

HOUSE BILL No. 2611

By Committee on Taxation

2-2

1 AN ACT concerning sales taxation; relating to exemptions; certain sales of
2 food and food ingredients during sales tax holidays; amending K.S.A.
3 2011 Supp. 79-3606 and repealing the existing section; also repealing
4 K.S.A. 2011 Supp. 79-3606g
5

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

7 Section 1. K.S.A. 2011 Supp. 79-3606 is hereby amended to read as
8 follows: 79-3606. The following shall be exempt from the tax imposed by
9 this act:

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

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

36 (c) all sales of tangible personal property or services, including the

1 renting and leasing of tangible personal property, purchased directly by a
2 public or private elementary or secondary school or public or private
3 nonprofit educational institution and used primarily by such school or
4 institution for nonsectarian programs and activities provided or sponsored
5 by such school or institution or in the erection, repair or enlargement of
6 buildings to be used for such purposes. The exemption herein provided
7 shall not apply to erection, construction, repair, enlargement or equipment
8 of buildings used primarily for human habitation;

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

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

38 (e) all sales of tangible personal property or services purchased by a
39 contractor for the erection, repair or enlargement of buildings or other
40 projects for the government of the United States, its agencies or
41 instrumentalities, which would be exempt from taxation if purchased
42 directly by the government of the United States, its agencies or
43 instrumentalities. When the government of the United States, its agencies

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

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

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

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

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

42 (j) meals served without charge or food used in the preparation of
43 such meals to employees of any restaurant, eating house, dining car, hotel,

1 drugstore or other place where meals or drinks are regularly sold to the
2 public if such employees' duties are related to the furnishing or sale of
3 such meals or drinks;

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

10 (l) all isolated or occasional sales of tangible personal property,
11 services, substances or things, except isolated or occasional sale of motor
12 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.
13 79-3603, and amendments thereto;

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

22 (n) all sales of tangible personal property which is consumed in the
23 production, manufacture, processing, mining, drilling, refining or
24 compounding of tangible personal property, the treating of by-products or
25 wastes derived from any such production process, the providing of
26 services or the irrigation of crops for ultimate sale at retail within or
27 without the state of Kansas; and any purchaser of such property may
28 obtain from the director of taxation and furnish to the supplier an
29 exemption certificate number for tangible personal property for
30 consumption in such production, manufacture, processing, mining,
31 drilling, refining, compounding, treating, irrigation and in providing such
32 services;

33 (o) all sales of animals, fowl and aquatic plants and animals, the
34 primary purpose of which is use in agriculture or aquaculture, as defined in
35 K.S.A. 47-1901, and amendments thereto, the production of food for
36 human consumption, the production of animal, dairy, poultry or aquatic
37 plant and animal products, fiber or fur, or the production of offspring for
38 use for any such purpose or purposes;

39 (p) all sales of drugs dispensed pursuant to a prescription order by a
40 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-
41 1626, and amendments thereto. As used in this subsection, "drug" means a
42 compound, substance or preparation and any component of a compound,
43 substance or preparation, other than food and food ingredients, dietary

1 supplements or alcoholic beverages, recognized in the official United
2 States pharmacopoeia, official homeopathic pharmacopoeia of the United
3 States or official national formulary, and supplement to any of them,
4 intended for use in the diagnosis, cure, mitigation, treatment or prevention
5 of disease or intended to affect the structure or any function of the body;

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

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

30 (s) except as provided in K.S.A. 2011 Supp. 82a-2101, and
31 amendments thereto, all sales of tangible personal property or services
32 purchased directly or indirectly by a groundwater management district
33 organized or operating under the authority of K.S.A. 82a-1020 *et seq.*, and
34 amendments thereto, by a rural water district organized or operating under
35 the authority of K.S.A. 82a-612, and amendments thereto, or by a water
36 supply district organized or operating under the authority of K.S.A. 19-
37 3501 *et seq.*, 19-3522 *et seq.* or 19-3545, and amendments thereto, which
38 property or services are used in the construction activities, operation or
39 maintenance of the district;

40 (t) all sales of farm machinery and equipment or aquaculture
41 machinery and equipment, repair and replacement parts therefor and
42 services performed in the repair and maintenance of such machinery and
43 equipment. For the purposes of this subsection the term "farm machinery

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

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

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

39 (w) all sales of natural gas, electricity, heat and water delivered
40 through mains, lines or pipes: (1) To residential premises for
41 noncommercial use by the occupant of such premises; (2) for agricultural
42 use and also, for such use, all sales of propane gas; (3) for use in the
43 severing of oil; and (4) to any property which is exempt from property

1 taxation pursuant to K.S.A. 79-201b *Second through Sixth, and*
2 *amendments thereto*. As used in this paragraph, "severing" shall have the
3 meaning ascribed thereto by subsection (k) of K.S.A. 79-4216, and
4 amendments thereto. For all sales of natural gas, electricity and heat
5 delivered through mains, lines or pipes pursuant to the provisions of
6 subsection (w)(1) and (w)(2), the provisions of this subsection shall expire
7 on December 31, 2005;

8 (x) all sales of propane gas, LP-gas, coal, wood and other fuel sources
9 for the production of heat or lighting for noncommercial use of an
10 occupant of residential premises occurring prior to January 1, 2006;

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

15 (z) all sales of tangible personal property and services purchased
16 directly by a port authority or by a contractor therefor as provided by the
17 provisions of K.S.A. 12-3418, and amendments thereto;

18 (aa) all sales of materials and services applied to equipment which is
19 transported into the state from without the state for repair, service,
20 alteration, maintenance, remanufacture or modification and which is
21 subsequently transported outside the state for use in the transmission of
22 liquids or natural gas by means of pipeline in interstate or foreign
23 commerce under authority of the laws of the United States;

24 (bb) all sales of used mobile homes or manufactured homes. As used
25 in this subsection: (1) "Mobile homes" and "manufactured homes" shall
26 have the meanings ascribed thereto by K.S.A. 58-4202, and amendments
27 thereto; and (2) "sales of used mobile homes or manufactured homes"
28 means sales other than the original retail sale thereof;

29 (cc) all sales of tangible personal property or services purchased prior
30 to January 1, 2012, except as otherwise provided, for the purpose of and in
31 conjunction with constructing, reconstructing, enlarging or remodeling a
32 business or retail business which meets the requirements established in
33 K.S.A. 74-50,115, and amendments thereto, and the sale and installation of
34 machinery and equipment purchased for installation at any such business
35 or retail business, and all sales of tangible personal property or services
36 purchased on or after January 1, 2012, for the purpose of and in
37 conjunction with constructing, reconstructing, enlarging or remodeling a
38 business which meets the requirements established in K.S.A. 74-50,115(e),
39 and amendments thereto, and the sale and installation of machinery and
40 equipment purchased for installation at any such business. When a person
41 shall contract for the construction, reconstruction, enlargement or
42 remodeling of any such business or retail business, such person shall
43 obtain from the state and furnish to the contractor an exemption certificate

1 for the project involved, and the contractor may purchase materials,
2 machinery and equipment for incorporation in such project. The contractor
3 shall furnish the number of such certificates to all suppliers from whom
4 such purchases are made, and such suppliers shall execute invoices
5 covering the same bearing the number of such certificate. Upon
6 completion of the project the contractor shall furnish to the owner of the
7 business or retail business a sworn statement, on a form to be provided by
8 the director of taxation, that all purchases so made were entitled to
9 exemption under this subsection. All invoices shall be held by the
10 contractor for a period of five years and shall be subject to audit by the
11 director of taxation. Any contractor or any agent, employee or
12 subcontractor thereof, who shall use or otherwise dispose of any materials,
13 machinery or equipment purchased under such a certificate for any
14 purpose other than that for which such a certificate is issued without the
15 payment of the sales or compensating tax otherwise imposed thereon, shall
16 be guilty of a misdemeanor and, upon conviction therefor, shall be subject
17 to the penalties provided for in subsection (g) of K.S.A. 79-3615, and
18 amendments thereto. As used in this subsection, "business" and "retail
19 business" have the meanings respectively ascribed thereto by K.S.A. 74-
20 50,114, and amendments thereto. Project exemption certificates that have
21 been previously issued under this subsection by the department of revenue
22 pursuant to K.S.A. 74-50,115, and amendments thereto, but not including
23 K.S.A. 74-50,115(e), and amendments thereto, prior to January 1, 2012,
24 and have not expired will be effective for the term of the project or two
25 years from the effective date of the certificate, whichever occurs earlier.
26 Project exemption certificates that are submitted to the department of
27 revenue prior to January 1, 2012, and are found to qualify will be issued a
28 project exemption certificate that will be effective for a two-year period or
29 for the term of the project, whichever occurs earlier;

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

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

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

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

43 (hh) all sales of medical supplies and equipment, including durable

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

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

19 (jj) all sales of tangible personal property or services, including the
20 renting and leasing of tangible personal property, purchased directly on
21 behalf of a community-based mental retardation facility or mental health
22 center organized pursuant to K.S.A. 19-4001 *et seq.*, and amendments
23 thereto, and licensed in accordance with the provisions of K.S.A. 75-
24 3307b, and amendments thereto, and all sales of tangible personal property
25 or services purchased by contractors during the time period from July,
26 2003; through June, 2006; for the purpose of constructing, equipping,
27 maintaining or furnishing a new facility for a community-based mental
28 retardation facility or mental health center located in Riverton, Cherokee
29 County, Kansas, which would have been eligible for sales tax exemption
30 pursuant to this subsection if purchased directly by such facility or center.
31 This exemption shall not apply to tangible personal property customarily
32 used for human habitation purposes;

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

36 (B) all sales of installation, repair and maintenance services
37 performed on such machinery and equipment; and

38 (C) all sales of repair and replacement parts and accessories
39 purchased for such machinery and equipment.

40 (2) For purposes of this subsection:

41 (A) "Integrated production operation" means an integrated series of
42 operations engaged in at a manufacturing or processing plant or facility to
43 process, transform or convert tangible personal property by physical,

1 chemical or other means into a different form, composition or character
2 from that in which it originally existed. Integrated production operations
3 shall include: (i) Production line operations, including packaging
4 operations; (ii) preproduction operations to handle, store and treat raw
5 materials; (iii) post production handling, storage, warehousing and
6 distribution operations; and (iv) waste, pollution and environmental
7 control operations, if any;

8 (B) "production line" means the assemblage of machinery and
9 equipment at a manufacturing or processing plant or facility where the
10 actual transformation or processing of tangible personal property occurs;

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

22 (D) "manufacturing or processing business" means a business that
23 utilizes an integrated production operation to manufacture, process,
24 fabricate, finish, or assemble items for wholesale and retail distribution as
25 part of what is commonly regarded by the general public as an industrial
26 manufacturing or processing operation or an agricultural commodity
27 processing operation. (i) Industrial manufacturing or processing operations
28 include, by way of illustration but not of limitation, the fabrication of
29 automobiles, airplanes, machinery or transportation equipment, the
30 fabrication of metal, plastic, wood, or paper products, electricity power
31 generation, water treatment, petroleum refining, chemical production,
32 wholesale bottling, newspaper printing, ready mixed concrete production,
33 and the remanufacturing of used parts for wholesale or retail sale. Such
34 processing operations shall include operations at an oil well, gas well,
35 mine or other excavation site where the oil, gas, minerals, coal, clay, stone,
36 sand or gravel that has been extracted from the earth is cleaned, separated,
37 crushed, ground, milled, screened, washed, or otherwise treated or
38 prepared before its transmission to a refinery or before any other wholesale
39 or retail distribution. (ii) Agricultural commodity processing operations
40 include, by way of illustration but not of limitation, meat packing, poultry
41 slaughtering and dressing, processing and packaging farm and dairy
42 products in sealed containers for wholesale and retail distribution, feed
43 grinding, grain milling, frozen food processing, and grain handling,

1 cleaning, blending, fumigation, drying and aeration operations engaged in
2 by grain elevators or other grain storage facilities. (iii) Manufacturing or
3 processing businesses do not include, by way of illustration but not of
4 limitation, nonindustrial businesses whose operations are primarily retail
5 and that produce or process tangible personal property as an incidental part
6 of conducting the retail business, such as retailers who bake, cook or
7 prepare food products in the regular course of their retail trade, grocery
8 stores, meat lockers and meat markets that butcher or dress livestock or
9 poultry in the regular course of their retail trade, contractors who alter,
10 service, repair or improve real property, and retail businesses that clean,
11 service or refurbish and repair tangible personal property for its owner;

12 (E) "repair and replacement parts and accessories" means all parts
13 and accessories for exempt machinery and equipment, including, but not
14 limited to, dies, jigs, molds, patterns and safety devices that are attached to
15 exempt machinery or that are otherwise used in production, and parts and
16 accessories that require periodic replacement such as belts, drill bits,
17 grinding wheels, grinding balls, cutting bars, saws, refractory brick and
18 other refractory items for exempt kiln equipment used in production
19 operations;

20 (F) "primary" or "primarily" mean more than 50% of the time.

21 (3) For purposes of this subsection, machinery and equipment shall
22 be deemed to be used as an integral or essential part of an integrated
23 production operation when used:

24 (A) To receive, transport, convey, handle, treat or store raw materials
25 in preparation of its placement on the production line;

26 (B) to transport, convey, handle or store the property undergoing
27 manufacturing or processing at any point from the beginning of the
28 production line through any warehousing or distribution operation of the
29 final product that occurs at the plant or facility;

30 (C) to act upon, effect, promote or otherwise facilitate a physical
31 change to the property undergoing manufacturing or processing;

32 (D) to guide, control or direct the movement of property undergoing
33 manufacturing or processing;

34 (E) to test or measure raw materials, the property undergoing
35 manufacturing or processing or the finished product, as a necessary part of
36 the manufacturer's integrated production operations;

37 (F) to plan, manage, control or record the receipt and flow of
38 inventories of raw materials, consumables and component parts, the flow
39 of the property undergoing manufacturing or processing and the
40 management of inventories of the finished product;

41 (G) to produce energy for, lubricate, control the operating of or
42 otherwise enable the functioning of other production machinery and
43 equipment and the continuation of production operations;

1 (H) to package the property being manufactured or processed in a
2 container or wrapping in which such property is normally sold or
3 transported;

4 (I) to transmit or transport electricity, coke, gas, water, steam or
5 similar substances used in production operations from the point of
6 generation, if produced by the manufacturer or processor at the plant site,
7 to that manufacturer's production operation; or, if purchased or delivered
8 from offsite, from the point where the substance enters the site of the plant
9 or facility to that manufacturer's production operations;

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

12 (K) to provide and control an environment required to maintain
13 certain levels of air quality, humidity or temperature in special and limited
14 areas of the plant or facility, where such regulation of temperature or
15 humidity is part of and essential to the production process;

16 (L) to treat, transport or store waste or other byproducts of production
17 operations at the plant or facility; or

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

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

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

43 (A) Machinery and equipment used for nonproduction purposes,

1 including, but not limited to, machinery and equipment used for plant
2 security, fire prevention, first aid, accounting, administration, record
3 keeping, advertising, marketing, sales or other related activities, plant
4 cleaning, plant communications, and employee work scheduling;

5 (B) machinery, equipment and tools used primarily in maintaining
6 and repairing any type of machinery and equipment or the building and
7 plant;

8 (C) transportation, transmission and distribution equipment not
9 primarily used in a production, warehousing or material handling
10 operation at the plant or facility, including the means of conveyance of
11 natural gas, electricity, oil or water, and equipment related thereto, located
12 outside the plant or facility;

13 (D) office machines and equipment including computers and related
14 peripheral equipment not used directly and primarily to control or measure
15 the manufacturing process;

16 (E) furniture and other furnishings;

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

20 (G) building fixtures that are not integral to the manufacturing
21 operation, such as utility systems for heating, ventilation, air conditioning,
22 communications, plumbing or electrical;

23 (H) machinery and equipment used for general plant heating, cooling
24 and lighting;

25 (I) motor vehicles that are registered for operation on public
26 highways; or

27 (J) employee apparel, except safety and protective apparel that is
28 purchased by an employer and furnished gratuitously to employees who
29 are involved in production or research activities.

30 (6) Subsections (3) and (5) shall not be construed as exclusive listings
31 of the machinery and equipment that qualify or do not qualify as an
32 integral or essential part of an integrated production operation. When
33 machinery or equipment is used as an integral or essential part of
34 production operations part of the time and for nonproduction purpose at
35 other times, the primary use of the machinery or equipment shall
36 determine whether or not such machinery or equipment qualifies for
37 exemption.

38 (7) The secretary of revenue shall adopt rules and regulations
39 necessary to administer the provisions of this subsection;

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

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

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

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

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

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

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

24 (ss) all sales of tangible personal property and services purchased by
25 a public broadcasting station licensed by the federal communications
26 commission as a noncommercial educational television or radio station;

27 (tt) all sales of tangible personal property and services purchased by
28 or on behalf of a not-for-profit corporation which is exempt from federal
29 income taxation pursuant to section 501(c)(3) of the federal internal
30 revenue code of 1986, for the sole purpose of constructing a Kansas
31 Korean War memorial;

32 (uu) all sales of tangible personal property and services purchased by
33 or on behalf of any rural volunteer fire-fighting organization for use
34 exclusively in the performance of its duties and functions;

35 (vv) all sales of tangible personal property purchased by any of the
36 following organizations which are exempt from federal income taxation
37 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
38 for the following purposes, and all sales of any such property by or on
39 behalf of any such organization for any such purpose:

40 (1) The American Heart Association, Kansas Affiliate, Inc. for the
41 purposes of providing education, training, certification in emergency
42 cardiac care, research and other related services to reduce disability and
43 death from cardiovascular diseases and stroke;

1 (2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of
2 advocacy for persons with mental illness and to education, research and
3 support for their families;

4 (3) the Kansas Mental Illness Awareness Council for the purposes of
5 advocacy for persons who are mentally ill and to education, research and
6 support for them and their families;

7 (4) the American Diabetes Association Kansas Affiliate, Inc. for the
8 purpose of eliminating diabetes through medical research, public education
9 focusing on disease prevention and education, patient education including
10 information on coping with diabetes, and professional education and
11 training;

12 (5) the American Lung Association of Kansas, Inc. for the purpose of
13 eliminating all lung diseases through medical research, public education
14 including information on coping with lung diseases, professional education
15 and training related to lung disease and other related services to reduce the
16 incidence of disability and death due to lung disease;

17 (6) the Kansas chapters of the Alzheimer's Disease and Related
18 Disorders Association, Inc. for the purpose of providing assistance and
19 support to persons in Kansas with Alzheimer's disease, and their families
20 and caregivers;

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

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

27 (9) the heartstrings community foundation for the purpose of
28 providing training, employment and activities for adults with
29 developmental disabilities;

30 (10) the Cystic Fibrosis Foundation, Heart of America Chapter, for
31 the purposes of assuring the development of the means to cure and control
32 cystic fibrosis and improving the quality of life for those with the disease;

33 (11) the spina bifida association of Kansas for the purpose of
34 providing financial, educational and practical aid to families and
35 individuals with spina bifida. Such aid includes, but is not limited to,
36 funding for medical devices, counseling and medical educational
37 opportunities;

38 (12) the CHWC, Inc., for the purpose of rebuilding urban core
39 neighborhoods through the construction of new homes, acquiring and
40 renovating existing homes and other related activities, and promoting
41 economic development in such neighborhoods;

42 (13) the cross-lines cooperative council for the purpose of providing
43 social services to low income individuals and families;

- 1 (14) the Dreams Work, Inc., for the purpose of providing young adult
2 day services to individuals with developmental disabilities and assisting
3 families in avoiding institutional or nursing home care for a
4 developmentally disabled member of their family;
- 5 (15) the KSDS, Inc., for the purpose of promoting the independence
6 and inclusion of people with disabilities as fully participating and
7 contributing members of their communities and society through the
8 training and providing of guide and service dogs to people with
9 disabilities, and providing disability education and awareness to the
10 general public;
- 11 (16) the lyme association of greater Kansas City, Inc., for the purpose
12 of providing support to persons with lyme disease and public education
13 relating to the prevention, treatment and cure of lyme disease;
- 14 (17) the Dream Factory, Inc., for the purpose of granting the dreams
15 of children with critical and chronic illnesses;
- 16 (18) the Ottawa Suzuki Strings, Inc., for the purpose of providing
17 students and families with education and resources necessary to enable
18 each child to develop fine character and musical ability to the fullest
19 potential;
- 20 (19) the International Association of Lions Clubs for the purpose of
21 creating and fostering a spirit of understanding among all people for
22 humanitarian needs by providing voluntary services through community
23 involvement and international cooperation;
- 24 (20) the Johnson county young matrons, inc., for the purpose of
25 promoting a positive future for members of the community through
26 volunteerism, financial support and education through the efforts of an all
27 volunteer organization;
- 28 (21) the American Cancer Society, Inc., for the purpose of eliminating
29 cancer as a major health problem by preventing cancer, saving lives and
30 diminishing suffering from cancer, through research, education, advocacy
31 and service;
- 32 (22) the community services of Shawnee, inc., for the purpose of
33 providing food and clothing to those in need;
- 34 (23) the angel babies association, for the purpose of providing
35 assistance, support and items of necessity to teenage mothers and their
36 babies; and
- 37 (24) the Kansas fairgrounds foundation for the purpose of the
38 preservation, renovation and beautification of the Kansas state fairgrounds;
- 39 (ww) all sales of tangible personal property purchased by the Habitat
40 for Humanity for the exclusive use of being incorporated within a housing
41 project constructed by such organization;
- 42 (xx) all sales of tangible personal property and services purchased by
43 a nonprofit zoo which is exempt from federal income taxation pursuant to

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

1 (yy) all sales of tangible personal property and services purchased by
2 a parent-teacher association or organization, and all sales of tangible
3 personal property by or on behalf of such association or organization;

4 (zz) all sales of machinery and equipment purchased by over-the-air,
5 free access radio or television station which is used directly and primarily
6 for the purpose of producing a broadcast signal or is such that the failure
7 of the machinery or equipment to operate would cause broadcasting to
8 cease. For purposes of this subsection, machinery and equipment shall
9 include, but not be limited to, that required by rules and regulations of the
10 federal communications commission, and all sales of electricity which are
11 essential or necessary for the purpose of producing a broadcast signal or is
12 such that the failure of the electricity would cause broadcasting to cease;

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

1 shall be determined that such materials will not be used for the purpose for
2 which such certificate was issued, such organization concerned shall be
3 liable for tax on all materials purchased for the project, and upon payment
4 thereof it may recover the same from the contractor together with
5 reasonable attorney fees. Any contractor or any agent, employee or
6 subcontractor thereof, who shall use or otherwise dispose of any materials
7 purchased under such a certificate for any purpose other than that for
8 which such a certificate is issued without the payment of the sales or
9 compensating tax otherwise imposed upon such materials, shall be guilty
10 of a misdemeanor and, upon conviction therefor, shall be subject to the
11 penalties provided for in subsection (g) of K.S.A. 79-3615, and
12 amendments thereto. Sales tax paid on and after July 1, 1998, but prior to
13 the effective date of this act upon the gross receipts received from any sale
14 exempted by the amendatory provisions of this subsection shall be
15 refunded. Each claim for a sales tax refund shall be verified and submitted
16 to the director of taxation upon forms furnished by the director and shall
17 be accompanied by any additional documentation required by the director.
18 The director shall review each claim and shall refund that amount of sales
19 tax paid as determined under the provisions of this subsection. All refunds
20 shall be paid from the sales tax refund fund upon warrants of the director
21 of accounts and reports pursuant to vouchers approved by the director or
22 the director's designee;

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

29 (ccc) on and after July 1, 1999, all sales of tangible personal property
30 and services purchased by a primary care clinic or health center the
31 primary purpose of which is to provide services to medically underserved
32 individuals and families, and which is exempt from federal income
33 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
34 and all sales of tangible personal property or services purchased by a
35 contractor for the purpose of constructing, equipping, reconstructing,
36 maintaining, repairing, enlarging, furnishing or remodeling facilities for
37 any such clinic or center which would be exempt from taxation under the
38 provisions of this section if purchased directly by such clinic or center.
39 Nothing in this subsection shall be deemed to exempt the purchase of any
40 construction machinery, equipment or tools used in the constructing,
41 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
42 remodeling facilities for any such clinic or center. When any such clinic or
43 center shall contract for the purpose of constructing, equipping,

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

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

42 (eee) on and after January 1, 1999, and before January 1, 2001, all
43 sales of materials and services purchased for the original construction,

1 reconstruction, repair or replacement of grain storage facilities, including
2 railroad sidings providing access thereto;

3 (fff) all sales of material handling equipment, racking systems and
4 other related machinery and equipment that is used for the handling,
5 movement or storage of tangible personal property in a warehouse or
6 distribution facility in this state; all sales of installation, repair and
7 maintenance services performed on such machinery and equipment; and
8 all sales of repair and replacement parts for such machinery and
9 equipment. For purposes of this subsection, a warehouse or distribution
10 facility means a single, fixed location that consists of buildings or
11 structures in a contiguous area where storage or distribution operations are
12 conducted that are separate and apart from the business' retail operations,
13 if any, and which do not otherwise qualify for exemption as occurring at a
14 manufacturing or processing plant or facility. Material handling and
15 storage equipment shall include aeration, dust control, cleaning, handling
16 and other such equipment that is used in a public grain warehouse or other
17 commercial grain storage facility, whether used for grain handling, grain
18 storage, grain refining or processing, or other grain treatment operation;

19 (ggg) all sales of tangible personal property and services purchased
20 by or on behalf of the Kansas Academy of Science which is exempt from
21 federal income taxation pursuant to section 501(c)(3) of the federal
22 internal revenue code of 1986, and used solely by such academy for the
23 preparation, publication and dissemination of education materials;

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

27 (iii) all sales of personal property and services purchased by an
28 organization which is exempt from federal income taxation pursuant to
29 section 501(c)(3) of the federal internal revenue code of 1986, and which
30 such personal property and services are used by any such organization in
31 the collection, storage and distribution of food products to nonprofit
32 organizations which distribute such food products to persons pursuant to a
33 food distribution program on a charitable basis without fee or charge, and
34 all sales of tangible personal property or services purchased by a
35 contractor for the purpose of constructing, equipping, reconstructing,
36 maintaining, repairing, enlarging, furnishing or remodeling facilities used
37 for the collection and storage of such food products for any such
38 organization which is exempt from federal income taxation pursuant to
39 section 501(c)(3) of the federal internal revenue code of 1986, which
40 would be exempt from taxation under the provisions of this section if
41 purchased directly by such organization. Nothing in this subsection shall
42 be deemed to exempt the purchase of any construction machinery,
43 equipment or tools used in the constructing, equipping, reconstructing,

1 maintaining, repairing, enlarging, furnishing or remodeling facilities for
2 any such organization. When any such organization shall contract for the
3 purpose of constructing, equipping, reconstructing, maintaining, repairing,
4 enlarging, furnishing or remodeling facilities, it shall obtain from the state
5 and furnish to the contractor an exemption certificate for the project
6 involved, and the contractor may purchase materials for incorporation in
7 such project. The contractor shall furnish the number of such certificate to
8 all suppliers from whom such purchases are made, and such suppliers shall
9 execute invoices covering the same bearing the number of such certificate.
10 Upon completion of the project the contractor shall furnish to such
11 organization concerned a sworn statement, on a form to be provided by the
12 director of taxation, that all purchases so made were entitled to exemption
13 under this subsection. All invoices shall be held by the contractor for a
14 period of five years and shall be subject to audit by the director of taxation.
15 If any materials purchased under such a certificate are found not to have
16 been incorporated in such facilities or not to have been returned for credit
17 or the sales or compensating tax otherwise imposed upon such materials
18 which will not be so incorporated in such facilities reported and paid by
19 such contractor to the director of taxation not later than the 20th day of the
20 month following the close of the month in which it shall be determined
21 that such materials will not be used for the purpose for which such
22 certificate was issued, such organization concerned shall be liable for tax
23 on all materials purchased for the project, and upon payment thereof it
24 may recover the same from the contractor together with reasonable
25 attorney fees. Any contractor or any agent, employee or subcontractor
26 thereof, who shall use or otherwise dispose of any materials purchased
27 under such a certificate for any purpose other than that for which such a
28 certificate is issued without the payment of the sales or compensating tax
29 otherwise imposed upon such materials, shall be guilty of a misdemeanor
30 and, upon conviction therefor, shall be subject to the penalties provided for
31 in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax
32 paid on and after July 1, 2005, but prior to the effective date of this act
33 upon the gross receipts received from any sale exempted by the
34 amendatory provisions of this subsection shall be refunded. Each claim for
35 a sales tax refund shall be verified and submitted to the director of taxation
36 upon forms furnished by the director and shall be accompanied by any
37 additional documentation required by the director. The director shall
38 review each claim and shall refund that amount of sales tax paid as
39 determined under the provisions of this subsection. All refunds shall be
40 paid from the sales tax refund fund upon warrants of the director of
41 accounts and reports pursuant to vouchers approved by the director or the
42 director's designee;

43 (jjj) all sales of dietary supplements dispensed pursuant to a

1 prescription order by a licensed practitioner or a mid-level practitioner as
2 defined by K.S.A. 65-1626, and amendments thereto. As used in this
3 subsection, "dietary supplement" means any product, other than tobacco,
4 intended to supplement the diet that: (1) Contains one or more of the
5 following dietary ingredients: A vitamin, a mineral, an herb or other
6 botanical, an amino acid, a dietary substance for use by humans to
7 supplement the diet by increasing the total dietary intake or a concentrate,
8 metabolite, constituent, extract or combination of any such ingredient; (2)
9 is intended for ingestion in tablet, capsule, powder, softgel, gelcap or
10 liquid form, or if not intended for ingestion, in such a form, is not
11 represented as conventional food and is not represented for use as a sole
12 item of a meal or of the diet; and (3) is required to be labeled as a dietary
13 supplement, identifiable by the supplemental facts box found on the label
14 and as required pursuant to 21 C.F.R. § 101.36;

15 (lll) all sales of tangible personal property and services purchased by
16 special olympics Kansas, inc. for the purpose of providing year-round
17 sports training and athletic competition in a variety of olympic-type sports
18 for individuals with intellectual disabilities by giving them continuing
19 opportunities to develop physical fitness, demonstrate courage, experience
20 joy and participate in a sharing of gifts, skills and friendship with their
21 families, other special olympics athletes and the community, and activities
22 provided or sponsored by such organization, and all sales of tangible
23 personal property by or on behalf of any such organization;

24 (mmm) all sales of tangible personal property purchased by or on
25 behalf of the Marillac Center, Inc., which is exempt from federal income
26 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
27 for the purpose of providing psycho-social-biological and special
28 education services to children, and all sales of any such property by or on
29 behalf of such organization for such purpose;

30 (nnn) all sales of tangible personal property and services purchased
31 by the West Sedgwick County-Sunrise Rotary Club and Sunrise Charitable
32 Fund for the purpose of constructing a boundless playground which is an
33 integrated, barrier free and developmentally advantageous play
34 environment for children of all abilities and disabilities;

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

39 (ppp) all sales of tangible personal property and services purchased
40 by or on behalf of a homeless shelter which is exempt from federal income
41 taxation pursuant to section 501(c)(3) of the federal income tax code of
42 1986, and used by any such homeless shelter to provide emergency and
43 transitional housing for individuals and families experiencing

1 homelessness, and all sales of any such property by or on behalf of any
2 such homeless shelter for any such purpose;

3 (qqq) all sales of tangible personal property and services purchased
4 by TLC for children and families, inc., hereinafter referred to as TLC,
5 which is exempt from federal income taxation pursuant to section 501(c)
6 (3) of the federal internal revenue code of 1986, and which such property
7 and services are used for the purpose of providing emergency shelter and
8 treatment for abused and neglected children as well as meeting additional
9 critical needs for children, juveniles and family, and all sales of any such
10 property by or on behalf of TLC for any such purpose; and all sales of
11 tangible personal property or services purchased by a contractor for the
12 purpose of constructing, maintaining, repairing, enlarging, furnishing or
13 remodeling facilities for the operation of services for TLC for any such
14 purpose which would be exempt from taxation under the provisions of this
15 section if purchased directly by TLC. Nothing in this subsection shall be
16 deemed to exempt the purchase of any construction machinery, equipment
17 or tools used in the constructing, maintaining, repairing, enlarging,
18 furnishing or remodeling such facilities for TLC. When TLC contracts for
19 the purpose of constructing, maintaining, repairing, enlarging, furnishing
20 or remodeling such facilities, it shall obtain from the state and furnish to
21 the contractor an exemption certificate for the project involved, and the
22 contractor may purchase materials for incorporation in such project. The
23 contractor shall furnish the number of such certificate to all suppliers from
24 whom such purchases are made, and such suppliers shall execute invoices
25 covering the same bearing the number of such certificate. Upon
26 completion of the project the contractor shall furnish to TLC a sworn
27 statement, on a form to be provided by the director of taxation, that all
28 purchases so made were entitled to exemption under this subsection. All
29 invoices shall be held by the contractor for a period of five years and shall
30 be subject to audit by the director of taxation. If any materials purchased
31 under such a certificate are found not to have been incorporated in the
32 building or other project or not to have been returned for credit or the sales
33 or compensating tax otherwise imposed upon such materials which will
34 not be so incorporated in the building or other project reported and paid by
35 such contractor to the director of taxation not later than the 20th day of the
36 month following the close of the month in which it shall be determined
37 that such materials will not be used for the purpose for which such
38 certificate was issued, TLC shall be liable for tax on all materials
39 purchased for the project, and upon payment thereof it may recover the
40 same from the contractor together with reasonable attorney fees. Any
41 contractor or any agent, employee or subcontractor thereof, who shall use
42 or otherwise dispose of any materials purchased under such a certificate
43 for any purpose other than that for which such a certificate is issued

1 without the payment of the sales or compensating tax otherwise imposed
2 upon such materials, shall be guilty of a misdemeanor and, upon
3 conviction therefor, shall be subject to the penalties provided for in
4 subsection (g) of K.S.A. 79-3615, and amendments thereto;

5 (rrr) all sales of tangible personal property and services purchased by
6 any county law library maintained pursuant to law and sales of tangible
7 personal property and services purchased by an organization which would
8 have been exempt from taxation under the provisions of this subsection if
9 purchased directly by the county law library for the purpose of providing
10 legal resources to attorneys, judges, students and the general public, and
11 all sales of any such property by or on behalf of any such county law
12 library;

13 (sss) all sales of tangible personal property and services purchased by
14 catholic charities or youthville, hereinafter referred to as charitable family
15 providers, which is exempt from federal income taxation pursuant to
16 section 501(c)(3) of the federal internal revenue code of 1986, and which
17 such property and services are used for the purpose of providing
18 emergency shelter and treatment for abused and neglected children as well
19 as meeting additional critical needs for children, juveniles and family, and
20 all sales of any such property by or on behalf of charitable family
21 providers for any such purpose; and all sales of tangible personal property
22 or services purchased by a contractor for the purpose of constructing,
23 maintaining, repairing, enlarging, furnishing or remodeling facilities for
24 the operation of services for charitable family providers for any such
25 purpose which would be exempt from taxation under the provisions of this
26 section if purchased directly by charitable family providers. Nothing in
27 this subsection shall be deemed to exempt the purchase of any construction
28 machinery, equipment or tools used in the constructing, maintaining,
29 repairing, enlarging, furnishing or remodeling such facilities for charitable
30 family providers. When charitable family providers contracts for the
31 purpose of constructing, maintaining, repairing, enlarging, furnishing or
32 remodeling such facilities, it shall obtain from the state and furnish to the
33 contractor an exemption certificate for the project involved, and the
34 contractor may purchase materials for incorporation in such project. The
35 contractor shall furnish the number of such certificate to all suppliers from
36 whom such purchases are made, and such suppliers shall execute invoices
37 covering the same bearing the number of such certificate. Upon
38 completion of the project the contractor shall furnish to charitable family
39 providers a sworn statement, on a form to be provided by the director of
40 taxation, that all purchases so made were entitled to exemption under this
41 subsection. All invoices shall be held by the contractor for a period of five
42 years and shall be subject to audit by the director of taxation. If any
43 materials purchased under such a certificate are found not to have been

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

18 (ttt) all sales of tangible personal property or services purchased by a
19 contractor for a project for the purpose of restoring, constructing,
20 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
21 remodeling a home or facility owned by a nonprofit museum which has
22 been granted an exemption pursuant to subsection (qq), which such home
23 or facility is located in a city which has been designated as a qualified
24 hometown pursuant to the provisions of K.S.A. 75-5071 *et seq.*, and
25 amendments thereto, and which such project is related to the purposes of
26 K.S.A. 75-5071 *et seq.*, and amendments thereto, and which would be
27 exempt from taxation under the provisions of this section if purchased
28 directly by such nonprofit museum. Nothing in this subsection shall be
29 deemed to exempt the purchase of any construction machinery, equipment
30 or tools used in the restoring, constructing, equipping, reconstructing,
31 maintaining, repairing, enlarging, furnishing or remodeling a home or
32 facility for any such nonprofit museum. When any such nonprofit museum
33 shall contract for the purpose of restoring, constructing, equipping,
34 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
35 a home or facility, it shall obtain from the state and furnish to the
36 contractor an exemption certificate for the project involved, and the
37 contractor may purchase materials for incorporation in such project. The
38 contractor shall furnish the number of such certificates to all suppliers
39 from whom such purchases are made, and such suppliers shall execute
40 invoices covering the same bearing the number of such certificate. Upon
41 completion of the project, the contractor shall furnish to such nonprofit
42 museum a sworn statement on a form to be provided by the director of
43 taxation that all purchases so made were entitled to exemption under this

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

21 (uuu) all sales of tangible personal property and services purchased
22 by Kansas children's service league, hereinafter referred to as KCSL,
23 which is exempt from federal income taxation pursuant to section 501(c)
24 (3) of the federal internal revenue code of 1986, and which such property
25 and services are used for the purpose of providing for the prevention and
26 treatment of child abuse and maltreatment as well as meeting additional
27 critical needs for children, juveniles and family, and all sales of any such
28 property by or on behalf of KCSL for any such purpose; and all sales of
29 tangible personal property or services purchased by a contractor for the
30 purpose of constructing, maintaining, repairing, enlarging, furnishing or
31 remodeling facilities for the operation of services for KCSL for any such
32 purpose which would be exempt from taxation under the provisions of this
33 section if purchased directly by KCSL. Nothing in this subsection shall be
34 deemed to exempt the purchase of any construction machinery, equipment
35 or tools used in the constructing, maintaining, repairing, enlarging,
36 furnishing or remodeling such facilities for KCSL. When KCSL contracts
37 for the purpose of constructing, maintaining, repairing, enlarging,
38 furnishing or remodeling such facilities, it shall obtain from the state and
39 furnish to the contractor an exemption certificate for the project involved,
40 and the contractor may purchase materials for incorporation in such
41 project. The contractor shall furnish the number of such certificate to all
42 suppliers from whom such purchases are made, and such suppliers shall
43 execute invoices covering the same bearing the number of such certificate.

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

23 (vvv) all sales of tangible personal property or services, including the
24 renting and leasing of tangible personal property or services, purchased by
25 Jazz in the Woods, Inc., a Kansas corporation which is exempt from
26 federal income taxation pursuant to section 501(c)(3) of the federal
27 internal revenue code, for the purpose of providing Jazz in the Woods, an
28 event benefiting children-in-need and other nonprofit charities assisting
29 such children, and all sales of any such property by or on behalf of such
30 organization for such purpose;

31 (www) all sales of tangible personal property purchased by or on
32 behalf of the Frontenac Education Foundation, which is exempt from
33 federal income taxation pursuant to section 501(c)(3) of the federal
34 internal revenue code, for the purpose of providing education support for
35 students, and all sales of any such property by or on behalf of such
36 organization for such purpose;

37 (xxx) all sales of personal property and services purchased by the
38 booth theatre foundation, inc., an organization which is exempt from
39 federal income taxation pursuant to section 501(c)(3) of the federal
40 internal revenue code of 1986, and which such personal property and
41 services are used by any such organization in the constructing, equipping,
42 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
43 of the booth theatre, and all sales of tangible personal property or services

1 purchased by a contractor for the purpose of constructing, equipping,
2 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
3 the booth theatre for such organization, which would be exempt from
4 taxation under the provisions of this section if purchased directly by such
5 organization. Nothing in this subsection shall be deemed to exempt the
6 purchase of any construction machinery, equipment or tools used in the
7 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
8 furnishing or remodeling facilities for any such organization. When any
9 such organization shall contract for the purpose of constructing, equipping,
10 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
11 facilities, it shall obtain from the state and furnish to the contractor an
12 exemption certificate for the project involved, and the contractor may
13 purchase materials for incorporation in such project. The contractor shall
14 furnish the number of such certificate to all suppliers from whom such
15 purchases are made, and such suppliers shall execute invoices covering the
16 same bearing the number of such certificate. Upon completion of the
17 project the contractor shall furnish to such organization concerned a sworn
18 statement, on a form to be provided by the director of taxation, that all
19 purchases so made were entitled to exemption under this subsection. All
20 invoices shall be held by the contractor for a period of five years and shall
21 be subject to audit by the director of taxation. If any materials purchased
22 under such a certificate are found not to have been incorporated in such
23 facilities or not to have been returned for credit or the sales or
24 compensating tax otherwise imposed upon such materials which will not
25 be so incorporated in such facilities reported and paid by such contractor
26 to the director of taxation not later than the 20th day of the month following
27 the close of the month in which it shall be determined that such materials
28 will not be used for the purpose for which such certificate was issued, such
29 organization concerned shall be liable for tax on all materials purchased
30 for the project, and upon payment thereof it may recover the same from
31 the contractor together with reasonable attorney fees. Any contractor or
32 any agent, employee or subcontractor thereof, who shall use or otherwise
33 dispose of any materials purchased under such a certificate for any purpose
34 other than that for which such a certificate is issued without the payment
35 of the sales or compensating tax otherwise imposed upon such materials,
36 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
37 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
38 and amendments thereto. Sales tax paid on and after January 1, 2007, but
39 prior to the effective date of this act upon the gross receipts received from
40 any sale which would have been exempted by the provisions of this
41 subsection had such sale occurred after the effective date of this act shall
42 be refunded. Each claim for a sales tax refund shall be verified and
43 submitted to the director of taxation upon forms furnished by the director

1 and shall be accompanied by any additional documentation required by the
2 director. The director shall review each claim and shall refund that amount
3 of sales tax paid as determined under the provisions of this subsection. All
4 refunds shall be paid from the sales tax refund fund upon warrants of the
5 director of accounts and reports pursuant to vouchers approved by the
6 director or the director's designee;

7 (yyy) all sales of tangible personal property and services purchased
8 by TLC charities foundation, inc., hereinafter referred to as TLC charities,
9 which is exempt from federal income taxation pursuant to section 501(c)
10 (3) of the federal internal revenue code of 1986, and which such property
11 and services are used for the purpose of encouraging private philanthropy
12 to further the vision, values, and goals of TLC for children and families,
13 inc.; and all sales of such property and services by or on behalf of TLC
14 charities for any such purpose and all sales of tangible personal property or
15 services purchased by a contractor for the purpose of constructing,
16 maintaining, repairing, enlarging, furnishing or remodeling facilities for
17 the operation of services for TLC charities for any such purpose which
18 would be exempt from taxation under the provisions of this section if
19 purchased directly by TLC charities. Nothing in this subsection shall be
20 deemed to exempt the purchase of any construction machinery, equipment
21 or tools used in the constructing, maintaining, repairing, enlarging,
22 furnishing or remodeling such facilities for TLC charities. When TLC
23 charities contracts for the purpose of constructing, maintaining, repairing,
24 enlarging, furnishing or remodeling such facilities, it shall obtain from the
25 state and furnish to the contractor an exemption certificate for the project
26 involved, and the contractor may purchase materials for incorporation in
27 such project. The contractor shall furnish the number of such certificate to
28 all suppliers from whom such purchases are made, and such suppliers shall
29 execute invoices covering the same bearing the number of such certificate.
30 Upon completion of the project the contractor shall furnish to TLC
31 charities a sworn statement, on a form to be provided by the director of
32 taxation, that all purchases so made were entitled to exemption under this
33 subsection. All invoices shall be held by the contractor for a period of five
34 years and shall be subject to audit by the director of taxation. If any
35 materials purchased under such a certificate are found not to have been
36 incorporated in the building or other project or not to have been returned
37 for credit or the sales or compensating tax otherwise imposed upon such
38 materials which will not be incorporated into the building or other project
39 reported and paid by such contractor to the director of taxation not later
40 than the 20th day of the month following the close of the month in which it
41 shall be determined that such materials will not be used for the purpose for
42 which such certificate was issued, TLC charities shall be liable for tax on
43 all materials purchased for the project, and upon payment thereof it may

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

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

14 (aaaa) all sales of personal property and services purchased by or on
15 behalf of victory in the valley, inc., which is exempt from federal income
16 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
17 for the purpose of providing a cancer support group and services for
18 persons with cancer, and all sales of any such property by or on behalf of
19 any such organization for any such purpose;

20 (bbbb) all sales of entry or participation fees, charges or tickets by
21 Guadalupe health foundation, which is exempt from federal income
22 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
23 for such organization's annual fundraising event which purpose is to
24 provide health care services for uninsured workers;

25 (cccc) all sales of tangible personal property or services purchased by
26 or on behalf of wayside waifs, inc., which is exempt from federal income
27 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
28 for the purpose of providing such organization's annual fundraiser, an
29 event whose purpose is to support the care of homeless and abandoned
30 animals, animal adoption efforts, education programs for children and
31 efforts to reduce animal over-population and animal welfare services, and
32 all sales of any such property, including entry or participation fees or
33 charges, by or on behalf of such organization for such purpose;

34 (dddd) all sales of tangible personal property or services purchased
35 by or on behalf of Goodwill Industries or Easter Seals of Kansas, Inc.,
36 both of which are exempt from federal income taxation pursuant to section
37 501(c)(3) of the federal internal revenue code, for the purpose of providing
38 education, training and employment opportunities for people with
39 disabilities and other barriers to employment;

40 (eeee) all sales of tangible personal property or services purchased by
41 or on behalf of All American Beef Battalion, Inc., which is exempt from
42 federal income taxation pursuant to section 501(c)(3) of the federal
43 internal revenue code, for the purpose of educating, promoting and

1 participating as a contact group through the beef cattle industry in order to
2 carry out such projects that provide support and morale to members of the
3 United States armed forces and military services; ~~and~~

4 (ffff) all sales of tangible personal property and services purchased by
5 sheltered living, inc., which is exempt from federal income taxation
6 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
7 and which such property and services are used for the purpose of
8 providing residential and day services for people with developmental
9 disabilities or mental retardation, or both, and all sales of any such
10 property by or on behalf of sheltered living, inc. for any such purpose; and
11 all sales of tangible personal property or services purchased by a
12 contractor for the purpose of rehabilitating, constructing, maintaining,
13 repairing, enlarging, furnishing or remodeling homes and facilities for
14 sheltered living, inc. for any such purpose which would be exempt from
15 taxation under the provisions of this section if purchased directly by
16 sheltered living, inc. Nothing in this subsection shall be deemed to exempt
17 the purchase of any construction machinery, equipment or tools used in the
18 constructing, maintaining, repairing, enlarging, furnishing or remodeling
19 such homes and facilities for sheltered living, inc. When sheltered living,
20 inc. contracts for the purpose of rehabilitating, constructing, maintaining,
21 repairing, enlarging, furnishing or remodeling such homes and facilities, it
22 shall obtain from the state and furnish to the contractor an exemption
23 certificate for the project involved, and the contractor may purchase
24 materials for incorporation in such project. The contractor shall furnish the
25 number of such certificate to all suppliers from whom such purchases are
26 made, and such suppliers shall execute invoices covering the same bearing
27 the number of such certificate. Upon completion of the project the
28 contractor shall furnish to sheltered living, inc. a sworn statement, on a
29 form to be provided by the director of taxation, that all purchases so made
30 were entitled to exemption under this subsection. All invoices shall be held
31 by the contractor for a period of five years and shall be subject to audit by
32 the director of taxation. If any materials purchased under such a certificate
33 are found not to have been incorporated in the building or other project or
34 not to have been returned for credit or the sales or compensating tax
35 otherwise imposed upon such materials which will not be so incorporated
36 in the building or other project reported and paid by such contractor to the
37 director of taxation not later than the 20th day of the month following the
38 close of the month in which it shall be determined that such materials will
39 not be used for the purpose for which such certificate was issued, sheltered
40 living, inc. shall be liable for tax on all materials purchased for the project,
41 and upon payment thereof it may recover the same from the contractor
42 together with reasonable attorney fees. Any contractor or any agent,
43 employee or subcontractor thereof, who shall use or otherwise dispose of

1 any materials purchased under such a certificate for any purpose other than
2 that for which such a certificate is issued without the payment of the sales
3 or compensating tax otherwise imposed upon such materials, shall be
4 guilty of a misdemeanor and, upon conviction therefor, shall be subject to
5 the penalties provided for in subsection (g) of K.S.A. 79-3615, and
6 amendments thereto;

7 *(gggg) all sales of game birds for which the primary purpose is use in*
8 *hunting; and*

9 *(hhhh) all sales of food and food ingredients sold during the periods*
10 *beginning at 12:01a.m. on the second Thursday of November and ending*
11 *at 12 midnight on the Sunday following, and beginning at 12:01a.m. on*
12 *the third Thursday of December and ending at 12 midnight on the Sunday*
13 *following. As used in this subsection:*

14 *(1) "Food and food ingredients" means substances, whether in liquid,*
15 *concentrated, solid, frozen, dried, or dehydrated form, that are sold for*
16 *ingestion or chewing by humans and are consumed for their taste or*
17 *nutritional value. "Food and food ingredients" does not include alcoholic*
18 *beverages as defined in subsection (c) of K.S.A. 79-3602, and amendments*
19 *thereto; tobacco as defined in subsection (rr) of K.S.A. 79-3602, and*
20 *amendments thereto; candy; dietary supplements as defined in subsection*
21 *(jjj) of K.S.A. 79-3606, and amendments thereto; food sold through*
22 *vending machines; or sales of prepared food;*

23 *(2) "Candy" means a preparation of sugar, honey or other natural or*
24 *artificial sweeteners in combination with chocolate, fruits, nuts or other*
25 *ingredients or flavorings in the form of bars, drops or pieces. Candy shall*
26 *not include any preparation containing flour and shall require no*
27 *refrigeration;*

28 *(3) "food sold through vending machines" means food dispensed from*
29 *a machine or other mechanical device that accepts payment;*

30 *(4)(A) "prepared food" means any of the following:*

31 *(i) Food sold in a heated state or heated by the seller;*

32 *(ii) two or more food ingredients mixed or combined by the seller for*
33 *sale as a single item; or*

34 *(iii) food sold with eating utensils provided by the seller, including*
35 *plates, knives, forks, spoons, glasses, cups, napkins or straws. A plate*
36 *does not include a container or packaging used to transport the food.*

37 *(B) "Prepared food" does not include:*

38 *(i) Food that is only cut, repackaged or pasteurized by the seller;*

39 *(ii) eggs, fish, meat, poultry and foods containing these raw animal*
40 *foods requiring cooking by the consumer as recommended by the United*
41 *States food and drug administration, in chapter 3, part 401.11 of its food*
42 *code, so as to prevent foodborne illnesses;*

43 *(iii) if sold without eating utensils provided by the seller, bakery*

1 *items, including breads, rolls, buns, biscuits, bagels, croissants, pastries,*
2 *donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies and*
3 *tortillas; or*

4 *(iv) food sold by a seller whose primary North American industry*
5 *classification system, United States, 2002 edition, classification is*
6 *manufacturing in sector 311, except subsection 3118;*

7 *(5) "soft drinks" means nonalcoholic beverages that contain natural*
8 *or artificial sweeteners. "Soft drinks" does not include beverages that*
9 *contain milk or milk products; soy, rice or similar milk substitutes; or*
10 *greater than 50% of vegetable or fruit juice by volume.*

11 Sec. 2. K.S.A. 2011 Supp. 79-3606 and 79-3606g are hereby
12 repealed.

13 Sec. 3. This act shall take effect and be in force from and after its
14 publication in the statute book.

15