

HOUSE BILL No. 2886

By Committee on Taxation

2-10

9 AN ACT concerning sales taxation; relating to exemptions; certain non-
10 profit organizations; amending K.S.A. 2005 Supp. 79-3603 and 79-
11 3606 and repealing the existing sections.
12

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

14 Section 1. K.S.A. 2005 Supp. 79-3603 is hereby amended to read as
15 follows: 79-3603. For the privilege of engaging in the business of selling
16 tangible personal property at retail in this state or rendering or furnishing
17 any of the services taxable under this act, there is hereby levied and there
18 shall be collected and paid a tax at the rate of 5.3%. Within a redevelop-
19 ment district established pursuant to K.S.A. 74-8921, and amendments
20 thereto, there is hereby levied and there shall be collected and paid an
21 additional tax at the rate of 2% until the earlier of the date the bonds
22 issued to finance or refinance the redevelopment project have been paid
23 in full or the final scheduled maturity of the first series of bonds issued
24 to finance any part of the project upon:

25 (a) The gross receipts received from the sale of tangible personal
26 property at retail within this state;

27 (b) (1) the gross receipts from intrastate telephone or telegraph serv-
28 ices; (2) the gross receipts received from the sale of interstate telephone
29 or telegraph services, which (A) originate within this state and terminate
30 outside the state and are billed to a customer's telephone number or
31 account in this state; or (B) originate outside this state and terminate
32 within this state and are billed to a customer's telephone number or ac-
33 count in this state except that the sale of interstate telephone or telegraph
34 service does not include: (A) Any interstate incoming or outgoing wide
35 area telephone service or wide area transmission type service which en-
36 titles the subscriber to make or receive an unlimited number of com-
37 munications to or from persons having telephone service in a specified
38 area which is outside the state in which the station provided this service
39 is located; (B) any interstate private communications service to the per-
40 sons contracting for the receipt of that service that entitles the purchaser
41 to exclusive or priority use of a communications channel or group of
42 channels between exchanges; (C) any value-added nonvoice service in
43 which computer processing applications are used to act on the form, con-

1 tent, code or protocol of the information to be transmitted; (D) any tel-
2 ecommunication service to a provider of telecommunication services
3 which will be used to render telecommunications services, including car-
4 rier access services; or (E) any service or transaction defined in this sec-
5 tion among entities classified as members of an affiliated group as pro-
6 vided by section 1504 of the federal internal revenue code of 1986, as in
7 effect on January 1, 2001; and (3) the gross receipts from the provision
8 of services taxable under this subsection which are billed on a combined
9 basis with nontaxable services, shall be accounted for and the tax remitted
10 as follows: The taxable portion of the selling price of those combined
11 services shall include only those charges for taxable services if the selling
12 price for the taxable services can be readily distinguishable in the retailer's
13 books and records from the selling price for the nontaxable services. Oth-
14 erwise, the gross receipts from the sale of both taxable and nontaxable
15 services billed on a combined basis shall be deemed attributable to the
16 taxable services included therein. Within 90 days of billing taxable services
17 on a combined basis with nontaxable services, the retailer shall enter into
18 a written agreement with the secretary identifying the methodology to be
19 used in determining the taxable portion of the selling price of those com-
20 bined services. The burden of proving that any receipt or charge is not
21 taxable shall be upon the retailer. Upon request from the customer, the
22 retailer shall disclose to the customer the selling price for the taxable
23 services included in the selling price for the taxable and nontaxable serv-
24 ices billed on a combined basis;

25 (c) the gross receipts from the sale or furnishing of gas, water, elec-
26 tricity and heat, which sale is not otherwise exempt from taxation under
27 the provisions of this act, and whether furnished by municipally or pri-
28 vately owned utilities, except that, on and after January 1, 2006, for sales
29 of gas, electricity and heat delivered through mains, lines or pipes to
30 residential premises for noncommercial use by the occupant of such
31 premises, and for agricultural use and also, for such use, all sales of pro-
32 pane gas, the state rate shall be 0%; and for all sales of propane gas, LP
33 gas, coal, wood and other fuel sources for the production of heat or light-
34 ing for noncommercial use of an occupant of residential premises, the
35 state rate shall be 0%, but such tax shall not be levied and collected upon
36 the gross receipts from: (1) The sale of a rural water district benefit unit;
37 (2) a water system impact fee, system enhancement fee or similar fee
38 collected by a water supplier as a condition for establishing service; or (3)
39 connection or reconnection fees collected by a water supplier;

40 (d) the gross receipts from the sale of meals or drinks furnished at
41 any private club, drinking establishment, catered event, restaurant, eating
42 house, dining car, hotel, drugstore or other place where meals or drinks
43 are regularly sold to the public;

- 1 (e) the gross receipts from the sale of admissions to any place pro-
2 viding amusement, entertainment or recreation services including admis-
3 sions to state, county, district and local fairs, but such tax shall not be
4 levied and collected upon the gross receipts received from sales of ad-
5 missions to any cultural and historical event which occurs triennially;
- 6 (f) the gross receipts from the operation of any coin-operated device
7 dispensing or providing tangible personal property, amusement or other
8 services except laundry services, whether automatic or manually operated;
- 9 (g) the gross receipts from the service of renting of rooms by hotels,
10 as defined by K.S.A. 36-501 and amendments thereto, or by accommo-
11 dation brokers, as defined by K.S.A. 12-1692, and amendments thereto
12 but such tax shall not be levied and collected upon the gross receipts
13 received from sales of such service to the federal government and any
14 agency, officer or employee thereof in association with the performance
15 of official government duties *nor upon the gross receipts from sales of*
16 *such service, including meals and catering services provided at the hotel,*
17 *to persons participating in a SkillsUSA conference held to enhance such*
18 *organization's purpose of the development of a partnership of students,*
19 *teachers and industry working together to ensure a skilled work force;*
- 20 (h) the gross receipts from the service of renting or leasing of tangible
21 personal property except such tax shall not apply to the renting or leasing
22 of machinery, equipment or other personal property owned by a city and
23 purchased from the proceeds of industrial revenue bonds issued prior to
24 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through
25 12-1749, and amendments thereto, and any city or lessee renting or leas-
26 ing such machinery, equipment or other personal property purchased
27 with the proceeds of such bonds who shall have paid a tax under the
28 provisions of this section upon sales made prior to July 1, 1973, shall be
29 entitled to a refund from the sales tax refund fund of all taxes paid
30 thereon;
- 31 (i) the gross receipts from the rendering of dry cleaning, pressing,
32 dyeing and laundry services except laundry services rendered through a
33 coin-operated device whether automatic or manually operated;
- 34 (j) the gross receipts from the rendering of the services of washing
35 and washing and waxing of vehicles;
- 36 (k) the gross receipts from cable, community antennae and other sub-
37 scriber radio and television services;
- 38 (l) (1) except as otherwise provided by paragraph (2), the gross re-
39 cepts received from the sales of tangible personal property to all con-
40 tractors, subcontractors or repairmen for use by them in erecting struc-
41 tures, or building on, or otherwise improving, altering, or repairing real
42 or personal property.
- 43 (2) Any such contractor, subcontractor or repairman who maintains

1 an inventory of such property both for sale at retail and for use by them
2 for the purposes described by paragraph (1) shall be deemed a retailer
3 with respect to purchases for and sales from such inventory, except that
4 the gross receipts received from any such sale, other than a sale at retail,
5 shall be equal to the total purchase price paid for such property and the
6 tax imposed thereon shall be paid by the deemed retailer;

7 (m) the gross receipts received from fees and charges by public and
8 private clubs, drinking establishments, organizations and businesses for
9 participation in sports, games and other recreational activities, but such
10 tax shall not be levied and collected upon the gross receipts received from:
11 (1) Fees and charges by any political subdivision, by any organization
12 exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-
13 201, and amendments thereto, or by any youth recreation organization
14 exclusively providing services to persons 18 years of age or younger which
15 is exempt from federal income taxation pursuant to section 501(c)(3) of
16 the federal internal revenue code of 1986, for participation in sports,
17 games and other recreational activities; and (2) entry fees and charges for
18 participation in a special event or tournament sanctioned by a national
19 sporting association to which spectators are charged an admission which
20 is taxable pursuant to subsection (e);

21 (n) the gross receipts received from dues charged by public and pri-
22 vate clubs, drinking establishments, organizations and businesses, pay-
23 ment of which entitles a member to the use of facilities for recreation or
24 entertainment, but such tax shall not be levied and collected upon the
25 gross receipts received from: (1) Dues charged by any organization ex-
26 empt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of
27 K.S.A. 79-201, and amendments thereto; and (2) sales of memberships
28 in a nonprofit organization which is exempt from federal income taxation
29 pursuant to section 501 (c)(3) of the federal internal revenue code of
30 1986, and whose purpose is to support the operation of a nonprofit zoo;

31 (o) the gross receipts received from the isolated or occasional sale of
32 motor vehicles or trailers but not including: (1) The transfer of motor
33 vehicles or trailers by a person to a corporation or limited liability com-
34 pany solely in exchange for stock securities or membership interest in
35 such corporation or limited liability company; or (2) the transfer of motor
36 vehicles or trailers by one corporation or limited liability company to
37 another when all of the assets of such corporation or limited liability
38 company are transferred to such other corporation or limited liability
39 company; or (3) the sale of motor vehicles or trailers which are subject
40 to taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and
41 amendments thereto, by an immediate family member to another im-
42 mediate family member. For the purposes of clause (3), immediate family
43 member means lineal ascendants or descendants, and their spouses. Any

1 amount of sales tax paid pursuant to the Kansas retailers sales tax act on
2 the isolated or occasional sale of motor vehicles or trailers on and after
3 July 1, 2004, which the base for computing the tax was the value pursuant
4 to subsections (a), (b)(1) and (b)(2) of K.S.A. 79-5105, and amendments
5 thereto, when such amount was higher than the amount of sales tax which
6 would have been paid under the law as it existed on June 30, 2004, shall
7 be refunded to the taxpayer pursuant to the procedure prescribed by this
8 section. Such refund shall be in an amount equal to the difference be-
9 tween the amount of sales tax paid by the taxpayer and the amount of
10 sales tax which would have been paid by the taxpayer under the law as it
11 existed on June 30, 2004. Each claim for a sales tax refund shall be verified
12 and submitted not later than six months from the effective date of this
13 act to the director of taxation upon forms furnished by the director and
14 shall be accompanied by any additional documentation required by the
15 director. The director shall review each claim and shall refund that
16 amount of tax paid as provided by this act. All such refunds shall be paid
17 from the sales tax refund fund, upon warrants of the director of accounts
18 and reports pursuant to vouchers approved by the director of taxation or
19 the director's designee. No refund for an amount less than \$10 shall be
20 paid pursuant to this act. In determining the base for computing the tax
21 on such isolated or occasional sale, the fair market value of any motor
22 vehicle or trailer traded in by the purchaser to the seller may be deducted
23 from the selling price;

24 (p) the gross receipts received for the service of installing or applying
25 tangible personal property which when installed or applied is not being
26 held for sale in the regular course of business, and whether or not such
27 tangible personal property when installed or applied remains tangible
28 personal property or becomes a part of real estate, except that no tax shall
29 be imposed upon the service of installing or applying tangible personal
30 property in connection with the original construction of a building or
31 facility, the original construction, reconstruction, restoration, remodeling,
32 renovation, repair or replacement of a residence or the construction, re-
33 construction, restoration, replacement or repair of a bridge or highway.

34 For the purposes of this subsection:

35 (1) "Original construction" shall mean the first or initial construction
36 of a new building or facility. The term "original construction" shall include
37 the addition of an entire room or floor to any existing building or facility,
38 the completion of any unfinished portion of any existing building or fa-
39 cility and the restoration, reconstruction or replacement of a building or
40 facility damaged or destroyed by fire, flood, tornado, lightning, explosion
41 or earthquake, but such term, except with regard to a residence, shall not
42 include replacement, remodeling, restoration, renovation or reconstruc-
43 tion under any other circumstances;

- 1 (2) “building” shall mean only those enclosures within which individ-
2 uals customarily are employed, or which are customarily used to house
3 machinery, equipment or other property, and including the land improve-
4 ments immediately surrounding such building;
- 5 (3) “facility” shall mean a mill, plant, refinery, oil or gas well, water
6 well, feedlot or any conveyance, transmission or distribution line of any
7 cooperative, nonprofit, membership corporation organized under or sub-
8 ject to the provisions of K.S.A. 17-4601 et seq., and amendments thereto,
9 or of any municipal or quasi-municipal corporation, including the land
10 improvements immediately surrounding such facility; and
- 11 (4) “residence” shall mean only those enclosures within which indi-
12 viduals customarily live;
- 13 (q) the gross receipts received for the service of repairing, servicing,
14 altering or maintaining tangible personal property which when such serv-
15 ices are rendered is not being held for sale in the regular course of busi-
16 ness, and whether or not any tangible personal property is transferred in
17 connection therewith. The tax imposed by this subsection shall be appli-
18 cable to the services of repairing, servicing, altering or maintaining an
19 item of tangible personal property which has been and is fastened to,
20 connected with or built into real property;
- 21 (r) the gross receipts from fees or charges made under service or
22 maintenance agreement contracts for services, charges for the providing
23 of which are taxable under the provisions of subsection (p) or (q);
- 24 (s) on and after January 1, 2005, the gross receipts received from the
25 sale of prewritten computer software and the sale of the services of mod-
26 ifying, altering, updating or maintaining prewritten computer software,
27 whether the prewritten computer software is installed or delivered elec-
28 tronically by tangible storage media physically transferred to the pur-
29 chaser or by load and leave;
- 30 (t) the gross receipts received for telephone answering services, mo-
31 bile telecommunication services, beeper services and other similar serv-
32 ices. On and after August 1, 2002, the provisions of the federal mobile
33 telecommunications sourcing act as in effect on January 1, 2002, shall be
34 applicable to all sales of mobile telecommunication services taxable pur-
35 suant to this subsection. The secretary of revenue is hereby authorized
36 and directed to perform any act deemed necessary to properly implement
37 such provisions;
- 38 (u) the gross receipts received from the sale of prepaid calling service
39 as defined in K.S.A. 2005 Supp. 79-3673, and amendments thereto; and
- 40 (v) the gross receipts received from the sales of bingo cards, bingo
41 faces and instant bingo tickets by licensees under K.S.A. 79-4701, et seq.,
42 and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1,
43 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before

1 July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo
2 faces and instant bingo tickets by licensees under K.S.A. 79-4701 et seq.,
3 and amendments thereto, shall be exempt from taxes imposed pursuant
4 to this section.

5 Sec. 2. K.S.A. 2005 Supp. 79-3606 is hereby amended to read as
6 follows: 79-3606. The following shall be exempt from the tax imposed by
7 this act:

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

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

34 (c) all sales of tangible personal property or services, including the
35 renting and leasing of tangible personal property, purchased directly by
36 a public or private elementary or secondary school or public or private
37 nonprofit educational institution and used primarily by such school or
38 institution for nonsectarian programs and activities provided or sponsored
39 by such school or institution or in the erection, repair or enlargement of
40 buildings to be used for such purposes. The exemption herein provided
41 shall not apply to erection, construction, repair, enlargement or equip-
42 ment of buildings used primarily for human habitation;

43 (d) all sales of tangible personal property or services purchased by a

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

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

24 (e) all sales of tangible personal property or services purchased by a
25 contractor for the erection, repair or enlargement of buildings or other
26 projects for the government of the United States, its agencies or instru-
27 mentalities, which would be exempt from taxation if purchased directly
28 by the government of the United States, its agencies or instrumentalities.
29 When the government of the United States, its agencies or instrumen-
30 talities shall contract for the erection, repair, or enlargement of any build-
31 ing or other project, it shall obtain from the state and furnish to the
32 contractor an exemption certificate for the project involved, and the con-
33 tractor may purchase materials for incorporation in such project. The
34 contractor shall furnish the number of such certificates to all suppliers
35 from whom such purchases are made, and such suppliers shall execute
36 invoices covering the same bearing the number of such certificate. Upon
37 completion of the project the contractor shall furnish to the government
38 of the United States, its agencies or instrumentalities concerned a sworn
39 statement, on a form to be provided by the director of taxation, that all
40 purchases so made were entitled to exemption under this subsection. As
41 an alternative to the foregoing procedure, any such contracting entity may
42 apply to the secretary of revenue for agent status for the sole purpose of
43 issuing and furnishing project exemption certificates to contractors pur-

1 suant to rules and regulations adopted by the secretary establishing con-
2 ditions and standards for the granting and maintaining of such status. All
3 invoices shall be held by the contractor for a period of five years and shall
4 be subject to audit by the director of taxation. Any contractor or any agent,
5 employee or subcontractor thereof, who shall use or otherwise dispose of
6 any materials purchased under such a certificate for any purpose other
7 than that for which such a certificate is issued without the payment of
8 the sales or compensating tax otherwise imposed upon such materials,
9 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
10 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615
11 and amendments thereto;

12 (f) tangible personal property purchased by a railroad or public utility
13 for consumption or movement directly and immediately in interstate
14 commerce;

15 (g) sales of aircraft including remanufactured and modified aircraft
16 sold to persons using directly or through an authorized agent such aircraft
17 as certified or licensed carriers of persons or property in interstate or
18 foreign commerce under authority of the laws of the United States or any
19 foreign government or sold to any foreign government or agency or in-
20 strumentality of such foreign government and all sales of aircraft for use
21 outside of the United States and sales of aircraft repair, modification and
22 replacement parts and sales of services employed in the remanufacture,
23 modification and repair of aircraft;

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

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

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

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

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

43 (m) all sales of tangible personal property which become an ingre-

1 dient or component part of tangible personal property or services pro-
2 duced, manufactured or compounded for ultimate sale at retail within or
3 without the state of Kansas; and any such producer, manufacturer or
4 compounder may obtain from the director of taxation and furnish to the
5 supplier an exemption certificate number for tangible personal property
6 for use as an ingredient or component part of the property or services
7 produced, manufactured or compounded;

8 (n) all sales of tangible personal property which is consumed in the
9 production, manufacture, processing, mining, drilling, refining or com-
10 pounding of tangible personal property, the treating of by-products or
11 wastes derived from any such production process, the providing of serv-
12 ices or the irrigation of crops for ultimate sale at retail within or without
13 the state of Kansas; and any purchaser of such property may obtain from
14 the director of taxation and furnish to the supplier an exemption certifi-
15 cate number for tangible personal property for consumption in such pro-
16 duction, manufacture, processing, mining, drilling, refining, compound-
17 ing, treating, irrigation and in providing such services;

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

24 (p) all sales of drugs dispensed pursuant to a prescription order by a
25 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-
26 1626, and amendments thereto. As used in this subsection, "drug" means
27 a compound, substance or preparation and any component of a com-
28 pound, substance or preparation, other than food and food ingredients,
29 dietary supplements or alcoholic beverages, recognized in the official
30 United States pharmacopoeia, official homeopathic pharmacopoeia of the
31 United States or official national formulary, and supplement to any of
32 them, intended for use in the diagnosis, cure, mitigation, treatment or
33 prevention of disease or intended to affect the structure or any function
34 of the body;

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

38 (r) all sales of prosthetic devices and mobility enhancing equipment
39 prescribed in writing by a person licensed to practice the healing arts,
40 dentistry or optometry, and in addition to such sales, all sales of hearing
41 aids, as defined by subsection (c) of K.S.A. 74-5807, and amendments
42 thereto, and repair and replacement parts therefor, including batteries,
43 by a person licensed in the practice of dispensing and fitting hearing aids

1 pursuant to the provisions of K.S.A. 74-5808, and amendments thereto.
2 For the purposes of this subsection: (1) “Mobility enhancing equipment”
3 means equipment including repair and replacement parts to same, but
4 does not include durable medical equipment, which is primarily and cus-
5 tomarily used to provide or increase the ability to move from one place
6 to another and which is appropriate for use either in a home or a motor
7 vehicle; is not generally used by persons with normal mobility; and does
8 not include any motor vehicle or equipment on a motor vehicle normally
9 provided by a motor vehicle manufacturer; and (2) “prosthetic device”
10 means a replacement, corrective or supportive device including repair
11 and replacement parts for same worn on or in the body to artificially
12 replace a missing portion of the body, prevent or correct physical defor-
13 mity or malfunction or support a weak or deformed portion of the body;
14 (s) except as provided in K.S.A. 2005 Supp. 82a-2101, and amend-
15 ments thereto, all sales of tangible personal property or services pur-
16 chased directly or indirectly by a groundwater management district or-
17 ganized or operating under the authority of K.S.A. 82a-1020 et seq. and
18 amendments thereto, by a rural water district organized or operating un-
19 der the authority of K.S.A. 82a-612, and amendments thereto, or by a
20 water supply district organized or operating under the authority of K.S.A.
21 19-3501 et seq., 19-3522 et seq. or 19-3545, and amendments thereto,
22 which property or services are used in the construction activities, opera-
23 tion or maintenance of the district;
24 (t) all sales of farm machinery and equipment or aquaculture ma-
25 chinery and equipment, repair and replacement parts therefor and serv-
26 ices performed in the repair and maintenance of such machinery and
27 equipment. For the purposes of this subsection the term “farm machinery
28 and equipment or aquaculture machinery and equipment” shall include
29 machinery and equipment used in the operation of Christmas tree farm-
30 ing but shall not include any passenger vehicle, truck, truck tractor, trailer,
31 semitrailer or pole trailer, other than a farm trailer, as such terms are
32 defined by K.S.A. 8-126 and amendments thereto. Each purchaser of
33 farm machinery and equipment or aquaculture machinery and equipment
34 exempted herein must certify in writing on the copy of the invoice or
35 sales ticket to be retained by the seller that the farm machinery and
36 equipment or aquaculture machinery and equipment purchased will be
37 used only in farming, ranching or aquaculture production. Farming or
38 ranching shall include the operation of a feedlot and farm and ranch work
39 for hire and the operation of a nursery;
40 (u) all leases or rentals of tangible personal property used as a dwell-
41 ing if such tangible personal property is leased or rented for a period of
42 more than 28 consecutive days;
43 (v) all sales of tangible personal property to any contractor for use in

1 preparing meals for delivery to homebound elderly persons over 60 years
2 of age and to homebound disabled persons or to be served at a group-
3 sitting at a location outside of the home to otherwise homebound elderly
4 persons over 60 years of age and to otherwise homebound disabled per-
5 sons, as all or part of any food service project funded in whole or in part
6 by government or as part of a private nonprofit food service project avail-
7 able to all such elderly or disabled persons residing within an area of
8 service designated by the private nonprofit organization, and all sales of
9 tangible personal property for use in preparing meals for consumption by
10 indigent or homeless individuals whether or not such meals are consumed
11 at a place designated for such purpose, and all sales of food products by
12 or on behalf of any such contractor or organization for any such purpose;

13 (w) all sales of natural gas, electricity, heat and water delivered
14 through mains, lines or pipes: (1) To residential premises for noncom-
15 mercial use by the occupant of such premises; (2) for agricultural use and
16 also, for such use, all sales of propane gas; (3) for use in the severing of
17 oil; and (4) to any property which is exempt from property taxation pur-
18 suant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph,
19 “severing” shall have the meaning ascribed thereto by subsection (k) of
20 K.S.A. 79-4216, and amendments thereto. For all sales of natural gas,
21 electricity and heat delivered through mains, lines or pipes pursuant to
22 the provisions of subsection (w)(1) and (w)(2), the provisions of this sub-
23 section shall expire on December 31, 2005;

24 (x) all sales of propane gas, LP-gas, coal, wood and other fuel sources
25 for the production of heat or lighting for noncommercial use of an oc-
26 cupant of residential premises occurring prior to January 1, 2006;

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

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

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

40 (bb) all sales of used mobile homes or manufactured homes. As used
41 in this subsection: (1) “Mobile homes” and “manufactured homes” shall
42 have the meanings ascribed thereto by K.S.A. 58-4202 and amendments
43 thereto; and (2) “sales of used mobile homes or manufactured homes”

- 1 means sales other than the original retail sale thereof;
- 2 (cc) all sales of tangible personal property or services purchased for
3 the purpose of and in conjunction with constructing, reconstructing, en-
4 larging or remodeling a business or retail business which meets the
5 requirements established in K.S.A. 74-50,115 and amendments thereto,
6 and the sale and installation of machinery and equipment purchased for
7 installation at any such business or retail business. When a person shall
8 contract for the construction, reconstruction, enlargement or remodeling
9 of any such business or retail business, such person shall obtain from the
10 state and furnish to the contractor an exemption certificate for the project
11 involved, and the contractor may purchase materials, machinery and
12 equipment for incorporation in such project. The contractor shall furnish
13 the number of such certificates to all suppliers from whom such purchases
14 are made, and such suppliers shall execute invoices covering the same
15 bearing the number of such certificate. Upon completion of the project
16 the contractor shall furnish to the owner of the business or retail business
17 a sworn statement, on a form to be provided by the director of taxation,
18 that all purchases so made were entitled to exemption under this subsec-
19 tion. All invoices shall be held by the contractor for a period of five years
20 and shall be subject to audit by the director of taxation. Any contractor
21 or any agent, employee or subcontractor thereof, who shall use or oth-
22 erwise dispose of any materials, machinery or equipment purchased under
23 such a certificate for any purpose other than that for which such a
24 certificate is issued without the payment of the sales or compensating tax
25 otherwise imposed thereon, shall be guilty of a misdemeanor and, upon
26 conviction therefor, shall be subject to the penalties provided for in sub-
27 section (g) of K.S.A. 79-3615 and amendments thereto. As used in this
28 subsection, "business" and "retail business" have the meanings respec-
29 tively ascribed thereto by K.S.A. 74-50,114 and amendments thereto;
- 30 (dd) all sales of tangible personal property purchased with food
31 stamps issued by the United States department of agriculture;
- 32 (ee) all sales of lottery tickets and shares made as part of a lottery
33 operated by the state of Kansas;
- 34 (ff) on and after July 1, 1988, all sales of new mobile homes or man-
35 ufactured homes to the extent of 40% of the gross receipts, determined
36 without regard to any trade-in allowance, received from such sale. As used
37 in this subsection, "mobile homes" and "manufactured homes" shall have
38 the meanings ascribed thereto by K.S.A. 58-4202 and amendments
39 thereto;
- 40 (gg) all sales of tangible personal property purchased in accordance
41 with vouchers issued pursuant to the federal special supplemental food
42 program for women, infants and children;
- 43 (hh) all sales of medical supplies and equipment, including durable

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

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

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

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

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

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

39 (2) For purposes of this subsection:

40 (A) “Integrated production operation” means an integrated series of
41 operations engaged in at a manufacturing or processing plant or facility
42 to process, transform or convert tangible personal property by physical,
43 chemical or other means into a different form, composition or character

1 from that in which it originally existed. Integrated production operations
2 shall include: (i) Production line operations, including packaging opera-
3 tions; (ii) preproduction operations to handle, store and treat raw mate-
4 rials; (iii) post production handling, storage, warehousing and distribution
5 operations; and (iv) waste, pollution and environmental control opera-
6 tions, if any;

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

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

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

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

11 (E) “repair and replacement parts and accessories” means all parts
12 and accessories for exempt machinery and equipment, including, but not
13 limited to, dies, jigs, molds, patterns and safety devices that are attached
14 to exempt machinery or that are otherwise used in production, and parts
15 and accessories that require periodic replacement such as belts, drill bits,
16 grinding wheels, grinding balls, cutting bars, saws, refractory brick and
17 other refractory 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 shall
21 be deemed to be used as an integral or essential part of an integrated
22 production operation when used:

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

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

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

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

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

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

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

43 (H) to package the property being manufactured or processed in a

1 container or wrapping in which such property is normally sold or
2 transported;

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

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

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

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

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

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

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

42 (A) Machinery and equipment used for nonproduction purposes, in-
43 cluding, but not limited to, machinery and equipment used for plant se-

- 1 curity, fire prevention, first aid, accounting, administration, record keep-
2 ing, advertising, marketing, sales or other related activities, plant cleaning,
3 plant communications, and employee work scheduling;
- 4 (B) machinery, equipment and tools used primarily in maintaining
5 and repairing any type of machinery and equipment or the building and
6 plant;
- 7 (C) transportation, transmission and distribution equipment not pri-
8 marily used in a production, warehousing or material handling operation
9 at the plant or facility, including the means of conveyance of natural gas,
10 electricity, oil or water, and equipment related thereto, located outside
11 the plant or facility;
- 12 (D) office machines and equipment including computers and related
13 peripheral equipment not used directly and primarily to control or mea-
14 sure the manufacturing process;
- 15 (E) furniture and other furnishings;
- 16 (F) buildings, other than exempt machinery and equipment that is
17 permanently affixed to or becomes a physical part of the building, and
18 any other part of real estate that is not otherwise exempt;
- 19 (G) building fixtures that are not integral to the manufacturing op-
20 eration, such as utility systems for heating, ventilation, air conditioning,
21 communications, plumbing or electrical;
- 22 (H) machinery and equipment used for general plant heating, cooling
23 and lighting;
- 24 (I) motor vehicles that are registered for operation on public high-
25 ways; or
- 26 (J) employee apparel, except safety and protective apparel that is pur-
27 chased by an employer and furnished gratuitously to employees who are
28 involved in production or research activities.
- 29 (6) Subsections (3) and (5) shall not be construed as exclusive listings
30 of the machinery and equipment that qualify or do not qualify as an
31 integral or essential part of an integrated production operation. When
32 machinery or equipment is used as an integral or essential part of pro-
33 duction operations part of the time and for nonproduction purpose at
34 other times, the primary use of the machinery or equipment shall deter-
35 mine whether or not such machinery or equipment qualifies for
36 exemption.
- 37 (7) The secretary of revenue shall adopt rules and regulations nec-
38 essary to administer the provisions of this subsection;
- 39 (ll) all sales of educational materials purchased for distribution to the
40 public at no charge by a nonprofit corporation organized for the purpose
41 of encouraging, fostering and conducting programs for the improvement
42 of public health;
- 43 (mm) all sales of seeds and tree seedlings; fertilizers, insecticides,

- 1 herbicides, germicides, pesticides and fungicides; and services, purchased
2 and used for the purpose of producing plants in order to prevent soil
3 erosion on land devoted to agricultural use;
- 4 (nn) except as otherwise provided in this act, all sales of services ren-
5 dered by an advertising agency or licensed broadcast station or any mem-
6 ber, agent or employee thereof;
- 7 (oo) all sales of tangible personal property purchased by a community
8 action group or agency for the exclusive purpose of repairing or weath-
9 erizing housing occupied by low income individuals;
- 10 (pp) all sales of drill bits and explosives actually utilized in the explo-
11 ration and production of oil or gas;
- 12 (qq) all sales of tangible personal property and services purchased by
13 a nonprofit museum or historical society or any combination thereof, in-
14 cluding a nonprofit organization which is organized for the purpose of
15 stimulating public interest in the exploration of space by providing edu-
16 cational information, exhibits and experiences, which is exempt from fed-
17 eral income taxation pursuant to section 501(c)(3) of the federal internal
18 revenue code of 1986;
- 19 (rr) all sales of tangible personal property which will admit the pur-
20 chaser thereof to any annual event sponsored by a nonprofit organization
21 which is exempt from federal income taxation pursuant to section
22 501(c)(3) of the federal internal revenue code of 1986;
- 23 (ss) all sales of tangible personal property and services purchased by
24 a public broadcasting station licensed by the federal communications
25 commission as a noncommercial educational television or radio station;
- 26 (tt) all sales of tangible personal property and services purchased by
27 or on behalf of a not-for-profit corporation which is exempt from federal
28 income taxation pursuant to section 501(c)(3) of the federal internal rev-
29 enue code of 1986, for the sole purpose of constructing a Kansas Korean
30 War memorial;
- 31 (uu) all sales of tangible personal property and services purchased by
32 or on behalf of any rural volunteer fire-fighting organization for use ex-
33 clusively in the performance of its duties and functions;
- 34 (vv) all sales of tangible personal property purchased by any of the
35 following organizations which are exempt from federal income taxation
36 pursuant to section 501 (c)(3) of the federal internal revenue code of
37 1986, for the following purposes, and all sales of any such property by or
38 on behalf of any such organization for any such purpose:
- 39 (1) The American Heart Association, Kansas Affiliate, Inc. for the
40 purposes of providing education, training, certification in emergency car-
41 diac care, research and other related services to reduce disability and
42 death from cardiovascular diseases and stroke;
- 43 (2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of

- 1 advocacy for persons with mental illness and to education, research and
2 support for their families;
- 3 (3) the Kansas Mental Illness Awareness Council for the purposes of
4 advocacy for persons who are mentally ill and to education, research and
5 support for them and their families;
- 6 (4) the American Diabetes Association Kansas Affiliate, Inc. for the
7 purpose of eliminating diabetes through medical research, public edu-
8 cation focusing on disease prevention and education, patient education
9 including information on coping with diabetes, and professional education
10 and training;
- 11 (5) the American Lung Association of Kansas, Inc. for the purpose of
12 eliminating all lung diseases through medical research, public education
13 including information on coping with lung diseases, professional educa-
14 tion and training related to lung disease and other related services to
15 reduce the incidence of disability and death due to lung disease;
- 16 (6) the Kansas chapters of the Alzheimer's Disease and Related Dis-
17 orders Association, Inc. for the purpose of providing assistance and sup-
18 port to persons in Kansas with Alzheimer's disease, and their families and
19 caregivers;
- 20 (7) the Kansas chapters of the Parkinson's disease association for the
21 purpose of eliminating Parkinson's disease through medical research and
22 public and professional education related to such disease;
- 23 (8) the National Kidney Foundation of Kansas and Western Missouri
24 for the purpose of eliminating kidney disease through medical research
25 and public and private education related to such disease;
- 26 (9) the heartstrings community foundation for the purpose of provid-
27 ing training, employment and activities for adults with developmental
28 disabilities;
- 29 (10) the Cystic Fibrosis Foundation, Heart of America Chapter, for
30 the purposes of assuring the development of the means to cure and con-
31 trol cystic fibrosis and improving the quality of life for those with the
32 disease; ~~and~~
- 33 (11) the spina bifida association of Kansas for the purpose of provid-
34 ing financial, educational and practical aid to families and individuals with
35 spina bifida. Such aid includes, but is not limited to, funding for medical
36 devices, counseling and medical educational opportunities;
- 37 (12) *the CHWC, Inc., for the purpose of rebuilding urban core neigh-*
38 *borhoods through the construction of new homes, acquiring and reno-*
39 *vating existing homes and other related activities, and promoting eco-*
40 *nommic development in such neighborhoods;*
- 41 (13) *the cross-lines cooperative council for the purpose of providing*
42 *social services to low income individuals and families;*
- 43 (14) *the Dreams Work, Inc., for the purpose of providing young adult*

1 *day services to individuals with developmental disabilities and assisting*
2 *families in avoiding institutional or nursing home care for a developmen-*
3 *tally disabled member of their family;*
4 (15) *the KSDS, Inc., for the purpose of promoting the independence*
5 *and inclusion of people with disabilities as fully participating and con-*
6 *tributing members of their communities and society through the training*
7 *and providing of guide and service dogs to people with disabilities, and*
8 *providing disability education and awareness to the general public; and*
9 (16) *the lyme association of greater Kansas City, Inc., for the purpose*
10 *of providing support to persons with lyme disease and public education*
11 *relating to the prevention, treatment and cure of lyme disease;*
12 (ww) all sales of tangible personal property purchased by the Habitat
13 for Humanity for the exclusive use of being incorporated within a housing
14 project constructed by such organization;
15 (xx) all sales of tangible personal property and services purchased by
16 a nonprofit zoo which is exempt from federal income taxation pursuant
17 to section 501(c)(3) of the federal internal revenue code of 1986, or on
18 behalf of such zoo by an entity itself exempt from federal income taxation
19 pursuant to section 501(c)(3) of the federal internal revenue code of 1986
20 contracted with to operate such zoo and all sales of tangible personal
21 property or services purchased by a contractor for the purpose of con-
22 structing, equipping, reconstructing, maintaining, repairing, enlarging,
23 furnishing or remodeling facilities for any nonprofit zoo which would be
24 exempt from taxation under the provisions of this section if purchased
25 directly by such nonprofit zoo or the entity operating such zoo. Nothing
26 in this subsection shall be deemed to exempt the purchase of any con-
27 struction machinery, equipment or tools used in the constructing, equip-
28 ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-
29 modeling facilities for any nonprofit zoo. When any nonprofit zoo shall
30 contract for the purpose of constructing, equipping, reconstructing, main-
31 taining, repairing, enlarging, furnishing or remodeling facilities, it shall
32 obtain from the state and furnish to the contractor an exemption certifi-
33 cate for the project involved, and the contractor may purchase materials
34 for incorporation in such project. The contractor shall furnish the number
35 of such certificate to all suppliers from whom such purchases are made,
36 and such suppliers shall execute invoices covering the same bearing the
37 number of such certificate. Upon completion of the project the contractor
38 shall furnish to the nonprofit zoo concerned a sworn statement, on a form
39 to be provided by the director of taxation, that all purchases so made were
40 entitled to exemption under this subsection. All invoices shall be held by
41 the contractor for a period of five years and shall be subject to audit by
42 the director of taxation. If any materials purchased under such a certifi-
43 cate are found not to have been incorporated in the building or other

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

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

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

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

1 ing, furnishing or remodeling facilities, it shall obtain from the state and
2 furnish to the contractor an exemption certificate for the project involved,
3 and the contractor may purchase materials for incorporation in such pro-
4 ject. The contractor shall furnish the number of such certificate to all
5 suppliers from whom such purchases are made, and such suppliers shall
6 execute invoices covering the same bearing the number of such certifi-
7 cate. Upon completion of the project the contractor shall furnish to such
8 organization concerned a sworn statement, on a form to be provided by
9 the director of taxation, that all purchases so made were entitled to ex-
10 emption under this subsection. All invoices shall be held by the contractor
11 for a period of five years and shall be subject to audit by the director of
12 taxation. If any materials purchased under such a certificate are found
13 not to have been incorporated in the building or other project or not to
14 have been returned for credit or the sales or compensating tax otherwise
15 imposed upon such materials which will not be so incorporated in the
16 building or other project reported and paid by such contractor to the
17 director of taxation not later than the 20th day of the month following
18 the close of the month in which it shall be determined that such materials
19 will not be used for the purpose for which such certificate was issued,
20 such organization concerned shall be liable for tax on all materials pur-
21 chased for the project, and upon payment thereof it may recover the same
22 from the contractor together with reasonable attorney fees. Any contrac-
23 tor or any agent, employee or subcontractor thereof, who shall use or
24 otherwise dispose of any materials purchased under such a certificate for
25 any purpose other than that for which such a certificate is issued without
26 the payment of the sales or compensating tax otherwise imposed upon
27 such materials, shall be guilty of a misdemeanor and, upon conviction
28 therefor, shall be subject to the penalties provided for in subsection (g)
29 of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after
30 July 1, 1998, but prior to the effective date of this act upon the gross
31 receipts received from any sale exempted by the amendatory provisions
32 of this subsection shall be refunded. Each claim for a sales tax refund
33 shall be verified and submitted to the director of taxation upon forms
34 furnished by the director and shall be accompanied by any additional
35 documentation required by the director. The director shall review each
36 claim and shall refund that amount of sales tax paid as determined under
37 the provisions of this subsection. All refunds shall be paid from the sales
38 tax refund fund upon warrants of the director of accounts and reports
39 pursuant to vouchers approved by the director or the director's designee;
40 (bbb) all sales of food for human consumption by an organization
41 which is exempt from federal income taxation pursuant to section 501
42 (c)(3) of the federal internal revenue code of 1986, pursuant to a food
43 distribution program which offers such food at a price below cost in

1 exchange for the performance of community service by the purchaser
2 thereof;

3 (ccc) on and after July 1, 1999, all sales of tangible personal property
4 and services purchased by a primary care clinic or health center the pri-
5 mary purpose of which is to provide services to medically underserved
6 individuals and families, and which is exempt from federal income taxa-
7 tion pursuant to section 501 (c)(3) of the federal internal revenue code,
8 and all sales of tangible personal property or services purchased by a
9 contractor for the purpose of constructing, equipping, reconstructing,
10 maintaining, repairing, enlarging, furnishing or remodeling facilities for
11 any such clinic or center which would be exempt from taxation under the
12 provisions of this section if purchased directly by such clinic or center.
13 Nothing in this subsection shall be deemed to exempt the purchase of
14 any construction machinery, equipment or tools used in the constructing,
15 equipping, reconstructing, maintaining, repairing, enlarging, furnishing
16 or remodeling facilities for any such clinic or center. When any such clinic
17 or center shall contract for the purpose of constructing, equipping, re-
18 constructing, maintaining, repairing, enlarging, furnishing or remodeling
19 facilities, it shall obtain from the state and furnish to the contractor an
20 exemption certificate for the project involved, and the contractor may
21 purchase materials for incorporation in such project. The contractor shall
22 furnish the number of such certificate to all suppliers from whom such
23 purchases are made, and such suppliers shall execute invoices covering
24 the same bearing the number of such certificate. Upon completion of the
25 project the contractor shall furnish to such clinic or center concerned a
26 sworn statement, on a form to be provided by the director of taxation,
27 that all purchases so made were entitled to exemption under this subsec-
28 tion. All invoices shall be held by the contractor for a period of five years
29 and shall be subject to audit by the director of taxation. If any materials
30 purchased under such a certificate are found not to have been incorpo-
31 rated in the building or other project or not to have been returned for
32 credit or the sales or compensating tax otherwise imposed upon such
33 materials which will not be so incorporated in the building or other pro-
34 ject reported and paid by such contractor to the director of taxation not
35 later than the 20th day of the month following the close of the month in
36 which it shall be determined that such materials will not be used for the
37 purpose for which such certificate was issued, such clinic or center con-
38 cerned shall be liable for tax on all materials purchased for the project,
39 and upon payment thereof it may recover the same from the contractor
40 together with reasonable attorney fees. Any contractor or any agent, em-
41 ployee or subcontractor thereof, who shall use or otherwise dispose of
42 any materials purchased under such a certificate for any purpose other
43 than that for which such a certificate is issued without the payment of

1 the sales or compensating tax otherwise imposed upon such materials,
2 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
3 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
4 and amendments thereto;

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

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

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

36 (ggg) all sales of tangible personal property and services purchased
37 by or on behalf of the Kansas Academy of Science which is exempt from
38 federal income taxation pursuant to section 501(c)(3) of the federal in-
39 ternal revenue code of 1986, and used solely by such academy for the
40 preparation, publication and dissemination of education materials; ~~and~~

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

- 1 (iii) *all sales of tangible personal property purchased by or on behalf*
2 *of the Marillac Center, Inc., which is exempt from federal income taxation*
3 *pursuant to section 501(c)(3) of the federal internal revenue code, for the*
4 *purpose of providing psycho-social-biological and special education serv-*
5 *ices to children, and all sales of any such property by or on behalf of such*
6 *organization for such purpose;*
- 7 (ijj) *all sales of tangible personal property and services purchased by*
8 *the West Sedgwick County-Sunrise Rotary Club and Sunrise Charitable*
9 *Fund for the purpose of constructing a boundless playground which is an*
10 *integrated, barrier free and developmentally advantageous play environ-*
11 *ment for children of all abilities and disabilities;*
- 12 (III) *all sales of tangible personal property by or on behalf of a public*
13 *library serving the general public and supported in whole or in part with*
14 *tax money or a not-for-profit organization whose purpose is to raise funds*
15 *for or provide services or other benefits to any such public library; and*
- 16 (mmm) *all sales of tangible personal property and services purchased*
17 *by or on behalf of a homeless shelter which is exempt from federal income*
18 *taxation pursuant to section 501(c)(3) of the federal income tax code of*
19 *1986, and used by any such homeless shelter to provide emergency and*
20 *transitional housing for individuals and families experiencing homeless-*
21 *ness, and all sales of any such property by or on behalf of any such*
22 *homeless shelter for any such purpose.*
- 23 Sec. 3. K.S.A. 2005 Supp. 79-3603 and 79-3606 are hereby repealed.
- 24 Sec. 4. This act shall take effect and be in force from and after its
25 publication in the statute book.