

## SENATE BILL No. 393

By Committee on Agriculture  
(By request of Select Joint Committee on Energy)

1-18

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10 AN ACT concerning taxation; relating to tax credits and exemptions;  
11 biodiesel fuel; amending K.S.A. 2005 Supp. 79-3606 and repealing the  
12 existing section.  
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14 *Be it enacted by the Legislature of the State of Kansas:*

15 New Section 1. (a) The following described property, to the extent  
16 herein specified, shall be exempt from all property or ad valorem taxes  
17 levied under the laws of the state of Kansas:

18 *First.* All personal property actually and regularly used exclusively in  
19 the production of biodiesel fuel by a Kansas biodiesel producer.

20 *Second.* All personal property actually and regularly used exclusively  
21 at the point of sale in the storage, blending, dispensing or preparation for  
22 sale of biodiesel fuel by a Kansas seller who sells biodiesel fuel.

23 (b) As used in this section:

24 (1) "Biodiesel fuel" means a renewable, biodegradable, mono alkyl  
25 ester combustible liquid fuel derived from vegetable oils or animal fats  
26 and that meets American society for testing and materials specification  
27 D6751-02 for biodiesel fuel (B100) blend stock for distillate fuels.

28 (2) "Kansas biodiesel producer" means a producer of biodiesel whose  
29 principal place of business and facility for the production of biodiesel fuel  
30 are located within the state of Kansas.

31 (3) "Kansas biodiesel seller" means a retailer of biodiesel fuel whose  
32 principal place of business and retail facility or terminal are located within  
33 the state of Kansas.

34 (c) The provisions of this section shall apply to property which is to  
35 be used to produce or sell biodiesel fuel including property used to adapt  
36 or to equip or retrofit an existing production or selling facility or property  
37 used at a new facility which is acquired or the construction of which is  
38 completed after December 31, 2005; and (1) for the five taxable years  
39 immediately following the taxable year in which such property is first used  
40 in production of biodiesel fuel as provided in paragraph *First.* of subsec-  
41 tion (a); and (2) for the two taxable years immediately following the tax-  
42 able year in which such property is used in the sale of biodiesel fuel by a  
43 Kansas seller as provided in paragraph *Second.* of subsection (a).

- 1 (d) The provisions of this section shall apply to all taxable years com-  
2 mencing after December 31, 2005.
- 3 New Sec. 2. (a) Any taxpayer who makes expenditures for a facility  
4 which produces or sells biodiesel fuel shall be allowed a credit against the  
5 income tax imposed by article 32 of chapter 79 of the Kansas Statutes  
6 Annotated as follows: For any qualified biodiesel fuel production facility  
7 or qualified biodiesel fuel selling facility placed in service after December  
8 31, 2005, or any such existing facility which has been adapted or retrof-  
9 itted to produce biodiesel fuel or to sell biodiesel fuel, an amount equal  
10 to 40% of the total amount expended for each qualified biodiesel fuel  
11 production facility or qualified biodiesel fuel selling facility, but not to  
12 exceed \$160,000 for each such facility.
- 13 (b) The tax credit under subsection (a) shall be deducted from the  
14 taxpayer's income tax liability for the taxable year in which the expendi-  
15 tures are made by the taxpayer. If the amount of the tax credit exceeds  
16 the taxpayer's income tax liability for the taxable year, the amount which  
17 exceeds the tax liability may be carried over for deduction from the tax-  
18 payer's income tax liability in the next succeeding taxable year or years  
19 until the total amount of the tax credit has been deducted from tax li-  
20 ability, except that no such tax credit shall be carried over for deduction  
21 after the third taxable year succeeding the taxable year in which the ex-  
22 penditures are made.
- 23 (c) As used in this section:
- 24 (1) "Biodiesel fuel" means a renewable, biodegradable, mono alkyl  
25 ester combustible liquid fuel derived from vegetable oils or animal fats  
26 and that meets American society for testing and materials specification  
27 D6751-02 for biodiesel fuel (B100) blend stock for distillate fuels.
- 28 (2) "Qualified biodiesel fuel production facility" means the property  
29 located in Kansas which is directly related to the production of biodiesel  
30 fuel.
- 31 (3) "Qualified biodiesel fuel selling facility" means the property  
32 which is directly related to the delivery of biodiesel fuel into the fuel tank  
33 of a motor vehicle propelled by such fuel, including the compression  
34 equipment, storage vessels and dispensers for such fuel at the point where  
35 such fuel is delivered but only if such property is primarily used to deliver  
36 such fuel for use in a motor vehicle.
- 37 (4) "Taxpayer" means any person who makes an expenditure for a  
38 qualified biodiesel fuel production facility or qualified biodiesel fuel sell-  
39 ing facility.
- 40 (5) "Person" means every natural person, association, partnership,  
41 limited liability company, limited partnership or corporation.
- 42 (d) The provisions of this section shall apply to all taxable years com-  
43 mencing after December 31, 2005.

1     Sec. 3. K.S.A. 2005 Supp. 79-3606 is hereby amended to read as  
2 follows: 79-3606. The following shall be exempt from the tax imposed by  
3 this act:

4     (a) All sales of motor-vehicle fuel or other articles upon which a sales  
5 or excise tax has been paid, not subject to refund, under the laws of this  
6 state except cigarettes as defined by K.S.A. 79-3301 and amendments  
7 thereto, cereal malt beverages and malt products as defined by K.S.A. 79-  
8 3817 and amendments thereto, including wort, liquid malt, malt syrup  
9 and malt extract, which is not subject to taxation under the provisions of  
10 K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant  
11 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to  
12 K.S.A. 65-3424d, and amendments thereto, drycleaning and laundry serv-  
13 ices taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and  
14 gross receipts from regulated sports contests taxed pursuant to the Kansas  
15 professional regulated sports act, and amendments thereto;

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

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

39     (d) all sales of tangible personal property or services purchased by a  
40 contractor for the purpose of constructing, equipping, reconstructing,  
41 maintaining, repairing, enlarging, furnishing or remodeling facilities for  
42 any public or private nonprofit hospital or public hospital authority, public  
43 or private elementary or secondary school or a public or private nonprofit

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

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

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

- 1 employee or subcontractor thereof, who shall use or otherwise dispose of  
2 any materials purchased under such a certificate for any purpose other  
3 than that for which such a certificate is issued without the payment of  
4 the sales or compensating tax otherwise imposed upon such materials,  
5 shall be guilty of a misdemeanor and, upon conviction therefor, shall be  
6 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615  
7 and amendments thereto;
- 8 (f) tangible personal property purchased by a railroad or public utility  
9 for consumption or movement directly and immediately in interstate  
10 commerce;
- 11 (g) sales of aircraft including remanufactured and modified aircraft  
12 sold to persons using directly or through an authorized agent such aircraft  
13 as certified or licensed carriers of persons or property in interstate or  
14 foreign commerce under authority of the laws of the United States or any  
15 foreign government or sold to any foreign government or agency or in-  
16 strumentality of such foreign government and all sales of aircraft for use  
17 outside of the United States and sales of aircraft repair, modification and  
18 replacement parts and sales of services employed in the remanufacture,  
19 modification and repair of aircraft;
- 20 (h) all rentals of nonsectarian textbooks by public or private elemen-  
21 tary or secondary schools;
- 22 (i) the lease or rental of all films, records, tapes, or any type of sound  
23 or picture transcriptions used by motion picture exhibitors;
- 24 (j) meals served without charge or food used in the preparation of  
25 such meals to employees of any restaurant, eating house, dining car, hotel,  
26 drugstore or other place where meals or drinks are regularly sold to the  
27 public if such employees' duties are related to the furnishing or sale of  
28 such meals or drinks;
- 29 (k) any motor vehicle, semitrailer or pole trailer, as such terms are  
30 defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and  
31 delivered in this state to a bona fide resident of another state, which motor  
32 vehicle, semitrailer, pole trailer or aircraft is not to be registered or based  
33 in this state and which vehicle, semitrailer, pole trailer or aircraft will not  
34 remain in this state more than 10 days;
- 35 (l) all isolated or occasional sales of tangible personal property, serv-  
36 ices, substances or things, except isolated or occasional sale of motor  
37 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.  
38 79-3603 and amendments thereto;
- 39 (m) all sales of tangible personal property which become an ingre-  
40 dient or component part of tangible personal property or services pro-  
41 duced, manufactured or compounded for ultimate sale at retail within or  
42 without the state of Kansas; and any such producer, manufacturer or  
43 compounder may obtain from the director of taxation and furnish to the

- 1 supplier an exemption certificate number for tangible personal property  
2 for use as an ingredient or component part of the property or services  
3 produced, manufactured or compounded;
- 4 (n) all sales of tangible personal property which is consumed in the  
5 production, manufacture, processing, mining, drilling, refining or com-  
6 pounding of tangible personal property, the treating of by-products or  
7 wastes derived from any such production process, the providing of serv-  
8 ices or the irrigation of crops for ultimate sale at retail within or without  
9 the state of Kansas; and any purchaser of such property may obtain from  
10 the director of taxation and furnish to the supplier an exemption certifi-  
11 cate number for tangible personal property for consumption in such pro-  
12 duction, manufacture, processing, mining, drilling, refining, compound-  
13 ing, treating, irrigation and in providing such services;
- 14 (o) all sales of animals, fowl and aquatic plants and animals, the pri-  
15 mary purpose of which is use in agriculture or aquaculture, as defined in  
16 K.S.A. 47-1901, and amendments thereto, the production of food for  
17 human consumption, the production of animal, dairy, poultry or aquatic  
18 plant and animal products, fiber or fur, or the production of offspring for  
19 use for any such purpose or purposes;
- 20 (p) all sales of drugs dispensed pursuant to a prescription order by a  
21 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-  
22 1626, and amendments thereto. As used in this subsection, “drug” means  
23 a compound, substance or preparation and any component of a com-  
24 pound, substance or preparation, other than food and food ingredients,  
25 dietary supplements or alcoholic beverages, recognized in the official  
26 United States pharmacopoeia, official homeopathic pharmacopoeia of the  
27 United States or official national formulary, and supplement to any of  
28 them, intended for use in the diagnosis, cure, mitigation, treatment or  
29 prevention of disease or intended to affect the structure or any function  
30 of the body;
- 31 (q) all sales of insulin dispensed by a person licensed by the state  
32 board of pharmacy to a person for treatment of diabetes at the direction  
33 of a person licensed to practice medicine by the board of healing arts;
- 34 (r) all sales of prosthetic devices and mobility enhancing equipment  
35 prescribed in writing by a person licensed to practice the healing arts,  
36 dentistry or optometry, and in addition to such sales, all sales of hearing  
37 aids, as defined by subsection (c) of K.S.A. 74-5807, and amendments  
38 thereto, and repair and replacement parts therefor, including batteries,  
39 by a person licensed in the practice of dispensing and fitting hearing aids  
40 pursuant to the provisions of K.S.A. 74-5808, and amendments thereto.  
41 For the purposes of this subsection: (1) “Mobility enhancing equipment”  
42 means equipment including repair and replacement parts to same, but  
43 does not include durable medical equipment, which is primarily and cus-

1 tomarily used to provide or increase the ability to move from one place  
2 to another and which is appropriate for use either in a home or a motor  
3 vehicle; is not generally used by persons with normal mobility; and does  
4 not include any motor vehicle or equipment on a motor vehicle normally  
5 provided by a motor vehicle manufacturer; and (2) “prosthetic device”  
6 means a replacement, corrective or supportive device including repair  
7 and replacement parts for same worn on or in the body to artificially  
8 replace a missing portion of the body, prevent or correct physical defor-  
9 mity or malfunction or support a weak or deformed portion of the body;

10 (s) except as provided in K.S.A. 2005 Supp. 82a-2101, and amend-  
11 ments thereto, all sales of tangible personal property or services pur-  
12 chased directly or indirectly by a groundwater management district or-  
13 ganized or operating under the authority of K.S.A. 82a-1020 et seq. and  
14 amendments thereto, by a rural water district organized or operating un-  
15 der the authority of K.S.A. 82a-612, and amendments thereto, or by a  
16 water supply district organized or operating under the authority of K.S.A.  
17 19-3501 et seq., 19-3522 et seq. or 19-3545, and amendments thereto,  
18 which property or services are used in the construction activities, opera-  
19 tion or maintenance of the district;

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

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

39 (v) all sales of tangible personal property to any contractor for use in  
40 preparing meals for delivery to homebound elderly persons over 60 years  
41 of age and to homebound disabled persons or to be served at a group-  
42 sitting at a location outside of the home to otherwise homebound elderly  
43 persons over 60 years of age and to otherwise homebound disabled per-



1 sons, as all or part of any food service project funded in whole or in part  
2 by government or as part of a private nonprofit food service project avail-  
3 able to all such elderly or disabled persons residing within an area of  
4 service designated by the private nonprofit organization, and all sales of  
5 tangible personal property for use in preparing meals for consumption by  
6 indigent or homeless individuals whether or not such meals are consumed  
7 at a place designated for such purpose, and all sales of food products by  
8 or on behalf of any such contractor or organization for any such purpose;

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

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

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

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

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

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

41 (cc) all sales of tangible personal property or services purchased for  
42 the purpose of and in conjunction with constructing, reconstructing, en-  
43 larging or remodeling a business or retail business which meets the

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

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

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

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

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

39 (hh) all sales of medical supplies and equipment, including durable  
40 medical equipment, purchased directly by a nonprofit skilled nursing  
41 home or nonprofit intermediate nursing care home, as defined by K.S.A.  
42 39-923, and amendments thereto, for the purpose of providing medical  
43 services to residents thereof. This exemption shall not apply to tangible

1 personal property customarily used for human habitation purposes. As  
2 used in this subsection, “durable medical equipment” means equipment  
3 including repair and replacement parts for such equipment, but does not  
4 include mobility enhancing equipment as defined in subsection (r) which  
5 can withstand repeated use, is primarily and customarily used to serve a  
6 medical purpose, generally is not useful to a person in the absence of  
7 illness or injury and is not worn in or on the body;

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

14 (jj) all sales of tangible personal property or services, including the  
15 renting and leasing of tangible personal property, purchased directly on  
16 behalf of a community-based mental retardation facility or mental health  
17 center organized pursuant to K.S.A. 19-4001 et seq., and amendments  
18 thereto, and licensed in accordance with the provisions of K.S.A. 75-  
19 3307b and amendments thereto and all sales of tangible personal property  
20 or services purchased by contractors during the time period from July,  
21 2003, through June, 2004, for the purpose of constructing, equipping,  
22 maintaining or furnishing a new facility for a community-based mental  
23 retardation facility or mental health center located in Riverton, Cherokee  
24 County, Kansas, which would have been eligible for sales tax exemption  
25 pursuant to this subsection if purchased directly by such facility or center.  
26 This exemption shall not apply to tangible personal property customarily  
27 used for human habitation purposes;

28 (kk) (1) (A) all sales of machinery and equipment which are used in  
29 this state as an integral or essential part of an integrated production op-  
30 eration by a manufacturing or processing plant or facility;

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

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

35 (2) For purposes of this subsection:

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

1 operations; and (iv) waste, pollution and environmental control opera-  
2 tions, if any;

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

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

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

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

1 tion, if produced by the manufacturer or processor at the plant site, to  
2 that manufacturer's production operation; or, if purchased or delivered  
3 from offsite, from the point where the substance enters the site of the  
4 plant or facility to that manufacturer's production operations;

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

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

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

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

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

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

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

43 (B) machinery, equipment and tools used primarily in maintaining

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

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



1 support for them and their families;

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

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

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

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

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

22 (9) the heartstrings community foundation for the purpose of provid-  
23 ing training, employment and activities for adults with developmental  
24 disabilities;

25 (10) the Cystic Fibrosis Foundation, Heart of America Chapter, for  
26 the purposes of assuring the development of the means to cure and con-  
27 trol cystic fibrosis and improving the quality of life for those with the  
28 disease; and

29 (11) the spina bifida association of Kansas for the purpose of provid-  
30 ing financial, educational and practical aid to families and individuals with  
31 spina bifida. Such aid includes, but is not limited to, funding for medical  
32 devices, counseling and medical educational opportunities;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (hhh) all sales of tangible personal property and services purchased  
20 by or on behalf of all domestic violence shelters that are member agencies  
21 of the Kansas coalition against sexual and domestic violence; *and*

22 (iii) *all sales of tangible personal property to a Kansas retail facility*  
23 *or terminal that is used to enable such facility or terminal to store, blend,*  
24 *dispense or otherwise prepare for sale biodiesel fuel. For purposes of this*  
25 *subsection, "biodiesel fuel" means a renewable, biodegradable, mono alkyl*  
26 *ester combustible liquid fuel derived from vegetable oils or animal fats*  
27 *and that meets American society for testing and materials specification*  
28 *D6751-02 for biodiesel fuel (B100) blend stock for distillate fuels.*

29 Sec. 4. K.S.A. 2005 Supp. 79-3606 is hereby repealed.

30 Sec. 5. This act shall take effect and be in force from and after its  
31 publication in the statute book.