

**SENATE Substitute for
Substitute for HOUSE BILL No. 2713**

By Committee on Federal and State Affairs

3-17

11 AN ACT concerning certain sports; relating to the regulation thereof;
12 establishing an athletic commission; relating to the powers and duties
13 thereof; amending K.S.A. 21-1801 and K.S.A. 2003 Supp. 79-3606 and
14 repealing the existing sections; also repealing K.S.A. 12-5101, 12-5102,
15 12-5103, 12-5104, 12-5105, 12-5106, 12-5107, 12-5108, 12-5109, 12-
16 5110, 12-5111, 12-5112, 12-5113, 12-5114, 12-5115, 12-5116, 12-5117,
17 12-5118, 12-5119, 12-5120, 12-5121, 12-5122, 12-5123, 12-5124, 12-
18 5125 and 12-5126.

19

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

21 New Section 1. Sections 1 through 16, and amendments thereto,
22 shall be known and may be cited as the Kansas professional regulated
23 sports act.

24 New Sec. 2. As used in the Kansas professional regulated sports act:

25 (a) "Bout" means one match involving a regulated sport.

26 (b) "Commission" means the athletic commission or the commis-
27 sion's designee.

28 (c) "Contest" means a bout or a group of bouts involving licensed
29 contestants competing in a regulated sport.

30 (d) "Contestant" means a person who competes in a regulated sport.

31 (e) "Fund" means the athletic fee fund.

32 (f) "Mandatory count of eight" means a required count of eight that
33 is given by a referee to a contestant who has been knocked down.

34 (g) "Noncompetitive boxing" means boxing or sparring where a de-
35 cision is not rendered.

36 (h) "Professional boxing" means the sport of attack and defense
37 which uses the fists and where contestants compete for valuable
38 consideration.

39 (i) "Professional full-contact karate" means any form of full-contact
40 martial arts including but not limited to full-contact kung fu, full-contact
41 tae-kwon-do or any form of martial arts or self-defense conducted on a
42 full-contact basis in a bout or contest with or without weapons and where
43 contestants compete for valuable consideration. Such contests take place

- 1 in a rope-enclosed ring and are fought in timed rounds.
- 2 (j) “Professional kickboxing” means any form of boxing in which
3 blows are delivered with any part of the arm below the shoulder, including
4 the hand, and any part of the leg below the hip, including the foot, and
5 where contestants compete for valuable consideration. Such contests take
6 place in a rope-enclosed ring and are fought in timed rounds.
- 7 (k) “Professional mixed martial arts” means any form of martial arts
8 or self-defense conducted on a full-contact basis in a bout or contest with
9 or without weapons and where contestants compete for valuable consid-
10 eration. Such contests take place in an enclosed ring and are fought in
11 timed rounds.
- 12 (l) “Professional wrestling” means any performance of wrestling skills
13 and techniques by two or more professional wrestlers, to which any ad-
14 mission is charged. Participating wrestlers may not be required to use
15 their best efforts in order to win. The winner may have been selected
16 before the performance commences and contestants compete for valua-
17 ble consideration. Such contests take place in a rope-enclosed ring and
18 are fought in timed rounds.
- 19 (m) “Regulated sports” means professional boxing, sparring, profes-
20 sional kickboxing, professional mixed martial arts and professional full-
21 contact karate.
- 22 (n) “Sparring” means boxing for practice or as an exhibition.
- 23 New Sec. 3. (a) There is hereby established within and as part of the
24 department of commerce an athletic commission of the state of Kansas
25 composed of five members appointed by the governor. Members of the
26 commission shall serve at the pleasure of the governor. The members
27 first appointed to the commission shall be appointed within 60 days after
28 the effective date of this act. Of the members first appointed to the com-
29 mission: One member shall be appointed to serve for one year, one mem-
30 ber shall be appointed to serve for two years, two members shall be
31 appointed to serve for three years and one member shall be appointed
32 to serve for four years. Thereafter, members shall be appointed for terms
33 of four years and until their successors are appointed and qualified.
34 Whenever a vacancy occurs in the commission, the governor shall appoint
35 a successor for the remainder of the unexpired term.
- 36 (b) Of the members appointed to the commission: One member shall
37 be a person licensed to practice medicine and surgery and who practices
38 in the field of sports injuries; one member shall be an athletic director at
39 a postsecondary educational institution; and one member shall be a
40 chiropractor.
- 41 (c) The commission annually shall organize by electing one of its
42 members as chairperson and one as vice-chairperson. Meetings of the
43 commission shall be held upon call of the chairperson, or at the request

1 of a majority of the commission.

2 (d) Members of the commission attending a meeting of the commis-
3 sion, or a subcommittee meeting authorized by such commission, shall
4 be paid amounts provided in subsection (e) of K.S.A. 75-3223, and
5 amendments thereto.

6 New Sec. 4. (a) The commission shall appoint a boxing commissioner
7 who shall be in the unclassified service under the Kansas civil service act
8 and who shall devote full-time to the duties prescribed by the commis-
9 sion. Before appointing a person as the boxing commissioner, the com-
10 mission shall request the Kansas bureau of investigation to conduct a
11 criminal history record check and background investigation of the person.
12 The boxing commissioner shall have no felony convictions under the laws
13 of any state or of the United States prior to appointment or during such
14 commissioner's employment with the commission. The boxing commis-
15 sioner shall receive an annual salary fixed by the commission and ap-
16 proved by the governor.

17 (b) Before appointing a person as the boxing commissioner, the com-
18 mission shall require fingerprinting of such person necessary to verify
19 qualification for appointment. The commission shall submit such finger-
20 prints to the Kansas bureau of investigation and to the federal bureau of
21 investigation for the purposes of verifying the identity of such person and
22 obtaining records of criminal arrests and convictions.

23 (c) The commission may receive from the Kansas bureau of investi-
24 gation or other criminal justice agencies, including but not limited to the
25 federal bureau of investigation and the federal internal revenue service,
26 such criminal history record information (including arrest and noncon-
27 viction data), criminal intelligence information and information relating
28 to criminal and background investigations as necessary for the purpose of
29 determining qualifications of a person to be appointed as boxing com-
30 missioner. Upon the written request of the chairperson of the commis-
31 sion, the commission may receive from the district courts such informa-
32 tion relating to juvenile proceedings as necessary for the purpose of
33 determining qualifications of any person to be appointed as boxing com-
34 missioner. Such information, other than conviction data, shall be confi-
35 dential and shall not be disclosed except to members and employees of
36 the commission as necessary to determine qualifications of such person.
37 Any other disclosure of such confidential information is a class A misde-
38 meanor and shall constitute grounds for removal from office, termination
39 of employment or denial, revocation or suspension of any license issued
40 under this act.

41 New Sec. 5. In accordance with the provisions of the Kansas civil
42 service act, the commission may appoint such inspectors, agents, clerical
43 and administrative personnel as may be necessary to assist in performing

1 the powers, duties and functions of the commission and the boxing com-
2 missioner. The boxing commissioner shall not perform duties of an
3 inspector.

4 New Sec. 6. (a) The commission shall have general charge and su-
5 pervision of all regulated sports and professional wrestling performances
6 held in the state. The commission may enter into agreements with the
7 federal bureau of investigation, the federal internal revenue service, the
8 Kansas attorney general or any state, federal or local agency as necessary
9 to carry out the duties of the commission under this act.

10 (b) The commission shall accept applications for and may issue li-
11 censes to any person, organization, corporation, partnership, limited lia-
12 bility company or association desiring to promote regulated sports con-
13 tests if such person holds a promoter's license from an organization which
14 has been in existence and has held meetings at regular intervals during
15 the entire year immediately preceding the granting of the license. The
16 commission shall accept applications and may issue licenses to referees,
17 judges, physicians, managers, contestants, timekeepers, seconds, pro-
18 moters and matchmakers for regulated sports contests. A license fee of
19 not less than \$20 shall accompany any application for licensure. Unless
20 revoked for cause, all licenses issued under this subsection and all renew-
21 als thereof shall expire on June 30 of the year succeeding the year in
22 which they were issued commencing June 30, 2004. Licenses shall be
23 renewable from year to year upon the filing of a renewal application prior
24 to the expiration of each such license and payment of the fee therefor.

25 (c) The commission shall fix and collect a tax imposed against the
26 gross receipts of every regulated sports contest held. The tax shall be
27 fixed in an amount which, together with all other revenues of the com-
28 mission, is sufficient to pay the cost of administering and enforcing the
29 provisions of this act, but not to exceed 5%.

30 (d) The commission shall recommend a taxing and fee structure for
31 all regulated sports and submit such recommendations to the legislature
32 on or before January 1, 2005.

33 (e) The commission shall suspend or revoke any license issued by the
34 commission for violations of this act or K.S.A. 21-1801, and amendments
35 thereto, or rules and regulations adopted pursuant thereto.

36 (f) The commission shall assist promoters in developing marketing
37 strategies for contests.

38 (g) For the purpose of ascertaining compliance with any of the pro-
39 visions of this act or any rules and regulations adopted pursuant thereto,
40 the commission may request a court to issue subpoenas to compel access
41 to or for the production of any books, papers, records or memoranda in
42 the custody or control of any licensee or officer, member, employee or
43 agent of any licensee, or to compel the appearance of any licensee or

1 officer, member, employee or agent of any licensee, or of any person
2 subject to the provisions of this act. Subpoenas issued pursuant to this
3 subsection may be served upon individuals and corporations in the same
4 manner provided in K.S.A. 60-304, and amendments thereto, for the serv-
5 ice of process by any officer authorized to serve subpoenas in civil actions
6 or by the commission or an agent or representative designated by the
7 commission. In the case of the refusal of any person to comply with any
8 such subpoena, the commission may make application to the district court
9 of any county where such books, papers, records, memoranda or person
10 is located for an order to comply.

11 New Sec. 7. (a) The commission shall adopt any rules and regulations
12 necessary to implement the provisions of this act. Such rules and regu-
13 lations shall include, but not be limited to, provisions concerning:

14 (1) The conduct of regulated sports contests, the time and place of
15 such contests and the prices charged for admission thereto.

16 (2) The issuance of a license under this section and to prescribe qual-
17 ifications for licensees.

18 (3) Fees necessary to fund the expenses and operating costs incurred
19 in the administration and enforcement of the provisions of this act.

20 (4) Standards of conduct, officials required, ring size and construc-
21 tion, age restrictions for contestants, limitations on the number of
22 matches in which a contestant may participate, classification of weight
23 divisions, protective gear, selection of judges and other matter concerning
24 regulated sports deemed necessary by the commission.

25 (5) The acquisition of liability insurance, indemnity coverage and sur-
26 ety bonds in amounts determined by the commission.

27 (6) Procedures and conditions for limitation, suspension and revo-
28 cation of licenses.

29 (7) Any other matter deemed necessary by the commission to imple-
30 ment and enforce the provisions of this act.

31 (b) The commission may adopt rules and regulations concerning pro-
32 fessional wrestling to the extent authorized by this subsection. Nothing
33 in this subsection shall be construed as subjecting professional wrestling
34 to full regulation by the commission. Rules and regulations concerning
35 professional wrestling shall be limited to the following:

36 (1) Requirements that a physician or other emergency medical pro-
37 vider be present at the performance.

38 (2) Requirements that the promoter notify the commission regarding
39 the location, date and time of a performance.

40 (3) The payment of fees.

41 New Sec. 8. (a) There is hereby established in the state treasury the
42 athletic fee fund to be administered by the chairperson of the commission
43 or the chairperson's designee. All moneys received by or for the com-

1 mission from fees, charges or penalties shall be remitted to the state
2 treasurer in accordance with the provisions of K.S.A. 75-4215, and
3 amendments thereto, who shall deposit the entire amount thereof in the
4 state treasury to the credit of the athletic fee fund until July 1, 2007.
5 Thereafter, 20% of each such deposit shall be credited to the state general
6 fund and the balance shall be credited to the athletic fee fund. All ex-
7 penditures from such fund shall be made in accordance with appropria-
8 tion acts upon warrants of the director of accounts and reports issued
9 pursuant to vouchers approved by the boxing commissioner or the com-
10 missioner's designee. All moneys credited to the athletic fee fund shall
11 be expended for the administration of the powers, duties, functions and
12 operating expenses of the commission and the boxing commissioner.

13 (b) On or before the 10th of each month, the director of accounts
14 and reports shall transfer from the state general fund to the athletic fee
15 fund established in subsection (a) interest earnings based on:

16 (1) The average daily balance of money in the athletic fee fund for
17 the preceding month; and

18 (2) the net earnings rate of the pooled money investment fund port-
19 folio for the preceding month.

20 New Sec. 9. The commission shall not issue any license to hold reg-
21 ulated sports contests in the state of Kansas, unless:

22 (a) Such regulated sports contests are sponsored by a promoter li-
23 censed by the commission;

24 (b) the governing body of the city in which such contests are to be
25 held has adopted a resolution approving the holding of such contest; or
26 if such contests are to be held in the unincorporated area of a county, the
27 board of county commissioners of such county has adopted a resolution
28 approving the holding of such contests;

29 (c) such contests shall be of not more than 12 rounds of three minutes
30 each duration; and

31 (d) a license fee, in an amount set by the commission, has been paid
32 by the promoter.

33 New Sec. 10. The decision in a regulated sports contest shall be ren-
34 dered by three judges licensed by the commission.

35 New Sec. 11. (a) In order to protect the health and welfare of the
36 contestants, there shall be a mandatory medical suspension of any con-
37 testant who loses consciousness or who has been injured as a result of
38 blows received to the head or body during a regulated sports contest,
39 bout or semi-professional elimination contest. A medical suspension shall
40 be for a period of time not to exceed 180 days. The determination of
41 consciousness is to be made only by a physician licensed by the board of
42 healing arts and by the commission pursuant to this act. Prior to releasing
43 a contestant from medical suspension, the commission may require a

1 contestant on medical suspension to undergo any medical test deemed
2 necessary to prove such contestant is medically fit. Medical suspensions
3 issued in accordance with this section shall not be subject to review by
4 any court or tribunal.

5 (b) Any person who has been injured in such a manner that such
6 person is unable to compete as a contestant in regulated sports in the
7 future shall be deemed medically retired. A person with a status of med-
8 ically retired shall not compete in any events governed by this act and
9 shall not be eligible for licensure as a contestant. A determination of
10 medical retirement shall not be subject to review by any court or tribunal.

11 New Sec. 12. (a) Upon proper application by the boxing commis-
12 sioner or the commissioner's designee, a court of competent jurisdiction
13 may grant an injunction, restraining order or any other order as may be
14 appropriate to enjoin a person, partnership, organization, corporation,
15 limited liability company or association from:

16 (1) Promoting or offering to promote any unlicensed regulated sports
17 contests in Kansas;

18 (2) advertising or offering to advertise any unlicensed regulated
19 sports contests in Kansas;

20 (3) conducting or offering to conduct any unlicensed regulated sports
21 contests in Kansas; or

22 (4) competing or offering to compete in any unlicensed regulated
23 sports contests in Kansas.

24 (b) Any such actions shall be commenced either in the county in
25 which such conduct occurred or in the county in which the defendant
26 resides.

27 (c) Any action brought under this section shall be in addition to, and
28 not in lieu of, any penalty provided by law and may be brought concu-
29 rrently with other actions to enforce this act.

30 New Sec. 13. (a) Any person wishing to make a complaint against a
31 licensee under this act, shall file the written complaint with the commis-
32 sion setting forth supporting details on a form provided by the commis-
33 sion. If the commission determines that the complaint warrants a hearing
34 to ascertain whether the licensee shall be disciplined, the commission
35 shall file a complaint as provided in the Kansas administrative procedure
36 act. Any person holding more than one license issued by the commission
37 and disciplined under one license will be automatically disciplined under
38 all licenses.

39 (b) The commission may refuse to issue any license for one or any
40 combination of reasons specified by this section. The commission shall
41 notify the applicant in writing of the reasons for the refusal and shall
42 advise the applicant of such applicant's right to file a complaint or an
43 appeal for administrative hearing as provided in the Kansas administrative

- 1 procedure act.
- 2 (c) The commission may file a complaint as provided in the Kansas
3 administrative procedure act, against any holder of any license issued
4 pursuant to this chapter, or against any person who has failed to renew
5 or has surrendered their license for any of the following:
- 6 (1) Use of an alcoholic beverage or any controlled substance before
7 or during a bout.
- 8 (2) The person has been found guilty or has entered a plea of guilty
9 or nolo contendere in a criminal prosecution under any state or federal
10 law for any offense reasonably related to the qualifications, functions or
11 duties of any profession licensed or regulated under this act, for any of-
12 fense an essential element of which is fraud, dishonesty or an act of vio-
13 lence, or for any offense involving moral turpitude, whether or not a
14 sentence is imposed.
- 15 (3) Use of fraud, deception, misrepresentation or bribery in securing
16 any license issued pursuant to this act.
- 17 (4) Providing false information on applications or medical forms.
- 18 (5) Incompetency, misconduct, gross negligence, fraud, misrepresen-
19 tation or dishonesty in the performing of the functions or duties of any
20 profession licensed or regulated by this act.
- 21 (6) Violating or enabling any person to violate any provision of this
22 act or any rule and regulation adopted pursuant to this act.
- 23 (7) Impersonating any license holder or allowing any person to use
24 the licensee's license.
- 25 (8) Failing to put forth the best effort during a bout.
- 26 (9) Disciplinary action against a holder of a license or other right to
27 practice any profession regulated by this act and issued by another state,
28 territory, federal agency or country upon grounds for which revocation
29 or suspension is authorized in this state.
- 30 (10) Adjudged mentally incompetent by a court of competent
31 jurisdiction.
- 32 (11) Use of any advertisement or solicitation which is false, mislead-
33 ing or deceptive to the general public or persons to whom the advertise-
34 ment or solicitation primarily is directed.
- 35 (12) Disruptive conduct at regulated sports contests, including the
36 use of foul or abusive language or mannerisms or threats of physical harm
37 by any person associated with any bout or contest licensed pursuant to
38 this act.
- 39 (13) Issuance of a license based upon a mistake of fact.
- 40 (14) Use of grease, ointments, strong smelling liniment, drugs which
41 cause nausea or harmful reactions, liquids or powders or illegal substances
42 is prohibited during a regulated sports contest.
- 43 (d) After the complaint is filed, the proceeding shall be conducted in

1 accordance with the provisions of the Kansas administrative procedure
2 act. If the administrative law judge finds that a person has violated one
3 or more of the grounds specified in this section, such judge may limit and
4 condition the license for a period not to exceed five years, suspend the
5 person's license for a period not to exceed three years or may revoke the
6 person's license.

7 (e) The commission may refuse to issue a license to any person who
8 has violated any of the grounds specified in this section.

9 New Sec. 14. A regulated sports contestant may participate in a con-
10 test in Kansas after obtaining a license from the commission. If a con-
11 testant participate in more than one profession covered by this act, such
12 contestant shall obtain a license for each profession in which such con-
13 testant participates.

14 New Sec. 15. Except as specifically provided by this section, contests
15 or exhibitions for amateur boxing or sparring, amateur wrestling, amateur
16 kickboxing and amateur full-contact karate shall be exempt from the pro-
17 visions of this act. All amateur boxing or sparring, amateur wrestling,
18 amateur kickboxing and amateur full-contact karate shall be sanctioned
19 by a nationally-recognized amateur sanctioning body approved by the
20 athletic commission.

21 New Sec. 16. The promoter of any regulated sports contest shall pur-
22 chase a liability insurance policy, surety bond or provide evidence of in-
23 demnity coverage in an amount determined necessary by the commission.

24 Section 17. K.S.A. 21-1801 is hereby amended to read as follows: 21-
25 1801. (a) Except as provided in subsection (b), no person shall send or
26 cause to be sent, publish or otherwise make known any challenge to fight
27 what is commonly known as a prize fight, or engage in any public boxing,
28 sparring or wrestling match, exhibition or contest with or without gloves
29 of any kind, for any prize, reward or compensation, or at which any ad-
30 mission fee is charged or received, either directly or indirectly, or go into
31 training preparatory to such fight, exhibition, match or contest, or act as
32 trainer for any person or persons contemplating participation in such
33 fight, exhibition or contest, or act as aider, abettor, backer, umpire,
34 trainer, second, surgeon, assistant, reporter or attendant at such fight,
35 exhibition, match or contest, or in any preparation for the same, nor shall
36 any owner or lessee of any grounds, lots, building, hall or structure of any
37 kind permit the same to be used for such fight, exhibition, match or
38 contest.

39 (b) The provisions of subsection (a) shall not apply to any fight, ex-
40 hibition, match or contest conducted under a license issued by a govern-
41 ing body as provided in K.S.A. 12-5101 to 12-5126, inclusive, *the athletic*
42 *commission or boxing commissioner pursuant to the Kansas professional*
43 *regulated sports act, and amendments thereto*, sanctioned by the national

1 association of intercollegiate athletics, national collegiate athletic associ-
2 ation, amateur athletic union of the United States, golden gloves associ-
3 ation of America or national junior college athletic association or con-
4 ducted under the control of the Kansas state high school activities
5 association.

6 (c) Any violation of the provisions of this section is a class A nonper-
7 son misdemeanor.

8 Sec. 18. 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 *and*
21 *gross receipts from regulated sports contests taxed pursuant to the Kansas*
22 *professional regulated sports act, and amendments thereto;*

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

37 (c) all sales of tangible personal property or services, including the
38 renting and leasing of tangible personal property, purchased directly by
39 a public or private elementary or secondary school or public or private
40 nonprofit educational institution and used primarily by such school or
41 institution for nonsectarian programs and activities provided or sponsored
42 by such school or institution or in the erection, repair or enlargement of
43 buildings to be used for such purposes. The exemption herein provided

1 shall not apply to erection, construction, repair, enlargement or equip-
2 ment of buildings used primarily for human habitation;

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

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

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

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

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

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

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

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

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

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

- 1 (l) all isolated or occasional sales of tangible personal property, serv-
2 ices, substances or things, except isolated or occasional sale of motor
3 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.
4 79-3603 and amendments thereto;
- 5 (m) all sales of tangible personal property which become an ingre-
6 dient or component part of tangible personal property or services pro-
7 duced, manufactured or compounded for ultimate sale at retail within or
8 without the state of Kansas; and any such producer, manufacturer or
9 compounder may obtain from the director of taxation and furnish to the
10 supplier an exemption certificate number for tangible personal property
11 for use as an ingredient or component part of the property or services
12 produced, manufactured or compounded;
- 13 (n) all sales of tangible personal property which is consumed in the
14 production, manufacture, processing, mining, drilling, refining or com-
15 pounding of tangible personal property, the treating of by-products or
16 wastes derived from any such production process, the providing of serv-
17 ices or the irrigation of crops for ultimate sale at retail within or without
18 the state of Kansas; and any purchaser of such property may obtain from
19 the director of taxation and furnish to the supplier an exemption certifi-
20 cate number for tangible personal property for consumption in such pro-
21 duction, manufacture, processing, mining, drilling, refining, compound-
22 ing, treating, irrigation and in providing such services;
- 23 (o) all sales of animals, fowl and aquatic plants and animals, the pri-
24 mary purpose of which is use in agriculture or aquaculture, as defined in
25 K.S.A. 47-1901, and amendments thereto, the production of food for
26 human consumption, the production of animal, dairy, poultry or aquatic
27 plant and animal products, fiber or fur, or the production of offspring for
28 use for any such purpose or purposes;
- 29 (p) all sales of drugs dispensed pursuant to a prescription order by a
30 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-
31 1626, and amendments thereto. As used in this subsection, "drug" means
32 a compound, substance or preparation and any component of a com-
33 pound, substance or preparation, other than food and food ingredients,
34 dietary supplements or alcoholic beverages, recognized in the official
35 United States pharmacopoeia, official homeopathic pharmacopoeia of the
36 United States or official national formulary, and supplement to any of
37 them, intended for use in the diagnosis, cure, mitigation, treatment or
38 prevention of disease or intended to affect the structure or any function
39 of the body;
- 40 (q) all sales of insulin dispensed by a person licensed by the state
41 board of pharmacy to a person for treatment of diabetes at the direction
42 of a person licensed to practice medicine by the board of healing arts;
- 43 (r) all sales of prosthetic devices and mobility enhancing equipment

1 prescribed in writing by a person licensed to practice the healing arts,
2 dentistry or optometry. For the purposes of this subsection: (1) “Mobility
3 enhancing equipment” means equipment including repair and replace-
4 ment parts to same, but does not include durable medical equipment,
5 which is primarily and customarily used to provide or increase the ability
6 to move from one place to another and which is appropriate for use either
7 in a home or a motor vehicle; is not generally used by persons with normal
8 mobility; and does not include any motor vehicle or equipment on a motor
9 vehicle normally provided by a motor vehicle manufacturer; and (2)
10 “prosthetic device” means a replacement, corrective or supportive device
11 including repair and replacement parts for same worn on or in the body
12 to artificially replace a missing portion of the body, prevent or correct
13 physical deformity or malfunction or support a weak or deformed portion
14 of the body;

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

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

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

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

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

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

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

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

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

40 (bb) all sales of used mobile homes or manufactured homes. As used
41 in this subsection: (1) “Mobile homes” and “manufactured homes” shall
42 have the meanings ascribed thereto by K.S.A. 58-4202 and amendments
43 thereto; and (2) “sales of used mobile homes or manufactured homes”

- 1 means sales other than the original retail sale thereof;
- 2 (cc) all sales of tangible personal property or services purchased for
3 the purpose of and in conjunction with constructing, reconstructing, en-
4 larging or remodeling a business or retail business which meets the
5 requirements established in K.S.A. 74-50,115 and amendments thereto,
6 and the sale and installation of machinery and equipment purchased for
7 installation at any such business or retail business. When a person shall
8 contract for the construction, reconstruction, enlargement or remodeling
9 of any such business or retail business, such person shall obtain from the
10 state and furnish to the contractor an exemption certificate for the project
11 involved, and the contractor may purchase materials, machinery and
12 equipment for incorporation in such project. The contractor shall furnish
13 the number of such certificates to all suppliers from whom such purchases
14 are made, and such suppliers shall execute invoices covering the same
15 bearing the number of such certificate. Upon completion of the project
16 the contractor shall furnish to the owner of the business or retail business
17 a sworn statement, on a form to be provided by the director of taxation,
18 that all purchases so made were entitled to exemption under this subsec-
19 tion. All invoices shall be held by the contractor for a period of five years
20 and shall be subject to audit by the director of taxation. Any contractor
21 or any agent, employee or subcontractor thereof, who shall use or oth-
22 erwise dispose of any materials, machinery or equipment purchased un-
23 der such a certificate for any purpose other than that for which such a
24 certificate is issued without the payment of the sales or compensating tax
25 otherwise imposed thereon, shall be guilty of a misdemeanor and, upon
26 conviction therefor, shall be subject to the penalties provided for in sub-
27 section (g) of K.S.A. 79-3615 and amendments thereto. As used in this
28 subsection, "business" and "retail business" have the meanings respec-
29 tively ascribed thereto by K.S.A. 74-50,114 and amendments thereto;
- 30 (dd) all sales of tangible personal property purchased with food
31 stamps issued by the United States department of agriculture;
- 32 (ee) all sales of lottery tickets and shares made as part of a lottery
33 operated by the state of Kansas;
- 34 (ff) on and after July 1, 1988, all sales of new mobile homes or man-
35 ufactured homes to the extent of 40% of the gross receipts, determined
36 without regard to any trade-in allowance, received from such sale. As used
37 in this subsection, "mobile homes" and "manufactured homes" shall have
38 the meanings ascribed thereto by K.S.A. 58-4202 and amendments
39 thereto;
- 40 (gg) all sales of tangible personal property purchased in accordance
41 with vouchers issued pursuant to the federal special supplemental food
42 program for women, infants and children;
- 43 (hh) all sales of medical supplies and equipment, including durable

1 medical equipment, purchased directly by a nonprofit skilled nursing
2 home or nonprofit intermediate nursing care home, as defined by K.S.A.
3 39-923, and amendments thereto, for the purpose of providing medical
4 services to residents thereof. This exemption shall not apply to tangible
5 personal property customarily used for human habitation purposes. As
6 used in this subsection, “durable medical equipment” means equipment
7 including repair and replacement parts for such equipment, but does not
8 include mobility enhancing equipment as defined in subsection (r) which
9 can withstand repeated use, is primarily and customarily used to serve a
10 medical purpose, generally is not useful to a person in the absence of
11 illness or injury and is not worn in or on the body;

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

18 (jj) all sales of tangible personal property or services, including the
19 renting and leasing of tangible personal property, purchased directly on
20 behalf of a community-based mental retardation facility or mental health
21 center organized pursuant to K.S.A. 19-4001 *et seq.*, and amendments
22 thereto, and licensed in accordance with the provisions of K.S.A. 75-
23 3307b and amendments thereto. This exemption shall not apply to tan-
24 gible personal property customarily used for human habitation purposes;

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

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

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

32 (2) For purposes of this subsection:

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

43 (B) “production line” means the assemblage of machinery and equip-

1 ment at a manufacturing or processing plant or facility where the actual
2 transformation or processing of tangible personal property occurs;

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

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

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

- 1 plant or facility to that manufacturer's production operations;
- 2 (J) to cool, heat, filter, refine or otherwise treat water, steam, acid,
- 3 oil, solvents or other substances that are used in production operations;
- 4 (K) to provide and control an environment required to maintain cer-
- 5 tain levels of air quality, humidity or temperature in special and limited
- 6 areas of the plant or facility, where such regulation of temperature or
- 7 humidity is part of and essential to the production process;
- 8 (L) to treat, transport or store waste or other byproducts of produc-
- 9 tion operations at the plant or facility; or
- 10 (M) to control pollution at the plant or facility where the pollution is
- 11 produced by the manufacturing or processing operation.
- 12 (4) The following machinery, equipment and materials shall be
- 13 deemed to be exempt even though it may not otherwise qualify as ma-
- 14 chinery and equipment used as an integral or essential part of an inte-
- 15 grated production operation: (A) Computers and related peripheral
- 16 equipment that are utilized by a manufacturing or processing business
- 17 for engineering of the finished product or for research and development
- 18 or product design; (B) machinery and equipment that is utilized by a
- 19 manufacturing or processing business to manufacture or rebuild tangible
- 20 personal property that is used in manufacturing or processing operations,
- 21 including tools, dies, molds, forms and other parts of qualifying machinery
- 22 and equipment; (C) portable plants for aggregate concrete, bulk cement
- 23 and asphalt including cement mixing drums to be attached to a motor
- 24 vehicle; (D) industrial fixtures, devices, support facilities and special foun-
- 25 dations necessary for manufacturing and production operations, and ma-
- 26 terials and other tangible personal property sold for the purpose of fab-
- 27 ricating such fixtures, devices, facilities and foundations. An exemption
- 28 certificate for such purchases shall be signed by the manufacturer or
- 29 processor. If the fabricator purchases such material, the fabricator shall
- 30 also sign the exemption certificate; and (E) a manufacturing or processing
- 31 business' laboratory equipment that is not located at the plant or facility,
- 32 but that would otherwise qualify for exemption under subsection (3)(E).
- 33 (5) "Machinery and equipment used as an integral or essential part
- 34 of an integrated production operation" shall not include:
- 35 (A) Machinery and equipment used for nonproduction purposes, in-
- 36 cluding, but not limited to, machinery and equipment used for plant se-
- 37 curity, fire prevention, first aid, accounting, administration, record keep-
- 38 ing, advertising, marketing, sales or other related activities, plant cleaning,
- 39 plant communications, and employee work scheduling;
- 40 (B) machinery, equipment and tools used primarily in maintaining
- 41 and repairing any type of machinery and equipment or the building and
- 42 plant;
- 43 (C) transportation, transmission and distribution equipment not pri-

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

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

1 cation focusing on disease prevention and education, patient education
2 including information on coping with diabetes, and professional education
3 and training;

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

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

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

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

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

22 (xx) all sales of tangible personal property and services purchased by
23 a nonprofit zoo which is exempt from federal income taxation pursuant
24 to section 501(c)(3) of the federal internal revenue code of 1986, or on
25 behalf of such zoo by an entity itself exempt from federal income taxation
26 pursuant to section 501(c)(3) of the federal internal revenue code of 1986
27 contracted with to operate such zoo and all sales of tangible personal
28 property or services purchased by a contractor for the purpose of con-
29 structing, equipping, reconstructing, maintaining, repairing, enlarging,
30 furnishing or remodeling facilities for any nonprofit zoo which would be
31 exempt from taxation under the provisions of this section if purchased
32 directly by such nonprofit zoo or the entity operating such zoo. Nothing
33 in this subsection shall be deemed to exempt the purchase of any con-
34 struction machinery, equipment or tools used in the constructing, equip-
35 ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-
36 modeling facilities for any nonprofit zoo. When any nonprofit zoo shall
37 contract for the purpose of constructing, equipping, reconstructing, main-
38 taining, repairing, enlarging, furnishing or remodeling facilities, it shall
39 obtain from the state and furnish to the contractor an exemption certifi-
40 cate for the project involved, and the contractor may purchase materials
41 for incorporation in such project. The contractor shall furnish the number
42 of such certificate to all suppliers from whom such purchases are made,
43 and such suppliers shall execute invoices covering the same bearing the

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

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

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

37 (aaa) all sales of tangible personal property and services purchased
38 by a religious organization which is exempt from federal income taxation
39 pursuant to section 501(c)(3) of the federal internal revenue code, and
40 used exclusively for religious purposes, and all sales of tangible personal
41 property or services purchased by a contractor for the purpose of con-
42 structing, equipping, reconstructing, maintaining, repairing, enlarging,
43 furnishing or remodeling facilities for any such organization which would

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

1 the provisions of this subsection. All refunds shall be paid from the sales
2 tax refund fund upon warrants of the director of accounts and reports
3 pursuant to vouchers approved by the director or the director's designee;
4 (bbb) all sales of food for human consumption by an organization
5 which is exempt from federal income taxation pursuant to section 501
6 (c)(3) of the federal internal revenue code of 1986, pursuant to a food
7 distribution program which offers such food at a price below cost in
8 exchange for the performance of community service by the purchaser
9 thereof;

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

1 purpose for which such certificate was issued, such clinic or center con-
2 cerned shall be liable for tax on all materials purchased for the project,
3 and upon payment thereof it may recover the same from the contractor
4 together with reasonable attorney fees. Any contractor or any agent, em-
5 ployee or subcontractor thereof, who shall use or otherwise dispose of
6 any materials purchased under such a certificate for any purpose other
7 than that for which such a certificate is issued without the payment of
8 the sales or compensating tax otherwise imposed upon such materials,
9 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
10 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
11 and amendments thereto;

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

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

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

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

1 by or on behalf of the Kansas Academy of Science which is exempt from
2 federal income taxation pursuant to section 501(c)(3) of the federal in-
3 ternal revenue code of 1986, and used solely by such academy for the
4 preparation, publication and dissemination of education materials.

5 Sec. 19. K.S.A. 12-5101, 12-5102, 12-5103, 12-5104, 12-5105, 12-
6 5106, 12-5107, 12-5108, 12-5109, 12-5110, 12-5111, 12-5112, 12-5113,
7 12-5114, 12-5115, 12-5116, 12-5117, 12-5118, 12-5119, 12-5120, 12-
8 5121, 12-5122, 12-5123, 12-5124, 12-5125, 12-5126 and 21-1801 and
9 K.S.A. 2003 Supp. 79-3606 are hereby repealed.

10 Sec. 20. This act shall take effect and be in force from and after its
11 publication in the statute book.