(K) to provide and control an environment required to main-  
34 tain certain levels of air quality, humidity or temperature in special  
35 and limited areas of the plant or facility, where such regulation of  
36 temperature or humidity is part of and essential to the production  
37 process;

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

40 [(M) to control pollution at the plant or facility where the pol-  
41 lution is produced by the manufacturing or processing operation.

42 [(4) The following machinery, equipment and materials shall  
43 be deemed to be exempt even though it may not otherwise qualify

1 as machinery and equipment used as an integral or essential part  
2 of an integrated production operation: (A) Computers and related  
3 peripheral equipment that are utilized by a manufacturing or  
4 processing business for engineering of the finished product or for  
5 research and development or product design; (B) machinery and  
6 equipment that is utilized by a manufacturing or processing busi-  
7 ness to manufacture or rebuild tangible personal property that is  
8 used in manufacturing or processing operations, including tools,  
9 dies, molds, forms and other parts of qualifying machinery and  
10 equipment; (C) portable plants for aggregate concrete, bulk ce-  
11 ment and asphalt including cement mixing drums to be attached  
12 to a motor vehicle; (D) industrial fixtures, devices, support facili-  
13 ties and special foundations necessary for manufacturing and pro-  
14 duction operations, and materials and other tangible personal  
15 property sold for the purpose of fabricating such fixtures, devices,  
16 facilities and foundations. An exemption certificate for such pur-  
17 chases shall be signed by the manufacturer or processor. If the  
18 fabricator purchases such material, the fabricator shall also sign  
19 the exemption certificate; and (E) a manufacturing or processing  
20 business' laboratory equipment that is not located at the plant or  
21 facility, but that would otherwise qualify for exemption under sub-  
22 section (3)(E).

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

25 [(A) Machinery and equipment used for nonproduction pur-  
26 poses, including, but not limited to, machinery and equipment  
27 used for plant security, fire prevention, first aid, accounting, ad-  
28 ministration, record keeping, advertising, marketing, sales or  
29 other related activities, plant cleaning, plant communications, and  
30 employee work scheduling;

31 [(B) machinery, equipment and tools used primarily in main-  
32 taining and repairing any type of machinery and equipment or the  
33 building and plant;

34 [(C) transportation, transmission and distribution equipment  
35 not primarily used in a production, warehousing or material han-  
36 dling operation at the plant or facility, including the means of con-  
37 veyance of natural gas, electricity, oil or water, and equipment  
38 related thereto, located outside the plant or facility;

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

42 [(E) furniture and other furnishings;

43 [(F) buildings, other than exempt machinery and equipment

1 that is permanently affixed to or becomes a physical part of the  
2 building, and any other part of real estate that is not otherwise  
3 exempt;

4 [(G) building fixtures that are not integral to the manufactur-  
5 ing operation, such as utility systems for heating, ventilation, air  
6 conditioning, communications, plumbing or electrical;

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

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

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

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

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

24 [(ll) all sales of educational materials purchased for distribu-  
25 tion to the public at no charge by a nonprofit corporation organ-  
26 ized for the purpose of encouraging, fostering and conducting pro-  
27 grams for the improvement of public health;

28 [(mm) all sales of seeds and tree seedlings; fertilizers, insecti-  
29 cides, herbicides, germicides, pesticides and fungicides; and serv-  
30 ices, purchased and used for the purpose of producing plants in  
31 order to prevent soil erosion on land devoted to agricultural use;

32 [(nn) except as otherwise provided in this act, all sales of serv-  
33 ices rendered by an advertising agency or licensed broadcast sta-  
34 tion or any member, agent or employee thereof;

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

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

41 [(qq) all sales of tangible personal property and services pur-  
42 chased by a nonprofit museum or historical society or any combi-  
43 nation thereof, including a nonprofit organization which is organ-

1 ized for the purpose of stimulating public interest in the  
2 exploration of space by providing educational information, exhib-  
3 its and experiences, which is exempt from federal income taxation  
4 pursuant to section 501(c)(3) of the federal internal revenue code  
5 of 1986;

6 [(rr) all sales of tangible personal property which will admit the  
7 purchaser thereof to any annual event sponsored by a nonprofit  
8 organization which is exempt from federal income taxation pur-  
9 suant to section 501(c)(3) of the federal internal revenue code of  
10 1986;

11 [(ss) all sales of tangible personal property and services pur-  
12 chased by a public broadcasting station licensed by the federal  
13 communications commission as a noncommercial educational tel-  
14 evision or radio station;

15 [(tt) all sales of tangible personal property and services pur-  
16 chased by or on behalf of a not-for-profit corporation which is ex-  
17 empt from federal income taxation pursuant to section 501(c)(3)  
18 of the federal internal revenue code of 1986, for the sole purpose  
19 of constructing a Kansas Korean War memorial;

20 [(uu) all sales of tangible personal property and services pur-  
21 chased by or on behalf of any rural volunteer fire-fighting organ-  
22 ization for use exclusively in the performance of its duties and  
23 functions;

24 [(vv) all sales of tangible personal property purchased by any  
25 of the following organizations which are exempt from federal in-  
26 come taxation pursuant to section 501 (c)(3) of the federal internal  
27 revenue code of 1986, for the following purposes, and all sales of  
28 any such property by or on behalf of any such organization for any  
29 such purpose:

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

35 [(2) the Kansas Alliance for the Mentally Ill, Inc. for the pur-  
36 pose of advocacy for persons with mental illness and to education,  
37 research and support for their families;

38 [(3) the Kansas Mental Illness Awareness Council for the pur-  
39 poses of advocacy for persons who are mentally ill and to educa-  
40 tion, research and support for them and their families;

41 [(4) the American Diabetes Association Kansas Affiliate, Inc.  
42 for the purpose of eliminating diabetes through medical research,  
43 public education focusing on disease prevention and education,

1 patient education including information on coping with diabetes,  
2 and professional education and training;

3 [(5) the American Lung Association of Kansas, Inc. for the pur-  
4 pose of eliminating all lung diseases through medical research,  
5 public education including information on coping with lung dis-  
6 eases, professional education and training related to lung disease  
7 and other related services to reduce the incidence of disability and  
8 death due to lung disease; and

9 [(6) the Kansas chapters of the Alzheimer's Disease and Re-  
10 lated Disorders Association, Inc. for the purpose of providing as-  
11 sistance and support to persons in Kansas with Alzheimer's disease,  
12 and their families and caregivers;

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

16 [(xx) all sales of tangible personal property and services pur-  
17 chased by a nonprofit zoo which is exempt from federal income  
18 taxation pursuant to section 501(c)(3) of the federal internal rev-  
19 enue code of 1986, or on behalf of such zoo by an entity itself  
20 exempt from federal income taxation pursuant to section 501(c)(3)  
21 of the federal internal revenue code of 1986 contracted with to  
22 operate such zoo and all sales of tangible personal property or  
23 services purchased by a contractor for the purpose of constructing,  
24 equipping, reconstructing, maintaining, repairing, enlarging, fur-  
25 nishing or remodeling facilities for any nonprofit zoo which would  
26 be exempt from taxation under the provisions of this section if  
27 purchased directly by such nonprofit zoo or the entity operating  
28 such zoo. Nothing in this subsection shall be deemed to exempt  
29 the purchase of any construction machinery, equipment or tools  
30 used in the constructing, equipping, reconstructing, maintaining,  
31 repairing, enlarging, furnishing or remodeling facilities for any  
32 nonprofit zoo. When any nonprofit zoo shall contract for the pur-  
33 pose of constructing, equipping, reconstructing, maintaining, re-  
34 pairing, enlarging, furnishing or remodeling facilities, it shall ob-  
35 tain from the state and furnish to the contractor an exemption  
36 certificate for the project involved, and the contractor may pur-  
37 chase materials for incorporation in such project. The contractor  
38 shall furnish the number of such certificate to all suppliers from  
39 whom such purchases are made, and such suppliers shall execute  
40 invoices covering the same bearing the number of such certificate.  
41 Upon completion of the project the contractor shall furnish to the  
42 nonprofit zoo concerned a sworn statement, on a form to be pro-  
43 vided by the director of taxation, that all purchases so made were

1 entitled to exemption under this subsection. All invoices shall be  
2 held by the contractor for a period of five years and shall be subject  
3 to audit by the director of taxation. If any materials purchased  
4 under such a certificate are found not to have been incorporated  
5 in the building or other project or not to have been returned for  
6 credit or the sales or compensating tax otherwise imposed upon  
7 such materials which will not be so incorporated in the building  
8 or other project reported and paid by such contractor to the di-  
9 rector of taxation not later than the 20th day of the month follow-  
10 ing the close of the month in which it shall be determined that  
11 such materials will not be used for the purpose for which such  
12 certificate was issued, the nonprofit zoo concerned shall be liable  
13 for tax on all materials purchased for the project, and upon pay-  
14 ment thereof it may recover the same from the contractor together  
15 with reasonable attorney fees. Any contractor or any agent, em-  
16 ployee or subcontractor thereof, who shall use or otherwise dis-  
17 pose of any materials purchased under such a certificate for any  
18 purpose other than that for which such a certificate is issued with-  
19 out the payment of the sales or compensating tax otherwise im-  
20 posed upon such materials, shall be guilty of a misdemeanor and,  
21 upon conviction therefor, shall be subject to the penalties provided  
22 for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

23 [(yy) all sales of tangible personal property and services pur-  
24 chased by a parent-teacher association or organization, and all  
25 sales of tangible personal property by or on behalf of such asso-  
26 ciation or organization;

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

38 [(aaa) all sales of tangible personal property and services pur-  
39 chased by a religious organization which is exempt from federal  
40 income taxation pursuant to section 501(c)(3) of the federal inter-  
41 nal revenue code, and used exclusively for religious purposes, and  
42 all sales of tangible personal property or services purchased by a  
43 contractor for the purpose of constructing, equipping, reconstruct-

1 ing, maintaining, repairing, enlarging, furnishing or remodeling  
2 facilities for any such organization which would be exempt from  
3 taxation under the provisions of this section if purchased directly  
4 by such organization. Nothing in this subsection shall be deemed  
5 to exempt the purchase of any construction machinery, equipment  
6 or tools used in the constructing, equipping, reconstructing, main-  
7 taining, repairing, enlarging, furnishing or remodeling facilities  
8 for any such organization. When any such organization shall con-  
9 tract for the purpose of constructing, equipping, reconstructing,  
10 maintaining, repairing, enlarging, furnishing or remodeling facil-  
11 ities, it shall obtain from the state and furnish to the contractor an  
12 exemption certificate for the project involved, and the contractor  
13 may purchase materials for incorporation in such project. The con-  
14 tractor shall furnish the number of such certificate to all suppliers  
15 from whom such purchases are made, and such suppliers shall ex-  
16 ecute invoices covering the same bearing the number of such cer-  
17 tificate. Upon completion of the project the contractor shall fur-  
18 nish to such organization concerned a sworn statement, on a form  
19 to be provided by the director of taxation, that all purchases so  
20 made were entitled to exemption under this subsection. All in-  
21 voices shall be held by the contractor for a period of five years and  
22 shall be subject to audit by the director of taxation. If any materials  
23 purchased under such a certificate are found not to have been  
24 incorporated in the building or other project or not to have been  
25 returned for credit or the sales or compensating tax otherwise im-  
26 posed upon such materials which will not be so incorporated in  
27 the building or other project reported and paid by such contractor  
28 to the director of taxation not later than the 20th day of the month  
29 following the close of the month in which it shall be determined  
30 that such materials will not be used for the purpose for which such  
31 certificate was issued, such organization concerned shall be liable  
32 for tax on all materials purchased for the project, and upon pay-  
33 ment thereof it may recover the same from the contractor together  
34 with reasonable attorney fees. Any contractor or any agent, em-  
35 ployee or subcontractor thereof, who shall use or otherwise dis-  
36 pose of any materials purchased under such a certificate for any  
37 purpose other than that for which such a certificate is issued with-  
38 out the payment of the sales or compensating tax otherwise im-  
39 posed upon such materials, shall be guilty of a misdemeanor and,  
40 upon conviction therefor, shall be subject to the penalties provided  
41 for in subsection (g) of K.S.A. 79-3615, and amendments thereto.  
42 Sales tax paid on and after July 1, 1998, but prior to the effective  
43 date of this act upon the gross receipts received from any sale

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

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

17 [(ccc) on and after July 1, 1999, all sales of tangible personal  
18 property and services purchased by a primary care clinic or health  
19 center the primary purpose of which is to provide services to med-  
20 ically underserved individuals and families, and which is exempt  
21 from federal income taxation pursuant to section 501 (c)(3) of the  
22 federal internal revenue code, and all sales of tangible personal  
23 property or services purchased by a contractor for the purpose of  
24 constructing, equipping, reconstructing, maintaining, repairing,  
25 enlarging, furnishing or remodeling facilities for any such clinic or  
26 center which would be exempt from taxation under the provisions  
27 of this section if purchased directly by such clinic or center. Noth-  
28 ing in this subsection shall be deemed to exempt the purchase of  
29 any construction machinery, equipment or tools used in the con-  
30 structing, equipping, reconstructing, maintaining, repairing, en-  
31 larging, furnishing or remodeling facilities for any such clinic or  
32 center. When any such clinic or center shall contract for the pur-  
33 pose of constructing, equipping, reconstructing, maintaining, re-  
34 pairing, enlarging, furnishing or remodeling facilities, it shall ob-  
35 tain from the state and furnish to the contractor an exemption  
36 certificate for the project involved, and the contractor may pur-  
37 chase materials for incorporation in such project. The contractor  
38 shall furnish the number of such certificate to all suppliers from  
39 whom such purchases are made, and such suppliers shall execute  
40 invoices covering the same bearing the number of such certificate.  
41 Upon completion of the project the contractor shall furnish to such  
42 clinic or center concerned a sworn statement, on a form to be  
43 provided by the director of taxation, that all purchases so made



1 were entitled to exemption under this subsection. All invoices shall  
2 be held by the contractor for a period of five years and shall be  
3 subject to audit by the director of taxation. If any materials pur-  
4 chased under such a certificate are found not to have been incor-  
5 porated in the building or other project or not to have been re-  
6 turned for credit or the sales or compensating tax otherwise  
7 imposed upon such materials which will not be so incorporated in  
8 the building or other project reported and paid by such contractor  
9 to the director of taxation not later than the 20th day of the month  
10 following the close of the month in which it shall be determined  
11 that such materials will not be used for the purpose for which such  
12 certificate was issued, such clinic or center concerned shall be li-  
13 able for tax on all materials purchased for the project, and upon  
14 payment thereof it may recover the same from the contractor to-  
15 gether with reasonable attorney fees. Any contractor or any agent,  
16 employee or subcontractor thereof, who shall use or otherwise dis-  
17 pose of any materials purchased under such a certificate for any  
18 purpose other than that for which such a certificate is issued with-  
19 out the payment of the sales or compensating tax otherwise im-  
20 posed upon such materials, shall be guilty of a misdemeanor and,  
21 upon conviction therefor, shall be subject to the penalties provided  
22 for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

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

35 [(eee) on and after January 1, 1999, and before January 1,  
36 2001, all sales of materials and services purchased for the original  
37 construction, reconstruction, repair or replacement of grain stor-  
38 age facilities, including railroad sidings providing access thereto;

39 [(fff) all sales of material handling equipment, racking systems  
40 and other related machinery and equipment that is used for the  
41 handling, movement or storage of tangible personal property in a  
42 warehouse or distribution facility in this state; all sales of instal-  
43 lation, repair and maintenance services performed on such ma-

1 **chinery and equipment; and all sales of repair and replacement**  
2 **parts for such machinery and equipment. For purposes of this sub-**  
3 **section, a warehouse or distribution facility means a single, fixed**  
4 **location that consists of buildings or structures in a contiguous area**  
5 **where storage or distribution operations are conducted that are**  
6 **separate and apart from the business' retail operations, if any, and**  
7 **which do not otherwise qualify for exemption as occurring at a**  
8 **manufacturing or processing plant or facility. Material handling**  
9 **and storage equipment shall include aeration, dust control, clean-**  
10 **ing, handling and other such equipment that is used in a public**  
11 **grain warehouse or other commercial grain storage facility,**  
12 **whether used for grain handling, grain storage, grain refining or**  
13 **processing, or other grain treatment operation; and**

14 **[(ggg) all sales of tangible personal property and services pur-**  
15 **chased by or on behalf of the Kansas Academy of Science which is**  
16 **exempt from federal income taxation pursuant to section 501(c)(3)**  
17 **of the federal internal revenue code of 1986, and used solely by**  
18 **such academy for the preparation, publication and dissemination**  
19 **of education materials.]**

20 **Sec. ~~2~~ [3.] K.S.A. 2000 Supp. 79-3603 is [and 79-3606 are] hereby**  
21 **repealed.**

22 **Sec. ~~3~~ [4.] This act shall take effect and be in force from and after**  
23 **its publication in the statute book.**

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