

## HOUSE BILL No. 2538

By Committee on Taxation

2-16

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9 AN ACT concerning sales taxation; relating to exemptions; oxygen deliv-  
10 ery equipment; amending K.S.A. 2006 Supp. 79-3606 and repealing  
11 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. 2006 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, drycleaning and laundry serv-  
26 ices taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and  
27 gross receipts from regulated sports contests taxed pursuant to the Kansas  
28 professional regulated sports act, and amendments thereto;

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

43 (c) all sales of tangible personal property or services, including the

1 renting and leasing of tangible personal property, purchased directly by  
2 a public or private elementary or secondary school or public or private  
3 nonprofit educational institution and used primarily by such school or  
4 institution for nonsectarian programs and activities provided or sponsored  
5 by such school or institution or in the erection, repair or enlargement of  
6 buildings to be used for such purposes. The exemption herein provided  
7 shall not apply to erection, construction, repair, enlargement or equip-  
8 ment of buildings used primarily for human habitation;

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

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

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

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

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

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

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 *oxygen delivery equipment*, prosthetic devices and mo-  
5 bility enhancing equipment prescribed in writing by a person licensed to  
6 practice the healing arts, dentistry or optometry, and in addition to such  
7 sales, all sales of hearing aids, as defined by subsection (c) of K.S.A. 74-  
8 5807, and amendments thereto, and repair and replacement parts there-  
9 for, including batteries, by a person licensed in the practice of dispensing  
10 and fitting hearing aids pursuant to the provisions of K.S.A. 74-5808, and  
11 amendments thereto. For the purposes of this subsection: (1) “Mobility  
12 enhancing equipment” means equipment including repair and replace-  
13 ment parts to same, but does not include durable medical equipment,  
14 which is primarily and customarily used to provide or increase the ability  
15 to move from one place to another and which is appropriate for use either  
16 in a home or a motor vehicle; is not generally used by persons with normal  
17 mobility; and does not include any motor vehicle or equipment on a motor  
18 vehicle normally provided by a motor vehicle manufacturer; and (2)  
19 “prosthetic device” means a replacement, corrective or supportive device  
20 including repair and replacement parts for same worn on or in the body  
21 to artificially replace a missing portion of the body, prevent or correct  
22 physical deformity or malfunction or support a weak or deformed portion  
23 of the body;
- 24 (s) except as provided in K.S.A. 2006 Supp. 82a-2101, and amend-  
25 ments thereto, all sales of tangible personal property or services pur-  
26 chased directly or indirectly by a groundwater management district or-  
27 ganized or operating under the authority of K.S.A. 82a-1020 et seq. and  
28 amendments thereto, by a rural water district organized or operating un-  
29 der the authority of K.S.A. 82a-612, and amendments thereto, or by a  
30 water supply district organized or operating under the authority of K.S.A.  
31 19-3501 et seq., 19-3522 et seq. or 19-3545, and amendments thereto,  
32 which property or services are used in the construction activities, opera-  
33 tion or maintenance of the district;
- 34 (t) all sales of farm machinery and equipment or aquaculture ma-  
35 chinery and equipment, repair and replacement parts therefor and serv-  
36 ices performed in the repair and maintenance of such machinery and  
37 equipment. For the purposes of this subsection the term “farm machinery  
38 and equipment or aquaculture machinery and equipment” shall include  
39 a work-site utility vehicle, as defined in K.S.A. 8-126, and amendments  
40 thereto, and is equipped with a bed or cargo box for hauling materials,  
41 and shall also include machinery and equipment used in the operation of  
42 Christmas tree farming but shall not include any passenger vehicle, truck,  
43 truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer,

- 1 as such terms are defined by K.S.A. 8-126 and amendments thereto. Each  
2 purchaser of farm machinery and equipment or aquaculture machinery  
3 and equipment exempted herein must certify in writing on the copy of  
4 the invoice or sales ticket to be retained by the seller that the farm ma-  
5 chinery and equipment or aquaculture machinery and equipment pur-  
6 chased will be used only in farming, ranching or aquaculture production.  
7 Farming or ranching shall include the operation of a feedlot and farm  
8 and ranch work for hire and the operation of a nursery;
- 9 (u) all leases or rentals of tangible personal property used as a dwell-  
10 ing if such tangible personal property is leased or rented for a period of  
11 more than 28 consecutive days;
- 12 (v) all sales of tangible personal property to any contractor for use in  
13 preparing meals for delivery to homebound elderly persons over 60 years  
14 of age and to homebound disabled persons or to be served at a group-  
15 sitting at a location outside of the home to otherwise homebound elderly  
16 persons over 60 years of age and to otherwise homebound disabled per-  
17 sons, as all or part of any food service project funded in whole or in part  
18 by government or as part of a private nonprofit food service project avail-  
19 able to all such elderly or disabled persons residing within an area of  
20 service designated by the private nonprofit organization, and all sales of  
21 tangible personal property for use in preparing meals for consumption by  
22 indigent or homeless individuals whether or not such meals are consumed  
23 at a place designated for such purpose, and all sales of food products by  
24 or on behalf of any such contractor or organization for any such purpose;
- 25 (w) all sales of natural gas, electricity, heat and water delivered  
26 through mains, lines or pipes: (1) To residential premises for noncom-  
27 mercial use by the occupant of such premises; (2) for agricultural use and  
28 also, for such use, all sales of propane gas; (3) for use in the severing of  
29 oil; and (4) to any property which is exempt from property taxation pur-  
30 suant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph,  
31 “severing” shall have the meaning ascribed thereto by subsection (k) of  
32 K.S.A. 79-4216, and amendments thereto. For all sales of natural gas,  
33 electricity and heat delivered through mains, lines or pipes pursuant to  
34 the provisions of subsection (w)(1) and (w)(2), the provisions of this sub-  
35 section shall expire on December 31, 2005;
- 36 (x) all sales of propane gas, LP-gas, coal, wood and other fuel sources  
37 for the production of heat or lighting for noncommercial use of an oc-  
38 cupant of residential premises occurring prior to January 1, 2006;
- 39 (y) all sales of materials and services used in the repairing, servicing,  
40 altering, maintaining, manufacturing, remanufacturing, or modification of  
41 railroad rolling stock for use in interstate or foreign commerce under  
42 authority of the laws of the United States;
- 43 (z) all sales of tangible personal property and services purchased di-

1 rectly by a port authority or by a contractor therefor as provided by the  
2 provisions of K.S.A. 12-3418 and amendments thereto;

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

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

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

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



- 1 (ee) all sales of lottery tickets and shares made as part of a lottery  
2 operated by the state of Kansas;
- 3 (ff) on and after July 1, 1988, all sales of new mobile homes or man-  
4 ufactured homes to the extent of 40% of the gross receipts, determined  
5 without regard to any trade-in allowance, received from such sale. As used  
6 in this subsection, “mobile homes” and “manufactured homes” shall have  
7 the meanings ascribed thereto by K.S.A. 58-4202 and amendments  
8 thereto;
- 9 (gg) all sales of tangible personal property purchased in accordance  
10 with vouchers issued pursuant to the federal special supplemental food  
11 program for women, infants and children;
- 12 (hh) all sales of medical supplies and equipment, including durable  
13 medical equipment, purchased directly by a nonprofit skilled nursing  
14 home or nonprofit intermediate nursing care home, as defined by K.S.A.  
15 39-923, and amendments thereto, for the purpose of providing medical  
16 services to residents thereof. This exemption shall not apply to tangible  
17 personal property customarily used for human habitation purposes. As  
18 used in this subsection, “durable medical equipment” means equipment  
19 including repair and replacement parts for such equipment, *which can*  
20 *withstand repeated use, is primarily and customarily used to serve a med-*  
21 *ical purpose, generally is not useful to a person in the absence of illness*  
22 *or injury and is not worn in or on the body* but does not include mobility  
23 enhancing equipment as defined in subsection (r) ~~which can withstand~~  
24 ~~repeated use, is primarily and customarily used to serve a medical pur-~~  
25 ~~pose, generally is not useful to a person in the absence of illness or injury~~  
26 ~~and is not worn in or on the body or oxygen delivery equipment;~~
- 27 (ii) all sales of tangible personal property purchased directly by a non-  
28 profit organization for nonsectarian comprehensive multidiscipline youth  
29 development programs and activities provided or sponsored by such or-  
30 ganization, and all sales of tangible personal property by or on behalf of  
31 any such organization. This exemption shall not apply to tangible personal  
32 property customarily used for human habitation purposes;
- 33 (jj) all sales of tangible personal property or services, including the  
34 renting and leasing of tangible personal property, purchased directly on  
35 behalf of a community-based mental retardation facility or mental health  
36 center organized pursuant to K.S.A. 19-4001 et seq., and amendments  
37 thereto, and licensed in accordance with the provisions of K.S.A. 75-  
38 3307b and amendments thereto and all sales of tangible personal property  
39 or services purchased by contractors during the time period from July,  
40 2003, through June, 2006, for the purpose of constructing, equipping,  
41 maintaining or furnishing a new facility for a community-based mental  
42 retardation facility or mental health center located in Riverton, Cherokee  
43 County, Kansas, which would have been eligible for sales tax exemption

1 pursuant to this subsection if purchased directly by such facility or center.  
2 This exemption shall not apply to tangible personal property customarily  
3 used for human habitation purposes;

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

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

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

11 (2) For purposes of this subsection:

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

22 (B) "production line" means the assemblage of machinery and equip-  
23 ment at a manufacturing or processing plant or facility where the actual  
24 transformation or processing of tangible personal property occurs;

25 (C) "manufacturing or processing plant or facility" means a single,  
26 fixed location owned or controlled by a manufacturing or processing busi-  
27 ness that consists of one or more structures or buildings in a contiguous  
28 area where integrated production operations are conducted to manufac-  
29 ture or process tangible personal property to be ultimately sold at retail.  
30 Such term shall not include any facility primarily operated for the purpose  
31 of conveying or assisting in the conveyance of natural gas, electricity, oil  
32 or water. A business may operate one or more manufacturing or proc-  
33 essing plants or facilities at different locations to manufacture or process  
34 a single product of tangible personal property to be ultimately sold at  
35 retail;

36 (D) "manufacturing or processing business" means a business that  
37 utilizes an integrated production operation to manufacture, process, fab-  
38 ricate, finish, or assemble items for wholesale and retail distribution as  
39 part of what is commonly regarded by the general public as an industrial  
40 manufacturing or processing operation or an agricultural commodity  
41 processing operation. (i) Industrial manufacturing or processing opera-  
42 tions include, by way of illustration but not of limitation, the fabrication  
43 of automobiles, airplanes, machinery or transportation equipment, the

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

26 (E) “repair and replacement parts and accessories” means all parts  
27 and accessories for exempt machinery and equipment, including, but not  
28 limited to, dies, jigs, molds, patterns and safety devices that are attached  
29 to exempt machinery or that are otherwise used in production, and parts  
30 and accessories that require periodic replacement such as belts, drill bits,  
31 grinding wheels, grinding balls, cutting bars, saws, refractory brick and  
32 other refractory items for exempt kiln equipment used in production  
33 operations;

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

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

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

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

- 1 (C) to act upon, effect, promote or otherwise facilitate a physical  
2 change to the property undergoing manufacturing or processing;
- 3 (D) to guide, control or direct the movement of property undergoing  
4 manufacturing or processing;
- 5 (E) to test or measure raw materials, the property undergoing man-  
6 ufacturing or processing or the finished product, as a necessary part of  
7 the manufacturer's integrated production operations;
- 8 (F) to plan, manage, control or record the receipt and flow of inven-  
9 tories of raw materials, consumables and component parts, the flow of  
10 the property undergoing manufacturing or processing and the manage-  
11 ment of inventories of the finished product;
- 12 (G) to produce energy for, lubricate, control the operating of or oth-  
13 erwise enable the functioning of other production machinery and equip-  
14 ment and the continuation of production operations;
- 15 (H) to package the property being manufactured or processed in a  
16 container or wrapping in which such property is normally sold or  
17 transported;
- 18 (I) to transmit or transport electricity, coke, gas, water, steam or sim-  
19 ilar substances used in production operations from the point of genera-  
20 tion, if produced by the manufacturer or processor at the plant site, to  
21 that manufacturer's production operation; or, if purchased or delivered  
22 from offsite, from the point where the substance enters the site of the  
23 plant or facility to that manufacturer's production operations;
- 24 (J) to cool, heat, filter, refine or otherwise treat water, steam, acid,  
25 oil, solvents or other substances that are used in production operations;
- 26 (K) to provide and control an environment required to maintain cer-  
27 tain levels of air quality, humidity or temperature in special and limited  
28 areas of the plant or facility, where such regulation of temperature or  
29 humidity is part of and essential to the production process;
- 30 (L) to treat, transport or store waste or other byproducts of produc-  
31 tion operations at the plant or facility; or
- 32 (M) to control pollution at the plant or facility where the pollution is  
33 produced by the manufacturing or processing operation.
- 34 (4) The following machinery, equipment and materials shall be  
35 deemed to be exempt even though it may not otherwise qualify as ma-  
36 chinery and equipment used as an integral or essential part of an inte-  
37 grated production operation: (A) Computers and related peripheral  
38 equipment that are utilized by a manufacturing or processing business  
39 for engineering of the finished product or for research and development  
40 or product design; (B) machinery and equipment that is utilized by a  
41 manufacturing or processing business to manufacture or rebuild tangible  
42 personal property that is used in manufacturing or processing operations,  
43 including tools, dies, molds, forms and other parts of qualifying machinery

1 and equipment; (C) portable plants for aggregate concrete, bulk cement  
2 and asphalt including cement mixing drums to be attached to a motor  
3 vehicle; (D) industrial fixtures, devices, support facilities and special foun-  
4 dations necessary for manufacturing and production operations, and ma-  
5 terials and other tangible personal property sold for the purpose of fab-  
6 ricating such fixtures, devices, facilities and foundations. An exemption  
7 certificate for such purchases shall be signed by the manufacturer or  
8 processor. If the fabricator purchases such material, the fabricator shall  
9 also sign the exemption certificate; and (E) a manufacturing or processing  
10 business' laboratory equipment that is not located at the plant or facility,  
11 but that would otherwise qualify for exemption under subsection (3)(E).

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

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

19 (B) machinery, equipment and tools used primarily in maintaining  
20 and repairing any type of machinery and equipment or the building and  
21 plant;

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

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

30 (E) furniture and other furnishings;

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

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

37 (H) machinery and equipment used for general plant heating, cooling  
38 and lighting;

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

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

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

1 enue code of 1986, for the sole purpose of constructing a Kansas Korean  
2 War memorial;

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

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

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

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

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

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

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

31 (6) the Kansas chapters of the Alzheimer's Disease and Related Dis-  
32 orders Association, Inc. for the purpose of providing assistance and sup-  
33 port to persons in Kansas with Alzheimer's disease, and their families and  
34 caregivers;

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

38 (8) the National Kidney Foundation of Kansas and Western Missouri  
39 for the purpose of eliminating kidney disease through medical research  
40 and public and private education related to such disease;

41 (9) the heartstrings community foundation for the purpose of provid-  
42 ing training, employment and activities for adults with developmental  
43 disabilities;

- 1 (10) the Cystic Fibrosis Foundation, Heart of America Chapter, for  
2 the purposes of assuring the development of the means to cure and con-  
3 trol cystic fibrosis and improving the quality of life for those with the  
4 disease;
- 5 (11) the spina bifida association of Kansas for the purpose of provid-  
6 ing financial, educational and practical aid to families and individuals with  
7 spina bifida. Such aid includes, but is not limited to, funding for medical  
8 devices, counseling and medical educational opportunities;
- 9 (12) the CHWC, Inc., for the purpose of rebuilding urban core neigh-  
10 borhoods through the construction of new homes, acquiring and reno-  
11 vating existing homes and other related activities, and promoting eco-  
12 nomic development in such neighborhoods;
- 13 (13) the cross-lines cooperative council for the purpose of providing  
14 social services to low income individuals and families;
- 15 (14) the Dreams Work, Inc., for the purpose of providing young adult  
16 day services to individuals with developmental disabilities and assisting  
17 families in avoiding institutional or nursing home care for a developmen-  
18 tally disabled member of their family;
- 19 (15) the KSDS, Inc., for the purpose of promoting the independence  
20 and inclusion of people with disabilities as fully participating and contrib-  
21 uting members of their communities and society through the training and  
22 providing of guide and service dogs to people with disabilities, and provid-  
23 ing disability education and awareness to the general public; and
- 24 (16) the lyme association of greater Kansas City, Inc., for the purpose  
25 of providing support to persons with lyme disease and public education  
26 relating to the prevention, treatment and cure of lyme disease;
- 27 (ww) all sales of tangible personal property purchased by the Habitat  
28 for Humanity for the exclusive use of being incorporated within a housing  
29 project constructed by such organization;
- 30 (xx) all sales of tangible personal property and services purchased by  
31 a nonprofit zoo which is exempt from federal income taxation pursuant  
32 to section 501(c)(3) of the federal internal revenue code of 1986, or on  
33 behalf of such zoo by an entity itself exempt from federal income taxation  
34 pursuant to section 501(c)(3) of the federal internal revenue code of 1986  
35 contracted with to operate such zoo and all sales of tangible personal  
36 property or services purchased by a contractor for the purpose of con-  
37 structing, equipping, reconstructing, maintaining, repairing, enlarging,  
38 furnishing or remodeling facilities for any nonprofit zoo which would be  
39 exempt from taxation under the provisions of this section if purchased  
40 directly by such nonprofit zoo or the entity operating such zoo. Nothing  
41 in this subsection shall be deemed to exempt the purchase of any con-  
42 struction machinery, equipment or tools used in the constructing, equip-  
43 ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-



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

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

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

1 cease;

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

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

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

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

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

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

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

35 (fff) all sales of material handling equipment, racking systems and  
36 other related machinery and equipment that is used for the handling,  
37 movement or storage of tangible personal property in a warehouse or  
38 distribution facility in this state; all sales of installation, repair and main-  
39 tenance services performed on such machinery and equipment; and all  
40 sales of repair and replacement parts for such machinery and equipment.  
41 For purposes of this subsection, a warehouse or distribution facility means  
42 a single, fixed location that consists of buildings or structures in a contig-  
43 uous area where storage or distribution operations are conducted that are

1 separate and apart from the business' retail operations, if any, and which  
2 do not otherwise qualify for exemption as occurring at a manufacturing  
3 or processing plant or facility. Material handling and storage equipment  
4 shall include aeration, dust control, cleaning, handling and other such  
5 equipment that is used in a public grain warehouse or other commercial  
6 grain storage facility, whether used for grain handling, grain storage, grain  
7 refining or processing, or other grain treatment operation;

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

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

16 (iii) all sales of personal property and services purchased by an or-  
17 ganization which is exempt from federal income taxation pursuant to sec-  
18 tion 501(c)(3) of the federal internal revenue code of 1986, and which  
19 such personal property and services are used by any such organization in  
20 the collection, storage and distribution of food products to nonprofit or-  
21 ganizations which distribute such food products to persons pursuant to a  
22 food distribution program on a charitable basis without fee or charge, and  
23 all sales of tangible personal property or services purchased by a contrac-  
24 tor for the purpose of constructing, equipping, reconstructing, maintain-  
25 ing, repairing, enlarging, furnishing or remodeling facilities used for the  
26 collection and storage of such food products for any such organization  
27 which is exempt from federal income taxation pursuant to section  
28 501(c)(3) of the federal internal revenue code of 1986, which would be  
29 exempt from taxation under the provisions of this section if purchased  
30 directly by such organization. Nothing in this subsection shall be deemed  
31 to exempt the purchase of any construction machinery, equipment or  
32 tools used in the constructing, equipping, reconstructing, maintaining,  
33 repairing, enlarging, furnishing or remodeling facilities for any such or-  
34 ganization. When any such organization shall contract for the purpose of  
35 constructing, equipping, reconstructing, maintaining, repairing, enlarg-  
36 ing, furnishing or remodeling facilities, it shall obtain from the state and  
37 furnish to the contractor an exemption certificate for the project involved,  
38 and the contractor may purchase materials for incorporation in such pro-  
39 ject. The contractor shall furnish the number of such certificate to all  
40 suppliers from whom such purchases are made, and such suppliers shall  
41 execute invoices covering the same bearing the number of such certifi-  
42 cate. Upon completion of the project the contractor shall furnish to such  
43 organization concerned a sworn statement, on a form to be provided by

1 the director of taxation, that all purchases so made were entitled to ex-  
2 emption under this subsection. All invoices shall be held by the contractor  
3 for a period of five years and shall be subject to audit by the director of  
4 taxation. If any materials purchased under such a certificate are found  
5 not to have been incorporated in such facilities or not to have been re-  
6 turned for credit or the sales or compensating tax otherwise imposed upon  
7 such materials which will not be so incorporated in such facilities reported  
8 and paid by such contractor to the director of taxation not later than the  
9 20th day of the month following the close of the month in which it shall  
10 be determined that such materials will not be used for the purpose for  
11 which such certificate was issued, such organization concerned shall be  
12 liable for tax on all materials purchased for the project, and upon payment  
13 thereof it may recover the same from the contractor together with rea-  
14 sonable attorney fees. Any contractor or any agent, employee or subcon-  
15 tractor thereof, who shall use or otherwise dispose of any materials pur-  
16 chased under such a certificate for any purpose other than that for which  
17 such a certificate is issued without the payment of the sales or compen-  
18 sating tax otherwise imposed upon such materials, shall be guilty of a  
19 misdemeanor and, upon conviction therefor, shall be subject to the pen-  
20 alties provided for in subsection (g) of K.S.A. 79-3615, and amendments  
21 thereto. Sales tax paid on and after July 1, 2005, but prior to the effective  
22 date of this act upon the gross receipts received from any sale exempted  
23 by the amendatory provisions of this subsection shall be refunded. Each  
24 claim for a sales tax refund shall be verified and submitted to the director  
25 of taxation upon forms furnished by the director and shall be accompanied  
26 by any additional documentation required by the director. The director  
27 shall review each claim and shall refund that amount of sales tax paid as  
28 determined under the provisions of this subsection. All refunds shall be  
29 paid from the sales tax refund fund upon warrants of the director of  
30 accounts and reports pursuant to vouchers approved by the director or  
31 the director's designee;

32 (jjj) all sales of dietary supplements dispensed pursuant to a prescrip-  
33 tion order by a licensed practitioner or a mid-level practitioner as defined  
34 by K.S.A. 65-1626, and amendments thereto. As used in this subsection,  
35 "dietary supplement" means any product, other than tobacco, intended  
36 to supplement the diet that: (1) Contains one or more of the following  
37 dietary ingredients: A vitamin, a mineral, an herb or other botanical, an  
38 amino acid, a dietary substance for use by humans to supplement the diet  
39 by increasing the total dietary intake or a concentrate, metabolite, con-  
40 stituent, extract or combination of any such ingredient; (2) is intended  
41 for ingestion in tablet, capsule, powder, softgel, gelcap or liquid form, or  
42 if not intended for ingestion, in such a form, is not represented as con-  
43 ventional food and is not represented for use as a sole item of a meal or

1 of the diet; and (3) is required to be labeled as a dietary supplement,  
2 identifiable by the supplemental facts box found on the label and as re-  
3 quired pursuant to 21 C.F.R. § 101.36;

4 (lll) all sales of tangible personal property and services purchased by  
5 special olympics Kansas, inc. for the purpose of providing year-round  
6 sports training and athletic competition in a variety of olympic-type sports  
7 for individuals with intellectual disabilities by giving them continuing op-  
8 portunities to develop physical fitness, demonstrate courage, experience  
9 joy and participate in a sharing of gifts, skills and friendship with their  
10 families, other special olympics athletes and the community, and activities  
11 provided or sponsored by such organization, and all sales of tangible per-  
12 sonal property by or on behalf of any such organization;

13 (mmm) all sales of tangible personal property purchased by or on  
14 behalf of the Marillac Center, Inc., which is exempt from federal income  
15 taxation pursuant to section 501(c)(3) of the federal internal revenue  
16 code, for the purpose of providing psycho-social-biological and special  
17 education services to children, and all sales of any such property by or on  
18 behalf of such organization for such purpose;

19 (nnn) all sales of tangible personal property and services purchased  
20 by the West Sedgwick County-Sunrise Rotary Club and Sunrise Char-  
21 itable Fund for the purpose of constructing a boundless playground which  
22 is an integrated, barrier free and developmentally advantageous play en-  
23 vironment for children of all abilities and disabilities;

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

28 (ppp) all sales of tangible personal property and services purchased  
29 by or on behalf of a homeless shelter which is exempt from federal income  
30 taxation pursuant to section 501(c)(3) of the federal income tax code of  
31 1986, and used by any such homeless shelter to provide emergency and  
32 transitional housing for individuals and families experiencing homeles-  
33 ness, and all sales of any such property by or on behalf of any such home-  
34 less shelter for any such purpose;

35 (qqq) all sales of tangible personal property and services purchased  
36 by TLC for children and families, inc., hereinafter referred to as TLC,  
37 which is exempt from federal income taxation pursuant to section  
38 501(c)(3) of the federal internal revenue code of 1986, and which such  
39 property and services are used for the purpose of providing emergency  
40 shelter and treatment for abused and neglected children as well as meet-  
41 ing additional critical needs for children, juveniles and family, and all sales  
42 of any such property by or on behalf of TLC for any such purpose; and  
43 all sales of tangible personal property or services purchased by a contrac-

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

38 (rrr) all sales of tangible personal property and services purchased by  
39 any county law library maintained pursuant to law and sales of tangible  
40 personal property and services purchased by an organization which would  
41 have been exempt from taxation under the provisions of this subsection  
42 if purchased directly by the county law library for the purpose of providing  
43 legal resources to attorneys, judges, students and the general public, and



1 all sales of any such property by or on behalf of any such county law  
2 library;

3 (sss) all sales of tangible personal property and services purchased by  
4 catholic charities or youthville, hereinafter referred to as charitable family  
5 providers, which is exempt from federal income taxation pursuant to sec-  
6 tion 501(c)(3) of the federal internal revenue code of 1986, and which  
7 such property and services are used for the purpose of providing emer-  
8 gency shelter and treatment for abused and neglected children as well as  
9 meeting additional critical needs for children, juveniles and family, and  
10 all sales of any such property by or on behalf of charitable family providers  
11 for any such purpose; and all sales of tangible personal property or serv-  
12 ices purchased by a contractor for the purpose of constructing, maintain-  
13 ing, repairing, enlarging, furnishing or remodeling facilities for the op-  
14 eration of services for charitable family providers for any such purpose  
15 which would be exempt from taxation under the provisions of this section  
16 if purchased directly by charitable family providers. Nothing in this sub-  
17 section shall be deemed to exempt the purchase of any construction ma-  
18 chinery, equipment or tools used in the constructing, maintaining, re-  
19 pairing, enlarging, furnishing or remodeling such facilities for charitable  
20 family providers. When charitable family providers contracts for the pur-  
21 pose of constructing, maintaining, repairing, enlarging, furnishing or re-  
22 modeling such facilities, it shall obtain from the state and furnish to the  
23 contractor an exemption certificate for the project involved, and the con-  
24 tractor may purchase materials for incorporation in such project. The  
25 contractor shall furnish the number of such certificate to all suppliers  
26 from whom such purchases are made, and such suppliers shall execute  
27 invoices covering the same bearing the number of such certificate. Upon  
28 completion of the project the contractor shall furnish to charitable family  
29 providers a sworn statement, on a form to be provided by the director of  
30 taxation, that all purchases so made were entitled to exemption under  
31 this subsection. All invoices shall be held by the contractor for a period  
32 of five years and shall be subject to audit by the director of taxation. If  
33 any materials purchased under such a certificate are found not to have  
34 been incorporated in the building or other project or not to have been  
35 returned for credit or the sales or compensating tax otherwise imposed  
36 upon such materials which will not be so incorporated in the building or  
37 other project reported and paid by such contractor to the director of  
38 taxation not later than the 20th day of the month following the close of  
39 the month in which it shall be determined that such materials will not be  
40 used for the purpose for which such certificate was issued, charitable  
41 family providers shall be liable for tax on all materials purchased for the  
42 project, and upon payment thereof it may recover the same from the  
43 contractor together with reasonable attorney fees. Any contractor or any

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

8 (ttt) all sales of tangible personal property or services purchased by  
9 a contractor for a project for the purpose of restoring, constructing, equip-  
10 ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-  
11 modeling a home or facility owned by a nonprofit museum which has  
12 been granted an exemption pursuant to subsection (qq), which such home  
13 or facility is located in a city which has been designated as a qualified  
14 hometown pursuant to the provisions of K.S.A. 75-5071, et seq., and  
15 amendments thereto, and which such project is related to the purposes  
16 of K.S.A. 75-5071, et seq., and amendments thereto, and which would  
17 be exempt from taxation under the provisions of this section if purchased  
18 directly by such nonprofit museum. Nothing in this subsection shall be  
19 deemed to exempt the purchase of any construction machinery, equip-  
20 ment or tools used in the restoring, constructing, equipping, reconstruct-  
21 ing, maintaining, repairing, enlarging, furnishing or remodeling a home  
22 or facility for any such nonprofit museum. When any such nonprofit mu-  
23 seum shall contract for the purpose of restoring, constructing, equipping,  
24 reconstructing, maintaining, repairing, enlarging, furnishing or remodel-  
25 ing a home or facility, it shall obtain from the state and furnish to the  
26 contractor an exemption certificate for the project involved, and the con-  
27 tractor may purchase materials for incorporation in such project. The  
28 contractor shall furnish the number of such certificates to all suppliers  
29 from whom such purchases are made, and such suppliers shall execute  
30 invoices covering the same bearing the number of such certificate. Upon  
31 completion of the project, the contractor shall furnish to such nonprofit  
32 museum a sworn statement on a form to be provided by the director of  
33 taxation that all purchases so made were entitled to exemption under this  
34 subsection. All invoices shall be held by the contractor for a period of five  
35 years and shall be subject to audit by the director of taxation. If any  
36 materials purchased under such a certificate are found not to have been  
37 incorporated in the building or other project or not to have been returned  
38 for credit or the sales or compensating tax otherwise imposed upon such  
39 materials which will not be so incorporated in a home or facility or other  
40 project reported and paid by such contractor to the director of taxation  
41 not later than the 20th day of the month following the close of the month  
42 in which it shall be determined that such materials will not be used for  
43 the purpose for which such certificate was issued, such nonprofit museum

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

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

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

14 Sec. 2. K.S.A. 2006 Supp. 79-3606 is hereby repealed.

15 Sec. 3. This act shall take effect and be in force from and after its  
16 publication in the statute book.