

1 [As Further Amended by House Committee of the Whole]

2
3 [As Amended by House Committee of the Whole]

4
5 As Amended by House Committee

6 *Session of 2001*

7
8 **HOUSE BILL No. 2265**

9
10 By Representatives Flaharty, Barnes, Crow, Kuether, Loganbill,
11 Toelkes and Wilson

12
13 2-1

14
15 AN ACT relating to sales taxation; exempting certain sales of hearing aids
16 therefrom; amending K.S.A. 2000 ~~2001~~ Supp. 79-3606 and repealing
17 the existing section.

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

20 Section 1. ~~K.S.A. 2000 Supp. 79-3606 is hereby amended to read as~~
21 ~~follows: 79-3606. The following shall be exempt from the tax imposed by~~
22 ~~this act:~~

23 ~~—(a) All sales of motor vehicle fuel or other articles upon which a sales~~
24 ~~or excise tax has been paid, not subject to refund, under the laws of this~~
25 ~~state except cigarettes as defined by K.S.A. 79-3301 and amendments~~
26 ~~thereto, cereal malt beverages and malt products as defined by K.S.A. 79-~~
27 ~~3817 and amendments thereto, including wort, liquid malt, malt syrup~~
28 ~~and malt extract, which is not subject to taxation under the provisions of~~
29 ~~K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant~~
30 ~~to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to~~
31 ~~K.S.A. 65-3424d, and amendments thereto, and drycleaning and laundry~~
32 ~~services taxed pursuant to K.S.A. 2000 Supp. 65-34,150, and amendments~~
33 ~~thereto;~~

34 ~~—(b) all sales of tangible personal property or service, including the~~
35 ~~renting and leasing of tangible personal property, purchased directly by~~
36 ~~the state of Kansas, a political subdivision thereof, other than a school or~~
37 ~~educational institution, or purchased by a public or private nonprofit hos-~~
38 ~~pital or public hospital authority or nonprofit blood, tissue or organ bank~~
39 ~~and used exclusively for state, political subdivision, hospital or public hos-~~
40 ~~pital authority or nonprofit blood, tissue or organ bank purposes, except~~
41 ~~when: (1) Such state, hospital or public hospital authority is engaged or~~
42 ~~proposes to engage in any business specifically taxable under the provi-~~
43 ~~sions of this act and such items of tangible personal property or service~~

1 are used or proposed to be used in such business, or (2) such political
2 subdivision is engaged or proposes to engage in the business of furnishing
3 gas, water, electricity or heat to others and such items of personal prop-
4 erty or service are used or proposed to be used in such business;
5 —(c)—all sales of tangible personal property or services, including the
6 renting and leasing of tangible personal property, purchased directly by
7 a public or private elementary or secondary school or public or private
8 nonprofit educational institution and used primarily by such school or
9 institution for nonsectarian programs and activities provided or sponsored
10 by such school or institution or in the erection, repair or enlargement of
11 buildings to be used for such purposes. The exemption herein provided
12 shall not apply to erection, construction, repair, enlargement or equip-
13 ment of buildings used primarily for human habitation;
14 —(d)—all sales of tangible personal property or services purchased by a
15 contractor for the purpose of constructing, equipping, reconstructing,
16 maintaining, repairing, enlarging, furnishing or remodeling facilities for
17 any public or private nonprofit hospital or public hospital authority, public
18 or private elementary or secondary school or a public or private nonprofit
19 educational institution, which would be exempt from taxation under the
20 provisions of this act if purchased directly by such hospital or public hos-
21 pital authority, school or educational institution; and all sales of tangible
22 personal property or services purchased by a contractor for the purpose
23 of constructing, equipping, reconstructing, maintaining, repairing, en-
24 larging, furnishing or remodeling facilities for any political subdivision of
25 the state, the total cost of which is paid from funds of such political
26 subdivision and which would be exempt from taxation under the provi-
27 sions of this act if purchased directly by such political subdivision. Nothing
28 in this subsection or in the provisions of K.S.A. 12-3418 and amendments
29 thereto, shall be deemed to exempt the purchase of any construction
30 machinery, equipment or tools used in the constructing, equipping, re-
31 constructing, maintaining, repairing, enlarging, furnishing or remodeling
32 facilities for any political subdivision of the state. As used in this subsec-
33 tion, K.S.A. 12-3418 and 79-3640, and amendments thereto, “funds of a
34 political subdivision” shall mean general tax revenues, the proceeds of
35 any bonds and gifts or grants in aid. Gifts shall not mean funds used for
36 the purpose of constructing, equipping, reconstructing, repairing, enlarg-
37 ing, furnishing or remodeling facilities which are to be leased to the do-
38 nor. When any political subdivision of the state, public or private non-
39 profit hospital or public hospital authority, public or private elementary
40 or secondary school or public or private nonprofit educational institution
41 shall contract for the purpose of constructing, equipping, reconstructing,
42 maintaining, repairing, enlarging, furnishing or remodeling facilities, it
43 shall obtain from the state and furnish to the contractor an exemption

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

35 —(c)—all sales of tangible personal property or services purchased by a
36 contractor for the erection, repair or enlargement of buildings or other
37 projects for the government of the United States, its agencies or instru-
38 mentalities, which would be exempt from taxation if purchased directly
39 by the government of the United States, its agencies or instrumentalities.
40 When the government of the United States, its agencies or instrumen-
41 talities shall contract for the erection, repair, or enlargement of any build-
42 ing or other project, it shall obtain from the state and furnish to the
43 contractor an exemption certificate for the project involved, and the con-

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

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

26 ~~—(g) sales of aircraft including remanufactured and modified aircraft,~~
27 ~~sales of aircraft repair, modification and replacement parts and sales of~~
28 ~~services employed in the remanufacture, modification and repair of air-~~
29 ~~craft sold to persons using directly or through an authorized agent such~~
30 ~~aircraft and aircraft repair, modification and replacement parts as certified~~
31 ~~or licensed carriers of persons or property in interstate or foreign com-~~
32 ~~mence under authority of the laws of the United States or any foreign~~
33 ~~government or sold to any foreign government or agency or instrumen-~~
34 ~~tality of such foreign government and all sales of aircraft, aircraft parts,~~
35 ~~replacement parts and services employed in the remanufacture, modifi-~~
36 ~~cation and repair of aircraft for use outside of the United States;~~

37 ~~—(h) all rentals of nonsectarian textbooks by public or private elemen-~~
38 ~~tary or secondary schools;~~

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

41 ~~—(j) meals served without charge or food used in the preparation of~~
42 ~~such meals to employees of any restaurant, eating house, dining car, hotel,~~
43 ~~drugstore or other place where meals or drinks are regularly sold to the~~

1 public if such employees' duties are related to the furnishing or sale of
2 such meals or drinks;

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

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

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

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

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

37 —(p)—all sales of drugs, as defined by K.S.A. 65-1626 and amendments
38 thereto, dispensed pursuant to a prescription order, as defined by K.S.A.
39 65-1626 and amendments thereto, by a licensed practitioner or a mid-
40 level practitioner as defined by K.S.A. 65-1626, and amendments thereto;

41 —(q)—all sales of insulin dispensed by a person licensed by the state
42 board of pharmacy to a person for treatment of diabetes at the direction
43 of a person licensed to practice medicine by the board of healing arts;

1 ~~—(r) all sales of prosthetic and orthopedic appliances prescribed in~~
2 ~~writing by a person licensed to practice the healing arts, dentistry or~~
3 ~~optometry, and in addition to such sales, all sales of hearing aids, as~~
4 ~~defined by subsection (c) of K.S.A. 74-5807, and amendments thereto, and~~
5 ~~replacement parts therefor, including batteries, by a person licensed in~~
6 ~~the practice of dispensing and fitting hearing aids pursuant to the pro-~~
7 ~~visions of K.S.A. 74-5808, and amendments thereto. For the purposes of~~
8 ~~this subsection, the term prosthetic and orthopedic appliances means any~~
9 ~~apparatus, instrument, device, or equipment used to replace or substitute~~
10 ~~for any missing part of the body; used to alleviate the malfunction of any~~
11 ~~part of the body; or used to assist any disabled person in leading a normal~~
12 ~~life by facilitating such person's mobility; such term shall include acces-~~
13 ~~sories attached or to be attached to motor vehicles, but such term shall~~
14 ~~not include motor vehicles or personal property which when installed~~
15 ~~becomes a fixture to real property;~~

16 ~~—(s) all sales of tangible personal property or services purchased di-~~
17 ~~rectly by a groundwater management district organized or operating un-~~
18 ~~der the authority of K.S.A. 82a-1020 et seq. and amendments thereto,~~
19 ~~which property or services are used in the operation or maintenance of~~
20 ~~the district;~~

21 ~~—(t) all sales of farm machinery and equipment or aquaculture ma-~~
22 ~~chinery and equipment, repair and replacement parts therefor and serv-~~
23 ~~ices performed in the repair and maintenance of such machinery and~~
24 ~~equipment. For the purposes of this subsection the term "farm machinery~~
25 ~~and equipment or aquaculture machinery and equipment" shall include~~
26 ~~machinery and equipment used in the operation of Christmas tree farm-~~
27 ~~ing but shall not include any passenger vehicle, truck, truck tractor, trailer,~~
28 ~~semitrailer or pole trailer, other than a farm trailer, as such terms are~~
29 ~~defined by K.S.A. 8-126 and amendments thereto. Each purchaser of~~
30 ~~farm machinery and equipment or aquaculture machinery and equipment~~
31 ~~exempted herein must certify in writing on the copy of the invoice or~~
32 ~~sales ticket to be retained by the seller that the farm machinery and~~
33 ~~equipment or aquaculture machinery and equipment purchased will be~~
34 ~~used only in farming, ranching or aquaculture production. Farming or~~
35 ~~ranching shall include the operation of a feedlot and farm and ranch work~~
36 ~~for hire and the operation of a nursery;~~

37 ~~—(u) all leases or rentals of tangible personal property used as a dwell-~~
38 ~~ing if such tangible personal property is leased or rented for a period of~~
39 ~~more than 28 consecutive days;~~

40 ~~—(v) all sales of food products to any contractor for use in preparing~~
41 ~~meals for delivery to homebound elderly persons over 60 years of age and~~
42 ~~to homebound disabled persons or to be served at a group sitting at a~~
43 ~~location outside of the home to otherwise homebound elderly persons~~

1 over 60 years of age and to otherwise homebound disabled persons, as
2 all or part of any food service project funded in whole or in part by
3 government or as part of a private nonprofit food service project available
4 to all such elderly or disabled persons residing within an area of service
5 designated by the private nonprofit organization, and all sales of food
6 products for use in preparing meals for consumption by indigent or home-
7 less individuals whether or not such meals are consumed at a place des-
8 ignated for such purpose;

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

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

20 —(y)—all sales of materials and services used in the repairing, servicing,
21 altering, maintaining, manufacturing, remanufacturing, or modification of
22 railroad rolling stock for use in interstate or foreign commerce under
23 authority of the laws of the United States;

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

27 —(aa)—all sales of materials and services applied to equipment which is
28 transported into the state from without the state for repair, service, al-
29 teration, maintenance, remanufacture or modification and which is sub-
30 sequently transported outside the state for use in the transmission of
31 liquids or natural gas by means of pipeline in interstate or foreign com-
32 merce under authority of the laws of the United States;

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

38 —(cc)—all sales of tangible personal property or services purchased for
39 the purpose of and in conjunction with constructing, reconstructing, en-
40 larging or remodeling a business or retail business which meets the
41 requirements established in K.S.A. 74-50,115 and amendments thereto,
42 and the sale and installation of machinery and equipment purchased for
43 installation at any such business or retail business. When a person shall

1 contract for the construction, reconstruction, enlargement or remodeling
2 of any such business or retail business, such person shall obtain from the
3 state and furnish to the contractor an exemption certificate for the project
4 involved, and the contractor may purchase materials, machinery and
5 equipment for incorporation in such project. The contractor shall furnish
6 the number of such certificates to all suppliers from whom such purchases
7 are made, and such suppliers shall execute invoices covering the same
8 bearing the number of such certificate. Upon completion of the project
9 the contractor shall furnish to the owner of the business or retail business
10 a sworn statement, on a form to be provided by the director of taxation,
11 that all purchases so made were entitled to exemption under this subsec-
12 tion. All invoices shall be held by the contractor for a period of five years
13 and shall be subject to audit by the director of taxation. Any contractor
14 or any agent, employee or subcontractor thereof, who shall use or oth-
15 erwise dispose of any materials, machinery or equipment purchased un-
16 der such a certificate for any purpose other than that for which such a
17 certificate is issued without the payment of the sales or compensating tax
18 otherwise imposed thereon, shall be guilty of a misdemeanor and, upon
19 conviction therefor, shall be subject to the penalties provided for in sub-
20 section (g) of K.S.A. 79-3615 and amendments thereto. As used in this
21 subsection, “business” and “retail business” have the meanings respec-
22 tively ascribed thereto by K.S.A. 74-50,114 and amendments thereto;
23 —(dd)—all sales of tangible personal property purchased with food
24 stamps issued by the United States department of agriculture;
25 —(ee)—all sales of lottery tickets and shares made as part of a lottery
26 operated by the state of Kansas;
27 —(ff)—on and after July 1, 1988, all sales of new mobile homes or man-
28 ufactured homes to the extent of 40% of the gross receipts, determined
29 without regard to any trade-in allowance, received from such sale. As used
30 in this subsection, “mobile homes” and “manufactured homes” shall have
31 the meanings ascribed thereto by K.S.A. 58-4202 and amendments
32 thereto;
33 —(gg)—all sales of tangible personal property purchased in accordance
34 with vouchers issued pursuant to the federal special supplemental food
35 program for women, infants and children;
36 —(hh)—all sales of medical supplies and equipment purchased directly
37 by a nonprofit skilled nursing home or nonprofit intermediate nursing
38 care home, as defined by K.S.A. 39-923, and amendments thereto, for
39 the purpose of providing medical services to residents thereof. This ex-
40 emption shall not apply to tangible personal property customarily used
41 for human habitation purposes;
42 —(ii)—all sales of tangible personal property purchased directly by a non-
43 profit organization for nonsectarian comprehensive multidiscipline youth

1 development programs and activities provided or sponsored by such or-
2 ganization, and all sales of tangible personal property by or on behalf of
3 any such organization. This exemption shall not apply to tangible personal
4 property customarily used for human habitation purposes;

5 —(jj)—all sales of tangible personal property or services, including the
6 renting and leasing of tangible personal property, purchased directly on
7 behalf of a community-based mental retardation facility or mental health
8 center organized pursuant to K.S.A. 19-4001 *et seq.*, and amendments

9 thereto, and licensed in accordance with the provisions of K.S.A. 75-
10 3307b and amendments thereto. This exemption shall not apply to tan-
11 gible personal property customarily used for human habitation purposes;

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

15 —(B) all sales of installation, repair and maintenance services per-
16 formed on such machinery and equipment, and

17 —(C) all sales of repair and replacement parts and accessories pur-
18 chased for such machinery and equipment.

19 —(2) For purposes of this subsection:

20 —(A) “Integrated production operation” means an integrated series of
21 operations engaged in at a manufacturing or processing plant or facility
22 to process, transform or convert tangible personal property by physical,
23 chemical or other means into a different form, composition or character
24 from that in which it originally existed. Integrated production operations
25 shall include: (i) Production line operations, including packaging opera-
26 tions; (ii) preproduction operations to handle, store and treat raw mate-
27 rials; (iii) post production handling, storage, warehousing and distribution
28 operations; and (iv) waste, pollution and environmental control opera-
29 tions, if any;

30 —(B) “production line” means the assemblage of machinery and equip-
31 ment at a manufacturing or processing plant or facility where the actual
32 transformation or processing of tangible personal property occurs;

33 —(C) “manufacturing or processing plant or facility” means a single,
34 fixed location owned or controlled by a manufacturing or processing busi-
35 ness that consists of one or more structures or buildings in a contiguous
36 area where integrated production operations are conducted to manufac-
37 ture or process tangible personal property to be ultimately sold at retail.
38 Such term shall not include any facility primarily operated for the purpose
39 of conveying or assisting in the conveyance of natural gas, electricity, oil
40 or water. A business may operate one or more manufacturing or pro-
41 cessing plants or facilities at different locations to manufacture or process
42 a single product of tangible personal property to be ultimately sold at
43 retail;

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

34 —(E)—“repair and replacement parts and accessories” means all parts
35 and accessories for exempt machinery and equipment, including, but not
36 limited to, dies, jigs, molds, patterns and safety devices that are attached
37 to exempt machinery or that are otherwise used in production, and parts
38 and accessories that require periodic replacement such as belts, drill bits,
39 grinding wheels, grinding balls, cutting bars, saws, refractory brick and
40 other refractory items for exempt kiln equipment used in production
41 operations;

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

43 —(3)—For purposes of this subsection, machinery and equipment shall

1 be deemed to be used as an integral or essential part of an integrated
2 production operation when used:

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

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

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

11 —(D) to guide, control or direct the movement of property undergoing
12 manufacturing or processing;

13 —(E) to test or measure raw materials, the property undergoing man-
14 ufacturing or processing or the finished product, as a necessary part of
15 the manufacturer's integrated production operations;

16 —(F) to plan, manage, control or record the receipt and flow of inven-
17 tories of raw materials, consumables and component parts, the flow of
18 the property undergoing manufacturing or processing and the manage-
19 ment of inventories of the finished product;

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

23 —(H) to package the property being manufactured or processed in a
24 container or wrapping in which such property is normally sold or
25 transported;

26 —(I) to transmit or transport electricity, coke, gas, water, steam or sim-
27 ilar substances used in production operations from the point of genera-
28 tion, if produced by the manufacturer or processor at the plant site, to
29 that manufacturer's production operation; or, if purchased or delivered
30 from offsite, from the point where the substance enters the site of the
31 plant or facility to that manufacturer's production operations;

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

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

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

40 —(M) to control pollution at the plant or facility where the pollution is
41 produced by the manufacturing or processing operation.

42 —(4) The following machinery, equipment and materials shall be
43 deemed to be exempt even though it may not otherwise qualify as ma-

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

20 ~~—(5) “Machinery and equipment used as an integral or essential part~~
21 ~~of an integrated production operation” shall not include:~~

22 ~~—(A) Machinery and equipment used for nonproduction purposes, in-~~
23 ~~cluding, but not limited to, machinery and equipment used for plant se-~~
24 ~~curity, fire prevention, first aid, accounting, administration, record keep-~~
25 ~~ing, advertising, marketing, sales or other related activities, plant cleaning,~~
26 ~~plant communications, and employee work scheduling;~~

27 ~~—(B) machinery, equipment and tools used primarily in maintaining~~
28 ~~and repairing any type of machinery and equipment or the building and~~
29 ~~plant;~~

30 ~~—(C) transportation, transmission and distribution equipment not pri-~~
31 ~~marily used in a production, warehousing or material handling operation~~
32 ~~at the plant or facility, including the means of conveyance of natural gas,~~
33 ~~electricity, oil or water, and equipment related thereto, located outside~~
34 ~~the plant or facility;~~

35 ~~—(D) office machines and equipment including computers and related~~
36 ~~peripheral equipment not used directly and primarily to control or mea-~~
37 ~~sure the manufacturing process;~~

38 ~~—(E) furniture and other furnishings;~~

39 ~~—(F) buildings, other than exempt machinery and equipment that is~~
40 ~~permanently affixed to or becomes a physical part of the building, and~~
41 ~~any other part of real estate that is not otherwise exempt;~~

42 ~~—(G) building fixtures that are not integral to the manufacturing op-~~
43 ~~eration, such as utility systems for heating, ventilation, air conditioning,~~

1 communications, plumbing or electrical;
2 —(H)— machinery and equipment used for general plant heating, cooling
3 and lighting;
4 —(I)— motor vehicles that are registered for operation on public high-
5 ways; or
6 —(J)— employee apparel, except safety and protective apparel that is pur-
7 chased by an employer and furnished gratuitously to employees who are
8 involved in production or research activities.
9 —(6)— Subsections (3) and (5) shall not be construed as exclusive listings
10 of the machinery and equipment that qualify or do not qualify as an
11 integral or essential part of an integrated production operation. When
12 machinery or equipment is used as an integral or essential part of pro-
13 duction operations part of the time and for nonproduction purpose at
14 other times, the primary use of the machinery or equipment shall deter-
15 mine whether or not such machinery or equipment qualifies for
16 exemption.
17 —(7)— The secretary of revenue shall adopt rules and regulations nec-
18 essary to administer the provisions of this subsection;
19 —(ll)— all sales of educational materials purchased for distribution to the
20 public at no charge by a nonprofit corporation organized for the purpose
21 of encouraging, fostering and conducting programs for the improvement
22 of public health;
23 —(mm)— all sales of seeds and tree seedlings, fertilizers, insecticides,
24 herbicides, germicides, pesticides and fungicides, and services, purchased
25 and used for the purpose of producing plants in order to prevent soil
26 erosion on land devoted to agricultural use;
27 —(nn)— except as otherwise provided in this act, all sales of services ren-
28 dered by an advertising agency or licensed broadcast station or any mem-
29 ber, agent or employee thereof;
30 —(oo)— all sales of tangible personal property purchased by a community
31 action group or agency for the exclusive purpose of repairing or weath-
32 erizing housing occupied by low income individuals;
33 —(pp)— all sales of drill bits and explosives actually utilized in the explo-
34 ration and production of oil or gas;
35 —(qq)— all sales of tangible personal property and services purchased by
36 a nonprofit museum or historical society or any combination thereof, in-
37 cluding a nonprofit organization which is organized for the purpose of
38 stimulating public interest in the exploration of space by providing edu-
39 cational information, exhibits and experiences, which is exempt from fed-
40 eral income taxation pursuant to section 501(c)(3) of the federal internal
41 revenue code of 1986;
42 —(rr)— all sales of tangible personal property which will admit the pur-
43 chaser thereof to any annual event sponsored by a nonprofit organization

1 which is exempt from federal income taxation pursuant to section
2 501(c)(3) of the federal internal revenue code of 1986;

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

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

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

14 —(vv)— all sales of tangible personal property purchased by any of the
15 following organizations which are exempt from federal income taxation
16 pursuant to section 501 (c)(3) of the federal internal revenue code of
17 1986, for the following purposes, and all sales of any such property by or
18 on behalf of any such organization for any such purpose:

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

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

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

29 —(4)— the American Diabetes Association Kansas Affiliate, Inc. for the
30 purpose of eliminating diabetes through medical research, public edu-
31 cation focusing on disease prevention and education, patient education
32 including information on coping with diabetes, and professional education
33 and training;

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

39 —(6)— the Kansas chapters of the Alzheimer's Disease and Related Dis-
40 orders Association, Inc. for the purpose of providing assistance and sup-
41 port to persons in Kansas with Alzheimer's disease, and their families and
42 caregivers;

43 —(ww)— all sales of tangible personal property purchased by the Habitat

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

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

5 —(yy) all sales of tangible personal property and services purchased by
6 a parent teacher association or organization, and all sales of tangible per-
7 sonal property by or on behalf of such association or organization;

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

18 —(aaa) all sales of tangible personal property and services purchased
19 by a religious organization which is exempt from federal income taxation
20 pursuant to section 501(c)(3) of the federal internal revenue code, and
21 used exclusively for religious purposes, and all sales of tangible personal
22 property or services purchased by a contractor for the purpose of con-
23 structing, equipping, reconstructing, maintaining, repairing, enlarging,
24 furnishing or remodeling facilities for any such organization which would
25 be exempt from taxation under the provisions of this section if purchased
26 directly by such organization. Nothing in this subsection shall be deemed
27 to exempt the purchase of any construction machinery, equipment or
28 tools used in the constructing, equipping, reconstructing, maintaining,
29 repairing, enlarging, furnishing or remodeling facilities for any such or-
30 ganization. When any such organization shall contract for the purpose of
31 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
32 ing, furnishing or remodeling facilities, it shall obtain from the state and
33 furnish to the contractor an exemption certificate for the project involved,
34 and the contractor may purchase materials for incorporation in such pro-
35 ject. The contractor shall furnish the number of such certificate to all
36 suppliers from whom such purchases are made, and such suppliers shall
37 execute invoices covering the same bearing the number of such certifi-
38 cate. Upon completion of the project the contractor shall furnish to such
39 organization concerned a sworn statement, on a form to be provided by
40 the director of taxation, that all purchases so made were entitled to ex-
41 emption under this subsection. All invoices shall be held by the contractor
42 for a period of five years and shall be subject to audit by the director of
43 taxation. If any materials purchased under such a certificate are found

1 not to have been incorporated in the building or other project or not to
2 have been returned for credit or the sales or compensating tax otherwise
3 imposed upon such materials which will not be so incorporated in the
4 building or other project reported and paid by such contractor to the
5 director of taxation not later than the 20th day of the month following
6 the close of the month in which it shall be determined that such materials
7 will not be used for the purpose for which such certificate was issued,
8 such organization concerned shall be liable for tax on all materials pur-
9 chased for the project, and upon payment thereof it may recover the same
10 from the contractor together with reasonable attorney fees. Any contrac-
11 tor or any agent, employee or subcontractor thereof, who shall use or
12 otherwise dispose of any materials purchased under such a certificate for
13 any purpose other than that for which such a certificate is issued without
14 the payment of the sales or compensating tax otherwise imposed upon
15 such materials, shall be guilty of a misdemeanor and, upon conviction
16 therefor, shall be subject to the penalties provided for in subsection (g)
17 of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after
18 July 1, 1998, but prior to the effective date of this act upon the gross
19 receipts received from any sale exempted by the amendatory provisions
20 of this subsection shall be refunded. Each claim for a sales tax refund
21 shall be verified and submitted to the director of taxation upon forms
22 furnished by the director and shall be accompanied by any additional
23 documentation required by the director. The director shall review each
24 claim and shall refund that amount of sales tax paid as determined under
25 the provisions of this subsection. All refunds shall be paid from the sales
26 tax refund fund upon warrants of the director of accounts and reports
27 pursuant to vouchers approved by the director or the director's designee;
28 —(bbb)—all sales of food for human consumption by an organization
29 which is exempt from federal income taxation pursuant to section 501
30 (c)(3) of the federal internal revenue code of 1986, pursuant to a food
31 distribution program which offers such food at a price below cost in
32 exchange for the performance of community service by the purchaser
33 thereof;
34 —(ccc)—on and after July 1, 1999, all sales of tangible personal property
35 and services purchased by a primary care clinic or health center the pri-
36 mary purpose of which is to provide services to medically underserved
37 individuals and families, and which is exempt from federal income taxa-
38 tion pursuant to section 501 (c)(3) of the federal internal revenue code,
39 and all sales of tangible personal property or services purchased by a
40 contractor for the purpose of constructing, equipping, reconstructing,
41 maintaining, repairing, enlarging, furnishing or remodeling facilities for
42 any such clinic or center which would be exempt from taxation under the
43 provisions of this section if purchased directly by such clinic or center.

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

36 —(ddd)— on and after January 1, 1999, and before January 1, 2000, all
37 sales of materials and services purchased by any class II or III railroad as
38 classified by the federal surface transportation board for the construction,
39 renovation, repair or replacement of class II or III railroad track and
40 facilities used directly in interstate commerce. In the event any such track
41 or facility for which materials and services were purchased sales tax ex-
42 empt is not operational for five years succeeding the allowance of such
43 exemption, the total amount of sales tax which would have been payable

1 except for the operation of this subsection shall be recouped in accord-
2 ance with rules and regulations adopted for such purpose by the secretary
3 of revenue;

4 —(ccc) on and after January 1, 1990, and before January 1, 2001, all
5 sales of materials and services purchased for the original construction,
6 reconstruction, repair or replacement of grain storage facilities, including
7 railroad sidings providing access thereto;

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

24 —(ggg) all sales of tangible personal property and services purchased
25 by or on behalf of the Kansas Academy of Science which is exempt from
26 federal income taxation pursuant to section 501(c)(3) of the federal in-
27 ternal revenue code of 1986, and used solely by such academy for the
28 preparation, publication and dissemination of education materials.

29 —Sec. 2.—K.S.A. 2000 Supp. 79-3606 is hereby repealed.

30 **Sec. 1.—K.S.A. 2001 Supp. 79-3606 is hereby amended to read**
31 **as follows: 79-3606. The following shall be exempt from the tax**
32 **imposed by this act:**

33 —(a) ~~All sales of motor vehicle fuel or other articles upon which~~
34 ~~a sales or excise tax has been paid, not subject to refund, under~~
35 ~~the laws of this state except cigarettes as defined by K.S.A. 79-3301~~
36 ~~and amendments thereto, cereal malt beverages and malt products~~
37 ~~as defined by K.S.A. 79-3817 and amendments thereto, including~~
38 ~~wort, liquid malt, malt syrup and malt extract, which is not subject~~
39 ~~to taxation under the provisions of K.S.A. 79-41a02 and amend-~~
40 ~~ments thereto, motor vehicles taxed pursuant to K.S.A. 79-5117,~~
41 ~~and amendments thereto, tires taxed pursuant to K.S.A. 65-3424d,~~
42 ~~and amendments thereto, and drycleaning and laundry services~~
43 ~~taxed pursuant to K.S.A. 2001 Supp. 65-34,150, and amendments~~

1 ~~thereto;~~

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

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

28 ~~—(d)—all sales of tangible personal property or services purchased~~
29 ~~by a contractor for the purpose of constructing, equipping, recon-~~
30 ~~structing, maintaining, repairing, enlarging, furnishing or remodel-~~
31 ~~ing facilities for any public or private nonprofit hospital or public~~
32 ~~hospital authority, public or private elementary or secondary~~
33 ~~school or a public or private nonprofit educational institution,~~
34 ~~which would be exempt from taxation under the provisions of this~~
35 ~~act if purchased directly by such hospital or public hospital au-~~
36 ~~thority, school or educational institution; and all sales of tangible~~
37 ~~personal property or services purchased by a contractor for the~~
38 ~~purpose of constructing, equipping, reconstructing, maintaining,~~
39 ~~repairing, enlarging, furnishing or remodeling facilities for any~~
40 ~~political subdivision of the state or district described in subsection~~
41 ~~(s), the total cost of which is paid from funds of such political sub-~~
42 ~~division or district and which would be exempt from taxation under~~
43 ~~the provisions of this act if purchased directly by such political~~

1 ~~subdivision or district. Nothing in this subsection or in the provi-~~
2 ~~sions of K.S.A. 12-3418 and amendments thereto, shall be deemed~~
3 ~~to exempt the purchase of any construction machinery, equipment~~
4 ~~or tools used in the constructing, equipping, reconstructing, main-~~
5 ~~taining, repairing, enlarging, furnishing or remodeling facilities~~
6 ~~for any political subdivision of the state or any such district. As~~
7 ~~used in this subsection, K.S.A. 12-3418 and 79-3640, and amend-~~
8 ~~ments thereto, “funds of a political subdivision” shall mean general~~
9 ~~tax revenues, the proceeds of any bonds and gifts or grants-in-aid.~~
10 ~~Gifts shall not mean funds used for the purpose of constructing,~~
11 ~~equipping, reconstructing, repairing, enlarging, furnishing or re-~~
12 ~~modeling facilities which are to be leased to the donor. When any~~
13 ~~political subdivision of the state, district described in subsection~~
14 ~~(s), public or private nonprofit hospital or public hospital authority,~~
15 ~~public or private elementary or secondary school or public or pri-~~
16 ~~ivate nonprofit educational institution shall contract for the pur-~~
17 ~~pose of constructing, equipping, reconstructing, maintaining, re-~~
18 ~~pairing, enlarging, furnishing or remodeling facilities, it shall~~
19 ~~obtain from the state and furnish to the contractor an exemption~~
20 ~~certificate for the project involved, and the contractor may pur-~~
21 ~~chase materials for incorporation in such project. The contractor~~
22 ~~shall furnish the number of such certificate to all suppliers from~~
23 ~~whom such purchases are made, and such suppliers shall execute~~
24 ~~invoices covering the same bearing the number of such certificate.~~
25 ~~Upon completion of the project the contractor shall furnish to the~~
26 ~~political subdivision, district described in subsection (s), hospital~~
27 ~~or public hospital authority, school or educational institution con-~~
28 ~~cerned a sworn statement, on a form to be provided by the director~~
29 ~~of taxation, that all purchases so made were entitled to exemption~~
30 ~~under this subsection. As an alternative to the foregoing proce-~~
31 ~~dure, any such contracting entity may apply to the secretary of~~
32 ~~revenue for agent status for the sole purpose of issuing and fur-~~
33 ~~nishing project exemption certificates to contractors pursuant to~~
34 ~~rules and regulations adopted by the secretary establishing con-~~
35 ~~ditions and standards for the granting and maintaining of such~~
36 ~~status. All invoices shall be held by the contractor for a period of~~
37 ~~five years and shall be subject to audit by the director of taxation.~~
38 ~~If any materials purchased under such a certificate are found not~~
39 ~~to have been incorporated in the building or other project or not~~
40 ~~to have been returned for credit or the sales or compensating tax~~
41 ~~otherwise imposed upon such materials which will not be so in-~~
42 ~~corporated in the building or other project reported and paid by~~
43 ~~such contractor to the director of taxation not later than the 20th~~

1 day of the month following the close of the month in which it shall
2 be determined that such materials will not be used for the purpose
3 for which such certificate was issued, the political subdivision, dis-
4 trict described in subsection (s), hospital or public hospital au-
5 thority, school or educational institution concerned shall be liable
6 for tax on all materials purchased for the project, and upon pay-
7 ment thereof it may recover the same from the contractor together
8 with reasonable attorney fees. Any contractor or any agent, em-
9 ployee or subcontractor thereof, who shall use or otherwise dis-
10 pose of any materials purchased under such a certificate for any
11 purpose other than that for which such a certificate is issued with-
12 out the payment of the sales or compensating tax otherwise im-
13 posed upon such materials, shall be guilty of a misdemeanor and,
14 upon conviction therefor, shall be subject to the penalties provided
15 for in subsection (g) of K.S.A. 79-3615, and amendments thereto;
16 —(c)—all sales of tangible personal property or services purchased
17 by a contractor for the erection, repair or enlargement of buildings
18 or other projects for the government of the United States, its agen-
19 cies or instrumentalities, which would be exempt from taxation if
20 purchased directly by the government of the United States, its
21 agencies or instrumentalities. When the government of the United
22 States, its agencies or instrumentalities shall contract for the erec-
23 tion, repair, or enlargement of any building or other project, it
24 shall obtain from the state and furnish to the contractor an ex-
25 emption certificate for the project involved, and the contractor
26 may purchase materials for incorporation in such project. The con-
27 tractor shall furnish the number of such certificates to all suppliers
28 from whom such purchases are made, and such suppliers shall ex-
29 ecute invoices covering the same bearing the number of such cer-
30 tificate. Upon completion of the project the contractor shall fur-
31 nish to the government of the United States, its agencies or
32 instrumentalities concerned a sworn statement, on a form to be
33 provided by the director of taxation, that all purchases so made
34 were entitled to exemption under this subsection. As an alternative
35 to the foregoing procedure, any such contracting entity may apply
36 to the secretary of revenue for agent status for the sole purpose
37 of issuing and furnishing project exemption certificates to con-
38 tractors pursuant to rules and regulations adopted by the secretary
39 establishing conditions and standards for the granting and main-
40 taining of such status. All invoices shall be held by the contractor
41 for a period of five years and shall be subject to audit by the di-
42 rector of taxation. Any contractor or any agent, employee or sub-
43 contractor thereof, who shall use or otherwise dispose of any ma-

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

7 ~~—(f) tangible personal property purchased by a railroad or pub-~~
8 ~~lic utility for consumption or movement directly and immediately~~
9 ~~in interstate commerce;~~

10 ~~—(g) sales of aircraft including remanufactured and modified~~
11 ~~aircraft, sales of aircraft repair, modification and replacement~~
12 ~~parts and sales of services employed in the remanufacture, modi-~~
13 ~~fication and repair of aircraft sold to persons using directly or~~
14 ~~through an authorized agent such aircraft and aircraft repair,~~
15 ~~modification and replacement parts as certified or licensed carri-~~
16 ~~ers of persons or property in interstate or foreign commerce under~~
17 ~~authority of the laws of the United States or any foreign govern-~~
18 ~~ment or sold to any foreign government or agency or instrumen-~~
19 ~~tality of such foreign government and all sales of aircraft, aircraft~~
20 ~~parts, replacement parts and services employed in the remanufac-~~
21 ~~ture, modification and repair of aircraft for use outside of the~~
22 ~~United States;~~

23 ~~—(h) all rentals of nonsectarian textbooks by public or private~~
24 ~~elementary or secondary schools;~~

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

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

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

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

43 ~~—(m) all sales of tangible personal property which become an~~

~~ingredient or component part of tangible personal property or services produced, manufactured or compounded for ultimate sale at retail within or without the state of Kansas; and any such producer, manufacturer or compounder may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for use as an ingredient or component part of the property or services produced, manufactured or compounded;~~

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

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

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

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

~~—(r) all sales of prosthetic and orthopedic appliances prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry, and in addition to such sales, all sales of hearing aids, as defined by subsection (c) of K.S.A. 74-5807, and amendments thereto, and replacement parts therefor, including batteries, by a person licensed in the practice of dispensing and fitting hearing aids pursuant to the provisions of K.S.A. 74-5808, and amendments thereto. **For the purposes of this subsection, the term prosthetic and orthopedic ap-**~~

1 ~~pliances means any apparatus, instrument, device, or equipment~~
2 ~~used to replace or substitute for any missing part of the body; used~~
3 ~~to alleviate the malfunction of any part of the body; or used to~~
4 ~~assist any disabled person in leading a normal life by facilitating~~
5 ~~such person's mobility; such term shall include accessories at-~~
6 ~~tached or to be attached to motor vehicles, but such term shall not~~
7 ~~include motor vehicles or personal property which when installed~~
8 ~~becomes a fixture to real property;~~

9 ~~—(s) except as provided in K.S.A. 2001 Supp. 82a-2101, and~~
10 ~~amendments thereto, all sales of tangible personal property or~~
11 ~~services purchased directly or indirectly by a groundwater man-~~
12 ~~agement district organized or operating under the authority of~~
13 ~~K.S.A. 82a-1020 *et seq.* and amendments thereto, by a rural water~~
14 ~~district organized or operating under the authority of K.S.A. 82a-~~
15 ~~612, and amendments thereto, or by a water supply district organ-~~
16 ~~ized or operating under the authority of K.S.A. 19-3501 *et seq.*, 19-~~
17 ~~3522 *et seq.* or 19-3545, and amendments thereto, which property~~
18 ~~or services are used in the construction activities, operation or~~
19 ~~maintenance of the district;~~

20 ~~—(t) all sales of farm machinery and equipment or aquaculture~~
21 ~~machinery and equipment, repair and replacement parts therefor~~
22 ~~and services performed in the repair and maintenance of such~~
23 ~~machinery and equipment. For the purposes of this subsection the~~
24 ~~term "farm machinery and equipment or aquaculture machinery~~
25 ~~and equipment" shall include machinery and equipment used in~~
26 ~~the operation of Christmas tree farming but shall not include any~~
27 ~~passenger vehicle, truck, truck tractor, trailer, semitrailer or pole~~
28 ~~trailer, other than a farm trailer, as such terms are defined by~~
29 ~~K.S.A. 8-126 and amendments thereto. Each purchaser of farm~~
30 ~~machinery and equipment or aquaculture machinery and equip-~~
31 ~~ment exempted herein must certify in writing on the copy of the~~
32 ~~invoice or sales ticket to be retained by the seller that the farm~~
33 ~~machinery and equipment or aquaculture machinery and equip-~~
34 ~~ment purchased will be used only in farming, ranching or aqua-~~
35 ~~culture production. Farming or ranching shall include the opera-~~
36 ~~tion of a feedlot and farm and ranch work for hire and the~~
37 ~~operation of a nursery;~~

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

41 ~~—(v) all sales of food products to any contractor for use in pre-~~
42 ~~paring meals for delivery to homebound elderly persons over 60~~
43 ~~years of age and to homebound disabled persons or to be served~~

1 ~~at a group sitting at a location outside of the home to otherwise~~
2 ~~homebound elderly persons over 60 years of age and to otherwise~~
3 ~~homebound disabled persons, as all or part of any food service~~
4 ~~project funded in whole or in part by government or as part of a~~
5 ~~private nonprofit food service project available to all such elderly~~
6 ~~or disabled persons residing within an area of service designated~~
7 ~~by the private nonprofit organization, and all sales of food prod-~~
8 ~~ucts for use in preparing meals for consumption by indigent or~~
9 ~~homeless individuals whether or not such meals are consumed at~~
10 ~~a place designated for such purpose;~~

11 ~~—(w) all sales of natural gas, electricity, heat and water delivered~~
12 ~~through mains, lines or pipes: (1) To residential premises for non-~~
13 ~~commercial use by the occupant of such premises; (2) for agricul-~~
14 ~~tural use and also, for such use, all sales of propane gas; (3) for use~~
15 ~~in the severing of oil; and (4) to any property which is exempt from~~
16 ~~property taxation pursuant to K.S.A. 79-201b *Second through Sixth.*~~
17 ~~As used in this paragraph, “severing” shall have the meaning as-~~
18 ~~cribed thereto by subsection (k) of K.S.A. 79-4216, and amend-~~
19 ~~ments thereto;~~

20 ~~—(x) all sales of propane gas, LP-gas, coal, wood and other fuel~~
21 ~~sources for the production of heat or lighting for noncommercial~~
22 ~~use of an occupant of residential premises;~~

23 ~~—(y) all sales of materials and services used in the repairing,~~
24 ~~servicing, altering, maintaining, manufacturing, remanufacturing,~~
25 ~~or modification of railroad rolling stock for use in interstate or~~
26 ~~foreign commerce under authority of the laws of the United States;~~

27 ~~—(z) all sales of tangible personal property and services pur-~~
28 ~~chased directly by a port authority or by a contractor therefor as~~
29 ~~provided by the provisions of K.S.A. 12-3418 and amendments~~
30 ~~thereto;~~

31 ~~—(aa) all sales of materials and services applied to equipment~~
32 ~~which is transported into the state from without the state for re-~~
33 ~~pair, service, alteration, maintenance, remanufacture or modifi-~~
34 ~~cation and which is subsequently transported outside the state for~~
35 ~~use in the transmission of liquids or natural gas by means of pipe-~~
36 ~~line in interstate or foreign commerce under authority of the laws~~
37 ~~of the United States;~~

38 ~~—(bb) all sales of used mobile homes or manufactured homes.~~
39 ~~As used in this subsection: (1) “Mobile homes” and “manufactured~~
40 ~~homes” shall have the meanings ascribed thereto by K.S.A. 58-~~
41 ~~4202 and amendments thereto; and (2) “sales of used mobile~~
42 ~~homes or manufactured homes” means sales other than the orig-~~
43 ~~inal retail sale thereof;~~

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

32 ~~—(dd) all sales of tangible personal property purchased with~~
33 ~~food stamps issued by the United States department of agriculture;~~

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

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

42 ~~—(gg) all sales of tangible personal property purchased in ac-~~
43 ~~cordance with vouchers issued pursuant to the federal special sup-~~

1 ~~plemental food program for women, infants and children;~~

2 ~~—(hh)—all sales of medical supplies and equipment purchased di-~~
3 ~~rectly by a nonprofit skilled nursing home or nonprofit interme-~~
4 ~~diat nursing care home, as defined by K.S.A. 39-923, and amend-~~
5 ~~ments thereto, for the purpose of providing medical services to~~
6 ~~residents thereof. This exemption shall not apply to tangible per-~~
7 ~~sonal property customarily used for human habitation purposes;~~

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

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

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

27 ~~—(B) all sales of installation, repair and maintenance services~~
28 ~~performed on such machinery and equipment; and~~

29 ~~—(C) all sales of repair and replacement parts and accessories~~
30 ~~purchased for such machinery and equipment.~~

31 ~~—(2) For purposes of this subsection:~~

32 ~~—(A) “Integrated production operation” means an integrated se-~~
33 ~~ries of operations engaged in at a manufacturing or processing~~
34 ~~plant or facility to process, transform or convert tangible personal~~
35 ~~property by physical, chemical or other means into a different~~
36 ~~form, composition or character from that in which it originally ex-~~
37 ~~isted. Integrated production operations shall include: (i) Produ-~~
38 ~~tion line operations, including packaging operations; (ii) prepro-~~
39 ~~duction operations to handle, store and treat raw materials; (iii)~~
40 ~~post production handling, storage, warehousing and distribution~~
41 ~~operations; and (iv) waste, pollution and environmental control op-~~
42 ~~erations, if any;~~

43 ~~—(B) “production line” means the assemblage of machinery and~~

1 ~~equipment at a manufacturing or processing plant or facility where~~
2 ~~the actual transformation or processing of tangible personal prop-~~
3 ~~erty occurs;~~

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

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

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

10 ~~—(E) “repair and replacement parts and accessories” means all~~
11 ~~parts and accessories for exempt machinery and equipment, in-~~
12 ~~cluding, but not limited to, dies, jigs, molds, patterns and safety~~
13 ~~devices that are attached to exempt machinery or that are other-~~
14 ~~wise used in production, and parts and accessories that require~~
15 ~~periodic replacement such as belts, drill bits, grinding wheels,~~
16 ~~grinding balls, cutting bars, saws, refractory brick and other re-~~
17 ~~fractory items for exempt kiln equipment used in production~~
18 ~~operations;~~

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

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

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

25 ~~—(B) to transport, convey, handle or store the property under-~~
26 ~~going manufacturing or processing at any point from the begin-~~
27 ~~ning of the production line through any warehousing or distribu-~~
28 ~~tion operation of the final product that occurs at the plant or~~
29 ~~facility;~~

30 ~~—(C) to act upon, effect, promote or otherwise facilitate a phys-~~
31 ~~ical change to the property undergoing manufacturing or~~
32 ~~processing;~~

33 ~~—(D) to guide, control or direct the movement of property un-~~
34 ~~dergoing manufacturing or processing;~~

35 ~~—(E) to test or measure raw materials, the property undergoing~~
36 ~~manufacturing or processing or the finished product, as a neces-~~
37 ~~sary part of the manufacturer’s integrated production operations;~~

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

42 ~~—(G) to produce energy for, lubricate, control the operating of~~
43 ~~or otherwise enable the functioning of other production machin-~~

1 cry and equipment and the continuation of production operations;
2 —(H)— to package the property being manufactured or processed
3 in a container or wrapping in which such property is normally sold
4 or transported;

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

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

15 —(K)— to provide and control an environment required to main-
16 tain certain levels of air quality, humidity or temperature in special
17 and limited areas of the plant or facility, where such regulation of
18 temperature or humidity is part of and essential to the production
19 process;

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

22 —(M)— to control pollution at the plant or facility where the pol-
23 lution is produced by the manufacturing or processing operation.

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

1 ~~the exemption certificate; and (E) a manufacturing or processing~~
2 ~~business' laboratory equipment that is not located at the plant or~~
3 ~~facility, but that would otherwise qualify for exemption under sub-~~
4 ~~section (3)(E).~~

5 ~~—(5) “Machinery and equipment used as an integral or essential~~
6 ~~part of an integrated production operation” shall not include:~~

7 ~~—(A) Machinery and equipment used for nonproduction pur-~~
8 ~~poses, including, but not limited to, machinery and equipment~~
9 ~~used for plant security, fire prevention, first aid, accounting, ad-~~
10 ~~ministration, record keeping, advertising, marketing, sales or~~
11 ~~other related activities, plant cleaning, plant communications, and~~
12 ~~employee work scheduling;~~

13 ~~—(B) machinery, equipment and tools used primarily in main-~~
14 ~~taining and repairing any type of machinery and equipment or the~~
15 ~~building and plant;~~

16 ~~—(C) transportation, transmission and distribution equipment~~
17 ~~not primarily used in a production, warehousing or material han-~~
18 ~~dling operation at the plant or facility, including the means of con-~~
19 ~~veyance of natural gas, electricity, oil or water, and equipment~~
20 ~~related thereto, located outside the plant or facility;~~

21 ~~—(D) office machines and equipment including computers and~~
22 ~~related peripheral equipment not used directly and primarily to~~
23 ~~control or measure the manufacturing process;~~

24 ~~—(E) furniture and other furnishings;~~

25 ~~—(F) buildings, other than exempt machinery and equipment~~
26 ~~that is permanently affixed to or becomes a physical part of the~~
27 ~~building, and any other part of real estate that is not otherwise~~
28 ~~exempt;~~

29 ~~—(G) building fixtures that are not integral to the manufacturing~~
30 ~~operation, such as utility systems for heating, ventilation, air con-~~
31 ~~ditioning, communications, plumbing or electrical;~~

32 ~~—(H) machinery and equipment used for general plant heating,~~
33 ~~cooling and lighting;~~

34 ~~—(I) motor vehicles that are registered for operation on public~~
35 ~~highways; or~~

36 ~~—(J) employee apparel, except safety and protective apparel that~~
37 ~~is purchased by an employer and furnished gratuitously to em-~~
38 ~~ployees who are involved in production or research activities.~~

39 ~~—(6) Subsections (3) and (5) shall not be construed as exclusive~~
40 ~~listings of the machinery and equipment that qualify or do not~~
41 ~~qualify as an integral or essential part of an integrated production~~
42 ~~operation. When machinery or equipment is used as an integral or~~
43 ~~essential part of production operations part of the time and for~~

1 ~~nonproduction purpose at other times, the primary use of the ma-~~
2 ~~chinery or equipment shall determine whether or not such ma-~~
3 ~~chinery or equipment qualifies for exemption.~~

4 ~~—(7) The secretary of revenue shall adopt rules and regulations~~
5 ~~necessary to administer the provisions of this subsection;~~

6 ~~—(ll) all sales of educational materials purchased for distribution~~
7 ~~to the public at no charge by a nonprofit corporation organized~~
8 ~~for the purpose of encouraging, fostering and conducting pro-~~
9 ~~grams for the improvement of public health;~~

10 ~~—(mm) all sales of seeds and tree seedlings, fertilizers, insecti-~~
11 ~~cides, herbicides, germicides, pesticides and fungicides; and serv-~~
12 ~~ices, purchased and used for the purpose of producing plants in~~
13 ~~order to prevent soil erosion on land devoted to agricultural use;~~

14 ~~—(nn) except as otherwise provided in this act, all sales of serv-~~
15 ~~ices rendered by an advertising agency or licensed broadcast sta-~~
16 ~~tion or any member, agent or employee thereof;~~

17 ~~—(oo) all sales of tangible personal property purchased by a com-~~
18 ~~munity action group or agency for the exclusive purpose of re-~~
19 ~~pairing or weatherizing housing occupied by low income~~
20 ~~individuals;~~

21 ~~—(pp) all sales of drill bits and explosives actually utilized in the~~
22 ~~exploration and production of oil or gas;~~

23 ~~—(qq) all sales of tangible personal property and services pur-~~
24 ~~chased by a nonprofit museum or historical society or any combi-~~
25 ~~nation thereof, including a nonprofit organization which is organ-~~
26 ~~ized for the purpose of stimulating public interest in the~~
27 ~~exploration of space by providing educational information, exhib-~~
28 ~~its and experiences, which is exempt from federal income taxation~~
29 ~~pursuant to section 501(c)(3) of the federal internal revenue code~~
30 ~~of 1986;~~

31 ~~—(rr) all sales of tangible personal property which will admit the~~
32 ~~purchaser thereof to any annual event sponsored by a nonprofit~~
33 ~~organization which is exempt from federal income taxation pur-~~
34 ~~suant to section 501(c)(3) of the federal internal revenue code of~~
35 ~~1986;~~

36 ~~—(ss) all sales of tangible personal property and services pur-~~
37 ~~chased by a public broadcasting station licensed by the federal~~
38 ~~communications commission as a noncommercial educational tel-~~
39 ~~evision or radio station;~~

40 ~~—(tt) all sales of tangible personal property and services pur-~~
41 ~~chased by or on behalf of a not-for-profit corporation which is ex-~~
42 ~~empt from federal income taxation pursuant to section 501(c)(3)~~
43 ~~of the federal internal revenue code of 1986, for the sole purpose~~

1 ~~of constructing a Kansas Korean War memorial;~~

2 ~~—(uu)—all sales of tangible personal property and services pur-~~
3 ~~chased by or on behalf of any rural volunteer fire-fighting organ-~~
4 ~~ization for use exclusively in the performance of its duties and~~
5 ~~functions;~~

6 ~~—(vv)—all sales of tangible personal property purchased by any of~~
7 ~~the following organizations which are exempt from federal income~~
8 ~~taxation pursuant to section 501 (c)(3) of the federal internal rev-~~
9 ~~enue code of 1986, for the following purposes, and all sales of any~~
10 ~~such property by or on behalf of any such organization for any~~
11 ~~such purpose:~~

12 ~~—(1)—The American Heart Association, Kansas Affiliate, Inc. for~~
13 ~~the purposes of providing education, training, certification in~~
14 ~~emergency cardiac care, research and other related services to~~
15 ~~reduce disability and death from cardiovascular diseases and~~
16 ~~stroke;~~

17 ~~—(2)—the Kansas Alliance for the Mentally Ill, Inc. for the purpose~~
18 ~~of advocacy for persons with mental illness and to education, re-~~
19 ~~search and support for their families;~~

20 ~~—(3)—the Kansas Mental Illness Awareness Council for the pur-~~
21 ~~poses of advocacy for persons who are mentally ill and to educa-~~
22 ~~tion, research and support for them and their families;~~

23 ~~—(4)—the American Diabetes Association Kansas Affiliate, Inc. for~~
24 ~~the purpose of eliminating diabetes through medical research,~~
25 ~~public education focusing on disease prevention and education,~~
26 ~~patient education including information on coping with diabetes,~~
27 ~~and professional education and training;~~

28 ~~—(5)—the American Lung Association of Kansas, Inc. for the pur-~~
29 ~~pose of eliminating all lung diseases through medical research,~~
30 ~~public education including information on coping with lung dis-~~
31 ~~eases, professional education and training related to lung disease~~
32 ~~and other related services to reduce the incidence of disability and~~
33 ~~death due to lung disease;~~

34 ~~—(6)—the Kansas chapters of the Alzheimer's Disease and Related~~
35 ~~Disorders Association, Inc. for the purpose of providing assistance~~
36 ~~and support to persons in Kansas with Alzheimer's disease, and~~
37 ~~their families and caregivers;~~

38 ~~—(7)—the Kansas chapters of the Parkinson's disease association~~
39 ~~for the purpose of eliminating Parkinson's disease through medical~~
40 ~~research and public and professional education related to such~~
41 ~~disease; and~~

42 ~~—(8)—the National Kidney Foundation of Kansas and Western~~
43 ~~Missouri for the purpose of eliminating kidney disease through~~

1 ~~medical research and public and private education related to such~~
2 ~~disease;~~

3 ~~—(ww) all sales of tangible personal property purchased by the~~
4 ~~Habitat for Humanity for the exclusive use of being incorporated~~
5 ~~within a housing project constructed by such organization;~~

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

~~such materials will not be used for the purpose for which such certificate was issued, the nonprofit zoo concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;~~

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

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

~~—(aaa) all sales of tangible personal property and services purchased by a religious organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, and used exclusively for religious purposes, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facil-~~

1 ities, it shall obtain from the state and furnish to the contractor an
2 exemption certificate for the project involved, and the contractor
3 may purchase materials for incorporation in such project. The con-
4 tractor shall furnish the number of such certificate to all suppliers
5 from whom such purchases are made, and such suppliers shall ex-
6 ecute invoices covering the same bearing the number of such cer-
7 tificate. Upon completion of the project the contractor shall fur-
8 nish to such organization concerned a sworn statement, on a form
9 to be provided by the director of taxation, that all purchases so
10 made were entitled to exemption under this subsection. All in-
11 voices shall be held by the contractor for a period of five years and
12 shall be subject to audit by the director of taxation. If any materials
13 purchased under such a certificate are found not to have been
14 incorporated in the building or other project or not to have been
15 returned for credit or the sales or compensating tax otherwise im-
16 posed upon such materials which will not be so incorporated in
17 the building or other project reported and paid by such contractor
18 to the director of taxation not later than the 20th day of the month
19 following the close of the month in which it shall be determined
20 that such materials will not be used for the purpose for which such
21 certificate was issued, such organization concerned shall be liable
22 for tax on all materials purchased for the project, and upon pay-
23 ment thereof it may recover the same from the contractor together
24 with reasonable attorney fees. Any contractor or any agent, em-
25 ployee or subcontractor thereof, who shall use or otherwise dis-
26 pose of any materials purchased under such a certificate for any
27 purpose other than that for which such a certificate is issued with-
28 out the payment of the sales or compensating tax otherwise im-
29 posed upon such materials, shall be guilty of a misdemeanor and,
30 upon conviction therefor, shall be subject to the penalties provided
31 for in subsection (g) of K.S.A. 79-3615, and amendments thereto.
32 Sales tax paid on and after July 1, 1998, but prior to the effective
33 date of this act upon the gross receipts received from any sale
34 exempted by the amendatory provisions of this subsection shall be
35 refunded. Each claim for a sales tax refund shall be verified and
36 submitted to the director of taxation upon forms furnished by the
37 director and shall be accompanied by any additional documenta-
38 tion required by the director. The director shall review each claim
39 and shall refund that amount of sales tax paid as determined under
40 the provisions of this subsection. All refunds shall be paid from the
41 sales tax refund fund upon warrants of the director of accounts
42 and reports pursuant to vouchers approved by the director or the
43 director's designee;

1 ~~—(bbb)—all sales of food for human consumption by an organi-~~
2 ~~zation which is exempt from federal income taxation pursuant to~~
3 ~~section 501 (c)(3) of the federal internal revenue code of 1986,~~
4 ~~pursuant to a food distribution program which offers such food at~~
5 ~~a price below cost in exchange for the performance of community~~
6 ~~service by the purchaser thereof;~~

7 ~~—(ccc)—on and after July 1, 1999, all sales of tangible personal~~
8 ~~property and services purchased by a primary care clinic or health~~
9 ~~center the primary purpose of which is to provide services to med-~~
10 ~~ically underserved individuals and families, and which is exempt~~
11 ~~from federal income taxation pursuant to section 501 (c)(3) of the~~
12 ~~federal internal revenue code, and all sales of tangible personal~~
13 ~~property or services purchased by a contractor for the purpose of~~
14 ~~constructing, equipping, reconstructing, maintaining, repairing,~~
15 ~~enlarging, furnishing or remodeling facilities for any such clinic or~~
16 ~~center which would be exempt from taxation under the provisions~~
17 ~~of this section if purchased directly by such clinic or center. Noth-~~
18 ~~ing in this subsection shall be deemed to exempt the purchase of~~
19 ~~any construction machinery, equipment or tools used in the con-~~
20 ~~structing, equipping, reconstructing, maintaining, repairing, en-~~
21 ~~larging, furnishing or remodeling facilities for any such clinic or~~
22 ~~center. When any such clinic or center shall contract for the pur-~~
23 ~~pose of constructing, equipping, reconstructing, maintaining, re-~~
24 ~~pairing, enlarging, furnishing or remodeling facilities, it shall ob-~~
25 ~~tain from the state and furnish to the contractor an exemption~~
26 ~~certificate for the project involved, and the contractor may pur-~~
27 ~~chase materials for incorporation in such project. The contractor~~
28 ~~shall furnish the number of such certificate to all suppliers from~~
29 ~~whom such purchases are made, and such suppliers shall execute~~
30 ~~invoices covering the same bearing the number of such certificate.~~
31 ~~Upon completion of the project the contractor shall furnish to such~~
32 ~~clinic or center concerned a sworn statement, on a form to be~~
33 ~~provided by the director of taxation, that all purchases so made~~
34 ~~were entitled to exemption under this subsection. All invoices shall~~
35 ~~be held by the contractor for a period of five years and shall be~~
36 ~~subject to audit by the director of taxation. If any materials pur-~~
37 ~~chased under such a certificate are found not to have been incor-~~
38 ~~porated in the building or other project or not to have been re-~~
39 ~~turned for credit or the sales or compensating tax otherwise~~
40 ~~imposed upon such materials which will not be so incorporated in~~
41 ~~the building or other project reported and paid by such contractor~~
42 ~~to the director of taxation not later than the 20th day of the month~~
43 ~~following the close of the month in which it shall be determined~~

1 ~~that such materials will not be used for the purpose for which such~~
2 ~~certificate was issued, such clinic or center concerned shall be li-~~
3 ~~able for tax on all materials purchased for the project, and upon~~
4 ~~payment thereof it may recover the same from the contractor to-~~
5 ~~gether with reasonable attorney fees. Any contractor or any agent,~~
6 ~~employee or subcontractor thereof, who shall use or otherwise dis-~~
7 ~~pose of any materials purchased under such a certificate for any~~
8 ~~purpose other than that for which such a certificate is issued with-~~
9 ~~out the payment of the sales or compensating tax otherwise im-~~
10 ~~posed upon such materials, shall be guilty of a misdemeanor and,~~
11 ~~upon conviction therefor, shall be subject to the penalties provided~~
12 ~~for in subsection (g) of K.S.A. 79-3615, and amendments thereto;~~
13 ~~—(ddd)—on and after January 1, 1999, and before January 1, 2000,~~
14 ~~all sales of materials and services purchased by any class II or III~~
15 ~~railroad as classified by the federal surface transportation board~~
16 ~~for the construction, renovation, repair or replacement of class II~~
17 ~~or III railroad track and facilities used directly in interstate com-~~
18 ~~mence. In the event any such track or facility for which materials~~
19 ~~and services were purchased sales tax exempt is not operational~~
20 ~~for five years succeeding the allowance of such exemption, the~~
21 ~~total amount of sales tax which would have been payable except~~
22 ~~for the operation of this subsection shall be recouped in accord-~~
23 ~~ance with rules and regulations adopted for such purpose by the~~
24 ~~secretary of revenue;~~
25 ~~—(eee)—on and after January 1, 1999, and before January 1, 2001,~~
26 ~~all sales of materials and services purchased for the original con-~~
27 ~~struction, reconstruction, repair or replacement of grain storage~~
28 ~~facilities, including railroad sidings providing access thereto;~~
29 ~~—(fff)—all sales of material handling equipment, racking systems~~
30 ~~and other related machinery and equipment that is used for the~~
31 ~~handling, movement or storage of tangible personal property in a~~
32 ~~warehouse or distribution facility in this state; all sales of instal-~~
33 ~~lation, repair and maintenance services performed on such ma-~~
34 ~~chinery and equipment; and all sales of repair and replacement~~
35 ~~parts for such machinery and equipment. For purposes of this sub-~~
36 ~~section, a warehouse or distribution facility means a single, fixed~~
37 ~~location that consists of buildings or structures in a contiguous area~~
38 ~~where storage or distribution operations are conducted that are~~
39 ~~separate and apart from the business' retail operations, if any, and~~
40 ~~which do not otherwise qualify for exemption as occurring at a~~
41 ~~manufacturing or processing plant or facility. Material handling~~
42 ~~and storage equipment shall include aeration, dust control, clean-~~
43 ~~ing, handling and other such equipment that is used in a public~~

1 ~~grain warehouse or other commercial grain storage facility,~~
2 ~~whether used for grain handling, grain storage, grain refining or~~
3 ~~processing, or other grain treatment operation; and~~

4 ~~—(ggg) all sales of tangible personal property and services pur-~~
5 ~~chased by or on behalf of the Kansas Academy of Science which is~~
6 ~~exempt from federal income taxation pursuant to section 501(c)(3)~~
7 ~~of the federal internal revenue code of 1986, and used solely by~~
8 ~~such academy for the preparation, publication and dissemination~~
9 ~~of education materials.~~

10 ~~—[New Sec. 2. (a) All revenue, as certified by the secretary of~~
11 ~~revenue to the director of accounts and reports, attributable to the~~
12 ~~operation of the provisions of K.S.A. 79-3603 and 79-3703, as each~~
13 ~~such section is specifically amended by this act, shall be transferred~~
14 ~~by the director of accounts and reports from the state general fund~~
15 ~~to the state school district finance fund and the post-secondary~~
16 ~~education excellence fund, which is hereby established, on January~~
17 ~~15, March 15 and June 15 of each year commencing on January~~
18 ~~15, 2003, in the following proportion: 80.54% of each such transfer~~
19 ~~to the state school district finance fund and 19.46% of each such~~
20 ~~transfer to the post-secondary education excellence fund. All trans-~~
21 ~~fers made in accordance with the provisions of this section shall~~
22 ~~be considered to be demand transfers from the state general fund~~
23 ~~and shall not be subject to reduction under K.S.A. 75-6704, and~~
24 ~~amendments thereto.~~

25 ~~—[(b) The post-secondary education excellence fund shall be~~
26 ~~used for the purpose of financing post-secondary education and~~
27 ~~for no other governmental purpose. It is the intent of the legisla-~~
28 ~~ture that the fund shall remain intact and inviolate for such pur-~~
29 ~~pose, and moneys in the fund shall not be subject to the provisions~~
30 ~~of K.S.A. 75-3722, 75-3725a and 75-3726a, and amendments~~
31 ~~thereto.]~~

32 ~~—Sec. 2. [3.] K.S.A. 2001 Supp. 79-3606 is hereby repealed.~~

33 ~~—Sec. 3. [4.] This act shall take effect and be in force from and after~~
34 ~~its publication in the statute book.~~

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