

As Amended by Senate Committee

Session of 2007

SENATE BILL No. 278

By Committee on Assessment and Taxation

2-5

10 AN ACT concerning sales taxation; relating to exemptions; precision
11 farming equipment; amending K.S.A. 2006 Supp. 79-3606 and re-
12 pealing the existing section.
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14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2006 Supp. 79-3606 is hereby amended to read as
16 follows: 79-3606. The following shall be exempt from the tax imposed by
17 this act:

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

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

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

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

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

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

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

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

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

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

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

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

43 (k) any motor vehicle, semitrailer or pole trailer, as such terms are

1 defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and
2 delivered in this state to a bona fide resident of another state, which motor
3 vehicle, semitrailer, pole trailer or aircraft is not to be registered or based
4 in this state and which vehicle, semitrailer, pole trailer or aircraft will not
5 remain in this state more than 10 days;

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

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

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

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

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

1 of the body;

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

5 (r) all sales of prosthetic devices and mobility enhancing equipment
6 prescribed in writing by a person licensed to practice the healing arts,
7 dentistry or optometry, and in addition to such sales, all sales of hearing
8 aids, as defined by subsection (c) of K.S.A. 74-5807, and amendments
9 thereto, and repair and replacement parts therefor, including batteries,
10 by a person licensed in the practice of dispensing and fitting hearing aids
11 pursuant to the provisions of K.S.A. 74-5808, and amendments thereto.
12 For the purposes of this subsection: (1) “Mobility enhancing equipment”
13 means equipment including repair and replacement parts to same, but
14 does not include durable medical equipment, which is primarily and cus-
15 tomarily used to provide or increase the ability to move from one place
16 to another and which is appropriate for use either in a home or a motor
17 vehicle; is not generally used by persons with normal mobility; and does
18 not include any motor vehicle or equipment on a motor vehicle normally
19 provided by a motor vehicle manufacturer; and (2) “prosthetic device”
20 means a replacement, corrective or supportive device including repair
21 and replacement parts for same worn on or in the body to artificially
22 replace a missing portion of the body, prevent or correct physical defor-
23 mity or malfunction or support a weak or deformed portion 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.
2 “Farm machinery and equipment” includes precision farming equipment
3 that is **portable or is** installed or purchased to be installed on farm ma-
4 chinery and equipment, ~~including, but not limited to, tractors, harvesters,~~
5 ~~sprayers, planters, seeders, spreaders or all-terrain vehicles, and “farm~~
6 ~~machinery and equipment” includes computers, sensors, software and re-~~
7 ~~lated equipment used primarily in the computer assisted operation of pro-~~
8 ~~duction agriculture facilities, equipment and activities. “Precision farming~~
9 ~~equipment” includes, but is not limited to, soil~~ **the following items used**
10 **only in computer-assisted farming, ranching or aquaculture pro-**
11 **duction operations: Soil** testing sensors, yield monitors, computers,
12 monitors, software, global positioning and mapping systems, guiding sys-
13 tems, modems, data communications equipment and any necessary
14 mounting hardware, wiring and antennas. Each purchaser of farm ma-
15 chinery and equipment or aquaculture machinery and equipment ex-
16 empted herein must certify in writing on the copy of the invoice or sales
17 ticket to be retained by the seller that the farm machinery and equipment
18 or aquaculture machinery and equipment purchased will be used only in
19 farming, ranching or aquaculture production. Farming or ranching shall
20 include the operation of a feedlot and farm and ranch work for hire and
21 the operation of a nursery;
22 (u) all leases or rentals of tangible personal property used as a dwell-
23 ing if such tangible personal property is leased or rented for a period of
24 more than 28 consecutive days;
25 (v) all sales of tangible personal property to any contractor for use in
26 preparing meals for delivery to homebound elderly persons over 60 years
27 of age and to homebound disabled persons or to be served at a group-
28 sitting at a location outside of the home to otherwise homebound elderly
29 persons over 60 years of age and to otherwise homebound disabled per-
30 sons, as all or part of any food service project funded in whole or in part
31 by government or as part of a private nonprofit food service project avail-
32 able to all such elderly or disabled persons residing within an area of
33 service designated by the private nonprofit organization, and all sales of
34 tangible personal property for use in preparing meals for consumption by
35 indigent or homeless individuals whether or not such meals are consumed
36 at a place designated for such purpose, and all sales of food products by
37 or on behalf of any such contractor or organization for any such purpose;
38 (w) all sales of natural gas, electricity, heat and water delivered
39 through mains, lines or pipes: (1) To residential premises for noncom-
40 mercial use by the occupant of such premises; (2) for agricultural use and
41 also, for such use, all sales of propane gas; (3) for use in the severing of
42 oil; and (4) to any property which is exempt from property taxation pur-
43 suant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph,

1 “severing” shall have the meaning ascribed thereto by subsection (k) of
2 K.S.A. 79-4216, and amendments thereto. For all sales of natural gas,
3 electricity and heat delivered through mains, lines or pipes pursuant to
4 the provisions of subsection (w)(1) and (w)(2), the provisions of this sub-
5 section shall expire on December 31, 2005;

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

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

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

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

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

27 (cc) all sales of tangible personal property or services purchased for
28 the purpose of and in conjunction with constructing, reconstructing, en-
29 larging or remodeling a business or retail business which meets the
30 requirements established in K.S.A. 74-50,115 and amendments thereto,
31 and the sale and installation of machinery and equipment purchased for
32 installation at any such business or retail business. When a person shall
33 contract for the construction, reconstruction, enlargement or remodeling
34 of any such business or retail business, such person shall obtain from the
35 state and furnish to the contractor an exemption certificate for the project
36 involved, and the contractor may purchase materials, machinery and
37 equipment for incorporation in such project. The contractor shall furnish
38 the number of such certificates to all suppliers from whom such purchases
39 are made, and such suppliers shall execute invoices covering the same
40 bearing the number of such certificate. Upon completion of the project
41 the contractor shall furnish to the owner of the business or retail business
42 a sworn statement, on a form to be provided by the director of taxation,
43 that all purchases so made were entitled to exemption under this subsec-

1 tion. All invoices shall be held by the contractor for a period of five years
2 and shall be subject to audit by the director of taxation. Any contractor
3 or any agent, employee or subcontractor thereof, who shall use or oth-
4 erwise dispose of any materials, machinery or equipment purchased un-
5 der such a certificate for any purpose other than that for which such a
6 certificate is issued without the payment of the sales or compensating tax
7 otherwise imposed thereon, shall be guilty of a misdemeanor and, upon
8 conviction therefor, shall be subject to the penalties provided for in sub-
9 section (g) of K.S.A. 79-3615 and amendments thereto. As used in this
10 subsection, “business” and “retail business” have the meanings respec-
11 tively ascribed thereto by K.S.A. 74-50,114 and amendments thereto;

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

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

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

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

25 (hh) all sales of medical supplies and equipment, including durable
26 medical equipment, purchased directly by a nonprofit skilled nursing
27 home or nonprofit intermediate nursing care home, as defined by K.S.A.
28 39-923, and amendments thereto, for the purpose of providing medical
29 services to residents thereof. This exemption shall not apply to tangible
30 personal property customarily used for human habitation purposes. As
31 used in this subsection, “durable medical equipment” means equipment
32 including repair and replacement parts for such equipment, but does not
33 include mobility enhancing equipment as defined in subsection (r) which
34 can withstand repeated use, is primarily and customarily used to serve a
35 medical purpose, generally is not useful to a person in the absence of
36 illness or injury and is not worn in or on the body;

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

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

1 renting and leasing of tangible personal property, purchased directly on
2 behalf of a community-based mental retardation facility or mental health
3 center organized pursuant to K.S.A. 19-4001 et seq., and amendments
4 thereto, and licensed in accordance with the provisions of K.S.A. 75-
5 3307b and amendments thereto and all sales of tangible personal property
6 or services purchased by contractors during the time period from July,
7 2003, through June, 2006, for the purpose of constructing, equipping,
8 maintaining or furnishing a new facility for a community-based mental
9 retardation facility or mental health center located in Riverton, Cherokee
10 County, Kansas, which would have been eligible for sales tax exemption
11 pursuant to this subsection if purchased directly by such facility or center.
12 This exemption shall not apply to tangible personal property customarily
13 used for human habitation purposes;

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

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

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

21 (2) For purposes of this subsection:

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

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

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

1 a single product of tangible personal property to be ultimately sold at
2 retail;

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

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

- 1 (F) “primary” or “primarily” mean more than 50% of the time.
- 2 (3) For purposes of this subsection, machinery and equipment shall
3 be deemed to be used as an integral or essential part of an integrated
4 production operation when used:
- 5 (A) To receive, transport, convey, handle, treat or store raw materials
6 in preparation of its placement on the production line;
- 7 (B) to transport, convey, handle or store the property undergoing
8 manufacturing or processing at any point from the beginning of the pro-
9 duction line through any warehousing or distribution operation of the
10 final product that occurs at the plant or facility;
- 11 (C) to act upon, effect, promote or otherwise facilitate a physical
12 change to the property undergoing manufacturing or processing;
- 13 (D) to guide, control or direct the movement of property undergoing
14 manufacturing or processing;
- 15 (E) to test or measure raw materials, the property undergoing man-
16 ufacturing or processing or the finished product, as a necessary part of
17 the manufacturer’s integrated production operations;
- 18 (F) to plan, manage, control or record the receipt and flow of inven-
19 tories of raw materials, consumables and component parts, the flow of
20 the property undergoing manufacturing or processing and the manage-
21 ment of inventories of the finished product;
- 22 (G) to produce energy for, lubricate, control the operating of or oth-
23 erwise enable the functioning of other production machinery and equip-
24 ment and the continuation of production operations;
- 25 (H) to package the property being manufactured or processed in a
26 container or wrapping in which such property is normally sold or
27 transported;
- 28 (I) to transmit or transport electricity, coke, gas, water, steam or sim-
29 ilar substances used in production operations from the point of genera-
30 tion, if produced by the manufacturer or processor at the plant site, to
31 that manufacturer’s production operation; or, if purchased or delivered
32 from offsite, from the point where the substance enters the site of the
33 plant or facility to that manufacturer’s production operations;
- 34 (J) to cool, heat, filter, refine or otherwise treat water, steam, acid,
35 oil, solvents or other substances that are used in production operations;
- 36 (K) to provide and control an environment required to maintain cer-
37 tain levels of air quality, humidity or temperature in special and limited
38 areas of the plant or facility, where such regulation of temperature or
39 humidity is part of and essential to the production process;
- 40 (L) to treat, transport or store waste or other byproducts of produc-
41 tion operations at the plant or facility; or
- 42 (M) to control pollution at the plant or facility where the pollution is
43 produced by the manufacturing or processing operation.

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

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

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

29 (B) machinery, equipment and tools used primarily in maintaining
30 and repairing any type of machinery and equipment or the building and
31 plant;

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

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

40 (E) furniture and other furnishings;

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

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

- 1 (rr) all sales of tangible personal property which will admit the pur-
2 chaser thereof to any annual event sponsored by a nonprofit organization
3 which is exempt from federal income taxation pursuant to section
4 501(c)(3) of the federal internal revenue code of 1986;
- 5 (ss) all sales of tangible personal property and services purchased by
6 a public broadcasting station licensed by the federal communications
7 commission as a noncommercial educational television or radio station;
- 8 (tt) all sales of tangible personal property and services purchased by
9 or on behalf of a not-for-profit corporation which is exempt from federal
10 income taxation pursuant to section 501(c)(3) of the federal internal rev-
11 enue code of 1986, for the sole purpose of constructing a Kansas Korean
12 War memorial;
- 13 (uu) all sales of tangible personal property and services purchased by
14 or on behalf of any rural volunteer fire-fighting organization for use ex-
15 clusively in the performance of its duties and functions;
- 16 (vv) all sales of tangible personal property purchased by any of the
17 following organizations which are exempt from federal income taxation
18 pursuant to section 501 (c)(3) of the federal internal revenue code of
19 1986, for the following purposes, and all sales of any such property by or
20 on behalf of any such organization for any such purpose:
- 21 (1) The American Heart Association, Kansas Affiliate, Inc. for the
22 purposes of providing education, training, certification in emergency car-
23 diac care, research and other related services to reduce disability and
24 death from cardiovascular diseases and stroke;
- 25 (2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of
26 advocacy for persons with mental illness and to education, research and
27 support for their families;
- 28 (3) the Kansas Mental Illness Awareness Council for the purposes of
29 advocacy for persons who are mentally ill and to education, research and
30 support for them and their families;
- 31 (4) the American Diabetes Association Kansas Affiliate, Inc. for the
32 purpose of eliminating diabetes through medical research, public edu-
33 cation focusing on disease prevention and education, patient education
34 including information on coping with diabetes, and professional education
35 and training;
- 36 (5) the American Lung Association of Kansas, Inc. for the purpose of
37 eliminating all lung diseases through medical research, public education
38 including information on coping with lung diseases, professional educa-
39 tion and training related to lung disease and other related services to
40 reduce the incidence of disability and death due to lung disease;
- 41 (6) the Kansas chapters of the Alzheimer's Disease and Related Dis-
42 orders Association, Inc. for the purpose of providing assistance and sup-
43 port to persons in Kansas with Alzheimer's disease, and their families and

- 1 caregivers;
- 2 (7) the Kansas chapters of the Parkinson's disease association for the
3 purpose of eliminating Parkinson's disease through medical research and
4 public and professional education related to such disease;
- 5 (8) the National Kidney Foundation of Kansas and Western Missouri
6 for the purpose of eliminating kidney disease through medical research
7 and public and private education related to such disease;
- 8 (9) the heartstrings community foundation for the purpose of provid-
9 ing training, employment and activities for adults with developmental
10 disabilities;
- 11 (10) the Cystic Fibrosis Foundation, Heart of America Chapter, for
12 the purposes of assuring the development of the means to cure and con-
13 trol cystic fibrosis and improving the quality of life for those with the
14 disease;
- 15 (11) the spina bifida association of Kansas for the purpose of provid-
16 ing financial, educational and practical aid to families and individuals with
17 spina bifida. Such aid includes, but is not limited to, funding for medical
18 devices, counseling and medical educational opportunities;
- 19 (12) the CHWC, Inc., for the purpose of rebuilding urban core neigh-
20 borhoods through the construction of new homes, acquiring and reno-
21 vating existing homes and other related activities, and promoting eco-
22 nomic development in such neighborhoods;
- 23 (13) the cross-lines cooperative council for the purpose of providing
24 social services to low income individuals and families;
- 25 (14) the Dreams Work, Inc., for the purpose of providing young adult
26 day services to individuals with developmental disabilities and assisting
27 families in avoiding institutional or nursing home care for a developmen-
28 tally disabled member of their family;
- 29 (15) the KSDS, Inc., for the purpose of promoting the independence
30 and inclusion of people with disabilities as fully participating and contrib-
31 uting members of their communities and society through the training and
32 providing of guide and service dogs to people with disabilities, and pro-
33 viding disability education and awareness to the general public; and
- 34 (16) the lyme association of greater Kansas City, Inc., for the purpose
35 of providing support to persons with lyme disease and public education
36 relating to the prevention, treatment and cure of lyme disease;
- 37 (ww) all sales of tangible personal property purchased by the Habitat
38 for Humanity for the exclusive use of being incorporated within a housing
39 project constructed by such organization;
- 40 (xx) all sales of tangible personal property and services purchased by
41 a nonprofit zoo which is exempt from federal income taxation pursuant
42 to section 501(c)(3) of the federal internal revenue code of 1986, or on
43 behalf of such zoo by an entity itself exempt from federal income taxation

1 pursuant to section 501(c)(3) of the federal internal revenue code of 1986
2 contracted with to operate such zoo and all sales of tangible personal
3 property or services purchased by a contractor for the purpose of con-
4 structing, equipping, reconstructing, maintaining, repairing, enlarging,
5 furnishing or remodeling facilities for any nonprofit zoo which would be
6 exempt from taxation under the provisions of this section if purchased
7 directly by such nonprofit zoo or the entity operating such zoo. Nothing
8 in this subsection shall be deemed to exempt the purchase of any con-
9 struction machinery, equipment or tools used in the constructing, equip-
10 ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-
11 modeling facilities for any nonprofit zoo. When any nonprofit zoo shall
12 contract for the purpose of constructing, equipping, reconstructing, main-
13 taining, repairing, enlarging, furnishing or remodeling facilities, it shall
14 obtain from the state and furnish to the contractor an exemption certifi-
15 cate for the project involved, and the contractor may purchase materials
16 for incorporation in such project. The contractor shall furnish the number
17 of such certificate to all suppliers from whom such purchases are made,
18 and such suppliers shall execute invoices covering the same bearing the
19 number of such certificate. Upon completion of the project the contractor
20 shall furnish to the nonprofit zoo concerned a sworn statement, on a form
21 to be provided by the director of taxation, that all purchases so made were
22 entitled to exemption under this subsection. All invoices shall be held by
23 the contractor for a period of five years and shall be subject to audit by
24 the director of taxation. If any materials purchased under such a certifi-
25 cate are found not to have been incorporated in the building or other
26 project or not to have been returned for credit or the sales or compen-
27 sating tax otherwise imposed upon such materials which will not be so
28 incorporated in the building or other project reported and paid by such
29 contractor to the director of taxation not later than the 20th day of the
30 month following the close of the month in which it shall be determined
31 that such materials will not be used for the purpose for which such cer-
32 tificate was issued, the nonprofit zoo concerned shall be liable for tax on
33 all materials purchased for the project, and upon payment thereof it may
34 recover the same from the contractor together with reasonable attorney
35 fees. Any contractor or any agent, employee or subcontractor thereof,
36 who shall use or otherwise dispose of any materials purchased under such
37 a certificate for any purpose other than that for which such a certificate
38 is issued without the payment of the sales or compensating tax otherwise
39 imposed upon such materials, shall be guilty of a misdemeanor and, upon
40 conviction therefor, shall be subject to the penalties provided for in sub-
41 section (g) of K.S.A. 79-3615, and amendments thereto;

42 (yy) all sales of tangible personal property and services purchased by
43 a parent-teacher association or organization, and all sales of tangible per-

1 sonal property by or on behalf of such association or organization;

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

12 (aaa) all sales of tangible personal property and services purchased
13 by a religious organization which is exempt from federal income taxation
14 pursuant to section 501(c)(3) of the federal internal revenue code, and
15 used exclusively for religious purposes, and all sales of tangible personal
16 property or services purchased by a contractor for the purpose of con-
17 structing, equipping, reconstructing, maintaining, repairing, enlarging,
18 furnishing or remodeling facilities for any such organization which would
19 be exempt from taxation under the provisions of this section if purchased
20 directly by such organization. Nothing in this subsection shall be deemed
21 to exempt the purchase of any construction machinery, equipment or
22 tools used in the constructing, equipping, reconstructing, maintaining,
23 repairing, enlarging, furnishing or remodeling facilities for any such or-
24 ganization. When any such organization shall contract for the purpose of
25 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
26 ing, furnishing or remodeling facilities, it shall obtain from the state and
27 furnish to the contractor an exemption certificate for the project involved,
28 and the contractor may purchase materials for incorporation in such pro-
29 ject. The contractor shall furnish the number of such certificate to all
30 suppliers from whom such purchases are made, and such suppliers shall
31 execute invoices covering the same bearing the number of such certifi-
32 cate. Upon completion of the project the contractor shall furnish to such
33 organization concerned a sworn statement, on a form to be provided by
34 the director of taxation, that all purchases so made were entitled to ex-
35 emption under this subsection. All invoices shall be held by the contractor
36 for a period of five years and shall be subject to audit by the director of
37 taxation. If any materials purchased under such a certificate are found
38 not to have been incorporated in the building or other project or not to
39 have been returned for credit or the sales or compensating tax otherwise
40 imposed upon such materials which will not be so incorporated in the
41 building or other project reported and paid by such contractor to the
42 director of taxation not later than the 20th day of the month following
43 the close of the month in which it shall be determined that such materials

1 will not be used for the purpose for which such certificate was issued,
2 such organization concerned shall be liable for tax on all materials pur-
3 chased for the project, and upon payment thereof it may recover the same
4 from the contractor together with reasonable attorney fees. Any contrac-
5 tor or any agent, employee or subcontractor thereof, who shall use or
6 otherwise dispose of any materials purchased under such a certificate for
7 any purpose other than that for which such a certificate is issued without
8 the payment of the sales or compensating tax otherwise imposed upon
9 such materials, shall be guilty of a misdemeanor and, upon conviction
10 therefor, shall be subject to the penalties provided for in subsection (g)
11 of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after
12 July 1, 1998, but prior to the effective date of this act upon the gross
13 receipts received from any sale exempted by the amendatory provisions
14 of this subsection shall be refunded. Each claim for a sales tax refund
15 shall be verified and submitted to the director of taxation upon forms
16 furnished by the director and shall be accompanied by any additional
17 documentation required by the director. The director shall review each
18 claim and shall refund that amount of sales tax paid as determined under
19 the provisions of this subsection. All refunds shall be paid from the sales
20 tax refund fund upon warrants of the director of accounts and reports
21 pursuant to vouchers approved by the director or the director's designee;

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

28 (ccc) on and after July 1, 1999, all sales of tangible personal property
29 and services purchased by a primary care clinic or health center the pri-
30 mary purpose of which is to provide services to medically underserved
31 individuals and families, and which is exempt from federal income taxa-
32 tion pursuant to section 501 (c)(3) of the federal internal revenue code,
33 and all sales of tangible personal property or services purchased by a
34 contractor for the purpose of constructing, equipping, reconstructing,
35 maintaining, repairing, enlarging, furnishing or remodeling facilities for
36 any such clinic or center which would be exempt from taxation under the
37 provisions of this section if purchased directly by such clinic or center.
38 Nothing in this subsection shall be deemed to exempt the purchase of
39 any construction machinery, equipment or tools used in the constructing,
40 equipping, reconstructing, maintaining, repairing, enlarging, furnishing
41 or remodeling facilities for any such clinic or center. When any such clinic
42 or center shall contract for the purpose of constructing, equipping, re-
43 constructing, maintaining, repairing, enlarging, furnishing or remodeling

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

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

41 (eee) on and after January 1, 1999, and before January 1, 2001, all
42 sales of materials and services purchased for the original construction,
43 reconstruction, repair or replacement of grain storage facilities, including

1 railroad sidings providing access thereto;

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

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

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

26 (iii) all sales of personal property and services purchased by an or-
27 ganization which is exempt from federal income taxation pursuant to sec-
28 tion 501(c)(3) of the federal internal revenue code of 1986, and which
29 such personal property and services are used by any such organization in
30 the collection, storage and distribution of food products to nonprofit or-
31 ganizations which distribute such food products to persons pursuant to a
32 food distribution program on a charitable basis without fee or charge, and
33 all sales of tangible personal property or services purchased by a contrac-
34 tor for the purpose of constructing, equipping, reconstructing, maintain-
35 ing, repairing, enlarging, furnishing or remodeling facilities used for the
36 collection and storage of such food products for any such organization
37 which is exempt from federal income taxation pursuant to section
38 501(c)(3) of the federal internal revenue code of 1986, which would be
39 exempt from taxation under the provisions of this section if purchased
40 directly by such organization. Nothing in this subsection shall be deemed
41 to exempt the purchase of any construction machinery, equipment or
42 tools used in the constructing, equipping, reconstructing, maintaining,
43 repairing, enlarging, furnishing or remodeling facilities for any such or-

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

42 (jjj) all sales of dietary supplements dispensed pursuant to a prescrip-
43 tion order by a licensed practitioner or a mid-level practitioner as defined

1 by K.S.A. 65-1626, and amendments thereto. As used in this subsection,
2 “dietary supplement” means any product, other than tobacco, intended
3 to supplement the diet that: (1) Contains one or more of the following
4 dietary ingredients: A vitamin, a mineral, an herb or other botanical, an
5 amino acid, a dietary substance for use by humans to supplement the diet
6 by increasing the total dietary intake or a concentrate, metabolite, con-
7 stituent, extract or combination of any such ingredient; (2) is intended
8 for ingestion in tablet, capsule, powder, softgel, gelcap or liquid form, or
9 if not intended for ingestion, in such a form, is not represented as con-
10 ventional food and is not represented for use as a sole item of a meal or
11 of the diet; and (3) is required to be labeled as a dietary supplement,
12 identifiable by the supplemental facts box found on the label and as re-
13 quired pursuant to 21 C.F.R. § 101.36;

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

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

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

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

38 (ppp) all sales of tangible personal property and services purchased
39 by or on behalf of a homeless shelter which is exempt from federal income
40 taxation pursuant to section 501(c)(3) of the federal income tax code of
41 1986, and used by any such homeless shelter to provide emergency and
42 transitional housing for individuals and families experiencing homeless-
43 ness, and all sales of any such property by or on behalf of any such home-

1 less shelter for any such purpose;
2 (qqq) all sales of tangible personal property and services purchased
3 by TLC for children and families, inc., hereinafter referred to as TLC,
4 which is exempt from federal income taxation pursuant to section
5 501(c)(3) of the federal internal revenue code of 1986, and which such
6 property and services are used for the purpose of providing emergency
7 shelter and treatment for abused and neglected children as well as meet-
8 ing additional critical needs for children, juveniles and family, and all sales
9 of any such property by or on behalf of TLC for any such purpose; and
10 all sales of tangible personal property or services purchased by a contrac-
11 tor for the purpose of constructing, maintaining, repairing, enlarging, fur-
12 nishing or remodeling facilities for the operation of services for TLC for
13 any such purpose which would be exempt from taxation under the pro-
14 visions of this section if purchased directly by TLC. Nothing in this sub-
15 section shall be deemed to exempt the purchase of any construction ma-
16 chinery, equipment or tools used in the constructing, maintaining,
17 repairing, enlarging, furnishing or remodeling such facilities for TLC.
18 When TLC contracts for the purpose of constructing, maintaining, re-
19 pairing, enlarging, furnishing or remodeling such facilities, it shall obtain
20 from the state and furnish to the contractor an exemption certificate for
21 the project involved, and the contractor may purchase materials for in-
22 corporation in such project. The contractor shall furnish the number of
23 such certificate to all suppliers from whom such purchases are made, and
24 such suppliers shall execute invoices covering the same bearing the num-
25 ber of such certificate. Upon completion of the project the contractor
26 shall furnish to TLC a sworn statement, on a form to be provided by the
27 director of taxation, that all purchases so made were entitled to exemption
28 under this subsection. All invoices shall be held by the contractor for a
29 period of five years and shall be subject to audit by the director of taxation.
30 If any materials purchased under such a certificate are found not to have
31 been incorporated in the building or other project or not to have been
32 returned for credit or the sales or compensating tax otherwise imposed
33 upon such materials which will not be so incorporated in the building or
34 other project reported and paid by such contractor to the director of
35 taxation not later than the 20th day of the month following the close of
36 the month in which it shall be determined that such materials will not be
37 used for the purpose for which such certificate was issued, TLC shall be
38 liable for tax on all materials purchased for the project, and upon payment
39 thereof it may recover the same from the contractor together with rea-
40 sonable attorney fees. Any contractor or any agent, employee or subcon-
41 tractor thereof, who shall use or otherwise dispose of any materials pur-
42 chased under such a certificate for any purpose other than that for which
43 such a certificate is issued without the payment of the sales or compen-

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

5 (rrr) all sales of tangible personal property and services purchased by
6 any county law library maintained pursuant to law and sales of tangible
7 personal property and services purchased by an organization which would
8 have been exempt from taxation under the provisions of this subsection
9 if purchased directly by the county law library for the purpose of providing
10 legal resources to attorneys, judges, students and the general public, and
11 all sales of any such property by or on behalf of any such county law
12 library;

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

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

18 (ttt) all sales of tangible personal property or services purchased by
19 a contractor for a project for the purpose of restoring, constructing, equip-
20 ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-
21 modeling a home or facility owned by a nonprofit museum which has
22 been granted an exemption pursuant to subsection (qq), which such home
23 or facility is located in a city which has been designated as a qualified
24 hometown pursuant to the provisions of K.S.A. 75-5071, et seq., and
25 amendments thereto, and which such project is related to the purposes
26 of K.S.A. 75-5071, et seq., and amendments thereto, and which would
27 be exempt from taxation under the provisions of this section if purchased
28 directly by such nonprofit museum. Nothing in this subsection shall be
29 deemed to exempt the purchase of any construction machinery, equip-
30 ment or tools used in the restoring, constructing, equipping, reconstruct-
31 ing, maintaining, repairing, enlarging, furnishing or remodeling a home
32 or facility for any such nonprofit museum. When any such nonprofit mu-
33 seum shall contract for the purpose of restoring, constructing, equipping,
34 reconstructing, maintaining, repairing, enlarging, furnishing or remodel-
35 ing a home or facility, it shall obtain from the state and furnish to the
36 contractor an exemption certificate for the project involved, and the con-
37 tractor may purchase materials for incorporation in such project. The
38 contractor shall furnish the number of such certificates to all suppliers
39 from whom such purchases are made, and such suppliers shall execute
40 invoices covering the same bearing the number of such certificate. Upon
41 completion of the project, the contractor shall furnish to such nonprofit
42 museum a sworn statement on a form to be provided by the director of
43 taxation that all purchases so made were entitled to exemption under this

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

21 (uuu) all sales of tangible personal property and services purchased
22 by Kansas children's service league, hereinafter referred to as KCSL,
23 which is exempt from federal income taxation pursuant to section
24 501(c)(3) of the federal internal revenue code of 1986, and which such
25 property and services are used for the purpose of providing for the pre-
26 vention and treatment of child abuse and maltreatment as well as meeting
27 additional critical needs for children, juveniles and family, and all sales of
28 any such property by or on behalf of KCSL for any such purpose; and all
29 sales of tangible personal property or services purchased by a contractor
30 for the purpose of constructing, maintaining, repairing, enlarging, fur-
31 nishing or remodeling facilities for the operation of services for KCSL
32 for any such purpose which would be exempt from taxation under the
33 provisions of this section if purchased directly by KCSL. Nothing in this
34 subsection shall be deemed to exempt the purchase of any construction
35 machinery, equipment or tools used in the constructing, maintaining, re-
36 pairing, enlarging, furnishing or remodeling such facilities for KCSL.
37 When KCSL contracts for the purpose of constructing, maintaining, re-
38 pairing, enlarging, furnishing or remodeling such facilities, it shall obtain
39 from the state and furnish to the contractor an exemption certificate for
40 the project involved, and the contractor may purchase materials for in-
41 corporation in such project. The contractor shall furnish the number of
42 such certificate to all suppliers from whom such purchases are made, and
43 such suppliers shall execute invoices covering the same bearing the num-

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

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

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