

## HOUSE BILL No. 2936

By Committee on Taxation

3-16

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9 AN ACT concerning sales taxation; relating to exemptions; community-  
10 based mental retardation facility or mental health center; amending  
11 K.S.A. 2003 Supp. 79-3606 and repealing the existing section.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2003 Supp. 79-3606 is hereby amended to read as  
15 follows: 79-3606. The following shall be exempt from the tax imposed by  
16 this act:

17 (a) All sales of motor-vehicle fuel or other articles upon which a sales  
18 or excise tax has been paid, not subject to refund, under the laws of this  
19 state except cigarettes as defined by K.S.A. 79-3301 and amendments  
20 thereto, cereal malt beverages and malt products as defined by K.S.A. 79-  
21 3817 and amendments thereto, including wort, liquid malt, malt syrup  
22 and malt extract, which is not subject to taxation under the provisions of  
23 K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant  
24 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to  
25 K.S.A. 65-3424d, and amendments thereto, and drycleaning and laundry  
26 services taxed pursuant to K.S.A. 65-34,150, and amendments thereto;

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

41 (c) all sales of tangible personal property or services, including the  
42 renting and leasing of tangible personal property, purchased directly by  
43 a public or private elementary or secondary school or public or private

1 nonprofit educational institution and used primarily by such school or  
2 institution for nonsectarian programs and activities provided or sponsored  
3 by such school or institution or in the erection, repair or enlargement of  
4 buildings to be used for such purposes. The exemption herein provided  
5 shall not apply to erection, construction, repair, enlargement or equip-  
6 ment of buildings used primarily for human habitation;

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

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

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

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

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

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

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

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

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

42 (k) any motor vehicle, semitrailer or pole trailer, as such terms are  
43 defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and

1 delivered in this state to a bona fide resident of another state, which motor  
2 vehicle, semitrailer, pole trailer or aircraft is not to be registered or based  
3 in this state and which vehicle, semitrailer, pole trailer or aircraft will not  
4 remain in this state more than 10 days;

5 (l) all isolated or occasional sales of tangible personal property, serv-  
6 ices, substances or things, except isolated or occasional sale of motor  
7 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.  
8 79-3603 and amendments thereto;

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

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

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

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

- 1 (q) all sales of insulin dispensed by a person licensed by the state  
2 board of pharmacy to a person for treatment of diabetes at the direction  
3 of a person licensed to practice medicine by the board of healing arts;
- 4 (r) all sales of prosthetic devices and mobility enhancing equipment  
5 prescribed in writing by a person licensed to practice the healing arts,  
6 dentistry or optometry. For the purposes of this subsection: (1) “Mobility  
7 enhancing equipment” means equipment including repair and replace-  
8 ment parts to same, but does not include durable medical equipment,  
9 which is primarily and customarily used to provide or increase the ability  
10 to move from one place to another and which is appropriate for use either  
11 in a home or a motor vehicle; is not generally used by persons with normal  
12 mobility; and does not include any motor vehicle or equipment on a motor  
13 vehicle normally provided by a motor vehicle manufacturer; and (2)  
14 “prosthetic device” means a replacement, corrective or supportive device  
15 including repair and replacement parts for same worn on or in the body  
16 to artificially replace a missing portion of the body, prevent or correct  
17 physical deformity or malfunction or support a weak or deformed portion  
18 of the body;
- 19 (s) except as provided in K.S.A. 2003 Supp. 82a-2101, and amend-  
20 ments thereto, all sales of tangible personal property or services pur-  
21 chased directly or indirectly by a groundwater management district or-  
22 ganized or operating under the authority of K.S.A. 82a-1020 *et seq.* and  
23 amendments thereto, by a rural water district organized or operating un-  
24 der the authority of K.S.A. 82a-612, and amendments thereto, or by a  
25 water supply district organized or operating under the authority of K.S.A.  
26 19-3501 *et seq.*, 19-3522 *et seq.* or 19-3545, and amendments thereto,  
27 which property or services are used in the construction activities, opera-  
28 tion or maintenance of the district;
- 29 (t) all sales of farm machinery and equipment or aquaculture ma-  
30 chinery and equipment, repair and replacement parts therefor and serv-  
31 ices performed in the repair and maintenance of such machinery and  
32 equipment. For the purposes of this subsection the term “farm machinery  
33 and equipment or aquaculture machinery and equipment” shall include  
34 machinery and equipment used in the operation of Christmas tree farm-  
35 ing but shall not include any passenger vehicle, truck, truck tractor, trailer,  
36 semitrailer or pole trailer, other than a farm trailer, as such terms are  
37 defined by K.S.A. 8-126 and amendments thereto. Each purchaser of  
38 farm machinery and equipment or aquaculture machinery and equipment  
39 exempted herein must certify in writing on the copy of the invoice or  
40 sales ticket to be retained by the seller that the farm machinery and  
41 equipment or aquaculture machinery and equipment purchased will be  
42 used only in farming, ranching or aquaculture production. Farming or  
43 ranching shall include the operation of a feedlot and farm and ranch work

- 1 for hire and the operation of a nursery;
- 2 (u) all leases or rentals of tangible personal property used as a dwell-  
3 ing if such tangible personal property is leased or rented for a period of  
4 more than 28 consecutive days;
- 5 (v) all sales of food products to any contractor for use in preparing  
6 meals for delivery to homebound elderly persons over 60 years of age and  
7 to homebound disabled persons or to be served at a group-sitting at a  
8 location outside of the home to otherwise homebound elderly persons  
9 over 60 years of age and to otherwise homebound disabled persons, as  
10 all or part of any food service project funded in whole or in part by  
11 government or as part of a private nonprofit food service project available  
12 to all such elderly or disabled persons residing within an area of service  
13 designated by the private nonprofit organization, and all sales of food  
14 products for use in preparing meals for consumption by indigent or home-  
15 less individuals whether or not such meals are consumed at a place des-  
16 ignated for such purpose;
- 17 (w) all sales of natural gas, electricity, heat and water delivered  
18 through mains, lines or pipes: (1) To residential premises for noncom-  
19 mercial use by the occupant of such premises; (2) for agricultural use and  
20 also, for such use, all sales of propane gas; (3) for use in the severing of  
21 oil; and (4) to any property which is exempt from property taxation pur-  
22 suant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph,  
23 “severing” shall have the meaning ascribed thereto by subsection (k) of  
24 K.S.A. 79-4216, and amendments thereto. For all sales of natural gas,  
25 electricity and heat delivered through mains, lines or pipes pursuant to  
26 the provisions of subsection (w)(1) and (w)(2), the provisions of this sub-  
27 section shall expire on December 31, 2005;
- 28 (x) all sales of propane gas, LP-gas, coal, wood and other fuel sources  
29 for the production of heat or lighting for noncommercial use of an oc-  
30 cupant of residential premises occurring prior to January 1, 2006;
- 31 (y) all sales of materials and services used in the repairing, servicing,  
32 altering, maintaining, manufacturing, remanufacturing, or modification of  
33 railroad rolling stock for use in interstate or foreign commerce under  
34 authority of the laws of the United States;
- 35 (z) all sales of tangible personal property and services purchased di-  
36 rectly by a port authority or by a contractor therefor as provided by the  
37 provisions of K.S.A. 12-3418 and amendments thereto;
- 38 (aa) all sales of materials and services applied to equipment which is  
39 transported into the state from without the state for repair, service, al-  
40 teration, maintenance, remanufacture or modification and which is sub-  
41 sequently transported outside the state for use in the transmission of  
42 liquids or natural gas by means of pipeline in interstate or foreign com-  
43 merce under authority of the laws of the United States;

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

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

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

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

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



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

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

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

22 (jj) all sales of tangible personal property or services, including the  
23 renting and leasing of tangible personal property, purchased directly on  
24 behalf of a community-based mental retardation facility or mental health  
25 center organized pursuant to K.S.A. 19-4001 *et seq.*, and amendments  
26 thereto, and licensed in accordance with the provisions of K.S.A. 75-  
27 3307b and amendments thereto *and all sales of tangible personal property*  
28 *or services purchased by contractors during the time period from July,*  
29 *2003, through June, 2004, for the purpose of constructing, equipping,*  
30 *maintaining or furnishing a new facility for a community-based mental*  
31 *retardation facility or mental health center located in Riverton, Cherokee*  
32 *County, Kansas, which would have been eligible for sales tax exemption*  
33 *pursuant to this subsection if purchased directly by such facility or center.*  
34 This exemption shall not apply to tangible personal property customarily  
35 used for human habitation purposes;

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

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

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

43 (2) For purposes of this subsection:

1 (A) “Integrated production operation” means an integrated series of  
2 operations engaged in at a manufacturing or processing plant or facility  
3 to process, transform or convert tangible personal property by physical,  
4 chemical or other means into a different form, composition or character  
5 from that in which it originally existed. Integrated production operations  
6 shall include: (i) Production line operations, including packaging opera-  
7 tions; (ii) preproduction operations to handle, store and treat raw mate-  
8 rials; (iii) post production handling, storage, warehousing and distribution  
9 operations; and (iv) waste, pollution and environmental control opera-  
10 tions, if any;

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (G) to produce energy for, lubricate, control the operating of or otherwise enable the functioning of other production machinery and equipment and the continuation of production operations;
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4 (H) to package the property being manufactured or processed in a container or wrapping in which such property is normally sold or transported;
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7 (I) to transmit or transport electricity, coke, gas, water, steam or similar substances used in production operations from the point of generation, if produced by the manufacturer or processor at the plant site, to that manufacturer's production operation; or, if purchased or delivered from offsite, from the point where the substance enters the site of the plant or facility to that manufacturer's production operations;
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13 (J) to cool, heat, filter, refine or otherwise treat water, steam, acid, oil, solvents or other substances that are used in production operations;
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15 (K) to provide and control an environment required to maintain certain levels of air quality, humidity or temperature in special and limited areas of the plant or facility, where such regulation of temperature or humidity is part of and essential to the production process;
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19 (L) to treat, transport or store waste or other byproducts of production operations at the plant or facility; or
- 20  
21 (M) to control pollution at the plant or facility where the pollution is produced by the manufacturing or processing operation.
- 22  
23 (4) The following machinery, equipment and materials shall be deemed to be exempt even though it may not otherwise qualify as machinery and equipment used as an integral or essential part of an integrated production operation: (A) Computers and related peripheral equipment that are utilized by a manufacturing or processing business for engineering of the finished product or for research and development or product design; (B) machinery and equipment that is utilized by a manufacturing or processing business to manufacture or rebuild tangible personal property that is used in manufacturing or processing operations, including tools, dies, molds, forms and other parts of qualifying machinery and equipment; (C) portable plants for aggregate concrete, bulk cement and asphalt including cement mixing drums to be attached to a motor vehicle; (D) industrial fixtures, devices, support facilities and special foundations necessary for manufacturing and production operations, and materials and other tangible personal property sold for the purpose of fabricating such fixtures, devices, facilities and foundations. An exemption certificate for such purchases shall be signed by the manufacturer or processor. If the fabricator purchases such material, the fabricator shall also sign the exemption certificate; and (E) a manufacturing or processing business' laboratory equipment that is not located at the plant or facility, but that would otherwise qualify for exemption under subsection (3)(E).
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1 (5) “Machinery and equipment used as an integral or essential part  
2 of an integrated production operation” shall not include:

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

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

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

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

19 (E) furniture and other furnishings;

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

23 (G) building fixtures that are not integral to the manufacturing oper-  
24 ation, such as utility systems for heating, ventilation, air conditioning,  
25 communications, plumbing or electrical;

26 (H) machinery and equipment used for general plant heating, cooling  
27 and lighting;

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

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

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

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

43 (ll) all sales of educational materials purchased for distribution to the

- 1 public at no charge by a nonprofit corporation organized for the purpose  
2 of encouraging, fostering and conducting programs for the improvement  
3 of public health;
- 4 (mm) all sales of seeds and tree seedlings; fertilizers, insecticides,  
5 herbicides, germicides, pesticides and fungicides; and services, purchased  
6 and used for the purpose of producing plants in order to prevent soil  
7 erosion on land devoted to agricultural use;
- 8 (nn) except as otherwise provided in this act, all sales of services ren-  
9 dered by an advertising agency or licensed broadcast station or any mem-  
10 ber, agent or employee thereof;
- 11 (oo) all sales of tangible personal property purchased by a community  
12 action group or agency for the exclusive purpose of repairing or weath-  
13 erizing housing occupied by low income individuals;
- 14 (pp) all sales of drill bits and explosives actually utilized in the explo-  
15 ration and production of oil or gas;
- 16 (qq) all sales of tangible personal property and services purchased by  
17 a nonprofit museum or historical society or any combination thereof, in-  
18 cluding a nonprofit organization which is organized for the purpose of  
19 stimulating public interest in the exploration of space by providing edu-  
20 cational information, exhibits and experiences, which is exempt from fed-  
21 eral income taxation pursuant to section 501(c)(3) of the federal internal  
22 revenue code of 1986;
- 23 (rr) all sales of tangible personal property which will admit the pur-  
24 chaser thereof to any annual event sponsored by a nonprofit organization  
25 which is exempt from federal income taxation pursuant to section  
26 501(c)(3) of the federal internal revenue code of 1986;
- 27 (ss) all sales of tangible personal property and services purchased by  
28 a public broadcasting station licensed by the federal communications  
29 commission as a noncommercial educational television or radio station;
- 30 (tt) all sales of tangible personal property and services purchased by  
31 or on behalf of a not-for-profit corporation which is exempt from federal  
32 income taxation pursuant to section 501(c)(3) of the federal internal rev-  
33 enue code of 1986, for the sole purpose of constructing a Kansas Korean  
34 War memorial;
- 35 (uu) all sales of tangible personal property and services purchased by  
36 or on behalf of any rural volunteer fire-fighting organization for use ex-  
37 clusively in the performance of its duties and functions;
- 38 (vv) all sales of tangible personal property purchased by any of the  
39 following organizations which are exempt from federal income taxation  
40 pursuant to section 501 (c)(3) of the federal internal revenue code of  
41 1986, for the following purposes, and all sales of any such property by or  
42 on behalf of any such organization for any such purpose:
- 43 (1) The American Heart Association, Kansas Affiliate, Inc. for the

- 1 purposes of providing education, training, certification in emergency car-  
2 diac care, research and other related services to reduce disability and  
3 death from cardiovascular diseases and stroke;
- 4 (2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of  
5 advocacy for persons with mental illness and to education, research and  
6 support for their families;
- 7 (3) the Kansas Mental Illness Awareness Council for the purposes of  
8 advocacy for persons who are mentally ill and to education, research and  
9 support for them and their families;
- 10 (4) the American Diabetes Association Kansas Affiliate, Inc. for the  
11 purpose of eliminating diabetes through medical research, public edu-  
12 cation focusing on disease prevention and education, patient education  
13 including information on coping with diabetes, and professional education  
14 and training;
- 15 (5) the American Lung Association of Kansas, Inc. for the purpose of  
16 eliminating all lung diseases through medical research, public education  
17 including information on coping with lung diseases, professional educa-  
18 tion and training related to lung disease and other related services to  
19 reduce the incidence of disability and death due to lung disease;
- 20 (6) the Kansas chapters of the Alzheimer's Disease and Related Dis-  
21 orders Association, Inc. for the purpose of providing assistance and sup-  
22 port to persons in Kansas with Alzheimer's disease, and their families and  
23 caregivers;
- 24 (7) the Kansas chapters of the Parkinson's disease association for the  
25 purpose of eliminating Parkinson's disease through medical research and  
26 public and professional education related to such disease; and
- 27 (8) the National Kidney Foundation of Kansas and Western Missouri  
28 for the purpose of eliminating kidney disease through medical research  
29 and public and private education related to such disease;
- 30 (ww) all sales of tangible personal property purchased by the Habitat  
31 for Humanity for the exclusive use of being incorporated within a housing  
32 project constructed by such organization;
- 33 (xx) all sales of tangible personal property and services purchased by  
34 a nonprofit zoo which is exempt from federal income taxation pursuant  
35 to section 501(c)(3) of the federal internal revenue code of 1986, or on  
36 behalf of such zoo by an entity itself exempt from federal income taxation  
37 pursuant to section 501(c)(3) of the federal internal revenue code of 1986  
38 contracted with to operate such zoo and all sales of tangible personal  
39 property or services purchased by a contractor for the purpose of con-  
40 structing, equipping, reconstructing, maintaining, repairing, enlarging,  
41 furnishing or remodeling facilities for any nonprofit zoo which would be  
42 exempt from taxation under the provisions of this section if purchased  
43 directly by such nonprofit zoo or the entity operating such zoo. Nothing

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

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

38 (zz) all sales of machinery and equipment purchased by over-the-air,  
39 free access radio or television station which is used directly and primarily  
40 for the purpose of producing a broadcast signal or is such that the failure  
41 of the machinery or equipment to operate would cause broadcasting to  
42 cease. For purposes of this subsection, machinery and equipment shall  
43 include, but not be limited to, that required by rules and regulations of



1 the federal communications commission, and all sales of electricity which  
2 are essential or necessary for the purpose of producing a broadcast signal  
3 or is such that the failure of the electricity would cause broadcasting to  
4 cease;

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

1 the payment of the sales or compensating tax otherwise imposed upon  
2 such materials, shall be guilty of a misdemeanor and, upon conviction  
3 therefor, shall be subject to the penalties provided for in subsection (g)  
4 of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after  
5 July 1, 1998, but prior to the effective date of this act upon the gross  
6 receipts received from any sale exempted by the amendatory provisions  
7 of this subsection shall be refunded. Each claim for a sales tax refund  
8 shall be verified and submitted to the director of taxation upon forms  
9 furnished by the director and shall be accompanied by any additional  
10 documentation required by the director. The director shall review each  
11 claim and shall refund that amount of sales tax paid as determined under  
12 the provisions of this subsection. All refunds shall be paid from the sales  
13 tax refund fund upon warrants of the director of accounts and reports  
14 pursuant to vouchers approved by the director or the director's designee;

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

21 (ccc) on and after July 1, 1999, all sales of tangible personal property  
22 and services purchased by a primary care clinic or health center the pri-  
23 mary purpose of which is to provide services to medically underserved  
24 individuals and families, and which is exempt from federal income taxa-  
25 tion pursuant to section 501 (c)(3) of the federal internal revenue code,  
26 and all sales of tangible personal property or services purchased by a  
27 contractor for the purpose of constructing, equipping, reconstructing,  
28 maintaining, repairing, enlarging, furnishing or remodeling facilities for  
29 any such clinic or center which would be exempt from taxation under the  
30 provisions of this section if purchased directly by such clinic or center.  
31 Nothing in this subsection shall be deemed to exempt the purchase of  
32 any construction machinery, equipment or tools used in the constructing,  
33 equipping, reconstructing, maintaining, repairing, enlarging, furnishing  
34 or remodeling facilities for any such clinic or center. When any such clinic  
35 or center shall contract for the purpose of constructing, equipping, re-  
36 constructing, maintaining, repairing, enlarging, furnishing or remodeling  
37 facilities, it shall obtain from the state and furnish to the contractor an  
38 exemption certificate for the project involved, and the contractor may  
39 purchase materials for incorporation in such project. The contractor shall  
40 furnish the number of such certificate to all suppliers from whom such  
41 purchases are made, and such suppliers shall execute invoices covering  
42 the same bearing the number of such certificate. Upon completion of the  
43 project the contractor shall furnish to such clinic or center concerned a

1 sworn statement, on a form to be provided by the director of taxation,  
2 that all purchases so made were entitled to exemption under this subsection.  
3 All invoices shall be held by the contractor for a period of five years  
4 and shall be subject to audit by the director of taxation. If any materials  
5 purchased under such a certificate are found not to have been incorporated  
6 in the building or other project or not to have been returned for  
7 credit or the sales or compensating tax otherwise imposed upon such  
8 materials which will not be so incorporated in the building or other project  
9 reported and paid by such contractor to the director of taxation not  
10 later than the 20th day of the month following the close of the month in  
11 which it shall be determined that such materials will not be used for the  
12 purpose for which such certificate was issued, such clinic or center concerned  
13 shall be liable for tax on all materials purchased for the project,  
14 and upon payment thereof it may recover the same from the contractor  
15 together with reasonable attorney fees. Any contractor or any agent, employee  
16 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 (ddd) on and after January 1, 1999, and before January 1, 2000, all  
24 sales of materials and services purchased by any class II or III railroad as  
25 classified by the federal surface transportation board for the construction,  
26 renovation, repair or replacement of class II or III railroad track and  
27 facilities used directly in interstate commerce. In the event any such track  
28 or facility for which materials and services were purchased sales tax exempt  
29 is not operational for five years succeeding the allowance of such exemption,  
30 the total amount of sales tax which would have been payable except for the  
31 operation of this subsection shall be recouped in accordance with rules and  
32 regulations adopted for such purpose by the secretary of revenue;  
33

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

38 (fff) all sales of material handling equipment, racking systems and  
39 other related machinery and equipment that is used for the handling,  
40 movement or storage of tangible personal property in a warehouse or  
41 distribution facility in this state; all sales of installation, repair and  
42 maintenance services performed on such machinery and equipment; and all  
43 sales of repair and replacement parts for such machinery and equipment.

1 For purposes of this subsection, a warehouse or distribution facility means  
2 a single, fixed location that consists of buildings or structures in a contig-  
3 uous area where storage or distribution operations are conducted that are  
4 separate and apart from the business' retail operations, if any, and which  
5 do not otherwise qualify for exemption as occurring at a manufacturing  
6 or processing plant or facility. Material handling and storage equipment  
7 shall include aeration, dust control, cleaning, handling and other such  
8 equipment that is used in a public grain warehouse or other commercial  
9 grain storage facility, whether used for grain handling, grain storage, grain  
10 refining or processing, or other grain treatment operation; and  
11 (ggg) all sales of tangible personal property and services purchased  
12 by or on behalf of the Kansas Academy of Science which is exempt from  
13 federal income taxation pursuant to section 501(c)(3) of the federal in-  
14 ternal revenue code of 1986, and used solely by such academy for the  
15 preparation, publication and dissemination of education materials.  
16 Sec. 2. K.S.A. 2003 Supp. 79-3606 is hereby repealed.  
17 Sec. 3. This act shall take effect and be in force from and after its  
18 publication in the statute book.