

Approved 5-4-90  
Date

MINUTES OF THE Senate COMMITTEE ON Federal and State Affairs

The meeting was called to order by Senator Edward F. Reilly, Jr. at  
Chairperson

12:10 a.~~xx~~p.m. on May 3, 1990~~xxxx~~ Rail at the of the Capitol.

All members were present ~~except~~:

Committee staff present:

Deanna Willard, Committee Secretary

Conferees appearing before the committee:

A request was made for introduction of a committee bill to increase revenue producing state tax sources for distribution to unified school districts to reduce their reliance on revenue produced from the levy of property taxes. (Attachment 1)

A motion was made by Senator Vidricksen and seconded by Senator Walker to introduce the bill. The motion carried.

The meeting was adjourned at 12:15 p.m.

~~but such tax shall not be levied and collected upon the gross receipts received from fees and charges by political subdivisions of the state of Kansas for participation in sports, games and other 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;

(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;

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

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

~~For the purposes of this subsection:~~

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

(2) -- "building" shall mean only those enclosures within which individuals customarily live or are employed, or which are customarily used to house machinery, equipment or other property, and including the land improvements immediately surrounding such building; and

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

(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;

(r) 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 (p) or (q);

(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

(t) the gross receipts received for telephone answering services, including mobile phone services, beeper services and other similar services; and

(u) the gross receipts received for the rendering or furnishing of the following services: Accounting, auditing and bookkeeping; architectural; engineering; legal; and surveying.

Sec. 2. On and after October 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 sales or excise tax has been paid, not subject to refund, under the laws of this state except cigarettes as defined by

K.S.A. 79-3301 and amendments thereto, cereal malt beverages and malt products as defined by K.S.A. 79-3817 and amendments thereto, including wort, liquid malt, malt syrup and malt extract, which is not subject to taxation under the provisions of K.S.A. 79-41a02 and amendments thereto, and motor vehicles as defined by K.S.A. 79-1017 and amendments thereto;

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

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

~~(d) all sales of tangible personal property or services purchased by a contractor for the purpose of constructing,~~

equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any public or private nonprofit hospital, public or private elementary or secondary school or a public or private nonprofit educational institution, which would be exempt from taxation under the provisions of this act if purchased directly by such hospital, school or educational institution, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, 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-will-not-be-used-for--the purpose--for--which--such--certificate--was-issued,--the-political subdivision,---hospital,---school---or---educational---institution concerned--shall-be-liable-for-tax-on-all-materials-purchased-for the-project,--and-upon-payment-thereof-it--may--recover--the--same from--the--contractor-together-with-reasonable-attorney-fees.--Any contractor-or-any-agent,--employee-or-subcontractor--thereof,--who shall--use--or-otherwise-dispose-of-any-materials-purchased-under such-a-certificate-for-any-purpose-other-than-that-for-which-such a-certificate-is-issued-without--the--payment--of--the--sales--or compensating--tax-otherwise-imposed-upon-such-materials,--shall-be guilty-of-a-misdemeanor-and,--upon-conviction-therefor,--shall--be subject-to-the-penalties-provided-for-in-subsection-(g)-of-K.S.A. 79-3615,--and-amendments-thereto,

(e)--all--sales--of--tangible--personal--property-or-services purchased-by-a-contractor-for-the-erection,--repair-or-enlargement of-buildings-or-other-projects-for-the-government-of--the--United States,--its-agencies-or-instrumentalities,--which-would-be-exempt



from taxation if purchased directly by the government of the United States, its agencies or instrumentalities. When the government of the United States, its agencies or instrumentalities shall contract for the erection, repair, or enlargement of any building or other project, 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 certificates 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 government of the United States, its agencies or instrumentalities 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. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto;

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

(g) (d) sales of aircraft including remanufactured and modified aircraft, sales of aircraft repair, modification and replacement parts and sales of services employed in the remanufacture, modification and repair of aircraft sold to persons using such aircraft and aircraft repair, modification and replacement parts as certified or licensed carriers of persons or

property in interstate or foreign commerce under authority of the laws of the United States or any foreign government or sold to any foreign government or agency or instrumentality of such foreign government and all sales of aircraft, aircraft parts, replacement parts and services employed in the remanufacture, modification and repair of aircraft for use outside of the United States;

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

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

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

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

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

(m) (g) all sales of tangible personal property which become an ingredient or component part of tangible personal property or services produced, manufactured or compounded for ultimate sale at retail within or without the state of Kansas; and any such producer, manufacturer or compounder may obtain from the director of taxation and furnish to the supplier an exemption certificate

number for tangible personal property for use as an ingredient or component part of the property or services produced, manufactured or compounded;

~~(n)~~ (h) all sales of tangible personal property which is consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the providing of services or the irrigation of crops for ultimate sale at retail within or without the state of Kansas; and any purchaser of such property may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for consumption in such production, manufacture, processing, mining, drilling, refining, compounding, irrigation and in providing such services;

~~(e)~~ (i) all sales of 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 or fur, or the production of offspring for use for any such purpose or purposes;

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

~~(q)~~ (j) all sales of drugs, as defined by K.S.A. 65-1626 and amendments thereto, dispensed pursuant to a prescription order, as defined by K.S.A. 65-1626 and amendments thereto, by a licensed practitioner;

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

~~(s)~~ (l) all sales of prosthetic and orthopedic appliances prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry. For the purposes of this subsection, the term prosthetic and orthopedic appliances means any apparatus, instrument, device, or equipment used to replace or substitute for any missing part of the body; used to alleviate

the malfunction of any part of the body; or used to assist any disabled person in leading a normal life by facilitating such person's mobility; but such term shall not include motor vehicles, accessories to be attached to motor vehicles or personal property which when installed becomes a fixture to real property;

~~(t) all sales of tangible personal property or services purchased directly by a groundwater management district organized or operating under the authority of K.S.A. 82a-1020 et seq. and amendments thereto, which property or services are used in the operation or maintenance of the district;~~

~~(u) all sales of farm machinery and equipment, repair and replacement parts therefor and services performed in the repair and maintenance of such machinery and equipment. For the purposes of this subsection the term "farm machinery and equipment" shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as such terms are defined by K.S.A. 8-126 and amendments thereto. Each purchaser of farm machinery or equipment exempted herein must certify in writing on the copy of the invoice or sales ticket to be retained by the seller that the farm machinery or equipment purchased will be used only in farming or ranching. Farming or ranching shall include the operation of a feedlot and farm and ranch work for hire;~~

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

(w) (m) all sales of food products to any contractor for use in preparing meals for delivery to homebound elderly persons over 60 years of age and to homebound disabled persons or to be served at a group-sitting at a location outside of the home to otherwise homebound elderly persons over 60 years of age and to otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private nonprofit food service project available to all such

elderly or disabled persons residing within an area of service designated by the private nonprofit organization, and all sales of food products for use in preparing meals for consumption by indigent or homeless individuals whether or not such meals are consumed at a place designated for such purpose;

{x} (n) all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes to residential premises for noncommercial use by the occupant of such premises and all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes for agricultural use;

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

{z} (p) all sales of intrastate telephone and telegraph services for noncommercial use except ~~noncommercial--intrastate~~ long distance telephone service including interstate long distance telephone service which originates from and is charged to a telephone located in this state;

{aa} (q) all sales of materials and services used in the repairing, servicing, altering, maintaining, manufacturing, remanufacturing, or modification of railroad rolling stock for use in interstate or foreign commerce under authority of the laws of the United States;

{bb} (r) all sales of tangible personal property and services purchased directly by a port authority or by a contractor therefor as provided by the provisions of K.S.A. 12-3418 and amendments thereto;

~~{cc}--all--sales--of--materials--and--services--applied--to equipment--which--is--transported--into--the--state--from--without--the state--for--repair,--service,--alteration,--maintenance,--remanufacture or--modification--and--which--is--subsequently--transported--outside--the state--for--use--in--the--transmission--of--liquids--or--natural--gas--by means--of--pipeline--in--interstate--or--foreign--commerce--under authority--of--the--laws--of--the--United--States;~~

~~{dd}--all--sales--of--used--mobile--homes.---As--used--in--this~~

subsection:--(1)--"Mobile--homes"--shall--have--the--meaning--ascribed thereto--by--K.S.A.--75-1226--and--amendments--thereto;--and--(2)--"sales of--used--mobile--homes"--means--sales--other--than--the--original--retail sale--of--such--mobile--homes;

(ee)--all--sales--of--tangible--personal--property--or--services purchased---for---the---purpose---of---and--in--conjunction--with constructing,--reconstructing,--enlarging--or--remodeling--a--qualified business--facility--located--within--an--enterprise--zone,--which--will qualify--for--an--income--tax--credit--under--K.S.A.--79-32,153--and amendments--thereto,--and--the--sale--and--installation--of--machinery and--equipment--purchased--for--installation--at--such--a--facility. When---a---person---shall---contract---for---the---construction, reconstruction,--enlargement--or--remodeling--of--any--such--facility, such--person--shall--obtain--from--the--state--and--furnish--to--the contractor--an--exemption--certificate--for--the--project--involved,--and the--contractor--may--purchase--materials,--machinery--and--equipment for--incorporation--in--such--project.---The--contractor--shall--furnish the--number--of--such--certificates--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 owner--of--the--qualified--business--facility--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.---Any--contractor--or--any--agent,--employee--or subcontractor--thereof,--who--shall--use--or--otherwise--dispose--of--any materials,--machinery--or--equipment--purchased--under---such---a certificate--for--any--purpose--other--than--that--for--which--such--a certificate--is--issued--without--the--payment--of--the--sales--or compensating--tax--otherwise--imposed--thereon,--shall--be--guilty--of--a misdemeanor--and,--upon--conviction--therefor,--shall--be--subject--to the--penalties--provided--for--in--subsection--(g)--of--K.S.A.--79-3615 and--amendments--thereto.---Notwithstanding--the--foregoing,--that

portion-of-the-sales-tax-paid-on-the-sale--of--tangible--personal property--which-would-have-qualified-for-the-exemption-under-this subsection-during-calendar-year-1987--except--that--an--exemption certificate--for--the--purchase--of--such-property-was-not-timely obtained-shall-be-refunded.--The-claim-for-such-refund--shall--be verified--and--submitted--to--the-director-of-taxation-upon-forms furnished-by--the--director--and--shall--be--accompanied--by--any additional--documentation-required-by-the-director.--The-director shall-review-each-claim-and-shall-refund-the-amount-of-the--sales tax--paid--as-determined-under-the-provisions-of-this-subsection. All-refunds-shall-be-paid-from-the-sales--tax--refund--fund--upon warrants--of--the--director--of--accounts-and-reports-pursuant-to vouchers-approved-by-the-director-or-the-director's-designee;

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

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

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

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

(jj) (u) all sales of medical supplies and equipment purchased directly by a nonprofit skilled nursing home or nonprofit intermediate nursing care home, as defined by K.S.A. 39-923, and amendments thereto, for the purpose of providing medical services to residents thereof. This exemption shall not apply to tangible personal property customarily used for human habitation purposes; and

~~(kk) all sales of tangible personal property purchased directly by a nonprofit organization for nonsectarian comprehensive multidiscipline youth development programs and activities provided or sponsored by such organization. This exemption shall not apply to tangible personal property customarily used for human habitation purposes.~~

(ll) (v) 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.~~

~~(l) 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;

(B)---molds---and---dies---that---determine---the---physical  
characteristics---of---the---finished---product---or---its---packaging  
material;

(C)---testing---equipment---to---determine---the---quality---of---the  
finished---product;

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

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

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

(A)---Hand---tools;

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

(C)---transportation---equipment---not---used---in---the---manufacturing,  
assembling,---processing,---furnishing,---storing,---warehousing---or  
distributing---process---at---the---plant---or---facility;

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

(E)---furniture---and---buildings;---and

(F)---machinery---and---equipment---used---in---administrative;

accounting, sales or other such activities of the business;

(nn) all sales of educational materials purchased for distribution to the public at no charge by a nonprofit corporation organized for the purpose of encouraging, fostering and conducting programs for the improvement of public health;

(oo) all sales of seeds and tree seedlings, fertilizers, insecticides, herbicides, germicides, pesticides and fungicides, and services purchased and used for the purpose of producing plants in order to prevent soil erosion on land devoted to agricultural use;

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

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

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

(ss) all sales of tangible personal property and services purchased by a nonprofit museum or historical society or any combination thereof, including a nonprofit organization which is organized for the purpose of stimulating public interest in the exploration of space by providing educational information, exhibits and experiences, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and

(tt) all sales of tangible personal property which will admit the purchaser thereof to any annual event sponsored by a nonprofit organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986.

Sec. 3. On and after October 1, 1990, K.S.A. 79-3620 is hereby amended to read as follows: 79-3620. (a) All revenue collected or received by the director of taxation from the taxes

imposed by this act shall be deposited daily with the state treasurer. The state treasurer shall credit all revenue received from this act, less amounts withheld as provided in subsection (b) and amounts credited as provided in subsection (c), to the state general fund.

(b) A refund fund, designated as "sales tax refund fund" not to exceed \$100,000 shall be set apart and maintained by the director from sales tax collections and estimated tax collections and held by the state treasurer for prompt payment of all sales tax refunds including refunds authorized under the provisions of K.S.A. 79-3635, and amendments thereto. Such fund shall be in such amount, within the limit set by this section, as the director shall determine is necessary to meet current refunding requirements under this act. In the event such fund as established by this section is, at any time, insufficient to provide for the payment of refunds due claimants thereof, the director shall certify the amount of additional funds required to the director of accounts and reports who shall promptly transfer the required amount from the state general fund to the sales tax refund fund, and notify the state treasurer, who shall make proper entry in the records.

(c) (1) The state treasurer shall credit ~~1/17~~ 1/20 of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, ~~at--the--rate--of--4.25%~~, and deposited as provided in subsection (a), in the state highway fund.

(2) The state treasurer shall credit 1/7 of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, and deposited as provided in subsection (a), to the school district ad valorem tax reduction fund.

Sec. 4. On and after October 1, 1990, K.S.A. 79-3703 is hereby amended to read as follows: 79-3703. There is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using, storing, or consuming within this state any article of tangible personal

property. Such tax shall be levied and collected in an amount equal to the consideration paid by the taxpayer multiplied by the rate of ~~4.25%~~ 4%. All property purchased or leased within or without this state and subsequently used, stored or consumed in this state shall be subject to the compensating tax if the same property or transaction would have been subject to the Kansas retailers' sales tax had the transaction been wholly within this state.

Sec. 5. On and after October 1, 1990, K.S.A. 79-3710 is hereby amended to read as follows: 79-3710. (a) All revenue collected or received by the director under the provisions of this act shall be deposited daily with the state treasurer and the state treasurer shall credit the same, less amounts set apart as provided in subsection (b) and amounts credited as provided in subsection (c), to the general revenue fund of the state.

(b) A revolving fund, designated as "compensating tax refund fund" not to exceed \$10,000 shall be set apart and maintained by the director from compensating tax collections and estimated tax collections and held by the state treasurer for prompt payment of all compensating tax refunds. Such fund shall be in such amount, within the limit set by this section, as the director shall determine is necessary to meet current refunding requirements under this act.

(c) (1) The state treasurer shall credit ~~1/17~~ 1/20 of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, ~~at--the--rate--of--4.25%~~, and deposited as provided in subsection (a), in the state highway fund.

(2) The state treasurer shall credit 1/7 of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, and deposited as provided in subsection (a), to the school district ad valorem tax reduction fund.

New Sec. 6. (a) On and after October 1, 1990, there is hereby established the school district ad valorem tax reduction fund which shall consist of all amounts credited to such fund.

On December 15 and June 15 of each year, commencing on December 15, 1990, the state board of education shall allocate and distribute the amount credited to such fund to each school district in the amount which is directly proportional to the amount produced from the levy of taxes upon tangible property to fund its general fund budget divided by the amount produced from the levy of taxes upon tangible property to fund the general fund budgets of all school districts.

(b) The director of accounts and reports shall draw warrants on the state treasurer payable to the district treasurer of the school districts entitled to payment from the school district ad valorem tax reduction fund upon vouchers approved by the state board of education. Upon receipt of such warrant, each district treasurer shall credit the amount thereof to the general fund of the school district.

(c) The general fund tax levy of each school district upon taxable tangible property located within such district shall be reduced by an amount equal to the amount distributed to the school district pursuant to this section.

Sec. 7. On and after October 1, 1990, K.S.A. 79-3603, 79-3606, 79-3620, 79-3703 and 79-3710 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after the date upon which 1990 Senate Concurrent Resolution No. 1648 is approved by the electorate, and its publication in the statute book.