

HOUSE BILL No. 2201

By Committee on Taxation

1-29

AN ACT relating to taxation of nonprofit organizations; concerning Mid-America Association for Computers in Education; amending K.S.A. 2000 Supp. 12-1692, 12-1696 and 79-3606 and repealing the existing sections.

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

Section 1. K.S.A. 2000 Supp. 12-1692 is hereby amended to read as follows: 12-1692. As used in this act, the following words and phrases shall have the meanings respectively ascribed to them herein:

(a) "Person" means an individual, firm, partnership, corporation, joint venture or other association of persons, *except for organizations which are exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986 organized for the purpose of providing computer education and training to Kansas educators and officers, employees, members or representatives of such organizations;*

(b) "Hotel, motel or tourist court" means any structure or building which contains rooms furnished for the purposes of providing lodging, which may or may not also provide meals, entertainment or various other personal services to transient guests, and which is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are sought for pay or compensation by transient or permanent guests and having more than two bedrooms furnished for the accommodation of such guests;

(c) "Transient guest" means a person who occupies a room in a hotel, motel or tourist court for not more than 28 consecutive days;

(d) "Business" means any person engaged in the business of renting, leasing or letting living quarters, sleeping accommodations, rooms or a part thereof in connection with any motel, hotel or tourist court;

(e) "Convention and tourism promotion" means: (1) Activities to attract visitors into the community through marketing efforts, including advertising, directed to at least one of the five basic convention and tourism market segments consisting of group tours, pleasure travelers, association meetings and conventions, trade shows and corporate meetings and travel; and (2) support of those activities and organizations which encourage increased lodging facility occupancy; and

1 (f) “Accommodations broker” means any business which maintains
2 an inventory of two or more rooms in one or more locations which are
3 offered for pay to a person or persons for not more than 28 consecutive
4 days.

5 Sec. 2. K.S.A. 2000 Supp. 12-1696 is hereby amended to read as
6 follows: 12-1696. As used in this act, the following words and phrases
7 shall have the meanings respectively ascribed to them herein:

8 (a) “Person” means an individual, firm, partnership, corporation, joint
9 venture or other association of persons, *except for organizations which*
10 *are exempt from federal income taxation pursuant to section 501 (c)(3) of*
11 *the federal internal revenue code of 1986 organized for the purpose of*
12 *providing computer education and training to Kansas educators and of-*
13 *ficers, employees, members or representatives of such organizations;*

14 (b) “Hotel, motel or tourist court” means any structure or building
15 which contains rooms furnished for the purposes of providing lodging,
16 which may or may not also provide meals, entertainment or various other
17 personal services to transient guests, and which is kept, used, maintained,
18 advertised or held out to the public as a place where sleeping accom-
19 modations are sought for pay or compensation by transient or permanent
20 guests and having more than two bedrooms furnished for the accom-
21 modation of such guests;

22 (c) “Transient guest” means a person who occupies a room in a hotel,
23 motel or tourist court for not more than 28 consecutive days;

24 (d) “Business” means any person engaged in the business of renting,
25 leasing or letting living quarters, sleeping accommodations, rooms or a
26 part thereof in connection with any motel, hotel or tourist court;

27 (e) “Convention and tourism promotion” means: (1) Activities to at-
28 tract visitors into the community through marketing efforts, including
29 advertising, directed to at least one of the five basic convention and tour-
30 ism market segments consisting of group tours, pleasure travelers, asso-
31 ciation meetings and conventions, trade shows and corporate meetings
32 and travel; and (2) support of those activities and organizations which
33 encourage increased lodging facility occupancy; and

34 (f) “Accommodations broker” means any business which maintains
35 an inventory of two or more rooms in one or more locations which are
36 offered for pay to a person or persons for not more than 28 consecutive
37 days.

38 Sec. 3. K.S.A. 2000 Supp. 79-3606 is hereby amended to read as
39 follows: 79-3606. The following shall be exempt from the tax imposed by
40 this act:

41 (a) All sales of motor-vehicle fuel or other articles upon which a sales
42 or excise tax has been paid, not subject to refund, under the laws of this
43 state except cigarettes as defined by K.S.A. 79-3301 and amendments

1 thereto, cereal malt beverages and malt products as defined by K.S.A. 79-
2 3817 and amendments thereto, including wort, liquid malt, malt syrup
3 and malt extract, which is not subject to taxation under the provisions of
4 K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant
5 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to
6 K.S.A. 65-3424d, and amendments thereto, and drycleaning and laundry
7 services taxed pursuant to K.S.A. 2000 Supp. 65-34,150, and amendments
8 thereto;

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

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

32 (d) all sales of tangible personal property or services purchased by a
33 contractor for the purpose of constructing, equipping, reconstructing,
34 maintaining, repairing, enlarging, furnishing or remodeling facilities for
35 any public or private nonprofit hospital or public hospital authority, public
36 or private elementary or secondary school or a public or private nonprofit
37 educational institution, which would be exempt from taxation under the
38 provisions of this act if purchased directly by such hospital or public hos-
39 pital authority, school or educational institution; and all sales of tangible
40 personal property or services purchased by a contractor for the purpose
41 of constructing, equipping, reconstructing, maintaining, repairing, en-
42 larging, furnishing or remodeling facilities for any political subdivision of
43 the state, the total cost of which is paid from funds of such political

1 subdivision and which would be exempt from taxation under the provi-
2 sions of this act if purchased directly by such political subdivision. Nothing
3 in this subsection or in the provisions of K.S.A. 12-3418 and amendments
4 thereto, shall be deemed to exempt the purchase of any construction
5 machinery, equipment or tools used in the constructing, equipping, re-
6 constructing, maintaining, repairing, enlarging, furnishing or remodeling
7 facilities for any political subdivision of the state. As used in this subsec-
8 tion, K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a
9 political subdivision" shall mean general tax revenues, the proceeds of
10 any bonds and gifts or grants-in-aid. Gifts shall not mean funds used for
11 the purpose of constructing, equipping, reconstructing, repairing, enlarg-
12 ing, furnishing or remodeling facilities which are to be leased to the do-
13 nor. When any political subdivision of the state, public or private non-
14 profit hospital or public hospital authority, public or private elementary
15 or secondary school or public or private nonprofit educational institution
16 shall contract for the purpose of constructing, equipping, reconstructing,
17 maintaining, repairing, enlarging, furnishing or remodeling facilities, it
18 shall obtain from the state and furnish to the contractor an exemption
19 certificate for the project involved, and the contractor may purchase ma-
20 terials for incorporation in such project. The contractor shall furnish the
21 number of such certificate to all suppliers from whom such purchases are
22 made, and such suppliers shall execute invoices covering the same bearing
23 the number of such certificate. Upon completion of the project the con-
24 tractor shall furnish to the political subdivision, hospital or public hospital
25 authority, school or educational institution concerned a sworn statement,
26 on a form to be provided by the director of taxation, that all purchases so
27 made were entitled to exemption under this subsection. As an alternative
28 to the foregoing procedure, any such contracting entity may apply to the
29 secretary of revenue for agent status for the sole purpose of issuing and
30 furnishing project exemption certificates to contractors pursuant to rules
31 and regulations adopted by the secretary establishing conditions and stan-
32 dards for the granting and maintaining of such status. All invoices shall
33 be held by the contractor for a period of five years and shall be subject
34 to audit by the director of taxation. If any materials purchased under such
35 a certificate are found not to have been incorporated in the building or
36 other project or not to have been returned for credit or the sales or
37 compensating tax otherwise imposed upon such materials which will not
38 be so incorporated in the building or other project reported and paid by
39 such contractor to the director of taxation not later than the 20th day of
40 the month following the close of the month in which it shall be deter-
41 mined that such materials will not be used for the purpose for which such
42 certificate was issued, the political subdivision, hospital or public hospital
43 authority, school or educational institution concerned shall be liable for

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

10 (e) all sales of tangible personal property or services purchased by a
11 contractor for the erection, repair or enlargement of buildings or other
12 projects for the government of the United States, its agencies or instru-
13 mentalities, which would be exempt from taxation if purchased directly
14 by the government of the United States, its agencies or instrumentalities.
15 When the government of the United States, its agencies or instrumen-
16 talities shall contract for the erection, repair, or enlargement of any build-
17 ing or other project, it shall obtain from the state and furnish to the
18 contractor an exemption certificate for the project involved, and the con-
19 tractor may purchase materials for incorporation in such project. The
20 contractor shall furnish the number of such certificates to all suppliers
21 from whom such purchases are made, and such suppliers shall execute
22 invoices covering the same bearing the number of such certificate. Upon
23 completion of the project the contractor shall furnish to the government
24 of the United States, its agencies or instrumentalities concerned a sworn
25 statement, on a form to be provided by the director of taxation, that all
26 purchases so made were entitled to exemption under this subsection. As
27 an alternative to the foregoing procedure, any such contracting entity may
28 apply to the secretary of revenue for agent status for the sole purpose of
29 issuing and furnishing project exemption certificates to contractors pur-
30 suant to rules and regulations adopted by the secretary establishing con-
31 ditions and standards for the granting and maintaining of such status. All
32 invoices shall be held by the contractor for a period of five years and shall
33 be subject to audit by the director of taxation. Any contractor or any agent,
34 employee or subcontractor thereof, who shall use or otherwise dispose of
35 any materials purchased under such a certificate for any purpose other
36 than that for which such a certificate is issued without the payment of
37 the sales or compensating tax otherwise imposed upon such materials,
38 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
39 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615
40 and amendments thereto;

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

1 (g) sales of aircraft including remanufactured and modified aircraft,
2 sales of aircraft repair, modification and replacement parts and sales of
3 services employed in the remanufacture, modification and repair of air-
4 craft sold to persons using directly or through an authorized agent such
5 aircraft and aircraft repair, modification and replacement parts as certified
6 or licensed carriers of persons or property in interstate or foreign com-
7 merce under authority of the laws of the United States or any foreign
8 government or sold to any foreign government or agency or instrumen-
9 tality of such foreign government and all sales of aircraft, aircraft parts,
10 replacement parts and services employed in the remanufacture, modifi-
11 cation and repair of aircraft for use outside of the United States;

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

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

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

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

27 (l) all isolated or occasional sales of tangible personal property, serv-
28 ices, substances or things, except isolated or occasional sale of motor
29 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.
30 79-3603 and amendments thereto;

31 (m) all sales of tangible personal property which become an ingre-
32 dient or component part of tangible personal property or services pro-
33 duced, manufactured or compounded for ultimate sale at retail within or
34 without the state of Kansas; and any such producer, manufacturer or
35 compounder may obtain from the director of taxation and furnish to the
36 supplier an exemption certificate number for tangible personal property
37 for use as an ingredient or component part of the property or services
38 produced, manufactured or compounded;

39 (n) all sales of tangible personal property which is consumed in the
40 production, manufacture, processing, mining, drilling, refining or com-
41 pounding of tangible personal property, the treating of by-products or
42 wastes derived from any such production process, the providing of serv-
43 ices or the irrigation of crops for ultimate sale at retail within or without

1 the state of Kansas; and any purchaser of such property may obtain from
2 the director of taxation and furnish to the supplier an exemption certifi-
3 cate number for tangible personal property for consumption in such pro-
4 duction, manufacture, processing, mining, drilling, refining, compound-
5 ing, treating, irrigation and in providing such services;

6 (o) all sales of animals, fowl and aquatic plants and animals, the pri-
7 mary purpose of which is use in agriculture or aquaculture, as defined in
8 K.S.A. 47-1901, and amendments thereto, the production of food for
9 human consumption, the production of animal, dairy, poultry or aquatic
10 plant and animal products, fiber or fur, or the production of offspring for
11 use for any such purpose or purposes;

12 (p) all sales of drugs, as defined by K.S.A. 65-1626 and amendments
13 thereto, dispensed pursuant to a prescription order, as defined by K.S.A.
14 65-1626 and amendments thereto, by a licensed practitioner or a mid-
15 level practitioner as defined by K.S.A. 65-1626, and amendments thereto;

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

19 (r) all sales of prosthetic and orthopedic appliances prescribed in
20 writing by a person licensed to practice the healing arts, dentistry or
21 optometry. For the purposes of this subsection, the term prosthetic and
22 orthopedic appliances means any apparatus, instrument, device, or equip-
23 ment used to replace or substitute for any missing part of the body; used
24 to alleviate the malfunction of any part of the body; or used to assist any
25 disabled person in leading a normal life by facilitating such person's mo-
26 bility; such term shall include accessories attached or to be attached to
27 motor vehicles, but such term shall not include motor vehicles or personal
28 property which when installed becomes a fixture to real property;

29 (s) all sales of tangible personal property or services purchased di-
30 rectly by a groundwater management district organized or operating un-
31 der the authority of K.S.A. 82a-1020 *et seq.* and amendments thereto,
32 which property or services are used in the operation or maintenance of
33 the district;

34 (t) all sales of farm machinery and equipment or aquaculture ma-
35 chinery and equipment, repair and replacement parts therefor and serv-
36 ices performed in the repair and maintenance of such machinery and
37 equipment. For the purposes of this subsection the term "farm machinery
38 and equipment or aquaculture machinery and equipment" shall include
39 machinery and equipment used in the operation of Christmas tree farm-
40 ing but shall not include any passenger vehicle, truck, truck tractor, trailer,
41 semitrailer or pole trailer, other than a farm trailer, as such terms are
42 defined by K.S.A. 8-126 and amendments thereto. Each purchaser of
43 farm machinery and equipment or aquaculture machinery and equipment

1 exempted herein must certify in writing on the copy of the invoice or
2 sales ticket to be retained by the seller that the farm machinery and
3 equipment or aquaculture machinery and equipment purchased will be
4 used only in farming, ranching or aquaculture production. Farming or
5 ranching shall include the operation of a feedlot and farm and ranch work
6 for hire and the operation of a nursery;

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

10 (v) all sales of food products to any contractor for use in preparing
11 meals for delivery to homebound elderly persons over 60 years of age and
12 to homebound disabled persons or to be served at a group-sitting at a
13 location outside of the home to otherwise homebound elderly persons
14 over 60 years of age and to otherwise homebound disabled persons, as
15 all or part of any food service project funded in whole or in part by
16 government or as part of a private nonprofit food service project available
17 to all such elderly or disabled persons residing within an area of service
18 designated by the private nonprofit organization, and all sales of food
19 products for use in preparing meals for consumption by indigent or home-
20 less individuals whether or not such meals are consumed at a place des-
21 ignated for such purpose;

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

30 (x) all sales of propane gas, LP-gas, coal, wood and other fuel sources
31 for the production of heat or lighting for noncommercial use of an oc-
32 cupant of residential premises;

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

37 (z) all sales of tangible personal property and services purchased di-
38 rectly by a port authority or by a contractor therefor as provided by the
39 provisions of K.S.A. 12-3418 and amendments thereto;

40 (aa) all sales of materials and services applied to equipment which is
41 transported into the state from without the state for repair, service, al-
42 teration, maintenance, remanufacture or modification and which is sub-
43 sequently transported outside the state for use in the transmission of

1 liquids or natural gas by means of pipeline in interstate or foreign com-
2 merce under authority of the laws of the United States;

3 (bb) all sales of used mobile homes or manufactured homes. As used
4 in this subsection: (1) “Mobile homes” and “manufactured homes” shall
5 have the meanings ascribed thereto by K.S.A. 58-4202 and amendments
6 thereto; and (2) “sales of used mobile homes or manufactured homes”
7 means sales other than the original retail sale thereof;

8 (cc) all sales of tangible personal property or services purchased for
9 the purpose of and in conjunction with constructing, reconstructing, en-
10 larging or remodeling a business or retail business which meets the
11 requirements established in K.S.A. 74-50,115 and amendments thereto,
12 and the sale and installation of machinery and equipment purchased for
13 installation at any such business or retail business. When a person shall
14 contract for the construction, reconstruction, enlargement or remodeling
15 of any such business or retail business, such person shall obtain from the
16 state and furnish to the contractor an exemption certificate for the project
17 involved, and the contractor may purchase materials, machinery and
18 equipment for incorporation in such project. The contractor shall furnish
19 the number of such certificates to all suppliers from whom such purchases
20 are made, and such suppliers shall execute invoices covering the same
21 bearing the number of such certificate. Upon completion of the project
22 the contractor shall furnish to the owner of the business or retail business
23 a sworn statement, on a form to be provided by the director of taxation,
24 that all purchases so made were entitled to exemption under this subsec-
25 tion. All invoices shall be held by the contractor for a period of five years
26 and shall be subject to audit by the director of taxation. Any contractor
27 or any agent, employee or subcontractor thereof, who shall use or oth-
28 erwise dispose of any materials, machinery or equipment purchased un-
29 der such a certificate for any purpose other than that for which such a
30 certificate is issued without the payment of the sales or compensating tax
31 otherwise imposed thereon, shall be guilty of a misdemeanor and, upon
32 conviction therefor, shall be subject to the penalties provided for in sub-
33 section (g) of K.S.A. 79-3615 and amendments thereto. As used in this
34 subsection, “business” and “retail business” have the meanings respec-
35 tively ascribed thereto by K.S.A. 74-50,114 and amendments thereto;

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

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

40 (ff) on and after July 1, 1988, all sales of new mobile homes or man-
41 ufactured homes to the extent of 40% of the gross receipts, determined
42 without regard to any trade-in allowance, received from such sale. As used
43 in this subsection, “mobile homes” and “manufactured homes” shall have

1 the meanings ascribed thereto by K.S.A. 58-4202 and amendments
2 thereto;

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

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

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

18 (jj) all sales of tangible personal property or services, including the
19 renting and leasing of tangible personal property, purchased directly on
20 behalf of a community-based mental retardation facility or mental health
21 center organized pursuant to K.S.A. 19-4001 *et seq.*, and amendments
22 thereto, and licensed in accordance with the provisions of K.S.A. 75-
23 3307b and amendments thereto. This exemption shall not apply to tan-
24 gible personal property customarily used for human habitation purposes;

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

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

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

32 (2) For purposes of this subsection:

33 (A) "Integrated production operation" means an integrated series of
34 operations engaged in at a manufacturing or processing plant or facility
35 to process, transform or convert tangible personal property by physical,
36 chemical or other means into a different form, composition or character
37 from that in which it originally existed. Integrated production operations
38 shall include: (i) Production line operations, including packaging opera-
39 tions; (ii) preproduction operations to handle, store and treat raw mate-
40 rials; (iii) post production handling, storage, warehousing and distribution
41 operations; and (iv) waste, pollution and environmental control opera-
42 tions, if any;

43 (B) "production line" means the assemblage of machinery and equip-

1 ment at a manufacturing or processing plant or facility where the actual
2 transformation or processing of tangible personal property occurs;

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

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

1 in the regular course of their retail trade, contractors who alter, service,
2 repair or improve real property, and retail businesses that clean, service
3 or refurbish and repair tangible personal property for its owner;

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

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

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

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

18 (B) to transport, convey, handle or store the property undergoing
19 manufacturing or processing at any point from the beginning of the pro-
20 duction line through any warehousing or distribution operation of the
21 final product that occurs at the plant or facility;

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

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

26 (E) to test or measure raw materials, the property undergoing man-
27 ufacturing or processing or the finished product, as a necessary part of
28 the manufacturer’s integrated production operations;

29 (F) to plan, manage, control or record the receipt and flow of inven-
30 tories of raw materials, consumables and component parts, the flow of
31 the property undergoing manufacturing or processing and the manage-
32 ment of inventories of the finished product;

33 (G) to produce energy for, lubricate, control the operating of or oth-
34 erwise enable the functioning of other production machinery and equip-
35 ment and the continuation of production operations;

36 (H) to package the property being manufactured or processed in a
37 container or wrapping in which such property is normally sold or
38 transported;

39 (I) to transmit or transport electricity, coke, gas, water, steam or sim-
40 ilar substances used in production operations from the point of genera-
41 tion, if produced by the manufacturer or processor at the plant site, to
42 that manufacturer’s production operation; or, if purchased or delivered
43 from offsite, from the point where the substance enters the site of the

1 plant or facility to that manufacturer's production operations;

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

4 (K) to provide and control an environment required to maintain cer-
5 tain levels of air quality, humidity or temperature in special and limited
6 areas of the plant or facility, where such regulation of temperature or
7 humidity is part of and essential to the production process;

8 (L) to treat, transport or store waste or other byproducts of produc-
9 tion operations at the plant or facility; or

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

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

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

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

40 (B) machinery, equipment and tools used primarily in maintaining
41 and repairing any type of machinery and equipment or the building and
42 plant;

43 (C) transportation, transmission and distribution equipment not pri-

1 marily used in a production, warehousing or material handling operation
2 at the plant or facility, including the means of conveyance of natural gas,
3 electricity, oil or water, and equipment related thereto, located outside
4 the plant or facility;

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

8 (E) furniture and other furnishings;

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

12 (G) building fixtures that are not integral to the manufacturing op-
13 eration, such as utility systems for heating, ventilation, air conditioning,
14 communications, plumbing or electrical;

15 (H) machinery and equipment used for general plant heating, cooling
16 and lighting;

17 (I) motor vehicles that are registered for operation on public high-
18 ways; or

19 (J) employee apparel, except safety and protective apparel that is pur-
20 chased by an employer and furnished gratuitously to employees who are
21 involved in production or research activities.

22 (6) Subsections (3) and (5) shall not be construed as exclusive listings
23 of the machinery and equipment that qualify or do not qualify as an
24 integral or essential part of an integrated production operation. When
25 machinery or equipment is used as an integral or essential part of pro-
26 duction operations part of the time and for nonproduction purpose at
27 other times, the primary use of the machinery or equipment shall deter-
28 mine whether or not such machinery or equipment qualifies for
29 exemption.

30 (7) The secretary of revenue shall adopt rules and regulations nec-
31 essary to administer the provisions of this subsection;

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

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

40 (nn) except as otherwise provided in this act, all sales of services ren-
41 dered by an advertising agency or licensed broadcast station or any mem-
42 ber, agent or employee thereof;

43 (oo) all sales of tangible personal property purchased by a community

1 action group or agency for the exclusive purpose of repairing or weath-
2 erizing housing occupied by low income individuals;

3 (pp) all sales of drill bits and explosives actually utilized in the explo-
4 ration and production of oil or gas;

5 (qq) all sales of tangible personal property and services purchased by
6 a nonprofit museum or historical society or any combination thereof, in-
7 cluding a nonprofit organization which is organized for the purpose of
8 stimulating public interest in the exploration of space by providing edu-
9 cational information, exhibits and experiences, which is exempt from fed-
10 eral income taxation pursuant to section 501(c)(3) of the federal internal
11 revenue code of 1986;

12 (rr) all sales of tangible personal property which will admit the pur-
13 chaser thereof to any annual event sponsored by a nonprofit organization
14 which is exempt from federal income taxation pursuant to section
15 501(c)(3) of the federal internal revenue code of 1986;

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

19 (tt) all sales of tangible personal property and services purchased by
20 or on behalf of a not-for-profit corporation which is exempt from federal
21 income taxation pursuant to section 501(c)(3) of the federal internal rev-
22 enue code of 1986, for the sole purpose of constructing a Kansas Korean
23 War memorial;

24 (uu) all sales of tangible personal property and services purchased by
25 or on behalf of any rural volunteer fire-fighting organization for use ex-
26 clusively in the performance of its duties and functions;

27 (vv) all sales of tangible personal property purchased by any of the
28 following organizations which are exempt from federal income taxation
29 pursuant to section 501 (c)(3) of the federal internal revenue code of
30 1986, for the following purposes, and all sales of any such property by or
31 on behalf of any such organization for any such purpose:

32 (1) The American Heart Association, Kansas Affiliate, Inc. for the
33 purposes of providing education, training, certification in emergency car-
34 diac care, research and other related services to reduce disability and
35 death from cardiovascular diseases and stroke;

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

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

42 (4) the American Diabetes Association Kansas Affiliate, Inc. for the
43 purpose of eliminating diabetes through medical research, public edu-

1 cation focusing on disease prevention and education, patient education
2 including information on coping with diabetes, and professional education
3 and training;

4 (5) the American Lung Association of Kansas, Inc. for the purpose of
5 eliminating all lung diseases through medical research, public education
6 including information on coping with lung diseases, professional educa-
7 tion and training related to lung disease and other related services to
8 reduce the incidence of disability and death due to lung disease; ~~and~~

9 (6) the Kansas chapters of the Alzheimer's Disease and Related Dis-
10 orders Association, Inc. for the purpose of providing assistance and sup-
11 port to persons in Kansas with Alzheimer's disease, and their families and
12 caregivers; *and*

13 (7) *the Mid-America Association for Computers in Education for the*
14 *purpose of providing computer education and training to Kansas educa-*
15 *tors and promoting discussion concerning the use of technology in Kansas*
16 *schools;*

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

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

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

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

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

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

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

1 pursuant to vouchers approved by the director or the director's designee;
2 (bbb) all sales of food for human consumption by an organization
3 which is exempt from federal income taxation pursuant to section 501
4 (c)(3) of the federal internal revenue code of 1986, pursuant to a food
5 distribution program which offers such food at a price below cost in
6 exchange for the performance of community service by the purchaser
7 thereof;

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

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

10 (ddd) on and after January 1, 1999, and before January 1, 2000, all
11 sales of materials and services purchased by any class II or III railroad as
12 classified by the federal surface transportation board for the construction,
13 renovation, repair or replacement of class II or III railroad track and
14 facilities used directly in interstate commerce. In the event any such track
15 or facility for which materials and services were purchased sales tax ex-
16 empt is not operational for five years succeeding the allowance of such
17 exemption, the total amount of sales tax which would have been payable
18 except for the operation of this subsection shall be recouped in accord-
19 ance with rules and regulations adopted for such purpose by the secretary
20 of revenue;

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

25 (fff) all sales of material handling equipment, racking systems and
26 other related machinery and equipment that is used for the handling,
27 movement or storage of tangible personal property in a warehouse or
28 distribution facility in this state; all sales of installation, repair and main-
29 tenance services performed on such machinery and equipment; and all
30 sales of repair and replacement parts for such machinery and equipment.
31 For purposes of this subsection, a warehouse or distribution facility means
32 a single, fixed location that consists of buildings or structures in a contig-
33 uous area where storage or distribution operations are conducted that are
34 separate and apart from the business' retail operations, if any, and which
35 do not otherwise qualify for exemption as occurring at a manufacturing
36 or processing plant or facility. Material handling and storage equipment
37 shall include aeration, dust control, cleaning, handling and other such
38 equipment that is used in a public grain warehouse or other commercial
39 grain storage facility, whether used for grain handling, grain storage, grain
40 refining or processing, or other grain treatment operation; and

41 (ggg) all sales of tangible personal property and services purchased
42 by or on behalf of the Kansas Academy of Science which is exempt from
43 federal income taxation pursuant to section 501(c)(3) of the federal in-

1 ternal revenue code of 1986, and used solely by such academy for the
2 preparation, publication and dissemination of education materials.

3 Sec. 4. K.S.A. 2000 Supp. 12-1692, 12-1696 and 79-3606 are hereby
4 repealed.

5 Sec. 5. This act shall take effect and be in force from and after its
6 publication in the statute book.

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