

Approved

  
Date 4/5/90

MINUTES OF THE House COMMITTEE ON Taxation

The meeting was called to order by Representative Keith Roe at  
Chairperson

7:30 a.m./~~p.m.~~ on April 3, 1990 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Tom Severn, Research Department  
Chris Courtwright, Research Department  
Don Hayward, Revisor's Office  
Lenore Olson, Committee Secretary

Conferees appearing before the committee:

None

Representative Aylward reviewed the subcommittee report and their recommendations on HB 2858. (Attachment 1)

Representative Aylward stated that the subcommittee had no recommendations on how revenues generated by passage of HB 2858 would be distributed.

A motion was made by Representative Shore, seconded by Representative Smith, to amend HB 2858 that half of the rollback be distributed to U.S.D.'s similar to HCR 5055 rather than through the LAVTRF. The motion carried.

A motion was made by Representative Harder, seconded by Representative Grotewiel, to restore the exemptions on page 12, lines 32-38 of HB 2858 (jj) on sales of medical supplies and equipment purchased by not-for-profit nursing homes. The estimated fiscal note is \$600,000. The motion carried.

A motion was made by Representative Fuller, seconded by Representative Pottorff, to restore the exemptions on pages 12-13, (kk) on tangible personal property purchased by a nonprofit organization for youth development programs. The motion failed.

A motion was made by Representative Aylward, seconded by Representative Wagnon, to adopt the subcommittee report on HB 2858, with the amendments which were already added. The motion failed with a vote count of 11 nays to 9 yeas.

Representative Reardon made a motion to pass HB 2858 favorably as amended. There was no second to this motion. Representative Reardon withdrew his motion.

A motion was made by Representative Snowbarger, seconded by Representative Adam to restore as originally stated in HB 2858 all the stricken language in (c), page 5, line 26, and all of subsections (b) and (d).

A substitute motion was made by Representative Charlton, seconded by Representative Grotewiel, to use the subcommittee report on HB 2858 for Section 2, (b), (c), and (d); to restore exemptions for (b) for nonprofit blood, tissue and organ banks; (c) for nonprofit private educational institutions; and in (d), language which would have been stricken would be restored but without reference to contractors. The motion carried.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Taxation,  
room 526-S, Statehouse, at 7:30 a.m./~~p.m.~~ on April 3, 1990

A motion was made by Representative Lowther to adopt Sections 1 and 2 of the balloon to HB 2858. The motion died for lack of a second.

A motion was made by Representative Wagnon, seconded by Representative Vancrum, to restore the exemptions on page 8 (k) for purchases of motor vehicles, semitrailers or poletrailers sold to nonresidents. Aircraft would not be included.

A substitute motion was made by representative Dean, seconded by Representative Crowell, to restore all the exemptions on page 8 (k), including aircraft. The substitute motion failed.

Chairman Roe directed the Committee to return to the original motion by Representative Vancrum. The motion passed with a vote county off 11 yeas to 10 nays.

A motion was made by Representative Lowther, seconded by Representative Aylward to restore the exemption on page 13, (ll) for sales of property and services to community-based mental health and mental retardation centers. The motion passed with a vote count of 14 aye votes.

A motion was made by Representative Smith, seconded by Representative Crowell to strike Section 5 on pages 17 and 18 regarding transfer of tax revenues to the Highway Fund. The motion failed.

The minutes of March 2, 1990, were approved.

The meeting adjourned at 9:00 a.m.

HOUSE COMMITTEE ON TAXATION

DATE 4/3/90 7:30 am

NAME ADDRESS REPRESENTING

NAME	ADDRESS	REPRESENTING
Bob Collins	Topeka	KCCI
Jeri Neerock	"	Am. Cancer Society
R. Anderson	Delaware	Mid-Cent. P. & Gas
ALAN Steppat	Topeka	Pete McGill & Associates
Dennis Flores	Austin, Texas	AT&T
ED DE JOIGNIE	TOPEKA	KANSAS CONTRACTORS ASSOC.
Paul M. Klotz	TOPEKA	ASSOC. OF CMHC'S OF KAN., INC.
AND GRANT	"	CCU
John Peterson	"	
C. Benson	"	
Reed W. Davis	Topeka	KDOT
GARY GRIFFINS	"	KDOT
George Goebel	"	AARP CCTF
Bob Buehler	Buhler	AARP-SLC
Chuck Stuart	Topeka	U.S.A.
D. Dornick	"	KFFT
Hal Hudson	"	KPL
BEV BRADLEY	TOPEKA	Ks Assoc of Counties
Karen France	Topeka	KAR
Margaret Powell	"	KFFT
Lo Collins	Salina	Public Inst. Assn of KS
Tom Whitaker	Topeka	Ks Motor Carriers Assn.
Mary E. Turkington	Topeka	Kansas Motor Carriers Assn.



KANSAS LEGISLATIVE RESEARCH DEPARTMENT

Room 545-N - Statehouse

Phone 296-3181

March 30, 1990

TO: Representative Jayne Aylward  
Representative J.C. Long  
Representative Joan Wagnon

Office No. 112-S  
174-W  
278-W

RE: Sales Tax on Services

This is in response to your subcommittee's request on Wednesday night for a fiscal note on the extension of the Kansas sales tax to most services, subject to only a few exemptions. The exemptions are for medical and medical facility services as defined in K.S.A. 1989 Supp. 65-4921; professional services provided by professions listed in K.S.A. 17-2707; day care services provided by licensed or registered day care programs; advertising services; and city bus services.

As you know, the fiscal impact of such a dramatic change in the Kansas sales tax base is difficult to estimate. Obviously, a number of new administrative rules and regulations would need to be issued by the Department of Revenue to clarify application of the tax. Also, additional policy decisions may need to be made by the Legislature as the bill progresses, including some of the issues raised in subcommittee about the administrative problems of attempting to tax certain baby-sitting, lawn care, and snow removal services performed by minors.

**Application to Certain Services**

We have identified a number of services we feel would be taxable under the bill with the subcommittee amendments. This list is by no means exhaustive and should only be used as a starting point in enumerating the final number of services which would be taxable.

Barbers, beauticians, cosmetologists  
Insurance Agencies  
Contractors  
Most transportation services  
Other financial services  
Most tax preparation services  
Pest Control  
Computer, data processing  
Public relations  
Non-medical laboratory services

Stock Brokers  
Real Estate  
Construction  
Sanitary  
Tanning Salons  
Reducing Salons  
Employment  
Consulting  
Towing  
Lobbying

Travel Agencies  
Mining  
Publishing  
Banking  
Collection  
Credit  
Detective  
Security  
Parking  
Entertainment

4/3/90  
Attachment 1

Representative Aylward  
Representative Long  
Representative Wagnon

- 2 -

Educational services  
Oil and gas field and pipeline services  
Janitorial and cleaning  
Linen supply  
Snow Removal  
Temporary personnel services  
Reflexology  
Marketing  
Bookkeeping  
Dance Studios  
House and Building Moving Services

Forestry  
Recreation  
Rustproofing  
Storage  
Babysitting  
Funeral  
Weighing  
Armored Car  
Geological  
Excavating  
Answering

Agricultural  
Social  
Maintenance  
Lawn Care  
Pet Grooming  
Typing  
Water Softening  
Interior Design  
Campgrounds  
Flying

### **Fiscal Impact of Tax on Services**

An interim study from the Utah State Tax Commission in 1987 suggested one methodology for estimating the impact of extending the sales tax to services by comparing sales tax receipts as a percentage of personal income. Based on this number for New Mexico, which imposes a broad-based sales tax on services, and taking into consideration the differences between the New Mexico sales tax base and the current and proposed base in Kansas, this exercise suggests that the proposed extension to services could raise an additional \$150 to \$175 million. But you should be advised this estimate is highly speculative and that we had to make a series of subjective assumptions during its preparation.

### **Other Fiscal Impacts of Subcommittee Report**

Based on our conversation with Don Hayward regarding the changes to the existing sales tax exemptions, about \$42.6 million of additional revenue would be raised by repealing and changing those exemptions, based on the Department of Revenue's January 10 memo on fiscal notes.

You also may recall that the bill would attempt to extend the tax to out-of-state mail order sales. The estimated amount of lost revenue to Kansas because of our inability to collect this tax is about \$18 to \$22 million. If federal legislation were to pass with the proposed de minimus provisions, Kansas perhaps would be able to collect \$10 to \$14 million.

We hope this information is useful to you.

Chris W. Courtwright  
Research Analyst

90-398/CWC/pb

# HOUSE BILL No. 2858

By Representatives Wagon, Barkis, Charlton, Dillon, Francisco, Fry, Gjerstad, Harder, Hensley, Hurt, Johnson, Jones, Lowther, Reardon, Roper, Sawyer, Watson and Webb

2-7

11 AN ACT relating to taxation; enacting the property tax relief act of  
12 1990; providing means to increase revenue producing state tax  
13 sources to local units of government to reduce reliance on revenue  
14 received from the levy of property taxes; amending K.S.A. 79-  
15 2959, 79-34,147, 79-3603, 79-3606 and 79-3702 and repealing the  
16 existing sections.

Section 1. See Attachment A

17  
18 *Be it enacted by the Legislature of the State of Kansas:*

Sec. 2

19 Section 1. On and after June 1, 1990, K.S.A. 79-3603 is hereby  
20 amended to read as follows: 79-3603. For the privilege of engaging  
21 in the business of selling tangible personal property at retail in this  
22 state ~~for rendering or furnishing any of the services taxable under~~  
23 ~~this act~~, there is hereby levied and there shall be collected and paid  
24 a tax at the rate of 4.25% upon:

or of rendering or furnishing services

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

, which sale is not otherwise exempt from taxation  
under the provisions of this act or more specifically  
taxed pursuant to this act

27 (b) the gross receipts from intrastate ~~telephone or telegraph serv-~~  
28 ~~ices~~, which sale is not otherwise exempt from taxation under the  
29 provisions of this act;

received

30 (c) the gross receipts from the sale or furnishing of gas, water,  
31 electricity and heat, which sale is not otherwise exempt from taxation  
32 under the provisions of this act, and whether furnished by munic-  
33 ipally or privately owned utilities;

the rendering or furnishing of services at retail  
within this state

34 (d) the gross receipts from the sale of meals or drinks furnished  
35 at any private club, drinking establishment, catered event, restau-  
36 rant, eating house, dining car, hotel, drugstore or other place where  
37 meals or drinks are regularly sold to the public;

or more specifically taxed pursuant to this act

38 (e) the gross receipts from the sale of admissions to any place  
39 providing amusement, entertainment or recreation services including  
40 admissions to state, county, district and local fairs; but such tax  
41 shall not be levied and collected upon the gross receipts re-  
42 ceived from fees and charges by political subdivisions of the  
43 state of Kansas for participation in sports, games and other

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recreational activities or from sales of admissions to any cultural and historical event which occurs triennially;

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

(g) the gross receipts from the service of renting of rooms by hotels, as defined by K.S.A. 36-501 and amendments thereto, except such tax shall not apply where a room is rented by an individual, firm, association or corporation for a period of more than 28 consecutive days;

(h) the gross receipts from the service of renting or leasing of tangible personal property except such tax shall not apply to the renting or leasing of machinery, equipment or other personal property owned by a city and purchased from the proceeds of industrial revenue bonds issued prior to July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, and any city or lessee renting or leasing such machinery, equipment or other personal property purchased with the proceeds of such bonds who shall have paid a tax under the provisions of this section upon sales made prior to July 1, 1973, shall be entitled to a refund from the sales tax refund fund of all taxes paid thereon;

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

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

(k) the gross receipts from cable, community antennae and other subscriber radio and television services;

(l) the gross receipts received from the sales of tangible personal property to all contractors, subcontractors or repairmen of materials and supplies for use by them in erecting structures for others, or building on, or otherwise improving, altering, or repairing real or personal property of others;

(c)

(m) the gross receipts received from fees and charges by public and private clubs, drinking establishments, organizations and businesses for participation in sports, games and other recreational activities;

(n) the gross receipts received from dues charged by public and private clubs, drinking establishments, organizations and businesses, payment of which entitles a member to the use of facilities for



recreation or entertainment.

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2 (o) the gross receipts received from the isolated or occasional sale  
3 of motor vehicles or trailers but not including: (1) The transfer of  
4 motor vehicles or trailers by a person to a corporation solely in  
5 exchange for stock or securities in such corporation; or (2) the transfer  
6 of motor vehicles or trailers by one corporation to another when all  
7 of the assets of such corporation are transferred to such other cor-  
8 poration. In determining the base for computing the tax on such  
9 isolated or occasional sale, the fair market value of any motor vehicle  
10 or trailer traded in by the purchaser to the seller may be deducted  
11 from the selling price;

(d)

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

(e)

22 For the purposes of this subsection:

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

32 (2) "building" shall mean only those enclosures within which in-  
33 dividuals customarily live or are employed, or which are customarily  
34 used to house machinery, equipment or other property, and in-  
35 cluding the land improvements immediately surrounding such build-  
36 ing; and

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

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~~[(q)]~~ the gross receipts received for the service of repairing, servicing, altering or maintaining tangible personal property, except computer software described in subsection (s), which when such services are rendered is not being held for sale in the regular course of business, and whether or not any tangible personal property is transferred in connection therewith. The tax imposed by this subsection shall be applicable to the services of repairing, servicing, altering or maintaining an item of tangible personal property which has been and is fastened to, connected with or built into real property. As used in this subsection, maintaining tangible personal property shall include cleaning and janitorial services;

(f)

~~[(v)]~~ the gross receipts from fees or charges made under service or maintenance agreement contracts for services, charges for the providing of which are taxable under the provisions of subsection

(g)

~~[(p)] or [(q)]~~

(e) or (f)

~~[(s)]~~ the gross receipts received from the sale of computer software, and the sale of the services of modifying, altering, updating or maintaining computer software. As used in this subsection, "computer software" means information and directions loaded into a computer which dictate different functions to be performed by the computer. Computer software includes any canned or prewritten program which is held or existing for general or repeated sale, even if the program was originally developed for a single end user as custom computer software. The sale of computer software or services does not include: (1) The initial sale of any custom computer program which is originally developed for the exclusive use of a single end user; or (2) those services rendered in the modification of computer software when the modification is developed exclusively for a single end user only to the extent of the modification and only to the extent that the actual amount charged for the modification is separately stated on invoices, statements and other billing documents provided to the end user. The services of modification, alteration, updating and maintenance of computer software shall only include the modification, alteration, updating and maintenance of computer software taxable under this subsection whether or not the services are actually provided; and

(h)

~~[(t)]~~ the gross receipts received for telephone answering services, including mobile phone services, beeper services and other similar services.

Sec. ~~2~~ On and after June 1, 1990, K.S.A. 79-3606 is hereby amended to read as follows: 79-3606. The following shall be exempt from the tax imposed by this act:  
(a) All sales of motor-vehicle fuel or other articles upon which a

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1 sales or excise tax has been paid, not subject to refund, under the  
2 laws of this state except cigarettes as defined by K.S.A. 79-3301 and  
3 amendments thereto, cereal malt beverages and malt products as  
4 defined by K.S.A. 79-3817 and amendments thereto, including wort,  
5 liquid malt, malt syrup and malt extract, which is not subject to  
6 taxation under the provisions of K.S.A. 79-41a02 and amendments  
7 thereto, and motor vehicles as defined by K.S.A. 79-1017 and amend-  
8 ments thereto;

9 (b) all sales of tangible personal property or service, including  
10 the renting and leasing of tangible personal property, purchased  
11 directly by the state of Kansas, a political subdivision thereof, other  
12 than a school or educational institution, ~~or purchased by a public~~  
13 ~~or private nonprofit hospital or nonprofit blood, tissue or organ~~  
14 ~~bank and used exclusively for state, or political subdivision, hospital~~  
15 ~~or nonprofit blood, tissue or organ bank purposes, except when:~~  
16 (1) Such state ~~or hospital~~ is engaged or proposes to engage in any  
17 business specifically taxable under the provisions of this act and such  
18 items of tangible personal property or service are used or proposed  
19 to be used in such business, or (2) such political subdivision is  
20 engaged or proposes to engage in the business of furnishing gas,  
21 water, electricity or heat to others and such items of personal prop-  
22 erty or service are used or proposed to be used in such business;

-stricken language restored-  
exemption retained

23 (c) all sales of tangible personal property or services, including  
24 the renting and leasing of tangible personal property, purchased  
25 directly by a public or private elementary or secondary school or  
26 public ~~or private~~ nonprofit educational institution and used primarily  
27 by such school or institution for nonsectarian programs and activities  
28 provided or sponsored by such school or institution or in the erection,  
29 repair or enlargement of buildings to be used for such purposes.  
30 The exemption herein provided shall not apply to erection, con-  
31 struction, repair, enlargement or equipment of buildings used pri-  
32 marily for human habitation;

33 (d) all sales of tangible personal property or services pur-  
34 chased by a contractor for the purpose of constructing, equip-  
35 ping, reconstructing, maintaining, repairing, enlarging,  
36 furnishing or remodeling facilities for any public or private  
37 nonprofit hospital, public or private elementary or secondary  
38 school or a public or private nonprofit educational institution,  
39 which would be exempt from taxation under the provisions of  
40 this act if purchased directly by such hospital, school or ed-  
41 ucational institution; and all sales of tangible personal property  
42 or services purchased by a contractor for the purpose of con-  
43 structing, equipping, reconstructing, maintaining, repairing, en-

-language restored without reference to contractors-  
exemption retained

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larging, furnishing or remodeling facilities for any political subdivision of the state, the total cost of which is paid from funds of such political subdivision and which would be exempt from taxation under the provisions of this act if purchased directly by such political subdivision. Nothing in this subsection or in the provisions of K.S.A. 12-3418 and amendments thereto, shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state. As used in this subsection, K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a political subdivision" shall mean general tax revenues, the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the purpose of constructing, equipping, reconstructing, repairing, enlarging, furnishing or remodeling facilities which are to be leased to the donor. When any political subdivision of the state, public or private nonprofit hospital, public or private elementary or secondary school or public or private nonprofit educational institution shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the political subdivision, hospital, school or educational institution concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials

-stricken language restored  
without reference to contractor

1 will not be used for the purpose for which such certificate was  
 2 issued, the political subdivision, hospital, school or educational  
 3 institution concerned shall be liable for tax on all materials  
 4 purchased for the project, and upon payment thereof it may  
 5 recover the same from the contractor together with reasonable  
 6 attorney fees. Any contractor or any agent, employee or sub-  
 7 contractor thereof, who shall use or otherwise dispose of any  
 8 materials purchased under such a certificate for any purpose  
 9 other than that for which such a certificate is issued without  
 10 the payment of the sales or compensating tax otherwise im-  
 11 posed upon such materials, shall be guilty of a misdemeanor  
 12 and, upon conviction therefor, shall be subject to the penalties  
 13 provided for in subsection (g) of K.S.A. 79-3615, and amend-  
 14 ments thereto;

15 (e) (d) all sales of tangible personal property or services pur-  
 16 chased by a contractor for the erection, repair or enlargement of  
 17 buildings or other projects for the government of the United States,  
 18 its agencies or instrumentalities, which would be exempt from tax-  
 19 ation if purchased directly by the government of the United States,  
 20 its agencies or instrumentalities. When the government of the United  
 21 States, its agencies or instrumentalities shall contract for the erection,  
 22 repair, or enlargement of any building or other project, it shall obtain  
 23 from the state and furnish to the contractor an exemption certificate  
 24 for the project involved, and the contractor may purchase materials  
 25 for incorporation in such project. The contractor shall furnish the  
 26 number of such certificates to all suppliers from whom such purchases  
 27 are made, and such suppliers shall execute invoices covering the  
 28 same bearing the number of such certificate. Upon completion of  
 29 the project the contractor shall furnish to the government of the  
 30 United States, its agencies or instrumentalities concerned a sworn  
 31 statement, on a form to be provided by the director of taxation, that  
 32 all purchases so made were entitled to exemption under this sub-  
 33 section. All invoices shall be held by the contractor for a period of  
 34 five years and shall be subject to audit by the director of taxation.  
 35 Any contractor or any agent, employee or subcontractor thereof, who  
 36 shall use or otherwise dispose of any materials purchased under such  
 37 a certificate for any purpose other than that for which such a cer-  
 38 tificate is issued without the payment of the sales or compensating  
 39 tax otherwise imposed upon such materials, shall be guilty of a  
 40 misdemeanor and, upon conviction therefor, shall be subject to the  
 41 penalties provided for in subsection (g) of K.S.A. 79-3615 and amend-  
 42 ments thereto;

43 (f) tangible personal property purchased by a railroad or

If any contractor has entered into a written binding contract prior to June 1, 1990, for the construction, reconstruction, repair, equipment or improvement of any building, airport, highway, street, road, alley, sewer, sewage system, water line, water system or any other improvement, and such contract and the contract price includes the furnishing by the contractor of tangible personal property exempted from the tax imposed by this act and which is to become part of the completed improvement, such personal property shall be exempt from taxes under this act, but this provision shall not apply unless the contractor shall give notice and proof to the director of taxation on or before July 15, 1990, in such form and of sufficiency as the director of taxation shall prescribe.

stricken language restored-  
 exemption retained

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1 public utility for consumption or movement directly and im-  
2 mediately in interstate commerce;

3 (g) sales of aircraft including remanufactured and modified  
4 aircraft; sales of aircraft repair, modification and replacement  
5 parts and sales of services employed in the remanufacture,  
6 modification and repair of aircraft sold to persons using such  
7 aircraft and aircraft repair, modification and replacement parts  
8 as certified or licensed carriers of persons or property in in-  
9 terstate or foreign commerce under authority of the laws of the  
10 United States or any foreign government or sold to any foreign  
11 government or agency or instrumentality of such foreign gov-  
12 ernment and all sales of aircraft, aircraft parts, replacement parts  
13 and services employed in the remanufacture, modification and  
14 repair of aircraft for use outside of the United States;

-stricken language restored-  
exemption retained

15 (h) all rentals of nonsectarian textbooks by public or private  
16 elementary or secondary schools;

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

19 (j) (f) meals served without charge or food used in the preparation  
20 of such meals to employees of any restaurant, eating house, dining  
21 car, hotel, drugstore or other place where meals or drinks are reg-  
22 ularly sold to the public if such employees' duties are related to the  
23 furnishing or sale of such meals or drinks;

24 (k) any motor vehicle, semitrailer or pole trailer, as such  
25 terms are defined by K.S.A. 8-126 and amendments thereto, or  
26 aircraft sold and delivered in this state to a bona fide resident  
27 of another state, which motor vehicle, semitrailer, pole trailer  
28 or aircraft is not to be registered or based in this state and  
29 which vehicle, semitrailer, pole trailer or aircraft will not re-  
30 main in this state more than 10 days;

-stricken language restored-  
exemption retained

31 (l) (g) all isolated or occasional sales of tangible personal property,  
32 services, substances or things, except isolated or occasional ~~sale~~ of  
33 motor vehicles specifically taxed under the provisions of subsection  
34 (o) of K.S.A. 79-3603 and amendments thereto;

sales  
(d)

35 (m) (h) all sales of tangible personal property which become an  
36 ingredient or component part of tangible personal property or serv-  
37 ices produced, manufactured or compounded for ultimate sale at  
38 retail within or without the state of Kansas; and any such producer,  
39 manufacturer or compounder may obtain from the director of taxation  
40 and furnish to the supplier an exemption certificate number for  
41 tangible personal property for use as an ingredient or component  
42 part of the property or services produced, manufactured or  
43 compounded;

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1       ~~(h)~~ (i) all sales of tangible personal property which is consumed  
 2 in the production, manufacture, processing, mining, drilling, refining  
 3 or compounding of tangible personal property, the providing of serv-  
 4 ices or the irrigation of crops for ultimate sale at retail within or  
 5 without the state of Kansas; and any purchaser of such property may  
 6 obtain from the director of taxation and furnish to the supplier an  
 7 exemption certificate number for tangible personal property for con-  
 8 sumption in such production, manufacture, processing, mining, drill-  
 9 ing, refining, compounding, irrigation and in providing such services;

10       ~~(e)~~ (j) all sales of animals, fowl and fish, the primary purpose of  
 11 which is use in agriculture, the production of food for human con-  
 12 sumption, the production of animal, dairy, poultry or fish products,  
 13 fiber or fur, or the production of offspring for use for any such  
 14 purpose or purposes;

15       ~~(p)~~ (k) trade fixtures and equipment which are already installed  
 16 and second-hand when sold by a person ceasing to do business where  
 17 said fixtures or equipment is installed;

18       ~~(q)~~ (l) all sales of drugs, as defined by K.S.A. 65-1626 and amend-  
 19 ments thereto, dispensed pursuant to a prescription order, as defined  
 20 by K.S.A. 65-1626 and amendments thereto, by a licensed  
 21 practitioner;

22       ~~(r)~~ (m) all sales of insulin dispensed by a person licensed by the  
 23 state board of pharmacy to a person for treatment of diabetes at the  
 24 direction of a person licensed to practice medicine by the board of  
 25 healing arts;

26       ~~(s)~~ (n) all sales of prosthetic and orthopedic appliances prescribed  
 27 in writing by a person licensed to practice the healing arts, dentistry  
 28 or optometry. For the purposes of this subsection, the term pros-  
 29 thetic and orthopedic appliances means any apparatus, instrument,  
 30 device, or equipment used to replace or substitute for any missing  
 31 part of the body; used to alleviate the malfunction of any part of  
 32 the body; or used to assist any disabled person in leading a normal  
 33 life by facilitating such person's mobility; but such term shall not  
 34 include motor vehicles, accessories to be attached to motor vehicles  
 35 or personal property which when installed becomes a fixture to real  
 36 property;

37       ~~(t)~~ all sales of tangible personal property or services pur-  
 38 chased directly by a groundwater management district orga-  
 39 nized or operating under the authority of K.S.A. 82a-1020 ~~et~~  
 40 ~~seq.~~ and amendments thereto, which property or services are  
 41 used in the operation or maintenance of the district;

42       ~~(u)~~ all sales of farm machinery and equipment, repair and  
 43 replacement parts therefor and services performed in the repair

- stricken language restored-exemption retained

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

stricken language restored-exemption retained

12 (v) (o) all leases or rentals of tangible personal property used as  
 13 a dwelling if such tangible personal property is leased or rented for  
 14 a period of more than 28 consecutive days;

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

28 (x) (q) all sales of natural gas, electricity, heat and water deliv-  
 29 ered through mains, lines or pipes to residential premises for non-  
 30 commercial use by the occupant of such premises and all sales of  
 31 natural gas, electricity, heat and water delivered through mains, lines  
 32 or pipes for agricultural use;

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

36 (z) (s) ~~all sales of intrastate telephone and telegraph services for~~  
 37 ~~noncommercial use except noncommercial intrastate long distance~~  
 38 ~~telephone service including interstate long distance telephone service~~  
 39 ~~which originates from and is charged to a telephone located in this~~  
 40 ~~state;~~

all sales of noncommercial intrastate local tele-  
 phone service, sales of telephone services for resale,  
 all commercial interstate telephone service except  
 noncommercial interstate message toll service, and  
 all telegraph services.

41 (aa) all sales of materials and services used in the repairing,  
 42 servicing, altering, maintaining, manufacturing, remanufactur-  
 43 ing, or modification of railroad rolling stock for use in interstate

stricken language restored-exemption retained



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1 or foreign commerce under authority of the laws of the United  
2 States;

3 (bb) all sales of tangible personal property and services pur-  
4 chased directly by a port authority or by a contractor therefor  
5 as provided by the provisions of K.S.A. 12-3418 and amend-  
6 ments thereto;

-stricken language restored without reference to  
contractor- exemption retained

7 (cc) all sales of materials and services applied to equipment  
8 which is transported into the state from without the state for  
9 repair, service, alteration, maintenance, remanufacture or mod-  
10 ification and which is subsequently transported outside the  
11 state for use in the transmission of liquids or natural gas by  
12 means of pipeline in interstate or foreign commerce under au-  
13 thority of the laws of the United States;

-stricken language restored-exemption retained

14 (dd) (t) all sales of used mobile homes. As used in this subsection:  
15 (1) "Mobile homes" shall have the meaning ascribed thereto by  
16 K.S.A. 75-1226 and amendments thereto; and (2) "sales of used  
17 mobile homes" means sales other than the original retail sale of such  
18 mobile homes;

19 (ee) all sales of tangible personal property or services pur-  
20 chased for the purpose of and in conjunction with constructing,  
21 reconstructing, enlarging or remodeling a qualified business  
22 facility located within an enterprise zone, which will qualify  
23 for an income tax credit under K.S.A. 70-32,153 and amend-  
24 ments thereto, and the sale and installation of machinery and  
25 equipment purchased for installation at such a facility. When  
26 a person shall contract for the construction, reconstruction, en-  
27 largement or remodeling of any such facility, such person shall  
28 obtain from the state and furnish to the contractor an exemption  
29 certificate for the project involved, and the contractor may pur-  
30 chase materials, machinery and equipment for incorporation in  
31 such project. The contractor shall furnish the number of such  
32 certificates to all suppliers from whom such purchases are  
33 made, and such suppliers shall execute invoices covering the  
34 same bearing the number of such certificate. Upon completion  
35 of the project the contractor shall furnish to the owner of the  
36 qualified business facility a sworn statement, on a form to be  
37 provided by the director of taxation, that all purchases so made  
38 were entitled to exemption under this subsection. All invoices  
39 shall be held by the contractor for a period of five years and  
40 shall be subject to audit by the director of taxation. Any con-  
41 tractor or any agent, employee or subcontractor thereof, who  
42 shall use or otherwise dispose of any materials, machinery or  
43 equipment purchased under such a certificate for any purpose

1 other than that for which such a certificate is issued without  
2 the payment of the sales or compensating tax otherwise im-  
3 posed thereon, shall be guilty of a misdemeanor and, upon  
4 conviction therefor, shall be subject to the penalties provided  
5 for in subsection (g) of K.S.A. 79-3615 and amendments thereto.  
6 Notwithstanding the foregoing, that portion of the sales tax paid  
7 on the sale of tangible personal property which would have  
8 qualified for the exemption under this subsection during cal-  
9 endar year 1987 except that an exemption certificate for the  
10 purchase of such property was not timely obtained shall be  
11 refunded. The claim for such refund shall be verified and sub-  
12 mitted to the director of taxation upon forms furnished by the  
13 director and shall be accompanied by any additional docu-  
14 mentation required by the director. The director shall review  
15 each claim and shall refund the amount of the sales tax paid  
16 as determined under the provisions of this subsection. All re-  
17 funds shall be paid from the sales tax refund fund upon war-  
18 rants of the director of accounts and reports pursuant to  
19 vouchers approved by the director or the director's designee;

20 (ff) (u) all sales of tangible personal property purchased with  
21 food stamps issued by the United States department of agriculture;

22 (gg) all sales of lottery tickets and shares made as part of  
23 a lottery operated by the state of Kansas;

24 (hh) (v) on and after July 1, 1988, all sales of new mobile homes  
25 to the extent of 40% of the gross receipts, determined without regard  
26 to any trade-in allowance, received from such sale. As used in this  
27 subsection, "mobile homes" shall have the meaning ascribed thereto  
28 by K.S.A. 75-1226 and amendments thereto;

29 (ii) (w) all sales of tangible personal property purchased in ac-  
30 cordance with vouchers issued pursuant to the federal special sup-  
31 plemental food program for women, infants and children; and

32 (jj) all sales of medical supplies and equipment purchased  
33 directly by a nonprofit skilled nursing home or nonprofit in-  
34 termediate nursing care home, as defined by K.S.A. 39-923, and  
35 amendments thereto, for the purpose of providing medical serv-  
36 ices to residents thereof. This exemption shall not apply to  
37 tangible personal property customarily used for human habi-  
38 tation purposes;

39 (kk) all sales of tangible personal property purchased di-  
40 rectly by a nonprofit organization for nonsectarian comprehen-  
41 sive multidiscipline youth development programs and activities  
42 provided or sponsored by such organization. This exemption  
43 shall not apply to tangible personal property customarily used

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for human habitation purposes;

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

(mm) on and after January 1, 1989, all sales of machinery and equipment used directly and primarily for the purposes of manufacturing, assembling, processing, finishing, storing, warehousing or distributing articles of tangible personal property in this state intended for resale by a manufacturing or processing plant or facility or a storage, warehousing or distribution facility.

(1) For purposes of this subsection, machinery and equipment shall be deemed to be used directly and primarily in the manufacture, assemblage, processing, finishing, storing, warehousing or distributing of tangible personal property where such machinery and equipment is used during a manufacturing, assembling, processing or finishing, storing, warehousing or distributing operation:

(A) To effect a direct and immediate physical change upon the tangible personal property;

(B) to guide or measure a direct and immediate physical change upon such property where such function is an integral and essential part of tuning, verifying or aligning the component parts of such property;

(C) to test or measure such property where such function is an integral part of the production flow or function;

(D) to transport, convey or handle such property during the manufacturing, processing, storing, warehousing or distribution operation at the plant or facility; or

(E) to place such property in the container, package or wrapping in which such property is normally sold or transported.

(2) For purposes of this subsection "machinery and equipment used directly and primarily" shall include, but not be limited to:

(A) Mechanical machines or major components thereof contributing to a manufacturing, assembling or finishing process;

-stricken language restored-exemption retained

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1 (B) molds and dies that determine the physical character-  
 2 isties of the finished product or its packaging material;

3 (C) testing equipment to determine the quality of the fin-  
 4 ished product;

5 (D) computers and related peripheral equipment that di-  
 6 rectly control or measure the manufacturing process or which  
 7 are utilized for engineering of the finished product; and

8 (E) computers and related peripheral equipment utilized for  
 9 research and development and product design.

10 (3) "Machinery and equipment used directly and primarily"  
 11 shall not include:

12 (A) Hand tools;

13 (B) machinery, equipment and tools used in maintaining  
 14 and repairing any type of machinery and equipment;

15 (C) transportation equipment not used in the manufacturing,  
 16 assembling, processing, furnishing, storing, warehousing or dis-  
 17 tributing process at the plant or facility;

18 (D) office machines and equipment including computers  
 19 and related peripheral equipment not directly and primarily  
 20 used in controlling or measuring the manufacturing process;

21 (E) furniture and buildings; and

22 (F) machinery and equipment used in administrative, ac-  
 23 counting, sales or other such activities of the business;

24 (nn) all sales of educational materials purchased for distri-  
 25 bution to the public at no charge by a nonprofit corporation  
 26 organized for the purpose of encouraging, fostering and con-  
 27 ducting programs for the improvement of public health;

28 (oo) all sales of seeds and tree seedlings; fertilizers, insec-  
 29 ticides, herbicides, germicides, pesticides and fungicides; and  
 30 services, purchased and used for the purpose of producing  
 31 plants in order to prevent soil erosion on land devoted to ag-  
 32 ricultural use;

33 (pp) except as otherwise provided in this act, all sales of  
 34 services rendered by an advertising agency or licensed broad-  
 35 cast station or any member, agent or employee thereof;

36 (qq) all sales of tangible personal property purchased by a  
 37 community action group or agency for the exclusive purpose  
 38 of repairing or weatherizing housing occupied by low income  
 39 individuals;

40 (rr) (x) all sales of drill bits and explosives actually utilized in  
 41 the exploration and production of oil or gas;

42 (ss) all sales of tangible personal property and services pur-  
 43 chased by a nonprofit museum or historical society or any com-

-stricken language restored-exemption retained

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1 bination thereof, including a nonprofit organization which is  
 2 organized for the purpose of stimulating public interest in the  
 3 exploration of space by providing educational information, ex-  
 4 hibits and experiences, which is exempt from federal income  
 5 taxation pursuant to section 501(e)(3) of the federal internal  
 6 revenue code of 1986; and

7 (tt) all sales of tangible personal property which will admit  
 8 the purchaser thereof to any annual event sponsored by a non-  
 9 profit organization which is exempt from federal income tax-  
 10 ation pursuant to section 501(e)(3) of the federal internal  
 11 revenue code of 1986.

12 *The provisions of this section shall expire on July 1, 1995.*

13 Sec. 3. K.S.A. 79-3702 is hereby amended to read as follows:  
 14 79-3702. For the purposes of this act: (a) the term "Purchase price"  
 15 shall mean means the consideration paid or given or contracted to  
 16 be paid or given by any person to the seller of an article of tangible  
 17 personal property for the article purchased. The term shall include,  
 18 in addition to the consideration paid or given or contracted to be  
 19 paid or given, the actual cost of transportation from the place where  
 20 the article was purchased to the person using the same in this state.  
 21 If a cash discount is allowed and taken on the sale it shall be deducted  
 22 in arriving at the purchase price.

23 (b) The meaning ascribed to words and phrases in K.S.A. 79-  
 24 3602, and amendments thereto, insofar as is practicable, shall be  
 25 applicable herein unless otherwise provided. The provisions of  
 26 K.S.A. 79-3601 to 79-3625, both inclusive, and amendments thereto,  
 27 relating to enforcement, collection and administration, insofar as  
 28 practicable, shall have full force and effect with respect to taxes  
 29 imposed under the provisions of this act.

30 (c) The word "Use" means and includes the exercise within  
 31 this state by any person of any right or power over tangible personal  
 32 property incident to the ownership of that property, except that it  
 33 shall not include processing, or the sale of the property in the regular  
 34 course of business, and except storage as hereinafter defined.

35 (d) "Storage" includes means any keeping or retention retaining  
 36 in this state for any purpose except sale in the regular course of  
 37 business or subsequent use solely outside this state of tangible per-  
 38 sonal property purchased from a retailer.

39 (e) "Storage" and "use" do not include the keeping, retaining or  
 40 exercising of any right or power over tangible personal property  
 41 shipped or brought into this state for the purpose of subsequently  
 42 transporting it outside the state for use thereafter solely outside the  
 43 state, or for the purpose of being processed, fabricated, or manu-

All sales of admissions to any cultural and historical event which occurs triennially.

All sales of room rentals by hotels, as defined by K.S.A. 36-501, and amendments thereto, where such room is rented by an individual, firm, association or corporation for a time period of more than 28 consecutive days.

All sales of advertising services.

All sales of services furnished or rendered by licensed or registered children's day care providers.

All sales of services by metropolitan transportation systems.

All sales of professional services, as defined by subsection (b) of K.S.A. 17-2707, and amendments thereto.

All sales of medical services furnished or rendered by health care providers, as defined by K.S.A. 1989 Supp. 65-4921, and amendments thereto.

1 factured into, attached to or incorporated into, other tangible per-  
2 sonal property to be transported outside the state and thereafter  
3 used solely outside the state.

4 (f) "Property used in processing" within the meaning of this  
5 act shall mean and include means: (1) Any tangible personal prop-  
6 erty which, when used in fabrication, compounding, manufacturing  
7 or germination, becomes an integral part of the new article resulting  
8 from such fabrication, compounding, manufacturing, or germination,  
9 and intended to be sold ultimately at retail; (2) fuel which is con-  
10 sumed in creating power, heat, or steam for processing or for gen-  
11 erating electric current.

12 (g) "Retailer" means and includes every person engaged in the  
13 business of selling tangible personal property for use within the  
14 meaning of this act: ~~Provided, however, That when, except that,~~  
15 ~~when~~ in the opinion of the director it is necessary for the efficient  
16 administration of this act to regard any salesman salesperson, rep-  
17 resentatives, truckers, peddlers or canvassers as the agents of the  
18 dealers, distributors, supervisors, employers or persons under whom  
19 they operate or from whom they obtain the tangible personal prop-  
20 erty sold by them, irrespective of whether they are making sales on  
21 their own behalf or on behalf of such dealers, distributors, super-  
22 visors, employers, or persons, the director may so regard them and  
23 may regard the dealers, distributors, supervisors, employers, or per-  
24 sons as retailers for the purposes of this act.

25 (h) "Retailer doing business in this state" or any like term, shall  
26 mean and include means any retailer: (1) Having or maintaining  
27 within this state, directly or by a subsidiary, an office, distribution  
28 house, sales house, warehouse or other place of business, or any  
29 agent or other representative operating within this state under the  
30 authority of the retailer or its subsidiary, irrespective of whether  
31 such place of business or agent is located here permanently or tem-  
32 porarily, or whether such retailer or subsidiary is admitted to do  
33 business within the state; (2) engaging in soliciting orders within  
34 this state from users by means of catalogues or other advertis-  
35 ing, whether such orders are received or accepted within or  
36 without this state engaging in regular or systematic solicitation of  
37 sales of tangible personal property in this state by the distribution  
38 of catalogs, periodicals, advertising flyers, or other advertising, by  
39 means of print, radio or television media, or by mail, telegraphy,  
40 telephone, computer data base, cable, optic, microwave or other  
41 communication system for the purpose of effecting retail sales of  
42 tangible personal property.

43 (i) "Director" shall mean means the director of taxation.

1       Sec. 4. K.S.A. 79-2959 is hereby amended to read as follows:  
2 79-2959. (a) There is hereby created the local ad valorem tax re-  
3 duction fund. All moneys transferred or credited to such fund under  
4 the provisions of this act or any other law shall be apportioned and  
5 distributed in the manner provided herein.

6       (b) On January 15 and on July 15 of each year, the director of  
7 accounts and reports shall make transfers in equal amounts which  
8 in the aggregate equal 4.5% of the total retail sales and compensating  
9 taxes credited to the state general fund pursuant to articles 36 and  
10 37 of chapter 79 of Kansas Statutes Annotated and acts amendatory  
11 thereof and supplemental thereto during the preceding calendar year  
12 from the state general fund to the local ad valorem tax reduction  
13 fund, except that: (1) The transfers on January 15, ~~1988~~ 1991, and  
14 July 15, ~~1988~~ 1991, shall be in equal amounts which in the aggregate  
15 equal ~~4.320%~~ 17.4% of such taxes credited to the state general fund  
16 during calendar year ~~1987~~ 1990; and (2) the transfers on January  
17 15, ~~1989~~ 1992, and July 15, ~~1989~~ 1992, shall be in equal amounts  
18 which in the aggregate equal ~~4.320%~~ 12.1% of such taxes credited  
19 to the state general fund during calendar year ~~1988~~ 1991; and (3)  
20 *the transfers on January 15, 1993, and July 15, 1993, and every*  
21 *January 15 and July 15 of each year thereafter, shall be in equal*  
22 *amounts which in the aggregate equal 13% of such taxes credited*  
23 *to the state general fund during the preceding year. All transfers*  
24 *made in accordance with the provisions of this section shall be con-*  
25 *sidered to be demand transfers from the state general fund.*

26       (c) The state treasurer shall apportion and pay the amounts trans-  
27 ferred under subsection (b) to the several county treasurers on Jan-  
28 uary 15 and on July 15 in each year as follows: (1) Sixty-five percent  
29 of the amount to be distributed shall be apportioned on the basis  
30 of the population figures of the counties certified to the secretary  
31 of state pursuant to K.S.A. 11-201 and amendments thereto on July  
32 1 of the preceding year; and (2) thirty-five percent of such amount  
33 shall be apportioned on the basis of the equalized assessed tangible  
34 valuations on the tax rolls of the counties on November 1 of the  
35 preceding year as certified by the director of property valuation. .

36       Sec. 5. K.S.A. 79-34,147 is hereby amended to read as follows:  
37 79-34,147. (a) On October 1, 1989, and on each January 1, April 1,  
38 July 1 and October 1 thereafter, the secretary of revenue shall certify  
39 to the director of accounts and reports the amount equal to 10% of  
40 the total revenues received by the secretary from the taxes imposed  
41 under the Kansas retailers' sales tax act and deposited in the state  
42 treasury and credited to the state general fund during the preceding  
43 three calendar months *except that: The amount so certified on Oc-*

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1 *tober 1, 1990, January 1, 1991, and April 1, 1991, shall be the*  
2 *amount equal to 6.73% of such revenues; and (2) the amount so*  
3 *certified on July 1, 1991, and each certification date thereafter shall*  
4 *be the amount equal to 7.13% of such revenues.*

5 (b) Upon receipt of each certification under subsection (a), the  
6 director of accounts and reports shall transfer from the state general  
7 fund to the state highway fund an amount equal to the amount so  
8 certified, on October 1, 1989, and on January 1, 1990, April 1, 1990,  
9 and July 1, 1990, and on each October 1, January 1, April 1 and  
10 July 1 thereafter.

11 (c) All transfers made in accordance with the provisions of this  
12 section shall be considered to be demand transfers from the state  
13 general fund.

14 New Sec. 6. (a) There is hereby established the school district  
15 ad valorem tax reduction fund which shall consist of all amounts  
16 appropriated therefor by the legislature and all amounts transferred  
17 or credited thereto under the provisions of law.

18 (b) On January 15 and June 15 of each year, the director of  
19 accounts and reports shall make transfers in equal amounts which  
20 in the aggregate equal 8.5% of the total retail sales and compensating  
21 taxes credited to the state general fund pursuant to articles 36 and  
22 37 of chapter 79 of the Kansas Statutes Annotated and acts amen-  
23 datory thereof or supplemental thereto during the preceding calendar  
24 year from the state general fund to the school district ad valorem  
25 tax reduction fund, except that: (1) The transfers on January 15,  
26 1991, and June 15, 1991, shall be in equal amounts which in the  
27 aggregate equal 12.9% of such taxes credited to the state general  
28 fund during calendar year 1990; and (2) the transfers on January 15,  
29 1992, and June 15, 1992, shall be in equal amounts which in the  
30 aggregate equal 7.6% of such taxes credited to the state general fund  
31 during calendar year 1991.

32 (c) Prior to June 1 of each year, the state treasurer shall advise  
33 the state board of education of the amount of the school district ad  
34 valorem tax reduction fund that will be paid to unified school districts  
35 on January 15 and June 15. On or before June 1 of each year,  
36 commencing on June 1, 1990, the state board of education shall  
37 estimate the amount of money each school district will receive from  
38 the school district ad valorem tax reduction fund and shall advise  
39 the board of education of each school district of such amount. A  
40 school district shall not be entitled to receive payment from the  
41 fund unless the board of education of the school district shall set  
42 out a school district ad valorem tax reduction fund item of income  
43 for the general fund in its budget for the ensuing school year in the



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1 amount the state board has estimated the school district will receive  
2 from the fund and shall certify an ad valorem tax levy for the school  
3 district general fund that will produce an amount of moneys equal  
4 to the amount which a maximum levy would produce less an amount  
5 equal to the amount the state board has estimated the school district  
6 will receive from the school district ad valorem tax reduction fund.

7 (d) On January 15 and June 15 of each year, commencing on  
8 January 15, 1991, the state board of education shall apportion and  
9 pay to unified school districts all moneys in the school district ad  
10 valorem tax reduction fund as follows: (1) Fifty percent of the amount  
11 to be paid shall be apportioned on the basis of enrollment of the  
12 school district; and (2) fifty percent of the amount to be paid shall  
13 be apportioned on the basis of the adjusted enrollment of school  
14 districts which shall be determined by the state board of education  
15 by dividing the state per pupil assessed value of all taxable tangible  
16 property of the state on November 1 of the preceding year by the  
17 per pupil assessed value of all taxable tangible property of the school  
18 district on November 1 of the preceding year and multiplying the  
19 resulting quotient by the total enrollment of the school district in  
20 the current school year.

21 (e) The director of accounts and reports shall draw warrants on  
22 the state treasurer payable to the district treasurer of the school  
23 districts entitled to payment from the school district ad valorem tax  
24 reduction fund upon vouchers approved by the state board of ed-  
25 ucation. Upon receipt of such warrant, each district treasurer shall  
26 credit the amount thereof to the general fund of the school district.

27 (f) As used in this section, the terms "pupil" and "enrollment"  
28 have the meanings respectively ascribed thereto in K.S.A. 72-7033,  
29 and amendments thereto.

30 Sec. 7. On and after June 1, 1990, K.S.A. 79-3603 and 79-3606  
31 are hereby repealed.

32 Sec. 8. On and after July 1, 1990, K.S.A. 79-2959, 79-34,147  
33 and 79-3702 are hereby repealed.

34 Sec. 9. This act shall take effect and be in force from and after  
35 its publication in the Kansas register.

Section 1. K. A. 79-3602 is hereby amended to read as follows: 79-3602. (a) "Persons" means any individual, firm, copartnership, joint adventure, association, corporation, estate or trust, receiver or trustee, or any group or combination acting as a unit, and the plural as well as the singular number; and shall specifically mean any city or other political subdivision of the state of Kansas engaging in a business or providing a service specifically taxable under the provisions of this act.

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

(c) "Sale" or "sales" means the exchange of tangible personal property or services, as well as the sale thereof for money, and every transaction, conditional or otherwise, for a consideration, constituting a sale, ~~including the sale or furnishing of electrical energy, gas, water, services or entertainment taxable under the terms of this act~~ and including, except as provided in the following provision, the sale of the use of tangible personal property by way of a lease, license to use or the rental thereof regardless of the method by which the title, possession or right to use the tangible personal property is transferred. The term "sale" or "sales" shall not mean the sale of the use of any tangible personal property used as a dwelling by way of a lease or rental thereof for a term of more than 28 consecutive days.

(d) "Retailer" means a person regularly engaged in the business of selling tangible personal property or of the rendering or furnishing of services at retail ~~or furnishing electrical energy, gas, water, services or entertainment~~, and selling only to the user or consumer and not for resale.

(e) "Retail sale" or "sale at retail" means all sales made within the state of tangible personal property or electrical energy, gas, water, services or entertainment of the rendering or furnishing of services for use or consumption and not for resale.

(f) "Tangible personal property" means corporeal personal property. Such term shall include any computer software program which is not a custom computer software program, as described by subsection ~~(s)~~ (h) of K.S.A. 79-3603, and amendments thereto.

(g) "Selling price" means the total cost to the consumer exclusive of discounts allowed and credited, but including freight and transportation charges from retailer to consumer.

(h) "Gross receipts" means the total selling price or the amount received as defined in this act, in money, credits, property or other consideration valued in money from sales at retail within this state; and embraced within the provisions of this act. The taxpayer, may take credit in the report of gross receipts for: (1) An amount equal to the selling price of property returned by the purchaser when the full sale price thereof, including the tax collected, is refunded in cash or by credit; (2) an amount equal to the allowance given for the trade-in of property.

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

(j) "Isolated or occasional sale" means the nonrecurring sale of tangible personal property, or services taxable hereunder by a person not engaged at the time of such sale in the business of selling such property or services. Any religious organization which makes a nonrecurring sale of tangible personal property acquired for the purpose of resale shall be deemed to be not

engaged at the time of such sale in the business of selling such property. Such term shall include: (1) any sale by a bank, savings and loan institution, credit union or any finance company licensed under the provisions of the Kansas uniform consumer credit code of tangible personal property which has been repossessed by any such entity; and (2) any sale of tangible personal property made by an auctioneer or agent on behalf of a single principal or household if such sale is nonrecurring and the principal or household is not engaged at the time of such sale in the business of selling tangible personal property.

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

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

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

(2) Containers, labels, shipping cases, paper bags, drinking straws, paper plates, paper cups, twine and wrapping paper used in the distribution and sale of property taxable under the provisions of this act by wholesalers and retailers and which is not to be returned to such wholesaler or retailer for reuse.

(3) Seeds and seedlings for the production of plants and plant products produced for resale.

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

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

(6) Feed for animals, fowl and fish, the primary purpose of which is use in agriculture, the production of food for human consumption, the production of animal, dairy, poultry or fish products, fiber, fur, or the production of offspring for use for any such purpose or purposes.

(m) "Property which is consumed" means tangible personal property which is essential or necessary to and which is used in the actual process of and immediately consumed or dissipated in (1) the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, (2) the providing of services or (3) the irrigation of crops, for sale in the regular course of business, and which is not reusable for such purpose. The following items of tangible personal property are hereby declared to be "consumed" but the listing of such property shall not be deemed to be exclusive nor shall such listing be construed to be a restriction upon or an indication of, the type or types of property to be included within the definition of "property which is consumed" as herein set forth:

(A) Insecticides, herbicides, germicides, pesticides,

fungicides, antibiotics, biologicals, pharmaceuticals, vitamins and chemicals for use in commercial or agricultural production of fruit, vegetables, feeds, seeds, animals or animal products whether fed, injected, applied or otherwise used; and

(B) electricity, gas and water.

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

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

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

(q) "Nonprofit blood bank" means any nonprofit place, organization, institution or establishment that is operated wholly or in part for the purpose of obtaining, storing, processing, preparing for transfusing, furnishing, donating or distributing human blood or parts or fractions of single blood units or products derived from single blood units, whether or not any remuneration is paid therefor, or whether such procedures are done for direct therapeutic use or for storage for future use of such products.

(r) "Contractor, subcontractor or repairman" means a person who agrees to furnish and install tangible personal property or install tangible personal property at a specified price. A person who maintains an inventory of tangible personal property which enables such person to furnish and install the tangible personal property or install the tangible personal property shall not be deemed a contractor, subcontractor or repairman but shall be deemed a retailer.