

(Re-corrected)

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 2008

HOUSE BILL No. 2938

By Committee on Taxation

2-25

12 AN ACT concerning sales taxation; relating to certain exemptions; ~~non-~~
13 ~~profit organizations~~; amending K.S.A. 2007 Supp. 79-3603, 79-3606
14 and 79-3692 and repealing the existing sections.
15

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

17 New Section 1. (a) The following shall be exempt from the tax im-
18 posed under the Kansas retailers' sales tax act: (1) All sales of **tangible**
19 personal property or services purchased by organizations which are ex-
20 empt or would be exempt from federal income taxation pursuant to sec-
21 tion 501(c)(3) of the federal internal revenue code, and which such **tan-**
22 **gible** personal property and services are used for the purpose of providing
23 adoption and foster care services, aging services, child and family disa-
24 bility and welfare services, domestic violence services, drug abuse and
25 alcohol addiction counseling services, food bank services for persons of
26 low income, health care research and services[, **homeless assistance**
27 **programs including transitional programs, housing programs in**
28 **which the primary purpose is to construct, repair or reconstruct**
29 **houses for elderly or low-income families, programs designed to**
30 **give aid to low-income individuals or communities, or the disad-**
31 **vantaged]** and services for individuals who are **legally blind or deaf**.
32 Only sales of **tangible** personal property and services purchased by the
33 organization for programs of such organization which provide the services
34 specified in the subsection shall qualify for the exemption provided by
35 this subsection; ~~and~~

36 (2) the gross receipts from the sale of admissions or tickets to fund
37 raising activities or events not exceeding one day and not exceeding two
38 such activities or events per year, all sales of tangible personal property
39 or services donated for fund raising purposes, and all sales of publications
40 developed by an organization for fund raising purposes, all by an organ-
41 ization which is exempt from federal income taxation pursuant to section
42 501(c)(3) of the federal internal revenue code, and which such sales are
43 dedicated to further the religious, charitable, scientific, testing for public

1 safety, literary or educational purpose, or any other purpose specified by
2 section 501(c)(3) of the federal internal revenue code, of the organiza-
3 tion[; and

4 **[(3) all sales of tangible personal property and services pur-**
5 **chased by any organization which is exempt from federal income**
6 **taxation pursuant to section 501(c)(3) of the federal internal rev-**
7 **enue code, and which such tangible personal property and services**
8 **are used for the purpose of preservation, renovation and beauti-**
9 **fication of state property].**

10 (b) Any organization which is denied an exemption to the tax imposed
11 by this act in which the organization believes that the organization should
12 have been provided such exemption may request an informal conference
13 with the secretary of revenue under K.S.A. 79-3226, and amendments
14 thereto, within 60 days of notice of such denial for a determination of
15 whether such organization should be provided an exemption under the
16 provisions of this section.

17 (c) Nothing in this section shall affect the exemption status of any
18 organization which was provided an exemption from the tax imposed by
19 this act prior to January 1, ~~2009~~ **[2008]**.

20 (d) The secretary of revenue shall adopt rules and regulations to carry
21 out the provisions of this act. Such rules and regulations shall include
22 provisions to: (1) Provide a clear procedure to be utilized by the organi-
23 zation to make application for an exemption, and the department of rev-
24 enue to review and make determinations to substantiate such organiza-
25 tion's qualification for exemption status, including proof of exempt status
26 under section 501(c)(3) of the federal internal revenue code or, for or-
27 ganizations not required by the federal internal revenue service to have
28 a section 501(c)(3) determination letter **or for organizations that would**
29 **be exempt from federal income taxation pursuant to section**
30 **501(c)(3)**, satisfactory verification that the organization is not used or held
31 for profit, proof that the organization has registered with the office of
32 secretary of state and has a current annual report on file with such office,
33 and other documentation needed by the department to make a deter-
34 mination of exemption status; and (2) provide a clear procedure for the
35 organization to seek a review of any adverse determination of exemption
36 status.

37 (e) The provisions of this section shall apply on and after January 1,
38 2009.

39 Sec. 2. **[On and after July 1, 2008,]** K.S.A. 2007 Supp. 79-3603 is
40 hereby amended to read as follows: 79-3603. For the privilege of engaging
41 in the business of selling tangible personal property at retail in this state
42 or rendering or furnishing any of the services taxable under this act, there
43 is hereby levied and there shall be collected and paid a tax at the rate of

1 5.3%. Within a redevelopment district established pursuant to K.S.A. 74-
2 8921, and amendments thereto, there is hereby levied and there shall be
3 collected and paid an additional tax at the rate of 2% until the earlier of
4 the date the bonds issued to finance or refinance the redevelopment
5 project have been paid in full or the final scheduled maturity of the first
6 series of bonds issued to finance any part of the project upon:

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

9 (b) the gross receipts from intrastate, interstate or international tel-
10 ecommunications services and any ancillary services sourced to this state
11 in accordance with K.S.A. 2007 Supp. 79-3673, and amendments thereto,
12 except that telecommunications service does not include: (1) Any inter-
13 state or international 800 or 900 service; (2) any interstate or international
14 private communications service as defined in K.S.A. 2007 Supp. 79-3673,
15 and amendments thereto; (3) any value-added nonvoice data service; (4)
16 any telecommunication service to a provider of telecommunication serv-
17 ices which will be used to render telecommunications services, including
18 carrier access services; or (5) any service or transaction defined in this
19 section among entities classified as members of an affiliated group as
20 provided by section 1504 of the federal internal revenue code of 1986, as
21 in effect on January 1, 2001;

22 (c) the gross receipts from the sale or furnishing of gas, water, elec-
23 tricity and heat, which sale is not otherwise exempt from taxation under
24 the provisions of this act, and whether furnished by municipally or pri-
25 vately owned utilities, except that, on and after January 1, 2006, for sales
26 of gas, electricity and heat delivered through mains, lines or pipes to
27 residential premises for noncommercial use by the occupant of such
28 premises, and for agricultural use and also, for such use, all sales of pro-
29 pane gas, the state rate shall be 0%; and for all sales of propane gas, LP
30 gas, coal, wood and other fuel sources for the production of heat or light-
31 ing for noncommercial use of an occupant of residential premises, the
32 state rate shall be 0%, but such tax shall not be levied and collected upon
33 the gross receipts from: (1) The sale of a rural water district benefit unit;
34 (2) a water system impact fee, system enhancement fee or similar fee
35 collected by a water supplier as a condition for establishing service; or (3)
36 connection or reconnection fees collected by a water supplier;

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

41 (e) the gross receipts from the sale of admissions to any place pro-
42 viding amusement, entertainment or recreation services including admis-
43 sions to state, county, district and local fairs, but such tax shall not be

- 1 levied and collected upon the gross receipts received from sales of ad-
2 missions to any cultural and historical event which occurs triennially;
- 3 (f) the gross receipts from the operation of any coin-operated device
4 dispensing or providing tangible personal property, amusement or other
5 services except laundry services, whether automatic or manually operated;
- 6 (g) the gross receipts from the service of renting of rooms by hotels,
7 as defined by K.S.A. 36-501 and amendments thereto, or by accommo-
8 dation brokers, as defined by K.S.A. 12-1692, and amendments thereto
9 but such tax shall not be levied and collected upon the gross receipts
10 received from sales of such service to the federal government and any
11 agency, officer or employee thereof in association with the performance
12 of official government duties;
- 13 (h) the gross receipts from the service of renting or leasing of tangible
14 personal property except such tax shall not apply to the renting or leasing
15 of machinery, equipment or other personal property owned by a city and
16 purchased from the proceeds of industrial revenue bonds issued prior to
17 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through
18 12-1749, and amendments thereto, and any city or lessee renting or leas-
19 ing such machinery, equipment or other personal property purchased
20 with the proceeds of such bonds who shall have paid a tax under the
21 provisions of this section upon sales made prior to July 1, 1973, shall be
22 entitled to a refund from the sales tax refund fund of all taxes paid
23 thereon;
- 24 (i) the gross receipts from the rendering of dry cleaning, pressing,
25 dyeing and laundry services except laundry services rendered through a
26 coin-operated device whether automatic or manually operated;
- 27 (j) the gross receipts from the rendering of the services of washing
28 and washing and waxing of vehicles;
- 29 (k) the gross receipts from cable, community antennae and other sub-
30 scriber radio and television services;
- 31 (l) (1) except as otherwise provided by paragraph (2), the gross re-
32 cepts received from the sales of tangible personal property to all con-
33 tractors, subcontractors or repairmen for use by them in erecting struc-
34 tures, or building on, or otherwise improving, altering, or repairing real
35 or personal property.
- 36 (2) Any such contractor, subcontractor or repairman who maintains
37 an inventory of such property both for sale at retail and for use by them
38 for the purposes described by paragraph (1) shall be deemed a retailer
39 with respect to purchases for and sales from such inventory, except that
40 the gross receipts received from any such sale, other than a sale at retail,
41 shall be equal to the total purchase price paid for such property and the
42 tax imposed thereon shall be paid by the deemed retailer;
- 43 (m) the gross receipts received from fees and charges by public and

1 private clubs, drinking establishments, organizations and businesses for
2 participation in sports, games and other recreational activities, but such
3 tax shall not be levied and collected upon the gross receipts received from:
4 (1) Fees and charges by any political subdivision, by any organization
5 exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-
6 201, and amendments thereto, or by any youth recreation organization
7 exclusively providing services to persons 18 years of age or younger which
8 is exempt from federal income taxation pursuant to section 501(c)(3) of
9 the federal internal revenue code of 1986, for participation in sports,
10 games and other recreational activities; and (2) entry fees and charges for
11 participation in a special event or tournament sanctioned by a national
12 sporting association to which spectators are charged an admission which
13 is taxable pursuant to subsection (e);

14 (n) the gross receipts received from dues charged by public and pri-
15 vate clubs, drinking establishments, organizations and businesses, pay-
16 ment of which entitles a member to the use of facilities for recreation or
17 entertainment, but such tax shall not be levied and collected upon the
18 gross receipts received from: (1) Dues charged by any organization ex-
19 empt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of
20 K.S.A. 79-201, and amendments thereto; and (2) sales of memberships
21 in a nonprofit organization which is exempt from federal income taxation
22 pursuant to section 501 (c)(3) of the federal internal revenue code of
23 1986, and whose purpose is to support the operation of a nonprofit zoo;

24 (o) the gross receipts received from the isolated or occasional sale of
25 motor vehicles or trailers but not including: (1) The transfer of motor
26 vehicles or trailers by a person to a corporation or limited liability com-
27 pany solely in exchange for stock securities or membership interest in
28 such corporation or limited liability company; or (2) the transfer of motor
29 vehicles or trailers by one corporation or limited liability company to
30 another when all of the assets of such corporation or limited liability
31 company are transferred to such other corporation or limited liability
32 company; or (3) the sale of motor vehicles or trailers which are subject
33 to taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and
34 amendments thereto, by an immediate family member to another im-
35 mediate family member. For the purposes of clause (3), immediate family
36 member means lineal ascendants or descendants, and their spouses. Any
37 amount of sales tax paid pursuant to the Kansas retailers sales tax act on
38 the isolated or occasional sale of motor vehicles or trailers on and after
39 July 1, 2004, which the base for computing the tax was the value pursuant
40 to subsections (a), (b)(1) and (b)(2) of K.S.A. 79-5105, and amendments
41 thereto, when such amount was higher than the amount of sales tax which
42 would have been paid under the law as it existed on June 30, 2004, shall
43 be refunded to the taxpayer pursuant to the procedure prescribed by this

1 section. Such refund shall be in an amount equal to the difference be-
2 tween the amount of sales tax paid by the taxpayer and the amount of
3 sales tax which would have been paid by the taxpayer under the law as it
4 existed on June 30, 2004. Each claim for a sales tax refund shall be verified
5 and submitted not later than six months from the effective date of this
6 act to the director of taxation upon forms furnished by the director and
7 shall be accompanied by any additional documentation required by the
8 director. The director shall review each claim and shall refund that
9 amount of tax paid as provided by this act. All such refunds shall be paid
10 from the sales tax refund fund, upon warrants of the director of accounts
11 and reports pursuant to vouchers approved by the director of taxation or
12 the director's designee. No refund for an amount less than \$10 shall be
13 paid pursuant to this act. In determining the base for computing the tax
14 on such isolated or occasional sale, the fair market value of any motor
15 vehicle or trailer traded in by the purchaser to the seller may be deducted
16 from the selling price;

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

27 For the purposes of this subsection:

28 (1) "Original construction" shall mean the first or initial construction
29 of a new building or facility. The term "original construction" shall include
30 the addition of an entire room or floor to any existing building or facility,
31 the completion of any unfinished portion of any existing building or fa-
32 cility and the restoration, reconstruction or replacement of a building,
33 facility or utility structure damaged or destroyed by fire, flood, tornado,
34 lightning, explosion, windstorm, ice loading and attendant winds, terror-
35 ism or earthquake, but such term, except with regard to a residence, shall
36 not include replacement, remodeling, restoration, renovation or recon-
37 struction under any other circumstances;

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

42 (3) "facility" shall mean a mill, plant, refinery, oil or gas well, water
43 well, feedlot or any conveyance, transmission or distribution line of any

- 1 cooperative, nonprofit, membership corporation organized under or sub-
2 ject to the provisions of K.S.A. 17-4601 et seq., and amendments thereto,
3 or municipal or quasi-municipal corporation, including the land improve-
4 ments immediately surrounding such facility;
- 5 (4) “residence” shall mean only those enclosures within which indi-
6 viduals customarily live;
- 7 (5) “utility structure” shall mean transmission and distribution lines
8 owned by an independent transmission company or cooperative, the Kan-
9 sas electric transmission authority or natural gas or electric public utility;
10 and
- 11 (6) “windstorm” shall mean straight line winds of at least 80 miles
12 per hour as determined by a recognized meteorological reporting agency
13 or organization;
- 14 (q) the gross receipts received for the service of repairing, servicing,
15 altering or maintaining tangible personal property which when such serv-
16 ices are rendered is not being held for sale in the regular course of busi-
17 ness, and whether or not any tangible personal property is transferred in
18 connection therewith. The tax imposed by this subsection shall be appli-
19 cable to the services of repairing, servicing, altering or maintaining an
20 item of tangible personal property which has been and is fastened to,
21 connected with or built into real property;
- 22 (r) the gross receipts from fees or charges made under service or
23 maintenance agreement contracts for services, charges for the providing
24 of which are taxable under the provisions of subsection (p) or (q);
- 25 (s) on and after January 1, 2005, the gross receipts received from the
26 sale of prewritten computer software and the sale of the services of mod-
27 ifying, altering, updating or maintaining prewritten computer software,
28 whether the prewritten computer software is installed or delivered elec-
29 tronically by tangible storage media physically transferred to the pur-
30 chaser or by load and leave;
- 31 (t) the gross receipts received for telephone answering services;
- 32 (u) the gross receipts received from the sale of prepaid calling service
33 and prepaid wireless calling service as defined in K.S.A. 2007 Supp. 79-
34 3673, and amendments thereto; and
- 35 (v) the gross receipts received from the sales of bingo cards, bingo
36 faces and instant bingo tickets by licensees under K.S.A. 79-4701, et seq.,
37 and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1,
38 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before
39 July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo
40 faces and instant bingo tickets by licensees under K.S.A. 79-4701 et seq.,
41 and amendments thereto, shall be exempt from taxes imposed pursuant
42 to this section.
- 43 *Any nonprofit organization provided an exemption from the imposition*

1 *of the tax imposed by this act prior to January 1, ~~2009~~ [2008], shall retain*
2 *such exemption, and as such, any requirements imposed by the provisions*
3 *of section 1 et seq., and amendments thereto, shall have no effect on such*
4 *organization's exemption status pursuant to this section.*

5 Sec. 3. **[On and after July 1, 2008,]** K.S.A. 2007 Supp. 79-3606 is
6 hereby amended to read as follows: 79-3606. *Any nonprofit organization*
7 *provided an exemption from the tax imposed by this act prior to January*
8 *1, ~~2009~~ [2008], shall retain such exemption, and as such, any require-*
9 *ments imposed by the provisions of section 1 et seq., and amendments*
10 *thereto, shall have no effect on such organization's exemption status pur-*
11 *suant to this section.* The following shall be exempt from the tax imposed
12 by this act:

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

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

39 (c) all sales of tangible personal property or services, including the
40 renting and leasing of tangible personal property, purchased directly by
41 a public or private elementary or secondary school or public or private
42 nonprofit educational institution and used primarily by such school or
43 institution for nonsectarian programs and activities provided or sponsored

1 by such school or institution or in the erection, repair or enlargement of
2 buildings to be used for such purposes. The exemption herein provided
3 shall not apply to erection, construction, repair, enlargement or equip-
4 ment of buildings used primarily for human habitation;

5 (d) all sales of tangible personal property or services purchased by a
6 contractor for the purpose of constructing, equipping, reconstructing,
7 maintaining, repairing, enlarging, furnishing or remodeling facilities for
8 any public or private nonprofit hospital or public hospital authority, public
9 or private elementary or secondary school, a public or private nonprofit
10 educational institution, state correctional institution including a privately
11 constructed correctional institution contracted for state use and owner-
12 ship, which would be exempt from taxation under the provisions of this
13 act if purchased directly by such hospital or public hospital authority,
14 school, educational institution or a state correctional institution; and all
15 sales of tangible personal property or services purchased by a contractor
16 for the purpose of constructing, equipping, reconstructing, maintaining,
17 repairing, enlarging, furnishing or remodeling facilities for any political
18 subdivision of the state or district described in subsection (s), the total
19 cost of which is paid from funds of such political subdivision or district
20 and which would be exempt from taxation under the provisions of this
21 act if purchased directly by such political subdivision or district. Nothing
22 in this subsection or in the provisions of K.S.A. 12-3418 and amendments
23 thereto, shall be deemed to exempt the purchase of any construction
24 machinery, equipment or tools used in the constructing, equipping, re-
25 constructing, maintaining, repairing, enlarging, furnishing or remodeling
26 facilities for any political subdivision of the state or any such district. As
27 used in this subsection, K.S.A. 12-3418 and 79-3640, and amendments
28 thereto, “funds of a political subdivision” shall mean general tax revenues,
29 the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean
30 funds used for the purpose of constructing, equipping, reconstructing,
31 repairing, enlarging, furnishing or remodeling facilities which are to be
32 leased to the donor. When any political subdivision of the state, district
33 described in subsection (s), public or private nonprofit hospital or public
34 hospital authority, public or private elementary or secondary school, pub-
35 lic or private nonprofit educational institution, state correctional institu-
36 tion including a privately constructed correctional institution contracted
37 for state use and ownership shall contract for the purpose of constructing,
38 equipping, reconstructing, maintaining, repairing, enlarging, furnishing
39 or remodeling facilities, it shall obtain from the state and furnish to the
40 contractor an exemption certificate for the project involved, and the con-
41 tractor may purchase materials for incorporation in such project. The
42 contractor shall furnish the number of such certificate to all suppliers
43 from whom such purchases are made, and such suppliers shall execute

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

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

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

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

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

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

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

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

- 1 (k) any motor vehicle, semitrailer or pole trailer, as such terms are
2 defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and
3 delivered in this state to a bona fide resident of another state, which motor
4 vehicle, semitrailer, pole trailer or aircraft is not to be registered or based
5 in this state and which vehicle, semitrailer, pole trailer or aircraft will not
6 remain in this state more than 10 days;
- 7 (l) all isolated or occasional sales of tangible personal property, serv-
8 ices, substances or things, except isolated or occasional sale of motor
9 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.
10 79-3603 and amendments thereto;
- 11 (m) all sales of tangible personal property which become an ingre-
12 dient or component part of tangible personal property or services pro-
13 duced, manufactured or compounded for ultimate sale at retail within or
14 without the state of Kansas; and any such producer, manufacturer or
15 compounder may obtain from the director of taxation and furnish to the
16 supplier an exemption certificate number for tangible personal property
17 for use as an ingredient or component part of the property or services
18 produced, manufactured or compounded;
- 19 (n) all sales of tangible personal property which is consumed in the
20 production, manufacture, processing, mining, drilling, refining or com-
21 pounding of tangible personal property, the treating of by-products or
22 wastes derived from any such production process, the providing of serv-
23 ices or the irrigation of crops for ultimate sale at retail within or without
24 the state of Kansas; and any purchaser of such property may obtain from
25 the director of taxation and furnish to the supplier an exemption certifi-
26 cate number for tangible personal property for consumption in such pro-
27 duction, manufacture, processing, mining, drilling, refining, compound-
28 ing, treating, irrigation and in providing such services;
- 29 (o) all sales of animals, fowl and aquatic plants and animals, the pri-
30 mary purpose of which is use in agriculture or aquaculture, as defined in
31 K.S.A. 47-1901, and amendments thereto, the production of food for
32 human consumption, the production of animal, dairy, poultry or aquatic
33 plant and animal products, fiber or fur, or the production of offspring for
34 use for any such purpose or purposes;
- 35 (p) all sales of drugs dispensed pursuant to a prescription order by a
36 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-
37 1626, and amendments thereto. As used in this subsection, “drug” means
38 a compound, substance or preparation and any component of a com-
39 pound, substance or preparation, other than food and food ingredients,
40 dietary supplements or alcoholic beverages, recognized in the official
41 United States pharmacopoeia, official homeopathic pharmacopoeia of the
42 United States or official national formulary, and supplement to any of
43 them, intended for use in the diagnosis, cure, mitigation, treatment or

1 prevention of disease or intended to affect the structure or any function
2 of the body;

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

6 (r) all sales of oxygen delivery equipment, kidney dialysis equipment,
7 enteral feeding systems, prosthetic devices and mobility enhancing equip-
8 ment prescribed in writing by a person licensed to practice the healing
9 arts, dentistry or optometry, and in addition to such sales, all sales of
10 hearing aids, as defined by subsection (c) of K.S.A. 74-5807, and amend-
11 ments thereto, and repair and replacement parts therefor, including bat-
12 teries, by a person licensed in the practice of dispensing and fitting hear-
13 ing aids pursuant to the provisions of K.S.A. 74-5808, and amendments
14 thereto. For the purposes of this subsection: (1) “Mobility enhancing
15 equipment” means equipment including repair and replacement parts to
16 same, but does not include durable medical equipment, which is primarily
17 and customarily used to provide or increase the ability to move from one
18 place to another and which is appropriate for use either in a home or a
19 motor vehicle; is not generally used by persons with normal mobility; and
20 does not include any motor vehicle or equipment on a motor vehicle
21 normally provided by a motor vehicle manufacturer; and (2) “prosthetic
22 device” means a replacement, corrective or supportive device including
23 repair and replacement parts for same worn on or in the body to artificially
24 replace a missing portion of the body, prevent or correct physical deform-
25 ity or malfunction or support a weak or deformed portion of the body;

26 (s) except as provided in K.S.A. 2007 Supp. 82a-2101, and amend-
27 ments thereto, all sales of tangible personal property or services pur-
28 chased directly or indirectly by a groundwater management district or-
29 ganized or operating under the authority of K.S.A. 82a-1020 et seq. and
30 amendments thereto, by a rural water district organized or operating un-
31 der the authority of K.S.A. 82a-612, and amendments thereto, or by a
32 water supply district organized or operating under the authority of K.S.A.
33 19-3501 et seq., 19-3522 et seq. or 19-3545, and amendments thereto,
34 which property or services are used in the construction activities, opera-
35 tion or maintenance of the district;

36 (t) all sales of farm machinery and equipment or aquaculture ma-
37 chinery and equipment, repair and replacement parts therefor and serv-
38 ices performed in the repair and maintenance of such machinery and
39 equipment. For the purposes of this subsection the term “farm machinery
40 and equipment or aquaculture machinery and equipment” shall include
41 a work-site utility vehicle, as defined in K.S.A. 8-126, and amendments
42 thereto, and is equipped with a bed or cargo box for hauling materials,
43 and shall also include machinery and equipment used in the operation of

1 Christmas tree farming but shall not include any passenger vehicle, truck,
2 truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer,
3 as such terms are defined by K.S.A. 8-126 and amendments thereto.
4 “Farm machinery and equipment” includes precision farming equipment
5 that is portable or is installed or purchased to be installed on farm ma-
6 chinery and equipment. “Precision farming equipment” includes the fol-
7 lowing items used only in computer-assisted farming, ranching or aqua-
8 culture production operations: Soil testing sensors, yield monitors,
9 computers, monitors, software, global positioning and mapping systems,
10 guiding systems, modems, data communications equipment and any nec-
11 essary mounting hardware, wiring and antennas. Each purchaser of farm
12 machinery and equipment or aquaculture machinery and equipment ex-
13 empted herein must certify in writing on the copy of the invoice or sales
14 ticket to be retained by the seller that the farm machinery and equipment
15 or aquaculture machinery and equipment purchased will be used only in
16 farming, ranching or aquaculture production. Farming or ranching shall
17 include the operation of a feedlot and farm and ranch work for hire and
18 the operation of a nursery;

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

22 (v) all sales of tangible personal property to any contractor for use in
23 preparing meals for delivery to homebound elderly persons over 60 years
24 of age and to homebound disabled persons or to be served at a group-
25 sitting at a location outside of the home to otherwise homebound elderly
26 persons over 60 years of age and to otherwise homebound disabled per-
27 sons, as all or part of any food service project funded in whole or in part
28 by government or as part of a private nonprofit food service project avail-
29 able to all such elderly or disabled persons residing within an area of
30 service designated by the private nonprofit organization, and all sales of
31 tangible personal property for use in preparing meals for consumption by
32 indigent or homeless individuals whether or not such meals are consumed
33 at a place designated for such purpose, and all sales of food products by
34 or on behalf of any such contractor or organization for any such purpose;

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

- 1 the provisions of subsection (w)(1) and (w)(2), the provisions of this sub-
2 section shall expire on December 31, 2005;
- 3 (x) all sales of propane gas, LP-gas, coal, wood and other fuel sources
4 for the production of heat or lighting for noncommercial use of an oc-
5 cupant of residential premises occurring prior to January 1, 2006;
- 6 (y) all sales of materials and services used in the repairing, servicing,
7 altering, maintaining, manufacturing, remanufacturing, or modification of
8 railroad rolling stock for use in interstate or foreign commerce under
9 authority of the laws of the United States;
- 10 (z) all sales of tangible personal property and services purchased di-
11 rectly by a port authority or by a contractor therefor as provided by the
12 provisions of K.S.A. 12-3418 and amendments thereto;
- 13 (aa) all sales of materials and services applied to equipment which is
14 transported into the state from without the state for repair, service, al-
15 teration, maintenance, remanufacture or modification and which is sub-
16 sequently transported outside the state for use in the transmission of
17 liquids or natural gas by means of pipeline in interstate or foreign com-
18 merce under authority of the laws of the United States;
- 19 (bb) all sales of used mobile homes or manufactured homes. As used
20 in this subsection: (1) “Mobile homes” and “manufactured homes” shall
21 have the meanings ascribed thereto by K.S.A. 58-4202 and amendments
22 thereto; and (2) “sales of used mobile homes or manufactured homes”
23 means sales other than the original retail sale thereof;
- 24 (cc) all sales of tangible personal property or services purchased for
25 the purpose of and in conjunction with constructing, reconstructing, en-
26 larging or remodeling a business or retail business which meets the
27 requirements established in K.S.A. 74-50,115 and amendments thereto,
28 and the sale and installation of machinery and equipment purchased for
29 installation at any such business or retail business. When a person shall
30 contract for the construction, reconstruction, enlargement or remodeling
31 of any such business or retail business, such person shall obtain from the
32 state and furnish to the contractor an exemption certificate for the project
33 involved, and the contractor may purchase materials, machinery and
34 equipment for incorporation in such project. The contractor shall furnish
35 the number of such certificates to all suppliers from whom such purchases
36 are made, and such suppliers shall execute invoices covering the same
37 bearing the number of such certificate. Upon completion of the project
38 the contractor shall furnish to the owner of the business or retail business
39 a sworn statement, on a form to be provided by the director of taxation,
40 that all purchases so made were entitled to exemption under this subsec-
41 tion. All invoices shall be held by the contractor for a period of five years
42 and shall be subject to audit by the director of taxation. Any contractor
43 or any agent, employee or subcontractor thereof, who shall use or oth-

1 erwise dispose of any materials, machinery or equipment purchased un-
2 der such a certificate for any purpose other than that for which such a
3 certificate is issued without the payment of the sales or compensating tax
4 otherwise imposed thereon, shall be guilty of a misdemeanor and, upon
5 conviction therefor, shall be subject to the penalties provided for in sub-
6 section (g) of K.S.A. 79-3615 and amendments thereto. As used in this
7 subsection, “business” and “retail business” have the meanings respec-
8 tively ascribed thereto by K.S.A. 74-50,114 and amendments thereto;

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

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

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

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

22 (hh) all sales of medical supplies and equipment, including durable
23 medical equipment, purchased directly by a nonprofit skilled nursing
24 home or nonprofit intermediate nursing care home, as defined by K.S.A.
25 39-923, and amendments thereto, for the purpose of providing medical
26 services to residents thereof. This exemption shall not apply to tangible
27 personal property customarily used for human habitation purposes. As
28 used in this subsection, “durable medical equipment” means equipment
29 including repair and replacement parts for such equipment, which can
30 withstand repeated use, is primarily and customarily used to serve a med-
31 ical purpose, generally is not useful to a person in the absence of illness
32 or injury and is not worn in or on the body, but does not include mobility
33 enhancing equipment as defined in subsection (r), oxygen delivery equip-
34 ment, kidney dialysis equipment or enteral feeding systems;

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

41 (jj) all sales of tangible personal property or services, including the
42 renting and leasing of tangible personal property, purchased directly on
43 behalf of a community-based mental retardation facility or mental health

1 center organized pursuant to K.S.A. 19-4001 et seq., and amendments
2 thereto, and licensed in accordance with the provisions of K.S.A. 75-
3 3307b and amendments thereto and all sales of tangible personal property
4 or services purchased by contractors during the time period from July,
5 2003, through June, 2006, for the purpose of constructing, equipping,
6 maintaining or furnishing a new facility for a community-based mental
7 retardation facility or mental health center located in Riverton, Cherokee
8 County, Kansas, which would have been eligible for sales tax exemption
9 pursuant to this subsection if purchased directly by such facility or center.
10 This exemption shall not apply to tangible personal property customarily
11 used for human habitation purposes;

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

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

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

19 (2) For purposes of this subsection:

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

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

33 (C) “manufacturing or processing plant or facility” means a single,
34 fixed location owned or controlled by a manufacturing or processing busi-
35 ness that consists of one or more structures or buildings in a contiguous
36 area where integrated production operations are conducted to manufac-
37 ture or process tangible personal property to be ultimately sold at retail.
38 Such term shall not include any facility primarily operated for the purpose
39 of conveying or assisting in the conveyance of natural gas, electricity, oil
40 or water. A business may operate one or more manufacturing or proc-
41 essing plants or facilities at different locations to manufacture or process
42 a single product of tangible personal property to be ultimately sold at
43 retail;

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

34 (E) “repair and replacement parts and accessories” means all parts
35 and accessories for exempt machinery and equipment, including, but not
36 limited to, dies, jigs, molds, patterns and safety devices that are attached
37 to exempt machinery or that are otherwise used in production, and parts
38 and accessories that require periodic replacement such as belts, drill bits,
39 grinding wheels, grinding balls, cutting bars, saws, refractory brick and
40 other refractory items for exempt kiln equipment used in production
41 operations;

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

43 (3) For purposes of this subsection, machinery and equipment shall

- 1 be deemed to be used as an integral or essential part of an integrated
2 production operation when used:
- 3 (A) To receive, transport, convey, handle, treat or store raw materials
4 in preparation of its placement on the production line;
- 5 (B) to transport, convey, handle or store the property undergoing
6 manufacturing or processing at any point from the beginning of the pro-
7 duction line through any warehousing or distribution operation of the
8 final product that occurs at the plant or facility;
- 9 (C) to act upon, effect, promote or otherwise facilitate a physical
10 change to the property undergoing manufacturing or processing;
- 11 (D) to guide, control or direct the movement of property undergoing
12 manufacturing or processing;
- 13 (E) to test or measure raw materials, the property undergoing man-
14 ufacturing or processing or the finished product, as a necessary part of
15 the manufacturer's integrated production operations;
- 16 (F) to plan, manage, control or record the receipt and flow of inven-
17 tories of raw materials, consumables and component parts, the flow of
18 the property undergoing manufacturing or processing and the manage-
19 ment of inventories of the finished product;
- 20 (G) to produce energy for, lubricate, control the operating of or oth-
21 erwise enable the functioning of other production machinery and equip-
22 ment and the continuation of production operations;
- 23 (H) to package the property being manufactured or processed in a
24 container or wrapping in which such property is normally sold or
25 transported;
- 26 (I) to transmit or transport electricity, coke, gas, water, steam or sim-
27 ilar substances used in production operations from the point of genera-
28 tion, if produced by the manufacturer or processor at the plant site, to
29 that manufacturer's production operation; or, if purchased or delivered
30 from offsite, from the point where the substance enters the site of the
31 plant or facility to that manufacturer's production operations;
- 32 (J) to cool, heat, filter, refine or otherwise treat water, steam, acid,
33 oil, solvents or other substances that are used in production operations;
- 34 (K) to provide and control an environment required to maintain cer-
35 tain levels of air quality, humidity or temperature in special and limited
36 areas of the plant or facility, where such regulation of temperature or
37 humidity is part of and essential to the production process;
- 38 (L) to treat, transport or store waste or other byproducts of produc-
39 tion operations at the plant or facility; or
- 40 (M) to control pollution at the plant or facility where the pollution is
41 produced by the manufacturing or processing operation.
- 42 (4) The following machinery, equipment and materials shall be
43 deemed to be exempt even though it may not otherwise qualify as ma-

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

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

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

27 (B) machinery, equipment and tools used primarily in maintaining
28 and repairing any type of machinery and equipment or the building and
29 plant;

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

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

38 (E) furniture and other furnishings;

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

42 (G) building fixtures that are not integral to the manufacturing op-
43 eration, such as utility systems for heating, ventilation, air conditioning,

- 1 communications, plumbing or electrical;
- 2 (H) machinery and equipment used for general plant heating, cooling
3 and lighting;
- 4 (I) motor vehicles that are registered for operation on public high-
5 ways; or
- 6 (J) employee apparel, except safety and protective apparel that is pur-
7 chased by an employer and furnished gratuitously to employees who are
8 involved in production or research activities.
- 9 (6) Subsections (3) and (5) shall not be construed as exclusive listings
10 of the machinery and equipment that qualify or do not qualify as an
11 integral or essential part of an integrated production operation. When
12 machinery or equipment is used as an integral or essential part of pro-
13 duction operations part of the time and for nonproduction purpose at
14 other times, the primary use of the machinery or equipment shall deter-
15 mine whether or not such machinery or equipment qualifies for
16 exemption.
- 17 (7) The secretary of revenue shall adopt rules and regulations nec-
18 essary to administer the provisions of this subsection;
- 19 (ll) all sales of educational materials purchased for distribution to the
20 public at no charge by a nonprofit corporation organized for the purpose
21 of encouraging, fostering and conducting programs for the improvement
22 of public health;
- 23 (mm) all sales of seeds and tree seedlings; fertilizers, insecticides,
24 herbicides, germicides, pesticides and fungicides; and services, purchased
25 and used for the purpose of producing plants in order to prevent soil
26 erosion on land devoted to agricultural use;
- 27 (nn) except as otherwise provided in this act, all sales of services ren-
28 dered by an advertising agency or licensed broadcast station or any mem-
29 ber, agent or employee thereof;
- 30 (oo) all sales of tangible personal property purchased by a community
31 action group or agency for the exclusive purpose of repairing or weath-
32 erizing housing occupied by low income individuals;
- 33 (pp) all sales of drill bits and explosives actually utilized in the explo-
34 ration and production of oil or gas;
- 35 (qq) all sales of tangible personal property and services purchased by
36 a nonprofit museum or historical society or any combination thereof, in-
37 cluding a nonprofit organization which is organized for the purpose of
38 stimulating public interest in the exploration of space by providing edu-
39 cational information, exhibits and experiences, which is exempt from fed-
40 eral income taxation pursuant to section 501(c)(3) of the federal internal
41 revenue code of 1986;
- 42 (rr) all sales of tangible personal property which will admit the pur-
43 chaser thereof to any annual event sponsored by a nonprofit organization

- 1 which is exempt from federal income taxation pursuant to section
2 501(c)(3) of the federal internal revenue code of 1986;
- 3 (ss) all sales of tangible personal property and services purchased by
4 a public broadcasting station licensed by the federal communications
5 commission as a noncommercial educational television or radio station;
- 6 (tt) all sales of tangible personal property and services purchased by
7 or on behalf of a not-for-profit corporation which is exempt from federal
8 income taxation pursuant to section 501(c)(3) of the federal internal rev-
9 enue code of 1986, for the sole purpose of constructing a Kansas Korean
10 War memorial;
- 11 (uu) all sales of tangible personal property and services purchased by
12 or on behalf of any rural volunteer fire-fighting organization for use ex-
13 clusively in the performance of its duties and functions;
- 14 (vv) all sales of tangible personal property purchased by any of the
15 following organizations which are exempt from federal income taxation
16 pursuant to section 501 (c)(3) of the federal internal revenue code of
17 1986, for the following purposes, and all sales of any such property by or
18 on behalf of any such organization for any such purpose:
- 19 (1) The American Heart Association, Kansas Affiliate, Inc. for the
20 purposes of providing education, training, certification in emergency car-
21 diac care, research and other related services to reduce disability and
22 death from cardiovascular diseases and stroke;
- 23 (2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of
24 advocacy for persons with mental illness and to education, research and
25 support for their families;
- 26 (3) the Kansas Mental Illness Awareness Council for the purposes of
27 advocacy for persons who are mentally ill and to education, research and
28 support for them and their families;
- 29 (4) the American Diabetes Association Kansas Affiliate, Inc. for the
30 purpose of eliminating diabetes through medical research, public edu-
31 cation focusing on disease prevention and education, patient education
32 including information on coping with diabetes, and professional education
33 and training;
- 34 (5) the American Lung Association of Kansas, Inc. for the purpose of
35 eliminating all lung diseases through medical research, public education
36 including information on coping with lung diseases, professional educa-
37 tion and training related to lung disease and other related services to
38 reduce the incidence of disability and death due to lung disease;
- 39 (6) the Kansas chapters of the Alzheimer's Disease and Related Dis-
40 orders Association, Inc. for the purpose of providing assistance and sup-
41 port to persons in Kansas with Alzheimer's disease, and their families and
42 caregivers;
- 43 (7) the Kansas chapters of the Parkinson's disease association for the

- 1 purpose of eliminating Parkinson’s disease through medical research and
2 public and professional education related to such disease;
- 3 (8) the National Kidney Foundation of Kansas and Western Missouri
4 for the purpose of eliminating kidney disease through medical research
5 and public and private education related to such disease;
- 6 (9) the heartstrings community foundation for the purpose of provid-
7 ing training, employment and activities for adults with developmental
8 disabilities;
- 9 (10) the Cystic Fibrosis Foundation, Heart of America Chapter, for
10 the purposes of assuring the development of the means to cure and con-
11 trol cystic fibrosis and improving the quality of life for those with the
12 disease;
- 13 (11) the spina bifida association of Kansas for the purpose of provid-
14 ing financial, educational and practical aid to families and individuals with
15 spina bifida. Such aid includes, but is not limited to, funding for medical
16 devices, counseling and medical educational opportunities;
- 17 (12) the CHWC, Inc., for the purpose of rebuilding urban core neigh-
18 borhoods through the construction of new homes, acquiring and reno-
19 vating existing homes and other related activities, and promoting eco-
20 nomic development in such neighborhoods;
- 21 (13) the cross-lines cooperative council for the purpose of providing
22 social services to low income individuals and families;
- 23 (14) the Dreams Work, Inc., for the purpose of providing young adult
24 day services to individuals with developmental disabilities and assisting
25 families in avoiding institutional or nursing home care for a developmen-
26 tally disabled member of their family;
- 27 (15) the KSDS, Inc., for the purpose of promoting the independence
28 and inclusion of people with disabilities as fully participating and contrib-
29 uting members of their communities and society through the training and
30 providing of guide and service dogs to people with disabilities, and provid-
31 ing disability education and awareness to the general public;
- 32 (16) the lyme association of greater Kansas City, Inc., for the purpose
33 of providing support to persons with lyme disease and public education
34 relating to the prevention, treatment and cure of lyme disease;
- 35 (17) the Dream Factory, Inc., for the purpose of granting the dreams
36 of children with critical and chronic illnesses;
- 37 (18) the Ottawa Suzuki Strings, Inc., for the purpose of providing
38 students and families with education and resources necessary to enable
39 each child to develop fine character and musical ability to the fullest
40 potential;
- 41 (19) the International Association of Lions Clubs for the purpose of
42 creating and fostering a spirit of understanding among all people for hu-
43 manitarian needs by providing voluntary services through community in-

1 involvement and international cooperation;

2 (20) the Johnson county young matrons, inc., for the purpose of pro-
3 moting a positive future for members of the community through volun-
4 teerism, financial support and education through the efforts of an all
5 volunteer organization;

6 (21) the American Cancer Society, Inc., for the purpose of eliminat-
7 ing cancer as a major health problem by preventing cancer, saving lives
8 and diminishing suffering from cancer, through research, education, ad-
9 vocacy and service;

10 (22) the community services of Shawnee, inc., for the purpose of
11 providing food and clothing to those in need; and

12 (23) the angel babies association, for the purpose of providing assis-
13 tance, support and items of necessity to teenage mothers and their babies;

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

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

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

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

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

32 (aaa) all sales of tangible personal property and services purchased
33 by a religious organization which is exempt from federal income taxation
34 pursuant to section 501(c)(3) of the federal internal revenue code, and
35 used exclusively for religious purposes, and all sales of tangible personal
36 property or services purchased by a contractor for the purpose of con-
37 structing, equipping, reconstructing, maintaining, repairing, enlarging,
38 furnishing or remodeling facilities for any such organization which would
39 be exempt from taxation under the provisions of this section if purchased
40 directly by such organization. Nothing in this subsection shall be deemed
41 to exempt the purchase of any construction machinery, equipment or
42 tools used in the constructing, equipping, reconstructing, maintaining,
43 repairing, enlarging, furnishing or remodeling facilities for any such or-

1 organization. When any such organization shall contract for the purpose of
2 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
3 ing, furnishing or remodeling facilities, it shall obtain from the state and
4 furnish to the contractor an exemption certificate for the project involved,
5 and the contractor may purchase materials for incorporation in such pro-
6 ject. The contractor shall furnish the number of such certificate to all
7 suppliers from whom such purchases are made, and such suppliers shall
8 execute invoices covering the same bearing the number of such certifi-
9 cate. Upon completion of the project the contractor shall furnish to such
10 organization concerned a sworn statement, on a form to be provided by
11 the director of taxation, that all purchases so made were entitled to ex-
12 emption under this subsection. All invoices shall be held by the contractor
13 for a period of five years and shall be subject to audit by the director of
14 taxation. If any materials purchased under such a certificate are found
15 not to have been incorporated in the building or other project or not to
16 have been returned for credit or the sales or compensating tax otherwise
17 imposed upon such materials which will not be so incorporated in the
18 building or other project reported and paid by such contractor to the
19 director of taxation not later than the 20th day of the month following
20 the close of the month in which it shall be determined that such materials
21 will not be used for the purpose for which such certificate was issued,
22 such organization concerned shall be liable for tax on all materials pur-
23 chased for the project, and upon payment thereof it may recover the same
24 from the contractor together with reasonable attorney fees. Any contrac-
25 tor or any agent, employee or subcontractor thereof, who shall use or
26 otherwise dispose of any materials purchased under such a certificate for
27 any purpose other than that for which such a certificate is issued without
28 the payment of the sales or compensating tax otherwise imposed upon
29 such materials, shall be guilty of a misdemeanor and, upon conviction
30 therefor, shall be subject to the penalties provided for in subsection (g)
31 of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after
32 July 1, 1998, but prior to the effective date of this act upon the gross
33 receipts received from any sale exempted by the amendatory provisions
34 of this subsection shall be refunded. Each claim for a sales tax refund
35 shall be verified and submitted to the director of taxation upon forms
36 furnished by the director and shall be accompanied by any additional
37 documentation required by the director. The director shall review each
38 claim and shall refund that amount of sales tax paid as determined under
39 the provisions of this subsection. All refunds shall be paid from the sales
40 tax refund fund upon warrants of the director of accounts and reports
41 pursuant to vouchers approved by the director or the director's designee;
42 (bbb) all sales of food for human consumption by an organization
43 which is exempt from federal income taxation pursuant to section 501

1 (c)(3) of the federal internal revenue code of 1986, pursuant to a food
2 distribution program which offers such food at a price below cost in
3 exchange for the performance of community service by the purchaser
4 thereof;

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

- 1 any materials purchased under such a certificate for any purpose other
2 than that for which such a certificate is issued without the payment of
3 the sales or compensating tax otherwise imposed upon such materials,
4 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
5 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
6 and amendments thereto;
- 7 (ddd) on and after January 1, 1999, and before January 1, 2000, all
8 sales of materials and services purchased by any class II or III railroad as
9 classified by the federal surface transportation board for the construction,
10 renovation, repair or replacement of class II or III railroad track and
11 facilities used directly in interstate commerce. In the event any such track
12 or facility for which materials and services were purchased sales tax ex-
13 empt is not operational for five years succeeding the allowance of such
14 exemption, the total amount of sales tax which would have been payable
15 except for the operation of this subsection shall be recouped in accord-
16 ance with rules and regulations adopted for such purpose by the secretary
17 of revenue;
- 18 (eee) on and after January 1, 1999, and before January 1, 2001, all
19 sales of materials and services purchased for the original construction,
20 reconstruction, repair or replacement of grain storage facilities, including
21 railroad sidings providing access thereto;
- 22 (fff) all sales of material handling equipment, racking systems and
23 other related machinery and equipment that is used for the handling,
24 movement or storage of tangible personal property in a warehouse or
25 distribution facility in this state; all sales of installation, repair and main-
26 tenance services performed on such machinery and equipment; and all
27 sales of repair and replacement parts for such machinery and equipment.
28 For purposes of this subsection, a warehouse or distribution facility means
29 a single, fixed location that consists of buildings or structures in a contig-
30 uous area where storage or distribution operations are conducted that are
31 separate and apart from the business' retail operations, if any, and which
32 do not otherwise qualify for exemption as occurring at a manufacturing
33 or processing plant or facility. Material handling and storage equipment
34 shall include aeration, dust control, cleaning, handling and other such
35 equipment that is used in a public grain warehouse or other commercial
36 grain storage facility, whether used for grain handling, grain storage, grain
37 refining or processing, or other grain treatment operation;
- 38 (ggg) all sales of tangible personal property and services purchased
39 by or on behalf of the Kansas Academy of Science which is exempt from
40 federal income taxation pursuant to section 501(c)(3) of the federal in-
41 ternal revenue code of 1986, and used solely by such academy for the
42 preparation, publication and dissemination of education materials;
- 43 (hhh) all sales of tangible personal property and services purchased

1 by or on behalf of all domestic violence shelters that are member agencies
2 of the Kansas coalition against sexual and domestic violence;

3 (iii) all sales of personal property and services purchased by an or-
4 ganization which is exempt from federal income taxation pursuant to sec-
5 tion 501(c)(3) of the federal internal revenue code of 1986, and which
6 such personal property and services are used by any such organization in
7 the collection, storage and distribution of food products to nonprofit or-
8 ganizations which distribute such food products to persons pursuant to a
9 food distribution program on a charitable basis without fee or charge, and
10 all sales of tangible personal property or services purchased by a contrac-
11 tor for the purpose of constructing, equipping, reconstructing, maintain-
12 ing, repairing, enlarging, furnishing or remodeling facilities used for the
13 collection and storage of such food products for any such organization
14 which is exempt from federal income taxation pursuant to section
15 501(c)(3) of the federal internal revenue code of 1986, which would be
16 exempt from taxation under the provisions of this section if purchased
17 directly by such organization. Nothing in this subsection shall be deemed
18 to exempt the purchase of any construction machinery, equipment or
19 tools used in the constructing, equipping, reconstructing, maintaining,
20 repairing, enlarging, furnishing or remodeling facilities for any such or-
21 ganization. When any such organization shall contract for the purpose of
22 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
23 ing, furnishing or remodeling facilities, it shall obtain from the state and
24 furnish to the contractor an exemption certificate for the project involved,
25 and the contractor may purchase materials for incorporation in such pro-
26 ject. The contractor shall furnish the number of such certificate to all
27 suppliers from whom such purchases are made, and such suppliers shall
28 execute invoices covering the same bearing the number of such certifi-
29 cate. Upon completion of the project the contractor shall furnish to such
30 organization concerned a sworn statement, on a form to be provided by
31 the director of taxation, that all purchases so made were entitled to ex-
32 emption under this subsection. All invoices shall be held by the contractor
33 for a period of five years and shall be subject to audit by the director of
34 taxation. If any materials purchased under such a certificate are found
35 not to have been incorporated in such facilities or not to have been re-
36 turned for credit or the sales or compensating tax otherwise imposed upon
37 such materials which will not be so incorporated in such facilities reported
38 and paid by such contractor to the director of taxation not later than the
39 20th day of the month following the close of the month in which it shall
40 be determined that such materials will not be used for the purpose for
41 which such certificate was issued, such organization concerned shall be
42 liable for tax on all materials purchased for the project, and upon payment
43 thereof it may recover the same from the contractor together with rea-

1 sonable attorney fees. Any contractor or any agent, employee or subcon-
2 tractor thereof, who shall use or otherwise dispose of any materials pur-
3 chased under such a certificate for any purpose other than that for which
4 such a certificate is issued without the payment of the sales or compen-
5 sating tax otherwise imposed upon such materials, shall be guilty of a
6 misdemeanor and, upon conviction therefor, shall be subject to the pen-
7 alties provided for in subsection (g) of K.S.A. 79-3615, and amendments
8 thereto. Sales tax paid on and after July 1, 2005, but prior to the effective
9 date of this act upon the gross receipts received from any sale exempted
10 by the amendatory provisions of this subsection shall be refunded. Each
11 claim for a sales tax refund shall be verified and submitted to the director
12 of taxation upon forms furnished by the director and shall be accompanied
13 by any additional documentation required by the director. The director
14 shall review each claim and shall refund that amount of sales tax paid as
15 determined under the provisions of this subsection. All refunds shall be
16 paid from the sales tax refund fund upon warrants of the director of
17 accounts and reports pursuant to vouchers approved by the director or
18 the director's designee;

19 (jjj) all sales of dietary supplements dispensed pursuant to a prescrip-
20 tion order by a licensed practitioner or a mid-level practitioner as defined
21 by K.S.A. 65-1626, and amendments thereto. As used in this subsection,
22 "dietary supplement" means any product, other than tobacco, intended
23 to supplement the diet that: (1) Contains one or more of the following
24 dietary ingredients: A vitamin, a mineral, an herb or other botanical, an
25 amino acid, a dietary substance for use by humans to supplement the diet
26 by increasing the total dietary intake or a concentrate, metabolite, con-
27 stituent, extract or combination of any such ingredient; (2) is intended
28 for ingestion in tablet, capsule, powder, softgel, gelcap or liquid form, or
29 if not intended for ingestion, in such a form, is not represented as con-
30 ventional food and is not represented for use as a sole item of a meal or
31 of the diet; and (3) is required to be labeled as a dietary supplement,
32 identifiable by the supplemental facts box found on the label and as re-
33 quired pursuant to 21 C.F.R. § 101.36;

34 (lll) all sales of tangible personal property and services purchased by
35 special olympics Kansas, inc. for the purpose of providing year-round
36 sports training and athletic competition in a variety of olympic-type sports
37 for individuals with intellectual disabilities by giving them continuing op-
38 portunities to develop physical fitness, demonstrate courage, experience
39 joy and participate in a sharing of gifts, skills and friendship with their
40 families, other special olympics athletes and the community, and activities
41 provided or sponsored by such organization, and all sales of tangible per-
42 sonal property by or on behalf of any such organization;

43 (mmm) all sales of tangible personal property purchased by or on

1 behalf of the Marillac Center, Inc., which is exempt from federal income
2 taxation pursuant to section 501(c)(3) of the federal internal revenue
3 code, for the purpose of providing psycho-social-biological and special
4 education services to children, and all sales of any such property by or on
5 behalf of such organization for such purpose;

6 (nnn) all sales of tangible personal property and services purchased
7 by the West Sedgwick County-Sunrise Rotary Club and Sunrise Char-
8 itable Fund for the purpose of constructing a boundless playground which
9 is an integrated, barrier free and developmentally advantageous play en-
10 vironment for children of all abilities and disabilities;

11 (ooo) all sales of tangible personal property by or on behalf of a public
12 library serving the general public and supported in whole or in part with
13 tax money or a not-for-profit organization whose purpose is to raise funds
14 for or provide services or other benefits to any such public library;

15 (ppp) all sales of tangible personal property and services purchased
16 by or on behalf of a homeless shelter which is exempt from federal income
17 taxation pursuant to section 501(c)(3) of the federal income tax code of
18 1986, and used by any such homeless shelter to provide emergency and
19 transitional housing for individuals and families experiencing homeless-
20 ness, and all sales of any such property by or on behalf of any such home-
21 less shelter for any such purpose;

22 (qqq) all sales of tangible personal property and services purchased
23 by TLC for children and families, inc., hereinafter referred to as TLC,
24 which is exempt from federal income taxation pursuant to section
25 501(c)(3) of the federal internal revenue code of 1986, and which such
26 property and services are used for the purpose of providing emergency
27 shelter and treatment for abused and neglected children as well as meet-
28 ing additional critical needs for children, juveniles and family, and all sales
29 of any such property by or on behalf of TLC for any such purpose; and
30 all sales of tangible personal property or services purchased by a contrac-
31 tor for the purpose of constructing, maintaining, repairing, enlarging, fur-
32 nishing or remodeling facilities for the operation of services for TLC for
33 any such purpose which would be exempt from taxation under the pro-
34 visions of this section if purchased directly by TLC. Nothing in this sub-
35 section shall be deemed to exempt the purchase of any construction ma-
36 chinery, equipment or tools used in the constructing, maintaining,
37 repairing, enlarging, furnishing or remodeling such facilities for TLC.
38 When TLC contracts for the purpose of constructing, maintaining, re-
39 pairing, enlarging, furnishing or remodeling such facilities, it shall obtain
40 from the state and furnish to the contractor an exemption certificate for
41 the project involved, and the contractor may purchase materials for in-
42 corporation in such project. The contractor shall furnish the number of
43 such certificate to all suppliers from whom such purchases are made, and

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

25 (rrr) all sales of tangible personal property and services purchased by
26 any county law library maintained pursuant to law and sales of tangible
27 personal property and services purchased by an organization which would
28 have been exempt from taxation under the provisions of this subsection
29 if purchased directly by the county law library for the purpose of providing
30 legal resources to attorneys, judges, students and the general public, and
31 all sales of any such property by or on behalf of any such county law
32 library;

33 (sss) all sales of tangible personal property and services purchased by
34 catholic charities or youthville, hereinafter referred to as charitable family
35 providers, which is exempt from federal income taxation pursuant to sec-
36 tion 501(c)(3) of the federal internal revenue code of 1986, and which
37 such property and services are used for the purpose of providing emer-
38 gency shelter and treatment for abused and neglected children as well as
39 meeting additional critical needs for children, juveniles and family, and
40 all sales of any such property by or on behalf of charitable family providers
41 for any such purpose; and all sales of tangible personal property or serv-
42 ices purchased by a contractor for the purpose of constructing, maintain-
43 ing, repairing, enlarging, furnishing or remodeling facilities for the op-

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

38 (ttt) all sales of tangible personal property or services purchased by
39 a contractor for a project for the purpose of restoring, constructing, equip-
40 ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-
41 modeling a home or facility owned by a nonprofit museum which has
42 been granted an exemption pursuant to subsection (qq), which such home
43 or facility is located in a city which has been designated as a qualified

1 hometown pursuant to the provisions of K.S.A. 75-5071, et seq., and
2 amendments thereto, and which such project is related to the purposes
3 of K.S.A. 75-5071, et seq., and amendments thereto, and which would
4 be exempt from taxation under the provisions of this section if purchased
5 directly by such nonprofit museum. Nothing in this subsection shall be
6 deemed to exempt the purchase of any construction machinery, equip-
7 ment or tools used in the restoring, constructing, equipping, reconstruct-
8 ing, maintaining, repairing, enlarging, furnishing or remodeling a home
9 or facility for any such nonprofit museum. When any such nonprofit mu-
10 seum shall contract for the purpose of restoring, constructing, equipping,
11 reconstructing, maintaining, repairing, enlarging, furnishing or remodel-
12 ing a home or facility, it shall obtain from the state and furnish to the
13 contractor an exemption certificate for the project involved, and the con-
14 tractor may purchase materials for incorporation in such project. The
15 contractor shall furnish the number of such certificates to all suppliers
16 from whom such purchases are made, and such suppliers shall execute
17 invoices covering the same bearing the number of such certificate. Upon
18 completion of the project, the contractor shall furnish to such nonprofit
19 museum a sworn statement on a form to be provided by the director of
20 taxation that all purchases so made were entitled to exemption under this
21 subsection. All invoices shall be held by the contractor for a period of five
22 years and shall be subject to audit by the director of taxation. If any
23 materials purchased under such a certificate are found not to have been
24 incorporated in the building or other project or not to have been returned
25 for credit or the sales or compensating tax otherwise imposed upon such
26 materials which will not be so incorporated in a home or facility or other
27 project reported and paid by such contractor to the director of taxation
28 not later than the 20th day of the month following the close of the month
29 in which it shall be determined that such materials will not be used for
30 the purpose for which such certificate was issued, such nonprofit museum
31 shall be liable for tax on all materials purchased for the project, and upon
32 payment thereof it may recover the same from the contractor together
33 with reasonable attorney fees. Any contractor or any agent, employee or
34 subcontractor thereof, who shall use or otherwise dispose of any materials
35 purchased under such a certificate for any purpose other than that for
36 which such a certificate is issued without the payment of the sales or
37 compensating tax otherwise imposed upon such materials, shall be guilty
38 of a misdemeanor and, upon conviction therefor, shall be subject to the
39 penalties provided for in subsection (g) of K.S.A. 79-3615, and amend-
40 ments thereto;

41 (uuu) all sales of tangible personal property and services purchased
42 by Kansas children's service league, hereinafter referred to as KCSL,
43 which is exempt from federal income taxation pursuant to section

1 501(c)(3) of the federal internal revenue code of 1986, and which such
2 property and services are used for the purpose of providing for the pre-
3 vention and treatment of child abuse and maltreatment as well as meeting
4 additional critical needs for children, juveniles and family, and all sales of
5 any such property by or on behalf of KCSL for any such purpose; and all
6 sales of tangible personal property or services purchased by a contractor
7 for the purpose of constructing, maintaining, repairing, enlarging, fur-
8 nishing or remodeling facilities for the operation of services for KCSL
9 for any such purpose which would be exempt from taxation under the
10 provisions of this section if purchased directly by KCSL. Nothing in this
11 subsection shall be deemed to exempt the purchase of any construction
12 machinery, equipment or tools used in the constructing, maintaining, re-
13 pairing, enlarging, furnishing or remodeling such facilities for KCSL.
14 When KCSL contracts for the purpose of constructing, maintaining, re-
15 pairing, enlarging, furnishing or remodeling such facilities, it shall obtain
16 from the state and furnish to the contractor an exemption certificate for
17 the project involved, and the contractor may purchase materials for in-
18 corporation in such project. The contractor shall furnish the number of
19 such certificate to all suppliers from whom such purchases are made, and
20 such suppliers shall execute invoices covering the same bearing the num-
21 ber of such certificate. Upon completion of the project the contractor
22 shall furnish to KCSL a sworn statement, on a form to be provided by
23 the director of taxation, that all purchases so made were entitled to ex-
24 emption under this subsection. All invoices shall be held by the contractor
25 for a period of five years and shall be subject to audit by the director of
26 taxation. If any materials purchased under such a certificate are found
27 not to have been incorporated in the building or other project or not to
28 have been returned for credit or the sales or compensating tax otherwise
29 imposed upon such materials which will not be so incorporated in the
30 building or other project reported and paid by such contractor to the
31 director of taxation not later than the 20th day of the month following
32 the close of the month in which it shall be determined that such materials
33 will not be used for the purpose for which such certificate was issued,
34 KCSL shall be liable for tax on all materials purchased for the project,
35 and upon payment thereof it may recover the same from the contractor
36 together with reasonable attorney fees. Any contractor or any agent, em-
37 ployee or subcontractor thereof, who shall use or otherwise dispose of
38 any materials purchased under such a certificate for any purpose other
39 than that for which such a certificate is issued without the payment of
40 the sales or compensating tax otherwise imposed upon such materials,
41 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
42 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
43 and amendments thereto;

1 (vvv) all sales of tangible personal property or services, including the
2 renting and leasing of tangible personal property or services, *purchased*
3 by Jazz in the Woods, Inc., a Kansas corporation which is exempt from
4 federal income taxation pursuant to section 501 (c)(3) of the federal in-
5 ternal revenue code, for the purpose of providing Jazz in the Woods, an
6 event benefiting children-in-need and other nonprofit charities assisting
7 such children, and all sales of any such property by or on behalf of such
8 organization for such purpose;

9 (www) all sales of tangible personal property purchased by or on be-
10 half of the Frontenac Education Foundation, which is exempt from fed-
11 eral income taxation pursuant to section 501 (c)(3) of the federal internal
12 revenue code, for the purpose of providing education support for stu-
13 dents, and all sales of any such property by or on behalf of such organi-
14 zation for such purpose;

15 (xxx) all sales of personal property and services purchased by the
16 booth theatre foundation, inc., an organization which is exempt from fed-
17 eral income taxation pursuant to section 501(c)(3) of the federal internal
18 revenue code of 1986, and which such personal property and services are
19 used by any such organization in the constructing, equipping, recon-
20 structing, maintaining, repairing, enlarging, furnishing or remodeling of
21 the booth theatre, and all sales of tangible personal property or services
22 purchased by a contractor for the purpose of constructing, equipping,
23 reconstructing, maintaining, repairing, enlarging, furnishing or remodel-
24 ing the booth theatre for such organization, which would be exempt from
25 taxation under the provisions of this section if purchased directly by such
26 organization. Nothing in this subsection shall be deemed to exempt the
27 purchase of any construction machinery, equipment or tools used in the
28 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
29 ing, furnishing or remodeling facilities for any such organization. When
30 any such organization shall contract for the purpose of constructing,
31 equipping, reconstructing, maintaining, repairing, enlarging, furnishing
32 or remodeling facilities, it shall obtain from the state and furnish to the
33 contractor an exemption certificate for the project involved, and the con-
34 tractor may purchase materials for incorporation in such project. The
35 contractor shall furnish the number of such certificate to all suppliers
36 from whom such purchases are made, and such suppliers shall execute
37 invoices covering the same bearing the number of such certificate. Upon
38 completion of the project the contractor shall furnish to such organization
39 concerned a sworn statement, on a form to be provided by the director
40 of taxation, that all purchases so made were entitled to exemption under
41 this subsection. All invoices shall be held by the contractor for a period
42 of five years and shall be subject to audit by the director of taxation. If
43 any materials purchased under such a certificate are found not to have

1 been incorporated in such facilities or not to have been returned for credit
2 or the sales or compensating tax otherwise imposed upon such materials
3 which will not be so incorporated in such facilities reported and paid by
4 such contractor to the director of taxation not later than the 20th day of
5 the month following the close of the month in which it shall be deter-
6 mined that such materials will not be used for the purpose for which such
7 certificate was issued, such organization concerned shall be liable for tax
8 on all materials purchased for the project, and upon payment thereof it
9 may recover the same from the contractor together with reasonable at-
10 torney fees. Any contractor or any agent, employee or subcontractor
11 thereof, who shall use or otherwise dispose of any materials purchased
12 under such a certificate for any purpose other than that for which such a
13 certificate is issued without the payment of the sales or compensating tax
14 otherwise imposed upon such materials, shall be guilty of a misdemeanor
15 and, upon conviction therefor, shall be subject to the penalties provided
16 for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales
17 tax paid on and after January 1, 2007, but prior to the effective date of
18 this act upon the gross receipts received from any sale which would have
19 been exempted by the provisions of this subsection had such sale occurred
20 after the effective date of this act shall be refunded. Each claim for a
21 sales tax refund shall be verified and submitted to the director of taxation
22 upon forms furnished by the director and shall be accompanied by any
23 additional documentation required by the director. The director shall
24 review each claim and shall refund that amount of sales tax paid as de-
25 termined under the provisions of this subsection. All refunds shall be paid
26 from the sales tax refund fund upon warrants of the director of accounts
27 and reports pursuant to vouchers approved by the director or the direc-
28 tor's designee;

29 (yyy) all sales of tangible personal property and services purchased
30 by TLC charities foundation, inc., hereinafter referred to as TLC chari-
31 ties, which is exempt from federal income taxation pursuant to section
32 501(c)(3) of the federal internal revenue code of 1986, and which such
33 property and services are used for the purpose of encouraging private
34 philanthropy to further the vision, values, and goals of TLC for children
35 and families, inc.; and all sales of such property and services by or on
36 behalf of TLC charities for any such purpose and all sales of tangible
37 personal property or services purchased by a contractor for the purpose
38 of constructing, maintaining, repairing, enlarging, furnishing or remodel-
39 ing facilities for the operation of services for TLC charities for any such
40 purpose which would be exempt from taxation under the provisions of
41 this section if purchased directly by TLC charities. Nothing in this sub-
42 section shall be deemed to exempt the purchase of any construction ma-
43 chinery, equipment or tools used in the constructing, maintaining, re-

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

32 (zzz) all sales of tangible personal property purchased by the rotary
33 club of shawnee foundation which is exempt from federal income taxation
34 pursuant to section 501 (c)(3) of the federal internal revenue code of
35 1986, as amended, used for the purpose of providing contributions to
36 community service organizations and scholarships; and

37 (aaaa) all sales of personal property and services purchased by or on
38 behalf of victory in the valley, inc., which is exempt from federal income
39 taxation pursuant to section 501 (c)(3) of the federal internal revenue
40 code, for the purpose of providing a cancer support group and services
41 for persons with cancer, and all sales of any such property by or on behalf
42 of any such organization for any such purpose.

43 Sec. 4. [On and after July 1, 2008,] K.S.A. 2007 Supp. 79-3692 is

1 hereby amended to read as follows: 79-3692. On and after January 1,
2 2005, any entity or organization claiming an exemption from sales tax on
3 its purchases of tangible personal property or services based on the status
4 of the entity or organization, under a specific exemption provided by law,
5 shall prior to claiming any such exemption, apply to and obtain from the
6 secretary of revenue an exempt organization identification number. *The*
7 *secretary shall issue an exempt organization identification number to an*
8 *entity or organization which is limited to claiming the sales tax exemption*
9 *on purchases by the entity or organization for programs of the organi-*
10 *zation that qualify for the exemption as provided by section 1, and amend-*
11 *ments thereto.* The secretary shall prescribe the application form for such
12 number, and such entity or organization shall provide with the application
13 information sufficient to establish that such entity or organization quali-
14 fies for the sales tax exemption. Such entity shall enter the issued iden-
15 tification number on any exemption certificate presented to any retailer
16 when claiming the sales tax exemption on any purchases *that qualify for*
17 *the exemption pursuant to K.S.A. 79-3606 or section 1, and amendments*
18 *thereto.*

19 **[New Sec. 5. The following shall be exempt from the tax im-**
20 **posed under the Kansas retailers' sales tax act: All sales of tangible**
21 **personal property or services purchased for the purpose of and in**
22 **conjunction with constructing, reconstructing, enlarging or re-**
23 **modeling a business facility that was previously located in any**
24 **county declared or designated by the president to be in a state of**
25 **disaster emergency pursuant to major disaster declaration DR**
26 **1711, and that has been damaged or destroyed by flooding and**
27 **other severe weather as a result of such disaster, and the sale and**
28 **installation of machinery and equipment purchased for installation**
29 **at any such business facility, including any fence, the purpose for**
30 **which is to enclose land devoted to agricultural use. Any person**
31 **constructing, reconstructing, remodeling or enlarging a business**
32 **facility in any such county, who had leased such a facility to a busi-**
33 **ness in any such county prior to the occurrence of such disaster,**
34 **and that such business has been damaged or destroyed by flooding**
35 **and other severe weather as a result of such disaster, and which**
36 **such facility shall be leased in whole or in part, to a business that**
37 **was previously located in any such county, prior to the occurrence**
38 **of such disaster and that such business has been damaged by flood-**
39 **ing and other severe weather as a result of such disaster, that**
40 **would be eligible for a sales tax exemption hereunder if such busi-**
41 **ness had constructed, reconstructed, enlarged or remodeled such**
42 **facility or portion thereof itself shall be entitled to the sales tax**
43 **exemption under the provisions of this section. When a person**

1 shall contract for the construction, reconstruction, enlargement or
2 remodeling of any such business facility, such person shall obtain
3 from the state prior to July 1, 2009, an exemption certificate for
4 the project involved. The certificate shall be furnished to the con-
5 tractor to purchase materials, machinery and equipment for in-
6 corporation in such project. The contractor shall furnish the num-
7 ber of such certificates to all suppliers from whom such purchases
8 are made, and such suppliers shall execute invoices covering the
9 same bearing the number of such certificate. Upon completion of
10 the project the contractor shall furnish to the person that obtained
11 the exemption certificate, a sworn statement, on a form to be pro-
12 vided by the director of taxation, that all purchases so made were
13 entitled to exemption under this subsection. All invoices shall be
14 held by the contractor for a period of five years and shall be subject
15 to audit by the director of taxation. Any contractor or any agent,
16 employee or subcontractor thereof, who shall use or otherwise dis-
17 pose of any materials, machinery or equipment purchased under
18 such a certificate for any purpose other than that for which such
19 a certificate is issued without the payment of the sales or compen-
20 sating tax otherwise imposed thereon, shall be guilty of a misde-
21 meanor and, upon conviction therefor, shall be subject to the pen-
22 alties provided for in subsection (g) of K.S.A. 79-3615, and
23 amendments thereto. Sales tax paid on and after the occurrence
24 of the disaster provided for in this section, but prior to the effective
25 date of this act upon the gross receipts received from any sale
26 which would have been exempted by the provisions of this subsec-
27 tion had such sale occurred after the effective date of this act shall
28 be refunded. Each claim for a sales tax refund shall be verified and
29 submitted to the director of taxation prior to July 1, 2009, upon
30 forms furnished by the director and shall be accompanied by any
31 additional documentation required by the director. The director
32 shall review each claim and shall refund that amount of sales tax
33 paid as determined under the provisions of this subsection. All
34 refunds shall be paid from the sales tax refund fund upon warrants
35 of the director of accounts and reports pursuant to vouchers ap-
36 proved by the director or the director's designee. The provisions
37 of this section shall be part of and supplemental to the Kansas
38 retailers' sales tax act.]

39 Sec. ~~5~~ [6.] [On and after July 1, 2008,] K.S.A. 2007 Supp. 79-
40 3603, 79-3606 and 79-3692 are hereby repealed.

41 Sec. ~~6~~ [7.] This act shall take effect and be in force from and after
42 its publication in the statute book **Kansas register**.