

Substitute for HOUSE BILL No. 2762

By Committee on Taxation

3-11

10 AN ACT concerning taxation; relating to income tax, apportionment of
11 net income, business income, corporation surtax, credits for members
12 of unitary group **[and credits and refunds for capital investments**
13 **in businesses located in certain cities damaged by a disaster]**;
14 sales tax, exemptions and refunds; amending K.S.A. 79-3285 and 79-
15 32,141 and K.S.A. 2007 Supp. 79-3271, 79-32,110, 79-32,154 and 79-
16 3606 and repealing the existing sections.

17

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

19 Section 1. **[On and after July 1, 2008,]** K.S.A. 2007 Supp. 79-3271
20 is hereby amended to read as follows: 79-3271. As used in this act, unless
21 the context otherwise requires: (a) *For tax years commencing prior to*
22 *January 1, 2008, “business income” means income arising from transac-*
23 *tions and activity in the regular course of the taxpayer’s trade or business*
24 *and includes income from tangible and intangible property if the acqui-*
25 *sition, management, and disposition of the property constitute integral*
26 *parts of the taxpayer’s regular trade or business operations, except that*
27 *for taxable years commencing after December 31, 1995, a taxpayer may*
28 *elect that all income constitutes business income. For tax years com-*
29 *mencing after December 31, 2007, “business income” means: (1) Income*
30 *arising from transactions and activity in the regular course of the tax-*
31 *payer’s trade or business; (2) income arising from transactions and activ-*
32 *ity involving tangible and intangible property or assets used in the op-*
33 *eration of the taxpayer’s trade or business; or (3) income of the taxpayer*
34 *that may be apportioned to this state under the provisions of the Consti-*
35 *tution of the United States and laws thereof, except that a taxpayer may*
36 *elect that all income constitutes business income. The election Any elec-*
37 *tion made under this subsection shall be effective and irrevocable for the*
38 *taxable tax year of the election and the following nine taxable years. The*
39 *election in which the election is made and the following nine tax years*
40 *and shall be binding on all members of a unitary group of corporations.*
41 (b) “Commercial domicile” means the principal place from which the
42 trade or business of the taxpayer is directed or managed.
43 (c) “Compensation” means wages, salaries, commissions and any

1 other form of remuneration paid to employees for personal services.

2 (d) “Financial organization” means any bank, trust company, savings
3 bank, industrial bank, land bank, safe deposit company, private banker,
4 savings and loan association, credit union, cooperative bank, or any type
5 of insurance company, but such term shall not be deemed to include any
6 business entity, other than those hereinbefore enumerated, whose pri-
7 mary business activity is making consumer loans or purchasing retail in-
8 stallment contracts from one or more sellers.

9 (e) “Nonbusiness income” means all income other than business
10 income.

11 (f) “Public utility” means any business entity which owns or operates
12 for public use any plant, equipment, property, franchise, or license for
13 the transmission of communications, transportation of goods or persons,
14 or the production, storage, transmission, sale, delivery, or furnishing of
15 electricity, water, steam, oil, oil products or gas.

16 (g) “Original return” means the first return filed to report the income
17 of a taxpayer for a taxable year or period, irrespective of whether such
18 return is filed on a single entity basis or a combined basis.

19 (h) “Sales” means, *except as otherwise provided in K.S.A. 79-3285,*
20 *and amendments thereto*, all gross receipts of the taxpayer not allocated
21 under K.S.A. 79-3274 through 79-3278, and amendments thereto.

22 (i) “State” means any state of the United States, the District of Co-
23 lumbia, the Commonwealth of Puerto Rico, any territory or possession
24 of the United States, and any foreign country or political subdivision
25 thereof.

26 (j) “Telecommunications company” means any business entity or uni-
27 tary group of entities whose primary business activity is the transmission
28 of communications in the form of voice, data, signals or facsimile com-
29 munications by wire or fiber optic cable.

30 (k) “Distressed area taxpayer” means a corporation which: (1) Is lo-
31 cated in a county which has a population of not more than 45,000 persons
32 and which, as certified by the department of commerce, has sustained an
33 adverse economic impact due to the closure of a state hospital in such
34 county pursuant to the recommendations of the hospital closure com-
35 mission; and (2) which has a total annual payroll of \$20,000,000 or more
36 for employees employed within such county.

37 (l) For the purposes of this subsection and subsection (b)(5) of K.S.A.
38 79-3279, and amendments thereto, the following terms are defined:

39 (1) “Administration services” include clerical, fund or shareholder ac-
40 counting, participant record keeping, transfer agency, bookkeeping, data
41 processing, custodial, internal auditing, legal and tax services performed
42 for an investment company;

43 (2) “distribution services” include the services of advertising, servic-

1 ing, marketing, underwriting or selling shares of an investment company,
2 but, in the case of advertising, servicing or marketing shares, only where
3 such service is performed by a person who is, or in the case of a closed
4 end company, was, either engaged in the services of underwriting or sell-
5 ing investment company shares or affiliated with a person who is engaged
6 in the service of underwriting or selling investment company shares. In
7 the case of an open end company, such service of underwriting or selling
8 shares must be performed pursuant to a contract entered into pursuant
9 to 15 U.S.C. §80a-15(b), as in effect on the effective date of this act;

10 (3) “investment company”, means any person registered under the
11 federal Investment Company Act of 1940, as in effect on the effective
12 date of this act, or a company which would be required to register as an
13 investment company under such act except that such person is exempt to
14 such registration pursuant to §80a-3(c)(1) of such act;

15 (4) “investment funds service corporation” includes any corporation
16 or S corporation headquartered in and doing business in this state which
17 derives more than 50% of its gross income from the provision of man-
18 agement, distribution or administration services to or on behalf of an
19 investment company or from trustees, sponsors and participants of em-
20 ployee benefit plans which have accounts in an investment company;

21 (5) “management services” include the rendering of investment ad-
22 vice to an investment company making determinations as to when sales
23 and purchases of securities are to be made on behalf of the investment
24 company, or the selling or purchasing of securities constituting assets of
25 an investment company, and related activities, but only where such activ-
26 ity or activities are performed:

27 (A) Pursuant to a contract with the investment company entered into
28 pursuant to 15 U.S.C. §80a-15(a), in effect on the effective date of this
29 act; or

30 (B) for a person that has entered into such contract with the invest-
31 ment company;

32 (6) “qualifying business income” is business income derived from the
33 provision of management, distribution or administration services to or on
34 behalf of an investment company or from trustees, sponsors and partici-
35 pants of employee benefit plans which have accounts in an investment
36 company; and

37 (7) “residence” is the fund shareholder’s primary residence address.

38 Sec. 2. **[On and after July 1, 2008,]** K.S.A. 79-3285 is hereby
39 amended to read as follows: 79-3285. The sales factor is a fraction, the
40 numerator of which is the total sales of the taxpayer in this state during
41 the tax period, and the denominator of which is the total sales of the
42 taxpayer everywhere during the tax period. *For taxable years commencing*
43 *after December 31, 2007, in the case of sales of business assets, other than*

1 *sales of tangible personal property sold in the ordinary course of the*
2 *taxpayer's trade or business, only the net gain from such sales shall be*
3 *included in the sales factor.*

4 Sec. 3. **[On and after July 1, 2008,]** K.S.A. 2007 Supp. 79-32,110
5 is hereby amended to read as follows: 79-32,110. (a) *Resident Individuals.*
6 Except as otherwise provided by subsection (a) of K.S.A. 79-3220, and
7 amendments thereto, a tax is hereby imposed upon the Kansas taxable
8 income of every resident individual, which tax shall be computed in ac-
9 cordance with the following tax schedules:

10 (1) *Married individuals filing joint returns.*

| | |
|--|--|
| 11 If the taxable income is: | The tax is: |
| 12 Not over \$30,000 | 3.5% of Kansas taxable income |
| 13 Over \$30,000 but not over \$60,000 | \$1,050 plus 6.25% of excess over \$30,000 |
| 14 Over \$60,000 | \$2,925 plus 6.45% of excess over \$60,000 |

15 (2) *All other individuals.*

16 (A) For tax year 1997:

| | |
|--|--|
| 17 If the taxable income is: | The tax is: |
| 18 Not over \$20,000 | 4.1% of Kansas taxable income |
| 19 Over \$20,000 but not over \$30,000 | \$820 plus 7.5% of excess over \$20,000 |
| 20 Over \$30,000 | \$1,570 plus 7.75% of excess over \$30,000 |

21 (B) For tax year 1998, and all tax years thereafter:

| | |
|--|---|
| 22 If the taxable income is: | The tax is: |
| 23 Not over \$15,000 | 3.5% of Kansas taxable income |
| 24 Over \$15,000 but not over \$30,000 | \$525 plus 6.25% of excess over \$15,000 |
| 25 Over \$30,000 | \$1,462.50 plus 6.45% of excess over \$30,000 |

26 (b) *Nonresident Individuals.* A tax is hereby imposed upon the Kansas
27 taxable income of every nonresident individual, which tax shall be an
28 amount equal to the tax computed under subsection (a) as if the nonres-
29 ident were a resident multiplied by the ratio of modified Kansas source
30 income to Kansas adjusted gross income.

31 (c) *Corporations.* A tax is hereby imposed upon the Kansas taxable
32 income of every corporation doing business within this state or deriving
33 income from sources within this state. Such tax shall consist of a normal
34 tax and a surtax and shall be computed as follows:

35 (1) The normal tax shall be in an amount equal to 4% of the Kansas
36 taxable income of such corporation; and

37 (2) *for tax year 2008, and all tax years thereafter,* the surtax shall be
38 in an amount equal to ~~3.35%~~ 2.85% of the Kansas taxable income of such
39 corporation in excess of \$50,000.

40 (d) *Fiduciaries.* A tax is hereby imposed upon the Kansas taxable
41 income of estates and trusts at the rates provided in paragraph (2) of
42 subsection (a) hereof.

43 Sec. 4. **[On and after July 1, 2008,]** K.S.A. 79-32,141 is hereby

1 amended to read as follows: 79-32,141. (a) The director may allocate gross
2 income, deductions, credits, or allowances between two or more organi-
3 zations, trades or businesses (whether or not incorporated, or organized
4 in the United States or affiliated) owned or controlled directly or indi-
5 rectly by the same interests, if the director determines such allocation is
6 necessary to prevent evasion of taxes or to clearly reflect income of the
7 organizations, trades or businesses.

8 (b) *Credits claimed under subsection (e) of K.S.A. 79-32,160a, and*
9 *amendments thereto, by a taxpayer that is a member of a unitary group*
10 *filing a combined report shall be allowed to be claimed by other members*
11 *of the group included in such combined report, to the extent the credits*
12 *exceed the tax imposed by the Kansas income tax act on the Kansas taxable*
13 *income of such taxpayer first claiming the credit. The provisions of this*
14 *subsection shall be applicable to any taxpayer that is a member of a uni-*
15 *tary group for tax credits earned in tax years commencing on and after*
16 *January 1, 2008.*

17 Sec. 5. [On and after July 1, 2008,] K.S.A. 2007 Supp. 79-32,154
18 is hereby amended to read as follows: 79-32,154. As used in this act, the
19 following words and phrases shall have the meanings respectively ascribed
20 to them herein:

21 (a) “Facility” shall mean any factory, mill, plant, refinery, warehouse,
22 feedlot, building or complex of buildings located within the state, includ-
23 ing the land on which such facility is located and all machinery, equipment
24 and other real and tangible personal property located at or within such
25 facility used in connection with the operation of such facility. The word
26 “building” shall include only structures within which individuals are cus-
27 tomarily employed or which are customarily used to house machinery,
28 equipment or other property.

29 (b) “Qualified business facility” shall mean a facility which satisfies
30 the requirements of paragraphs (1) and (2) of this subsection.

31 (1) Such facility is employed by the taxpayer in the operation of a
32 revenue producing enterprise, as defined in subsection (c). Such facility
33 shall not be considered a qualified business facility in the hands of the
34 taxpayer if the taxpayer’s only activity with respect to such facility is to
35 lease it to another person or persons. If the taxpayer employs only a
36 portion of such facility in the operation of a revenue producing enterprise,
37 and leases another portion of such facility to another person or persons
38 or does not otherwise use such other portions in the operation of a rev-
39 enue producing enterprise, the portion employed by the taxpayer in the
40 operation of a revenue producing enterprise shall be considered a qual-
41 ified business facility, if the requirements of paragraph (2) of this sub-
42 section are satisfied.

43 (2) If such facility was acquired by the taxpayer from another person

1 or persons, such facility was not employed, immediately prior to the trans-
2 fer of title to such facility to the taxpayer, or to the commencement of
3 the term of the lease of such facility to the taxpayer, by any other person
4 or persons in the operation of a revenue producing enterprise and the
5 taxpayer continues the operation of the same or substantially identical
6 revenue producing enterprise, as defined in subsection (i), at such facility.

7 (c) “Revenue producing enterprise” shall mean:

8 (1) The assembly, fabrication, manufacture or processing of any ag-
9 ricultural, mineral or manufactured product;

10 (2) the storage, warehousing, distribution or sale of any products of
11 agriculture, aquaculture, mining or manufacturing;

12 (3) the feeding of livestock at a feedlot;

13 (4) the operation of laboratories or other facilities for scientific, ag-
14 ricultural, aquacultural, animal husbandry or industrial research, devel-
15 opment or testing;

16 (5) the performance of services of any type;

17 (6) the feeding of aquatic plants and animals at an aquaculture op-
18 eration;

19 (7) the administrative management of any of the foregoing activities;

20 or

21 (8) any combination of any of the foregoing activities.

22 “Revenue producing enterprise” shall not mean a swine production
23 facility as defined in K.S.A. 17-5903, and amendments thereto.

24 (d) “Qualified business facility employee” shall mean a person em-
25 ployed by the taxpayer in the operation of a qualified business facility
26 during the taxable year for which the credit allowed by K.S.A. 79-32,153,
27 and amendments thereto, is claimed:

28 (1) A person shall be deemed to be so engaged if such person per-
29 forms duties in connection with the operation of the qualified business
30 facility on: (A) A regular, full-time basis; (B) a part-time basis, provided
31 such person is customarily performing such duties at least 20 hours per
32 week throughout the taxable year; or (C) a seasonal basis, provided such
33 person performs such duties for substantially all of the season customary
34 for the position in which such person is employed. The number of qual-
35 ified business facility employees during any taxable year shall be deter-
36 mined by dividing by 12 the sum of the number of qualified business
37 facility employees on the last business day of each month of such taxable
38 year. If the qualified business facility is in operation for less than the entire
39 taxable year, the number of qualified business facility employees shall be
40 determined by dividing the sum of the number of qualified business fa-
41 cility employees on the last business day of each full calendar month
42 during the portion of such taxable year during which the qualified busi-
43 ness facility was in operation by the number of full calendar months dur-

1 ing such period. Notwithstanding the provisions of this subsection, for
2 the purpose of computing the credit allowed by K.S.A. 79-32,153, and
3 amendments thereto, in the case of an investment in a qualified business
4 facility, which facility existed and was operated by the taxpayer or related
5 taxpayer prior to such investment, the number of qualified business fa-
6 cility employees employed in the operation of such facility shall be re-
7 duced by the average number, computed as provided in this subsection,
8 of individuals employed in the operation of the facility during the taxable
9 year preceding the taxable year in which the qualified business facility
10 investment was made at the facility.

11 (2) *In the event the taxpayer is a member of a unitary group filing a*
12 *combined report, then qualified business facility employee shall include a*
13 *person employed by any member of the combined group, provided that*
14 *such employee was engaged or maintained in employment as a direct*
15 *result of the investment made by a member of the combined group.*

16 (3) For taxable years commencing after December 31, 1997, in the
17 case of a taxpayer claiming a credit against the premium tax and privilege
18 fees imposed pursuant to K.S.A. 40-252, and amendments thereto or the
19 privilege tax as measured by net income of financial institutions imposed
20 pursuant to chapter 79 article 11 of the Kansas Statutes Annotated, “qual-
21 ified business employee” shall not mean any person who is employed in
22 the operation of a qualified business facility in the state due to the merger,
23 acquisition or other reconfiguration of the taxpayer unless such em-
24 ployee’s position represents a net gain of total positions created by the
25 taxpayer and the employee’s position was not in existence at the time of
26 the merger acquisition or other reconfiguration of the taxpayer.

27 (e) “Qualified business facility investment” shall mean the value of
28 the real and tangible personal property, except inventory or property held
29 for sale to customers in the ordinary course of the taxpayer’s business,
30 which constitutes the qualified business facility, or which is used by the
31 taxpayer in the operation of the qualified business facility, during the
32 taxable year for which the credit allowed by K.S.A. 79-32,153, and amend-
33 ments thereto, is claimed. The value of such property during such taxable
34 year shall be: (1) Its original cost if owned by the taxpayer; or (2) eight
35 times the net annual rental rate, if leased by the taxpayer. The net annual
36 rental rate shall be the annual rental rate paid by the taxpayer less any
37 annual rental rate received by the taxpayer from subrentals. The qualified
38 business facility investment shall be determined by dividing by 12 the
39 sum of the total value of such property on the last business day of each
40 calendar month of the taxable year. If the qualified business facility is in
41 operation for less than an entire taxable year, the qualified business facility
42 investment shall be determined by dividing the sum of the total value of
43 such property on the last business day of each full calendar month during

1 the portion of such taxable year during which the qualified business fa-
2 cility was in operation by the number of full calendar months during such
3 period. Notwithstanding the provisions of this subsection, for the purpose
4 of computing the credit allowed by K.S.A. 79-32,153, and amendments
5 thereto, in the case of an investment in a qualified business facility, which
6 facility existed and was operated by the taxpayer or related taxpayer prior
7 to such investment the amount of the taxpayer's qualified business facility
8 investment in such facility shall be reduced by the average amount, com-
9 puted as provided in this subsection, of the investment of the taxpayer or
10 a related taxpayer in the facility for the taxable year preceding the taxable
11 year in which the qualified business facility investment was made at the
12 facility.

13 *In the event the taxpayer is a member of a unitary group filing a com-*
14 *combined report, then qualified business facility investment shall include the*
15 *investment made by any member of the combined group which results in*
16 *the engagement or maintaining in employment of the required qualified*
17 *business facility employees by a member of the combined group, except*
18 *that the provisions of this sentence shall not apply to subsection (e) of*
19 *K.S.A. 79-32,160a, and amendments thereto.*

20 (f) "Commencement of commercial operations" shall be deemed to
21 occur during the first taxable year for which the qualified business facility
22 is first available for use by the taxpayer, or first capable of being used by
23 the taxpayer, in the revenue producing enterprise in which the taxpayer
24 intends to use the qualified business facility.

25 (g) "Qualified business facility income" shall mean the Kansas taxable
26 income derived by the taxpayer from the operation of the qualified busi-
27 ness facility. If a taxpayer has income derived from the operation of a
28 qualified business facility as well as from other activities conducted within
29 this state, the Kansas taxable income derived by the taxpayer from the
30 operation of the qualified business facility shall be determined by multi-
31 plying the taxpayer's Kansas taxable income by a fraction, the numerator
32 of which is the property factor, as defined in paragraph (1), plus the
33 payroll factor, as defined in paragraph (2), and the denominator of which
34 is two. In the case of financial institutions, the property and payroll factors
35 shall be computed utilizing the specific provisions of the apportionment
36 method applicable to financial institutions, if enacted, and the qualified
37 business facility income shall be based upon net income.

38 (1) The property factor is a fraction, the numerator of which is the
39 average value of the taxpayer's real and tangible personal property owned
40 or rented and used in connection with the operation of the qualified
41 business facility during the tax period, and the denominator of which is
42 the average value of all the taxpayer's real and tangible personal property
43 owned or rented and used in this state during the tax period. The average

1 value of all such property shall be determined as provided in K.S.A. 79-
2 3281 and 79-3282, and amendments thereto.

3 (2) The payroll factor is a fraction, the numerator of which is the total
4 amount paid during the tax period by the taxpayer for compensation to
5 persons qualifying as qualified business facility employees, as determined
6 under subsection (d), at the qualified business facility, and the denomi-
7 nator of which is the total amount paid in this state during the tax period
8 by the taxpayer for compensation. The compensation paid in this state
9 shall be determined as provided in K.S.A. 79-3283, and amendments
10 thereto.

11 The formula set forth in this subsection (g) shall not be used for any
12 purpose other than determining the qualified business facility income
13 attributable to a qualified business facility.

14 (h) “Related taxpayer” shall mean (1) a corporation, partnership, trust
15 or association controlled by the taxpayer; (2) an individual, corporation,
16 partnership, trust or association in control of the taxpayer; or (3) a cor-
17 poration, partnership, trust or association controlled by an individual, cor-
18 poration, partnership, trust or association in control of the taxpayer. For
19 the purposes of this act, “control of a corporation” shall mean ownership,
20 directly or indirectly, of stock possessing at least 80% of the total com-
21 bined voting power of all classes of stock entitled to vote and at least 80%
22 of all other classes of stock of the corporation; “control of a partnership
23 or association” shall mean ownership of at least 80% of the capital or
24 profits interest in such partnership or association; and “control of a trust”
25 shall mean ownership, directly or indirectly, of at least 80% of the ben-
26 efiticial interest in the principal or income of such trust.

27 (i) “Same or substantially identical revenue producing enterprise”
28 shall mean a revenue producing enterprise in which the products pro-
29 duced or sold, services performed or activities conducted are the same in
30 character and use, are produced, sold, performed or conducted in the
31 same manner and to or for the same type of customers as the products,
32 services or activities produced, sold, performed or conducted in another
33 revenue producing enterprise.

34 Sec. 6. **[On and after July 1, 2008,]** K.S.A. 2007 Supp. 79-3606 is
35 hereby amended to read as follows: 79-3606. The following shall be ex-
36 empt from the tax imposed by this act:

37 (a) All sales of motor-vehicle fuel or other articles upon which a sales
38 or excise tax has been paid, not subject to refund, under the laws of this
39 state except cigarettes as defined by K.S.A. 79-3301 and amendments
40 thereto, cereal malt beverages and malt products as defined by K.S.A. 79-
41 3817 and amendments thereto, including wort, liquid malt, malt syrup
42 and malt extract, which is not subject to taxation under the provisions of
43 K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant

1 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to
2 K.S.A. 65-3424d, and amendments thereto, drycleaning and laundry serv-
3 ices taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and
4 gross receipts from regulated sports contests taxed pursuant to the Kansas
5 professional regulated sports act, and amendments thereto;

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

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

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

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

1 the month in which it shall be determined that such materials will not be
2 used for the purpose for which such certificate was issued, the political
3 subdivision, district described in subsection (s), hospital or public hospital
4 authority, school, educational institution or the contractor contracting
5 with the department of corrections for a correctional institution con-
6 cerned shall be liable for tax on all materials purchased for the project,
7 and upon payment thereof it may recover the same from the contractor
8 together with reasonable attorney fees. Any contractor or any agent, em-
9 ployee or subcontractor thereof, who shall use or otherwise dispose of
10 any materials purchased under such a certificate for any purpose other
11 than that for which such a certificate is issued without the payment of
12 the sales or compensating tax otherwise imposed upon such materials,
13 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
14 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
15 and amendments thereto;

16 (e) all sales of tangible personal property or services purchased by a
17 contractor for the erection, repair or enlargement of buildings or other
18 projects for the government of the United States, its agencies or instru-
19 mentalities, which would be exempt from taxation if purchased directly
20 by the government of the United States, its agencies or instrumentalities.
21 When the government of the United States, its agencies or instrumen-
22 talities shall contract for the erection, repair, or enlargement of any build-
23 ing or other project, it shall obtain from the state and furnish to the
24 contractor an exemption certificate for the project involved, and the con-
25 tractor may purchase materials for incorporation in such project. The
26 contractor shall furnish the number of such certificates to all suppliers
27 from whom such purchases are made, and such suppliers shall execute
28 invoices covering the same bearing the number of such certificate. Upon
29 completion of the project the contractor shall furnish to the government
30 of the United States, its agencies or instrumentalities concerned a sworn
31 statement, on a form to be provided by the director of taxation, that all
32 purchases so made were entitled to exemption under this subsection. As
33 an alternative to the foregoing procedure, any such contracting entity may
34 apply to the secretary of revenue for agent status for the sole purpose of
35 issuing and furnishing project exemption certificates to contractors pur-
36 suant to rules and regulations adopted by the secretary establishing con-
37 ditions and standards for the granting and maintaining of such status. All
38 invoices shall be held by the contractor for a period of five years and shall
39 be subject to audit by the director of taxation. Any contractor or any agent,
40 employee or subcontractor thereof, who shall use or otherwise dispose of
41 any materials purchased under such a certificate for any purpose other
42 than that for which such a certificate is issued without the payment of
43 the sales or compensating tax otherwise imposed upon such materials,

- 1 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
2 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615
3 and amendments thereto;
- 4 (f) tangible personal property purchased by a railroad or public utility
5 for consumption or movement directly and immediately in interstate
6 commerce;
- 7 (g) sales of aircraft including remanufactured and modified aircraft
8 sold to persons using directly or through an authorized agent such aircraft
9 as certified or licensed carriers of persons or property in interstate or
10 foreign commerce under authority of the laws of the United States or any
11 foreign government or sold to any foreign government or agency or in-
12 strumentality of such foreign government and all sales of aircraft for use
13 outside of the United States and sales of aircraft repair, modification and
14 replacement parts and sales of services employed in the remanufacture,
15 modification and repair of aircraft;
- 16 (h) all rentals of nonsectarian textbooks by public or private elemen-
17 tary or secondary schools;
- 18 (i) the lease or rental of all films, records, tapes, or any type of sound
19 or picture transcriptions used by motion picture exhibitors;
- 20 (j) meals served without charge or food used in the preparation of
21 such meals to employees of any restaurant, eating house, dining car, hotel,
22 drugstore or other place where meals or drinks are regularly sold to the
23 public if such employees' duties are related to the furnishing or sale of
24 such meals or drinks;
- 25 (k) any motor vehicle, semitrailer or pole trailer, as such terms are
26 defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and
27 delivered in this state to a bona fide resident of another state, which motor
28 vehicle, semitrailer, pole trailer or aircraft is not to be registered or based
29 in this state and which vehicle, semitrailer, pole trailer or aircraft will not
30 remain in this state more than 10 days;
- 31 (l) all isolated or occasional sales of tangible personal property, serv-
32 ices, substances or things, except isolated or occasional sale of motor
33 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.
34 79-3603 and amendments thereto;
- 35 (m) all sales of tangible personal property which become an ingre-
36 dient or component part of tangible personal property or services pro-
37 duced, manufactured or compounded for ultimate sale at retail within or
38 without the state of Kansas; and any such producer, manufacturer or
39 compounder may obtain from the director of taxation and furnish to the
40 supplier an exemption certificate number for tangible personal property
41 for use as an ingredient or component part of the property or services
42 produced, manufactured or compounded;
- 43 (n) all sales of tangible personal property which is consumed in the

- 1 production, manufacture, processing, mining, drilling, refining or com-
2 pounding of tangible personal property, the treating of by-products or
3 wastes derived from any such production process, the providing of serv-
4 ices or the irrigation of crops for ultimate sale at retail within or without
5 the state of Kansas; and any purchaser of such property may obtain from
6 the director of taxation and furnish to the supplier an exemption certifi-
7 cate number for tangible personal property for consumption in such pro-
8 duction, manufacture, processing, mining, drilling, refining, compound-
9 ing, treating, irrigation and in providing such services;
- 10 (o) all sales of animals, fowl and aquatic plants and animals, the pri-
11 mary purpose of which is use in agriculture or aquaculture, as defined in
12 K.S.A. 47-1901, and amendments thereto, the production of food for
13 human consumption, the production of animal, dairy, poultry or aquatic
14 plant and animal products, fiber or fur, or the production of offspring for
15 use for any such purpose or purposes;
- 16 (p) all sales of drugs dispensed pursuant to a prescription order by a
17 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-
18 1626, and amendments thereto. As used in this subsection, “drug” means
19 a compound, substance or preparation and any component of a com-
20 pound, substance or preparation, other than food and food ingredients,
21 dietary supplements or alcoholic beverages, recognized in the official
22 United States pharmacopoeia, official homeopathic pharmacopoeia of the
23 United States or official national formulary, and supplement to any of
24 them, intended for use in the diagnosis, cure, mitigation, treatment or
25 prevention of disease or intended to affect the structure or any function
26 of the body;
- 27 (q) all sales of insulin dispensed by a person licensed by the state
28 board of pharmacy to a person for treatment of diabetes at the direction
29 of a person licensed to practice medicine by the board of healing arts;
- 30 (r) all sales of oxygen delivery equipment, kidney dialysis equipment,
31 enteral feeding systems, prosthetic devices and mobility enhancing equip-
32 ment prescribed in writing by a person licensed to practice the healing
33 arts, dentistry or optometry, and in addition to such sales, all sales of
34 hearing aids, as defined by subsection (c) of K.S.A. 74-5807, and amend-
35 ments thereto, and repair and replacement parts therefor, including bat-
36 teries, by a person licensed in the practice of dispensing and fitting hear-
37 ing aids pursuant to the provisions of K.S.A. 74-5808, and amendments
38 thereto. For the purposes of this subsection: (1) “Mobility enhancing
39 equipment” means equipment including repair and replacement parts to
40 same, but does not include durable medical equipment, which is primarily
41 and customarily used to provide or increase the ability to move from one
42 place to another and which is appropriate for use either in a home or a
43 motor vehicle; is not generally used by persons with normal mobility; and

1 does not include any motor vehicle or equipment on a motor vehicle
2 normally provided by a motor vehicle manufacturer; and (2) “prosthetic
3 device” means a replacement, corrective or supportive device including
4 repair and replacement parts for same worn on or in the body to artificially
5 replace a missing portion of the body, prevent or correct physical defor-
6 mity or malfunction or support a weak or deformed portion of the body;

7 (s) except as provided in K.S.A. 2007 Supp. 82a-2101, and amend-
8 ments thereto, all sales of tangible personal property or services pur-
9 chased directly or indirectly by a groundwater management district or-
10 ganized or operating under the authority of K.S.A. 82a-1020 et seq. and
11 amendments thereto, by a rural water district organized or operating un-
12 der the authority of K.S.A. 82a-612, and amendments thereto, or by a
13 water supply district organized or operating under the authority of K.S.A.
14 19-3501 et seq., 19-3522 et seq. or 19-3545, and amendments thereto,
15 which property or services are used in the construction activities, opera-
16 tion or maintenance of the district;

17 (t) all sales of farm machinery and equipment or aquaculture ma-
18 chinery and equipment, repair and replacement parts therefor and serv-
19 ices performed in the repair and maintenance of such machinery and
20 equipment. For the purposes of this subsection the term “farm machinery
21 and equipment or aquaculture machinery and equipment” shall include
22 a work-site utility vehicle, as defined in K.S.A. 8-126, and amendments
23 thereto, and is equipped with a bed or cargo box for hauling materials,
24 and shall also include machinery and equipment used in the operation of
25 Christmas tree farming but shall not include any passenger vehicle, truck,
26 truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer,
27 as such terms are defined by K.S.A. 8-126 and amendments thereto.
28 “Farm machinery and equipment” includes precision farming equipment
29 that is portable or is installed or purchased to be installed on farm ma-
30 chinery and equipment. “Precision farming equipment” includes the fol-
31 lowing items used only in computer-assisted farming, ranching or aqua-
32 culture production operations: Soil testing sensors, yield monitors,
33 computers, monitors, software, global positioning and mapping systems,
34 guiding systems, modems, data communications equipment and any nec-
35 essary mounting hardware, wiring and antennas. Each purchaser of farm
36 machinery and equipment or aquaculture machinery and equipment ex-
37 empted herein must certify in writing on the copy of the invoice or sales
38 ticket to be retained by the seller that the farm machinery and equipment
39 or aquaculture machinery and equipment purchased will be used only in
40 farming, ranching or aquaculture production. Farming or ranching shall
41 include the operation of a feedlot and farm and ranch work for hire and
42 the operation of a nursery;

43 (u) all leases or rentals of tangible personal property used as a dwell-

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

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

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

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

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

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

43 (gg) all sales of tangible personal property purchased in accordance

- 1 with vouchers issued pursuant to the federal special supplemental food
2 program for women, infants and children;
- 3 (hh) all sales of medical supplies and equipment, including durable
4 medical equipment, purchased directly by a nonprofit skilled nursing
5 home or nonprofit intermediate nursing care home, as defined by K.S.A.
6 39-923, and amendments thereto, for the purpose of providing medical
7 services to residents thereof. This exemption shall not apply to tangible
8 personal property customarily used for human habitation purposes. As
9 used in this subsection, “durable medical equipment” means equipment
10 including repair and replacement parts for such equipment, which can
11 withstand repeated use, is primarily and customarily used to serve a med-
12 ical purpose, generally is not useful to a person in the absence of illness
13 or injury and is not worn in or on the body, but does not include mobility
14 enhancing equipment as defined in subsection (r), oxygen delivery equip-
15 ment, kidney dialysis equipment or enteral feeding systems;
- 16 (ii) all sales of tangible personal property purchased directly by a non-
17 profit organization for nonsectarian comprehensive multidiscipline youth
18 development programs and activities provided or sponsored by such or-
19 ganization, and all sales of tangible personal property by or on behalf of
20 any such organization. This exemption shall not apply to tangible personal
21 property customarily used for human habitation purposes;
- 22 (jj) all sales of tangible personal property or services, including the
23 renting and leasing of tangible personal property, purchased directly on
24 behalf of a community-based mental retardation facility or mental health
25 center organized pursuant to K.S.A. 19-4001 et seq., and amendments
26 thereto, and licensed in accordance with the provisions of K.S.A. 75-
27 3307b and amendments thereto and all sales of tangible personal property
28 or services purchased by contractors during the time period from July,
29 2003, through June, 2006, for the purpose of constructing, equipping,
30 maintaining or furnishing a new facility for a community-based mental
31 retardation facility or mental health center located in Riverton, Cherokee
32 County, Kansas, which would have been eligible for sales tax exemption
33 pursuant to this subsection if purchased directly by such facility or center.
34 This exemption shall not apply to tangible personal property customarily
35 used for human habitation purposes;
- 36 (kk) (1) (A) all sales of machinery and equipment which are used in
37 this state as an integral or essential part of an integrated production op-
38 eration by a manufacturing or processing plant or facility;
- 39 (B) all sales of installation, repair and maintenance services per-
40 formed on such machinery and equipment; and
- 41 (C) all sales of repair and replacement parts and accessories pur-
42 chased for such machinery and equipment.
- 43 (2) For purposes of this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (G) to produce energy for, lubricate, control the operating of or oth-
2 erwise enable the functioning of other production machinery and equip-
3 ment and the continuation of production operations;
- 4 (H) to package the property being manufactured or processed in a
5 container or wrapping in which such property is normally sold or trans-
6 ported;
- 7 (I) to transmit or transport electricity, coke, gas, water, steam or sim-
8 ilar substances used in production operations from the point of genera-
9 tion, if produced by the manufacturer or processor at the plant site, to
10 that manufacturer's production operation; or, if purchased or delivered
11 from offsite, from the point where the substance enters the site of the
12 plant or facility to that manufacturer's production operations;
- 13 (J) to cool, heat, filter, refine or otherwise treat water, steam, acid,
14 oil, solvents or other substances that are used in production operations;
- 15 (K) to provide and control an environment required to maintain cer-
16 tain levels of air quality, humidity or temperature in special and limited
17 areas of the plant or facility, where such regulation of temperature or
18 humidity is part of and essential to the production process;
- 19 (L) to treat, transport or store waste or other byproducts of produc-
20 tion operations at the plant or facility; or
- 21 (M) to control pollution at the plant or facility where the pollution is
22 produced by the manufacturing or processing operation.
- 23 (4) The following machinery, equipment and materials shall be
24 deemed to be exempt even though it may not otherwise qualify as ma-
25 chinery and equipment used as an integral or essential part of an inte-
26 grated production operation: (A) ~~Computers and related peripheral~~ *Ma-*
27 *chinery, equipment and materials* that are utilized by a manufacturing or
28 processing business for engineering of the finished product or for re-
29 search and development or product design; (B) machinery and equipment
30 that is utilized by a manufacturing or processing business to manufacture
31 or rebuild tangible personal property that is used in manufacturing or
32 processing operations, including tools, dies, molds, forms and other parts
33 of qualifying machinery and equipment; (C) portable plants for aggregate
34 concrete, bulk cement and asphalt including cement mixing drums to be
35 attached to a motor vehicle; (D) industrial fixtures, devices, support fa-
36 cilities and special foundations necessary for manufacturing and produc-
37 tion operations, and materials and other tangible personal property sold
38 for the purpose of fabricating such fixtures, devices, facilities and foun-
39 dations. An exemption certificate for such purchases shall be signed by
40 the manufacturer or processor. If the fabricator purchases such material,
41 the fabricator shall also sign the exemption certificate; and (E) a manu-
42 facturing or processing business' laboratory equipment that is not located
43 at the plant or facility, but that would otherwise qualify for exemption

- 1 under subsection (3)(E).
- 2 (5) “Machinery and equipment used as an integral or essential part
3 of an integrated production operation” shall not include:
- 4 (A) Machinery and equipment used for nonproduction purposes, in-
5 cluding, but not limited to, machinery and equipment used for plant se-
6 curity, fire prevention, first aid, accounting, administration, record keep-
7 ing, advertising, marketing, sales or other related activities, plant cleaning,
8 plant communications, and employee work scheduling;
- 9 (B) machinery, equipment and tools used primarily in maintaining
10 and repairing any type of machinery and equipment or the building and
11 plant;
- 12 (C) transportation, transmission and distribution equipment not pri-
13 marily used in a production, warehousing or material handling operation
14 at the plant or facility, including the means of conveyance of natural gas,
15 electricity, oil or water, and equipment related thereto, located outside
16 the plant or facility;
- 17 (D) office machines and equipment including computers and related
18 peripheral equipment not used directly and primarily to control or mea-
19 sure the manufacturing process;
- 20 (E) furniture and other furnishings;
- 21 (F) buildings, other than exempt machinery and equipment that is
22 permanently affixed to or becomes a physical part of the building, and
23 any other part of real estate that is not otherwise exempt;
- 24 (G) building fixtures that are not integral to the manufacturing op-
25 eration, such as utility systems for heating, ventilation, air conditioning,
26 communications, plumbing or electrical;
- 27 (H) machinery and equipment used for general plant heating, cooling
28 and lighting;
- 29 (I) motor vehicles that are registered for operation on public high-
30 ways; or
- 31 (J) employee apparel, except safety and protective apparel that is pur-
32 chased by an employer and furnished gratuitously to employees who are
33 involved in production or research activities.
- 34 (6) Subsections (3) and (5) shall not be construed as exclusive listings
35 of the machinery and equipment that qualify or do not qualify as an
36 integral or essential part of an integrated production operation. When
37 machinery or equipment is used as an integral or essential part of pro-
38 duction operations part of the time and for nonproduction purpose at
39 other times, the primary use of the machinery or equipment shall deter-
40 mine whether or not such machinery or equipment qualifies for exemp-
41 tion.
- 42 (7) The secretary of revenue shall adopt rules and regulations nec-
43 essary to administer the provisions of this subsection;

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

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

- 1 vating existing homes and other related activities, and promoting eco-
2 nomic development in such neighborhoods;
- 3 (13) the cross-lines cooperative council for the purpose of providing
4 social services to low income individuals and families;
- 5 (14) the Dreams Work, Inc., for the purpose of providing young adult
6 day services to individuals with developmental disabilities and assisting
7 families in avoiding institutional or nursing home care for a developmen-
8 tally disabled member of their family;
- 9 (15) the KSDS, Inc., for the purpose of promoting the independence
10 and inclusion of people with disabilities as fully participating and contrib-
11 uting members of their communities and society through the training and
12 providing of guide and service dogs to people with disabilities, and pro-
13 viding disability education and awareness to the general public;
- 14 (16) the lyme association of greater Kansas City, Inc., for the purpose
15 of providing support to persons with lyme disease and public education
16 relating to the prevention, treatment and cure of lyme disease;
- 17 (17) the Dream Factory, Inc., for the purpose of granting the dreams
18 of children with critical and chronic illnesses;
- 19 (18) the Ottawa Suzuki Strings, Inc., for the purpose of providing
20 students and families with education and resources necessary to enable
21 each child to develop fine character and musical ability to the fullest
22 potential;
- 23 (19) the International Association of Lions Clubs for the purpose of
24 creating and fostering a spirit of understanding among all people for hu-
25 manitarian needs by providing voluntary services through community in-
26 volvement and international cooperation;
- 27 (20) the Johnson county young matrons, inc., for the purpose of pro-
28 moting a positive future for members of the community through volun-
29 teerism, financial support and education through the efforts of an all
30 volunteer organization;
- 31 (21) the American Cancer Society, Inc., for the purpose of eliminat-
32 ing cancer as a major health problem by preventing cancer, saving lives
33 and diminishing suffering from cancer, through research, education, ad-
34 vocacy and service;
- 35 (22) the community services of Shawnee, inc., for the purpose of
36 providing food and clothing to those in need; and
- 37 (23) the angel babies association, for the purpose of providing assis-
38 tance, support and items of necessity to teenage mothers and their babies;
- 39 (ww) all sales of tangible personal property purchased by the Habitat
40 for Humanity for the exclusive use of being incorporated within a housing
41 project constructed by such organization;
- 42 (xx) all sales of tangible personal property and services purchased by
43 a nonprofit zoo which is exempt from federal income taxation pursuant

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

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

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

14 (aaa) all sales of tangible personal property and services purchased
15 by a religious organization which is exempt from federal income taxation
16 pursuant to section 501(c)(3) of the federal internal revenue code, and
17 used exclusively for religious purposes, and all sales of tangible personal
18 property or services purchased by a contractor for the purpose of con-
19 structing, equipping, reconstructing, maintaining, repairing, enlarging,
20 furnishing or remodeling facilities for any such organization which would
21 be exempt from taxation under the provisions of this section if purchased
22 directly by such organization. Nothing in this subsection shall be deemed
23 to exempt the purchase of any construction machinery, equipment or
24 tools used in the constructing, equipping, reconstructing, maintaining,
25 repairing, enlarging, furnishing or remodeling facilities for any such or-
26 ganization. When any such organization shall contract for the purpose of
27 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
28 ing, furnishing or remodeling facilities, it shall obtain from the state and
29 furnish to the contractor an exemption certificate for the project involved,
30 and the contractor may purchase materials for incorporation in such pro-
31 ject. The contractor shall furnish the number of such certificate to all
32 suppliers from whom such purchases are made, and such suppliers shall
33 execute invoices covering the same bearing the number of such certifi-
34 cate. Upon completion of the project the contractor shall furnish to such
35 organization concerned 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 such organization concerned shall be liable for tax on all materials pur-
5 chased for the project, and upon payment thereof it may recover the same
6 from the contractor together with reasonable attorney fees. Any contrac-
7 tor or any agent, employee or subcontractor thereof, who shall use or
8 otherwise dispose of any materials purchased under such a certificate for
9 any purpose other than that for which such a certificate is issued without
10 the payment of the sales or compensating tax otherwise imposed upon
11 such materials, shall be guilty of a misdemeanor and, upon conviction
12 therefor, shall be subject to the penalties provided for in subsection (g)
13 of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after
14 July 1, 1998, but prior to the effective date of this act upon the gross
15 receipts received from any sale exempted by the amendatory provisions
16 of this subsection shall be refunded. Each claim for a sales tax refund
17 shall be verified and submitted to the director of taxation upon forms
18 furnished by the director and shall be accompanied by any additional
19 documentation required by the director. The director shall review each
20 claim and shall refund that amount of sales tax paid as determined under
21 the provisions of this subsection. All refunds shall be paid from the sales
22 tax refund fund upon warrants of the director of accounts and reports
23 pursuant to vouchers approved by the director or the director's designee;
24 (bbb) all sales of food for human consumption by an organization
25 which is exempt from federal income taxation pursuant to section 501
26 (c)(3) of the federal internal revenue code of 1986, pursuant to a food
27 distribution program which offers such food at a price below cost in
28 exchange for the performance of community service by the purchaser
29 thereof;
30 (ccc) on and after July 1, 1999, all sales of tangible personal property
31 and services purchased by a primary care clinic or health center the pri-
32 mary purpose of which is to provide services to medically underserved
33 individuals and families, and which is exempt from federal income taxa-
34 tion pursuant to section 501 (c)(3) of the federal internal revenue code,
35 and all sales of tangible personal property or services purchased by a
36 contractor for the purpose of constructing, equipping, reconstructing,
37 maintaining, repairing, enlarging, furnishing or remodeling facilities for
38 any such clinic or center which would be exempt from taxation under the
39 provisions of this section if purchased directly by such clinic or center.
40 Nothing in this subsection shall be deemed to exempt the purchase of
41 any construction machinery, equipment or tools used in the constructing,
42 equipping, reconstructing, maintaining, repairing, enlarging, furnishing
43 or remodeling facilities for any such clinic or center. When any such clinic

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

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

43 (eee) on and after January 1, 1999, and before January 1, 2001, all

1 sales of materials and services purchased for the original construction,
2 reconstruction, repair or replacement of grain storage facilities, including
3 railroad sidings providing access thereto;
4 (fff) all sales of material handling equipment, racking systems and
5 other related machinery and equipment that is used for the handling,
6 movement or storage of tangible personal property in a warehouse or
7 distribution facility in this state; all sales of installation, repair and main-
8 tenance services performed on such machinery and equipment; and all
9 sales of repair and replacement parts for such machinery and equipment.
10 For purposes of this subsection, a warehouse or distribution facility means
11 a single, fixed location that consists of buildings or structures in a contig-
12 uous area where storage or distribution operations are conducted that are
13 separate and apart from the business' retail operations, if any, and which
14 do not otherwise qualify for exemption as occurring at a manufacturing
15 or processing plant or facility. Material handling and storage equipment
16 shall include aeration, dust control, cleaning, handling and other such
17 equipment that is used in a public grain warehouse or other commercial
18 grain storage facility, whether used for grain handling, grain storage, grain
19 refining or processing, or other grain treatment operation;
20 (ggg) all sales of tangible personal property and services purchased
21 by or on behalf of the Kansas Academy of Science which is exempt from
22 federal income taxation pursuant to section 501(c)(3) of the federal in-
23 ternal revenue code of 1986, and used solely by such academy for the
24 preparation, publication and dissemination of education materials;
25 (hhh) all sales of tangible personal property and services purchased
26 by or on behalf of all domestic violence shelters that are member agencies
27 of the Kansas coalition against sexual and domestic violence;
28 (iii) all sales of personal property and services purchased by an or-
29 ganization which is exempt from federal income taxation pursuant to sec-
30 tion 501(c)(3) of the federal internal revenue code of 1986, and which
31 such personal property and services are used by any such organization in
32 the collection, storage and distribution of food products to nonprofit or-
33 ganizations which distribute such food products to persons pursuant to a
34 food distribution program on a charitable basis without fee or charge, and
35 all sales of tangible personal property or services purchased by a contrac-
36 tor for the purpose of constructing, equipping, reconstructing, maintain-
37 ing, repairing, enlarging, furnishing or remodeling facilities used for the
38 collection and storage of such food products for any such organization
39 which is exempt from federal income taxation pursuant to section
40 501(c)(3) of the federal internal revenue code of 1986, which would be
41 exempt from taxation under the provisions of this section if purchased
42 directly by such organization. Nothing in this subsection shall be deemed
43 to exempt the purchase of any construction machinery, equipment or

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

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

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

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

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

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

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

1 transitional housing for individuals and families experiencing homeless-
2 ness, and all sales of any such property by or on behalf of any such home-
3 less shelter for any such purpose;

4 (qqq) all sales of tangible personal property and services purchased
5 by TLC for children and families, inc., hereinafter referred to as TLC,
6 which is exempt from federal income taxation pursuant to section
7 501(c)(3) of the federal internal revenue code of 1986, and which such
8 property and services are used for the purpose of providing emergency
9 shelter and treatment for abused and neglected children as well as meet-
10 ing additional critical needs for children, juveniles and family, and all sales
11 of any such property by or on behalf of TLC for any such purpose; and
12 all sales of tangible personal property or services purchased by a contrac-
13 tor for the purpose of constructing, maintaining, repairing, enlarging, fur-
14 nishing or remodeling facilities for the operation of services for TLC for
15 any such purpose which would be exempt from taxation under the pro-
16 visions of this section if purchased directly by TLC. 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,
19 repairing, enlarging, furnishing or remodeling such facilities for TLC.
20 When TLC contracts for the purpose of constructing, maintaining, re-
21 pairing, enlarging, furnishing or remodeling such facilities, it shall obtain
22 from the state and furnish to the contractor an exemption certificate for
23 the project involved, and the contractor may purchase materials for in-
24 corporation in such project. The contractor shall furnish the number of
25 such certificate to all suppliers from whom such purchases are made, and
26 such suppliers shall execute invoices covering the same bearing the num-
27 ber of such certificate. Upon completion of the project the contractor
28 shall furnish to TLC a sworn statement, on a form to be provided by the
29 director of taxation, that all purchases so made were entitled to exemption
30 under this subsection. All invoices shall be held by the contractor for a
31 period of five years and shall be subject to audit by the director of taxation.
32 If any materials purchased under such a certificate are found not to have
33 been incorporated in the building or other project or not to have been
34 returned for credit or the sales or compensating tax otherwise imposed
35 upon such materials which will not be so incorporated in the building or
36 other project reported and paid by such contractor to the director of
37 taxation not later than the 20th day of the month following the close of
38 the month in which it shall be determined that such materials will not be
39 used for the purpose for which such certificate was issued, TLC shall be
40 liable for tax on all materials purchased for the project, and upon payment
41 thereof it may recover the same from the contractor together with rea-
42 sonable attorney fees. Any contractor or any agent, employee or subcon-
43 tractor thereof, who shall use or otherwise dispose of any materials pur-

1 chased under such a certificate for any purpose other than that for which
2 such a certificate is issued without the payment of the sales or compen-
3 sating tax otherwise imposed upon such materials, shall be guilty of a
4 misdemeanor and, upon conviction therefor, shall be subject to the pen-
5 alties provided for in subsection (g) of K.S.A. 79-3615, and amendments
6 thereto;

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

15 (sss) all sales of tangible personal property and services purchased by
16 catholic charities or youthville, hereinafter referred to as charitable family
17 providers, 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 property and services are used for the purpose of providing emer-
20 gency shelter and treatment for abused and neglected children as well as
21 meeting additional critical needs for children, juveniles and family, and
22 all sales of any such property by or on behalf of charitable family providers
23 for any such purpose; and all sales of tangible personal property or serv-
24 ices purchased by a contractor for the purpose of constructing, maintain-
25 ing, repairing, enlarging, furnishing or remodeling facilities for the op-
26 eration of services for charitable family providers for any such purpose
27 which would be exempt from taxation under the provisions of this section
28 if purchased directly by charitable family providers. Nothing in this sub-
29 section shall be deemed to exempt the purchase of any construction ma-
30 chinery, equipment or tools used in the constructing, maintaining, re-
31 pairing, enlarging, furnishing or remodeling such facilities for charitable
32 family providers. When charitable family providers contracts for the pur-
33 pose of constructing, maintaining, repairing, enlarging, furnishing or re-
34 modeling such facilities, it shall obtain from the state and furnish to the
35 contractor an exemption certificate for the project involved, and the con-
36 tractor may purchase materials for incorporation in such project. The
37 contractor shall furnish the number of such certificate to all suppliers
38 from whom such purchases are made, and such suppliers shall execute
39 invoices covering the same bearing the number of such certificate. Upon
40 completion of the project the contractor shall furnish to charitable family
41 providers a sworn statement, on a form to be provided by the director of
42 taxation, that all purchases so made were entitled to exemption under
43 this subsection. All invoices shall be held by the contractor for a period

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

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

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

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

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

26 (vvv) all sales of tangible personal property or services, including the
27 renting and leasing of tangible personal property or services, *purchased*
28 by Jazz in the Woods, Inc., a Kansas corporation which is exempt from
29 federal income taxation pursuant to section 501 (c)(3) of the federal in-
30 ternal revenue code, for the purpose of providing Jazz in the Woods, an
31 event benefiting children-in-need and other nonprofit charities assisting
32 such children, and all sales of any such property by or on behalf of such
33 organization for such purpose;

34 (www) all sales of tangible personal property purchased by or on be-
35 half of the Frontenac Education Foundation, which is exempt from fed-
36 eral income taxation pursuant to section 501 (c)(3) of the federal internal
37 revenue code, for the purpose of providing education support for stu-
38 dents, and all sales of any such property by or on behalf of such organi-
39 zation for such purpose;

40 (xxx) all sales of personal property and services purchased by the
41 booth theatre foundation, inc., an organization which is exempt from fed-
42 eral income taxation pursuant to section 501(c)(3) of the federal internal
43 revenue code of 1986, and which such personal property and services are

1 used by any such organization in the constructing, equipping, recon-
2 structing, maintaining, repairing, enlarging, furnishing or remodeling of
3 the booth theatre, and all sales of tangible personal property or services
4 purchased by a contractor for the purpose of constructing, equipping,
5 reconstructing, maintaining, repairing, enlarging, furnishing or remodel-
6 ing the booth theatre for such organization, which would be exempt from
7 taxation under the provisions of this section if purchased directly by such
8 organization. Nothing in this subsection shall be deemed to exempt the
9 purchase of any construction machinery, equipment or tools used in the
10 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
11 ing, furnishing or remodeling facilities for any such organization. When
12 any such organization shall contract for the purpose of constructing,
13 equipping, reconstructing, maintaining, repairing, enlarging, furnishing
14 or remodeling facilities, it shall obtain from the state and furnish to the
15 contractor an exemption certificate for the project involved, and the con-
16 tractor may purchase materials for incorporation in such project. The
17 contractor shall furnish the number of such certificate to all suppliers
18 from whom such purchases are made, and such suppliers shall execute
19 invoices covering the same bearing the number of such certificate. Upon
20 completion of the project the contractor shall furnish to such organization
21 concerned a sworn statement, on a form to be provided by the director
22 of taxation, that all purchases so made were entitled to exemption under
23 this subsection. All invoices shall be held by the contractor for a period
24 of five years and shall be subject to audit by the director of taxation. If
25 any materials purchased under such a certificate are found not to have
26 been incorporated in such facilities or not to have been returned for credit
27 or the sales or compensating tax otherwise imposed upon such materials
28 which will not be so incorporated in such facilities reported and paid by
29 such contractor to the director of taxation not later than the 20th day of
30 the month following the close of the month in which it shall be deter-
31 mined that such materials will not be used for the purpose for which such
32 certificate was issued, such organization concerned shall be liable for tax
33 on all materials purchased for the project, and upon payment thereof it
34 may recover the same from the contractor together with reasonable at-
35 torney fees. Any contractor or any agent, employee or subcontractor
36 thereof, who shall use or otherwise dispose of any materials purchased
37 under such a certificate for any purpose other than that for which such a
38 certificate is issued without the payment of the sales or compensating tax
39 otherwise imposed upon such materials, shall be guilty of a misdemeanor
40 and, upon conviction therefor, shall be subject to the penalties provided
41 for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales
42 tax paid on and after January 1, 2007, but prior to the effective date of
43 this act upon the gross receipts received from any sale which would have

1 been exempted by the provisions of this subsection had such sale occurred
2 after the effective date of this act shall be refunded. Each claim for a
3 sales tax refund shall be verified and submitted to the director of taxation
4 upon forms furnished by the director and shall be accompanied by any
5 additional documentation required by the director. The director shall
6 review each claim and shall refund that amount of sales tax paid as de-
7 termined under the provisions of this subsection. All refunds shall be paid
8 from the sales tax refund fund upon warrants of the director of accounts
9 and reports pursuant to vouchers approved by the director or the direc-
10 tor's designee;

11 (yyy) all sales of tangible personal property and services purchased
12 by TLC charities foundation, inc., hereinafter referred to as TLC chari-
13 ties, 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 encouraging private
16 philanthropy to further the vision, values, and goals of TLC for children
17 and families, inc.; and all sales of such property and services by or on
18 behalf of TLC charities for any such purpose and all sales of tangible
19 personal property or services purchased by a contractor for the purpose
20 of constructing, maintaining, repairing, enlarging, furnishing or remodel-
21 ing facilities for the operation of services for TLC charities for any such
22 purpose which would be exempt from taxation under the provisions of
23 this section if purchased directly by TLC charities. Nothing in this sub-
24 section shall be deemed to exempt the purchase of any construction ma-
25 chinery, equipment or tools used in the constructing, maintaining, re-
26 pairing, enlarging, furnishing or remodeling such facilities for TLC
27 charities. When TLC charities contracts for the purpose of constructing,
28 maintaining, repairing, enlarging, furnishing or remodeling such facilities,
29 it shall obtain from the state and furnish to the contractor an exemption
30 certificate for the project involved, and the contractor may purchase ma-
31 terials for incorporation in such project. The contractor shall furnish the
32 number of such certificate to all suppliers from whom such purchases are
33 made, and such suppliers shall execute invoices covering the same bearing
34 the number of such certificate. Upon completion of the project the con-
35 tractor shall furnish to TLC charities a sworn statement, on a form to be
36 provided by the director of taxation, that all purchases so made were
37 entitled to exemption under this subsection. All invoices shall be held by
38 the contractor for a period of five years and shall be subject to audit by
39 the director of taxation. If any materials purchased under such a certifi-
40 cate are found not to have been incorporated in the building or other
41 project or not to have been returned for credit or the sales or compen-
42 sating tax otherwise imposed upon such materials which will not be in-
43 corporated into the building or other project reported and paid by such

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

14 (zzz) all sales of tangible personal property purchased by the rotary
15 club of shawnee foundation which is exempt from federal income taxation
16 pursuant to section 501 (c)(3) of the federal internal revenue code of
17 1986, as amended, used for the purpose of providing contributions to
18 community service organizations and scholarships; and

19 (aaaa) all sales of personal property and services purchased by or on
20 behalf of victory in the valley, inc., which is exempt from federal income
21 taxation pursuant to section 501 (c)(3) of the federal internal revenue
22 code, for the purpose of providing a cancer support group and services
23 for persons with cancer, and all sales of any such property by or on behalf
24 of any such organization for any such purpose.

25 New Sec. 7. (a) (1) Sales tax paid pursuant to K.S.A. 79-3603, and
26 amendments thereto, on the sale of telecommunications machinery and
27 equipment by a person providing services taxable pursuant to the provi-
28 sions of subsection (b) of K.S.A. 79-3603, and amendments thereto, shall
29 be refunded as follows: (A) One-quarter of such tax paid by such person
30 on the sale of telecommunications machinery and equipment during the
31 period July 1, 2009, through June 30, 2010, shall be refunded;

32 (B) $\frac{1}{2}$ of such tax paid by such person on the sale of telecommuni-
33 cations machinery and equipment during the period July 1, 2010, through
34 June 30, 2011, shall be refunded;

35 (C) $\frac{3}{4}$ of such tax paid by such person on the sale of telecommuni-
36 cations machinery and equipment during the period of July 1, 2011,
37 through June 30, 2012, shall be refunded; and

38 (D) all of such tax paid by such person on the sale of telecommuni-
39 cations machinery and equipment on and after July 1, 2012, shall be
40 refunded.

41 (2) Any claim for refund shall be submitted within one year from the
42 date of payment of the tax. Each claim for a sales tax refund shall be
43 verified and submitted to the director of taxation upon forms furnished

1 by the director and shall be accompanied by any additional documenta-
2 tion required by the director. The director shall review each claim and
3 shall refund the amount of sales tax paid as determined under the pro-
4 visions of this section. All refunds shall be paid from the sales tax refund
5 fund upon warrants of the director of accounts and reports pursuant to
6 vouchers approved by the director or the director's designee. No interest
7 shall be paid on refunds granted pursuant to this section. In no event
8 shall any city or county sales tax paid on the sale of telecommunications
9 machinery and equipment be refunded pursuant to this section. The sec-
10 retary of revenue is hereby authorized to adopt rules and regulations to
11 administer the provisions of this section.

12 (b) For purposes of this section, "telecommunications machinery and
13 equipment" means machinery, equipment and network software that is
14 used directly and predominantly for the purpose of sending, receiving or
15 storing voice or data communications and all equipment that is used to
16 enable, facilitate, maintain or monitor such machinery, equipment and
17 network software. "Telecommunications machinery and equipment" in-
18 cludes, but is not limited to: Antennas, towers, amplifiers, poles, wires,
19 cables, fiber optic cable, rectifiers, duplexers, triplexers, multiplexers, re-
20 ceivers, repeaters, transmitters, power equipment, modems, routers, stor-
21 age devices, closures, conduits, controllers, filters, input devices, insula-
22 tors, microwave equipment, output devices, pedestals, power converters,
23 radio channels, terminals, timing units, transformers, bridges, network
24 computers, cross connects, plug in circuitry, oscillators, network software,
25 servers, power transport equipment, test equipment, connectors, atten-
26 uators, circuit switches, analog electronic switches, digital electronic
27 switches and switches for operator assistance.

28 **[(c) The provisions of this section shall be effective on and after**
29 **July 1, 2008.**

30 **[New Sec. 8. (a) Subject to limitations contained herein, for tax**
31 **years 2007, 2008, 2009 and 2010, any taxpayer who makes a capital**
32 **investment in a business which is located in the city of Chanute,**
33 **Coffeyville, Erie, Fredonia, Greensburg, Independence, Iola,**
34 **Neodesha or Osawatomie, Kansas, or within one mile of the city**
35 **limits of any such city as long as such business is located in Kansas,**
36 **when such investment is made within three years of the date of**
37 **the occurrence of the disaster which is the subject of major disaster**
38 **declaration DR 1699 or DR 1711 as the case may be shall be al-**
39 **lowed a credit not to exceed 10% of such investment against the**
40 **tax imposed by the Kansas income tax act, the premium tax or**
41 **privilege fees imposed pursuant to K.S.A. 40-252, and amendments**
42 **thereto, or the privilege tax as measured by the net income of**
43 **financial institutions imposed pursuant to article 11 of chapter 79**

1 of the Kansas Statutes Annotated, and amendments thereto. The
2 total amount of credit allowed pursuant to this section for any one
3 taxpayer shall not exceed \$100,000. The amount of credit allowed
4 under this section shall be reduced by an amount equal to any
5 assistance payment received by the taxpayer pursuant to the pro-
6 visions of K.S.A. 75-3713e, and amendments thereto, or an assis-
7 tance payment received by the taxpayer pursuant to the southeast
8 Kansas business restoration assistance program as approved by the
9 state finance council for the same investment as provided in this
10 section. Notwithstanding any other provision of law, no taxpayer
11 shall claim more than one credit allowed under this subsection for
12 the same investment as provided in this section. If the amount of
13 the tax credit determined under this section exceeds the income,
14 privilege or premium tax liability for the taxpayer for any taxable
15 year in which the qualified investment is made, the amount thereof
16 which exceeds such tax liability may be carried over for deduction
17 from such taxpayer's income, privilege or premium tax liability in
18 the next succeeding year or years until the total amount of the
19 credit has been deducted from tax liability, except that no such
20 credit shall be carried over for deduction after the 10th taxable
21 year succeeding the taxable year in which the qualified investment
22 was made.

23 [(b) (1) For tax years 2007, 2008, 2009 and 2010, a taxpayer
24 may receive a refund of tax liability in lieu of the credit provided
25 in this act. The refund shall be in an amount up to 50% of the
26 credit earned by the taxpayer. The amount of refund allowed un-
27 der this subsection shall be reduced by an amount equal to any
28 assistance payment received by the taxpayer pursuant to the pro-
29 visions of K.S.A. 75-3713e, and amendments thereto, or an assis-
30 tance payment received by the taxpayer pursuant to the southeast
31 Kansas business restoration assistance program as approved by the
32 state finance council for the same investment as provided in this
33 section. Notwithstanding any other provision of law, no taxpayer
34 shall claim more than one credit or refund allowed under this sub-
35 section for the same investment.

36 [(2) A claim for refund shall be made prior to the taxpayer
37 claiming any credit on which the refund is based. Should the tax-
38 payer elect to receive the cash in lieu of the credit, the remaining
39 portion of the tax credit shall be lost. Any refund pursuant to this
40 subsection shall be allowed against the tax liability imposed under
41 the Kansas income tax act, the premium tax or privilege fees im-
42 posed pursuant to K.S.A. 40-252, and amendments thereto, and
43 the privilege tax as measured by net income of financial institu-

1 tions imposed pursuant to article 11 of chapter 79 of the Kansas
2 Statutes Annotated in the tax year the qualified investment is
3 placed into service. The amount of such refund which exceeds such
4 tax liability shall be refunded to the taxpayer.

5 [(3) The secretary of revenue shall submit an annual report to
6 the legislature detailing taxpayers that have made the election to
7 receive a refund in lieu of the credit. The annual report shall pro-
8 vide the aggregate amount of such refunds. Such report shall be
9 due during the legislative session, commencing with the 2009 leg-
10 islative session.

11 [(c) As used in this section, “capital investment” means an in-
12 vestment in the construction, equipment, reconstruction, mainte-
13 nance, repair, enlargement, furnishing or remodeling of real prop-
14 erty, and the purchase, lease or repair of tangible personal
15 property. A “capital investment” shall not include inventory or
16 property held for sale in the ordinary course of business.

17 [(d) The secretary of revenue shall adopt rules and regulations
18 to carry out the provisions of this act.]

19 Sec. ~~8~~ [9.] [On and after July 1, 2008,] K.S.A. 79-3285 and 79-
20 32,141 and K.S.A. 2007 Supp. 79-3271, 79-32,110, 79-32,154 and 79-3606
21 are hereby repealed.

22 Sec. ~~9~~ [10.] This act shall take effect and be in force from and after
23 its publication in the ~~statute book~~ [Kansas register].