

## HOUSE BILL No. 2700

By Committee on Taxation

2-4

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AN ACT concerning sales taxation; repealing streamlined sales tax implementation provisions; amending K.S.A. 2003 Supp. 12-189a, 12-191, 75-5151, 79-3602, 79-3603, 79-3606, 79-3607, 79-3608, 79-3650 and 79-3651 and repealing the existing sections; also repealing K.S.A. 2003 Supp. 79-3603c, 79-3666, 79-3667, 79-3668, 79-3669, 79-3670, 79-3671, 79-3672, 79-3673, 79-3674, 79-3675, 79-3676, 79-3677, 79-3678, 79-3679, 79-3680, 79-3681 and 79-3682.

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

Section 1. K.S.A. 2003 Supp. 12-189a is hereby amended to read as follows: 12-189a. The following sales shall be subject to the taxes levied and collected by all cities and counties under the provisions of K.S.A. 12-187 *et seq.* and amendments thereto:

(a) All sales of natural gas, electricity, heat and water delivered through mains, lines or pipes to residential premises for noncommercial use by the occupant of such premises and all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes for agricultural use, ~~except that effective January 1, 2006, the provisions of this subsection shall expire for sales of water pursuant to this subsection;~~

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

(c) all sales of intrastate telephone and telegraph services for noncommercial use.

Sec. 2. K.S.A. 2003 Supp. 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 ~~location determined by the sourcing rules as provided in K.S.A. 2003 Supp. 79-3670, 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,~~

1 trailers, semi-trailers or aircraft that do not qualify as transportation  
2 equipment, as defined in subsection (d) of K.S.A. 2003 Supp. 79-3670,  
3 and amendments thereto, shall be considered consummated at the place  
4 of business of the retailer and sourced to such location. The isolated or  
5 occasional sale of any motor vehicle or trailer shall be considered con-  
6 summated at the taxing jurisdiction where the sale is made. If the sale  
7 negotiations occurred in different cities or counties, the situs of the sale  
8 for local sales tax purposes shall be the place where the motor vehicle or  
9 trailer was kept at the time negotiations were first entered into *place of*  
10 *business of the retailer*. In the event the place of business of a retailer is  
11 doubtful the place or places at which the retail sales are consummated  
12 for the purposes of this act shall be determined under rules and regula-  
13 tions adopted by the secretary of revenue which rules and regulations  
14 shall be considered with state and federal law insofar as applicable. *Retail*  
15 *sales involving the use, consumption or furnishing of gas, water, electricity*  
16 *and heat, for the purposes of this act, shall be considered to have been*  
17 *consummated at the situs of the user or recipient thereof, and retail sales*  
18 *involving the use or furnishing of telephone service or services taxed under*  
19 *subsection (k) of K.S.A. 79-3606, and amendments thereto, shall be con-*  
20 *sidered to have been consummated at the situs of the subscriber billed*  
21 *therefor. Retail sales involving the leasing of telecommunication or data*  
22 *processing equipment commonly used in connection with telephone serv-*  
23 *ices shall be considered to have been consummated at the situs of the*  
24 *lessee. Retail sales involving the furnishing of services taxable under sub-*  
25 *sections (p), (q) and (r) of K.S.A. 79-3603, and amendments thereto, pur-*  
26 *suant to a contract under which the sale of such services and the furnish-*  
27 *ing of tangible personal property exceed \$10,000 per contract per*  
28 *contractor shall be considered to have been consummated at the situs*  
29 *where such services are performed.* The director of taxation is hereby  
30 authorized to request and receive from any retailer or from any city or  
31 county levying the tax such information as may be reasonably necessary  
32 to determine the liability of retailers for any county or city sales tax. The  
33 collection of any sales tax of a county or city approved at any election  
34 shall commence on the first day of the calendar quarter next following  
35 the 90th day after the date that the city or county has provided written  
36 notice to the director of taxation of the election authorizing the levy of  
37 such tax. ~~The collection of any such sales tax applicable to printed catalog~~  
38 ~~purchases wherein the purchaser computed the tax based upon local tax~~  
39 ~~rates published in the catalog, shall not commence until the first day of~~  
40 ~~the calendar quarter next following the 150th day after the date that the~~  
41 ~~city or county has provided written notice to the director of taxation of~~  
42 ~~the election authorizing the levy of such tax. The director of taxation shall~~  
43 ~~provide notice to sellers of such taxes within 30 days after receiving such~~

1 ~~notice from the city or county.~~

2 A city retailers' sales tax shall not become effective within any area  
3 annexed by a city levying such tax until the first day of the calendar quarter  
4 next following the 90th day after the date that the governing body of such  
5 city provided the state department of revenue with a certified copy of the  
6 annexation ordinance and a map of the city detailing the annexed area.  
7 ~~The director of taxation shall provide notice to sellers of such tax within~~  
8 ~~30 days after receiving such notice from the city or county.~~

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

16 Sec. 3. K.S.A. 2003 Supp. 75-5151 is hereby amended to read as  
17 follows: 75-5151. The secretary of revenue may require, consistent with  
18 sound cash management policies, that any taxpayer whose total sales tax  
19 liability exceeds \$100,000 in any calendar year, any taxpayer whose total  
20 withholding tax liability exceeds \$100,000 in any calendar year, and any  
21 person owing any taxes or fees in connection with any return, report or  
22 document other than for sales tax or withholding tax liability, shall remit  
23 their tax liability by electronic funds transfer no later than the date re-  
24 quired for such remittance except that the secretary may adopt rules and  
25 regulations prescribing alternative filing and payment dates not later than  
26 the last day of the month in which the tax was otherwise due. Electronic  
27 funds transfers may be made by wire transfers of funds through the fed-  
28 eral reserve system or by any other means established by the secretary,  
29 with the approval of the state treasurer, which insures the availability of  
30 such funds to the state on the date of payment. Evidence of such payment  
31 shall be furnished to the secretary on or before the due date of the tax  
32 as established by law. Failure to timely make such payment in immedi-  
33 ately available funds or failure to provide such evidence of payment in a  
34 timely manner shall subject the taxpayer to penalty and interest as pro-  
35 vided by law for delinquent or deficient tax payments. ~~All sales and use~~  
36 ~~tax remittances from model 1, 2 and 3 sellers must be remitted electron-~~  
37 ~~ically. Any data that accompanies a remittance must be formatted using~~  
38 ~~uniform tax type and payment type codes approved by the secretary.~~

39 Sec. 4. K.S.A. 2003 Supp. 79-3602 is hereby amended to read as  
40 follows: 79-3602. ~~Except as otherwise provided, as used in the Kansas~~  
41 ~~retailers' sales tax act:~~

42 ~~—(a) “Agent” means a person appointed by a seller to represent the~~  
43 ~~seller before the member states.~~

- 1 —(b) “Agreement” means the multistate agreement entitled the  
2 streamlined sales and use tax agreement approved by the streamlined  
3 sales tax implementing states at Chicago, Illinois on November 12, 2002.
- 4 —(c) “Alcoholic beverages” means beverages that are suitable for hu-  
5 man consumption and contain .05% or more of alcohol by volume.
- 6 —(d) “Certified automated system (CAS)” means software certified under  
7 the agreement to calculate the tax imposed by each jurisdiction on a  
8 transaction, determine the amount of tax to remit to the appropriate state  
9 and maintain a record of the transaction.
- 10 —(e) “Certified service provider (CSP)” means an agent certified under  
11 the agreement to perform all the seller’s sales and use tax functions, other  
12 than the seller’s obligation to remit tax on its own purchases.
- 13 —(f) “Computer” means an electronic device that accepts information  
14 in digital or similar form and manipulates it for a result based on a se-  
15 quence of instructions.
- 16 —(g) “Computer software” means a set of coded instructions designed  
17 to cause a computer or automatic data processing equipment to perform  
18 a task.
- 19 —(h) “Delivered electronically” means delivered to the purchaser by  
20 means other than tangible storage media.
- 21 —(i) “Delivery charges” means charges by the seller of personal prop-  
22 erty or services for preparation and delivery to a location designated by  
23 the purchaser of personal property or services including, but not limited  
24 to, transportation, shipping, postage, handling, crating and packing.
- 25 —(j) “Direct mail” means printed material delivered or distributed by  
26 United States mail or other delivery services to a mass audience or to  
27 addressees on a mailing list provided by the purchaser or at the direction  
28 of the purchaser when the cost of the items are not billed directly to the  
29 recipients. Direct mail includes tangible personal property supplied di-  
30 rectly or indirectly by the purchaser to the direct mail seller for inclusion  
31 in the package containing the printed material. Direct mail does not in-  
32 clude multiple items of printed material delivered to a single address.
- 33 —(k) “Director” means the state director of taxation.
- 34 —(l) “Educational institution” means any nonprofit school, college and  
35 university that offers education at a level above the twelfth grade, and  
36 conducts regular classes and courses of study required for accreditation  
37 by, or membership in, the North Central Association of Colleges and  
38 Schools, the state board of education, or that otherwise qualify as an  
39 “educational institution,” as defined by K.S.A. 74-50,103, and amend-  
40 ments thereto. Such phrase shall include: (1) A group of educational in-  
41 stitutions that operates exclusively for an educational purpose; (2) non-  
42 profit endowment associations and foundations organized and operated  
43 exclusively to receive, hold, invest and administer moneys and property

1 as a permanent fund for the support and sole benefit of an educational  
2 institution; (3) nonprofit trusts, foundations and other entities organized  
3 and operated principally to hold and own receipts from intercollegiate  
4 sporting events and to disburse such receipts, as well as grants and gifts,  
5 in the interest of collegiate and intercollegiate athletic programs for the  
6 support and sole benefit of an educational institution; and (4) nonprofit  
7 trusts, foundations and other entities organized and operated for the pri-  
8 mary purpose of encouraging, fostering and conducting scholarly inves-  
9 tigations and industrial and other types of research for the support and  
10 sole benefit of an educational institution.

11 —(m) “Electronic” means relating to technology having electrical, dig-  
12 ital, magnetic, wireless, optical, electromagnetic or similar capabilities.

13 —(n) “Food and food ingredients” means substances, whether in liquid,  
14 concentrated, solid, frozen, dried or dehydrated form, that are sold for  
15 ingestion or chewing by humans and are consumed for their taste or  
16 nutritional value. “Food and food ingredients” does not include alcoholic  
17 beverages or tobacco.

18 —(o) “Gross receipts” means the total selling price or the amount re-  
19 ceived as defined in this act, in money, credits, property or other consid-  
20 eration valued in money from sales at retail within this state, and em-  
21 braced within the provisions of this act. The taxpayer, may take credit in  
22 the report of gross receipts for: (1) An amount equal to the selling price  
23 of property returned by the purchaser when the full sale price thereof,  
24 including the tax collected, is refunded in cash or by credit, and (2) an  
25 amount equal to the allowance given for the trade-in of property.

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

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

40 —(2) Containers, labels, shipping cases, paper bags, drinking straws,  
41 paper plates, paper cups, twine and wrapping paper used in the distri-  
42 bution and sale of property taxable under the provisions of this act by  
43 wholesalers and retailers and which is not to be returned to such whole-

- 1 ~~saler or retailer for reuse.~~
- 2 ~~—(3) Seeds and seedlings for the production of plants and plant prod-~~
- 3 ~~ucts produced for resale.~~
- 4 ~~—(4) Paper and ink used in the publication of newspapers.~~
- 5 ~~—(5) Fertilizer used in the production of plants and plant products~~
- 6 ~~produced for resale.~~
- 7 ~~—(6) Feed for animals, fowl and aquatic plants and animals, the primary~~
- 8 ~~purpose of which is use in agriculture or aquaculture, as defined in K.S.A.~~
- 9 ~~47-1901, and amendments thereto, the production of food for human~~
- 10 ~~consumption, the production of animal, dairy, poultry or aquatic plant~~
- 11 ~~and animal products, fiber, fur, or the production of offspring for use for~~
- 12 ~~any such purpose or purposes.~~
- 13 ~~—(q) “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 ~~—(r) “Lease or rental” means any transfer of possession or control of~~
- 29 ~~tangible personal property for a fixed or indeterminate term for consid-~~
- 30 ~~eration. A lease or rental may include future options to purchase or~~
- 31 ~~extend.~~
- 32 ~~—(1) Lease or rental does not include: (A) A transfer of possession or~~
- 33 ~~control of property under a security agreement or deferred payment plan~~
- 34 ~~that requires the transfer of title upon completion of the required~~
- 35 ~~payments;~~
- 36 ~~—(B) a transfer or possession or control of property under an agree-~~
- 37 ~~ment that requires the transfer of title upon completion of required pay-~~
- 38 ~~ments and payment of an option price does not exceed the greater of~~
- 39 ~~\$100 or 1% of the total required payments; or~~
- 40 ~~—(C) providing tangible personal property along with an operator for~~
- 41 ~~a fixed or indeterminate period of time. A condition of this exclusion is~~
- 42 ~~that the operator is necessary for the equipment to perform as designed.~~
- 43 ~~For the purpose of this subsection, an operator must do more than main-~~

- 1   tain, inspect or set up the tangible personal property.
- 2   —(2) Lease or rental does include agreements covering motor vehicles  
3   and trailers where the amount of consideration may be increased or de-  
4   creased by reference to the amount realized upon sale or disposition of  
5   the property as defined in 26 U.S.C. 7701(h)(1).
- 6   —(3) This definition shall be used for sales and use tax purposes re-  
7   gardless if a transaction is characterized as a lease or rental under gen-  
8   erally accepted accounting principles, the internal revenue code, the uni-  
9   form commercial code, K.S.A. 84-1-101 *et seq.* and amendments thereto,  
10   or other provisions of federal, state or local law.
- 11   —(4) This definition will be applied only prospectively from the effec-  
12   tive date of this act and will have no retroactive impact on existing leases  
13   or rentals.
- 14   —(s) “Load and leave” means delivery to the purchaser by use of a  
15   tangible storage media where the tangible storage media is not physically  
16   transferred to the purchaser.
- 17   —(t) “Member state” means a state that has entered in the agreement,  
18   pursuant to provisions of article VIII of the agreement.
- 19   —(u) “Model 1 seller” means a seller that has selected a CSP as its  
20   agent to perform all the seller’s sales and use tax functions, other than  
21   the seller’s obligation to remit tax on its own purchases.
- 22   —(v) “Model 2 seller” means a seller that has selected a CAS to perform  
23   part of its sales and use tax functions, but retains responsibility for re-  
24   mitting the tax.
- 25   —(w) “Model 3 seller” means a seller that has sales in at least five  
26   member states, has total annual sales revenue of at least \$500,000,000,  
27   has a proprietary system that calculates the amount of tax due each juris-  
28   diction and has entered into a performance agreement with the member  
29   states that establishes a tax performance standard for the seller. As used  
30   in this subsection a seller includes an affiliated group of sellers using the  
31   same proprietary system.
- 32   —(x) “Municipal corporation” means any city incorporated under the  
33   laws of Kansas.
- 34   —(y) “Nonprofit blood bank” means any nonprofit place, organization,  
35   institution or establishment that is operated wholly or in part for the  
36   purpose of obtaining, storing, processing, preparing for transfusing, fur-  
37   nishing, donating or distributing human blood or parts or fractions of  
38   single blood units or products derived from single blood units, whether  
39   or not any remuneration is paid therefor, or whether such procedures are  
40   done for direct therapeutic use or for storage for future use of such  
41   products.
- 42   —(z) “Persons” means any individual, firm, copartnership, joint adven-  
43   ture, association, corporation, estate or trust, receiver or trustee, or any

1 group or combination acting as a unit, and the plural as well as the singular  
2 number, and shall specifically mean any city or other political subdivision  
3 of the state of Kansas engaging in a business or providing a service spe-  
4 cifically taxable under the provisions of this act.

5 —(aa) “Political subdivision” means any municipality, agency or sub-  
6 division of the state which is, or shall hereafter be, authorized to levy taxes  
7 upon tangible property within the state or which certifies a levy to a  
8 municipality, agency or subdivision of the state which is, or shall hereafter  
9 be, authorized to levy taxes upon tangible property within the state. Such  
10 term also shall include any public building commission, housing, airport,  
11 port, metropolitan transit or similar authority established pursuant to law.

12 —(bb) “Prescription” means an order, formula or recipe issued in any  
13 form of oral, written, electronic or other means of transmission by a duly  
14 licensed practitioner authorized by the laws of this state.

15 —(cc) “Prewritten computer software” means computer software, in-  
16 cluding prewritten upgrades, which is not designed and developed by the  
17 author or other creator to the specifications of a specific purchaser. The  
18 combining of two or more prewritten computer software programs or  
19 prewritten portions thereof does not cause the combination to be other  
20 than prewritten computer software. Prewritten computer software in-  
21 cludes software designed and developed by the author or other creator  
22 to the specifications of a specific purchaser when it is sold to a person  
23 other than the purchaser. Where a person modifies or enhances computer  
24 software of which the person is not the author or creator, the person shall  
25 be deemed to be the author or creator only of such person’s modifications  
26 or enhancements. Prewritten computer software or a prewritten portion  
27 thereof that is modified or enhanced to any degree, where such modifi-  
28 cation or enhancement is designed and developed to the specifications of  
29 a specific purchaser, remains prewritten computer software, except that  
30 where there is a reasonable, separately stated charge or an invoice or  
31 other statement of the price given to the purchaser for such modification  
32 or enhancement, such modification or enhancement shall not constitute  
33 prewritten computer software.

34 —(dd) “Property which is consumed” means tangible personal property  
35 which is essential or necessary to and which is used in the actual process  
36 of and consumed, depleted or dissipated within one year in (1) the pro-  
37 duction, manufacture, processing, mining, drilling, refining or compound-  
38 ing of tangible personal property, (2) the providing of services, (3) the  
39 irrigation of crops, for sale in the regular course of business, or (4) the  
40 storage or processing of grain by a public grain warehouse or other grain  
41 storage facility, and which is not reusable for such purpose. The following  
42 is a listing of tangible personal property, included by way of illustration  
43 but not of limitation, which qualifies as property which is consumed:



- 1 ~~—(A) Insecticides, herbicides, germicides, pesticides, fungicides, fu-~~  
2 ~~micants, antibiotics, biologicals, pharmaceuticals, vitamins and chemicals~~  
3 ~~for use in commercial or agricultural production, processing or storage of~~  
4 ~~fruit, vegetables, feeds, seeds, grains, animals or animal products whether~~  
5 ~~fed, injected, applied, combined with or otherwise used;~~  
6 ~~—(B) electricity, gas and water; and~~  
7 ~~—(C) petroleum products, lubricants, chemicals, solvents, reagents and~~  
8 ~~catalysts.~~  
9 ~~—(cc) “Purchase price” applies to the measure subject to use tax and~~  
10 ~~has the same meaning as sales price.~~  
11 ~~—(ff) “Purchaser” means a person to whom a sale of personal property~~  
12 ~~is made or to whom a service is furnished.~~  
13 ~~—(gg) “Quasi-municipal corporation” means any county, township,~~  
14 ~~school district, drainage district or any other governmental subdivision in~~  
15 ~~the state of Kansas having authority to receive or hold moneys or funds.~~  
16 ~~—(hh) “Registered under this agreement” means registration by a seller~~  
17 ~~with the member states under the central registration system provided in~~  
18 ~~article IV of the agreement.~~  
19 ~~—(ii) “Retailer” means a seller regularly engaged in the business of~~  
20 ~~selling, leasing or renting tangible personal property at retail or furnishing~~  
21 ~~electrical energy, gas, water, services or entertainment, and selling only~~  
22 ~~to the user or consumer and not for resale.~~  
23 ~~—(jj) “Retail sale” or “sale at retail” means any sale, lease or rental for~~  
24 ~~any purpose other than for resale, sublease or subrent.~~  
25 ~~—(kk) “Sale” or “sales” means the exchange of tangible personal prop-~~  
26 ~~erty, as well as the sale thereof for money, and every transaction, condi-~~  
27 ~~tional or otherwise, for a consideration, constituting a sale, including the~~  
28 ~~sale or furnishing of electrical energy, gas, water, services or entertain-~~  
29 ~~ment taxable under the terms of this act and including, except as provided~~  
30 ~~in the following provision, the sale of the use of tangible personal property~~  
31 ~~by way of a lease, license to use or the rental thereof regardless of the~~  
32 ~~method by which the title, possession or right to use the tangible personal~~  
33 ~~property is transferred. The term “sale” or “sales” shall not mean the sale~~  
34 ~~of the use of any tangible personal property used as a dwelling by way of~~  
35 ~~a lease or rental thereof for a term of more than 28 consecutive days.~~  
36 ~~—(11) (1) “Sales or selling price” applies to the measure subject to~~  
37 ~~sales tax and means the total amount of consideration, including cash,~~  
38 ~~credit, property and services, for which personal property or services are~~  
39 ~~sold, leased or rented, valued in money, whether received in money or~~  
40 ~~otherwise, without any deduction for the following:~~  
41 ~~—(A) The seller’s cost of the property sold;~~  
42 ~~—(B) the cost of materials used, labor or service cost, interest, losses,~~  
43 ~~all costs of transportation to the seller, all taxes imposed on the seller and~~

- 1 any other expense of the seller;
- 2 ~~— (C) charges by the seller for any services necessary to complete the~~  
3 ~~sale, other than delivery and installation charges;~~
- 4 ~~— (D) delivery charges;~~
- 5 ~~— (E) installation charges, and~~
- 6 ~~— (F) the value of exempt personal property given to the purchaser~~  
7 ~~where taxable and exempt personal property have been bundled together~~  
8 ~~and sold by the seller as a single product or piece of merchandise.~~
- 9 ~~— (2) “Sales or selling price” shall not include:~~
- 10 ~~— (A) Discounts, including cash, term or coupons that are not reim-~~  
11 ~~bursed by a third party that are allowed by a seller and taken by a pur-~~  
12 ~~chaser on a sale;~~
- 13 ~~— (B) interest, financing and carrying charges from credit extended on~~  
14 ~~the sale of personal property or services, if the amount is separately stated~~  
15 ~~on the invoice, bill of sale or similar document given to the purchaser;~~
- 16 ~~— (C) any taxes legally imposed directly on the consumer that are sep-~~  
17 ~~arately stated on the invoice, bill of sale or similar document given to the~~  
18 ~~purchaser, and~~
- 19 ~~— (D) the amount equal to the allowance given for the trade-in of prop-~~  
20 ~~erty, if separately stated on the invoice, billing or similar document given~~  
21 ~~to the purchaser.~~
- 22 ~~— (mm) “Seller” means a person making sales, leases or rentals of per-~~  
23 ~~sonal property or services.~~
- 24 ~~— (nn) “Service” means those services described in and taxed under the~~  
25 ~~provisions of K.S.A. 79-3603 and amendments thereto.~~
- 26 ~~— (oo) “Sourcing rules” means the rules set forth in K.S.A. 2003 Supp.~~  
27 ~~79-3670 through 79-3673, K.S.A. 12-191 and 12-191a, and amendments~~  
28 ~~thereto, which shall apply to identify and determine the state and local~~  
29 ~~taxing jurisdiction sales or use taxes to pay, or collect and remit on a~~  
30 ~~particular retail sale.~~
- 31 ~~— (pp) “Tangible personal property” means personal property that can~~  
32 ~~be seen, weighed, measured, felt or touched, or that is in any other man-~~  
33 ~~ner perceptible to the senses. Tangible personal property includes elec-~~  
34 ~~tricity, water, gas, steam and prewritten computer software.~~
- 35 ~~— (qq) “Taxpayer” means any person obligated to account to the direc-~~  
36 ~~tor for taxes collected under the terms of this act.~~
- 37 ~~— (rr) “Tobacco” means cigarettes, cigars, chewing or pipe tobacco or~~  
38 ~~any other item that contains tobacco.~~
- 39 *(a) “Persons” means any individual, firm, copartnership, joint adven-*  
40 *ture, association, corporation, estate or trust, receiver or trustee, or any*  
41 *group or combination acting as a unit, and the plural as well as the sin-*  
42 *gular number; and shall specifically mean any city or other political sub-*  
43 *division of the state of Kansas engaging in a business or providing a service*

- 1 *specifically taxable under the provisions of this act.*
- 2 (b) "Director" means the state director of taxation.
- 3 (c) "Sale" or "sales" means the exchange of tangible personal prop-  
4 erty, as well as the sale thereof for money, and every transaction, condi-  
5 tional or otherwise, for a consideration, constituting a sale, including the  
6 sale or furnishing of electrical energy, gas, water, services or entertain-  
7 ment taxable under the terms of this act and including, except as provided  
8 in the following provision, the sale of the use of tangible personal property  
9 by way of a lease, license to use or the rental thereof regardless of the  
10 method by which the title, possession or right to use the tangible personal  
11 property is transferred. The term "sale" or "sales" shall not mean the sale  
12 of the use of any tangible personal property used as a dwelling by way of  
13 a lease or rental thereof for a term of more than 28 consecutive days.
- 14 (d) "Retailer" means a person regularly engaged in the business of  
15 selling tangible personal property at retail or furnishing electrical energy,  
16 gas, water, services or entertainment, and selling only to the user or con-  
17 sumer and not for resale.
- 18 (e) "Retail sale" or "sale at retail" means all sales made within the  
19 state of tangible personal property or electrical energy, gas, water, services  
20 or entertainment for use or consumption and not for resale.
- 21 (f) "Tangible personal property" means corporeal personal property.  
22 Such term shall include: (1) Any computer software program which is not  
23 a custom computer software program, as described by subsection (s) of  
24 K.S.A. 79-3603, and amendments thereto; and (2) any prepaid telephone  
25 calling card or prepaid authorization number, or recharge of such card  
26 or number, as described by subsection (b) of K.S.A. 79-3603, and amend-  
27 ments thereto.
- 28 (g) "selling price" means the total cost to the consumer exclusive of  
29 discounts allowed and credited, but including freight and transportation  
30 charges from retailer to consumer.
- 31 (h) "Gross receipts" means the total selling price or the amount re-  
32 ceived as defined in this act, in money, credits, property or other consid-  
33 eration valued in money from sales at retail within this state; and em-  
34 braced within the provisions of this act. The taxpayer, may take credit in  
35 the report of gross receipts for: (1) An amount equal to the selling price  
36 of property returned by the purchaser when the full sale price thereof,  
37 including the tax collected, is refunded in cash or by credit; and (2) an  
38 amount equal to the allowance given for the trade-in of property.
- 39 (i) "Taxpayer" means any person obligated to account to the director  
40 for taxes collected under the terms of this act.
- 41 (j) "Isolated or occasional sale" means the nonrecurring sale of tan-  
42 gible personal property, or services taxable hereunder by a person not  
43 engaged at the time of such sale in the business of selling such property

1 or services. Any religious organization which makes a nonrecurring sale  
2 of tangible personal property acquired for the purpose of resale shall be  
3 deemed to be not engaged at the time of such sale in the business of selling  
4 such property. Such term shall include: (1) Any sale by a bank, savings  
5 and loan institution, credit union or any finance company licensed under  
6 the provisions of the Kansas uniform consumer credit code of tangible  
7 personal property which has been repossessed by any such entity; and (2)  
8 any sale of tangible personal property made by an auctioneer or agent on  
9 behalf of not more than two principals or households if such sale is non-  
10 recurring and any such principal or household is not engaged at the time  
11 of such sale in the business of selling tangible personal property.

12 (k) "Service" means those services described in and taxed under the  
13 provisions of K.S.A. 79-3603 and amendments thereto.

14 (l) "Ingredient or component part" means tangible personal property  
15 which is necessary or essential to, and which is actually used in and  
16 becomes an integral and material part of tangible personal property or  
17 services produced, manufactured or compounded for sale by the producer,  
18 manufacturer or compounder in its regular course of business. The fol-  
19 lowing items of tangible personal property are hereby declared to be in-  
20 gredients or component parts, but the listing of such property shall not  
21 be deemed to be exclusive nor shall such listing be construed to be a  
22 restriction upon, or an indication of, the type or types of property to be  
23 included within the definition of "ingredient or component part" as herein  
24 set forth:

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

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

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

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

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

38 (6) Feed for animals, fowl and aquatic plants and animals, the pri-  
39 mary purpose of which is use in agriculture or aquaculture, as defined in  
40 K.S.A. 47-1901, and amendments thereto, the production of food for hu-  
41 man consumption, the production of animal, dairy, poultry or aquatic  
42 plant and animal products, fiber, fur, or the production of offspring for  
43 use for any such purpose or purposes.

1       (m) “Property which is consumed” means tangible personal property  
2 which is essential or necessary to and which is used in the actual process  
3 of and consumed, depleted or dissipated within one year in (1) the pro-  
4 duction, manufacture, processing, mining, drilling, refining or compound-  
5 ing of tangible personal property, (2) the providing of services, (3) the  
6 irrigation of crops, for sale in the regular course of business, or (4) the  
7 storage or processing of grain by a public grain warehouse or other grain  
8 storage facility, and which is not reusable for such purpose. The following  
9 is a listing of tangible personal property, included by way of illustration  
10 but not of limitation, which qualifies as property which is consumed:

11       (A) Insecticides, herbicides, germicides, pesticides, fungicides, fumi-  
12 gants, antibiotics, biologicals, pharmaceuticals, vitamins and chemicals  
13 for use in commercial or agricultural production, processing or storage of  
14 fruit, vegetables, feeds, seeds, grains, animals or animal products whether  
15 fed, injected, applied, combined with or otherwise used;

16       (B) electricity, gas and water; and

17       (C) petroleum products, lubricants, chemicals, solvents, reagents and  
18 catalysts.

19       (n) “Political subdivision” means any municipality, agency or subdivi-  
20 sion of the state which is, or shall hereafter be, authorized to levy taxes  
21 upon tangible property within the state or which certifies a levy to a  
22 municipality, agency or subdivision of the state which is, or shall hereafter  
23 be, authorized to levy taxes upon tangible property within the state. Such  
24 term also shall include any public building commission, housing, airport,  
25 port, metropolitan transit or similar authority established pursuant to  
26 law.

27       (o) “Municipal corporation” means any city incorporated under the  
28 laws of Kansas.

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

32       (q) “Nonprofit blood bank” means any nonprofit place, organization,  
33 institution or establishment that is operated wholly or in part for the  
34 purpose of obtaining, storing, processing, preparing for transfusing, fur-  
35 nishing, donating or distributing human blood or parts or fractions of  
36 single blood units or products derived from single blood units, whether  
37 or not any remuneration is paid therefor, or whether such procedures are  
38 done for direct therapeutic use or for storage for future use of such  
39 products.

40       (r) “Educational institution” means any nonprofit school, college and  
41 university that offers education at a level above the twelfth grade, and  
42 conducts regular classes and courses of study required for accreditation  
43 by, or membership in, the North Central Association of Colleges and

1 *Schools, the state board of education, or that otherwise qualify as an*  
2 *“educational institution,” as defined by K.S.A. 74-50,103, and amend-*  
3 *ments thereto. Such phrase shall include: (1) A group of educational in-*  
4 *stitutions that operates exclusively for an educational purpose; (2) non-*  
5 *profit endowment associations and foundations organized and operated*  
6 *exclusively to receive, hold, invest and administer moneys and property*  
7 *as a permanent fund for the support and sole benefit of an educational*  
8 *institution; (3) nonprofit trusts, foundations and other entities organized*  
9 *and operated principally to hold and own receipts from intercollegiate*  
10 *sporting events and to disburse such receipts, as well as grants and gifts,*  
11 *in the interest of collegiate and intercollegiate athletic programs for the*  
12 *support and sole benefit of an educational institution; and (4) nonprofit*  
13 *trusts, foundations and other entities organized and operated for the pri-*  
14 *mary purpose of encouraging, fostering and conducting scholarly inves-*  
15 *tigations and industrial and other types of research for the support and*  
16 *sole benefit of an educational institution.*

17 Sec. 5. K.S.A. 2003 Supp. 79-3603 is hereby amended to read as  
18 follows: 79-3603. For the privilege of engaging in the business of selling  
19 tangible personal property at retail in this state or rendering or furnishing  
20 any of the services taxable under this act, there is hereby levied and there  
21 shall be collected and paid a tax at the rate of 5.3% on and after July 1,  
22 2002, ~~and before July 1, 2004, 5.2% on and after July 1, 2004,~~ and before  
23 July 1, ~~2005~~ 2006, and 5% on and after July 1, ~~2005~~ 2006, and, within a  
24 redevelopment district established pursuant to K.S.A. 74-8921, and  
25 amendments thereto, there is hereby levied and there shall be collected  
26 and paid an additional tax at the rate of 2% until the earlier of the date  
27 the bonds issued to finance or refinance the redevelopment project have  
28 been paid in full or the final scheduled maturity of the first series of bonds  
29 issued to finance any part of the project upon:

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

32 (b) (1) the gross receipts from intrastate telephone or telegraph serv-  
33 ices; (2) the gross receipts received from the sale of interstate telephone  
34 or telegraph services, which (A) originate within this state and terminate  
35 outside the state and are billed to a customer's telephone number or  
36 account in this state; or (B) originate outside this state and terminate  
37 within this state and are billed to a customer's telephone number or ac-  
38 count in this state except that the sale of interstate telephone or telegraph  
39 service does not include: (A) Any interstate incoming or outgoing wide  
40 area telephone service or wide area transmission type service which en-  
41 titles the subscriber to make or receive an unlimited number of com-  
42 munications to or from persons having telephone service in a specified  
43 area which is outside the state in which the station provided this service

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

37 (c) the gross receipts from the sale or furnishing of gas, water, elec-  
38 tricity and heat, which sale is not otherwise exempt from taxation under  
39 the provisions of this act, and whether furnished by municipally or pri-  
40 vately owned utilities, ~~except that, on and after January 1, 2006, for sales~~  
41 ~~of gas, electricity and heat delivered through mains, lines or pipes to~~  
42 ~~residential premises for noncommercial use by the occupant of such~~  
43 ~~premises, and for agricultural use and also, for such use, all sales of pro-~~

- 1 ~~pane gas, the state rate shall be 0%, and for all sales of propane gas, LP~~  
2 ~~gas, coal, wood and other fuel sources for the production of heat or light-~~  
3 ~~ing for noncommercial use of an occupant of residential premises, the~~  
4 ~~state rate shall be 0%, but such tax shall not be levied and collected upon~~  
5 ~~the gross receipts from: (1) The sale of a rural water district benefit unit;~~  
6 ~~(2) a water system impact fee, system enhancement fee or similar fee~~  
7 ~~collected by a water supplier as a condition for establishing service; or (3)~~  
8 ~~connection or reconnection fees collected by a water supplier;~~  
9 (d) the gross receipts from the sale of meals or drinks furnished at  
10 any private club, drinking establishment, catered event, restaurant, eating  
11 house, dining car, hotel, drugstore or other place where meals or drinks  
12 are regularly sold to the public;  
13 (e) the gross receipts from the sale of admissions to any place provid-  
14 ing amusement, entertainment or recreation services including admis-  
15 sions to state, county, district and local fairs, but such tax shall not be  
16 levied and collected upon the gross receipts received from sales of ad-  
17 missions to any cultural and historical event which occurs triennially;  
18 (f) the gross receipts from the operation of any coin-operated device  
19 dispensing or providing tangible personal property, amusement or other  
20 services except laundry services, whether automatic or manually operated;  
21 (g) the gross receipts from the service of renting of rooms by hotels,  
22 as defined by K.S.A. 36-501 and amendments thereto, or by accommoda-  
23 tion brokers, as defined by K.S.A. 12-1692, and amendments thereto  
24 but such tax shall not be levied and collected upon the gross receipts  
25 received from sales of such service to the federal government and any  
26 agency, officer or employee thereof in association with the performance  
27 of official government duties;  
28 (h) the gross receipts from the service of renting or leasing of tangible  
29 personal property except such tax shall not apply to the renting or leasing  
30 of machinery, equipment or other personal property owned by a city and  
31 purchased from the proceeds of industrial revenue bonds issued prior to  
32 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through  
33 12-1749, and amendments thereto, and any city or lessee renting or leas-  
34 ing such machinery, equipment or other personal property purchased  
35 with the proceeds of such bonds who shall have paid a tax under the  
36 provisions of this section upon sales made prior to July 1, 1973, shall be  
37 entitled to a refund from the sales tax refund fund of all taxes paid  
38 thereon;  
39 (i) the gross receipts from the rendering of dry cleaning, pressing,  
40 dyeing and laundry services except laundry services rendered through a  
41 coin-operated device whether automatic or manually operated;  
42 (j) the gross receipts from the rendering of the services of washing  
43 and washing and waxing of vehicles;



- 1 (k) the gross receipts from cable, community antennae and other sub-  
2 scriber radio and television services;
- 3 (l) (1) except as otherwise provided by paragraph (2), the gross re-  
4 cepts received from the sales of tangible personal property to all con-  
5 tractors, subcontractors or repairmen for use by them in erecting struc-  
6 tures, or building on, or otherwise improving, altering, or repairing real  
7 or personal property.
- 8 (2) Any such contractor, subcontractor or repairman who maintains  
9 an inventory of such property both for sale at retail and for use by them  
10 for the purposes described by paragraph (1) shall be deemed a retailer  
11 with respect to purchases for and sales from such inventory, except that  
12 the gross receipts received from any such sale, other than a sale at retail,  
13 shall be equal to the total purchase price paid for such property and the  
14 tax imposed thereon shall be paid by the deemed retailer;
- 15 (m) the gross receipts received from fees and charges by public and  
16 private clubs, drinking establishments, organizations and businesses for  
17 participation in sports, games and other recreational activities, but such  
18 tax shall not be levied and collected upon the gross receipts received from:
- 19 (1) Fees and charges by any political subdivision, by any organization  
20 exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-  
21 201, and amendments thereto, or by any youth recreation organization  
22 exclusively providing services to persons 18 years of age or younger which  
23 is exempt from federal income taxation pursuant to section 501(c)(3) of  
24 the federal internal revenue code of 1986, for participation in sports,  
25 games and other recreational activities; and (2) entry fees and charges for  
26 participation in a special event or tournament sanctioned by a national  
27 sporting association to which spectators are charged an admission which  
28 is taxable pursuant to subsection (e);
- 29 (n) the gross receipts received from dues charged by public and pri-  
30 vate clubs, drinking establishments, organizations and businesses, pay-  
31 ment of which entitles a member to the use of facilities for recreation or  
32 entertainment, but such tax shall not be levied and collected upon the  
33 gross receipts received from: (1) Dues charged by any organization ex-  
34 empt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of  
35 K.S.A. 79-201, and amendments thereto; and (2) sales of memberships  
36 in a nonprofit organization which is exempt from federal income taxation  
37 pursuant to section 501 (c)(3) of the federal internal revenue code of  
38 1986, and whose purpose is to support the operation of a nonprofit zoo;
- 39 (o) the gross receipts received from the isolated or occasional sale of  
40 motor vehicles or trailers but not including: (1) The transfer of motor  
41 vehicles or trailers by a person to a corporation or limited liability com-  
42 pany solely in exchange for stock securities or membership interest in  
43 such corporation or limited liability company; or (2) the transfer of motor

1 vehicles or trailers by one corporation or limited liability company to  
2 another when all of the assets of such corporation or limited liability  
3 company are transferred to such other corporation or limited liability  
4 company; or (3) the sale of motor vehicles or trailers which are subject  
5 to taxation pursuant to the provisions of K.S.A. 79-5101 *et seq.*, and  
6 amendments thereto, by an immediate family member to another im-  
7 mediate family member. For the purposes of clause (3), immediate family  
8 member means lineal ascendants or descendants, and their spouses. In  
9 determining the base for computing the tax on such isolated or occasional  
10 sale, the fair market value of any motor vehicle or trailer traded in by the  
11 purchaser to the seller may be deducted from the selling price;

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

22 For the purposes of this subsection:

23 (1) "Original construction" shall mean the first or initial construction  
24 of a new building or facility. The term "original construction" shall include  
25 the addition of an entire room or floor to any existing building or facility,  
26 the completion of any unfinished portion of any existing building or fa-  
27 cility and the restoration, reconstruction or replacement of a building or  
28 facility damaged or destroyed by fire, flood, tornado, lightning, explosion  
29 or earthquake, but such term, except with regard to a residence, shall not  
30 include replacement, remodeling, restoration, renovation or reconstruc-  
31 tion under any other circumstances;

32 (2) "building" shall mean only those enclosures within which individ-  
33 uals customarily are employed, or which are customarily used to house  
34 machinery, equipment or other property, and including the land improve-  
35 ments immediately surrounding such building;

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

42 (4) "residence" shall mean only those enclosures within which indi-  
43 viduals customarily live;

1 (q) the gross receipts received for the service of repairing, servicing,  
2 altering or maintaining tangible personal property which when such serv-  
3 ices are rendered is not being held for sale in the regular course of busi-  
4 ness, and whether or not any tangible personal property is transferred in  
5 connection therewith. The tax imposed by this subsection shall be appli-  
6 cable to the services of repairing, servicing, altering or maintaining an  
7 item of tangible personal property which has been and is fastened to,  
8 connected with or built into real property;

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

12 (s) the gross receipts received from the sale of computer software,  
13 ~~the sale of the service of providing computer software other than pre-~~  
14 ~~written computer software~~ and the sale of the services of modifying, al-  
15 tering, updating or maintaining computer software, ~~whether the com-~~  
16 ~~puter software is installed or delivered electronically by tangible storage~~  
17 ~~media physically transferred to the purchaser or by load and leave. As~~  
18 *used in this subsection, "computer software" means information and di-*  
19 *rections loaded into a computer which dictate different functions to be*  
20 *performed by the computer. Computer software includes any canned or*  
21 *prewritten program which is held or existing for general or repeated sale,*  
22 *even if the program was originally developed for a single end user as*  
23 *custom computer software;*

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

32 (u) the gross receipts received from the sale of prepaid calling service  
33 ~~as defined in K.S.A. 2003 Supp. 79-3673, and amendments thereto tele-~~  
34 ~~phone calling cards or prepaid authorization numbers and the recharge~~  
35 ~~of such cards or numbers. A prepaid telephone calling card or prepaid~~  
36 ~~authorization number means the right to exclusively make telephone calls,~~  
37 ~~paid for in advance, that enables the origination of calls using an access~~  
38 ~~number or authorization code or both, whether manually or electronically~~  
39 ~~dialed. If the sale or recharge of such card or number does not take place~~  
40 ~~at the vendor's place of business, it shall be conclusively determined to~~  
41 ~~take place at the customer's shipping address, if there is no item shipped~~  
42 ~~then it shall be the customer's billing address; and~~

43 (v) the gross receipts received from the sales of bingo cards, bingo

1 faces and instant bingo tickets by licensees under K.S.A. 79-4701, *et seq.*,  
2 and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1,  
3 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before  
4 July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo  
5 faces and instant bingo tickets by licensees under K.S.A. 79-4701 *et seq.*,  
6 and amendments thereto, shall be exempt from taxes imposed pursuant  
7 to this section.

8 Sec. 6. K.S.A. 2003 Supp. 79-3606 is hereby amended to read as  
9 follows: 79-3606. The following shall be exempt from the tax imposed by  
10 this act:

11 (a) All sales of motor-vehicle fuel or other articles upon which a sales  
12 or excise tax has been paid, not subject to refund, under the laws of this  
13 state except cigarettes as defined by K.S.A. 79-3301 and amendments  
14 thereto, cereal malt beverages and malt products as defined by K.S.A. 79-  
15 3817 and amendments thereto, including wort, liquid malt, malt syrup  
16 and malt extract, which is not subject to taxation under the provisions of  
17 K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant  
18 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to  
19 K.S.A. 65-3424d, and amendments thereto, and drycleaning and laundry  
20 services taxed pursuant to K.S.A. 65-34,150, and amendments thereto;

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

35 (c) all sales of tangible personal property or services, including the  
36 renting and leasing of tangible personal property, purchased directly by  
37 a public or private elementary or secondary school or public or private  
38 nonprofit educational institution and used primarily by such school or  
39 institution for nonsectarian programs and activities provided or sponsored  
40 by such school or institution or in the erection, repair or enlargement of  
41 buildings to be used for such purposes. The exemption herein provided  
42 shall not apply to erection, construction, repair, enlargement or equip-  
43 ment of buildings used primarily for human habitation;

1 (d) all sales of tangible personal property or services purchased by a  
2 contractor for the purpose of constructing, equipping, reconstructing,  
3 maintaining, repairing, enlarging, furnishing or remodeling facilities for  
4 any public or private nonprofit hospital or public hospital authority, public  
5 or private elementary or secondary school or a public or private nonprofit  
6 educational institution, which would be exempt from taxation under the  
7 provisions of this act if purchased directly by such hospital or public hos-  
8 pital authority, school or educational institution; and all sales of tangible  
9 personal property or services purchased by a contractor for the purpose  
10 of constructing, equipping, reconstructing, maintaining, repairing, en-  
11 larging, furnishing or remodeling facilities for any political subdivision of  
12 the state or district described in subsection (s), the total cost of which is  
13 paid from funds of such political subdivision or district and which would  
14 be exempt from taxation under the provisions of this act if purchased  
15 directly by such political subdivision or district. Nothing in this subsection  
16 or in the provisions of K.S.A. 12-3418 and amendments thereto, shall be  
17 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 political subdivision of the state or any such district. As used in this sub-  
21 section, K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds  
22 of a political subdivision" shall mean general tax revenues, the proceeds  
23 of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used  
24 for the purpose of constructing, equipping, reconstructing, repairing, en-  
25 larging, furnishing or remodeling facilities which are to be leased to the  
26 donor. When any political subdivision of the state, district described in  
27 subsection (s), public or private nonprofit hospital or public hospital au-  
28 thority, public or private elementary or secondary school or public or  
29 private nonprofit educational institution shall contract for the purpose of  
30 constructing, equipping, reconstructing, maintaining, repairing, enlarg-  
31 ing, furnishing or remodeling facilities, it shall obtain from the state and  
32 furnish to the contractor an exemption certificate for the project involved,  
33 and the contractor may purchase materials for incorporation in such pro-  
34 ject. The contractor shall furnish the number of such certificate to all  
35 suppliers from whom such purchases are made, and such suppliers shall  
36 execute invoices covering the same bearing the number of such certifi-  
37 cate. Upon completion of the project the contractor shall furnish to the  
38 political subdivision, district described in subsection (s), hospital or public  
39 hospital authority, school or educational institution concerned a sworn  
40 statement, on a form to be provided by the director of taxation, that all  
41 purchases so made were entitled to exemption under this subsection. As  
42 an alternative to the foregoing procedure, any such contracting entity may  
43 apply to the secretary of revenue for agent status for the sole purpose of

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

25 (e) all sales of tangible personal property or services purchased by a  
26 contractor for the erection, repair or enlargement of buildings or other  
27 projects for the government of the United States, its agencies or instru-  
28 mentalities, which would be exempt from taxation if purchased directly  
29 by the government of the United States, its agencies or instrumentalities.  
30 When the government of the United States, its agencies or instrumen-  
31 talities shall contract for the erection, repair, or enlargement of any build-  
32 ing or other project, it shall obtain from the state and furnish to the  
33 contractor an exemption certificate for the project involved, and the con-  
34 tractor may purchase materials for incorporation in such project. The  
35 contractor shall furnish the number of such certificates to all suppliers  
36 from whom such purchases are made, and such suppliers shall execute  
37 invoices covering the same bearing the number of such certificate. Upon  
38 completion of the project the contractor shall furnish to the government  
39 of the United States, its agencies or instrumentalities concerned a sworn  
40 statement, on a form to be provided by the director of taxation, that all  
41 purchases so made were entitled to exemption under this subsection. As  
42 an alternative to the foregoing procedure, any such contracting entity may  
43 apply to the secretary of revenue for agent status for the sole purpose of

1 issuing and furnishing project exemption certificates to contractors pur-  
2 suant to rules and regulations adopted by the secretary establishing con-  
3 ditions and standards for the granting and maintaining of such status. All  
4 invoices shall be held by the contractor for a period of five years and shall  
5 be subject to audit by the director of taxation. Any contractor or any agent,  
6 employee or subcontractor thereof, who shall use or otherwise dispose of  
7 any materials purchased under such a certificate for any purpose other  
8 than that for which such a certificate is issued without the payment of  
9 the sales or compensating tax otherwise imposed upon such materials,  
10 shall be guilty of a misdemeanor and, upon conviction therefor, shall be  
11 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615  
12 and amendments thereto;

13 (f) tangible personal property purchased by a railroad or public utility  
14 for consumption or movement directly and immediately in interstate  
15 commerce;

16 (g) sales of aircraft including remanufactured and modified aircraft,  
17 sales of aircraft repair, modification and replacement parts and sales of  
18 services employed in the remanufacture, modification and repair of air-  
19 craft sold to persons using directly or through an authorized agent such  
20 aircraft and aircraft repair, modification and replacement parts as certified  
21 or licensed carriers of persons or property in interstate or foreign com-  
22 merce under authority of the laws of the United States or any foreign  
23 government or sold to any foreign government or agency or instrumen-  
24 tality of such foreign government and all sales of aircraft, aircraft parts,  
25 replacement parts and services employed in the remanufacture, modifi-  
26 cation and repair of aircraft for use outside of the United States;

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

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

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

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

42 (l) all isolated or occasional sales of tangible personal property, serv-  
43 ices, substances or things, except isolated or occasional sale of motor

1 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.  
2 79-3603 and amendments thereto;

3 (m) all sales of tangible personal property which become an ingre-  
4 dient or component part of tangible personal property or services pro-  
5 duced, manufactured or compounded for ultimate sale at retail within or  
6 without the state of Kansas; and any such producer, manufacturer or  
7 compounder may obtain from the director of taxation and furnish to the  
8 supplier an exemption certificate number for tangible personal property  
9 for use as an ingredient or component part of the property or services  
10 produced, manufactured or compounded;

11 (n) all sales of tangible personal property which is consumed in the  
12 production, manufacture, processing, mining, drilling, refining or com-  
13 pounding of tangible personal property, the treating of by-products or  
14 wastes derived from any such production process, the providing of serv-  
15 ices or the irrigation of crops for ultimate sale at retail within or without  
16 the state of Kansas; and any purchaser of such property may obtain from  
17 the director of taxation and furnish to the supplier an exemption certifi-  
18 cate number for tangible personal property for consumption in such pro-  
19 duction, manufacture, processing, mining, drilling, refining, compound-  
20 ing, treating, irrigation and in providing such services;

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

27 (p) all sales of drugs, *as defined by K.S.A. 65-1626, and amendments*  
28 *thereto*, dispensed pursuant to a prescription order, *as defined by K.S.A.*  
29 *65-1626, and amendments thereto*, by a licensed practitioner or a mid-  
30 level practitioner as defined by K.S.A. 65-1626, and amendments thereto:  
31 ~~As used in this subsection, "drug" means a compound, substance or prep-~~  
32 ~~aration and any component of a compound, substance or preparation,~~  
33 ~~other than food and food ingredients, dietary supplements or alcoholic~~  
34 ~~beverages, recognized in the official United States pharmacopocia, official~~  
35 ~~homeopathic pharmacopocia of the United States or official national for-~~  
36 ~~mulary, and supplement to any of them, intended for use in the diagnosis,~~  
37 ~~cure, mitigation, treatment or prevention of disease or intended to affect~~  
38 ~~the structure or any function of the body;~~

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

42 (r) all sales of prosthetic devices and ~~mobility enhancing equipment~~  
43 *orthopedic appliances* prescribed in writing by a person licensed to prac-



1 tice the healing arts, dentistry or optometry. For the purposes of this  
2 subsection: (1) “Mobility enhancing equipment” means equipment in-  
3 cluding repair and replacement parts to same, but does not include du-  
4 rable medical equipment, which is primarily and customarily used to pro-  
5 vide or increase the ability to move from one place to another and which  
6 is appropriate for use either in a home or a motor vehicle; is not generally  
7 used by persons with normal mobility; and does not include any motor  
8 vehicle or equipment on a motor vehicle normally provided by a motor  
9 vehicle manufacturer; and (2) “prosthetic device” means a replacement,  
10 corrective or supportive device including repair and replacement parts  
11 for same worn on or in the body to artificially replace a missing portion  
12 of the body, prevent or correct physical deformity or malfunction or sup-  
13 port a weak or deformed portion of the body, *the term prosthetic an*  
14 *orthopedic appliances means any apparatus, instrument, device or equip-*  
15 *ment used to replace or substitute for any missing part of the body, used*  
16 *to alleviate the malfunction of any part of the body, or used to assist any*  
17 *disabled person in leading a normal life by facilitating such person’s mo-*  
18 *bility, such term shall include accessories attached or to be attached to*  
19 *motor vehicles, but such term shall not include motor vehicles or personal*  
20 *property which when installed becomes a fixture to real property;*

21 (s) except as provided in K.S.A. 2003 Supp. 82a-2101, and amend-  
22 ments thereto, all sales of tangible personal property or services pur-  
23 chased directly or indirectly by a groundwater management district or-  
24 ganized or operating under the authority of K.S.A. 82a-1020 *et seq.* and  
25 amendments thereto, by a rural water district organized or operating un-  
26 der the authority of K.S.A. 82a-612, and amendments thereto, or by a  
27 water supply district organized or operating under the authority of K.S.A.  
28 19-3501 *et seq.*, 19-3522 *et seq.* or 19-3545, and amendments thereto,  
29 which property or services are used in the construction activities, opera-  
30 tion or maintenance of the district;

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

1 used only in farming, ranching or aquaculture production. Farming or  
2 ranching shall include the operation of a feedlot and farm and ranch work  
3 for hire and the operation of a nursery;

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

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

19 (w) all sales of natural gas, electricity, heat and water delivered  
20 through mains, lines or pipes: (1) To residential premises for noncom-  
21 mercial use by the occupant of such premises; (2) for agricultural use and  
22 also, for such use, all sales of propane gas; (3) for use in the severing of  
23 oil; and (4) to any property which is exempt from property taxation pur-  
24 suant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph,  
25 "severing" shall have the meaning ascribed thereto by subsection (k) of  
26 K.S.A. 79-4216, and amendments thereto. ~~For all sales of natural gas,~~  
27 ~~electricity and heat delivered through mains, lines or pipes pursuant to~~  
28 ~~the provisions of subsection (w)(1) and (w)(2), the provisions of this sub-~~  
29 ~~section shall expire on December 31, 2005;~~

30 (x) all sales of propane gas, LP-gas, coal, wood and other fuel sources  
31 for the production of heat or lighting for noncommercial use of an oc-  
32 cupant of residential premises ~~occurring prior to January 1, 2006;~~

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

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

40 (aa) all sales of materials and services applied to equipment which is  
41 transported into the state from without the state for repair, service, al-  
42 teration, maintenance, remanufacture or modification and which is sub-  
43 sequently transported outside the state for use in the transmission of

1 liquids or natural gas by means of pipeline in interstate or foreign com-  
2 merce under authority of the laws of the United States;

3 (bb) all sales of used mobile homes or manufactured homes. As used  
4 in this subsection: (1) “Mobile homes” and “manufactured homes” shall  
5 have the meanings ascribed thereto by K.S.A. 58-4202 and amendments  
6 thereto; and (2) “sales of used mobile homes or manufactured homes”  
7 means sales other than the original retail sale thereof;

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

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

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

40 (ff) on and after July 1, 1988, all sales of new mobile homes or man-  
41 ufactured homes to the extent of 40% of the gross receipts, determined  
42 without regard to any trade-in allowance, received from such sale. As used  
43 in this subsection, “mobile homes” and “manufactured homes” shall have

- 1 the meanings ascribed thereto by K.S.A. 58-4202 and amendments  
2 thereto;
- 3 (gg) all sales of tangible personal property purchased in accordance  
4 with vouchers issued pursuant to the federal special supplemental food  
5 program for women, infants and children;
- 6 (hh) all sales of medical supplies and equipment, ~~including durable~~  
7 ~~medical equipment~~, purchased directly by a nonprofit skilled nursing  
8 home or nonprofit intermediate nursing care home, as defined by K.S.A.  
9 39-923, and amendments thereto, for the purpose of providing medical  
10 services to residents thereof. This exemption shall not apply to tangible  
11 personal property customarily used for human habitation purposes. ~~As~~  
12 ~~used in this subsection, “durable medical equipment” means equipment~~  
13 ~~including repair and replacement parts for such equipment, but does not~~  
14 ~~include mobility enhancing equipment as defined in subsection (r) which~~  
15 ~~can withstand repeated use, is primarily and customarily used to serve a~~  
16 ~~medical purpose, generally is not useful to a person in the absence of~~  
17 ~~illness or injury and is not worn in or on the body;~~
- 18 (ii) all sales of tangible personal property purchased directly by a non-  
19 profit organization for nonsectarian comprehensive multidiscipline youth  
20 development programs and activities provided or sponsored by such or-  
21 ganization, and all sales of tangible personal property by or on behalf of  
22 any such organization. This exemption shall not apply to tangible personal  
23 property customarily used for human habitation purposes;
- 24 (jj) all sales of tangible personal property or services, including the  
25 renting and leasing of tangible personal property, purchased directly on  
26 behalf of a community-based mental retardation facility or mental health  
27 center organized pursuant to K.S.A. 19-4001 *et seq.*, and amendments  
28 thereto, and licensed in accordance with the provisions of K.S.A. 75-  
29 3307b and amendments thereto. This exemption shall not apply to tan-  
30 gible personal property customarily used for human habitation purposes;
- 31 (kk) (1) (A) all sales of machinery and equipment which are used  
32 in this state as an integral or essential part of an integrated production  
33 operation by a manufacturing or processing plant or facility;
- 34 (B) all sales of installation, repair and maintenance services per-  
35 formed on such machinery and equipment; and
- 36 (C) all sales of repair and replacement parts and accessories pur-  
37 chased for such machinery and equipment.
- 38 (2) For purposes of this subsection:
- 39 (A) “Integrated production operation” means an integrated series of  
40 operations engaged in at a manufacturing or processing plant or facility  
41 to process, transform or convert tangible personal property by physical,  
42 chemical or other means into a different form, composition or character  
43 from that in which it originally existed. Integrated production operations

1 shall include: (i) Production line operations, including packaging opera-  
2 tions; (ii) preproduction operations to handle, store and treat raw mate-  
3 rials; (iii) post production handling, storage, warehousing and distribution  
4 operations; and (iv) waste, pollution and environmental control opera-  
5 tions, if any;

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

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

20 (D) “manufacturing or processing business” means a business that  
21 utilizes an integrated production operation to manufacture, process, fab-  
22 ricate, finish, or assemble items for wholesale and retail distribution as  
23 part of what is commonly regarded by the general public as an industrial  
24 manufacturing or processing operation or an agricultural commodity  
25 processing operation. (i) Industrial manufacturing or processing opera-  
26 tions include, by way of illustration but not of limitation, the fabrication  
27 of automobiles, airplanes, machinery or transportation equipment, the  
28 fabrication of metal, plastic, wood, or paper products, electricity power  
29 generation, water treatment, petroleum refining, chemical production,  
30 wholesale bottling, newspaper printing, ready mixed concrete production,  
31 and the remanufacturing of used parts for wholesale or retail sale. Such  
32 processing operations shall include operations at an oil well, gas well, mine  
33 or other excavation site where the oil, gas, minerals, coal, clay, stone, sand  
34 or gravel that has been extracted from the earth is cleaned, separated,  
35 crushed, ground, milled, screened, washed, or otherwise treated or pre-  
36 pared before its transmission to a refinery or before any other wholesale  
37 or retail distribution. (ii) Agricultural commodity processing operations  
38 include, by way of illustration but not of limitation, meat packing, poultry  
39 slaughtering and dressing, processing and packaging farm and dairy prod-  
40 ucts in sealed containers for wholesale and retail distribution, feed grind-  
41 ing, grain milling, frozen food processing, and grain handling, cleaning,  
42 blending, fumigation, drying and aeration operations engaged in by grain  
43 elevators or other grain storage facilities. (iii) Manufacturing or processing

- 1 businesses do not include, by way of illustration but not of limitation,  
2 nonindustrial businesses whose operations are primarily retail and that  
3 produce or process tangible personal property as an incidental part of  
4 conducting the retail business, such as retailers who bake, cook or prepare  
5 food products in the regular course of their retail trade, grocery stores,  
6 meat lockers and meat markets that butcher or dress livestock or poultry  
7 in the regular course of their retail trade, contractors who alter, service,  
8 repair or improve real property, and retail businesses that clean, service  
9 or refurbish and repair tangible personal property for its owner;
- 10 (E) “repair and replacement parts and accessories” means all parts  
11 and accessories for exempt machinery and equipment, including, but not  
12 limited to, dies, jigs, molds, patterns and safety devices that are attached  
13 to exempt machinery or that are otherwise used in production, and parts  
14 and accessories that require periodic replacement such as belts, drill bits,  
15 grinding wheels, grinding balls, cutting bars, saws, refractory brick and  
16 other refractory items for exempt kiln equipment used in production  
17 operations;
- 18 (F) “primary” or “primarily” mean more than 50% of the time.
- 19 (3) For purposes of this subsection, machinery and equipment shall  
20 be deemed to be used as an integral or essential part of an integrated  
21 production operation when used:
- 22 (A) To receive, transport, convey, handle, treat or store raw materials  
23 in preparation of its placement on the production line;
- 24 (B) to transport, convey, handle or store the property undergoing  
25 manufacturing or processing at any point from the beginning of the pro-  
26 duction line through any warehousing or distribution operation of the  
27 final product that occurs at the plant or facility;
- 28 (C) to act upon, effect, promote or otherwise facilitate a physical  
29 change to the property undergoing manufacturing or processing;
- 30 (D) to guide, control or direct the movement of property undergoing  
31 manufacturing or processing;
- 32 (E) to test or measure raw materials, the property undergoing man-  
33 ufacturing or processing or the finished product, as a necessary part of  
34 the manufacturer’s integrated production operations;
- 35 (F) to plan, manage, control or record the receipt and flow of inven-  
36 tories of raw materials, consumables and component parts, the flow of  
37 the property undergoing manufacturing or processing and the manage-  
38 ment of inventories of the finished product;
- 39 (G) to produce energy for, lubricate, control the operating of or oth-  
40 erwise enable the functioning of other production machinery and equip-  
41 ment and the continuation of production operations;
- 42 (H) to package the property being manufactured or processed in a  
43 container or wrapping in which such property is normally sold or

1 transported;

2 (I) to transmit or transport electricity, coke, gas, water, steam or sim-  
3 ilar substances used in production operations from the point of genera-  
4 tion, if produced by the manufacturer or processor at the plant site, to  
5 that manufacturer's production operation; or, if purchased or delivered  
6 from offsite, from the point where the substance enters the site of the  
7 plant or facility to that manufacturer's production operations;

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

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

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

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

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

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

41 (A) Machinery and equipment used for nonproduction purposes, in-  
42 cluding, but not limited to, machinery and equipment used for plant se-  
43 curity, fire prevention, first aid, accounting, administration, record keep-

- 1 ing, advertising, marketing, sales or other related activities, plant cleaning,  
2 plant communications, and employee work scheduling;
- 3 (B) machinery, equipment and tools used primarily in maintaining  
4 and repairing any type of machinery and equipment or the building and  
5 plant;
- 6 (C) transportation, transmission and distribution equipment not pri-  
7 marily used in a production, warehousing or material handling operation  
8 at the plant or facility, including the means of conveyance of natural gas,  
9 electricity, oil or water, and equipment related thereto, located outside  
10 the plant or facility;
- 11 (D) office machines and equipment including computers and related  
12 peripheral equipment not used directly and primarily to control or mea-  
13 sure the manufacturing process;
- 14 (E) furniture and other furnishings;
- 15 (F) buildings, other than exempt machinery and equipment that is  
16 permanently affixed to or becomes a physical part of the building, and  
17 any other part of real estate that is not otherwise exempt;
- 18 (G) building fixtures that are not integral to the manufacturing op-  
19 eration, such as utility systems for heating, ventilation, air conditioning,  
20 communications, plumbing or electrical;
- 21 (H) machinery and equipment used for general plant heating, cooling  
22 and lighting;
- 23 (I) motor vehicles that are registered for operation on public high-  
24 ways; or
- 25 (J) employee apparel, except safety and protective apparel that is pur-  
26 chased by an employer and furnished gratuitously to employees who are  
27 involved in production or research activities.
- 28 (6) Subsections (3) and (5) shall not be construed as exclusive listings  
29 of the machinery and equipment that qualify or do not qualify as an  
30 integral or essential part of an integrated production operation. When  
31 machinery or equipment is used as an integral or essential part of pro-  
32 duction operations part of the time and for nonproduction purpose at  
33 other times, the primary use of the machinery or equipment shall deter-  
34 mine whether or not such machinery or equipment qualifies for  
35 exemption.
- 36 (7) The secretary of revenue shall adopt rules and regulations nec-  
37 essary to administer the provisions of this subsection;
- 38 (ll) all sales of educational materials purchased for distribution to the  
39 public at no charge by a nonprofit corporation organized for the purpose  
40 of encouraging, fostering and conducting programs for the improvement  
41 of public health;
- 42 (mm) all sales of seeds and tree seedlings; fertilizers, insecticides,  
43 herbicides, germicides, pesticides and fungicides; and services, purchased



- 1 and used for the purpose of producing plants in order to prevent soil  
2 erosion on land devoted to agricultural use;
- 3 (nn) except as otherwise provided in this act, all sales of services ren-  
4 dered by an advertising agency or licensed broadcast station or any mem-  
5 ber, agent or employee thereof;
- 6 (oo) all sales of tangible personal property purchased by a community  
7 action group or agency for the exclusive purpose of repairing or weath-  
8 erizing housing occupied by low income individuals;
- 9 (pp) all sales of drill bits and explosives actually utilized in the explo-  
10 ration and production of oil or gas;
- 11 (qq) all sales of tangible personal property and services purchased by  
12 a nonprofit museum or historical society or any combination thereof, in-  
13 cluding a nonprofit organization which is organized for the purpose of  
14 stimulating public interest in the exploration of space by providing edu-  
15 cational information, exhibits and experiences, which is exempt from fed-  
16 eral income taxation pursuant to section 501(c)(3) of the federal internal  
17 revenue code of 1986;
- 18 (rr) all sales of tangible personal property which will admit the pur-  
19 chaser thereof to any annual event sponsored by a nonprofit organization  
20 which is exempt from federal income taxation pursuant to section  
21 501(c)(3) of the federal internal revenue code of 1986;
- 22 (ss) all sales of tangible personal property and services purchased by  
23 a public broadcasting station licensed by the federal communications  
24 commission as a noncommercial educational television or radio station;
- 25 (tt) all sales of tangible personal property and services purchased by  
26 or on behalf of a not-for-profit corporation which is exempt from federal  
27 income taxation pursuant to section 501(c)(3) of the federal internal rev-  
28 enue code of 1986, for the sole purpose of constructing a Kansas Korean  
29 War memorial;
- 30 (uu) all sales of tangible personal property and services purchased by  
31 or on behalf of any rural volunteer fire-fighting organization for use ex-  
32 clusively in the performance of its duties and functions;
- 33 (vv) all sales of tangible personal property purchased by any of the  
34 following organizations which are exempt from federal income taxation  
35 pursuant to section 501 (c)(3) of the federal internal revenue code of  
36 1986, for the following purposes, and all sales of any such property by or  
37 on behalf of any such organization for any such purpose:
- 38 (1) The American Heart Association, Kansas Affiliate, Inc. for the  
39 purposes of providing education, training, certification in emergency car-  
40 diac care, research and other related services to reduce disability and  
41 death from cardiovascular diseases and stroke;
- 42 (2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of  
43 advocacy for persons with mental illness and to education, research and

- 1 support for their families;
- 2 (3) the Kansas Mental Illness Awareness Council for the purposes of  
3 advocacy for persons who are mentally ill and to education, research and  
4 support for them and their families;
- 5 (4) the American Diabetes Association Kansas Affiliate, Inc. for the  
6 purpose of eliminating diabetes through medical research, public edu-  
7 cation focusing on disease prevention and education, patient education  
8 including information on coping with diabetes, and professional education  
9 and training;
- 10 (5) the American Lung Association of Kansas, Inc. for the purpose of  
11 eliminating all lung diseases through medical research, public education  
12 including information on coping with lung diseases, professional educa-  
13 tion and training related to lung disease and other related services to  
14 reduce the incidence of disability and death due to lung disease;
- 15 (6) the Kansas chapters of the Alzheimer's Disease and Related Dis-  
16 orders Association, Inc. for the purpose of providing assistance and sup-  
17 port to persons in Kansas with Alzheimer's disease, and their families and  
18 caregivers;
- 19 (7) the Kansas chapters of the Parkinson's disease association for the  
20 purpose of eliminating Parkinson's disease through medical research and  
21 public and professional education related to such disease; and
- 22 (8) the National Kidney Foundation of Kansas and Western Missouri  
23 for the purpose of eliminating kidney disease through medical research  
24 and public and private education related to such disease;
- 25 (ww) all sales of tangible personal property purchased by the Habitat  
26 for Humanity for the exclusive use of being incorporated within a housing  
27 project constructed by such organization;
- 28 (xx) all sales of tangible personal property and services purchased by  
29 a nonprofit zoo which is exempt from federal income taxation pursuant  
30 to section 501(c)(3) of the federal internal revenue code of 1986, or on  
31 behalf of such zoo by an entity itself exempt from federal income taxation  
32 pursuant to section 501(c)(3) of the federal internal revenue code of 1986  
33 contracted with to operate such zoo and all sales of tangible personal  
34 property or services purchased by a contractor for the purpose of con-  
35 structing, equipping, reconstructing, maintaining, repairing, enlarging,  
36 furnishing or remodeling facilities for any nonprofit zoo which would be  
37 exempt from taxation under the provisions of this section if purchased  
38 directly by such nonprofit zoo or the entity operating such zoo. Nothing  
39 in this subsection shall be deemed to exempt the purchase of any con-  
40 struction machinery, equipment or tools used in the constructing, equip-  
41 ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-  
42 modeling facilities for any nonprofit zoo. When any nonprofit zoo shall  
43 contract for the purpose of constructing, equipping, reconstructing, main-

1 taining, repairing, enlarging, furnishing or remodeling facilities, it shall  
2 obtain from the state and furnish to the contractor an exemption certifi-  
3 cate for the project involved, and the contractor may purchase materials  
4 for incorporation in such project. The contractor shall furnish the number  
5 of such certificate to all suppliers from whom such purchases are made,  
6 and such suppliers shall execute invoices covering the same bearing the  
7 number of such certificate. Upon completion of the project the contractor  
8 shall furnish to the nonprofit zoo concerned a sworn statement, on a form  
9 to be provided by the director of taxation, that all purchases so made were  
10 entitled to exemption under this subsection. All invoices shall be held by  
11 the contractor for a period of five years and shall be subject to audit by  
12 the director of taxation. If any materials purchased under such a certifi-  
13 cate are found not to have been incorporated in the building or other  
14 project or not to have been returned for credit or the sales or compen-  
15 sating tax otherwise imposed upon such materials which will not be so  
16 incorporated in the building or other project reported and paid by such  
17 contractor to the director of taxation not later than the 20th day of the  
18 month following the close of the month in which it shall be determined  
19 that such materials will not be used for the purpose for which such cer-  
20 tificate was issued, the nonprofit zoo concerned shall be liable for tax on  
21 all materials purchased for the project, and upon payment thereof it may  
22 recover the same from the contractor together with reasonable attorney  
23 fees. Any contractor or any agent, employee or subcontractor thereof,  
24 who shall use or otherwise dispose of any materials purchased under such  
25 a certificate for any purpose other than that for which such a certificate  
26 is issued without the payment of the sales or compensating tax otherwise  
27 imposed upon such materials, shall be guilty of a misdemeanor and, upon  
28 conviction therefor, shall be subject to the penalties provided for in sub-  
29 section (g) of K.S.A. 79-3615, and amendments thereto;

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

33 (zz) all sales of machinery and equipment purchased by over-the-air,  
34 free access radio or television station which is used directly and primarily  
35 for the purpose of producing a broadcast signal or is such that the failure  
36 of the machinery or equipment to operate would cause broadcasting to  
37 cease. For purposes of this subsection, machinery and equipment shall  
38 include, but not be limited to, that required by rules and regulations of  
39 the federal communications commission, and all sales of electricity which  
40 are essential or necessary for the purpose of producing a broadcast signal  
41 or is such that the failure of the electricity would cause broadcasting to  
42 cease;

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

1 by a religious organization which is exempt from federal income taxation  
2 pursuant to section 501(c)(3) of the federal internal revenue code, and  
3 used exclusively for religious purposes, and all sales of tangible personal  
4 property or services purchased by a contractor for the purpose of con-  
5 structing, equipping, reconstructing, maintaining, repairing, enlarging,  
6 furnishing or remodeling facilities for any such organization which would  
7 be exempt from taxation under the provisions of this section if purchased  
8 directly by such organization. Nothing in this subsection shall be deemed  
9 to exempt the purchase of any construction machinery, equipment or  
10 tools used in the constructing, equipping, reconstructing, maintaining,  
11 repairing, enlarging, furnishing or remodeling facilities for any such or-  
12 ganization. When any such organization shall contract for the purpose of  
13 constructing, equipping, reconstructing, maintaining, repairing, enlarg-  
14 ing, furnishing or remodeling facilities, it shall obtain from the state and  
15 furnish to the contractor an exemption certificate for the project involved,  
16 and the contractor may purchase materials for incorporation in such pro-  
17 ject. The contractor shall furnish the number of such certificate to all  
18 suppliers from whom such purchases are made, and such suppliers shall  
19 execute invoices covering the same bearing the number of such certifi-  
20 cate. Upon completion of the project the contractor shall furnish to such  
21 organization concerned a sworn statement, on a form to be provided by  
22 the director of taxation, that all purchases so made were entitled to ex-  
23 emption under this subsection. All invoices shall be held by the contractor  
24 for a period of five years and shall be subject to audit by the director of  
25 taxation. If any materials purchased under such a certificate are found  
26 not to have been incorporated in the building or other project or not to  
27 have been returned for credit or the sales or compensating tax otherwise  
28 imposed upon such materials which will not be so incorporated in the  
29 building or other project reported and paid by such contractor to the  
30 director of taxation not later than the 20th day of the month following  
31 the close of the month in which it shall be determined that such materials  
32 will not be used for the purpose for which such certificate was issued,  
33 such organization concerned shall be liable for tax on all materials pur-  
34 chased for the project, and upon payment thereof it may recover the same  
35 from the contractor together with reasonable attorney fees. Any contrac-  
36 tor or any agent, employee or subcontractor thereof, who shall use or  
37 otherwise dispose of any materials purchased under such a certificate for  
38 any purpose other than that for which such a certificate is issued without  
39 the payment of the sales or compensating tax otherwise imposed upon  
40 such materials, shall be guilty of a misdemeanor and, upon conviction  
41 therefor, shall be subject to the penalties provided for in subsection (g)  
42 of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after  
43 July 1, 1998, but prior to the effective date of this act upon the gross

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

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

16 (ccc) on and after July 1, 1999, all sales of tangible personal property  
17 and services purchased by a primary care clinic or health center the pri-  
18 mary purpose of which is to provide services to medically underserved  
19 individuals and families, and which is exempt from federal income taxa-  
20 tion pursuant to section 501 (c)(3) of the federal internal revenue code,  
21 and all sales of tangible personal property or services purchased by a  
22 contractor for the purpose of constructing, equipping, reconstructing,  
23 maintaining, repairing, enlarging, furnishing or remodeling facilities for  
24 any such clinic or center which would be exempt from taxation under the  
25 provisions of this section if purchased directly by such clinic or center.  
26 Nothing in this subsection shall be deemed to exempt the purchase of  
27 any construction machinery, equipment or tools used in the constructing,  
28 equipping, reconstructing, maintaining, repairing, enlarging, furnishing  
29 or remodeling facilities for any such clinic or center. When any such clinic  
30 or center shall contract for the purpose of constructing, equipping, re-  
31 constructing, maintaining, repairing, enlarging, furnishing or remodeling  
32 facilities, it shall obtain from the state and furnish to the contractor an  
33 exemption certificate for the project involved, and the contractor may  
34 purchase materials for incorporation in such project. The contractor shall  
35 furnish the number of such certificate to all suppliers from whom such  
36 purchases are made, and such suppliers shall execute invoices covering  
37 the same bearing the number of such certificate. Upon completion of the  
38 project the contractor shall furnish to such clinic or center concerned a  
39 sworn statement, on a form to be provided by the director of taxation,  
40 that all purchases so made were entitled to exemption under this subsec-  
41 tion. All invoices shall be held by the contractor for a period of five years  
42 and shall be subject to audit by the director of taxation. If any materials  
43 purchased under such a certificate are found not to have been incorpo-

1 rated in the building or other project or not to have been returned for  
2 credit or the sales or compensating tax otherwise imposed upon such  
3 materials which will not be so incorporated in the building or other pro-  
4 ject reported and paid by such contractor to the director of taxation not  
5 later than the 20th day of the month following the close of the month in  
6 which it shall be determined that such materials will not be used for the  
7 purpose for which such certificate was issued, such clinic or center con-  
8 cerned shall be liable for tax on all materials purchased for the project,  
9 and upon payment thereof it may recover the same from the contractor  
10 together with reasonable attorney fees. Any contractor or any agent, em-  
11 ployee or subcontractor thereof, who shall use or otherwise dispose of  
12 any materials purchased under such a certificate for any purpose other  
13 than that for which such a certificate is issued without the payment of  
14 the sales or compensating tax otherwise imposed upon such materials,  
15 shall be guilty of a misdemeanor and, upon conviction therefor, shall be  
16 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,  
17 and amendments thereto;

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

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

33 (fff) all sales of material handling equipment, racking systems and  
34 other related machinery and equipment that is used for the handling,  
35 movement or storage of tangible personal property in a warehouse or  
36 distribution facility in this state; all sales of installation, repair and main-  
37 tenance services performed on such machinery and equipment; and all  
38 sales of repair and replacement parts for such machinery and equipment.  
39 For purposes of this subsection, a warehouse or distribution facility means  
40 a single, fixed location that consists of buildings or structures in a contig-  
41 uous area where storage or distribution operations are conducted that are  
42 separate and apart from the business' retail operations, if any, and which  
43 do not otherwise qualify for exemption as occurring at a manufacturing

1 or processing plant or facility. Material handling and storage equipment  
2 shall include aeration, dust control, cleaning, handling and other such  
3 equipment that is used in a public grain warehouse or other commercial  
4 grain storage facility, whether used for grain handling, grain storage, grain  
5 refining or processing, or other grain treatment operation; and

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

11 Sec. 7. K.S.A. 2003 Supp. 79-3607 is hereby amended to read as  
12 follows: 79-3607. ~~(a)~~ Retailers shall make returns to the director at the  
13 times prescribed by this section upon forms prescribed and furnished by  
14 the director stating: (1) The name and address of the retailer; (2) the total  
15 amount of gross sales of all tangible personal property and taxable services  
16 rendered by the retailer during the period for which the return is made;  
17 (3) the total amount received during the period for which the return is  
18 made on charge and time sales of tangible personal property made and  
19 taxable services rendered prior to the period for which the return is made;  
20 (4) deductions allowed by law from such total amount of gross sales and  
21 from total amount received during the period for which the return is  
22 made on such charge and time sales; (5) receipts during the period for  
23 which the return is made from the total amount of sales of tangible per-  
24 sonal property and taxable services rendered during such period in the  
25 course of such business, after deductions allowed by law have been made;  
26 (6) receipts during the period for which the return is made from charge  
27 and time sales of tangible personal property made and taxable services  
28 rendered prior to such period in the course of such business, after de-  
29 ductions allowed by law have been made; (7) gross receipts during the  
30 period for which the return is made from sales of tangible personal prop-  
31 erty and taxable services rendered in the course of such business upon  
32 the basis of which the tax is imposed. The return shall include such other  
33 pertinent information as the director may require. In making such return,  
34 the retailer shall determine the market value of any consideration, other  
35 than money, received in connection with the sale of any tangible personal  
36 property in the course of the business and shall include such value in the  
37 return. Such value shall be subject to review and revision by the director  
38 as hereinafter provided. Refunds made by the retailer during the period  
39 for which the return is made on account of tangible personal property  
40 returned to the retailer shall be allowed as a deduction under subdivision  
41 (4) of this section in case the retailer has theretofore included the receipts  
42 from such sale in a return made by such retailer and paid taxes therein  
43 imposed by this act. The retailer shall, at the time of making such return,

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

33 ~~(b) All model 1, model 2 and model 3 sellers are required to file~~  
34 ~~returns electronically. Any model 1, model 2 or model 3 seller may submit~~  
35 ~~its sales and use tax returns in a simplified format approved by the direc-~~  
36 ~~tor. Any seller that is registered under the agreement, which does not~~  
37 ~~have a legal requirement to register in this state, and is not a model 1,~~  
38 ~~model 2 or model 3 seller, may submit its sales and use tax returns as~~  
39 ~~follows: (1) Upon registration, the director shall provide to the seller the~~  
40 ~~returns required;~~  
41 ~~— (2) seller shall file a return anytime within one year of the month of~~  
42 ~~initial registration, and future returns are required on an annual basis in~~  
43 ~~succeeding years, and~~



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

5 Sec. 8. K.S.A. 2003 Supp. 79-3608 is hereby amended to read as  
6 follows: 79-3608. (a) ~~Except as otherwise provided,~~ It shall be unlawful  
7 for any person to engage in the business of selling tangible personal prop-  
8 erty at retail or furnishing taxable services in this state without a registra-  
9 tion certificate from the director of taxation. Application for such certifi-  
10 cate shall be made to the director upon forms furnished by the director,  
11 and shall state the name of the applicant, the address or addresses at  
12 which the applicant proposes to engage in such business, and the char-  
13 acter of such business. Utilities taxable under this act shall not be required  
14 to register but shall comply with all other provisions of this act. ~~The~~  
15 ~~taxpayer may be registered by an agent. Such appointment of the agent~~  
16 ~~by the taxpayer shall be in writing and submitted to the director. The~~  
17 ~~taxpayer shall be issued a registration certificate to engage in the business~~  
18 ~~for which application is made unless the applicant at the time of making~~  
19 ~~such application owes any sales tax, penalty or interest, and in such case,~~  
20 ~~before a registration certificate is issued, the director of taxation shall~~  
21 ~~require the applicant to pay the amount owed.~~

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

24 ~~(c) A seller registering under the agreement is considered registered~~  
25 ~~in this state and shall not be required to pay any registration fees or other~~  
26 ~~charges to register in this state if the seller has no legal requirement to~~  
27 ~~register. A written signature from the seller registering under the agree-~~  
28 ~~ment is not required. An agent may register a seller under uniform pro-~~  
29 ~~cedures determined by the secretary. A seller may cancel its registration~~  
30 ~~under the system at any time under uniform procedures determined by~~  
31 ~~the secretary. Cancellation does not relieve the seller of its liability for~~  
32 ~~remitting to this state any taxes collected.~~

33 Sec. 9. K.S.A. 2003 Supp. 79-3650 is hereby amended to read as  
34 follows: 79-3650. (a) A refund request may be filed directly by a consumer  
35 or purchaser if the consumer or purchaser: (1) Paid the tax directly to the  
36 department; (2) provides evidence that the retailer refused or was un-  
37 available to refund the tax; (3) provides evidence that the retailer did not  
38 act upon its refund request in a timely manner as provided in subsection  
39 (b), or; (4) provides a notarized statement to the department from the  
40 retailer that the retailer: (A) Will not claim a refund of the same tax  
41 included in the purchaser's or consumer's refund request; (B) agrees to  
42 provide to the consumer or purchaser any information or documentation  
43 in the retailer's possession needed for submission to the department to

1 support or prove the refund claim; (C) has remitted to the state the tax  
2 sought to be refunded; and (D) has not taken or will not take a credit for  
3 such tax. A retailer providing false information in any such statement shall  
4 be subject to penalties prescribed by K.S.A. 79-3615(h), and amendments  
5 thereto.

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

22 Sec. 10. K.S.A. 2003 Supp. 79-3651 is hereby amended to read as  
23 follows: 79-3651. (a) For the purpose of the proper administration of the  
24 Kansas retailers' sales tax act and to prevent evasion of the tax imposed  
25 thereunder, it shall be presumed that all gross receipts from the sale of  
26 tangible personal property or enumerated services are subject to tax until  
27 the contrary is established. The burden of proving that a sale is not subject  
28 to tax is upon the ~~seller~~ *vendor* unless the ~~seller~~ *vendor* takes from the  
29 purchaser an exemption certificate to the effect that the property or serv-  
30 ice purchased is not subject to tax.

31 (b) An exemption certificate shall relieve the ~~seller~~ *vendor* from col-  
32 lecting and remitting tax if the ~~seller~~ *vendor* has obtained the required identifying  
33 information as determined by the director, from the purchaser and the  
34 reason for claiming the exemption at the time of purchase and has main-  
35 tained proper records of exempt transactions pursuant to subsection (a)  
36 of K.S.A. 79-3600, and amendments thereto and provided them to the  
37 director when requested, except that a seller who fraudulently fails to  
38 collect the tax or solicits purchasers to participate in the unlawful claim  
39 of an exemption shall not be relieved from such liability. The seller shall  
40 obtain the same information for proof of a claimed exemption regardless  
41 of the medium in which the transaction occurred. The purchaser im-  
42 properly claiming an exemption shall remain liable for the nonpayment  
43 of tax ~~when taken in good faith. A vendor shall be presumed to have~~

1 *accepted an exemption certificate in good faith in the absence of evidence*  
2 *to the contrary. A vendor shall be deemed to have accepted an exemption*  
3 *certificate in good faith if the vendor: (1) Maintains a completed exemp-*  
4 *tion certificate; (2) has ascertained the identity of the person or entity*  
5 *who presented the exemption certificate; and (3) has not been shown by*  
6 *a preponderance of the evidence to have had knowledge that the pres-*  
7 *entation of the certificate was improper.*

8 (c) The exemption certificate shall be substantially in such form as  
9 the director may prescribe. ~~The seller shall use the standard form for~~  
10 ~~claiming an exemption electronically as adopted by the director.~~ A seller  
11 vendor may require a purchaser to provide a copy of the purchaser's sales  
12 tax registration certificate with a resale certificate as a condition for hon-  
13 oring the purchaser's resale exemption claim. ~~A purchaser is not required~~  
14 ~~to provide a signature to claim an exemption from tax unless a paper~~  
15 ~~exemption certificate is used.~~

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

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

32 (f) Exemption certificates issued by a nonprofit entity claiming a spe-  
33 cific exemption under K.S.A. 79-3606, and amendments thereto, shall  
34 bear the name and address of the entity and indicate the subsection under  
35 which the exemption is being claimed. Such certificate shall be signed by  
36 an officer, office manager or other administrator of the nonprofit entity,  
37 ~~if in paper form,~~ and contain the driver's license number of the signer.  
38 The certificate shall be substantially in such form as the director may  
39 prescribe. Payments made on an exempt entity's check, warrant, voucher  
40 or is charged to the entity's account shall relieve the ~~seller~~ vendor from  
41 collecting and remitting the tax if it is taken in good faith.

42 (g) It shall be the duty of every person who purchases tangible per-  
43 sonal property or services that are taxable under this act to pay the full

1 amount of tax that is lawfully due to the retailer making the sale. Any  
2 person who willfully and intentionally refuses to pay such tax to the re-  
3 tailer shall be guilty of a misdemeanor and upon conviction shall be pun-  
4 ished and fined as provided by subsection (g) of K.S.A. 79-3615, and  
5 amendments thereto.

6 Sec. 11. K.S.A. 2003 Supp. 12-189a, 12-191, 75-5151, 79-3602, 79-  
7 3603, 79-3603c, 79-3606, 79-3607, 79-3608, 79-3650, 79-3651, 79-3666,  
8 79-3667, 79-3668, 79-3669, 79-3670, 79-3671, 79-3672, 79-3673, 79-  
9 3674, 79-3675, 79-3676, 79-3677, 79-3678, 79-3679, 79-3680, 79-3681  
10 and 79-3682 are hereby repealed.

11 Sec. 12. This act shall take effect and be in force from and after its  
12 publication in the statute book.

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