

HOUSE BILL No. 2264

By Committee on Taxation

2-11

AN ACT concerning sales taxation; enacting the streamlined sales and use tax agreement conformity act; local sales tax transportation development district act; amending K.S.A. 12-191, 12-198, 75-5151, 79-3607, 79-3608 and 79-3651 and K.S.A. 2002 Supp. 12-194, 25-432, 79-3602, 79-3603, 79-3606, 79-3650 and 79-3703 and repealing the existing sections; also repealing K.S.A. 12-191a.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 12-191 is hereby amended to read as follows: 12-191. All retail transactions consummated within a county or city having a retail sales tax, which transactions are subject to the Kansas retailers' sales tax, shall also be subject to such county or city retail sales tax. Except as hereinafter provided, all retail sales, for the purpose of this act, shall be considered to have been consummated at the ~~place of business of the retailer~~ *location determined by the sourcing rules as provided in section 16, and amendments thereto. The retail sales or transfer of watercraft, modular homes, manufactured homes or mobile homes, shall be considered consummated at the place of business of the retailer and sourced to such location. The retail sale, excluding the lease or rental, of motor vehicles, trailers, semi-trailers or aircraft that do not qualify as transportation equipment, as defined in subsection (d) of section 16, and amendments thereto, shall be considered consummated at the place of business of the retailer and sourced to such location. The isolated or occasional sale of any motor vehicle or trailer shall be considered consummated at the taxing jurisdiction where the sale is made. If the sale negotiations occurred in different cities or counties, the situs of the sale for local sales tax purposes shall be the place where the motor vehicle or trailer was kept at the time negotiations were first entered into. In the event the place of business of a retailer is doubtful the place or places at which the retail sales are consummated for the purposes of this act shall be determined under rules and regulations adopted by the secretary of revenue which rules and regulations shall be considered with state and federal law insofar as applicable. Retail sales involving the use, consumption, or furnishing of gas, water, electricity and heat, for the purposes of this act, shall be considered to have been consummated at the situs of the user or recipient*

1 ~~thereof, and retail sales involving the use or furnishing of telephone serv-~~
2 ~~ice or services taxed under subsection (k) of K.S.A. 79-3603, and amend-~~
3 ~~ments thereto, shall be considered to have been consummated at the situs~~
4 ~~of the subscriber billed therefor. Retail sales involving the leasing of tel-~~
5 ~~ecommunication or data processing equipment commonly used in con-~~
6 ~~nection with telephone services shall be considered to have been consum-~~
7 ~~mated at the situs of the lessee. Retail sales involving the furnishing of~~
8 ~~services taxable under subsections (p), (q) and (r) of K.S.A. 79-3603, and~~
9 ~~amendments thereto, pursuant to a contract under which the sale of such~~
10 ~~services and the furnishing of tangible personal property exceeds \$10,000~~
11 ~~per contract per contractor shall be considered to have been consum-~~
12 ~~mated at the situs where such services are performed. The director of~~
13 ~~taxation is hereby authorized to request and receive from any retailer or~~
14 ~~from any city or county levying the tax such information as may be rea-~~
15 ~~sonably necessary to determine the liability of retailers for any county or~~
16 ~~city sales tax. The collection of any sales tax of a county or city approved~~
17 ~~at any election shall commence on the first day of the calendar quarter~~
18 ~~next following the 90th day after the date that the city or county has~~
19 ~~provided written notice to the director of taxation of the election author-~~
20 ~~izing the levy of such tax. *The collection of any such sales tax applicable*~~
21 ~~*to printed catalog purchases wherein the purchaser computed the tax*~~
22 ~~*based upon local tax rates published in the catalog, shall not commence*~~
23 ~~*until the first day of the calendar quarter next following the 150th day*~~
24 ~~*after the date that the city or county has provided written notice to the*~~
25 ~~*director of taxation of the election authorizing the levy of such tax. The*~~
26 ~~*director of taxation shall provide notice to sellers of such taxes within 30*~~
27 ~~*days after receiving such notice from the city or county.*~~

28 A city retailers' sales tax shall not become effective within any area
29 annexed by a city levying such tax until the first day of the calendar quarter
30 next following the 90th day after the date that the governing body of such
31 city provided the state department of revenue with a certified copy of the
32 annexation ordinance and a map of the city detailing the annexed area.
33 *The director of taxation shall provide notice to sellers of such tax within*
34 *30 days after receiving such notice from the city or county.*

35 Whenever any sales tax, imposed by any city or county under the pro-
36 visions of this act, shall become effective, at any time prior to the time
37 that revenue derived therefrom may be budgeted for expenditure in such
38 year, such revenue shall be credited to the funds of the taxing subdivision
39 or subdivisions and shall be carried forward to the credit of such funds
40 for the ensuing budget year in the manner provided for carrying forward
41 balances remaining in such funds at the end of a budget year.

42 Sec. 2. K.S.A. 12-198 is hereby amended to read as follows: 12-198.
43 (a) A compensating use tax for the privilege of using or storing within a

1 city or county any *tangible personal property or any* vehicle which is
2 required to be registered under the provisions of article 1 of chapter 8 of
3 the Kansas Statutes Annotated, and amendments thereto, or any vessel,
4 as defined by K.S.A. 82a-802, and amendments thereto, *or using, con-*
5 *suming or realizing the benefits from within a city or county any service*
6 *that would otherwise be subject to retailer's sales tax if purchased in this*
7 *state*, is hereby imposed by every city, county or municipal university
8 imposing a retailers' sales tax. The rate of any such tax shall be fixed at
9 the same rate as such city's, county's or university's retailers' sales tax.
10 Any city, county or municipal university imposing a compensating use tax
11 is prohibited from administering or collecting such tax locally, but shall
12 utilize the services of the state department of revenue to administer,
13 enforce and collect such tax. Such tax shall be identical in its application
14 and exemptions therefrom to the Kansas compensating tax, and all laws
15 and rules and regulations of the state department of revenue relating to
16 the Kansas compensating tax shall apply to such local compensating use
17 tax insofar as the same may be made applicable.

18 (b) The secretary of revenue is authorized to administer, enforce and
19 collect a city's, county's or municipal university's compensating use tax
20 and to adopt such rules and regulations necessary for the efficient and
21 effective administration, enforcement and collection thereof. The state
22 director of taxation shall cause such taxes to be collected within the
23 boundaries of such taxing subdivision at the same time and in the same
24 manner provided for the collection of the state compensating use tax. All
25 moneys collected by the director of taxation pursuant to the provisions of
26 this section shall be credited to the city and county compensating use tax
27 fund or to the municipal university compensating use tax fund, which
28 funds are hereby established in the state treasury. Any refund due on any
29 city's, county's municipal university's compensating use tax collected pur-
30 suant to this section shall be paid out of the sales tax refund fund and
31 reimbursement to such fund shall be made by the director of taxation
32 from collections of local compensating use tax revenue. All moneys col-
33 lected pursuant to this section for a city or county shall be remitted at
34 least quarterly by the state treasurer to the treasurer of such city, county
35 or university.

36 (c) All revenue received by any county treasurer from a countywide
37 compensating use tax shall be apportioned among the county and each
38 city located in such county in the same manner as provided in K.S.A. 12-
39 192, and amendments thereto, for the apportionment of revenue received
40 from a countywide retailers' sales tax.

41 Sec. 3. K.S.A. 75-5151 is hereby amended to read as follows: 75-
42 5151. The secretary of revenue may require, consistent with sound cash
43 management policies, that any taxpayer whose total sales tax liability ex-

1 ceeds \$100,000 in any calendar year, any taxpayer whose total withholding
2 tax liability exceeds \$100,000 in any calendar year, and any person owing
3 any taxes or fees in connection with any return, report or document other
4 than for sales tax or withholding tax liability, shall remit their tax liability
5 by electronic funds transfer no later than the date required for such re-
6 mittance except that the secretary may adopt rules and regulations pre-
7 scribing alternative filing and payment dates not later than the last day of
8 the month in which the tax was otherwise due. Electronic funds transfers
9 may be made by wire transfers of funds through the federal reserve sys-
10 tem or by any other means established by the secretary, with the approval
11 of the state treasurer, which insures the availability of such funds to the
12 state on the date of payment. Evidence of such payment shall be furnished
13 to the secretary on or before the due date of the tax as established by
14 law. Failure to timely make such payment in immediately available funds
15 or failure to provide such evidence of payment in a timely manner shall
16 subject the taxpayer to penalty and interest as provided by law for delin-
17 quent or deficient tax payments. *All sales and use tax remittances from*
18 *model 1, 2 and 3 sellers must be remitted electronically. Any data that*
19 *accompanies a remittance must be formatted using uniform tax type and*
20 *payment type codes approved by the secretary.*

21 Sec. 4. K.S.A. 2002 Supp. 79-3602 is hereby amended to read as
22 follows: 79-3602. (a) "Persons" means any individual, firm, copartnership,
23 joint adventure, association, corporation, estate or trust, receiver or trust-
24 tee, or any group or combination acting as a unit, and the plural as well
25 as the singular number; and shall specifically mean any city or other po-
26 litical subdivision of the state of Kansas engaging in a business or provid-
27 ing a service specifically taxable under the provisions of this act.

28 (b) "Director" means the state director of taxation.

29 (c) "Sale" or "sales" means the exchange of tangible personal prop-
30 erty, as well as the sale thereof for money, and every transaction, condi-
31 tional or otherwise, for a consideration, constituting a sale, including the
32 sale or furnishing of electrical energy, gas, water, services or entertain-
33 ment taxable under the terms of this act and including, except as provided
34 in the following provision, the sale of the use of tangible personal property
35 by way of a lease, license to use or the rental thereof regardless of the
36 method by which the title, possession or right to use the tangible personal
37 property is transferred. The term "sale" or "sales" shall not mean the sale
38 of the use of any tangible personal property used as a dwelling by way of
39 a lease or rental thereof for a term of more than 28 consecutive days.

40 (d) "Retailer" means a ~~person~~ *seller* regularly engaged in the business
41 of selling, *leasing or renting* tangible personal property at retail or fur-
42 nishing electrical energy, gas, water, services or entertainment, and selling
43 only to the user or consumer and not for resale.

1 (e) “Retail sale” or “sale at retail” means ~~all sales made within the~~
2 ~~state of tangible personal property or electrical energy, gas, water, services~~
3 ~~or entertainment for use or consumption and not for resale any sale, lease~~
4 ~~or rental for any purpose other than for resale, sublease or subrent.~~

5 (f) “Tangible personal property” means ~~corporeal~~ personal property
6 *that can be seen, weighed, measured, felt or touched, or that is in any*
7 *other manner perceptible to the senses. Tangible personal property in-*
8 *cludes electricity, water, gas, steam and prewritten computer software.*
9 ~~Such term shall include: (1) Any computer software program which is not~~
10 ~~a custom computer software program, as described by subsection (s) of~~
11 ~~K.S.A. 79-3603, and amendments thereto; and (2) any prepaid telephone~~
12 ~~calling card or prepaid authorization number, or recharge of such card~~
13 ~~or number, as described by subsection (b) of K.S.A. 79-3603, and amend-~~
14 ~~ments thereto.~~

15 (g) “Sales or selling price” means ~~the total cost to the consumer ex-~~
16 ~~clusive of discounts allowed and credited, but including freight and trans-~~
17 ~~portation charges from retailer to consumer. applies to the measure sub-~~
18 ~~ject to sales tax and means the total amount of consideration, including~~
19 ~~cash, credit, property and services, for which personal property or serv-~~
20 ~~ices are sold, leased or rented, valued in money, whether received in~~
21 ~~money or otherwise, without any deduction for the following:~~

22 (A) *The seller’s cost of the property sold;*

23 (B) *the cost of materials used, labor or service cost, interest, losses,*
24 *all costs of transportation to the seller, all taxes imposed on the seller and*
25 *any other expense of the seller;*

26 (C) *charges by the seller for any services necessary to complete the*
27 *sale, other than delivery and installation charges;*

28 (D) *delivery charges;*

29 (E) *installation charges; and*

30 (F) *the value of exempt personal property given to the purchaser*
31 *where taxable and exempt personal property have been bundled together*
32 *and sold by the seller as a single product or piece of merchandise.*

33 (2) “Sales or selling price” shall not include:

34 (A) *Discounts, including cash, term or coupons that are not reim-*
35 *bursed by a third party that are allowed by a seller and taken by a pur-*
36 *chaser on a sale;*

37 (B) *interest, financing and carrying charges from credit extended on*
38 *the sale of personal property or services, if the amount is separately stated*
39 *on the invoice, bill of sale or similar document given to the purchaser;*

40 (C) *any taxes legally imposed directly on the consumer that are sep-*
41 *arately stated on the invoice, bill of sale or similar document given to the*
42 *purchaser; and*

43 (D) *the amount equal to the allowance given for the trade-in of prop-*

1 *erty, if separately stated on the invoice, billing or similar document given*
2 *to the purchaser.*

3 (h) “Gross receipts” means the total selling price or the amount re-
4 ceived as defined in this act, in money, credits, property or other consid-
5 eration valued in money from sales at retail within this state; and em-
6 braced within the provisions of this act. The taxpayer, may take credit in
7 the report of gross receipts for: (1) An amount equal to the selling price
8 of property returned by the purchaser when the full sale price thereof,
9 including the tax collected, is refunded in cash or by credit; and (2) an
10 amount equal to the allowance given for the trade-in of property.

11 (i) “Taxpayer” means any person obligated to account to the director
12 for taxes collected under the terms of this act.

13 (j) “Isolated or occasional sale” means the nonrecurring sale of tan-
14 gible personal property, or services taxable hereunder by a person not
15 engaged at the time of such sale in the business of selling such property
16 or services. Any religious organization which makes a nonrecurring sale
17 of tangible personal property acquired for the purpose of resale shall be
18 deemed to be not engaged at the time of such sale in the business of
19 selling such property. Such term shall include: (1) Any sale by a bank,
20 savings and loan institution, credit union or any finance company licensed
21 under the provisions of the Kansas uniform consumer credit code of tan-
22 gible personal property which has been repossessed by any such entity;
23 and (2) any sale of tangible personal property made by an auctioneer or
24 agent on behalf of not more than two principals or households if such
25 sale is nonrecurring and any such principal or household is not engaged
26 at the time of such sale in the business of selling tangible personal
27 property.

28 (k) “Service” means those services described in and taxed under the
29 provisions of K.S.A. 79-3603 and amendments thereto.

30 (l) “Ingredient or component part” means tangible personal property
31 which is necessary or essential to, and which is actually used in and be-
32 comes an integral and material part of tangible personal property or serv-
33 ices produced, manufactured or compounded for sale by the producer,
34 manufacturer or compounder in its regular course of business. The fol-
35 lowing items of tangible personal property are hereby declared to be
36 ingredients or component parts, but the listing of such property shall not
37 be deemed to be exclusive nor shall such listing be construed to be a
38 restriction upon, or an indication of, the type or types of property to be
39 included within the definition of “ingredient or component part” as
40 herein set forth:

41 (1) Containers, labels and shipping cases used in the distribution of
42 property produced, manufactured or compounded for sale which are not
43 to be returned to the producer, manufacturer or compounder for reuse.

1 (2) Containers, labels, shipping cases, paper bags, drinking straws,
2 paper plates, paper cups, twine and wrapping paper used in the distri-
3 bution and sale of property taxable under the provisions of this act by
4 wholesalers and retailers and which is not to be returned to such whole-
5 saler or retailer for reuse.

6 (3) Seeds and seedlings for the production of plants and plant prod-
7 ucts produced for resale.

8 (4) Paper and ink used in the publication of newspapers.

9 (5) Fertilizer used in the production of plants and plant products
10 produced for resale.

11 (6) Feed for animals, fowl and aquatic plants and animals, the primary
12 purpose of which is use in agriculture or aquaculture, as defined in K.S.A.
13 47-1901, and amendments thereto, the production of food for human
14 consumption, the production of animal, dairy, poultry or aquatic plant
15 and animal products, fiber, fur, or the production of offspring for use for
16 any such purpose or purposes.

17 (m) "Property which is consumed" means tangible personal property
18 which is essential or necessary to and which is used in the actual process
19 of and consumed, depleted or dissipated within one year in (1) the pro-
20 duction, manufacture, processing, mining, drilling, refining or compound-
21 ing of tangible personal property, (2) the providing of services, (3) the
22 irrigation of crops, for sale in the regular course of business, or (4) the
23 storage or processing of grain by a public grain warehouse or other grain
24 storage facility, and which is not reusable for such purpose. The following
25 is a listing of tangible personal property, included by way of illustration
26 but not of limitation, which qualifies as property which is consumed:

27 (A) Insecticides, herbicides, germicides, pesticides, fungicides, fu-
28 migants, antibiotics, biologicals, pharmaceuticals, vitamins and chemicals
29 for use in commercial or agricultural production, processing or storage of
30 fruit, vegetables, feeds, seeds, grains, animals or animal products whether
31 fed, injected, applied, combined with or otherwise used;

32 (B) electricity, gas and water; and

33 (C) petroleum products, lubricants, chemicals, solvents, reagents and
34 catalysts.

35 (n) "Political subdivision" means any municipality, agency or subdivi-
36 sion of the state which is, or shall hereafter be, authorized to levy taxes
37 upon tangible property within the state or which certifies a levy to a
38 municipality, agency or subdivision of the state which is, or shall hereafter
39 be, authorized to levy taxes upon tangible property within the state. Such
40 term also shall include any public building commission, housing, airport,
41 port, metropolitan transit or similar authority established pursuant to law.

42 (o) "Municipal corporation" means any city incorporated under the
43 laws of Kansas.

1 (p) “Quasi-municipal corporation” means any county, township,
2 school district, drainage district or any other governmental subdivision in
3 the state of Kansas having authority to receive or hold moneys or funds.

4 (q) “Nonprofit blood bank” means any nonprofit place, organization,
5 institution or establishment that is operated wholly or in part for the
6 purpose of obtaining, storing, processing, preparing for transfusing, fur-
7 nishing, donating or distributing human blood or parts or fractions of
8 single blood units or products derived from single blood units, whether
9 or not any remuneration is paid therefor, or whether such procedures are
10 done for direct therapeutic use or for storage for future use of such
11 products.

12 (r) “Educational institution” means any nonprofit school, college and
13 university that offers education at a level above the twelfth grade, and
14 conducts regular classes and courses of study required for accreditation
15 by, or membership in, the North Central Association of Colleges and
16 Schools, the state board of education, or that otherwise qualify as an
17 “educational institution,” as defined by K.S.A. 74-50,103, and amend-
18 ments thereto. Such phrase shall include: (1) A group of educational in-
19 stitutions that operates exclusively for an educational purpose; (2) non-
20 profit endowment associations and foundations organized and operated
21 exclusively to receive, hold, invest and administer moneys and property
22 as a permanent fund for the support and sole benefit of an educational
23 institution; (3) nonprofit trusts, foundations and other entities organized
24 and operated principally to hold and own receipts from intercollegiate
25 sporting events and to disburse such receipts, as well as grants and gifts,
26 in the interest of collegiate and intercollegiate athletic programs for the
27 support and sole benefit of an educational institution; and (4) nonprofit
28 trusts, foundations and other entities organized and operated for the pri-
29 mary purpose of encouraging, fostering and conducting scholarly inves-
30 tigation and industrial and other types of research for the support and
31 sole benefit of an educational institution.

32 (s) “Agent” means a person appointed by a seller to represent the
33 seller before the member states.

34 (t) “Agreement” means the multistate agreement entitled the stream-
35 lined sales and use tax agreement approved by the streamlined sales tax
36 implementing states at Chicago, Illinois on November 12, 2002.

37 (u) “Alcoholic beverages” means beverages that are suitable for hu-
38 man consumption and contain .05% or more of alcohol by volume.

39 (v) “Certified automated system (CAS)” means software certified un-
40 der the agreement to calculate the tax imposed by each jurisdiction on a
41 transaction, determine the amount of tax to remit to the appropriate state
42 and maintain a record of the transaction.

43 (w) “Certified service provider (CSP)” means an agent certified under

1 *the agreement to perform all the seller's sales and use tax functions, other*
2 *than the seller's obligation to remit tax on its own purchases.*

3 (x) *"Computer" means an electronic device that accepts information*
4 *in digital or similar form and manipulates it for a result based on a se-*
5 *quence of instructions.*

6 (y) *"Computer software" means a set of coded instructions designed*
7 *to cause a computer or automatic data processing equipment to perform*
8 *a task.*

9 (z) *"Delivery charges" means charges by the seller of personal prop-*
10 *erty or services for preparation and delivery to a location designated by*
11 *the purchaser of personal property or services including, but not limited*
12 *to, transportation, shipping, postage, handling, crating and packing.*

13 (aa) *"Delivered electronically" means delivered to the purchaser by*
14 *means other than tangible storage media.*

15 (bb) *"Direct mail" means printed material delivered or distributed by*
16 *United States mail or other delivery services to a mass audience or to*
17 *addressees on a mailing list provided by the purchaser or at the direction*
18 *of the purchaser when the cost of the items are not billed directly to the*
19 *recipients. Direct mail includes tangible personal property supplied di-*
20 *rectly or indirectly by the purchaser to the direct mail seller for inclusion*
21 *in the package containing the printed material. Direct mail does not in-*
22 *clude multiple items of printed material delivered to a single address.*

23 (cc) *"Electronic" means relating to technology having electrical, dig-*
24 *ital, magnetic, wireless, optical, electromagnetic or similar capabilities.*

25 (dd) *"Food and food ingredients" means substances, whether in liq-*
26 *uid, concentrated, solid, frozen, dried or dehydrated form, that are sold*
27 *for ingestion or chewing by humans and are consumed for their taste or*
28 *nutritional value. "Food and food ingredients" does not include alcoholic*
29 *beverages or tobacco.*

30 (ee) *"Lease or rental" means any transfer of possession or control of*
31 *tangible personal property for a fixed or indeterminate term for consid-*
32 *eration. A lease or rental may include future options to purchase or*
33 *extend.*

34 (1) *Lease or rental does not include: (A) A transfer of possession or*
35 *control of property under a security agreement or deferred payment plan*
36 *that requires the transfer of title upon completion of the required*
37 *payments;*

38 (B) *a transfer or possession or control of property under an agreement*
39 *that requires the transfer of title upon completion of required payments*
40 *and payment of an option price does not exceed the greater of \$100 or*
41 *1% of the total required payments; or*

42 (C) *providing tangible personal property along with an operator for*
43 *a fixed or indeterminate period of time. A condition of this exclusion is*

1 *that the operator is necessary for the equipment to perform as designed.*
2 *For the purpose of this subsection, an operator must do more than main-*
3 *tain, inspect or set-up the tangible personal property.*

4 (2) *Lease or rental does include agreements covering motor vehicles*
5 *and trailers where the amount of consideration may be increased or de-*
6 *creased by reference to the amount realized upon sale or disposition of*
7 *the property as defined in 26 U.S.C. 7701(h)(1).*

8 (3) *This definition shall be used for sales and use tax purposes re-*
9 *gardless if a transaction is characterized as a lease or rental under gen-*
10 *erally accepted accounting principles, the internal revenue code, the uni-*
11 *form commercial code, K.S.A. 84-101 et seq. and amendments thereto, or*
12 *other provisions of federal, state or local law.*

13 (4) *This definition will be applied only prospectively from the effective*
14 *date of this act and will have no retroactive impact on existing leases or*
15 *rentals.*

16 (ff) *“Load and leave” means delivery to the purchaser by use of a*
17 *tangible storage media where the tangible storage media is not physically*
18 *transferred to the purchaser.*

19 (gg) *“Member state” means a state that has entered in the agreement,*
20 *pursuant to provisions of article VIII of the agreement.*

21 (hh) *“Model 1 seller” means a seller that has selected a CSP as its*
22 *agent to perform all the seller’s sales and use tax functions, other than the*
23 *seller’s obligation to remit tax on its own purchases.*

24 (ii) *“Model 2 seller” means a seller that has selected a CAS to perform*
25 *part of its sales and use tax functions, but retains responsibility for re-*
26 *mitting the tax.*

27 (jj) *“Model 3 seller” means a seller that has sales in at least five mem-*
28 *ber states, has total annual sales revenue of at least \$500,000,000, has a*
29 *proprietary system that calculates the amount of tax due each jurisdiction*
30 *and has entered into a performance agreement with the member states*
31 *that establishes a tax performance standard for the seller. As used in this*
32 *subsection a seller includes an affiliated group of sellers using the same*
33 *proprietary system.*

34 (kk) *“Prescription” means an order, formula or recipe issued in any*
35 *form of oral, written, electronic or other means of transmission by a duly*
36 *licensed practitioner authorized by the laws of this state.*

37 (ll) *“Prewritten computer software” means computer software, in-*
38 *cluding prewritten upgrades, which is not designed and developed by the*
39 *author or other creator to the specifications of a specific purchaser. The*
40 *combining of two or more prewritten computer software programs or*
41 *prewritten portions thereof does not cause the combination to be other*
42 *than prewritten computer software. Prewritten computer software in-*
43 *cludes software designed and developed by the author or other creator to*

1 *the specifications of a specific purchaser when it is sold to a person other*
2 *than the purchaser. Where a person modifies or enhances computer soft-*
3 *ware of which the person is not the author or creator, the person shall be*
4 *deemed to be the author or creator only of such person's modifications or*
5 *enhancements. Prewritten computer software or a prewritten portion*
6 *thereof that is modified or enhanced to any degree, where such modifi-*
7 *cation or enhancement is designed and developed to the specifications of*
8 *a specific purchaser, remains prewritten computer software, except that*
9 *where there is a reasonable, separately stated charge or an invoice or*
10 *other statement of the price given to the purchaser for such modification*
11 *or enhancement, such modification or enhancement shall not constitute*
12 *prewritten computer software.*

13 *(mm) "Purchase price" applies to the measure subject to use tax and*
14 *has the same meaning as sales price.*

15 *(nn) "Purchaser" means a person to whom a sale of personal property*
16 *is made or to whom a service is furnished.*

17 *(oo) "Registered under this agreement" means registration by a seller*
18 *with the member states under the central registration system provided in*
19 *article IV of the agreement.*

20 *(pp) "Seller" means a person making sales, leases or rentals of per-*
21 *sonal property or services.*

22 *(qq) "Sourcing rules" means the rules set forth in sections 16 through*
23 *19, K.S.A. 79-191 and 79-191a, and amendments thereto, which shall*
24 *apply to identify and determine the state and local taxing jurisdiction sales*
25 *or use taxes to pay, or collect and remit on a particular retail sale.*

26 *(rr) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco or*
27 *any other item that contains tobacco.*

28 Sec. 5. K.S.A. 2002 Supp. 79-3603 is hereby amended to read as
29 follows: 79-3603. For the privilege of engaging in the business of selling
30 tangible personal property at retail in this state or rendering or furnishing
31 any of the services taxable under this act, there is hereby levied and there
32 shall be collected and paid a tax at the rate of 5.3% on and after July 1,
33 2002, and before July 1, 2004, 5.2% on and after July 1, 2004, and before
34 July 1, 2005, and 5% on and after July 1, 2005, and, within a redevelop-
35 ment district established pursuant to K.S.A. 74-8921, and amendments
36 thereto, there is hereby levied and there shall be collected and paid an
37 additional tax at the rate of 2% until the earlier of the date the bonds
38 issued to finance or refinance the redevelopment project have been paid
39 in full or the final scheduled maturity of the first series of bonds issued
40 to finance any part of the project upon:

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

43 (b) (1) the gross receipts from intrastate telephone or telegraph serv-

1 ices; (2) the gross receipts received from the sale of interstate telephone
2 or telegraph services, which (A) originate within this state and terminate
3 outside the state and are billed to a customer's telephone number or
4 account in this state; or (B) originate outside this state and terminate
5 within this state and are billed to a customer's telephone number or ac-
6 count in this state except that the sale of interstate telephone or telegraph
7 service does not include: (A) Any interstate incoming or outgoing wide
8 area telephone service or wide area transmission type service which en-
9 titles the subscriber to make or receive an unlimited number of com-
10 munications to or from persons having telephone service in a specified
11 area which is outside the state in which the station provided this service
12 is located; (B) any interstate private communications service to the per-
13 sons contracting for the receipt of that service that entitles the purchaser
14 to exclusive or priority use of a communications channel or group of
15 channels between exchanges; (C) any value-added nonvoice service in
16 which computer processing applications are used to act on the form, con-
17 tent, code or protocol of the information to be transmitted; (D) any tel-
18 ecommunication service to a provider of telecommunication services
19 which will be used to render telecommunications services, including car-
20 rier access services; or (E) any service or transaction defined in this sec-
21 tion among entities classified as members of an affiliated group as pro-
22 vided by section 1504 of the federal internal revenue code of 1986, as in
23 effect on January 1, 2001. ~~For the purposes of this subsection the term~~
24 ~~gross receipts does not include purchases of telephone, telegraph or tel-~~
25 ~~ecommunications using a prepaid telephone calling card or prepaid au-~~
26 ~~thorization number. As used in this subsection, a prepaid telephone call-~~
27 ~~ing card or prepaid authorization number means the right to exclusively~~
28 ~~make telephone calls, paid for in advance, that enables the origination of~~
29 ~~calls using an access number or authorization code or both, whether man-~~
30 ~~ually or electronically dialed; and (3) the gross receipts from the provision~~
31 of services taxable under this subsection which are billed on a combined
32 basis with nontaxable services, shall be accounted for and the tax remitted
33 as follows: The taxable portion of the selling price of those combined
34 services shall include only those charges for taxable services if the selling
35 price for the taxable services can be readily distinguishable in the retailer's
36 books and records from the selling price for the nontaxable services. Oth-
37 erwise, the gross receipts from the sale of both taxable and nontaxable
38 services billed on a combined basis shall be deemed attributable to the
39 taxable services included therein. Within 90 days of billing taxable services
40 on a combined basis with nontaxable services, the retailer shall enter into
41 a written agreement with the secretary identifying the methodology to be
42 used in determining the taxable portion of the selling price of those com-
43 bined services. The burden of proving that any receipt or charge is not

1 taxable shall be upon the retailer. Upon request from the customer, the
2 retailer shall disclose to the customer the selling price for the taxable
3 services included in the selling price for the taxable and nontaxable serv-
4 ices billed on a combined basis;

5 (c) the gross receipts from the sale or furnishing of gas, water, elec-
6 tricity and heat, which sale is not otherwise exempt from taxation under
7 the provisions of this act, and whether furnished by municipally or pri-
8 vately owned utilities, *except that, on and after January 1, 2006, for sales*
9 *of gas, electricity and heat delivered through mains, lines or pipes to*
10 *residential premises for noncommercial use by the occupant of such prem-*
11 *ises, and for agricultural use and also, for such use, all sales of propane*
12 *gas, the state rate shall be 0%; and for all sales of propane gas, LP gas,*
13 *coal, wood and other fuel sources for the production of heat or lighting*
14 *for noncommercial use of an occupant of residential premises, the state*
15 *rate shall be 0%, but such tax shall not be levied and collected upon the*
16 gross receipts from: (1) The sale of a rural water district benefit unit; (2)
17 a water system impact fee, system enhancement fee or similar fee col-
18 lected by a water supplier as a condition for establishing service; or (3)
19 connection or reconnection fees collected by a water supplier;

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

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

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

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

39 (h) the gross receipts from the service of renting or leasing of tangible
40 personal property except such tax shall not apply to the renting or leasing
41 of machinery, equipment or other personal property owned by a city and
42 purchased from the proceeds of industrial revenue bonds issued prior to
43 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through

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

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

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

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

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

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

26 (m) the gross receipts received from fees and charges by public and
27 private clubs, drinking establishments, organizations and businesses for
28 participation in sports, games and other recreational activities, but such
29 tax shall not be levied and collected upon the gross receipts received from:

30 (1) Fees and charges by any political subdivision, by any organization
31 exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-
32 201, and amendments thereto, or by any youth recreation organization
33 exclusively providing services to persons 18 years of age or younger which
34 is exempt from federal income taxation pursuant to section 501(c)(3) of
35 the federal internal revenue code of 1986, for participation in sports,
36 games and other recreational activities; and (2) entry fees and charges for
37 participation in a special event or tournament sanctioned by a national
38 sporting association to which spectators are charged an admission which
39 is taxable pursuant to subsection (e);

40 (n) the gross receipts received from dues charged by public and pri-
41 vate clubs, drinking establishments, organizations and businesses, pay-
42 ment of which entitles a member to the use of facilities for recreation or
43 entertainment, but such tax shall not be levied and collected upon the

1 gross receipts received from: (1) Dues charged by any organization ex-
2 empt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of
3 K.S.A. 79-201, and amendments thereto; and (2) sales of memberships
4 in a nonprofit organization which is exempt from federal income taxation
5 pursuant to section 501 (c)(3) of the federal internal revenue code of
6 1986, and whose purpose is to support the operation of a nonprofit zoo;

7 (o) the gross receipts received from the isolated or occasional sale of
8 motor vehicles or trailers but not including: (1) The transfer of motor
9 vehicles or trailers by a person to a corporation or limited liability com-
10 pany solely in exchange for stock securities or membership interest in
11 such corporation or limited liability company; or (2) the transfer of motor
12 vehicles or trailers by one corporation or limited liability company to
13 another when all of the assets of such corporation or limited liability
14 company are transferred to such other corporation or limited liability
15 company; or (3) the sale of motor vehicles or trailers which are subject
16 to taxation pursuant to the provisions of K.S.A. 79-5101 *et seq.*, and
17 amendments thereto, by an immediate family member to another im-
18 mediate family member. For the purposes of clause (3), immediate family
19 member means lineal ascendants or descendants, and their spouses. In
20 determining the base for computing the tax on such isolated or occasional
21 sale, the fair market value of any motor vehicle or trailer traded in by the
22 purchaser to the seller may be 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 which when such serv-
14 ices are rendered is not being held for sale in the regular course of busi-
15 ness, and whether or not any tangible personal property is transferred in
16 connection therewith. The tax imposed by this subsection shall be appli-
17 cable to the services of repairing, servicing, altering or maintaining an
18 item of tangible personal property which has been and is fastened to,
19 connected with or built into real property;

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

23 (s) the gross receipts received from the sale of computer software,
24 *the sale of the service of providing computer software other than pre-*
25 *written computer software* and the sale of the services of modifying, al-
26 tering, updating or maintaining computer software. ~~As used in this sub-~~
27 ~~section, “computer software” means information and directions loaded~~
28 ~~into a computer which dictate different functions to be performed by the~~
29 ~~computer. Computer software includes any canned or prewritten pro-~~
30 ~~gram which is held or existing for general or repeated sale, even if the~~
31 ~~program was originally developed for a single end user as custom com-~~
32 ~~puter software whether installed or delivered electronically by tangible~~
33 ~~storage media physically transferred to the purchaser or by load and~~
34 ~~leave;~~

35 (t) the gross receipts received for telephone answering services, mo-
36 bile telecommunication services, beeper services and other similar serv-
37 ices. On and after August 1, 2002, the provisions of the federal mobile
38 telecommunications sourcing act as in effect on January 1, 2002, shall be
39 applicable to all sales of mobile telecommunication services taxable pur-
40 suant to this subsection. The secretary of revenue is hereby authorized
41 and directed to perform any act deemed necessary to properly implement
42 such provisions;

43 (u) the gross receipts received from the sale of prepaid telephone

1 calling cards or prepaid authorization numbers and the recharge of such
2 cards or numbers. A prepaid telephone calling card or prepaid authori-
3 zation number means the right to exclusively make telephone calls, paid
4 for in advance, that enables the origination of calls using an access number
5 or authorization code or both, whether manually or electronically dialed.
6 If the sale or recharge of such card or number does not take place at the
7 vendor's place of business, it shall be conclusively determined to take
8 place at the customer's shipping address, if there is no item shipped then
9 it shall be the customer's billing address *calling service*; and

10 (v) the gross receipts received from the sales of bingo cards, bingo
11 faces and instant bingo tickets by licensees under K.S.A. 79-4701, *et seq.*,
12 and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1,
13 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before
14 July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo
15 faces and instant bingo tickets by licensees under K.S.A. 79-4701 *et seq.*,
16 and amendments thereto, shall be exempt from taxes imposed pursuant
17 to this section.

18 Sec. 6. K.S.A. 2002 Supp. 79-3606 is hereby amended to read as
19 follows: 79-3606. The following shall be exempt from the tax imposed by
20 this act:

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

31 (b) all sales of tangible personal property or service, including the
32 renting and leasing of tangible personal property, purchased directly by
33 the state of Kansas, a political subdivision thereof, other than a school or
34 educational institution, or purchased by a public or private nonprofit hos-
35 pital or public hospital authority or nonprofit blood, tissue or organ bank
36 and used exclusively for state, political subdivision, hospital or public hos-
37 pital authority or nonprofit blood, tissue or organ bank purposes, except
38 when: (1) Such state, hospital or public hospital authority is engaged or
39 proposes to engage in any business specifically taxable under the provi-
40 sions of this act and such items of tangible personal property or service
41 are used or proposed to be used in such business, or (2) such political
42 subdivision is engaged or proposes to engage in the business of furnishing
43 gas, electricity or heat to others and such items of personal property or

1 service are used or proposed to be used in such business;

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

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

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

35 (e) all sales of tangible personal property or services purchased by a
36 contractor for the erection, repair or enlargement of buildings or other
37 projects for the government of the United States, its agencies or instru-
38 mentalities, which would be exempt from taxation if purchased directly
39 by the government of the United States, its agencies or instrumentalities.
40 When the government of the United States, its agencies or instrumen-
41 talities shall contract for the erection, repair, or enlargement of any build-
42 ing or other project, it shall obtain from the state and furnish to the
43 contractor an exemption certificate for the project involved, and the con-

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

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

26 (g) sales of aircraft including remanufactured and modified aircraft,
27 sales of aircraft repair, modification and replacement parts and sales of
28 services employed in the remanufacture, modification and repair of air-
29 craft sold to persons using directly or through an authorized agent such
30 aircraft and aircraft repair, modification and replacement parts as certified
31 or licensed carriers of persons or property in interstate or foreign com-
32 merce under authority of the laws of the United States or any foreign
33 government or sold to any foreign government or agency or instrumen-
34 tality of such foreign government and all sales of aircraft, aircraft parts,
35 replacement parts and services employed in the remanufacture, modifi-
36 cation and repair of aircraft for use outside of the United States;

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

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

41 (j) meals served without charge or food used in the preparation of
42 such meals to employees of any restaurant, eating house, dining car, hotel,
43 drugstore or other place where meals or drinks are regularly sold to the

1 public if such employees' duties are related to the furnishing or sale of
2 such meals or drinks;

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

9 (l) all isolated or occasional sales of tangible personal property, serv-
10 ices, substances or things, except isolated or occasional sale of motor
11 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.
12 79-3603 and amendments thereto;

13 (m) all sales of tangible personal property which become an ingre-
14 dient or component part of tangible personal property or services pro-
15 duced, manufactured or compounded for ultimate sale at retail within or
16 without the state of Kansas; and any such producer, manufacturer or
17 compounder may obtain from the director of taxation and furnish to the
18 supplier an exemption certificate number for tangible personal property
19 for use as an ingredient or component part of the property or services
20 produced, manufactured or compounded;

21 (n) all sales of tangible personal property which is consumed in the
22 production, manufacture, processing, mining, drilling, refining or com-
23 pounding of tangible personal property, the treating of by-products or
24 wastes derived from any such production process, the providing of serv-
25 ices or the irrigation of crops for ultimate sale at retail within or without
26 the state of Kansas; and any purchaser of such property may obtain from
27 the director of taxation and furnish to the supplier an exemption certifi-
28 cate number for tangible personal property for consumption in such pro-
29 duction, manufacture, processing, mining, drilling, refining, compound-
30 ing, treating, irrigation and in providing such services;

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

37 (p) all sales of drugs, ~~as defined by K.S.A. 65-1626 and amendments~~
38 ~~thereto~~, dispensed pursuant to a prescription order, ~~as defined by K.S.A.~~
39 ~~65-1626 and amendments thereto~~, by a licensed practitioner or a mid-
40 level practitioner as defined by K.S.A. 65-1626, and amendments thereto;
41 *As used in this subsection, "drug" means a compound, substance or prep-*
42 *aration and any component of a compound, substance or preparation,*
43 *other than food and food ingredients, dietary supplements or alcoholic*

1 *beverages, recognized in the official United States pharmacopoeia, official*
2 *homeopathic pharmacopoeia of the United States or official national for-*
3 *mulary, and supplement to any of them, intended for use in the diagnosis,*
4 *cure, mitigation, treatment or prevention of disease or intended to affect*
5 *the structure or any function of the body;*

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

9 (r) all sales of prosthetic ~~devices and orthopedic appliances~~ *mobility*
10 *enhancing equipment* prescribed in writing by a person licensed to prac-
11 tice the healing arts, dentistry or optometry. For the purposes of this
12 subsection, ~~the term prosthetic and orthopedic appliances means any ap-~~
13 ~~paratus, instrument, device, or equipment used to replace or substitute~~
14 ~~for any missing part of the body, used to alleviate the malfunction of any~~
15 ~~part of the body, or used to assist any disabled person in leading a normal~~
16 ~~life by facilitating such person's mobility; such term shall include acces-~~
17 ~~sories attached or to be attached to motor vehicles, but such term shall~~
18 ~~not include motor vehicles or personal property which when installed~~
19 ~~becomes a fixture to real property; (1) "Mobility enhancing equipment"~~
20 ~~means equipment including repair and replacement parts to same, but~~
21 ~~does not include durable medical equipment, which is primarily and cus-~~
22 ~~tomarily used to provide or increase the ability to move from one place~~
23 ~~to another and which is appropriate for use either in a home or a motor~~
24 ~~vehicle; is not generally used by persons with normal mobility; and does~~
25 ~~not include any motor vehicle or equipment on a motor vehicle normally~~
26 ~~provided by a motor vehicle manufacturer; and (2) "prosthetic device"~~
27 ~~means a replacement, corrective or supportive device including repair and~~
28 ~~replacement parts for same worn on or in the body to artificially replace~~
29 ~~a missing portion of the body, prevent or correct physical deformity or~~
30 ~~malfunction or support a weak or deformed portion of the body;~~

31 (s) except as provided in K.S.A. 2002 Supp. 82a-2101, and amend-
32 ments thereto, all sales of tangible personal property or services pur-
33 chased directly or indirectly by a groundwater management district or-
34 ganized or operating under the authority of K.S.A. 82a-1020 *et seq.* and
35 amendments thereto, by a rural water district organized or operating un-
36 der the authority of K.S.A. 82a-612, and amendments thereto, or by a
37 water supply district organized or operating under the authority of K.S.A.
38 19-3501 *et seq.*, 19-3522 *et seq.* or 19-3545, and amendments thereto,
39 which property or services are used in the construction activities, opera-
40 tion or maintenance of the district;

41 (t) all sales of farm machinery and equipment or aquaculture ma-
42 chinery and equipment, repair and replacement parts therefor and serv-
43 ices performed in the repair and maintenance of such machinery and

1 equipment. For the purposes of this subsection the term “farm machinery
2 and equipment or aquaculture machinery and equipment” shall include
3 machinery and equipment used in the operation of Christmas tree farm-
4 ing but shall not include any passenger vehicle, truck, truck tractor, trailer,
5 semitrailer or pole trailer, other than a farm trailer, as such terms are
6 defined by K.S.A. 8-126 and amendments thereto. Each purchaser of
7 farm machinery and equipment or aquaculture machinery and equipment
8 exempted herein must certify in writing on the copy of the invoice or
9 sales ticket to be retained by the seller that the farm machinery and
10 equipment or aquaculture machinery and equipment purchased will be
11 used only in farming, ranching or aquaculture production. Farming or
12 ranching shall include the operation of a feedlot and farm and ranch work
13 for hire and the operation of a nursery;

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

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

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

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

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

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

4 ~~(aa)~~ (z) all sales of materials and services applied to equipment which
5 is transported into the state from without the state for repair, service,
6 alteration, maintenance, remanufacture or modification and which is sub-
7 sequently transported outside the state for use in the transmission of
8 liquids or natural gas by means of pipeline in interstate or foreign com-
9 merce under authority of the laws of the United States;

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

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

43 ~~(dd)~~ (cc) all sales of tangible personal property purchased with food

1 stamps issued by the United States department of agriculture;
2 ~~(ee)~~ (dd) all sales of lottery tickets and shares made as part of a lottery
3 operated by the state of Kansas;
4 ~~(ff)~~ (ee) on and after July 1, 1988, all sales of new mobile homes or
5 manufactured homes to the extent of 40% of the gross receipts, deter-
6 mined without regard to any trade-in allowance, received from such sale.
7 As used in this subsection, “mobile homes” and “manufactured homes”
8 shall have the meanings ascribed thereto by K.S.A. 58-4202 and amend-
9 ments thereto;
10 ~~(gg)~~ (ff) all sales of tangible personal property purchased in accord-
11 ance with vouchers issued pursuant to the federal special supplemental
12 food program for women, infants and children;
13 ~~(hh)~~ (gg) all sales of medical supplies and equipment, *including du-*
14 *urable medical equipment*, purchased directly by a nonprofit skilled nursing
15 home or nonprofit intermediate nursing care home, as defined by K.S.A.
16 39-923, and amendments thereto, for the purpose of providing medical
17 services to residents thereof. This exemption shall not apply to tangible
18 personal property customarily used for human habitation purposes. *As*
19 *used in this subsection, “durable medical equipment” means equipment*
20 *including repair and replacement parts for such equipment, but does not*
21 *include mobility enhancing equipment as defined in subsection (r) which*
22 *can withstand repeated use, is primarily and customarily used to serve a*
23 *medical purpose, generally is not useful to a person in the absence of illness*
24 *or injury and is not worn in or on the body;*
25 ~~(ii)~~ (hh) all sales of tangible personal property purchased directly by
26 a nonprofit organization for nonsectarian comprehensive multidiscipline
27 youth development programs and activities provided or sponsored by
28 such organization, and all sales of tangible personal property by or on
29 behalf of any such organization. This exemption shall not apply to tangible
30 personal property customarily used for human habitation purposes;
31 ~~(jj)~~ (ii) all sales of tangible personal property or services, including
32 the renting and leasing of tangible personal property, purchased directly
33 on behalf of a community-based mental retardation facility or mental
34 health center organized pursuant to K.S.A. 19-4001 *et seq.*, and amend-
35 ments thereto, and licensed in accordance with the provisions of K.S.A.
36 75-3307b and amendments thereto. This exemption shall not apply to
37 tangible personal property customarily used for human habitation
38 purposes;
39 ~~(kk)~~ (jj) (1) (A) all sales of machinery and equipment which are
40 used in this state as an integral or essential part of an integrated produc-
41 tion operation by a manufacturing or processing plant or facility;
42 (B) all sales of installation, repair and maintenance services per-
43 formed on such machinery and equipment; and

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

3 (2) For purposes of this subsection:

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

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

17 (C) “manufacturing or processing plant or facility” means a single,
18 fixed location owned or controlled by a manufacturing or processing busi-
19 ness that consists of one or more structures or buildings in a contiguous
20 area where integrated production operations are conducted to manufac-
21 ture or process tangible personal property to be ultimately sold at retail.
22 Such term shall not include any facility primarily operated for the purpose
23 of conveying or assisting in the conveyance of natural gas, electricity, oil
24 or water. A business may operate one or more manufacturing or proc-
25 essing plants or facilities at different locations to manufacture or process
26 a single product of tangible personal property to be ultimately sold at
27 retail;

28 (D) “manufacturing or processing business” means a business that
29 utilizes an integrated production operation to manufacture, process, fab-
30 ricate, finish, or assemble items for wholesale and retail distribution as
31 part of what is commonly regarded by the general public as an industrial
32 manufacturing or processing operation or an agricultural commodity
33 processing operation. (i) Industrial manufacturing or processing opera-
34 tions include, by way of illustration but not of limitation, the fabrication
35 of automobiles, airplanes, machinery or transportation equipment, the
36 fabrication of metal, plastic, wood, or paper products, electricity power
37 generation, water treatment, petroleum refining, chemical production,
38 wholesale bottling, newspaper printing, ready mixed concrete production,
39 and the remanufacturing of used parts for wholesale or retail sale. Such
40 processing operations shall include operations at an oil well, gas well, mine
41 or other excavation site where the oil, gas, minerals, coal, clay, stone, sand
42 or gravel that has been extracted from the earth is cleaned, separated,
43 crushed, ground, milled, screened, washed, or otherwise treated or pre-

1 pared before its transmission to a refinery or before any other wholesale
2 or retail distribution. (ii) Agricultural commodity processing operations
3 include, by way of illustration but not of limitation, meat packing, poultry
4 slaughtering and dressing, processing and packaging farm and dairy prod-
5 ucts in sealed containers for wholesale and retail distribution, feed grind-
6 ing, grain milling, frozen food processing, and grain handling, cleaning,
7 blending, fumigation, drying and aeration operations engaged in by grain
8 elevators or other grain storage facilities. (iii) Manufacturing or processing
9 businesses do not include, by way of illustration but not of limitation,
10 nonindustrial businesses whose operations are primarily retail and that
11 produce or process tangible personal property as an incidental part of
12 conducting the retail business, such as retailers who bake, cook or prepare
13 food products in the regular course of their retail trade, grocery stores,
14 meat lockers and meat markets that butcher or dress livestock or poultry
15 in the regular course of their retail trade, contractors who alter, service,
16 repair or improve real property, and retail businesses that clean, service
17 or refurbish and repair tangible personal property for its owner;

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

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

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

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

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

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

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

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

43 (F) to plan, manage, control or record the receipt and flow of inven-

1 tories of raw materials, consumables and component parts, the flow of
2 the property undergoing manufacturing or processing and the manage-
3 ment of inventories of the finished product;

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

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

10 (I) to transmit or transport electricity, coke, gas, water, steam or sim-
11 ilar substances used in production operations from the point of genera-
12 tion, if produced by the manufacturer or processor at the plant site, to
13 that manufacturer's production operation; or, if purchased or delivered
14 from offsite, from the point where the substance enters the site of the
15 plant or facility to that manufacturer's production operations;

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

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

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

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

26 (4) The following machinery, equipment and materials shall be
27 deemed to be exempt even though it may not otherwise qualify as ma-
28 chinery and equipment used as an integral or essential part of an inte-
29 grated production operation: (A) Computers and related peripheral
30 equipment that are utilized by a manufacturing or processing business
31 for engineering of the finished product or for research and development
32 or product design; (B) machinery and equipment that is utilized by a
33 manufacturing or processing business to manufacture or rebuild tangible
34 personal property that is used in manufacturing or processing operations,
35 including tools, dies, molds, forms and other parts of qualifying machinery
36 and equipment; (C) portable plants for aggregate concrete, bulk cement
37 and asphalt including cement mixing drums to be attached to a motor
38 vehicle; (D) industrial fixtures, devices, support facilities and special foun-
39 dations necessary for manufacturing and production operations, and ma-
40 terials and other tangible personal property sold for the purpose of fab-
41 ricating such fixtures, devices, facilities and foundations. An exemption
42 certificate for such purchases shall be signed by the manufacturer or
43 processor. If the fabricator purchases such material, the fabricator shall

1 also sign the exemption certificate; and (E) a manufacturing or processing
2 business' laboratory equipment that is not located at the plant or facility,
3 but that would otherwise qualify for exemption under subsection (3)(E).

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

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

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

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

19 (D) office machines and equipment including computers and related
20 peripheral equipment not used directly and primarily to control or mea-
21 sure the manufacturing process;

22 (E) furniture and other furnishings;

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

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

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

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

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

36 (6) Subsections (3) and (5) shall not be construed as exclusive listings
37 of the machinery and equipment that qualify or do not qualify as an
38 integral or essential part of an integrated production operation. When
39 machinery or equipment is used as an integral or essential part of pro-
40 duction operations part of the time and for nonproduction purpose at
41 other times, the primary use of the machinery or equipment shall deter-
42 mine whether or not such machinery or equipment qualifies for
43 exemption.

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

3 ~~(H)~~ (kk) all sales of educational materials purchased for distribution
4 to the public at no charge by a nonprofit corporation organized for the
5 purpose of encouraging, fostering and conducting programs for the im-
6 provement of public health;

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

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

14 ~~(oo)~~ (nn) all sales of tangible personal property purchased by a com-
15 munity action group or agency for the exclusive purpose of repairing or
16 weatherizing housing occupied by low income individuals;

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

19 ~~(qq)~~ (pp) all sales of tangible personal property and services pur-
20 chased by a nonprofit museum or historical society or any combination
21 thereof, including a nonprofit organization which is organized for the
22 purpose of stimulating public interest in the exploration of space by pro-
23 viding educational information, exhibits and experiences, which is exempt
24 from federal income taxation pursuant to section 501(c)(3) of the federal
25 internal revenue code of 1986;

26 ~~(rr)~~ (qq) all sales of tangible personal property which will admit the
27 purchaser thereof to any annual event sponsored by a nonprofit organi-
28 zation which is exempt from federal income taxation pursuant to section
29 501(c)(3) of the federal internal revenue code of 1986;

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

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

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

41 ~~(vv)~~ (uu) all sales of tangible personal property purchased by any of
42 the following organizations which are exempt from federal income taxa-
43 tion pursuant to section 501 (c)(3) of the federal internal revenue code

1 of 1986, for the following purposes, and all sales of any such property by
2 or on behalf of any such organization for any such purpose:

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

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

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

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

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

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

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

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

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

36 ~~(wx)~~ (ww) all sales of tangible personal property and services pur-
37 chased by a nonprofit zoo which is exempt from federal income taxation
38 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
39 or on behalf of such zoo by an entity itself exempt from federal income
40 taxation pursuant to section 501(c)(3) of the federal internal revenue code
41 of 1986 contracted with to operate such zoo and all sales of tangible
42 personal property or services purchased by a contractor for the purpose
43 of constructing, equipping, reconstructing, maintaining, repairing, en-

1 larging, furnishing or remodeling facilities for any nonprofit zoo which
2 would be exempt from taxation under the provisions of this section if
3 purchased directly by such nonprofit zoo or the entity operating such zoo.
4 Nothing in this subsection shall be deemed to exempt the purchase of
5 any construction machinery, equipment or tools used in the constructing,
6 equipping, reconstructing, maintaining, repairing, enlarging, furnishing
7 or remodeling facilities for any nonprofit zoo. When any nonprofit zoo
8 shall contract for the purpose of constructing, equipping, reconstructing,
9 maintaining, repairing, enlarging, furnishing or remodeling facilities, it
10 shall obtain from the state and furnish to the contractor an exemption
11 certificate for the project involved, and the contractor may purchase ma-
12 terials for incorporation in such project. The contractor shall furnish the
13 number of such certificate to all suppliers from whom such purchases are
14 made, and such suppliers shall execute invoices covering the same bearing
15 the number of such certificate. Upon completion of the project the con-
16 tractor shall furnish to the nonprofit zoo concerned a sworn statement,
17 on a form to be provided by the director of taxation, that all purchases so
18 made were entitled to exemption under this subsection. All invoices shall
19 be held by the contractor for a period of five years and shall be subject
20 to audit by the director of taxation. If any materials purchased under such
21 a certificate are found not to have been incorporated in the building or
22 other project or not to have been returned for credit or the sales or
23 compensating tax otherwise imposed upon such materials which will not
24 be so incorporated in the building or other project reported and paid by
25 such contractor to the director of taxation not later than the 20th day of
26 the month following the close of the month in which it shall be deter-
27 mined that such materials will not be used for the purpose for which such
28 certificate was issued, the nonprofit zoo concerned shall be liable for tax
29 on all materials purchased for the project, and upon payment thereof it
30 may recover the same from the contractor together with reasonable at-
31 torney fees. Any contractor or any agent, employee or subcontractor
32 thereof, who shall use or otherwise dispose of any materials purchased
33 under such a certificate for any purpose other than that for which such a
34 certificate is issued without the payment of the sales or compensating tax
35 otherwise imposed upon such materials, shall be guilty of a misdemeanor
36 and, upon conviction therefor, shall be subject to the penalties provided
37 for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

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

41 ~~(zz)~~ (yy) all sales of machinery and equipment purchased by over-
42 the-air, free access radio or television station which is used directly and
43 primarily for the purpose of producing a broadcast signal or is such that

1 the failure of the machinery or equipment to operate would cause broad-
2 casting to cease. For purposes of this subsection, machinery and equip-
3 ment shall include, but not be limited to, that required by rules and
4 regulations of the federal communications commission, and all sales of
5 electricity which are essential or necessary for the purpose of producing
6 a broadcast signal or is such that the failure of the electricity would cause
7 broadcasting to cease;

8 ~~(aaa)~~ (zz) all sales of tangible personal property and services pur-
9 chased by a religious organization which is exempt from federal income
10 taxation pursuant to section 501(c)(3) of the federal internal revenue
11 code, and used exclusively for religious purposes, and all sales of tangible
12 personal property or services purchased by a contractor for the purpose
13 of constructing, equipping, reconstructing, maintaining, repairing, en-
14 larging, furnishing or remodeling facilities for any such organization which
15 would be exempt from taxation under the provisions of this section if
16 purchased directly by such organization. Nothing in this subsection shall
17 be deemed to exempt the purchase of any construction machinery, equip-
18 ment or tools used in the constructing, equipping, reconstructing, main-
19 taining, repairing, enlarging, furnishing or remodeling facilities for any
20 such organization. When any such organization shall contract for the pur-
21 pose of constructing, equipping, reconstructing, maintaining, repairing,
22 enlarging, furnishing or remodeling facilities, it shall obtain from the state
23 and furnish to the contractor an exemption certificate for the project
24 involved, and the contractor may purchase materials for incorporation in
25 such project. The contractor shall furnish the number of such certificate
26 to all suppliers from whom such purchases are made, and such suppliers
27 shall execute invoices covering the same bearing the number of such
28 certificate. Upon completion of the project the contractor shall furnish to
29 such organization concerned a sworn statement, on a form to be provided
30 by the director of taxation, that all purchases so made were entitled to
31 exemption under this subsection. All invoices shall be held by the con-
32 tractor for a period of five years and shall be subject to audit by the
33 director of taxation. If any materials purchased under such a certificate
34 are found not to have been incorporated in the building or other project
35 or not to have been returned for credit or the sales or compensating tax
36 otherwise imposed upon such materials which will not be so incorporated
37 in the building or other project reported and paid by such contractor to
38 the director of taxation not later than the 20th day of the month following
39 the close of the month in which it shall be determined that such materials
40 will not be used for the purpose for which such certificate was issued,
41 such organization concerned shall be liable for tax on all materials pur-
42 chased for the project, and upon payment thereof it may recover the same
43 from the contractor together with reasonable attorney fees. Any contrac-

1 tor or any agent, employee or subcontractor thereof, who shall use or
2 otherwise dispose of any materials purchased under such a certificate for
3 any purpose other than that for which such a certificate is issued without
4 the payment of the sales or compensating tax otherwise imposed upon
5 such materials, shall be guilty of a misdemeanor and, upon conviction
6 therefor, shall be subject to the penalties provided for in subsection (g)
7 of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after
8 July 1, 1998, but prior to the effective date of this act upon the gross
9 receipts received from any sale exempted by the amendatory provisions
10 of this subsection shall be refunded. Each claim for a sales tax refund
11 shall be verified and submitted to the director of taxation upon forms
12 furnished by the director and shall be accompanied by any additional
13 documentation required by the director. The director shall review each
14 claim and shall refund that amount of sales tax paid as determined under
15 the provisions of this subsection. All refunds shall be paid from the sales
16 tax refund fund upon warrants of the director of accounts and reports
17 pursuant to vouchers approved by the director or the director's designee;

18 ~~(bbb)~~ (aaa) all sales of food for human consumption by an organi-
19 zation which is exempt from federal income taxation pursuant to section
20 501 (c)(3) of the federal internal revenue code of 1986, pursuant to a food
21 distribution program which offers such food at a price below cost in
22 exchange for the performance of community service by the purchaser
23 thereof;

24 ~~(eee)~~ (bbb) on and after July 1, 1999, all sales of tangible personal
25 property and services purchased by a primary care clinic or health center
26 the primary purpose of which is to provide services to medically under-
27 served individuals and families, and which is exempt from federal income
28 taxation pursuant to section 501 (c)(3) of the federal internal revenue
29 code, and all sales of tangible personal property or services purchased by
30 a contractor for the purpose of constructing, equipping, reconstructing,
31 maintaining, repairing, enlarging, furnishing or remodeling facilities for
32 any such clinic or center which would be exempt from taxation under the
33 provisions of this section if purchased directly by such clinic or center.
34 Nothing in this subsection shall be deemed to exempt the purchase of
35 any construction machinery, equipment or tools used in the constructing,
36 equipping, reconstructing, maintaining, repairing, enlarging, furnishing
37 or remodeling facilities for any such clinic or center. When any such clinic
38 or center shall contract for the purpose of constructing, equipping, re-
39 constructing, maintaining, repairing, enlarging, furnishing or remodeling
40 facilities, it shall obtain from the state and furnish to the contractor an
41 exemption certificate for the project involved, and the contractor may
42 purchase materials for incorporation in such project. The contractor shall
43 furnish the number of such certificate to all suppliers from whom such

1 purchases are made, and such suppliers shall execute invoices covering
2 the same bearing the number of such certificate. Upon completion of the
3 project the contractor shall furnish to such clinic or center concerned a
4 sworn statement, on a form to be provided by the director of taxation,
5 that all purchases so made were entitled to exemption under this subsec-
6 tion. All invoices shall be held by the contractor for a period of five years
7 and shall be subject to audit by the director of taxation. If any materials
8 purchased under such a certificate are found not to have been incorpo-
9 rated in the building or other project or not to have been returned for
10 credit or the sales or compensating tax otherwise imposed upon such
11 materials which will not be so incorporated in the building or other pro-
12 ject reported and paid by such contractor to the director of taxation not
13 later than the 20th day of the month following the close of the month in
14 which it shall be determined that such materials will not be used for the
15 purpose for which such certificate was issued, such clinic or center con-
16 cerned shall be liable for tax on all materials purchased for the project,
17 and upon payment thereof it may recover the same from the contractor
18 together with reasonable attorney fees. Any contractor or any agent, em-
19 ployee or subcontractor thereof, who shall use or otherwise dispose of
20 any materials purchased under such a certificate for any purpose other
21 than that for which such a certificate is issued without the payment of
22 the sales or compensating tax otherwise imposed upon such materials,
23 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
24 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
25 and amendments thereto;

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

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

41 ~~(fff)~~ (eee) all sales of material handling equipment, racking systems
42 and other related machinery and equipment that is used for the handling,
43 movement or storage of tangible personal property in a warehouse or

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

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

19 Sec. 7. K.S.A. 79-3607 is hereby amended to read as follows: 79-
20 3607. (a) Retailers shall make returns to the director at the times pre-
21 scribed by this section upon forms prescribed and furnished by the di-
22 rector stating: (1) The name and address of the retailer; (2) the total
23 amount of gross sales of all tangible personal property and taxable services
24 rendered by the retailer during the period for which the return is made;
25 (3) the total amount received during the period for which the return is
26 made on charge and time sales of tangible personal property made and
27 taxable services rendered prior to the period for which the return is made;
28 (4) deductions allowed by law from such total amount of gross sales and
29 from total amount received during the period for which the return is
30 made on such charge and time sales; (5) receipts during the period for
31 which the return is made from the total amount of sales of tangible per-
32 sonal property and taxable services rendered during such period in the
33 course of such business, after deductions allowed by law have been made;
34 (6) receipts during the period for which the return is made from charge
35 and time sales of tangible personal property made and taxable services
36 rendered prior to such period in the course of such business, after de-
37 ductions allowed by law have been made; (7) gross receipts during the
38 period for which the return is made from sales of tangible personal prop-
39 erty and taxable services rendered in the course of such business upon
40 the basis of which the tax is imposed. The return shall include such other
41 pertinent information as the director may require. In making such return,
42 the retailer shall determine the market value of any consideration, other
43 than money, received in connection with the sale of any tangible personal

1 property in the course of the business and shall include such value in the
2 return. Such value shall be subject to review and revision by the director
3 as hereinafter provided. Refunds made by the retailer during the period
4 for which the return is made on account of tangible personal property
5 returned to the retailer shall be allowed as a deduction under subdivision
6 (4) of this section in case the retailer has theretofore included the receipts
7 from such sale in a return made by such retailer and paid taxes therein
8 imposed by this act. The retailer shall, at the time of making such return,
9 pay to the director the amount of tax herein imposed, except as otherwise
10 provided in this section. The director may extend the time for making
11 returns and paying the tax required by this act for any period not to exceed
12 60 days under such rules and regulations as the secretary of revenue may
13 prescribe. When the total tax for which any retailer is liable under this
14 act, does not exceed the sum of \$80 in any calendar year, the retailer shall
15 file an annual return on or before January 25 of the following year. When
16 the total tax liability does not exceed \$1,600 in any calendar year, the
17 retailer shall file returns quarterly on or before the 25th day of the month
18 following the end of each calendar quarter. When the total tax liability
19 exceeds \$1,600 in any calendar year, the retailer shall file a return for
20 each month on or before the 25th day of the following month. When the
21 total tax liability exceeds \$32,000 in any calendar year, the retailer shall
22 be required to pay the sales tax liability for the first 15 days of each month
23 to the director on or before the 25th day of that month. Any such payment
24 shall accompany the return filed for the preceding month. A retailer will
25 be considered to have complied with the requirements to pay the first 15
26 days' liability for any month if, on or before the 25th day of that month,
27 the retailer paid 90% of the liability for that fifteen-day period, or 50%
28 of such retailer's liability in the immediate preceding calendar year for
29 the same month as the month in which the fifteen-day period occurs
30 computed at the rate applicable in the month in which the fifteen-day
31 period occurs, and, in either case, paid any underpayment with the pay-
32 ment required on or before the 25th day of the following month. Such
33 retailers shall pay their sales tax liabilities for the remainder of each such
34 month at the time of filing the return for such month. Determinations of
35 amounts of liability in a calendar year for purposes of determining filing
36 requirements shall be made by the director upon the basis of amounts of
37 liability by those retailers during the preceding calendar year or by esti-
38 mates in cases of retailers having no previous sales tax histories. The
39 director is hereby authorized to modify the filing schedule for any retailer
40 when it is apparent that the original determination was inaccurate.

41 *(b) All model 1, model 2 and model 3 sellers are required to file re-*
42 *turns electronically. Any model 1, model 2 or model 3 seller may submit*
43 *its sales and use tax returns in a simplified format approved by the di-*

1 *rector. Any seller that is registered under the agreement, which does not*
2 *have a legal requirement to register in this state, and is not a model 1,*
3 *model 2 or model 3 seller, may submit its sales and use tax returns as*
4 *follows: (1) Upon registration, the director shall provide to the seller the*
5 *returns required;*

6 *(2) seller shall file a return anytime within one year of the month of*
7 *initial registration, and future returns are required on an annual basis in*
8 *succeeding years; and*

9 *(3) in addition to the returns required in subsection (b)(2), sellers are*
10 *required to submit returns in the month following any month in which*
11 *they have accumulated state and local sales tax funds for this state in the*
12 *amount of \$1,600 or more.*

13 Sec. 8. K.S.A. 79-3608 is hereby amended to read as follows: 79-
14 3608. *(a) Except as otherwise provided, it shall be unlawful for any person*
15 *to engage in the business of selling tangible personal property at retail or*
16 *furnishing taxable services in this state without a registration certificate*
17 *from the director of taxation. Application for such certificate shall be*
18 *made to the director upon forms furnished by the director, and shall state*
19 *the name of the applicant, the address or addresses at which the applicant*
20 *proposes to engage in such business, and the character of such business.*
21 *Utilities taxable under this act shall not be required to register but shall*
22 *comply with all other provisions of this act. The taxpayer may be regis-*
23 *tered by an agent. Such appointment of the agent by the taxpayer shall*
24 *be in writing and submitted to the director. The taxpayer shall be issued*
25 *a registration certificate to engage in the business for which application*
26 *is made unless the applicant at the time of making such application owes*
27 *any sales tax, penalty or interest, and in such case, before a registration*
28 *certificate is issued, the director of taxation shall require the applicant to*
29 *pay the amount owed.*

30 *(b) A separate registration certificate shall be issued for each place of*
31 *business, and shall be conspicuously displayed therein.*

32 *(c) A seller registering under the agreement is considered registered*
33 *in this state and shall not be required to pay any registration fees or other*
34 *charges to register in this state if the seller has no legal requirement to*
35 *register. A written signature from the seller registering under the agree-*
36 *ment is not required. An agent may register a seller under uniform pro-*
37 *cedures determined by the secretary. A seller may cancel its registration*
38 *under the system at any time under uniform procedures determined by*
39 *the secretary. Cancellation does not relieve the seller of its liability for*
40 *remitting to this state any taxes collected.*

41 Sec. 9. K.S.A. 2002 Supp. 79-3650 is hereby amended to read as
42 follows: 79-3650. (a) A refund request may be filed directly by a consumer
43 or purchaser if the consumer or purchaser: (1) Paid the tax directly to the

1 department; (2) provides evidence that the retailer refused or was un-
2 available to refund the tax; (3) provides evidence that the retailer did not
3 act upon its refund request in a timely manner as provided in subsection
4 (b), or; (4) provides a notarized statement to the department from the
5 retailer that the retailer: (A) Will not claim a refund of the same tax
6 included in the purchaser's or consumer's refund request; (B) agrees to
7 provide to the consumer or purchaser any information or documentation
8 in the retailer's possession needed for submission to the department to
9 support or prove the refund claim; (C) has remitted to the state the tax
10 sought to be refunded; and (D) has not taken or will not take a credit for
11 such tax. A retailer providing false information in any such statement shall
12 be subject to penalties prescribed by K.S.A. 2002 Supp. 79-3615(h), and
13 amendments thereto.

14 (b) *A cause of action against the seller for the over-collected sales or*
15 *use taxes does not accrue until a purchaser has provided written notice*
16 *to a seller and the seller has had 60 days to respond. Such notice to the*
17 *seller must contain the information necessary to determine the validity of*
18 *the request. In connection with a purchaser's request from a seller or over-*
19 *collected sales or use taxes, a seller shall be presumed to have a reasonable*
20 *business practice, if in the collection of such sales or use taxes, the seller*
21 *uses either a provider or a system, including a proprietary system, that*
22 *is certified by the state and has remitted to the state all taxes collected*
23 *less any deductions, credits or collection allowances. If the director of*
24 *taxation finds upon proper showing that a consumer or purchaser sub-*
25 *mitted a refund request to a retailer that was not acted upon by the*
26 *retailer in a timely manner, the director shall extend the time for filing*
27 *the request with the department beyond the three year limitation period*
28 *that is otherwise provided by the time attributed to the delay caused by*
29 *the retailer.*

30 Sec. 10. K.S.A. 79-3651 is hereby amended to read as follows: 79-
31 3651. (a) For the purpose of the proper administration of the Kansas
32 retailers' sales tax act and to prevent evasion of the tax imposed there-
33 under, it shall be presumed that all gross receipts from the sale of tangible
34 personal property or enumerated services are subject to tax until the
35 contrary is established. The burden of proving that a sale is not subject
36 to tax is upon the ~~vendor~~ seller unless the ~~vendor~~ seller takes from the
37 purchaser an exemption certificate to the effect that the property or serv-
38 ice purchased is not subject to tax.

39 (b) An exemption certificate shall relieve the ~~vendor~~ seller from col-
40 lecting and remitting tax ~~when taken in good faith. A vendor shall be~~
41 ~~presumed to have accepted an exemption certificate in good faith in the~~
42 ~~absence of evidence to the contrary. A vendor shall be deemed to have~~
43 ~~accepted an exemption certificate in good faith if the vendor. (1) Main-~~

1 ~~tains a completed exemption certificate, (2) has ascertained the identity~~
2 ~~of the person or entity who presented the exemption certificate; and (3)~~
3 ~~has not been shown by a preponderance of the evidence to have had~~
4 ~~knowledge that the presentation of the certificate was improper if the~~
5 ~~seller has obtained the required identifying information as determined by~~
6 ~~the director, from the purchaser and the reason for claiming the exemption~~
7 ~~at the time of purchase and has maintained proper records of exempt~~
8 ~~transactions pursuant to subsection (a) of K.S.A. 79-3609, and amend-~~
9 ~~ments thereto and provided them to the director when requested, except~~
10 ~~that a seller who fraudulently fails to collect the tax or solicits purchasers~~
11 ~~to participate in the unlawful claim of an exemption shall not be relieved~~
12 ~~from such liability. The seller shall obtain the same information for proof~~
13 ~~of a claimed exemption regardless of the medium in which the transaction~~
14 ~~occurred. The purchaser improperly claiming an exemption shall remain~~
15 ~~liable for the nonpayment of tax.~~

16 (c) The exemption certificate shall be substantially in such form as
17 the director may prescribe. *The seller shall use the standard form for*
18 *claiming an exemption electronically as adopted by the director. A vendor*
19 *seller may require a purchaser to provide a copy of the purchaser's sales*
20 *tax registration certificate with a resale certificate as a condition for hon-*
21 *oring the purchaser's resale exemption claim. A purchaser is not required*
22 *to provide a signature to claim an exemption from tax unless a paper*
23 *exemption certificate is used.*

24 (d) To lawfully present a resale exemption certificate the purchaser
25 must be engaged in the business of selling property or services of the
26 same kind that is purchased, hold a registration certificate, and at the
27 time of purchase, either intend to resell the property in the regular course
28 of business or be unable to ascertain whether the property will be resold
29 or used for some other purpose.

30 (e) Any person who issues a resale certificate or other exemption
31 certificate in order to unlawfully avoid payment of tax for business or
32 personal gain shall be guilty of a misdemeanor and upon conviction shall
33 be punished by a fine of not more than \$1,000 or imprisonment for not
34 more than one year, or by both. In addition, if the director determines
35 that a person issued a resale certificate in order to unlawfully avoid pay-
36 ment of tax for business or personal gain, the director shall increase any
37 penalty that is due from the person under K.S.A. 79-3615, and amend-
38 ments thereto, by \$250 or 10 times the tax due, whichever is greater, on
39 each transaction where the misuse of a resale certificate occurred.

40 (f) Exemption certificates issued by a nonprofit entity claiming a spe-
41 cific exemption under K.S.A. 79-3606, and amendments thereto, shall
42 bear the name and address of the entity and indicate the subsection under
43 which the exemption is being claimed. Such certificate shall be signed by

1 an officer, office manager or other administrator of the nonprofit entity,
2 *if in paper form*, and contain the driver's license number of the signer.
3 The certificate shall be substantially in such form as the director may
4 prescribe. Payments made on an exempt entity's check, warrant, voucher
5 or is charged to the entity's account shall relieve the ~~vendor~~ seller from
6 collecting and remitting the tax if it is taken in good faith.

7 (g) It shall be the duty of every person who purchases tangible per-
8 sonal property or services that are taxable under this act to pay the full
9 amount of tax that is lawfully due to the retailer making the sale. Any
10 person who willfully and intentionally refuses to pay such tax to the re-
11 tailer shall be guilty of a misdemeanor and upon conviction shall be pun-
12 ished and fined as provided by subsection (g) of K.S.A. 79-3615, and
13 amendments thereto.

14 Sec. 11. K.S.A. 2002 Supp. 79-3703 is hereby amended to read as
15 follows: 79-3703. There is hereby levied and there shall be collected from
16 every person in this state a tax or excise for the privilege of using, storing,
17 or consuming within this state any article of tangible personal property
18 *or using, consuming or otherwise realizing the benefits in this state from*
19 *any services provided*. Such tax shall be levied and collected in an amount
20 equal to the consideration paid by the taxpayer multiplied by the rate of
21 5.3% on and after July 1, 2002, and before July 1, 2004, 5.2% on and after
22 July 1, 2004, and before July 1, 2005, and 5% on and after July 1, 2005.
23 Within a redevelopment district established pursuant to K.S.A. 74-8921,
24 and amendments thereto, there is hereby levied and there shall be col-
25 lected and paid an additional tax of 2% until the earlier of: (1) The date
26 the bonds issued to finance or refinance the redevelopment project un-
27 dertaken in the district have been paid in full; or (2) the final scheduled
28 maturity of the first series of bonds issued to finance the redevelopment
29 project. All property *or services* purchased or leased within or without
30 this state and *such property* subsequently used, stored or consumed in
31 this state *or such services used by, consumed by or benefiting the pur-*
32 *chaser in this state* shall be subject to the compensating tax if the same
33 property, *services* or transaction would have been subject to the Kansas
34 retailers' sales tax had the transaction been wholly within this state.

35 New Sec. 12. State sales tax rate changes must take effect on the first
36 day of a calendar quarter. The secretary shall make a reasonable effort to
37 provide sellers with as much advance notice as practicable of any rate
38 changes, legislative change in the tax base and amendments to sales and
39 use tax rules and regulations. Failure of a seller to receive such notice or
40 failure of the secretary to provide such notice to a seller or limit the
41 effective date of a rate change shall not relieve the seller of its obligation
42 to collect sales or use tax or otherwise comply with any such legislative,
43 rule or regulatory changes.

1 New Sec. 13. On and after the databases are developed pursuant to
2 subsections (a), (b) and (c) of section 14 and amendments thereto and
3 after the state has joined and become a member of the agreement, but
4 not before July 1, 2004, sellers and certified service providers (CSPs) are
5 relieved from liability for state and local sales and use tax for having
6 charged and collected the incorrect amount of sales tax resulting from
7 the seller or certified service provider relying on erroneous data provided
8 by the secretary on tax rates, boundaries or taxing jurisdiction assign-
9 ments. If the secretary provides an address-based system for assigning
10 taxing jurisdictions that meets the requirements developed pursuant to
11 the federal mobile telecommunications sourcing act, no liability relief is
12 provided to sellers or certified service providers for errors resulting from
13 reliance on the information provided under the provisions of subsection
14 (c) of section 14 and amendments thereto.

15 New Sec. 14. (a) The secretary shall provide and maintain a database
16 that describes boundary changes for all taxing jurisdictions. This database
17 shall include a description of the change and the effective date of the
18 change for sales and use tax purposes.

19 (b) The secretary shall provide and maintain a database of all sales
20 and use tax rates for all taxing jurisdictions. For the identification of coun-
21 ties and cities, codes corresponding to the rates must be provided ac-
22 cording to federal information processing standards (FIPS) as developed
23 by the national institute of standards and technology. For the identifica-
24 tion of all other jurisdictions, codes corresponding to the rates must be
25 in the format determined by the secretary.

26 (c) The secretary must provide and maintain a database that assigns
27 each five- and nine-digit zip code to the proper rates and taxing jurisdic-
28 tions. The lowest combined tax rate imposed in the zip code area shall
29 apply if the area includes more than one tax rate in any level of taxing
30 jurisdiction. If a nine-digit zip code designation is not available for a street
31 address, or if a seller is unable to determine the nine-digit zip code des-
32 ignation of a purchaser after exercising due diligence to determine the
33 designation, the seller may apply the rate for the five-digit zip code area.
34 For purposes of this section, there is a rebuttable presumption that a
35 seller has exercised due diligence if the seller has attempted to determine
36 the nine-digit zip code designation by utilizing software approved by the
37 secretary that makes this designation from the street address and the five-
38 digit zip code of the purchaser.

39 (d) The secretary shall participate with other member states in the
40 development of an address-based system for assigning taxing jurisdictions.
41 The system must meet the requirements developed pursuant to the fed-
42 eral mobile telecommunications sourcing act (4 U.S.C. § 119).

43 (e) The electronic databases provided for in subsections (a), (b), (c)

1 and (d) shall be in downloadable format as determined by the secretary.
2 The provisions of subsections (c) and (d) do not apply when the purchased
3 product is received by the purchaser at the business location of the seller.

4 New Sec. 15. (a) The retail sale of a product shall be sourced in
5 accordance with section 16 and amendments thereto. The provisions of
6 section 16 and amendments thereto apply regardless of the characteri-
7 zation of a product as tangible personal property, a digital good or a
8 service. The provisions of section 16 and amendments thereto only apply
9 to determine a seller's obligation to pay or collect and remit a sales or
10 use tax with respect to the seller's retail sale of a product. These provisions
11 do not affect the obligation of a purchaser or lessee to remit tax on the
12 use of the product to the taxing jurisdictions of that use.

13 (b) Section 16 and amendments thereto does not apply to sales or
14 use taxes levied on the following: (1) The retail sale or transfer of water
15 craft, modular homes, manufactured homes or mobile homes. The retail
16 sale of these items shall be sourced according to K.S.A. 12-191 and
17 amendments thereto;

18 (2) the retail sales, excluding lease or rental, of motor vehicles, trail-
19 ers, semi-trailers or aircraft that do not qualify as transportation equip-
20 ment, as defined in subsection (d) of section 16 and amendments thereto.
21 The retail sale of these items shall be sourced according to K.S.A. 12-191
22 and amendments thereto and the lease or rental of these items must be
23 sourced according to subsection (c) of section 16 and amendments
24 thereto; and

25 (3) telecommunications services, as set out in section 19 and amend-
26 ments thereto, shall be sourced in accordance with section 19 and amend-
27 ments thereto.

28 New Sec. 16. (a) The retail sale, excluding lease or rental, of a prod-
29 uct shall be sourced as follows: (1) When the product is received by the
30 purchaser at a business location of the seller, the sale is sourced to that
31 business location;

32 (2) when the product is not received by the purchaser at a business
33 location of the seller, the sale is sourced to the location where receipt by
34 the purchaser, or the purchaser's donee, designated as such by the pur-
35 chaser, occurs, including the location indicated by instructions for delivery
36 to the purchaser or donee, known to the seller;

37 (3) when subsection (a)(1) and (a)(2) do not apply, the sale is sourced
38 to the location indicated by an address for the purchaser that is available
39 from the business records of the seller that are maintained in the ordinary
40 course of the seller's business when use of this address does not constitute
41 bad faith;

42 (4) when subsections (a)(1), (a)(2) and (a)(3) do not apply, the sale is
43 sourced to the location indicated by an address for the purchaser obtained

1 during the consummation of the sale, including the address of a pur-
2 chaser's payment instrument, if no other address is available, when use
3 of this address does not constitute bad faith;

4 (5) when none of the previous rules of subsection (a)(1), (a)(2), (a)(3)
5 or (a)(4) apply, including the circumstance in which the seller is without
6 sufficient information to apply the previous rules, then the location will
7 be determined by the address from which tangible personal property was
8 shipped, from which the digital good or the computer software delivered
9 electronically was first available for transmission by the seller, or from
10 which the service was provided, disregarding for these purposes any lo-
11 cation that merely provided the digital transfer of the product sold.

12 (b) The lease or rental of tangible personal property, other than prop-
13 erty identified in subsection (c) or (d), shall be sourced as follows: (1) For
14 a lease or rental that requires recurring periodic payments, the first pe-
15 riodic payment is sourced the same as a retail sale in accordance with the
16 provisions of subsection (a). Periodic payments made subsequent to the
17 first payment are sourced to the primary property location for each period
18 covered by the payment. The primary property location shall be as indi-
19 cated by an address for the property provided by the lessee that is avail-
20 able to the lessor from its records maintained in the ordinary course of
21 business, when use of this address does not constitute bad faith. The
22 property location shall not be altered by intermittent use at different
23 locations, such as use of business property that accompanies employees
24 on business trips and service calls;

25 (2) for a lease or rental that does not require recurring periodic pay-
26 ments, the payment is sourced the same as a retail sale in accordance
27 with the provisions of subsection (a); and

28 (3) this subsection does not affect the imposition or computation of
29 sales or use tax on leases or rentals based on a lump sum or accelerated
30 basis, or on the acquisition of property for lease.

31 (c) The lease or rental of motor vehicles, trailers, semi-trailers or air-
32 craft that do not qualify as transportation equipment, as defined in sub-
33 section (d), shall be sourced as follows: (1) For a lease or rental that
34 requires recurring periodic payments, each periodic payment is sourced
35 to the primary property location. The primary property location shall be
36 as indicated by an address for the property provided by the lessee that is
37 available to the lessor from its records maintained in the ordinary course
38 of business, when use of this address does not constitute bad faith. This
39 location shall not be altered by intermittent use at different locations;

40 (2) for a lease or rental that does not require recurring periodic pay-
41 ments, the payment is sourced the same as a retail sale in accordance
42 with the provisions of subsection (a); and

43 (3) this subsection does not affect the imposition or computation of

1 sales or use tax on leases or rentals based on a lump sum or accelerated
2 basis or on the acquisition of property for lease.

3 (d) The retail sale, including lease or rental, of transportation equip-
4 ment shall be sourced the same as a retail sale in accordance with the
5 provisions of subsection (a), notwithstanding the exclusion of lease or
6 rental in subsection (a). "Transportation equipment" means any of the
7 following: (1) Locomotives and railcars that are utilized for the carriage
8 of persons or property in interstate commerce;

9 (2) trucks and truck-tractors with a gross vehicle weight rating
10 (GVWR) of 10,001 pounds or greater, trailers, semi-trailers or passenger
11 buses that are: (A) Registered through the international registration plan;
12 and

13 (B) operated under authority of a carrier authorized and certificated
14 by the United States department of transportation or another federal or
15 a foreign authority to engage in the carriage of persons or property in
16 interstate or foreign commerce;

17 (3) aircraft that are operated by air carriers authorized and certifi-
18 cated by the United States department of transportation or another fed-
19 eral or a foreign authority to engage in the carriage of persons or property
20 in interstate or foreign commerce; and

21 (4) containers designed for use on and component parts attached or
22 secured on the items set forth in subsection (d)(1), (d)(2) and (d)(3).

23 (e) As used in this section, the terms "receive" and "receipt" mean:

24 (1) Taking possession of tangible personal property;

25 (2) making first use of services; or

26 (3) taking possession or making first use of digital goods, whichever
27 comes first. The terms receive and receipt do not include possession by
28 a shipping company on behalf of the purchaser.

29 New Sec. 17. (a) Notwithstanding the provisions of section 16 and
30 amendments thereto, a business purchaser that is not a holder of a direct
31 pay permit that knows at the time of its purchase of a digital good, com-
32 puter software delivered electronically or a service that the digital good,
33 computer software delivered electronically or service will be concurrently
34 available for use in more than one jurisdiction shall deliver to the seller
35 in conjunction with its purchase a multiple points of use or MPU exemp-
36 tion form disclosing this fact.

37 (b) Upon receipt of the MPU exemption form, the seller is relieved
38 of all obligation to collect, pay or remit the applicable tax and the pur-
39 chaser shall be obligated to collect, pay or remit the applicable tax on a
40 direct pay basis.

41 (c) A purchaser delivering the MPU exemption form may use any
42 reasonable, but consistent and uniform, method of apportionment that is
43 supported by the purchaser's business records as they exist at the time of

1 the consummation of the sale.

2 (d) The MPU exemption form will remain in effect for all future sales
3 by the seller to the purchaser, except as to the subsequent sale's specific
4 apportionment that is governed by the principle of subsection (c) and the
5 facts existing at the time of the sale, until it is revoked in writing.

6 (e) A holder of a direct pay permit shall not be required to deliver
7 the MPU exemption form to the seller. A direct pay permit holder shall
8 follow the provisions of subsection (c) in apportioning the tax due on a
9 digital good or a service that will be concurrently available for use in more
10 than one jurisdiction.

11 New Sec. 18. (a) (1) Notwithstanding the provisions of section 16
12 and amendments thereto, a purchaser of direct mail that is not a holder
13 of a direct pay permit shall provide to the seller in conjunction with the
14 purchase either a direct mail form or information to show the jurisdictions
15 to which the direct mail is delivered to recipients.

16 (2) Upon receipt of the direct mail form, the seller is relieved of all
17 obligations to collect, pay or remit the applicable tax and the purchaser
18 is obligated to pay or remit the applicable tax on a direct pay basis. A
19 direct mail form shall remain in effect for all future sales of direct mail
20 by the seller to the purchaser until it is revoked in writing.

21 (3) Upon receipt of information from the purchaser showing the jur-
22 isdictions to which the direct mail is delivered to recipients, the seller
23 shall collect the tax according to the delivery information provided by the
24 purchaser. In the absence of bad faith, the seller is relieved of any further
25 obligation to collect tax on any transaction where the seller has collected
26 tax pursuant to the delivery information provided by the purchaser.

27 (b) If the purchaser of direct mail does not have a direct pay permit
28 and does not provide the seller with either a direct mail form or delivery
29 information, as required by subsection (a), the seller shall collect the tax
30 according to subsection (a)(5) of section 16 and amendments thereto.
31 Nothing in this subsection shall limit a purchaser's obligation for sales or
32 use tax to any state to which the direct mail is delivered.

33 (c) If a purchaser of direct mail provides the seller with documen-
34 tation of direct pay authority, the purchaser shall not be required to pro-
35 vide a direct mail form or delivery information to the seller.

36 New Sec. 19. (a) Except for the defined telecommunication services
37 in subsection (c), the sale of telecommunication service sold on a call-by-
38 call basis shall be sourced to each level of taxing jurisdiction where the
39 call originates and terminates in that jurisdiction or each level of taxing
40 jurisdiction where the call either originates or terminates and in which
41 the service address is also located.

42 (b) Except for the defined telecommunication services in subsection
43 (c), a sale of telecommunications services sold on a basis other than a call-

1 by-call basis, is sourced to the customer's place of primary use.

2 (c) The sale of the following telecommunication services shall be
3 sourced to each level of taxing jurisdiction as follows: (1) A sale of mobile
4 communications services other than air-to-ground radiotelephone service
5 and prepaid calling service, is sourced to the customer's place of primary
6 use as required by the mobile telecommunications sourcing act;

7 (2) a sale of post-paid calling service is sourced to the origination
8 point of the telecommunications signal as first identified by either the
9 seller's telecommunications system, or information received by the seller
10 from its service provider, where the system used to transport such signals
11 is not that of the seller; and

12 (3) a sale of prepaid calling service is sourced in accordance with
13 section 16 and amendments thereto, except that in the case of a sale of
14 mobile telecommunications service that is a prepaid telecommunications
15 service, the rule provided in subsection (a)(5) of section 16 and amend-
16 ments thereto shall include as an option the location associate with the
17 mobile telephone number.

18 (d) A sale of a private communication service is sourced as follows:
19 (1) Service for a separate charge related to a customer channel termina-
20 tion point is sourced to each level of jurisdiction in which such customer
21 channel termination point is located;

22 (2) service where all customer termination points are located entirely
23 within one jurisdiction or levels of jurisdiction is sourced in such juris-
24 diction in which the customer channel termination points are located;

25 (3) service for segments of a channel between two customer channel
26 termination points located in different jurisdictions and which segment
27 of channel are separately charged is sourced 50% in each level of juris-
28 diction in which the customer channel termination points are located; and

29 (4) service for segments of a channel located in more than one juris-
30 diction or levels of jurisdiction and which segments are not separately
31 billed is sourced in each jurisdiction based on the percentage determined
32 by dividing the number of customer channel termination points in such
33 jurisdiction by the total number of customer channel termination points.

34 (e) As used in this section: (1) "Air-to-ground radiotelephone service"
35 means a radio service, as that term is defined in 47 CFR 22.99, in which
36 common carriers are authorized to offer and provide radio telecommu-
37 nications service for hire to subscribers in aircraft;

38 (2) "call-by-call basis" means any method of charging for telecom-
39 munications services where the price is measured by individual calls;

40 (3) "communications channel" means a physical or virtual path of
41 communications over which signals are transmitted between or among
42 customer channel termination points;

43 (4) "customer" means the person or entity that contracts with the

1 seller of telecommunications services. If the end user of telecommuni-
2 cations services is not the contracting party, the end user of the telecom-
3 munications service is the customer of the telecommunication service,
4 but this sentence only applies for the purpose of sourcing sales of tele-
5 communications services under this section. Customer does not include
6 a reseller of telecommunications service or for mobile telecommunica-
7 tions service of a serving carrier under an agreement to serve the cus-
8 tomer outside the home service provider's licensed service area;

9 (5) "customer channel termination point" means the location where
10 the customer either inputs or receives the communication;

11 (6) "end user" means the person who utilizes the telecommunication
12 service. In the case of an entity, end user means the individual who utilizes
13 the services on behalf of the entity;

14 (7) "home service provider" means the same as that term in defined
15 in section 124(5) of Public Law 106-252 (mobile telecommunications
16 sourcing act);

17 (8) "mobile telecommunications service" means the same as that
18 term is defined in section 124(5) of Public Law 106-252 (mobile telecom-
19 munications sourcing act);

20 (9) "place of primary use" means the street address representative of
21 where the customer's use of the telecommunications service primarily
22 occurs, which must be the residential street address or the primary busi-
23 ness street address of the customer. In the case of mobile telecommu-
24 nications services, place of primary use must be within the licensed serv-
25 ice area of the home service provider;

26 (10) "post-paid calling service" means the telecommunications serv-
27 ice obtained by making a payment on a call-by-call basis either through
28 the use of a credit card or payment mechanism such as a bank card, travel
29 card, credit card or debit card, or by charge made to which a telephone
30 number which is not associated with the origination or termination of the
31 telecommunications service. A post-paid calling service includes a tele-
32 communications service that would be a prepaid calling service except it
33 is not exclusively a telecommunication service;

34 (11) "prepaid calling service" means the right to access exclusively
35 telecommunications services, which must be paid for in advance and
36 which enables the origination of calls using an access number or author-
37 ization code, whether manually or electronically dialed, and that is sold
38 in predetermined units or dollars of which the number declines with use
39 in a known amount;

40 (12) "private communication service" means a telecommunication
41 service that entitles the customer to exclusive or priority use of a com-
42 munications channel or group of channels between or among termination
43 points, regardless of the manner in which such channel or channels are

1 connected, and includes switching capacity, extension lines, stations and
2 any other associated services that are provided in connection with the use
3 of such channel or channels; and

4 (13) “service address” means: (A) The location of the telecommuni-
5 cations equipment to which a customer’s call is charged and from which
6 the call originates or terminates, regardless of where the call is billed or
7 paid;

8 (B) if the location in subsection (13)(A) is not known, service address
9 means the origination point of the signal of the telecommunications serv-
10 ices first identified by either the seller’s telecommunications system or in
11 information received by the seller from its service provider, where the
12 system used to transport such signals is not that of the seller; and

13 (C) if the location in subsections (13)(A) and (13)(B) are not known,
14 the service address means the location of the customer’s place of primary
15 use.

16 New Sec. 20. (a) A seller is allowed a deduction from taxable sales
17 for bad debts attributable to taxable sales of such seller that have become
18 uncollectable. Any deduction taken that is attributed to bad debts shall
19 not include interest.

20 (b) The amount of the bad debt deduction shall be calculated pur-
21 suant to 26 U.S.C. § 166(b), except that such amount shall be adjusted
22 to exclude financing charges or interest, sales or use taxes charged on the
23 purchase price, uncollectable amounts on property that remain in the
24 possession of the seller until the full purchase price is paid and expenses
25 incurred in attempting to collect any debt and repossessed property.

26 (c) Bad debts may be deducted on the return for the period during
27 which the bad debt is written off as uncollectable in the seller’s books
28 and records and is eligible to be deducted for federal income tax purposes.
29 For purposes of this subsection, a seller who is not required to file federal
30 income tax returns may deduct a bad debt on a return filed for the period
31 in which the bad debt is written off as uncollectable in the seller’s books
32 and records and would be eligible for a bad debt deduction for federal
33 income tax purposes if the seller was required to file a federal income tax
34 return.

35 (d) If a deduction is taken for a bad debt and the debt is subsequently
36 collected in whole or in part, the tax on the amount so collected must be
37 paid and reported on the return filed for the period in which the collec-
38 tion is made.

39 (e) When the amount of bad debt exceeds the amount of taxable sales
40 for the period during which the bad debt is written off, a refund claim
41 may be filed by the seller within the applicable statute of limitations for
42 refund claim pursuant to subsection (b) of K.S.A. 79-3609 and amend-
43 ments thereto; however, the statute of limitations shall be measured from

1 the due date of the return on which the bad debt could first be claimed.
2 (f) Where filing responsibilities have been assumed by a certified
3 service provider, the service provider may claim, on behalf of the seller,
4 any bad debt allowance provided by this section. The certified service
5 provider must credit or refund the full amount of any bad debt allowance
6 or refund received to the seller.

7 (g) For the purposes of reporting a payment received on a previously
8 claimed bad debt, any payments made on a debt or account must first be
9 applied proportionally to the taxable price of the property or service and
10 the sales tax thereon, and secondly to interest, service charges and any
11 other charges.

12 (h) In situations where the books and records of the seller, or certified
13 service provider on behalf of the seller, claiming the bad debt allowance
14 support an allocation of the bad debts among the member states, such
15 an allocation is permitted.

16 New Sec. 21. (a) The purpose of this section is to set forth this state's
17 policy for the protection of the confidentiality rights of all participants in
18 the system and of the privacy interests of consumers who deal with model
19 1 sellers.

20 (b) As used in this section: (1) "Confidential taxpayer information"
21 means all information that is protected under this state's laws, rules and
22 regulations and privileges;

23 (2) "personally identifiable information" means information that
24 identifies a person; and

25 (3) "anonymous data" means information that does not identify a
26 person.

27 (c) A fundamental precept in model 1 is to preserve the privacy of
28 consumers by protecting their anonymity. With very limited exceptions,
29 a certified service provider (CSP) shall perform its tax calculation, remit-
30 tance and reporting functions without retaining the personally identifiable
31 information of consumers.

32 (d) The secretary shall provide public notification to consumers, in-
33 cluding their exempt purchasers, of the department's practices relating
34 to the collection, use and retention of personally identifiable information.

35 (e) When any personally identifiable information that has been col-
36 lected and retained is no longer required to ensure the validity of ex-
37 emptions from taxation that are claimed by reason of a consumer's status
38 or the intended use of the goods or services purchased, such information
39 shall no longer be retained by the department.

40 (f) When personally identifiable information regarding an individual
41 is retained by or on behalf of the department, the secretary shall provide
42 reasonable access by such individual to such individual's own information
43 in the department's possession and a right to correct any inaccurately

1 recorded information.

2 (g) If anyone other than this state, or a person authorized by this
3 state's law or the agreement, seeks to discover personally identifiable
4 information, the secretary shall make a reasonable and timely effort to
5 notify the individual of such request.

6 (h) This privacy policy is subject to enforcement by the attorney
7 general.

8 New Sec. 22. (a) When the seller is computing the amount of tax
9 owed by the purchaser and remitted to the state: (1) Tax computation
10 must be carried to the third decimal place; and

11 (2) the tax must be rounded to a whole cent using a method that
12 rounds up to the next cent whenever the third decimal place is greater
13 than four.

14 (b) Sellers may elect to compute the tax due on a transaction on an
15 item or an invoice basis. The rounding rule may be applied to the aggre-
16 gated state and local taxes.

17 New Sec. 23. (a) The secretary shall complete a taxability matrix.
18 This state's entries in the matrix shall be provided and maintained by the
19 secretary in a database that is in a downloadable format.

20 (b) The secretary shall provide reasonable notice of changes in the
21 taxability of the products or services listed in the taxability matrix.

22 (c) Sellers and certified service providers are relieved from liability
23 to this state or any local taxing jurisdiction for having charged and col-
24 lected the incorrect amount of state or local sales or use tax resulting from
25 the seller or certified service providers relying on erroneous data provided
26 by the secretary in the taxability matrix.

27 New Sec. 24. The effective date of state or local sales or use tax rate
28 changes for services covering a period starting before and ending after
29 the statutory effective date shall be as follows: (a) For a rate increase, the
30 new rate shall apply to the first billing period starting on or after the
31 effective date; and

32 (b) for a rate decrease, the new rate shall apply to bills rendered on
33 or after the effective date.

34 New Sec. 25. (a) The secretary shall participate in an online regis-
35 tration system that will allow sellers to register in this state and other
36 member states.

37 (b) By registering, the seller agrees to collect and remit sales and use
38 taxes for all taxable sales into this state as well as the other member states,
39 including member states joining after the seller's registration. Withdrawal
40 or revocation of this state from the agreement shall not relieve a seller of
41 its responsibility to remit taxes previously or subsequently collected on
42 behalf of this state.

43 (c) If the seller has a requirement to register prior to registering un-

1 der the agreement, the seller must register pursuant to K.S.A. 79-3608
2 and amendments thereto.

3 (d) Registration with the central registration system and the collec-
4 tion of sales and use taxes in this state shall not be used as a factor in
5 determining whether the seller has nexus with this state for any tax at any
6 time.

7 New Sec. 26. (a) Subject to the limitations in this section: (1) Am-
8 nesty is granted for uncollected or unpaid sales or use tax to a seller who
9 registers to pay or to collect and remit applicable sales or use tax on sales
10 made to purchasers in this state in accordance with the terms of the
11 agreement, provided that the seller was not so registered in this state in
12 the twelve-month period preceding the effective date of this state's partic-
13 ipation in the agreement;

14 (2) the amnesty will preclude assessment for uncollected or unpaid
15 sales or use tax together with penalty or interest for sales made during
16 the period the seller was not registered in this state, provided registration
17 occurs within 12 months of the effective date of this state's participation
18 in the agreement; and

19 (3) amnesty similarly shall be provided if this state joins the agree-
20 ment after the seller has registered.

21 (b) The amnesty is not available to a seller with respect to any matter
22 or matters for which the seller received notice of the commencement of
23 an audit and which audit is not yet finally resolved including any related
24 administrative and judicial processes.

25 (c) The amnesty is not available for sales or use taxes already paid or
26 remitted to this state or to taxes collected by the seller.

27 (d) The amnesty is fully effective, absent the seller's fraud or inten-
28 tional misrepresentation of a material fact, as long as the seller continues
29 registration and continues payment or collection and remittance of ap-
30 plicable sales or use taxes for a period of at least thirty-six months. The
31 statute of limitations applicable to asserting a tax liability during this
32 thirty-six month period is tolled.

33 (e) The amnesty is applicable only to sales or use taxes due from a
34 seller in its capacity as a seller and not to sales or use taxes due from a
35 seller in its capacity as a buyer.

36 (f) This provision shall become effective as of the date that this state
37 joins and becomes a member state of the agreement.

38 New Sec. 27. When registering under the agreement, the seller may
39 select one of the following methods of remittances or other method al-
40 lowed by K.S.A. 79-3607 and amendments thereto to remit the taxes
41 collected: (a) Model 1, wherein a seller selects a certified service provider
42 as an agent to perform all the seller's sales or use tax functions, other than
43 the seller's obligation to remit tax on its own purchases;

1 (b) model 2, wherein a seller selects a certified automated system to
2 use which calculates the amount of tax due on a transaction; or

3 (c) model 3, wherein a seller utilizes its own proprietary automated
4 sales tax system that has been certified as a certified automated system.

5 New Sec. 28. The provisions of this act shall be known and may be
6 cited as the streamlined sales and use tax agreement conformity act.

7 New Sec. 29. (a) Sections 29 through 38, and amendments thereto,
8 shall be known and may be cited as the local sales tax transportation
9 development district act.

10 (b) The powers conferred by this act are for public uses and purposes
11 for which public money may be expended.

12 New Sec. 30. As used in sections 29 through 38, and amendments
13 thereto: (a) "Acquire" means the acquisition of property or interests in
14 property by purchase, gift, condemnation or other lawful means and may
15 include the acquisition of existing property and projects already owned
16 by a municipality.

17 (b) "Act" means the provisions of sections 29 through 38, and amend-
18 ments thereto.

19 (c) "Bonds" means special obligation bonds or special obligation
20 notes payable solely from the sources described in section 35, and amend-
21 ments thereto, issued by a municipality in accordance with the provisions
22 of this act.

23 (d) "Consultant" means engineers, architects, planners, attorneys and
24 other persons deemed competent to advise and assist the governing body
25 in planning and making of projects.

26 (e) "Cost" means: (1) All costs necessarily incurred for the prepara-
27 tion of preliminary reports, the preparation of plans and specifications,
28 the preparation and publication of notices of hearings, resolutions, ordi-
29 nances and other proceedings, necessary fees and expenses of consultants
30 and interest accrued on borrowed money during the period of construc-
31 tion together with the cost of land, materials, labor and other lawful ex-
32 penses incurred in planning and doing any project and may include a
33 charge of not to exceed 5% of the total cost of a project or the cost of
34 work done by the municipality to reimburse the municipality for the serv-
35 ices rendered by the municipality in the administration and supervision
36 of such project by its general officers; and (2) in the case of property and
37 projects already owned by the municipality and previously financed by
38 the issuance of revenue bonds, cost means the principal amount of such
39 outstanding revenue bonds plus the amount of matured interest, interest
40 maturing within 90 days, plus the amount of any call premium or purchase
41 premium required.

42 (f) "District" means a transportation development district created
43 pursuant to this act.

1 (g) “Governing body” means the governing body of a city or the board
2 of county commissioners of a county.

3 (h) “Municipality” means any city or county.

4 (i) “Newspaper” means the official newspaper of the municipality.

5 (j) “Project” means any project or undertaking to improve any bridge,
6 street, road, highway access road, interchange, intersection, signing, sig-
7 nalization, parking lot, bus stop, station, garage, terminal, hangar, shelter,
8 rest area, dock, wharf, lake or river port, airport, railroad, light rail or
9 other mass transit facility and any similar or related project or
10 infrastructure.

11 (k) “Local sales transportation district tax” means the tax authorized
12 by section 34, and amendments thereto.

13 (l) “To improve” means to construct, reconstruct, maintain, restore,
14 replace, renew, repair, install, furnish, equip or extend any project.

15 New Sec. 31. (a) In addition to any other power provided by law and
16 as a complete alternative to all other methods provided by law, the gov-
17 erning body of any municipality may create a transportation development
18 district as provided by this act for the purpose of financing projects. A
19 municipality may create a district upon receipt of a petition signed by the
20 owners of record, whether resident or not, of all of the land area within
21 the proposed district. The petition shall contain: (1) The general nature
22 of the proposed project;

23 (2) the estimated cost of the project;

24 (3) the proposed method of financing the district;

25 (4) the proposed method of assessment;

26 (5) the proposed amount of any sales tax; and

27 (6) a map or boundary description of the proposed district.

28 (b) Names may not be withdrawn from the petitions by the signers
29 thereof after the governing body commences consideration of the peti-
30 tions or later than seven days after such filing, whichever occurs first, and
31 the petitions shall contain a notice that the names of the signers may not
32 be withdrawn after such a period of time.

33 (c) The district boundaries and the method of financing for the pro-
34 ject shall not require that all property that is benefited by the project be
35 included in the district or be subject to an assessment or the local sales
36 transportation district tax.

37 New Sec. 32. (a) Before the creation of any district, the governing
38 body, by resolution, shall call and hold a public hearing on the advisability
39 of the creating of the district and the financing of the project. Notice of
40 the hearing shall be given by at least one publication in a newspaper and
41 by certified mail to all property owners within the proposed district. The
42 notice shall be published at least seven days prior to the date of hearing
43 and the certified mailed notice shall be sent at least 10 days prior to the

1 date of hearing. Such notice shall contain the following information: (1)

2 Time and place of hearing;

3 (2) general nature of the proposed project;

4 (3) the estimated cost of the project;

5 (4) the proposed method of financing of the project;

6 (5) the proposed amount of assessments and the method of
7 assessment;

8 (6) the proposed amount of any local sales transportation district tax;

9 and

10 (7) a map or boundary description of the proposed district.

11 (b) The hearing may be adjourned from time to time. Following the
12 hearing or any continuation thereof, the governing body may create the
13 district, authorize the project and approve the estimated cost of the pro-
14 ject, the boundaries of the district, the method of financing and the
15 method of assessments, if any, by adoption of the appropriate ordinance
16 or resolution.

17 (c) The area of the district to be assessed may be less than, but shall
18 not exceed, the area proposed to be assessed as stated in the notice of
19 hearing without giving notice and holding a new hearing on the project.

20 (d) Nothing in this section shall be construed as authorizing the im-
21 position of a local sales transportation district tax until authorized as pro-
22 vided by section 34, and amendments thereto.

23 New Sec. 33. In addition to any other power provided by law and as
24 a complete alternative to all other methods provided by law, the governing
25 body may make, or cause to be made, projects which confer a special
26 benefit upon property within the district and may levy and collect special
27 assessments upon property in the district and provide for the payment of
28 all or any part of the cost of the project out of the proceeds of such special
29 assessments. If special assessments will be levied to finance all or a portion
30 of the cost of a project, the municipality shall follow the assessment pro-
31 cedures in K.S.A. 12-6a01 *et seq.*, and amendments thereto, except that
32 no project costs may be apportioned against the municipality at large and
33 no full faith and credit notes or bonds may be issued by the municipality
34 to finance a project under this act. A petition submitted pursuant to sec-
35 tion 31, and amendments thereto, shall be conclusive as to the method
36 of assessment, property to be included in the district and benefits of any
37 project.

38 New Sec. 34. (a) In addition and notwithstanding any limitations on
39 the aggregate amount of the retailers' sales tax contained in K.S.A. 12-
40 187 through 12-197, and amendments thereto, any municipality may im-
41 pose a local sales transportation district tax on the selling of tangible per-
42 sonal property at retail or rendering or furnishing services within a
43 transportation development district for purposes of financing a project in

1 such district in any increment of .10% or .25% not to exceed 1% and
2 pledging the revenue received therefrom to pay the bonds issued for the
3 project. Any local sales transportation district tax imposed pursuant to this
4 section shall expire no later than the date the bonds issued to finance
5 such project or refunding bonds issued therefore shall mature.

6 (b) Any municipality proposing to impose a local sales transportation
7 district tax authorized by this section shall adopt a resolution stating its
8 intention to levy such tax. Such notice shall be published at least once
9 each week for two consecutive weeks in the newspaper. If within 30 days
10 after the last publication of the notice a petition signed by at least 5% of
11 the owners of record within the transportation development district is
12 submitted to the clerk of the municipality requesting an election upon
13 such question, an election of the owners of record, whether resident or
14 not, shall be called and held thereon. Such election shall be called and
15 held in the manner provided by K.S.A. 25-431 *et seq.*, and amendments
16 thereto. If no protest or no sufficient protest is filed or if an election is
17 held and the proposition carries by a majority of the owners of record
18 within the district voting thereon, the governing body, by resolution or
19 ordinance, may levy such tax. Except as provided in this act, the tax au-
20 thorized by this section shall be administered, collected and subject to
21 provisions of K.S.A. 12-187 to 12-197, inclusive, and amendments thereto.

22 (c) Upon receipt of a certified copy of the resolution or ordinance
23 authorizing the levy of the local sales transportation district tax pursuant
24 to this section, the state director of taxation shall cause such tax to be
25 collected in the district at the same time and in the same manner provided
26 for the collection of the state retailers' sales tax. All of the taxes collected
27 under the provisions of this act shall be remitted by the secretary of
28 revenue to the state treasurer in accordance with the provisions of K.S.A
29 75-4215, and amendments thereto. Upon receipt of each such remittance,
30 the state treasurer shall deposit the entire amount in the state treasury,
31 and the state treasurer shall credit 2% of all taxes so collected to the state
32 general fund to defray the expenses of the department in administration
33 and enforcement of the collection thereof. The remainder of such taxes
34 shall be credited to the local sales transportation district tax fund, which
35 fund is hereby established. All moneys in the local sales transportation
36 district tax fund shall be remitted at least quarterly by the state treasurer,
37 on instruction from the secretary of revenue, to the treasurers of those
38 municipalities which are qualified to receive disbursements from such
39 fund the amount collected within such municipality. Any refund due on
40 any local sales transportation district tax collected pursuant to this section
41 shall be paid out of the local sales transportation development district tax
42 refund fund which is hereby established in the state treasury and reim-
43 bursed by the director of taxation from collections of the sales tax au-

1 thORIZED BY THIS SECTION. ALL LOCAL SALES TAX REVENUE COLLECTED PURSUANT TO
2 THIS SECTION SHALL BE REMITTED AT LEAST QUARTERLY BY THE STATE TREASURER, ON
3 INSTRUCTION FROM THE DIRECTOR OF TAXATION, TO THE TREASURER OF SUCH MUNICI-
4 PALITY. UPON RECEIPT THEREOF, THE TREASURER OF THE MUNICIPALITY SHALL DE-
5 POSIT SUCH REVENUE IN THE TRANSPORTATION DISTRICT FUND CREATED PURSUANT TO
6 SECTION 37, AND AMENDMENTS THERETO.

7 NEW SEC. 35. NO SUIT TO SET ASIDE THE ASSESSMENTS, THE LOCAL SALES
8 TRANSPORTATION DISTRICT TAX OR OTHERWISE QUESTION THE VALIDITY OF THE PRO-
9 CEEDINGS FOR THE CREATION OF THE DISTRICT OR THE AUTHORIZATION OF THE PROJECT
10 SHALL BE BROUGHT AFTER THE EXPIRATION OF 30 DAYS FROM THE ADOPTION OF THE
11 ORDINANCE OR RESOLUTION CREATING THE DISTRICT.

12 NEW SEC. 36. THE TOTAL COST OF ANY PROJECT AUTHORIZED PURSUANT TO
13 THIS ACT SHALL BE PAID FROM ALL OR ANY OF THE FOLLOWING SOURCES: (A) SPECIAL
14 ASSESSMENTS IMPOSED IN THE DISTRICT PURSUANT TO THIS ACT WHICH HAVE BEEN
15 PAID IN FULL PRIOR TO THE DATE SET BY THE GOVERNING BODY AS PROVIDED IN
16 K.S.A. 12-6a10, AND AMENDMENTS THERETO, SHALL BE PAID FROM ASSESSMENTS
17 SO COLLECTED;

18 (B) SPECIAL ASSESSMENTS IMPOSED IN THE DISTRICT PURSUANT TO THIS ACT,
19 TO BE PAID IN INSTALLMENTS;

20 (C) A PLEDGE OF ALL OF THE REVENUE RECEIVED FROM THE LOCAL SALES TRANS-
21 PORTATION DISTRICT TAX AUTHORIZED BY SECTION 34, AND AMENDMENTS THERETO;
22 AND

23 (D) ANY OTHER FUNDS APPROPRIATED BY THE MUNICIPALITY.

24 NEW SEC. 37. A SEPARATE FUND SHALL BE CREATED FOR EACH DISTRICT AND
25 EACH PROJECT AND SUCH FUND SHALL BE IDENTIFIED BY A SUITABLE TITLE. THE
26 PROCEEDS FROM THE SALE OF BONDS AND ANY OTHER MONEYS APPROPRIATED BY
27 THE GOVERNING BODY FOR SUCH PURPOSE SHALL BE CREDITED TO SUCH FUND. SUCH
28 FUND SHALL BE USED SOLELY TO PAY THE COSTS OF THE PROJECT.

29 NEW SEC. 38. (A) ANY MUNICIPALITY MAY ISSUE BONDS IN ONE OR MORE
30 SERIES TO FINANCE THE UNDERTAKING OF ANY PROJECT IN ACCORDANCE WITH THE
31 PROVISIONS OF THIS ACT. SUCH BONDS SHALL BE MADE PAYABLE, BOTH AS TO PRIN-
32 CIPAL AND INTEREST SOLELY FROM A PLEDGE OF THE SOURCES OF FUNDS DESCRIBED
33 IN SECTION 36, AND AMENDMENTS THERETO. THE MUNICIPALITY MAY PLEDGE
34 SUCH REVENUE TO THE REPAYMENT OF SUCH BONDS PRIOR TO, SIMULTANEOUSLY
35 WITH OR SUBSEQUENT TO THE ISSUANCE OF SUCH BONDS.

36 (B) BONDS ISSUED PURSUANT TO SUBSECTION (A) SHALL NOT BE GENERAL OB-
37 LIGATIONS OF THE MUNICIPALITY, GIVE RISE TO A CHARGE AGAINST ITS GENERAL CREDIT
38 OR TAXING POWERS, OR BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN
39 ANY OF THOSE SET FORTH IN SUBSECTION (A) AND SUCH BONDS SHALL SO STATE ON
40 THEIR FACE.

41 (C) BONDS ISSUED PURSUANT TO SUBSECTION (A) SHALL BE SPECIAL OBLIGA-
42 TIONS OF THE MUNICIPALITY AND ARE DECLARED TO BE NEGOTIABLE INSTRUMENTS.
43 SUCH BONDS SHALL BE EXECUTED BY THE AUTHORIZED REPRESENTATIVES OF THE

1 municipality and sealed with the corporate seal of the municipality. All
2 details pertaining to the issuance of the bonds and terms and conditions
3 thereof shall be determined by ordinance or resolution of the municipi-
4 pality. The provisions of K.S.A. 10-106, and amendments thereto, re-
5 quiring a public sale of bonds shall not apply to bonds issued under this
6 act. All bonds issued pursuant to this act and all income or interest there-
7 from shall be exempt from all state taxes except inheritance taxes. Such
8 bonds shall contain none of the recitals set forth in K.S.A. 10-112, and
9 amendments thereto. Such bonds shall contain the following recitals: The
10 authority under which such bonds are issued; that such bonds are in
11 conformity with the provisions, restrictions and limitations thereof; and
12 that such bonds and the interest thereon are to be paid from the money
13 and revenue received as provided in subsection (a).

14 (d) Any municipality issuing bonds under the provisions of this act
15 may refund all or part of such issue pursuant to the provisions of K.S.A.
16 10-116a, and amendments thereto.

17 (e) Bonds issued under the provisions of this act shall be in addition
18 to and not subject to any statutory limitation of bonded indebtedness
19 imposed on such municipality.

20 Sec. 39. K.S.A. 2002 Supp. 12-194 is hereby amended to read as
21 follows: 12-194. No city or county shall levy or impose an excise tax or a
22 tax in the nature of an excise, other than a retailers' sales tax and a com-
23 pensating use tax, upon the sale or transfer of personal or real property,
24 or the use thereof, or the rendering of a service, but the provisions of this
25 section shall not be construed as prohibiting any city from (a) contracting
26 with a utility for a fixed charge based upon a percentage of gross receipts
27 derived from the service permitted by grant, right, privilege or franchise
28 to such utility; (b) imposing an occupation tax or license fee for the priv-
29 ilege of engaging in any business, trade, occupation or profession, or ren-
30 dering or furnishing any service, but the determination of any such license
31 fee shall not be based upon any amount the licensee has received from
32 the sale or transfer of personal or real property, or for the rendering or
33 furnishing of a service, or on the income of the licensee; *or* (c) levying
34 any occupation tax or license fee imposed by such city prior to the effec-
35 tive date of this act; ~~or (d) levying a tax for the purpose of financing a~~
36 ~~transportation development district, created under K.S.A. 2002 Supp. 12-~~
37 ~~17,130 through 12-17,139, and amendments thereto.~~ No license fee de-
38 scribed in subsection (b) of this section shall be imposed upon any utility
39 contracting with and subject to a charge, described in subsection (a) of
40 this section, by such city.

41 Sec. 40. K.S.A. 2002 Supp. 25-432 is hereby amended to read as
42 follows: 25-432. An election shall not be conducted under this act unless:

43 (a) Conducted on a date, mutually agreed upon by the governing

1 body of the political or taxing subdivision and the county election officer,
2 not later than 120 days following the date the request is submitted by the
3 political or taxing subdivision; and

4 (b) the secretary of state approves a written plan for conduct of the
5 election, which shall include a written timetable for the conduct of the
6 election, submitted by the county election officer; and

7 (c) the election is nonpartisan; and

8 (d) the election is not one at which any candidate is elected, retained
9 or recalled; and

10 (e) the election is not held on the same date as another election in
11 which the qualified electors of that subdivision of government are eligible
12 to cast ballots; and

13 (f) the election is a question submitted election at which all of the
14 qualified electors of one of the following subdivisions of government are
15 the only electors eligible to vote:

16 (1) Counties;

17 (2) cities;

18 (3) school districts, except in an election held pursuant to K.S.A. 72-
19 7302 *et seq.*, and amendments thereto;

20 (4) townships;

21 (5) benefit districts organized under K.S.A. 31-301, and amendments
22 thereto;

23 (6) cemetery districts organized under K.S.A. 15-1013 or 17-1330,
24 and amendments thereto;

25 (7) combined sewer districts organized under K.S.A. 19-27,169, and
26 amendments thereto;

27 (8) community college districts organized under K.S.A. 71-1101 *et*
28 *seq.*, and amendments thereto;

29 (9) fire districts organized under K.S.A. 19-3601 or 80-1512, and
30 amendments thereto;

31 (10) hospital districts;

32 (11) improvement districts organized under K.S.A. 19-2753, and
33 amendments thereto;

34 (12) Johnson county park and recreation district organized under
35 K.S.A. 19-2859, and amendments thereto;

36 (13) sewage disposal districts organized under K.S.A. 19-27,140, and
37 amendments thereto;

38 (14) water districts organized under K.S.A. 19-3501 *et seq.*, and
39 amendments thereto; or

40 (15) transportation development districts created pursuant to ~~K.S.A.~~
41 ~~2002 Supp. 12-17,130 section 29~~ *et seq.*, and amendments thereto.

42 Sec. 41. K.S.A. 12-191, 12-191a, 12-198, 75-5151, 79-3607, 79-3608
43 and 79-3651 and K.S.A. 2002 Supp. 12-194, 25-432, 79-3602, 79-3603,

1 79-3606, 79-3650 and 79-3703 are hereby repealed.
2 Sec. 42. This act shall take effect and be in force from and after July
3 1, 2004, and its publication in the statute book.

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