

3  
4 **Substitute for HOUSE BILL No. 2006**

5  
6 By Committee on Utilities

7  
8 3-7

9  
10 AN ACT concerning water; relating to funding of certain programs to  
11 promote clean drinking water; imposing certain fees; exempting cer-  
12 tain **[gross receipts and certain]** sales from sales tax; prohibiting  
13 certain restrictions on installation of water meters; amending K.S.A.  
14 2000 Supp. **[79-3603 and]** 79-3606 and repealing the existing section  
15 **[sections]**.

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

18 New Section 1. —(a) There is hereby created in the state treasury the  
19 clean drinking water fund. The fund shall consist of:

20 —(1) Moneys credited to the fund pursuant to section 4, and amend-  
21 ments thereto;

22 —(2) interest credited to the fund pursuant to subsection (c); and

23 —(3) any amounts appropriated, contributed or otherwise made avail-  
24 able for the purposes of the fund.

25 —(b) Moneys in the clean drinking water fund shall be expended only  
26 as provided for by section 2, and amendments thereto.

27 —(c) On or before the 10th of each month, the director of accounts  
28 and reports shall transfer from the state general fund to the clean drinking  
29 water fund interest earnings based on:

30 —(1) The average daily balance of moneys in the clean drinking water  
31 fund for the preceding month; and

32 —(2) the net earnings rate for the pooled money investment portfolio  
33 for the preceding month.

34 —(d) All expenditures from the clean drinking water fund shall be made  
35 in accordance with appropriation acts upon warrants of the director of  
36 accounts and reports issued pursuant to vouchers approved by the direc-  
37 tor of the Kansas water office or the director's designee for the purposes  
38 set forth in this section.

39 — New Sec. 2. —(a) The clean drinking water fund shall be administered  
40 by the Kansas water office with the advice of the clean drinking water  
41 fund advisory board established pursuant to section 3, and amendments  
42 thereto.

43 —(b) Moneys in the clean drinking water fund shall be used only as

1 follows to assist public water supply systems which pay the fee imposed  
2 pursuant to section 4, and amendments thereto:

3 —(1) Provide grants to pay not more than 50% of the cost of improving  
4 public water supply infrastructure and capacity;

5 —(2) improve management practices of public water supplies, includ-  
6 ing the provision of on site technical assistance;

7 —(3) provide emergency loans to public water supply systems to bring  
8 treatment systems into compliance with safe drinking water standards;  
9 and

10 —(4) contract for the technical assistance of private and public entities  
11 which have unique capabilities to accomplish the purposes set out in  
12 subsections (b)(1) through (3).

13 —(c) The Kansas water office shall enter into memoranda of under-  
14 standing with other state agencies for use of moneys in the clean drinking  
15 water fund to carry out the purposes provided by subsection (b) through  
16 existing programs of the state agencies.

17 —New Sec. 3. (a) There is hereby established the clean drinking water  
18 fund advisory board. The advisory board shall consist of: (1) The director  
19 of the Kansas water office or the director's designee; (2) the secretary of  
20 health and environment or the secretary's designee; (3) the director of  
21 the state conservation commission or the director's designee; (4) the di-  
22 rector of the state biological survey or the director's designee; and the  
23 following members appointed by the governor: (A) A member repre-  
24 senting the Kansas rural water association; (B) a member representing  
25 the league of Kansas municipalities or the Kansas section of the American  
26 waterworks association; (C) a member from the faculty of an institution  
27 under the supervision of the state board of regents; and (D) two repre-  
28 sentatives of customers of public water supply systems.

29 —(b) The director of the Kansas water office or the director's designee  
30 shall serve as chairperson of the advisory board. The advisory board shall  
31 meet on call of the chairperson.

32 —(c) Members of the advisory board appointed by the governor shall  
33 serve for terms of three years and shall receive amounts provided in sub-  
34 section (c) of K.S.A. 75-3223, and amendments thereto.

35 —(d) On or before the first day of the regular legislative session each  
36 year, the advisory board shall submit to the governor and the legislature  
37 recommendations regarding sources of funding to meet scientific, federal  
38 regulatory and state policy requirements to ensure clean drinking water  
39 for the citizens of the state, including any recommendations regarding  
40 the amount of the fee imposed pursuant to section 4, and amendments  
41 thereto.

42 —New Sec. 4. (a) On and after January 1, 2002, there is hereby im-  
43 posed a clean drinking water fee at the rate of \$.03 per 1,000 gallons of

1 water sold at retail by a public water supply system and delivered through  
2 mains, lines or pipes. Such fee shall be paid, administered, enforced and  
3 collected in the manner provided for the fee imposed by subsection (a)(1)  
4 of K.S.A. 82a-954, and amendments thereto.

5 —(b)—A public water supply system may elect to opt out of the fee  
6 imposed by this section by notifying, before October 1, 2001, the Kansas  
7 water office and the department of revenue of the election to opt out.  
8 Such election shall be irrevocable. Such public water supply system shall  
9 continue to pay all applicable sales tax on direct and indirect purchases  
10 of tangible personal property and services purchased by such system.

11 —(c)—The director of taxation shall remit daily to the state treasurer all  
12 moneys received or collected from the fee imposed pursuant to this sec-  
13 tion. Upon receipt thereof, the state treasurer shall deposit the entire  
14 amount in the state treasury and credit it to the clean drinking water fund  
15 created by section 1, and amendments thereto.

16 —New Sec. 5.—(a) As used in this section:

17 —(1) “Dwelling unit” means a structure or part of a structure that is  
18 used as a home, residence or sleeping place by one person who maintains  
19 a household or by two or more persons who maintain a common  
20 household.

21 —(2) “Water meter” means a device used for measuring and billing for  
22 water consumed.

23 —(b)—No city or county shall prohibit the installation of a separate water  
24 meter for each dwelling unit within a building containing multiple dwell-  
25 ing units in lieu of installation of a master meter for the entire building.

26 —Sec. 6.—On and after January 1, 2002, [Section 1.] K.S.A. 2000 Supp.  
27 79-3606 is hereby amended to read as follows: 79-3606. The following  
28 shall be exempt from the tax imposed by this act:

29 (a) All sales of motor-vehicle fuel or other articles upon which a sales  
30 or excise tax has been paid, not subject to refund, under the laws of this  
31 state except cigarettes as defined by K.S.A. 79-3301 and amendments  
32 thereto, cereal malt beverages and malt products as defined by K.S.A. 79-  
33 3817 and amendments thereto, including wort, liquid malt, malt syrup  
34 and malt extract, which is not subject to taxation under the provisions of  
35 K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant  
36 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to  
37 K.S.A. 65-3424d, and amendments thereto, and drycleaning and laundry  
38 services taxed pursuant to K.S.A. 2000 Supp. 65-34,150, and amendments  
39 thereto;

40 (b) all sales of tangible personal property or service, including the  
41 renting and leasing of tangible personal property, purchased directly by  
42 the state of Kansas, a political subdivision thereof, other than a school or  
43 educational institution, or purchased by a public or private nonprofit hos-

1 pital or public hospital authority or nonprofit blood, tissue or organ bank  
2 and used exclusively for state, political subdivision, hospital or public hos-  
3 pital authority or nonprofit blood, tissue or organ bank purposes, except  
4 when: (1) Such state, hospital or public hospital authority is engaged or  
5 proposes to engage in any business specifically taxable under the provi-  
6 sions of this act and such items of tangible personal property or service  
7 are used or proposed to be used in such business, or (2) such political  
8 subdivision is engaged or proposes to engage in the business of furnishing  
9 gas, ~~water~~, electricity or heat to others and such items of personal prop-  
10 erty or service are used or proposed to be used in such business;

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

20 (d) all sales of tangible personal property or services purchased by a  
21 contractor for the purpose of constructing, equipping, reconstructing,  
22 maintaining, repairing, enlarging, furnishing or remodeling facilities for  
23 any public or private nonprofit hospital or public hospital authority, public  
24 or private elementary or secondary school or a public or private nonprofit  
25 educational institution, which would be exempt from taxation under the  
26 provisions of this act if purchased directly by such hospital or public hos-  
27 pital authority, school or educational institution; and all sales of tangible  
28 personal property or services purchased by a contractor for the purpose  
29 of constructing, equipping, reconstructing, maintaining, repairing, en-  
30 larging, furnishing or remodeling facilities for any political subdivision of  
31 the state *or district described in subsection (s)*, the total cost of which is  
32 paid from funds of such political subdivision *or district* and which would  
33 be exempt from taxation under the provisions of this act if purchased  
34 directly by such political subdivision *or district*. Nothing in this subsection  
35 or in the provisions of K.S.A. 12-3418 and amendments thereto, shall be  
36 deemed to exempt the purchase of any construction machinery, equip-  
37 ment or tools used in the constructing, equipping, reconstructing, main-  
38 taining, repairing, enlarging, furnishing or remodeling facilities for any  
39 political subdivision of the state *or any such district*. As used in this sub-  
40 section, K.S.A. 12-3418 and 79-3640, and amendments thereto, “funds  
41 of a political subdivision” shall mean general tax revenues, the proceeds  
42 of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used  
43 for the purpose of constructing, equipping, reconstructing, repairing, en-

1 larging, furnishing or remodeling facilities which are to be leased to the  
2 donor. When any political subdivision of the state, *district described in*  
3 *subsection (s)*, public or private nonprofit hospital or public hospital au-  
4 thority, public or private elementary or secondary school or public or  
5 private nonprofit educational institution shall contract for the purpose of  
6 constructing, equipping, reconstructing, maintaining, repairing, enlarg-  
7 ing, furnishing or remodeling facilities, it shall obtain from the state and  
8 furnish to the contractor an exemption certificate for the project involved,  
9 and the contractor may purchase materials for incorporation in such pro-  
10 ject. The contractor shall furnish the number of such certificate to all  
11 suppliers from whom such purchases are made, and such suppliers shall  
12 execute invoices covering the same bearing the number of such certifi-  
13 cate. Upon completion of the project the contractor shall furnish to the  
14 political subdivision, *or district*, hospital or public hospital authority,  
15 school or educational institution concerned a sworn statement, on a form  
16 to be provided by the director of taxation, that all purchases so made were  
17 entitled to exemption under this subsection. As an alternative to the fore-  
18 going procedure, any such contracting entity may apply to the secretary  
19 of revenue for agent status for the sole purpose of issuing and furnishing  
20 project exemption certificates to contractors pursuant to rules and regu-  
21 lations adopted by the secretary establishing conditions and standards for  
22 the granting and maintaining of such status. All invoices shall be held by  
23 the contractor for a period of five years and shall be subject to audit by  
24 the director of taxation. If any materials purchased under such a certifi-  
25 cate are found not to have been incorporated in the building or other  
26 project or not to have been returned for credit or the sales or compen-  
27 sating tax otherwise imposed upon such materials which will not be so  
28 incorporated in the building or other project reported and paid by such  
29 contractor to the director of taxation not later than the 20th day of the  
30 month following the close of the month in which it shall be determined  
31 that such materials will not be used for the purpose for which such cer-  
32 tificate was issued, the political subdivision, *district*, hospital or public  
33 hospital authority, school or educational institution concerned shall be  
34 liable for tax on all materials purchased for the project, and upon payment  
35 thereof it may recover the same from the contractor together with rea-  
36 sonable attorney fees. Any contractor or any agent, employee or subcon-  
37 tractor thereof, who shall use or otherwise dispose of any materials pur-  
38 chased under such a certificate for any purpose other than that for which  
39 such a certificate is issued without the payment of the sales or compen-  
40 sating tax otherwise imposed upon such materials, shall be guilty of a  
41 misdemeanor and, upon conviction therefor, shall be subject to the pen-  
42 alties provided for in subsection (g) of K.S.A. 79-3615, and amendments  
43 thereto;

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

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

35 (g) sales of aircraft including remanufactured and modified aircraft,  
36 sales of aircraft repair, modification and replacement parts and sales of  
37 services employed in the remanufacture, modification and repair of air-  
38 craft sold to persons using directly or through an authorized agent such  
39 aircraft and aircraft repair, modification and replacement parts as certified  
40 or licensed carriers of persons or property in interstate or foreign com-  
41 merce under authority of the laws of the United States or any foreign  
42 government or sold to any foreign government or agency or instrumen-  
43 tality of such foreign government and all sales of aircraft, aircraft parts,

1 replacement parts and services employed in the remanufacture, modifi-  
2 cation and repair of aircraft for use outside of the United States;

3 (h) all rentals of nonsectarian textbooks by public or private elemen-  
4 tary or secondary schools;

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

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

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

18 (l) all isolated or occasional sales of tangible personal property, serv-  
19 ices, substances or things, except isolated or occasional sale of motor  
20 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.  
21 79-3603 and amendments thereto;

22 (m) all sales of tangible personal property which become an ingre-  
23 dient or component part of tangible personal property or services pro-  
24 duced, manufactured or compounded for ultimate sale at retail within or  
25 without the state of Kansas; and any such producer, manufacturer or  
26 compounder may obtain from the director of taxation and furnish to the  
27 supplier an exemption certificate number for tangible personal property  
28 for use as an ingredient or component part of the property or services  
29 produced, manufactured or compounded;

30 (n) all sales of tangible personal property which is consumed in the  
31 production, manufacture, processing, mining, drilling, refining or com-  
32 pounding of tangible personal property, the treating of by-products or  
33 wastes derived from any such production process, the providing of serv-  
34 ices or the irrigation of crops for ultimate sale at retail within or without  
35 the state of Kansas; and any purchaser of such property may obtain from  
36 the director of taxation and furnish to the supplier an exemption certifi-  
37 cate number for tangible personal property for consumption in such pro-  
38 duction, manufacture, processing, mining, drilling, refining, compound-  
39 ing, treating, irrigation and in providing such services;

40 (o) all sales of animals, fowl and aquatic plants and animals, the pri-  
41 mary purpose of which is use in agriculture or aquaculture, as defined in  
42 K.S.A. 47-1901, and amendments thereto, the production of food for  
43 human consumption, the production of animal, dairy, poultry or aquatic

1 plant and animal products, fiber or fur, or the production of offspring for  
2 use for any such purpose or purposes;

3 (p) all sales of drugs, as defined by K.S.A. 65-1626 and amendments  
4 thereto, dispensed pursuant to a prescription order, as defined by K.S.A.  
5 65-1626 and amendments thereto, by a licensed practitioner or a mid-  
6 level practitioner as defined by K.S.A. 65-1626, and amendments thereto;

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

10 (r) all sales of prosthetic and orthopedic appliances prescribed in  
11 writing by a person licensed to practice the healing arts, dentistry or  
12 optometry. For the purposes of this subsection, the term prosthetic and  
13 orthopedic appliances means any apparatus, instrument, device, or equip-  
14 ment used to replace or substitute for any missing part of the body; used  
15 to alleviate the malfunction of any part of the body; or used to assist any  
16 disabled person in leading a normal life by facilitating such person's mo-  
17 bility; such term shall include accessories attached or to be attached to  
18 motor vehicles, but such term shall not include motor vehicles or personal  
19 property which when installed becomes a fixture to real property;

20 (s) ~~except as provided by section 4, and amendments thereto,~~ all sales  
21 of tangible personal property or services purchased directly by a ground-  
22 water management district organized or operating under the authority of  
23 K.S.A. 82a-1020 *et seq.* and amendments thereto, *by a rural water district*  
24 *organized or operating under the authority of K.S.A. 82a-612, and amend-*  
25 *ments thereto, or by a water supply district organized or operating under*  
26 *the authority of K.S.A. 19-3501 et seq., 19-3522 et seq. or 19-3545, and*  
27 *amendments thereto,* which property or services are used in the *construc-*  
28 *tion activities,* operation or maintenance of the district;

29 (t) all sales of farm machinery and equipment or aquaculture ma-  
30 chinery and equipment, repair and replacement parts therefor and serv-  
31 ices performed in the repair and maintenance of such machinery and  
32 equipment. For the purposes of this subsection the term "farm machinery  
33 and equipment or aquaculture machinery and equipment" shall include  
34 machinery and equipment used in the operation of Christmas tree farm-  
35 ing but shall not include any passenger vehicle, truck, truck tractor, trailer,  
36 semitrailer or pole trailer, other than a farm trailer, as such terms are  
37 defined by K.S.A. 8-126 and amendments thereto. Each purchaser of  
38 farm machinery and equipment or aquaculture machinery and equipment  
39 exempted herein must certify in writing on the copy of the invoice or  
40 sales ticket to be retained by the seller that the farm machinery and  
41 equipment or aquaculture machinery and equipment purchased will be  
42 used only in farming, ranching or aquaculture production. Farming or  
43 ranching shall include the operation of a feedlot and farm and ranch work



1 for hire and the operation of a nursery;

2 (u) all leases or rentals of tangible personal property used as a dwell-  
3 ing if such tangible personal property is leased or rented for a period of  
4 more than 28 consecutive days;

5 (v) all sales of food products to any contractor for use in preparing  
6 meals for delivery to homebound elderly persons over 60 years of age and  
7 to homebound disabled persons or to be served at a group-sitting at a  
8 location outside of the home to otherwise homebound elderly persons  
9 over 60 years of age and to otherwise homebound disabled persons, as  
10 all or part of any food service project funded in whole or in part by  
11 government or as part of a private nonprofit food service project available  
12 to all such elderly or disabled persons residing within an area of service  
13 designated by the private nonprofit organization, and all sales of food  
14 products for use in preparing meals for consumption by indigent or home-  
15 less individuals whether or not such meals are consumed at a place des-  
16 ignated for such purpose;

17 (w) all sales of natural gas, electricity, heat and water delivered  
18 through mains, lines or pipes: (1) To residential premises for noncom-  
19 mercial use by the occupant of such premises; (2) for agricultural use and  
20 also, for such use, all sales of propane gas; (3) for use in the severing of  
21 oil; and (4) to any property which is exempt from property taxation pur-  
22 suant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph,  
23 “severing” shall have the meaning ascribed thereto by subsection (k) of  
24 K.S.A. 79-4216, and amendments thereto;

25 (x) all sales of propane gas, LP-gas, coal, wood and other fuel sources  
26 for the production of heat or lighting for noncommercial use of an oc-  
27 cupant of residential premises;

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

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

35 (aa) all sales of materials and services applied to equipment which is  
36 transported into the state from without the state for repair, service, al-  
37 teration, maintenance, remanufacture or modification and which is sub-  
38 sequently transported outside the state for use in the transmission of  
39 liquids or natural gas by means of pipeline in interstate or foreign com-  
40 merce under authority of the laws of the United States;

41 (bb) all sales of used mobile homes or manufactured homes. As used  
42 in this subsection: (1) “Mobile homes” and “manufactured homes” shall  
43 have the meanings ascribed thereto by K.S.A. 58-4202 and amendments

1 thereto; and (2) “sales of used mobile homes or manufactured homes”  
2 means sales other than the original retail sale thereof;

3 (cc) all sales of tangible personal property or services purchased for  
4 the purpose of and in conjunction with constructing, reconstructing, en-  
5 larging or remodeling a business or retail business which meets the  
6 requirements established in K.S.A. 74-50,115 and amendments thereto,  
7 and the sale and installation of machinery and equipment purchased for  
8 installation at any such business or retail business. When a person shall  
9 contract for the construction, reconstruction, enlargement or remodeling  
10 of any such business or retail business, such person shall obtain from the  
11 state and furnish to the contractor an exemption certificate for the project  
12 involved, and the contractor may purchase materials, machinery and  
13 equipment for incorporation in such project. The contractor shall furnish  
14 the number of such certificates to all suppliers from whom such purchases  
15 are made, and such suppliers shall execute invoices covering the same  
16 bearing the number of such certificate. Upon completion of the project  
17 the contractor shall furnish to the owner of the business or retail business  
18 a sworn statement, on a form to be provided by the director of taxation,  
19 that all purchases so made were entitled to exemption under this subsec-  
20 tion. All invoices shall be held by the contractor for a period of five years  
21 and shall be subject to audit by the director of taxation. Any contractor  
22 or any agent, employee or subcontractor thereof, who shall use or oth-  
23 erwise dispose of any materials, machinery or equipment purchased un-  
24 der such a certificate for any purpose other than that for which such a  
25 certificate is issued without the payment of the sales or compensating tax  
26 otherwise imposed thereon, shall be guilty of a misdemeanor and, upon  
27 conviction therefor, shall be subject to the penalties provided for in sub-  
28 section (g) of K.S.A. 79-3615 and amendments thereto. As used in this  
29 subsection, “business” and “retail business” have the meanings respec-  
30 tively ascribed thereto by K.S.A. 74-50,114 and amendments thereto;

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

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

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

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

1 (hh) all sales of medical supplies and equipment purchased directly  
2 by a nonprofit skilled nursing home or nonprofit intermediate nursing  
3 care home, as defined by K.S.A. 39-923, and amendments thereto, for  
4 the purpose of providing medical services to residents thereof. This ex-  
5 emption shall not apply to tangible personal property customarily used  
6 for human habitation purposes;

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

13 (jj) all sales of tangible personal property or services, including the  
14 renting and leasing of tangible personal property, purchased directly on  
15 behalf of a community-based mental retardation facility or mental health  
16 center organized pursuant to K.S.A. 19-4001 *et seq.*, and amendments  
17 thereto, and licensed in accordance with the provisions of K.S.A. 75-  
18 3307b and amendments thereto. This exemption shall not apply to tan-  
19 gible personal property customarily used for human habitation purposes;

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

23 (B) all sales of installation, repair and maintenance services per-  
24 formed on such machinery and equipment; and

25 (C) all sales of repair and replacement parts and accessories pur-  
26 chased for such machinery and equipment.

27 (2) For purposes of this subsection:

28 (A) “Integrated production operation” means an integrated series of  
29 operations engaged in at a manufacturing or processing plant or facility  
30 to process, transform or convert tangible personal property by physical,  
31 chemical or other means into a different form, composition or character  
32 from that in which it originally existed. Integrated production operations  
33 shall include: (i) Production line operations, including packaging opera-  
34 tions; (ii) preproduction operations to handle, store and treat raw mate-  
35 rials; (iii) post production handling, storage, warehousing and distribution  
36 operations; and (iv) waste, pollution and environmental control opera-  
37 tions, if any;

38 (B) “production line” means the assemblage of machinery and equip-  
39 ment at a manufacturing or processing plant or facility where the actual  
40 transformation or processing of tangible personal property occurs;

41 (C) “manufacturing or processing plant or facility” means a single,  
42 fixed location owned or controlled by a manufacturing or processing busi-  
43 ness that consists of one or more structures or buildings in a contiguous

1 area where integrated production operations are conducted to manufac-  
2 ture or process tangible personal property to be ultimately sold at retail.  
3 Such term shall not include any facility primarily operated for the purpose  
4 of conveying or assisting in the conveyance of natural gas, electricity, oil  
5 or water. A business may operate one or more manufacturing or process-  
6 ing plants or facilities at different locations to manufacture or process  
7 a single product of tangible personal property to be ultimately sold at  
8 retail;

9 (D) “manufacturing or processing business” means a business that  
10 utilizes an integrated production operation to manufacture, process, fab-  
11 ricate, finish, or assemble items for wholesale and retail distribution as  
12 part of what is commonly regarded by the general public as an industrial  
13 manufacturing or processing operation or an agricultural commodity  
14 processing operation. (i) Industrial manufacturing or processing opera-  
15 tions include, by way of illustration but not of limitation, the fabrication  
16 of automobiles, airplanes, machinery or transportation equipment, the  
17 fabrication of metal, plastic, wood, or paper products, electricity power  
18 generation, water treatment, petroleum refining, chemical production,  
19 wholesale bottling, newspaper printing, ready mixed concrete production,  
20 and the remanufacturing of used parts for wholesale or retail sale. Such  
21 processing operations shall include operations at an oil well, gas well, mine  
22 or other excavation site where the oil, gas, minerals, coal, clay, stone, sand  
23 or gravel that has been extracted from the earth is cleaned, separated,  
24 crushed, ground, milled, screened, washed, or otherwise treated or pre-  
25 pared before its transmission to a refinery or before any other wholesale  
26 or retail distribution. (ii) Agricultural commodity processing operations  
27 include, by way of illustration but not of limitation, meat packing, poultry  
28 slaughtering and dressing, processing and packaging farm and dairy prod-  
29 ucts in sealed containers for wholesale and retail distribution, feed grind-  
30 ing, grain milling, frozen food processing, and grain handling, cleaning,  
31 blending, fumigation, drying and aeration operations engaged in by grain  
32 elevators or other grain storage facilities. (iii) Manufacturing or processing  
33 businesses do not include, by way of illustration but not of limitation,  
34 nonindustrial businesses whose operations are primarily retail and that  
35 produce or process tangible personal property as an incidental part of  
36 conducting the retail business, such as retailers who bake, cook or prepare  
37 food products in the regular course of their retail trade, grocery stores,  
38 meat lockers and meat markets that butcher or dress livestock or poultry  
39 in the regular course of their retail trade, contractors who alter, service,  
40 repair or improve real property, and retail businesses that clean, service  
41 or refurbish and repair tangible personal property for its owner;

42 (E) “repair and replacement parts and accessories” means all parts  
43 and accessories for exempt machinery and equipment, including, but not

1 limited to, dies, jigs, molds, patterns and safety devices that are attached  
2 to exempt machinery or that are otherwise used in production, and parts  
3 and accessories that require periodic replacement such as belts, drill bits,  
4 grinding wheels, grinding balls, cutting bars, saws, refractory brick and  
5 other refractory items for exempt kiln equipment used in production  
6 operations;

7 (F) “primary” or “primarily” mean more than 50% of the time.

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

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

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

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

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

21 (E) to test or measure raw materials, the property undergoing man-  
22 ufacturing or processing or the finished product, as a necessary part of  
23 the manufacturer’s integrated production operations;

24 (F) to plan, manage, control or record the receipt and flow of inven-  
25 tories of raw materials, consumables and component parts, the flow of  
26 the property undergoing manufacturing or processing and the manage-  
27 ment of inventories of the finished product;

28 (G) to produce energy for, lubricate, control the operating of or oth-  
29 erwise enable the functioning of other production machinery and equip-  
30 ment and the continuation of production operations;

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

34 (I) to transmit or transport electricity, coke, gas, water, steam or sim-  
35 ilar substances used in production operations from the point of genera-  
36 tion, if produced by the manufacturer or processor at the plant site, to  
37 that manufacturer’s production operation; or, if purchased or delivered  
38 from offsite, from the point where the substance enters the site of the  
39 plant or facility to that manufacturer’s production operations;

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

42 (K) to provide and control an environment required to maintain cer-  
43 tain levels of air quality, humidity or temperature in special and limited

1 areas of the plant or facility, where such regulation of temperature or  
2 humidity is part of and essential to the production process;

3 (L) to treat, transport or store waste or other byproducts of produc-  
4 tion operations at the plant or facility; or

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

7 (4) The following machinery, equipment and materials shall be  
8 deemed to be exempt even though it may not otherwise qualify as ma-  
9 chinery and equipment used as an integral or essential part of an inte-  
10 grated production operation: (A) Computers and related peripheral  
11 equipment that are utilized by a manufacturing or processing business  
12 for engineering of the finished product or for research and development  
13 or product design; (B) machinery and equipment that is utilized by a  
14 manufacturing or processing business to manufacture or rebuild tangible  
15 personal property that is used in manufacturing or processing operations,  
16 including tools, dies, molds, forms and other parts of qualifying machinery  
17 and equipment; (C) portable plants for aggregate concrete, bulk cement  
18 and asphalt including cement mixing drums to be attached to a motor  
19 vehicle; (D) industrial fixtures, devices, support facilities and special founda-  
20 tions necessary for manufacturing and production operations, and ma-  
21 terials and other tangible personal property sold for the purpose of fab-  
22 ricating such fixtures, devices, facilities and foundations. An exemption  
23 certificate for such purchases shall be signed by the manufacturer or  
24 processor. If the fabricator purchases such material, the fabricator shall  
25 also sign the exemption certificate; and (E) a manufacturing or processing  
26 business' laboratory equipment that is not located at the plant or facility,  
27 but that would otherwise qualify for exemption under subsection (3)(E).

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

30 (A) Machinery and equipment used for nonproduction purposes, in-  
31 cluding, but not limited to, machinery and equipment used for plant se-  
32 curity, fire prevention, first aid, accounting, administration, record keep-  
33 ing, advertising, marketing, sales or other related activities, plant cleaning,  
34 plant communications, and employee work scheduling;

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

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

43 (D) office machines and equipment including computers and related

1 peripheral equipment not used directly and primarily to control or mea-  
2 sure the manufacturing process;

3 (E) furniture and other furnishings;

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

7 (G) building fixtures that are not integral to the manufacturing op-  
8 eration, such as utility systems for heating, ventilation, air conditioning,  
9 communications, plumbing or electrical;

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

12 (I) motor vehicles that are registered for operation on public high-  
13 ways; or

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

17 (6) Subsections (3) and (5) shall not be construed as exclusive listings  
18 of the machinery and equipment that qualify or do not qualify as an  
19 integral or essential part of an integrated production operation. When  
20 machinery or equipment is used as an integral or essential part of pro-  
21 duction operations part of the time and for nonproduction purpose at  
22 other times, the primary use of the machinery or equipment shall deter-  
23 mine whether or not such machinery or equipment qualifies for  
24 exemption.

25 (7) The secretary of revenue shall adopt rules and regulations nec-  
26 essary to administer the provisions of this subsection;

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

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

35 (nn) except as otherwise provided in this act, all sales of services ren-  
36 dered by an advertising agency or licensed broadcast station or any mem-  
37 ber, agent or employee thereof;

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

41 (pp) all sales of drill bits and explosives actually utilized in the explo-  
42 ration and production of oil or gas;

43 (qq) all sales of tangible personal property and services purchased by

1 a nonprofit museum or historical society or any combination thereof, in-  
2 cluding a nonprofit organization which is organized for the purpose of  
3 stimulating public interest in the exploration of space by providing edu-  
4 cational information, exhibits and experiences, which is exempt from fed-  
5 eral income taxation pursuant to section 501(c)(3) of the federal internal  
6 revenue code of 1986;

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

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

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

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

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

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

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

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

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

42 (5) the American Lung Association of Kansas, Inc. for the purpose of  
43 eliminating all lung diseases through medical research, public education



1 including information on coping with lung diseases, professional educa-  
2 tion and training related to lung disease and other related services to  
3 reduce the incidence of disability and death due to lung disease; and

4 (6) the Kansas chapters of the Alzheimer's Disease and Related Dis-  
5 orders Association, Inc. for the purpose of providing assistance and sup-  
6 port to persons in Kansas with Alzheimer's disease, and their families and  
7 caregivers;

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

11 (xx) all sales of tangible personal property and services purchased by  
12 a nonprofit zoo which is exempt from federal income taxation pursuant  
13 to section 501(c)(3) of the federal internal revenue code of 1986, or on  
14 behalf of such zoo by an entity itself exempt from federal income taxation  
15 pursuant to section 501(c)(3) of the federal internal revenue code of 1986  
16 contracted with to operate such zoo and all sales of tangible personal  
17 property or services purchased by a contractor for the purpose of con-  
18 structing, equipping, reconstructing, maintaining, repairing, enlarging,  
19 furnishing or remodeling facilities for any nonprofit zoo which would be  
20 exempt from taxation under the provisions of this section if purchased  
21 directly by such nonprofit zoo or the entity operating such zoo. Nothing  
22 in this subsection shall be deemed to exempt the purchase of any con-  
23 struction machinery, equipment or tools used in the constructing, equip-  
24 ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-  
25 modeling facilities for any nonprofit zoo. When any nonprofit zoo shall  
26 contract for the purpose of constructing, equipping, reconstructing, main-  
27 taining, repairing, enlarging, furnishing or remodeling facilities, it shall  
28 obtain from the state and furnish to the contractor an exemption certifi-  
29 cate for the project involved, and the contractor may purchase materials  
30 for incorporation in such project. The contractor shall furnish the number  
31 of such certificate to all suppliers from whom such purchases are made,  
32 and such suppliers shall execute invoices covering the same bearing the  
33 number of such certificate. Upon completion of the project the contractor  
34 shall furnish to the nonprofit zoo concerned a sworn statement, on a form  
35 to be provided by the director of taxation, that all purchases so made were  
36 entitled to exemption under this subsection. All invoices shall be held by  
37 the contractor for a period of five years and shall be subject to audit by  
38 the director of taxation. If any materials purchased under such a certifi-  
39 cate are found not to have been incorporated in the building or other  
40 project or not to have been returned for credit or the sales or compen-  
41 sating tax otherwise imposed upon such materials which will not be so  
42 incorporated in the building or other project reported and paid by such  
43 contractor to the director of taxation not later than the 20th day of the

1 month following the close of the month in which it shall be determined  
2 that such materials will not be used for the purpose for which such cer-  
3 tificate was issued, the nonprofit zoo concerned shall be liable for tax on  
4 all materials purchased for the project, and upon payment thereof it may  
5 recover the same from the contractor together with reasonable attorney  
6 fees. Any contractor or any agent, employee or subcontractor thereof,  
7 who shall use or otherwise dispose of any materials purchased under such  
8 a certificate for any purpose other than that for which such a certificate  
9 is issued without the payment of the sales or compensating tax otherwise  
10 imposed upon such materials, shall be guilty of a misdemeanor and, upon  
11 conviction therefor, shall be subject to the penalties provided for in sub-  
12 section (g) of K.S.A. 79-3615, and amendments thereto;

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

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

26 (aaa) all sales of tangible personal property and services purchased  
27 by a religious organization which is exempt from federal income taxation  
28 pursuant to section 501(c)(3) of the federal internal revenue code, and  
29 used exclusively for religious purposes, and all sales of tangible personal  
30 property or services purchased by a contractor for the purpose of con-  
31 structing, equipping, reconstructing, maintaining, repairing, enlarging,  
32 furnishing or remodeling facilities for any such organization which would  
33 be exempt from taxation under the provisions of this section if purchased  
34 directly by such organization. Nothing in this subsection shall be deemed  
35 to exempt the purchase of any construction machinery, equipment or  
36 tools used in the constructing, equipping, reconstructing, maintaining,  
37 repairing, enlarging, furnishing or remodeling facilities for any such or-  
38 ganization. When any such organization shall contract for the purpose of  
39 constructing, equipping, reconstructing, maintaining, repairing, enlarg-  
40 ing, furnishing or remodeling facilities, it shall obtain from the state and  
41 furnish to the contractor an exemption certificate for the project involved,  
42 and the contractor may purchase materials for incorporation in such pro-  
43 ject. The contractor shall furnish the number of such certificate to all

1 suppliers from whom such purchases are made, and such suppliers shall  
2 execute invoices covering the same bearing the number of such certifi-  
3 cate. Upon completion of the project the contractor shall furnish to such  
4 organization concerned a sworn statement, on a form to be provided by  
5 the director of taxation, that all purchases so made were entitled to ex-  
6 emption under this subsection. All invoices shall be held by the contractor  
7 for a period of five years and shall be subject to audit by the director of  
8 taxation. If any materials purchased under such a certificate are found  
9 not to have been incorporated in the building or other project or not to  
10 have been returned for credit or the sales or compensating tax otherwise  
11 imposed upon such materials which will not be so incorporated in the  
12 building or other project reported and paid by such contractor to the  
13 director of taxation not later than the 20th day of the month following  
14 the close of the month in which it shall be determined that such materials  
15 will not be used for the purpose for which such certificate was issued,  
16 such organization concerned shall be liable for tax on all materials pur-  
17 chased for the project, and upon payment thereof it may recover the same  
18 from the contractor together with reasonable attorney fees. Any contrac-  
19 tor or any agent, employee or subcontractor thereof, who shall use or  
20 otherwise dispose of any materials purchased under such a certificate for  
21 any purpose other than that for which such a certificate is issued without  
22 the payment of the sales or compensating tax otherwise imposed upon  
23 such materials, shall be guilty of a misdemeanor and, upon conviction  
24 therefor, shall be subject to the penalties provided for in subsection (g)  
25 of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after  
26 July 1, 1998, but prior to the effective date of this act upon the gross  
27 receipts received from any sale exempted by the amendatory provisions  
28 of this subsection shall be refunded. Each claim for a sales tax refund  
29 shall be verified and submitted to the director of taxation upon forms  
30 furnished by the director and shall be accompanied by any additional  
31 documentation required by the director. The director shall review each  
32 claim and shall refund that amount of sales tax paid as determined under  
33 the provisions of this subsection. All refunds shall be paid from the sales  
34 tax refund fund upon warrants of the director of accounts and reports  
35 pursuant to vouchers approved by the director or the director's designee;

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

42 (ccc) on and after July 1, 1999, all sales of tangible personal property  
43 and services purchased by a primary care clinic or health center the pri-

1   mary purpose of which is to provide services to medically underserved  
2 individuals and families, and which is exempt from federal income taxa-  
3 tion pursuant to section 501 (c)(3) of the federal internal revenue code,  
4 and all sales of tangible personal property or services purchased by a  
5 contractor for the purpose of constructing, equipping, reconstructing,  
6 maintaining, repairing, enlarging, furnishing or remodeling facilities for  
7 any such clinic or center which would be exempt from taxation under the  
8 provisions of this section if purchased directly by such clinic or center.  
9 Nothing in this subsection shall be deemed to exempt the purchase of  
10 any construction machinery, equipment or tools used in the constructing,  
11 equipping, reconstructing, maintaining, repairing, enlarging, furnishing  
12 or remodeling facilities for any such clinic or center. When any such clinic  
13 or center shall contract for the purpose of constructing, equipping, re-  
14 constructing, maintaining, repairing, enlarging, furnishing or remodeling  
15 facilities, it shall obtain from the state and furnish to the contractor an  
16 exemption certificate for the project involved, and the contractor may  
17 purchase materials for incorporation in such project. The contractor shall  
18 furnish the number of such certificate to all suppliers from whom such  
19 purchases are made, and such suppliers shall execute invoices covering  
20 the same bearing the number of such certificate. Upon completion of the  
21 project the contractor shall furnish to such clinic or center concerned a  
22 sworn statement, on a form to be provided by the director of taxation,  
23 that all purchases so made were entitled to exemption under this subsec-  
24 tion. All invoices shall be held by the contractor for a period of five years  
25 and shall be subject to audit by the director of taxation. If any materials  
26 purchased under such a certificate are found not to have been incorpo-  
27 rated in the building or other project or not to have been returned for  
28 credit or the sales or compensating tax otherwise imposed upon such  
29 materials which will not be so incorporated in the building or other pro-  
30 ject reported and paid by such contractor to the director of taxation not  
31 later than the 20th day of the month following the close of the month in  
32 which it shall be determined that such materials will not be used for the  
33 purpose for which such certificate was issued, such clinic or center con-  
34 cerned shall be liable for tax on all materials purchased for the project,  
35 and upon payment thereof it may recover the same from the contractor  
36 together with reasonable attorney fees. Any contractor or any agent, em-  
37 ployee or subcontractor thereof, who shall use or otherwise dispose of  
38 any materials purchased under such a certificate for any purpose other  
39 than that for which such a certificate is issued without the payment of  
40 the sales or compensating tax otherwise imposed upon such materials,  
41 shall be guilty of a misdemeanor and, upon conviction therefor, shall be  
42 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,  
43 and amendments thereto;

1 (ddd) on and after January 1, 1999, and before January 1, 2000, all  
2 sales of materials and services purchased by any class II or III railroad as  
3 classified by the federal surface transportation board for the construction,  
4 renovation, repair or replacement of class II or III railroad track and  
5 facilities used directly in interstate commerce. In the event any such track  
6 or facility for which materials and services were purchased sales tax ex-  
7 empt is not operational for five years succeeding the allowance of such  
8 exemption, the total amount of sales tax which would have been payable  
9 except for the operation of this subsection shall be recouped in accord-  
10 ance with rules and regulations adopted for such purpose by the secretary  
11 of revenue;

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

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

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

37 **[Sec. 2. On and after July 1, 2002, K.S.A. 2000 Supp. 79-3603**  
38 **is hereby amended to read as follows: 79-3603. For the privilege**  
39 **of engaging in the business of selling tangible personal property**  
40 **at retail in this state or rendering or furnishing any of the services**  
41 **taxable under this act, there is hereby levied and there shall be**  
42 **collected and paid a tax at the rate of 4.9% and, within a redevel-**  
43 **opment district established pursuant to K.S.A. 74-8921, and**

1 amendments thereto, there is hereby levied and there shall be col-  
2 lected and paid an additional tax at the rate of 2% until the earlier  
3 of the date the bonds issued to finance or refinance the redevelop-  
4 ment project have been paid in full or the final scheduled ma-  
5 turity of the first series of bonds issued to finance any part of the  
6 project upon:

7 [(a) The gross receipts received from the sale of tangible per-  
8 sonal property at retail within this state;

9 [(b) (1) the gross receipts from intrastate telephone or tele-  
10 graph services and (2) the gross receipts received from the sale of  
11 interstate telephone or telegraph services, which (A) originate  
12 within this state and terminate outside the state and are billed to  
13 a customer's telephone number or account in this state; or (B) origi-  
14 nate outside this state and terminate within this state and are  
15 billed to a customer's telephone number or account in this state  
16 except that the sale of interstate telephone or telegraph service  
17 does not include: (A) Any interstate incoming or outgoing wide  
18 area telephone service or wide area transmission type service  
19 which entitles the subscriber to make or receive an unlimited num-  
20 ber of communications to or from persons having telephone serv-  
21 ice in a specified area which is outside the state in which the station  
22 provided this service is located; (B) any interstate private com-  
23 munications service to the persons contracting for the receipt of  
24 that service that entitles the purchaser to exclusive or priority use  
25 of a communications channel or group of channels between ex-  
26 changes; (C) any value-added nonvoice service in which computer  
27 processing applications are used to act on the form, content, code  
28 or protocol of the information to be transmitted; (D) any telecom-  
29 munication service to a provider of telecommunication services  
30 which will be used to render telecommunications services, includ-  
31 ing carrier access services; or (E) any service or transaction de-  
32 fined in this section among entities classified as members of an  
33 affiliated group as provided by federal law (26 U.S.C. Section  
34 1504). For the purposes of this subsection the term gross receipts  
35 does not include purchases of telephone, telegraph or telecom-  
36 munications using a prepaid telephone calling card or prepaid au-  
37 thorization number. As used in this subsection, a prepaid tele-  
38 phone calling card or prepaid authorization number means the  
39 right to exclusively make telephone calls, paid for in advance, with  
40 the prepaid value measured in minutes or other time units, that  
41 enables the origination of calls using an access number or author-  
42 ization code or both, whether manually or electronically dialed;

43 [(c) the gross receipts from the sale or furnishing of gas, water,

1 **electricity and heat, which sale is not otherwise exempt from tax-**  
2 **ation under the provisions of this act, and whether furnished by**  
3 **municipally or privately owned utilities, but such tax shall not be**  
4 *levied and collected upon the gross receipts from: (1) The sale of a rural*  
5 *water district benefit unit; (2) a water system impact fee, system enhance-*  
6 *ment fee or similar fee collected by a water supplier as a condition for*  
7 *establishing service; or (3) connection or reconnection fees collected by a*  
8 *water supplier;*

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

13 [(e) the gross receipts from the sale of admissions to any place  
14 providing amusement, entertainment or recreation services in-  
15 cluding admissions to state, county, district and local fairs, but such  
16 tax shall not be levied and collected upon the gross receipts re-  
17 ceived from sales of admissions to any cultural and historical event  
18 which occurs triennially;

19 [(f) the gross receipts from the operation of any coin-operated  
20 device dispensing or providing tangible personal property, amuse-  
21 ment or other services except laundry services, whether automatic  
22 or manually operated;

23 [(g) the gross receipts from the service of renting of rooms by  
24 hotels, as defined by K.S.A. 36-501 and amendments thereto, or  
25 by accommodation brokers, as defined by K.S.A. 12-1692, and  
26 amendments thereto;

27 [(h) the gross receipts from the service of renting or leasing of  
28 tangible personal property except such tax shall not apply to the  
29 renting or leasing of machinery, equipment or other personal  
30 property owned by a city and purchased from the proceeds of in-  
31 dustrial revenue bonds issued prior to July 1, 1973, in accordance  
32 with the provisions of K.S.A. 12-1740 through 12-1749, and amend-  
33 ments thereto, and any city or lessee renting or leasing such ma-  
34 chinery, equipment or other personal property purchased with the  
35 proceeds of such bonds who shall have paid a tax under the pro-  
36 visions of this section upon sales made prior to July 1, 1973, shall  
37 be entitled to a refund from the sales tax refund fund of all taxes  
38 paid thereon;

39 [(i) the gross receipts from the rendering of dry cleaning,  
40 pressing, dyeing and laundry services except laundry services ren-  
41 dered through a coin-operated device whether automatic or man-  
42 ually operated;

43 [(j) the gross receipts from the rendering of the services of

1 washing and washing and waxing of vehicles;

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

4 [(l) (1) except as otherwise provided by paragraph (2), the  
5 gross receipts received from the sales of tangible personal prop-  
6 erty to all contractors, subcontractors or repairmen for use by  
7 them in erecting structures, or building on, or otherwise improv-  
8 ing, altering, or repairing real or personal property.

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

17 [(m) the gross receipts received from fees and charges by pub-  
18 lic and private clubs, drinking establishments, organizations and  
19 businesses for participation in sports, games and other recrea-  
20 tional activities, but such tax shall not be levied and collected upon  
21 the gross receipts received from: (1) Fees and charges by any po-  
22 litical subdivision, by any organization exempt from property tax-  
23 ation pursuant to paragraph *Ninth* of K.S.A. 79-201, and amend-  
24 ments thereto, or by any youth recreation organization exclusively  
25 providing services to persons 18 years of age or younger which is  
26 exempt from federal income taxation pursuant to section 501(c)(3)  
27 of the federal internal revenue code of 1986, for participation in  
28 sports, games and other recreational activities; and (2) entry fees  
29 and charges for participation in a special event or tournament  
30 sanctioned by a national sporting association to which spectators  
31 are charged an admission which is taxable pursuant to subsection  
32 (e);

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



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

16 [(p) the gross receipts received for the service of installing or  
17 applying tangible personal property which when installed or ap-  
18 plied is not being held for sale in the regular course of business,  
19 and whether or not such tangible personal property when installed  
20 or applied remains tangible personal property or becomes a part  
21 of real estate, except that no tax shall be imposed upon the service  
22 of installing or applying tangible personal property in connection  
23 with the original construction of a building or facility, the original  
24 construction, reconstruction, restoration, remodeling, renovation,  
25 repair or replacement of a residence or the construction, recon-  
26 struction, restoration, replacement or repair of a bridge or  
27 highway.

28 [For the purposes of this subsection:

29 [(1) “Original construction” shall mean the first or initial con-  
30 struction of a new building or facility. The term “original construc-  
31 tion” shall include the addition of an entire room or floor to any  
32 existing building or facility, the completion of any unfinished por-  
33 tion of any existing building or facility and the restoration, recon-  
34 struction or replacement of a building or facility damaged or de-  
35 stroyed by fire, flood, tornado, lightning, explosion or earthquake,  
36 but such term, except with regard to a residence, shall not include  
37 replacement, remodeling, restoration, renovation or reconstruc-  
38 tion under any other circumstances;

39 [(2) “building” shall mean only those enclosures within which  
40 individuals customarily are employed, or which are customarily  
41 used to house machinery, equipment or other property, and in-  
42 cluding the land improvements immediately surrounding such  
43 building;

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

8 [(4) “residence” shall mean only those enclosures within which  
9 individuals customarily live;

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

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

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

1 **tion whether or not the services are actually provided; and**

2 **[(t) the gross receipts received for telephone answering serv-**  
3 **ices, including mobile phone services, beeper services and other**  
4 **similar services; and**

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

17 ~~Sec. 7. [3.] On and after January 1, 2002, K.S.A. 2000 Supp. 79-3606~~  
18 ~~is [79-3603 and 79-3606 are] hereby repealed.~~

19 ~~Sec. 8. [4.] This act shall take effect and be in force from and after~~  
20 ~~[July 1, 2004, and] its publication in the statute book.~~

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