

HOUSE BILL No. 2131

By Representative Miller

1-23

1 AN ACT concerning sales taxation; relating to exemptions, food and food
2 ingredients; amending K.S.A. 2016 Supp. 79-3602 and 79-3606 and
3 repealing the existing sections.
4

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

6 Section 1. K.S.A. 2016 Supp. 79-3602 is hereby amended to read as
7 follows: 79-3602. Except as otherwise provided, as used in the Kansas
8 retailers' sales tax act:

9 (a) "Agent" means a person appointed by a seller to represent the
10 seller before the member states.

11 (b) "Agreement" means the multistate agreement entitled the
12 streamlined sales and use tax agreement approved by the streamlined sales
13 tax implementing states at Chicago, Illinois on November 12, 2002.

14 (c) "Alcoholic beverages" means beverages that are suitable for
15 human consumption and contain 0.05% or more of alcohol by volume.

16 (d) "Certified automated system (CAS)" means software certified
17 under the agreement to calculate the tax imposed by each jurisdiction on a
18 transaction, determine the amount of tax to remit to the appropriate state
19 and maintain a record of the transaction.

20 (e) "Certified service provider (CSP)" means an agent certified under
21 the agreement to perform all the seller's sales and use tax functions, other
22 than the seller's obligation to remit tax on its own purchases.

23 (f) "Computer" means an electronic device that accepts information
24 in digital or similar form and manipulates it for a result based on a
25 sequence of instructions.

26 (g) "Computer software" means a set of coded instructions designed
27 to cause a computer or automatic data processing equipment to perform a
28 task.

29 (h) "Delivered electronically" means delivered to the purchaser by
30 means other than tangible storage media.

31 (i) "Delivery charges" means charges by the seller of personal
32 property or services for preparation and delivery to a location designated
33 by the purchaser of personal property or services including, but not limited
34 to, transportation, shipping, postage, handling, crating and packing.
35 Delivery charges shall not include charges for delivery of direct mail if the
36 charges are separately stated on an invoice or similar billing document

1 given to the purchaser.

2 (j) "Direct mail" means printed material delivered or distributed by
3 United States mail or other delivery services to a mass audience or to
4 addressees on a mailing list provided by the purchaser or at the direction of
5 the purchaser when the cost of the items are not billed directly to the
6 recipients. Direct mail includes tangible personal property supplied
7 directly or indirectly by the purchaser to the direct mail seller for inclusion
8 in the package containing the printed material. Direct mail does not
9 include multiple items of printed material delivered to a single address.

10 (k) "Director" means the state director of taxation.

11 (l) "Educational institution" means any nonprofit school, college and
12 university that offers education at a level above the 12th grade, and
13 conducts regular classes and courses of study required for accreditation by,
14 or membership in, the North Central Association of Colleges and Schools,
15 the state board of education, or that otherwise qualify as an "educational
16 institution," as defined by K.S.A. 74-50,103, and amendments thereto.
17 Such phrase shall include: (1) A group of educational institutions that
18 operates exclusively for an educational purpose; (2) nonprofit endowment
19 associations and foundations organized and operated exclusively to
20 receive, hold, invest and administer moneys and property as a permanent
21 fund for the support and sole benefit of an educational institution; (3)
22 nonprofit trusts, foundations and other entities organized and operated
23 principally to hold and own receipts from intercollegiate sporting events
24 and to disburse such receipts, as well as grants and gifts, in the interest of
25 collegiate and intercollegiate athletic programs for the support and sole
26 benefit of an educational institution; and (4) nonprofit trusts, foundations
27 and other entities organized and operated for the primary purpose of
28 encouraging, fostering and conducting scholarly investigations and
29 industrial and other types of research for the support and sole benefit of an
30 educational institution.

31 (m) "Electronic" means relating to technology having electrical,
32 digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

33 (n) "Food and food ingredients" means substances, whether in liquid,
34 concentrated, solid, frozen, dried or dehydrated form, that are sold for
35 ingestion or chewing by humans and are consumed for their taste or
36 nutritional value. "Food and food ingredients" does not include alcoholic
37 beverages, ~~or~~ tobacco, *candy, dietary supplements, soft drinks or food sold*
38 *through vending machines. "Food and food ingredients" does include*
39 *bottled water.*

40 (o) "Gross receipts" means the total selling price or the amount
41 received as defined in this act, in money, credits, property or other
42 consideration valued in money from sales at retail within this state; and
43 embraced within the provisions of this act. The taxpayer, may take credit

1 in the report of gross receipts for: (1) An amount equal to the selling price
2 of property returned by the purchaser when the full sale price thereof,
3 including the tax collected, is refunded in cash or by credit; and (2) an
4 amount equal to the allowance given for the trade-in of property.

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

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

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

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

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

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

29 (6) Feed for animals, fowl and aquatic plants and animals, the
30 primary purpose of which is use in agriculture or aquaculture, as defined in
31 K.S.A. 47-1901, and amendments thereto, the production of food for
32 human consumption, the production of animal, dairy, poultry or aquatic
33 plant and animal products, fiber, fur, or the production of offspring for use
34 for any such purpose or purposes.

35 (q) "Isolated or occasional sale" means the nonrecurring sale of
36 tangible personal property, or services taxable hereunder by a person not
37 engaged at the time of such sale in the business of selling such property or
38 services. Any religious organization which makes a nonrecurring sale of
39 tangible personal property acquired for the purpose of resale shall be
40 deemed to be not engaged at the time of such sale in the business of selling
41 such property. Such term shall include: (1) Any sale by a bank, savings and
42 loan institution, credit union or any finance company licensed under the
43 provisions of the Kansas uniform consumer credit code of tangible

1 personal property which has been repossessed by any such entity; and (2)
2 any sale of tangible personal property made by an auctioneer or agent on
3 behalf of not more than two principals or households if such sale is
4 nonrecurring and any such principal or household is not engaged at the
5 time of such sale in the business of selling tangible personal property.

6 (r) "Lease or rental" means any transfer of possession or control of
7 tangible personal property for a fixed or indeterminate term for
8 consideration. A lease or rental may include future options to purchase or
9 extend.

10 (1) Lease or rental does not include: (A) A transfer of possession or
11 control of property under a security agreement or deferred payment plan
12 that requires the transfer of title upon completion of the required
13 payments;

14 (B) a transfer or possession or control of property under an agreement
15 that requires the transfer of title upon completion of required payments and
16 payment of an option price does not exceed the greater of \$100 or 1% of
17 the total required payments; or

18 (C) providing tangible personal property along with an operator for a
19 fixed or indeterminate period of time. A condition of this exclusion is that
20 the operator is necessary for the equipment to perform as designed. For the
21 purpose of this subsection, an operator must do more than maintain,
22 inspect or set-up the tangible personal property.

23 (2) Lease or rental does include agreements covering motor vehicles
24 and trailers where the amount of consideration may be increased or
25 decreased by reference to the amount realized upon sale or disposition of
26 the property as defined in 26 U.S.C. § 7701(h)(1).

27 (3) This definition shall be used for sales and use tax purposes
28 regardless if a transaction is characterized as a lease or rental under
29 generally accepted accounting principles, the internal revenue code, the
30 uniform commercial code, K.S.A. 84-1-101 et seq., and amendments
31 thereto, or other provisions of federal, state or local law.

32 (4) This definition will be applied only prospectively from the
33 effective date of this act and will have no retroactive impact on existing
34 leases or rentals.

35 (s) "Load and leave" means delivery to the purchaser by use of a
36 tangible storage media where the tangible storage media is not physically
37 transferred to the purchaser.

38 (t) "Member state" means a state that has entered in the agreement,
39 pursuant to provisions of article VIII of the agreement.

40 (u) "Model 1 seller" means a seller that has selected a CSP as its
41 agent to perform all the seller's sales and use tax functions, other than the
42 seller's obligation to remit tax on its own purchases.

43 (v) "Model 2 seller" means a seller that has selected a CAS to

1 perform part of its sales and use tax functions, but retains responsibility for
2 remitting the tax.

3 (w) "Model 3 seller" means a seller that has sales in at least five
4 member states, has total annual sales revenue of at least \$500,000,000, has
5 a proprietary system that calculates the amount of tax due each jurisdiction
6 and has entered into a performance agreement with the member states that
7 establishes a tax performance standard for the seller. As used in this
8 subsection a seller includes an affiliated group of sellers using the same
9 proprietary system.

10 (x) "Municipal corporation" means any city incorporated under the
11 laws of Kansas.

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

19 (z) "Persons" means any individual, firm, copartnership, joint
20 adventure, association, corporation, estate or trust, receiver or trustee, or
21 any group or combination acting as a unit, and the plural as well as the
22 singular number; and shall specifically mean any city or other political
23 subdivision of the state of Kansas engaging in a business or providing a
24 service specifically taxable under the provisions of this act.

25 (aa) "Political subdivision" means any municipality, agency or
26 subdivision of the state which is, or shall hereafter be, authorized to levy
27 taxes upon tangible property within the state or which certifies a levy to a
28 municipality, agency or subdivision of the state which is, or shall hereafter
29 be, authorized to levy taxes upon tangible property within the state. Such
30 term also shall include any public building commission, housing, airport,
31 port, metropolitan transit or similar authority established pursuant to law
32 and the horsethief reservoir benefit district established pursuant to K.S.A.
33 82a-2201, and amendments thereto.

34 (bb) "Prescription" means an order, formula or recipe issued in any
35 form of oral, written, electronic or other means of transmission by a duly
36 licensed practitioner authorized by the laws of this state.

37 (cc) "Prewritten computer software" means computer software,
38 including prewritten upgrades, which is not designed and developed by the
39 author or other creator to the specifications of a specific purchaser. The
40 combining of two or more prewritten computer software programs or
41 prewritten portions thereof does not cause the combination to be other than
42 prewritten computer software. Prewritten computer software includes
43 software designed and developed by the author or other creator to the

1 specifications of a specific purchaser when it is sold to a person other than
2 the purchaser. Where a person modifies or enhances computer software of
3 which the person is not the author or creator, the person shall be deemed to
4 be the author or creator only of such person's modifications or
5 enhancements. Prewritten computer software or a prewritten portion
6 thereof that is modified or enhanced to any degree, where such
7 modification or enhancement is designed and developed to the
8 specifications of a specific purchaser, remains prewritten computer
9 software, except that where there is a reasonable, separately stated charge
10 or an invoice or other statement of the price given to the purchaser for
11 such modification or enhancement, such modification or enhancement
12 shall not constitute prewritten computer software.

13 (dd) "Property which is consumed" means tangible personal property
14 which is essential or necessary to and which is used in the actual process
15 of and consumed, depleted or dissipated within one year in: (1) The
16 production, manufacture, processing, mining, drilling, refining or
17 compounding of tangible personal property; (2) the providing of services;
18 (3) the irrigation of crops, for sale in the regular course of business; or (4)
19 the storage or processing of grain by a public grain warehouse or other
20 grain storage facility, and which is not reusable for such purpose. The
21 following is a listing of tangible personal property, included by way of
22 illustration but not of limitation, which qualifies as property which is
23 consumed:

24 (A) Insecticides, herbicides, germicides, pesticides, fungicides,
25 fumigants, antibiotics, biologicals, pharmaceuticals, vitamins and
26 chemicals for use in commercial or agricultural production, processing or
27 storage of fruit, vegetables, feeds, seeds, grains, animals or animal
28 products whether fed, injected, applied, combined with or otherwise used;

29 (B) electricity, gas and water; and

30 (C) petroleum products, lubricants, chemicals, solvents, reagents and
31 catalysts.

32 (ee) "Purchase price" applies to the measure subject to use tax and
33 has the same meaning as sales price.

34 (ff) "Purchaser" means a person to whom a sale of personal property
35 is made or to whom a service is furnished.

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

39 (hh) "Registered under this agreement" means registration by a seller
40 with the member states under the central registration system provided in
41 article IV of the agreement.

42 (ii) "Retailer" means a seller regularly engaged in the business of
43 selling, leasing or renting tangible personal property at retail or furnishing

1 electrical energy, gas, water, services or entertainment, and selling only to
2 the user or consumer and not for resale.

3 (jj) "Retail sale" or "sale at retail" means any sale, lease or rental for
4 any purpose other than for resale, sublease or subrent.

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

17 (ll) (1) "Sales or selling price" applies to the measure subject to sales
18 tax and means the total amount of consideration, including cash, credit,
19 property and services, for which personal property or services are sold,
20 leased or rented, valued in money, whether received in money or
21 otherwise, without any deduction for the following:

22 (A) The seller's cost of the property sold;

23 (B) the cost of materials used, labor or service cost, interest, losses,
24 all costs of transportation to the seller, all taxes imposed on the seller and
25 any other expense of the seller;

26 (C) charges by the seller for any services necessary to complete the
27 sale, other than delivery and installation charges;

28 (D) delivery charges; and

29 (E) installation charges.

30 (2) "Sales or selling price" includes consideration received by the
31 seller from third parties if:

32 (A) The seller actually receives consideration from a party other than
33 the purchaser and the consideration is directly related to a price reduction
34 or discount on the sale;

35 (B) the seller has an obligation to pass the price reduction or discount
36 through to the purchaser;

37 (C) the amount of the consideration attributable to the sale is fixed
38 and determinable by the seller at the time of the sale of the item to the
39 purchaser; and

40 (D) one of the following criteria is met:

41 (i) The purchaser presents a coupon, certificate or other
42 documentation to the seller to claim a price reduction or discount where
43 the coupon, certificate or documentation is authorized, distributed or

1 granted by a third party with the understanding that the third party will
2 reimburse any seller to whom the coupon, certificate or documentation is
3 presented;

4 (ii) the purchaser identifies to the seller that the purchaser is a
5 member of a group or organization entitled to a price reduction or
6 discount. A preferred customer card that is available to any patron does not
7 constitute membership in such a group; or

8 (iii) the price reduction or discount is identified as a third party price
9 reduction or discount on the invoice received by the purchaser or on a
10 coupon, certificate or other documentation presented by the purchaser.

11 (3) "Sales or selling price" shall not include:

12 (A) Discounts, including cash, term or coupons that are not
13 reimbursed by a third party that are allowed by a seller and taken by a
14 purchaser on a sale;

15 (B) interest, financing and carrying charges from credit extended on
16 the sale of personal property or services, if the amount is separately stated
17 on the invoice, bill of sale or similar document given to the purchaser;

18 (C) any taxes legally imposed directly on the consumer that are
19 separately stated on the invoice, bill of sale or similar document given to
20 the purchaser;

21 (D) the amount equal to the allowance given for the trade-in of
22 property, if separately stated on the invoice, billing or similar document
23 given to the purchaser; and

24 (E) commencing on July 1, 2006, and ending on June 30, 2009, cash
25 rebates granted by a manufacturer to a purchaser or lessee of a new motor
26 vehicle if paid directly to the retailer as a result of the original sale.

27 (mm) "Seller" means a person making sales, leases or rentals of
28 personal property or services.

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

31 (oo) "Sourcing rules" means the rules set forth in K.S.A. 2016 Supp.
32 79-3670 through 79-3673, K.S.A. 12-191 and 12-191a, and amendments
33 thereto, which shall apply to identify and determine the state and local
34 taxing jurisdiction sales or use taxes to pay, or collect and remit on a
35 particular retail sale.

36 (pp) "Tangible personal property" means personal property that can
37 be seen, weighed, measured, felt or touched, or that is in any other manner
38 perceptible to the senses. Tangible personal property includes electricity,
39 water, gas, steam and prewritten computer software.

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

42 (rr) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco or
43 any other item that contains tobacco.

1 (ss) "Entity-based exemption" means an exemption based on who
2 purchases the product or who sells the product. An exemption that is
3 available to all individuals shall not be considered an entity-based
4 exemption.

5 (tt) "Over-the-counter" drug means a drug that contains a label that
6 identifies the product as a drug as required by 21 C.F.R. § 201.66. The
7 over-the-counter drug label includes: (1) A drug facts panel; or (2) a
8 statement of the active ingredients with a list of those ingredients
9 contained in the compound, substance or preparation. Over-the-counter
10 drugs do not include grooming and hygiene products such as soaps,
11 cleaning solutions, shampoo, toothpaste, antiperspirants and sun tan
12 lotions and screens.

13 (uu) "Ancillary services" means services that are associated with or
14 incidental to the provision of telecommunications services, including, but
15 not limited to, detailed telecommunications billing, directory assistance,
16 vertical service and voice mail services.

17 (vv) "Conference bridging service" means an ancillary service that
18 links two or more participants of an audio or video conference call and
19 may include the provision of a telephone number. Conference bridging
20 service does not include the telecommunications services used to reach the
21 conference bridge.

22 (ww) "Detailed telecommunications billing service" means an
23 ancillary service of separately stating information pertaining to individual
24 calls on a customer's billing statement.

25 (xx) "Directory assistance" means an ancillary service of providing
26 telephone number information or address information, or both.

27 (yy) "Vertical service" means an ancillary service that is offered in
28 connection with one or more telecommunications services, which offers
29 advanced calling features that allow customers to identify callers and to
30 manage multiple calls and call connections, including conference bridging
31 services.

32 (zz) "Voice mail service" means an ancillary service that enables the
33 customer to store, send or receive recorded messages. Voice mail service
34 does not include any vertical services that the customer may be required to
35 have in order to utilize the voice mail service.

36 (aaa) "Telecommunications service" means the electronic
37 transmission, conveyance or routing of voice, data, audio, video or any
38 other information or signals to a point, or between or among points. The
39 term telecommunications service includes such transmission, conveyance
40 or routing in which computer processing applications are used to act on the
41 form, code or protocol of the content for purposes of transmissions,
42 conveyance or routing without regard to whether such service is referred to
43 as voice over internet protocol services or is classified by the federal

1 communications commission as enhanced or value added.
2 Telecommunications service does not include:

3 (1) Data processing and information services that allow data to be
4 generated, acquired, stored, processed or retrieved and delivered by an
5 electronic transmission to a purchaser where such purchaser's primary
6 purpose for the underlying transaction is the processed data or
7 information;

8 (2) installation or maintenance of wiring or equipment on a
9 customer's premises;

10 (3) tangible personal property;

11 (4) advertising, including, but not limited to, directory advertising;

12 (5) billing and collection services provided to third parties;

13 (6) internet access service;

14 (7) radio and television audio and video programming services,
15 regardless of the medium, including the furnishing of transmission,
16 conveyance and routing of such services by the programming service
17 provider. Radio and television audio and video programming services shall
18 include, but not be limited to, cable service as defined in 47 U.S.C. §
19 522(6) and audio and video programming services delivered by
20 commercial mobile radio service providers, as defined in 47 C.F.R. § 20.3;

21 (8) ancillary services; or

22 (9) digital products delivered electronically, including, but not limited
23 to, software, music, video, reading materials or ring tones.

24 (bbb) "800 service" means a telecommunications service that allows a
25 caller to dial a toll-free number without incurring a charge for the call. The
26 service is typically marketed under the name 800, 855, 866, 877 and 888
27 toll-free calling, and any subsequent numbers designated by the federal
28 communications commission.

29 (ccc) "900 service" means an inbound toll telecommunications
30 service purchased by a subscriber that allows the subscriber's customers to
31 call in to the subscriber's prerecorded announcement or live service. 900
32 service does not include the charge for collection services provided by the
33 seller of the telecommunications services to the subscriber, or service or
34 product sold by the subscriber to the subscriber's customer. The service is
35 typically marketed under the name 900 service, and any subsequent
36 numbers designated by the federal communications commission.

37 (ddd) "Value-added non-voice data service" means a service that
38 otherwise meets the definition of telecommunications services in which
39 computer processing applications are used to act on the form, content,
40 code or protocol of the information or data primarily for a purpose other
41 than transmission, conveyance or routing.

42 (eee) "International" means a telecommunications service that
43 originates or terminates in the United States and terminates or originates

1 outside the United States, respectively. United States includes the District
2 of Columbia or a U.S. territory or possession.

3 (fff) "Interstate" means a telecommunications service that originates
4 in one United States state, or a United States territory or possession, and
5 terminates in a different United States state or a United States territory or
6 possession.

7 (ggg) "Intrastate" means a telecommunications service that originates
8 in one United States state or a United States territory or possession, and
9 terminates in the same United States state or a United States territory or
10 possession.

11 (hhh) *"Bottled water" means water that is placed in a safety sealed*
12 *container or package for human consumption. "Bottled water" is calorie*
13 *free and does not contain sweeteners or other additives, except that it may*
14 *contain:*

- 15 (1) *Antimicrobial agents;*
- 16 (2) *fluoride;*
- 17 (3) *carbonation;*
- 18 (4) *vitamins, minerals and electrolytes;*
- 19 (5) *oxygen;*
- 20 (6) *preservatives; and*
- 21 (7) *only those flavors, extracts or essences derived from a spice or*
22 *fruit.*

23 *"Bottled water" includes water that is delivered to the buyer in a*
24 *reusable container that is not sold with the water.*

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

30 (jjj) *"Food sold through vending machines" means food dispensed*
31 *from a machine or other mechanical device that accepts payment.*

32 (lll) *"Prepared food" means:*

- 33 (1) *Food sold in a heated state or heated by the seller;*
- 34 (2) *two or more food ingredients mixed or combined by the seller for*
35 *sale as a single item; or*
- 36 (3) *food sold with eating utensils provided by the seller, including*
37 *plates, knives, forks, spoons, glasses, cups, napkins or straws. A plate does*
38 *not include a container or packaging used to transport the food.*

39 *"Prepared food" does not include food that is only cut, repackaged or*
40 *pasteurized by the seller; and eggs, fish, meat, poultry and foods*
41 *containing these raw animal foods requiring cooking by the consumer as*
42 *recommended by the food and drug administration in chapter 3, part*
43 *401.11 of its food code so as to prevent food borne illnesses.*

1 (mmm) "Soft drinks" means nonalcoholic beverages that contain
2 natural or artificial sweeteners. "Soft drinks" does not include beverages
3 that contain milk or milk products, soy, rice or similar milk substitutes, or
4 greater than 50% of vegetable or fruit juice by volume.

5 (nnn) "Dietary supplement" shall have the same meaning ascribed to
6 it as in K.S.A. 79-3606(jjj), and amendments thereto.

7 Sec. 2. K.S.A. 2016 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 and electronic cigarettes as defined by K.S.A. 79-
13 3301, and amendments thereto, including consumable material for such
14 electronic cigarettes, cereal malt beverages and malt products as defined
15 by K.S.A. 79-3817, and amendments thereto, including wort, liquid malt,
16 malt syrup and malt extract, which is not subject to taxation under the
17 provisions of K.S.A. 79-41a02, and amendments thereto, motor vehicles
18 taxed pursuant to K.S.A. 79-5117, and amendments thereto, tires taxed
19 pursuant to K.S.A. 65-3424d, and amendments thereto, drycleaning and
20 laundry services taxed pursuant to K.S.A. 65-34,150, and amendments
21 thereto, and gross receipts from regulated sports contests taxed pursuant to
22 the Kansas professional regulated sports act, and amendments thereto;

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

37 (c) all sales of tangible personal property or services, including the
38 renting and leasing of tangible personal property, purchased directly by a
39 public or private elementary or secondary school or public or private
40 nonprofit educational institution and used primarily by such school or
41 institution for nonsectarian programs and activities provided or sponsored
42 by such school or institution or in the erection, repair or enlargement of
43 buildings to be used for such purposes. The exemption herein provided

1 shall not apply to erection, construction, repair, enlargement or equipment
2 of buildings used primarily for human habitation;

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

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

32 (e) all sales of tangible personal property or services purchased by a
33 contractor for the erection, repair or enlargement of buildings or other
34 projects for the government of the United States, its agencies or
35 instrumentalities, which would be exempt from taxation if purchased
36 directly by the government of the United States, its agencies or
37 instrumentalities. When the government of the United States, its agencies
38 or instrumentalities shall contract for the erection, repair, or enlargement
39 of any building or other project, it shall obtain from the state and furnish to
40 the contractor an exemption certificate for the project involved, and the
41 contractor may purchase materials for incorporation in such project. The
42 contractor shall furnish the number of such certificates to all suppliers
43 from whom such purchases are made, and such suppliers shall execute

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

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

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

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

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

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

41 (k) any motor vehicle, semitrailer or pole trailer, as such terms are
42 defined by K.S.A. 8-126, and amendments thereto, or aircraft sold and
43 delivered in this state to a bona fide resident of another state, which motor

1 vehicle, semitrailer, pole trailer or aircraft is not to be registered or based
2 in this state and which vehicle, semitrailer, pole trailer or aircraft will not
3 remain in this state more than 10 days;

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

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

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

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

33 (p) all sales of drugs dispensed pursuant to a prescription order by a
34 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-
35 1626, and amendments thereto. As used in this subsection, "drug" means a
36 compound, substance or preparation and any component of a compound,
37 substance or preparation, other than food and food ingredients, dietary
38 supplements or alcoholic beverages, recognized in the official United
39 States pharmacopoeia, official homeopathic pharmacopoeia of the United
40 States or official national formulary, and supplement to any of them,
41 intended for use in the diagnosis, cure, mitigation, treatment or prevention
42 of disease or intended to affect the structure or any function of the body,
43 except that for taxable years commencing after December 31, 2013, this

1 subsection shall not apply to any sales of drugs used in the performance or
2 induction of an abortion, as defined in K.S.A. 65-6701, and amendments
3 thereto;

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

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

27 (s) except as provided in K.S.A. 2016 Supp. 82a-2101, and
28 amendments thereto, all sales of tangible personal property or services
29 purchased directly or indirectly by a groundwater management district
30 organized or operating under the authority of K.S.A. 82a-1020 et seq., and
31 amendments thereto, by a rural water district organized or operating under
32 the authority of K.S.A. 82a-612, and amendments thereto, or by a water
33 supply district organized or operating under the authority of K.S.A. 19-
34 3501 et seq., 19-3522 et seq., or 19-3545, and amendments thereto, which
35 property or services are used in the construction activities, operation or
36 maintenance of the district;

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

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

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

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

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

1 electricity and heat delivered through mains, lines or pipes pursuant to the
2 provisions of subsection (w)(1) and (w)(2), the provisions of this
3 subsection shall expire on December 31, 2005;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (2) For purposes of this subsection:

38 (A) "Integrated production operation" means an integrated series of
39 operations engaged in at a manufacturing or processing plant or facility to
40 process, transform or convert tangible personal property by physical,
41 chemical or other means into a different form, composition or character
42 from that in which it originally existed. Integrated production operations
43 shall include: (i) Production line operations, including packaging

1 operations; (ii) preproduction operations to handle, store and treat raw
2 materials; (iii) post production handling, storage, warehousing and
3 distribution operations; and (iv) waste, pollution and environmental
4 control operations, if any;

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

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

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

1 limitation, nonindustrial businesses whose operations are primarily retail
2 and that produce or process tangible personal property as an incidental part
3 of conducting the retail business, such as retailers who bake, cook or
4 prepare food products in the regular course of their retail trade, grocery
5 stores, meat lockers and meat markets that butcher or dress livestock or
6 poultry in the regular course of their retail trade, contractors who alter,
7 service, repair or improve real property, and retail businesses that clean,
8 service or refurbish and repair tangible personal property for its owner;

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

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

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

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

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

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

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

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

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

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

41 (H) to package the property being manufactured or processed in a
42 container or wrapping in which such property is normally sold or
43 transported;

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

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

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

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

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

17 (4) The following machinery, equipment and materials shall be
18 deemed to be exempt even though it may not otherwise qualify as
19 machinery and equipment used as an integral or essential part of an
20 integrated production operation: (A) Computers and related peripheral
21 equipment that are utilized by a manufacturing or processing business for
22 engineering of the finished product or for research and development or
23 product design; (B) machinery and equipment that is utilized by a
24 manufacturing or processing business to manufacture or rebuild tangible
25 personal property that is used in manufacturing or processing operations,
26 including tools, dies, molds, forms and other parts of qualifying machinery
27 and equipment; (C) portable plants for aggregate concrete, bulk cement
28 and asphalt including cement mixing drums to be attached to a motor
29 vehicle; (D) industrial fixtures, devices, support facilities and special
30 foundations necessary for manufacturing and production operations, and
31 materials and other tangible personal property sold for the purpose of
32 fabricating such fixtures, devices, facilities and foundations. An exemption
33 certificate for such purchases shall be signed by the manufacturer or
34 processor. If the fabricator purchases such material, the fabricator shall
35 also sign the exemption certificate; (E) a manufacturing or processing
36 business' laboratory equipment that is not located at the plant or facility,
37 but that would otherwise qualify for exemption under subsection (3)(E);
38 (F) all machinery and equipment used in surface mining activities as
39 described in K.S.A. 49-601 et seq., and amendments thereto, beginning
40 from the time a reclamation plan is filed to the acceptance of the
41 completed final site reclamation.

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

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

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

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

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

17 (E) furniture and other furnishings;

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

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

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

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

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

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

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

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

1 public health, except that for taxable years commencing after December
2 31, 2013, this subsection shall not apply to any sales of such materials
3 purchased by a nonprofit corporation which performs any abortion, as
4 defined in K.S.A. 65-6701, and amendments thereto;

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

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

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

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

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

24 (rr) all sales of tangible personal property which will admit the
25 purchaser thereof to any annual event sponsored by a nonprofit
26 organization which is exempt from federal income taxation pursuant to
27 section 501(c)(3) of the federal internal revenue code of 1986, except that
28 for taxable years commencing after December 31, 2013, this subsection
29 shall not apply to any sales of such tangible personal property purchased
30 by a nonprofit organization which performs any abortion, as defined in
31 K.S.A. 65-6701, and amendments thereto;

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

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

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

43 (vv) all sales of tangible personal property purchased by any of the

1 following organizations which are exempt from federal income taxation
2 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
3 for the following purposes, and all sales of any such property by or on
4 behalf of any such organization for any such purpose:

5 (1) The American heart association, Kansas affiliate, inc. for the
6 purposes of providing education, training, certification in emergency
7 cardiac care, research and other related services to reduce disability and
8 death from cardiovascular diseases and stroke;

9 (2) the Kansas alliance for the mentally ill, inc. for the purpose of
10 advocacy for persons with mental illness and to education, research and
11 support for their families;

12 (3) the Kansas mental illness awareness council for the purposes of
13 advocacy for persons who are mentally ill and for education, research and
14 support for them and their families;

15 (4) the American diabetes association Kansas affiliate, inc. for the
16 purpose of eliminating diabetes through medical research, public education
17 focusing on disease prevention and education, patient education including
18 information on coping with diabetes, and professional education and
19 training;

20 (5) the American lung association of Kansas, inc. for the purpose of
21 eliminating all lung diseases through medical research, public education
22 including information on coping with lung diseases, professional education
23 and training related to lung disease and other related services to reduce the
24 incidence of disability and death due to lung disease;

25 (6) the Kansas chapters of the Alzheimer's disease and related
26 disorders association, inc. for the purpose of providing assistance and
27 support to persons in Kansas with Alzheimer's disease, and their families
28 and caregivers;

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

32 (8) the national kidney foundation of Kansas and western Missouri
33 for the purpose of eliminating kidney disease through medical research
34 and public and private education related to such disease;

35 (9) the heartstrings community foundation for the purpose of
36 providing training, employment and activities for adults with
37 developmental disabilities;

38 (10) the cystic fibrosis foundation, heart of America chapter, for the
39 purposes of assuring the development of the means to cure and control
40 cystic fibrosis and improving the quality of life for those with the disease;

41 (11) the spina bifida association of Kansas for the purpose of
42 providing financial, educational and practical aid to families and
43 individuals with spina bifida. Such aid includes, but is not limited to,

1 funding for medical devices, counseling and medical educational
2 opportunities;

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

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

9 (14) the dreams work, inc., for the purpose of providing young adult
10 day services to individuals with developmental disabilities and assisting
11 families in avoiding institutional or nursing home care for a
12 developmentally disabled member of their family;

13 (15) the KSDS, Inc., for the purpose of promoting the independence
14 and inclusion of people with disabilities as fully participating and
15 contributing members of their communities and society through the
16 training and providing of guide and service dogs to people with
17 disabilities, and providing disability education and awareness to the
18 general public;

19 (16) the lyme association of greater Kansas City, Inc., for the purpose
20 of providing support to persons with lyme disease and public education
21 relating to the prevention, treatment and cure of lyme disease;

22 (17) the dream factory, inc., for the purpose of granting the dreams of
23 children with critical and chronic illnesses;

24 (18) the Ottawa Suzuki strings, inc., for the purpose of providing
25 students and families with education and resources necessary to enable
26 each child to develop fine character and musical ability to the fullest
27 potential;

28 (19) the international association of lions clubs for the purpose of
29 creating and fostering a spirit of understanding among all people for
30 humanitarian needs by providing voluntary services through community
31 involvement and international cooperation;

32 (20) the Johnson county young matrons, inc., for the purpose of
33 promoting a positive future for members of the community through
34 volunteerism, financial support and education through the efforts of an all
35 volunteer organization;

36 (21) the American cancer society, inc., for the purpose of eliminating
37 cancer as a major health problem by preventing cancer, saving lives and
38 diminishing suffering from cancer, through research, education, advocacy
39 and service;

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

42 (23) the angel babies association, for the purpose of providing
43 assistance, support and items of necessity to teenage mothers and their

1 babies; and

2 (24) the Kansas fairgrounds foundation for the purpose of the
3 preservation, renovation and beautification of the Kansas state fairgrounds;

4 (ww) all sales of tangible personal property purchased by the habitat
5 for humanity for the exclusive use of being incorporated within a housing
6 project constructed by such organization;

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

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

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

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

21 (aaa) all sales of tangible personal property and services purchased by
22 a religious organization which is exempt from federal income taxation
23 pursuant to section 501(c)(3) of the federal internal revenue code, and used
24 exclusively for religious purposes, and all sales of tangible personal
25 property or services purchased by a contractor for the purpose of
26 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
27 furnishing or remodeling facilities for any such organization which would
28 be exempt from taxation under the provisions of this section if purchased
29 directly by such organization. Nothing in this subsection shall be deemed
30 to exempt the purchase of any construction machinery, equipment or tools
31 used in the constructing, equipping, reconstructing, maintaining, repairing,
32 enlarging, furnishing or remodeling facilities for any such organization.
33 When any such organization shall contract for the purpose of constructing,
34 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
35 remodeling facilities, 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 certificate to all suppliers from
39 whom such purchases are made, and such suppliers shall execute invoices
40 covering the same bearing the number of such certificate. Upon
41 completion of the project the contractor shall furnish to such organization
42 concerned 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 the building or other project
7 reported and paid by such contractor to the director of taxation not later
8 than the 20th day of the month following the close of the month in which it
9 shall be determined that such materials will not be used for the purpose for
10 which such certificate was issued, such organization concerned shall be
11 liable for tax on all materials purchased for the project, and upon payment
12 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 K.S.A. 79-3615(h), and amendments thereto.
20 Sales tax paid on and after July 1, 1998, but prior to the effective date of
21 this act upon the gross receipts received from any sale exempted by the
22 amendatory provisions of this subsection shall be refunded. Each claim for
23 a sales tax refund shall be verified and submitted to the director of taxation
24 upon forms furnished by the director and shall be accompanied by any
25 additional documentation required by the director. The director shall
26 review each claim and shall refund that amount of sales tax paid as
27 determined under the provisions of this subsection. All refunds shall be
28 paid from the sales tax refund fund upon warrants of the director of
29 accounts and reports pursuant to vouchers approved by the director or the
30 director's designee;

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

37 (ccc) on and after July 1, 1999, all sales of tangible personal property
38 and services purchased by a primary care clinic or health center the
39 primary purpose of which is to provide services to medically underserved
40 individuals and families, and which is exempt from federal income
41 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
42 and all sales of tangible personal property or services purchased by a
43 contractor for the purpose of constructing, equipping, reconstructing,

1 maintaining, repairing, enlarging, furnishing or remodeling facilities for
2 any such clinic or center which would be exempt from taxation under the
3 provisions of this section if purchased directly by such clinic or center,
4 except that for taxable years commencing after December 31, 2013, this
5 subsection shall not apply to any sales of such tangible personal property
6 and services purchased by a primary care clinic or health center which
7 performs any abortion, as defined in K.S.A. 65-6701, and amendments
8 thereto. Nothing in this subsection shall be deemed to exempt the purchase
9 of any construction machinery, equipment or tools used in the
10 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
11 furnishing or remodeling facilities for any such clinic or center. When any
12 such clinic or center shall contract for the purpose of constructing,
13 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
14 remodeling facilities, it shall obtain from the state and furnish to the
15 contractor an exemption certificate for the project involved, and the
16 contractor may purchase materials for incorporation in such project. The
17 contractor shall furnish the number of such certificate to all suppliers from
18 whom such purchases are made, and such suppliers shall execute invoices
19 covering the same bearing the number of such certificate. Upon
20 completion of the project the contractor shall furnish to such clinic or
21 center concerned a sworn statement, on a form to be provided by the
22 director of taxation, that all purchases so made were entitled to exemption
23 under this subsection. All invoices shall be held by the contractor for a
24 period of five years and shall be subject to audit by the director of taxation.
25 If any materials purchased under such a certificate are found not to have
26 been incorporated in the building or other project or not to have been
27 returned for credit or the sales or compensating tax otherwise imposed
28 upon such materials which will not be so incorporated in the building or
29 other project reported and paid by such contractor to the director of
30 taxation not later than the 20th day of the month following the close of the
31 month in which it shall be determined that such materials will not be used
32 for the purpose for which such certificate was issued, such clinic or center
33 concerned shall be liable for tax on all materials purchased for the project,
34 and upon payment thereof it may recover the same from the contractor
35 together with reasonable attorney fees. Any contractor or any agent,
36 employee or subcontractor thereof, who shall use or otherwise dispose of
37 any materials purchased under such a certificate for any purpose other than
38 that for which such a certificate is issued without the payment of the sales
39 or compensating tax otherwise imposed upon such materials, shall be
40 guilty of a misdemeanor and, upon conviction therefor, shall be subject to
41 the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;
42 (ddd) on and after January 1, 1999, and before January 1, 2000, all
43 sales of materials and services purchased by any class II or III railroad as

1 classified by the federal surface transportation board for the construction,
2 renovation, repair or replacement of class II or III railroad track and
3 facilities used directly in interstate commerce. In the event any such track
4 or facility for which materials and services were purchased sales tax
5 exempt is not operational for five years succeeding the allowance of such
6 exemption, the total amount of sales tax which would have been payable
7 except for the operation of this subsection shall be recouped in accordance
8 with rules and regulations adopted for such purpose by the secretary of
9 revenue;

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

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

30 (ggg) all sales of tangible personal property and services purchased
31 by or on behalf of the Kansas academy of science which is exempt from
32 federal income taxation pursuant to section 501(c)(3) of the federal
33 internal revenue code of 1986, and used solely by such academy for the
34 preparation, publication and dissemination of education materials;

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

38 (iii) all sales of personal property and services purchased by an
39 organization which is exempt from federal income taxation pursuant to
40 section 501(c)(3) of the federal internal revenue code of 1986, and which
41 such personal property and services are used by any such organization in
42 the collection, storage and distribution of food products to nonprofit
43 organizations which distribute such food products to persons pursuant to a

1 food distribution program on a charitable basis without fee or charge, and
2 all sales of tangible personal property or services purchased by a
3 contractor for the purpose of constructing, equipping, reconstructing,
4 maintaining, repairing, enlarging, furnishing or remodeling facilities used
5 for the collection and storage of such food products for any such
6 organization which is exempt from federal income taxation pursuant to
7 section 501(c)(3) of the federal internal revenue code of 1986, which
8 would be exempt from taxation under the provisions of this section if
9 purchased directly by such organization. Nothing in this subsection shall
10 be deemed to exempt the purchase of any construction machinery,
11 equipment or tools used in the constructing, equipping, reconstructing,
12 maintaining, repairing, enlarging, furnishing or remodeling facilities for
13 any such organization. When any such organization shall contract for the
14 purpose of constructing, equipping, reconstructing, maintaining, repairing,
15 enlarging, furnishing or remodeling facilities, it shall obtain from the state
16 and furnish to the contractor an exemption certificate for the project
17 involved, and the contractor may purchase materials for incorporation in
18 such project. The contractor shall furnish the number of such certificate to
19 all suppliers from whom such purchases are made, and such suppliers shall
20 execute invoices covering the same bearing the number of such certificate.
21 Upon completion of the project the contractor shall furnish to such
22 organization concerned a sworn statement, on a form to be provided by the
23 director of taxation, that all purchases so made were entitled to exemption
24 under this subsection. All invoices shall be held by the contractor for a
25 period of five years and shall be subject to audit by the director of taxation.
26 If any materials purchased under such a certificate are found not to have
27 been incorporated in such facilities or not to have been returned for credit
28 or the sales or compensating tax otherwise imposed upon such materials
29 which will not be so incorporated in such facilities reported and paid by
30 such contractor to the director of taxation not later than the 20th day of the
31 month following the close of the month in which it shall be determined
32 that such materials will not be used for the purpose for which such
33 certificate was issued, such organization concerned shall be liable for tax
34 on all materials purchased for the project, and upon payment thereof it
35 may recover the same from the contractor together with reasonable
36 attorney fees. Any contractor or any agent, employee or subcontractor
37 thereof, who shall use or otherwise dispose of any materials purchased
38 under such a certificate for any purpose other than that for which such a
39 certificate is issued without the payment of the sales or compensating tax
40 otherwise imposed upon such materials, shall be guilty of a misdemeanor
41 and, upon conviction therefor, shall be subject to the penalties provided for
42 in K.S.A. 79-3615(h), and amendments thereto. Sales tax paid on and after
43 July 1, 2005, but prior to the effective date of this act upon the gross

1 receipts received from any sale exempted by the amendatory provisions of
2 this subsection shall be refunded. Each claim for a sales tax refund shall be
3 verified and submitted to the director of taxation upon forms furnished by
4 the director and shall be accompanied by any additional documentation
5 required by the director. The director shall review each claim and shall
6 refund that amount of sales tax paid as determined under the provisions of
7 this subsection. All refunds shall be paid from the sales tax refund fund
8 upon warrants of the director of accounts and reports pursuant to vouchers
9 approved by the director or the director's designee;

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

25 (lll) all sales of tangible personal property and services purchased by
26 special olympics Kansas, inc. for the purpose of providing year-round
27 sports training and athletic competition in a variety of olympic-type sports
28 for individuals with intellectual disabilities by giving them continuing
29 opportunities to develop physical fitness, demonstrate courage, experience
30 joy and participate in a sharing of gifts, skills and friendship with their
31 families, other special olympics athletes and the community, and activities
32 provided or sponsored by such organization, and all sales of tangible
33 personal property by or on behalf of any such organization;

34 (mmm) all sales of tangible personal property purchased by or on
35 behalf of the Marillac center, inc., which is exempt from federal income
36 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
37 for the purpose of providing psycho-social-biological and special
38 education services to children, and all sales of any such property by or on
39 behalf of such organization for such purpose;

40 (nnn) all sales of tangible personal property and services purchased
41 by the west Sedgwick county-sunrise rotary club and sunrise charitable
42 fund for the purpose of constructing a boundless playground which is an
43 integrated, barrier free and developmentally advantageous play

1 environment for children of all abilities and disabilities;

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

6 (ppp) all sales of tangible personal property and services purchased
7 by or on behalf of a homeless shelter which is exempt from federal income
8 taxation pursuant to section 501(c)(3) of the federal income tax code of
9 1986, and used by any such homeless shelter to provide emergency and
10 transitional housing for individuals and families experiencing
11 homelessness, and all sales of any such property by or on behalf of any
12 such homeless shelter for any such purpose;

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

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

15 (rrr) all sales of tangible personal property and services purchased by
16 any county law library maintained pursuant to law and sales of tangible
17 personal property and services purchased by an organization which would
18 have been exempt from taxation under the provisions of this subsection if
19 purchased directly by the county law library for the purpose of providing
20 legal resources to attorneys, judges, students and the general public, and
21 all sales of any such property by or on behalf of any such county law
22 library;

23 (sss) all sales of tangible personal property and services purchased by
24 catholic charities or youthville, hereinafter referred to as charitable family
25 providers, which is exempt from federal income taxation pursuant to
26 section 501(c)(3) of the federal internal revenue code of 1986, and which
27 such property and services are used for the purpose of providing
28 emergency shelter and treatment for abused and neglected children as well
29 as meeting additional critical needs for children, juveniles and family, and
30 all sales of any such property by or on behalf of charitable family
31 providers for any such purpose; and all sales of tangible personal property
32 or services purchased by a contractor for the purpose of constructing,
33 maintaining, repairing, enlarging, furnishing or remodeling facilities for
34 the operation of services for charitable family providers for any such
35 purpose which would be exempt from taxation under the provisions of this
36 section if purchased directly by charitable family providers. Nothing in
37 this subsection shall be deemed to exempt the purchase of any construction
38 machinery, equipment or tools used in the constructing, maintaining,
39 repairing, enlarging, furnishing or remodeling such facilities for charitable
40 family providers. When charitable family providers contracts for the
41 purpose of constructing, maintaining, repairing, enlarging, furnishing or
42 remodeling such facilities, it shall obtain from the state and furnish to the
43 contractor an exemption certificate for the project involved, and the

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

27 (ttt) all sales of tangible personal property or services purchased by a
28 contractor for a project for the purpose of restoring, constructing,
29 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
30 remodeling a home or facility owned by a nonprofit museum which has
31 been granted an exemption pursuant to subsection (qq), which such home
32 or facility is located in a city which has been designated as a qualified
33 hometown pursuant to the provisions of K.S.A. 75-5071 et seq., and
34 amendments thereto, and which such project is related to the purposes of
35 K.S.A. 75-5071 et seq., and amendments thereto, and which would be
36 exempt from taxation under the provisions of this section if purchased
37 directly by such nonprofit museum. Nothing in this subsection shall be
38 deemed to exempt the purchase of any construction machinery, equipment
39 or tools used in the restoring, constructing, equipping, reconstructing,
40 maintaining, repairing, enlarging, furnishing or remodeling a home or
41 facility for any such nonprofit museum. When any such nonprofit museum
42 shall contract for the purpose of restoring, constructing, equipping,
43 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling

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

29 (uuu) all sales of tangible personal property and services purchased
30 by Kansas children's service league, hereinafter referred to as KCSL,
31 which is exempt from federal income taxation pursuant to section 501(c)
32 (3) of the federal internal revenue code of 1986, and which such property
33 and services are used for the purpose of providing for the prevention and
34 treatment of child abuse and maltreatment as well as meeting additional
35 critical needs for children, juveniles and family, and all sales of any such
36 property by or on behalf of KCSL for any such purpose; and all sales of
37 tangible personal property or services purchased by a contractor for the
38 purpose of constructing, maintaining, repairing, enlarging, furnishing or
39 remodeling facilities for the operation of services for KCSL for any such
40 purpose which would be exempt from taxation under the provisions of this
41 section if purchased directly by KCSL. Nothing in this subsection shall be
42 deemed to exempt the purchase of any construction machinery, equipment
43 or tools used in the constructing, maintaining, repairing, enlarging,

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

31 (vvv) all sales of tangible personal property or services, including the
32 renting and leasing of tangible personal property or services, purchased by
33 jazz in the woods, inc., a Kansas corporation which is exempt from federal
34 income taxation pursuant to section 501(c)(3) of the federal internal
35 revenue code, for the purpose of providing jazz in the woods, an event
36 benefiting children-in-need and other nonprofit charities assisting such
37 children, and all sales of any such property by or on behalf of such
38 organization for such purpose;

39 (www) all sales of tangible personal property purchased by or on
40 behalf of the Frontenac education foundation, which is exempt from
41 federal income taxation pursuant to section 501(c)(3) of the federal
42 internal revenue code, for the purpose of providing education support for
43 students, and all sales of any such property by or on behalf of such

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

1 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
2 subject to the penalties provided for in K.S.A. 79-3615(h), and
3 amendments thereto. Sales tax paid on and after January 1, 2007, but prior
4 to the effective date of this act upon the gross receipts received from any
5 sale which would have been exempted by the provisions of this subsection
6 had such sale occurred after the effective date of this act shall be refunded.
7 Each claim for a sales tax refund shall be verified and submitted to the
8 director of taxation upon forms furnished by the director and shall be
9 accompanied by any additional documentation required by the director.
10 The director shall review each claim and shall refund that amount of sales
11 tax paid as determined under the provisions of this subsection. All refunds
12 shall be paid from the sales tax refund fund upon warrants of the director
13 of accounts and reports pursuant to vouchers approved by the director or
14 the director's designee;

15 (yyy) all sales of tangible personal property and services purchased
16 by TLC charities foundation, inc., hereinafter referred to as TLC charities,
17 which is exempt from federal income taxation pursuant to section 501(c)
18 (3) of the federal internal revenue code of 1986, and which such property
19 and services are used for the purpose of encouraging private philanthropy
20 to further the vision, values, and goals of TLC for children and families,
21 inc.; and all sales of such property and services by or on behalf of TLC
22 charities for any such purpose and all sales of tangible personal property or
23 services purchased by a contractor for the purpose of constructing,
24 maintaining, repairing, enlarging, furnishing or remodeling facilities for
25 the operation of services for TLC charities for any such purpose which
26 would be exempt from taxation under the provisions of this section if
27 purchased directly by TLC charities. Nothing in this subsection shall be
28 deemed to exempt the purchase of any construction machinery, equipment
29 or tools used in the constructing, maintaining, repairing, enlarging,
30 furnishing or remodeling such facilities for TLC charities. When TLC
31 charities contracts for the purpose of constructing, maintaining, repairing,
32 enlarging, furnishing or remodeling such facilities, it shall obtain from the
33 state and furnish to the contractor an exemption certificate for the project
34 involved, and the contractor may purchase materials for incorporation in
35 such project. The contractor shall furnish the number of such certificate to
36 all suppliers from whom such purchases are made, and such suppliers shall
37 execute invoices covering the same bearing the number of such certificate.
38 Upon completion of the project the contractor shall furnish to TLC
39 charities 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 incorporated into 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, TLC charities shall be liable for tax on
8 all materials purchased for the project, and upon payment thereof it may
9 recover the same from the contractor together with reasonable attorney
10 fees. Any contractor or any agent, employee or subcontractor thereof, who
11 shall use or otherwise dispose of any materials purchased under such a
12 certificate for any purpose other than that for which such a certificate is
13 issued without the payment of the sales or compensating tax otherwise
14 imposed upon such materials, shall be guilty of a misdemeanor and, upon
15 conviction therefor, shall be subject to the penalties provided for in K.S.A.
16 79-3615(h), and amendments thereto;

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

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

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

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

42 (dddd) all sales of tangible personal property or services purchased
43 by or on behalf of goodwill industries or Easter seals of Kansas, inc., both

1 of which are exempt from federal income taxation pursuant to section
2 501(c)(3) of the federal internal revenue code, for the purpose of providing
3 education, training and employment opportunities for people with
4 disabilities and other barriers to employment;

5 (eeee) all sales of tangible personal property or services purchased by
6 or on behalf of all American beef battalion, inc., which is exempt from
7 federal income taxation pursuant to section 501(c)(3) of the federal
8 internal revenue code, for the purpose of educating, promoting and
9 participating as a contact group through the beef cattle industry in order to
10 carry out such projects that provide support and morale to members of the
11 United States armed forces and military services;

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

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

15 (gggg) all sales of game birds for which the primary purpose is use in
16 hunting;

17 (hhhh) all sales of tangible personal property or services purchased
18 on or after July 1, 2014, for the purpose of and in conjunction with
19 constructing, reconstructing, enlarging or remodeling a business identified
20 under the North American industry classification system (NAICS)
21 subsectors 1123, 1124, 112112, 112120 or 112210, and the sale and
22 installation of machinery and equipment purchased for installation at any
23 such business. The exemption provided in this subsection shall not apply
24 to projects that have actual total costs less than \$50,000. When a person
25 contracts for the construction, reconstruction, enlargement or remodeling
26 of any such business, such person shall obtain from the state and furnish to
27 the contractor an exemption certificate for the project involved, and the
28 contractor may purchase materials, machinery and equipment for
29 incorporation in such project. The contractor shall furnish the number of
30 such certificates to all suppliers from whom such purchases are made, and
31 such suppliers shall execute invoices covering the same bearing the
32 number of such certificate. Upon completion of the project, the contractor
33 shall furnish to the owner of the business a sworn statement, on a form to
34 be provided by the director of taxation, that all purchases so made were
35 entitled to exemption under this subsection. All invoices shall be held by
36 the contractor for a period of five years and shall be subject to audit by the
37 director of taxation. Any contractor or any agent, employee or
38 subcontractor of the contractor, who shall use or otherwise dispose of any
39 materials, machinery or equipment purchased under such a certificate for
40 any purpose other than that for which such a certificate is issued without
41 the payment of the sales or compensating tax otherwise imposed thereon,
42 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
43 subject to the penalties provided for in K.S.A. 79-3615(h), and

1 amendments thereto;

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

40 (jjj) all sales of tangible personal property or services purchased by
41 or on behalf of the beacon, inc., which is exempt from federal income
42 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
43 for the purpose of providing those desiring help with food, shelter, clothing

1 and other necessities of life during times of special need;

2 (kkkk) all sales of tangible personal property and services purchased
3 by or on behalf of reaching out from within, inc., which is exempt from
4 federal income taxation pursuant to section 501(c)(3) of the federal
5 internal revenue code, for the purpose of sponsoring self-help programs for
6 incarcerated persons that will enable such incarcerated persons to become
7 role models for non-violence while in correctional facilities and productive
8 family members and citizens upon return to the community; ~~and~~

9 (llll) all sales of tangible personal property and services purchased by
10 Gove county healthcare endowment foundation, inc., which is exempt
11 from federal income taxation pursuant to section 501(c)(3) of the federal
12 internal revenue code of 1986, and which such property and services are
13 used for the purpose of constructing and equipping an airport in Quinter,
14 Kansas, and all sales of tangible personal property or services purchased
15 by a contractor for the purpose of constructing and equipping an airport in
16 Quinter, Kansas, for such organization, which would be exempt from
17 taxation under the provisions of this section if purchased directly by such
18 organization. Nothing in this subsection shall be deemed to exempt the
19 purchase of any construction machinery, equipment or tools used in the
20 constructing or equipping of facilities for such organization. When such
21 organization shall contract for the purpose of constructing or equipping an
22 airport in Quinter, Kansas, it shall obtain from the state and furnish to the
23 contractor an exemption certificate for the project involved, and the
24 contractor may purchase materials for incorporation in such project. The
25 contractor shall furnish the number of such certificate to all suppliers from
26 whom such purchases are made, and such suppliers shall execute invoices
27 covering the same bearing the number of such certificate. Upon
28 completion of the project, the contractor shall furnish to such organization
29 concerned a sworn statement, on a form to be provided by the director of
30 taxation, that all purchases so made were entitled to exemption under this
31 subsection. All invoices shall be held by the contractor for a period of five
32 years and shall be subject to audit by the director of taxation. If any
33 materials purchased under such a certificate are found not to have been
34 incorporated in such facilities or not to have been returned for credit or the
35 sales or compensating tax otherwise imposed upon such materials which
36 will not be so incorporated in such facilities reported and paid by such
37 contractor to the director of taxation no later than the 20th day of the month
38 following the close of the month in which it shall be determined that such
39 materials will not be used for the purpose for which such certificate was
40 issued, such organization concerned shall be liable for tax on all materials
41 purchased for the project, and upon payment thereof it may recover the
42 same from the contractor together with reasonable attorney fees. Any
43 contractor or any agent, employee or subcontractor thereof, who purchased

1 under such a certificate for any purpose other than that for which such a
2 certificate is issued without the payment of the sales or compensating tax
3 otherwise imposed upon such materials, shall be guilty of a misdemeanor
4 and, upon conviction therefor, shall be subject to the penalties provided for
5 in K.S.A. 79-3615(h), and amendments thereto. The provisions of this
6 subsection shall expire and have no effect on and after July 1, 2019; and

7 *(mmmm) All sales of food and food ingredients. The provisions of this*
8 *subsection shall not apply to prepared food, unless sold without eating*
9 *utensils provided by the seller and described below:*

10 *(1) Food sold by a seller whose proper primary NAICS classification*
11 *is manufacturing in section 311, except subsector 3118 (bakeries).*

12 *(2)(A) Food sold in an unheated state by weight or volume as a*
13 *single item; or*

14 *(B) only meat or seafood sold in an unheated state by weight or*
15 *volume as a single item.*

16 *(3) Bakery items including bread, rolls, buns, biscuits, bagels,*
17 *croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars,*
18 *cookies and tortillas.*

19 *(4) Food sold that ordinarily requires additional cooking, as opposed*
20 *to just reheating, by the consumer prior to consumption.*

21 *(5) Bottled water that is not otherwise sold as prepared food.*

22 Sec. 3. K.S.A. 2016 Supp. 79-3602 and 79-3606 are hereby repealed.

23 Sec. 4. This act shall take effect and be in force from and after its
24 publication in the statute book.