

HOUSE BILL No. 2511

By Representatives Goodman, O'Brien, Arpke, Boman, Brown, Collins, Donohoe, Fawcett, Garber, Gonzalez, Gregory, Grosserode, Hildabrand, LeDoux and Rubin

1-24

1 AN ACT concerning sales taxation; relating to exemptions; over-the-
2 counter drugs; food; amending K.S.A. 2011 Supp. 79-3606 and
3 repealing the existing section; also repealing K.S.A. 2011 Supp. 79-
4 3606g.

5

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

7 Section 1. K.S.A. 2011 Supp. 79-3606 is hereby amended to read as
8 follows: 79-3606. The following shall be exempt from the tax imposed by
9 this act:

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

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

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

10 (d) all sales of tangible personal property or services purchased by a
11 contractor for the purpose of constructing, equipping, reconstructing,
12 maintaining, repairing, enlarging, furnishing or remodeling facilities for
13 any public or private nonprofit hospital or public hospital authority, public
14 or private elementary or secondary school, a public or private nonprofit
15 educational institution, state correctional institution including a privately
16 constructed correctional institution contracted for state use and ownership,
17 which would be exempt from taxation under the provisions of this act if
18 purchased directly by such hospital or public hospital authority, school,
19 educational institution or a state correctional institution; and all sales of
20 tangible personal property or services purchased by a contractor for the
21 purpose of constructing, equipping, reconstructing, maintaining, repairing,
22 enlarging, furnishing or remodeling facilities for any political subdivision
23 of the state or district described in subsection (s), the total cost of which is
24 paid from funds of such political subdivision or district and which would
25 be exempt from taxation under the provisions of this act if purchased
26 directly by such political subdivision or district. Nothing in this subsection
27 or in the provisions of K.S.A. 12-3418, and amendments thereto, shall be
28 deemed to exempt the purchase of any construction machinery, equipment
29 or tools used in the constructing, equipping, reconstructing, maintaining,
30 repairing, enlarging, furnishing or remodeling facilities for any political
31 subdivision of the state or any such district. As used in this subsection,
32 K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a
33 political subdivision" shall mean general tax revenues, the proceeds of any
34 bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the
35 purpose of constructing, equipping, reconstructing, repairing, enlarging,
36 furnishing or remodeling facilities which are to be leased to the donor.
37 When any political subdivision of the state, district described in subsection
38 (s), public or private nonprofit hospital or public hospital authority, public
39 or private elementary or secondary school, public or private nonprofit
40 educational institution, state correctional institution including a privately
41 constructed correctional institution contracted for state use and ownership
42 shall contract for the purpose of constructing, equipping, reconstructing,
43 maintaining, repairing, enlarging, furnishing or remodeling facilities, it

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

39 (e) all sales of tangible personal property or services purchased by a
40 contractor for the erection, repair or enlargement of buildings or other
41 projects for the government of the United States, its agencies or
42 instrumentalities, which would be exempt from taxation if purchased
43 directly by the government of the United States, its agencies or

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

27 (f) tangible personal property purchased by a railroad or public utility
28 for consumption or movement directly and immediately in interstate
29 commerce;

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

39 (h) all rentals of nonsectarian textbooks by public or private
40 elementary or secondary schools;

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

43 (j) meals served without charge or food used in the preparation of

1 such meals to employees of any restaurant, eating house, dining car, hotel,
2 drugstore or other place where meals or drinks are regularly sold to the
3 public if such employees' duties are related to the furnishing or sale of
4 such meals or drinks;

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

11 (l) all isolated or occasional sales of tangible personal property,
12 services, substances or things, except isolated or occasional sale of motor
13 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.
14 79-3603, and amendments thereto;

15 (m) all sales of tangible personal property which become an
16 ingredient or component part of tangible personal property or services
17 produced, manufactured or compounded for ultimate sale at retail within
18 or without the state of Kansas; and any such producer, manufacturer or
19 compounder may obtain from the director of taxation and furnish to the
20 supplier an exemption certificate number for tangible personal property for
21 use as an ingredient or component part of the property or services
22 produced, manufactured or compounded;

23 (n) all sales of tangible personal property which is consumed in the
24 production, manufacture, processing, mining, drilling, refining or
25 compounding of tangible personal property, the treating of by-products or
26 wastes derived from any such production process, the providing of
27 services or the irrigation of crops for ultimate sale at retail within or
28 without the state of Kansas; and any purchaser of such property may
29 obtain from the director of taxation and furnish to the supplier an
30 exemption certificate number for tangible personal property for
31 consumption in such production, manufacture, processing, mining,
32 drilling, refining, compounding, treating, irrigation and in providing such
33 services;

34 (o) all sales of animals, fowl and aquatic plants and animals, the
35 primary purpose of which is use in agriculture or aquaculture, as defined in
36 K.S.A. 47-1901, and amendments thereto, the production of food for
37 human consumption, the production of animal, dairy, poultry or aquatic
38 plant and animal products, fiber or fur, or the production of offspring for
39 use for any such purpose or purposes;

40 (p) all sales of drugs dispensed pursuant to a prescription order by a
41 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-
42 1626, and amendments thereto, *and all sales of over-the-counter drugs as*
43 *defined in subsection (tt) of K.S.A. 79-3602, and amendments thereto.* As

1 used in this subsection, "drug" means a compound, substance or
2 preparation and any component of a compound, *substance* or preparation,
3 other than food and food ingredients, dietary supplements or alcoholic
4 beverages, recognized in the official United States pharmacopoeia, official
5 homeopathic pharmacopoeia of the United States or official national
6 formulary, and supplement to any of them, intended for use in the
7 diagnosis, cure, mitigation, treatment or prevention of disease or intended
8 to affect the structure or any function of the body;

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

12 (r) all sales of oxygen delivery equipment, kidney dialysis equipment,
13 enteral feeding systems, prosthetic devices and mobility enhancing
14 equipment prescribed in writing by a person licensed to practice the
15 healing arts, dentistry or optometry, and in addition to such sales, all sales
16 of hearing aids, as defined by subsection (c) of K.S.A. 74-5807, and
17 amendments thereto, and repair and replacement parts therefor, including
18 batteries, by a person licensed in the practice of dispensing and fitting
19 hearing aids pursuant to the provisions of K.S.A. 74-5808, and
20 amendments thereto. For the purposes of this subsection: (1) "Mobility
21 enhancing equipment" means equipment including repair and replacement
22 parts to same, but does not include durable medical equipment, which is
23 primarily and customarily used to provide or increase the ability to move
24 from one place to another and which is appropriate for use either in a
25 home or a motor vehicle; is not generally used by persons with normal
26 mobility; and does not include any motor vehicle or equipment on a motor
27 vehicle normally provided by a motor vehicle manufacturer; and (2)
28 "prosthetic device" means a replacement, corrective or supportive device
29 including repair and replacement parts for same worn on or in the body to
30 artificially replace a missing portion of the body, prevent or correct
31 physical deformity or malfunction or support a weak or deformed portion
32 of the body;

33 (s) except as provided in K.S.A. 2011 Supp. 82a-2101, and
34 amendments thereto, all sales of tangible personal property or services
35 purchased directly or indirectly by a groundwater management district
36 organized or operating under the authority of K.S.A. 82a-1020 *et seq.*, and
37 amendments thereto, by a rural water district organized or operating under
38 the authority of K.S.A. 82a-612, and amendments thereto, or by a water
39 supply district organized or operating under the authority of K.S.A. 19-
40 3501 *et seq.*, 19-3522 *et seq.* or 19-3545, and amendments thereto, which
41 property or services are used in the construction activities, operation or
42 maintenance of the district;

43 (t) all sales of farm machinery and equipment or aquaculture

1 machinery and equipment, repair and replacement parts therefor and
2 services performed in the repair and maintenance of such machinery and
3 equipment. For the purposes of this subsection the term "farm machinery
4 and equipment or aquaculture machinery and equipment" shall include a
5 work-site utility vehicle, as defined in K.S.A. 8-126, and amendments
6 thereto, and is equipped with a bed or cargo box for hauling materials, and
7 shall also include machinery and equipment used in the operation of
8 Christmas tree farming but shall not include any passenger vehicle, truck,
9 truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as
10 such terms are defined by K.S.A. 8-126, and amendments thereto. "Farm
11 machinery and equipment" includes precision farming equipment that is
12 portable or is installed or purchased to be installed on farm machinery and
13 equipment. "Precision farming equipment" includes the following items
14 used only in computer-assisted farming, ranching or aquaculture
15 production operations: Soil testing sensors, yield monitors, computers,
16 monitors, software, global positioning and mapping systems, guiding
17 systems, modems, data communications equipment and any necessary
18 mounting hardware, wiring and antennas. Each purchaser of farm
19 machinery and equipment or aquaculture machinery and equipment
20 exempted herein must certify in writing on the copy of the invoice or sales
21 ticket to be retained by the seller that the farm machinery and equipment
22 or aquaculture machinery and equipment purchased will be used only in
23 farming, ranching or aquaculture production. Farming or ranching shall
24 include the operation of a feedlot and farm and ranch work for hire and the
25 operation of a nursery;

26 (u) all leases or rentals of tangible personal property used as a
27 dwelling if such tangible personal property is leased or rented for a period
28 of more than 28 consecutive days;

29 (v) all sales of tangible personal property to any contractor for use in
30 preparing meals for delivery to homebound elderly persons over 60 years
31 of age and to homebound disabled persons or to be served at a group-
32 sitting at a location outside of the home to otherwise homebound elderly
33 persons over 60 years of age and to otherwise homebound disabled
34 persons, as all or part of any food service project funded in whole or in
35 part by government or as part of a private nonprofit food service project
36 available to all such elderly or disabled persons residing within an area of
37 service designated by the private nonprofit organization, and all sales of
38 tangible personal property for use in preparing meals for consumption by
39 indigent or homeless individuals whether or not such meals are consumed
40 at a place designated for such purpose, and all sales of food products by or
41 on behalf of any such contractor or organization for any such purpose;

42 (w) all sales of natural gas, electricity, heat and water delivered
43 through mains, lines or pipes: (1) To residential premises for

1 noncommercial use by the occupant of such premises; (2) for agricultural
2 use and also, for such use, all sales of propane gas; (3) for use in the
3 severing of oil; and (4) to any property which is exempt from property
4 taxation pursuant to K.S.A. 79-201b *Second through Sixth, and*
5 *amendments thereto*. As used in this paragraph, "severing" shall have the
6 meaning ascribed thereto by subsection (k) of K.S.A. 79-4216, and
7 amendments thereto. For all sales of natural gas, electricity and heat
8 delivered through mains, lines or pipes pursuant to the provisions of
9 subsection (w)(1) and (w)(2), the provisions of this subsection shall expire
10 on December 31, 2005;

11 (x) all sales of propane gas, LP-gas, coal, wood and other fuel sources
12 for the production of heat or lighting for noncommercial use of an
13 occupant of residential premises occurring prior to January 1, 2006;

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

18 (z) all sales of tangible personal property and services purchased
19 directly by a port authority or by a contractor therefor as provided by the
20 provisions of K.S.A. 12-3418, and amendments thereto;

21 (aa) all sales of materials and services applied to equipment which is
22 transported into the state from without the state for repair, service,
23 alteration, maintenance, remanufacture or modification and which is
24 subsequently transported outside the state for use in the transmission of
25 liquids or natural gas by means of pipeline in interstate or foreign
26 commerce under authority of the laws of the United States;

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

32 (cc) all sales of tangible personal property or services purchased prior
33 to January 1, 2012, except as otherwise provided, for the purpose of and in
34 conjunction with constructing, reconstructing, enlarging or remodeling a
35 business or retail business which meets the requirements established in
36 K.S.A. 74-50,115, and amendments thereto, and the sale and installation of
37 machinery and equipment purchased for installation at any such business
38 or retail business, and all sales of tangible personal property or services
39 purchased on or after January 1, 2012, for the purpose of and in
40 conjunction with constructing, reconstructing, enlarging or remodeling a
41 business which meets the requirements established in *subsection (e) of*
42 *K.S.A. 74-50,115(e)*, and amendments thereto, and the sale and installation
43 of machinery and equipment purchased for installation at any such

1 business. When a person shall contract for the construction, reconstruction,
2 enlargement or remodeling of any such business or retail business, such
3 person 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, machinery and equipment for incorporation in such
6 project. The contractor shall furnish the number of such certificates to all
7 suppliers from whom such purchases are made, and such suppliers shall
8 execute invoices covering the same bearing the number of such certificate.
9 Upon completion of the project the contractor shall furnish to the owner of
10 the business or retail business a sworn statement, on a form to be provided
11 by the director of taxation, that all purchases so made were entitled to
12 exemption under this subsection. All invoices shall be held by the
13 contractor for a period of five years and shall be subject to audit by the
14 director of taxation. Any contractor or any agent, employee or
15 subcontractor thereof, who shall use or otherwise dispose of any materials,
16 machinery or equipment purchased under such a certificate for any
17 purpose other than that for which such a certificate is issued without the
18 payment of the sales or compensating tax otherwise imposed thereon, shall
19 be guilty of a misdemeanor and, upon conviction therefor, shall be subject
20 to the penalties provided for in subsection (g) of K.S.A. 79-3615, and
21 amendments thereto. As used in this subsection, "business" and "retail
22 business" have the meanings respectively ascribed thereto by K.S.A. 74-
23 50,114, and amendments thereto. Project exemption certificates that have
24 been previously issued under this subsection by the department of revenue
25 pursuant to K.S.A. 74-50,115, and amendments thereto, but not including,
26 *subsection (e) of K.S.A. 74-50,115(e)*, and amendments thereto, prior to
27 January 1, 2012, and have not expired will be effective for the term of the
28 project or two years from the effective date of the certificate, whichever
29 occurs earlier. Project exemption certificates that are submitted to the
30 department of revenue prior to January 1, 2012, and are found to qualify
31 will be issued a project exemption certificate that will be effective for a
32 two-year period or for the term of the project, whichever occurs earlier;

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

16 (ii) all sales of tangible personal property purchased directly by a
17 nonprofit organization for nonsectarian comprehensive multidiscipline
18 youth development programs and activities provided or sponsored by such
19 organization, 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
38 operation by a manufacturing or processing plant or facility;

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

41 (C) all sales of repair and replacement parts and accessories
42 purchased 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 to
3 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
7 operations; (ii) preproduction operations to handle, store and treat raw
8 materials; (iii) post production handling, storage, warehousing and
9 distribution operations; and (iv) waste, pollution and environmental
10 control operations, if any;

11 (B) "production line" means the assemblage of machinery and
12 equipment at a manufacturing or processing plant or facility where the
13 actual 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
16 business that consists of one or more structures or buildings in a
17 contiguous area where integrated production operations are conducted to
18 manufacture or process tangible personal property to be ultimately sold at
19 retail. Such term shall not include any facility primarily operated for the
20 purpose of conveying or assisting in the conveyance of natural gas,
21 electricity, oil or water. A business may operate one or more manufacturing
22 or processing plants or facilities at different locations to manufacture or
23 process a single product of tangible personal property to be ultimately sold
24 at retail;

25 (D) "manufacturing or processing business" means a business that
26 utilizes an integrated production operation to manufacture, process,
27 fabricate, 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 operations
31 include, by way of illustration but not of limitation, the fabrication of
32 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,
38 mine or other excavation site where the oil, gas, minerals, coal, clay, stone,
39 sand or gravel that has been extracted from the earth is cleaned, separated,
40 crushed, ground, milled, screened, washed, or otherwise treated or
41 prepared 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
2 products in sealed containers for wholesale and retail distribution, feed
3 grinding, grain milling, frozen food processing, and grain handling,
4 cleaning, blending, fumigation, drying and aeration operations engaged in
5 by grain elevators or other grain storage facilities. (iii) Manufacturing or
6 processing businesses do not include, by way of illustration but not of
7 limitation, nonindustrial businesses whose operations are primarily retail
8 and that produce or process tangible personal property as an incidental part
9 of conducting the retail business, such as retailers who bake, cook or
10 prepare food products in the regular course of their retail trade, grocery
11 stores, meat lockers and meat markets that butcher or dress livestock or
12 poultry in the regular course of their retail trade, contractors who alter,
13 service, repair or improve real property, and retail businesses that clean,
14 service 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 to
18 exempt machinery or that are otherwise used in production, and parts and
19 accessories that require periodic replacement such as belts, drill bits,
20 grinding wheels, grinding balls, cutting bars, saws, refractory brick and
21 other refractory items for exempt kiln equipment used in production
22 operations;

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

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

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

29 (B) to transport, convey, handle or store the property undergoing
30 manufacturing or processing at any point from the beginning of the
31 production 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
38 manufacturing 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
41 inventories of raw materials, consumables and component parts, the flow
42 of the property undergoing manufacturing or processing and the
43 management of inventories of the finished product;

1 (G) to produce energy for, lubricate, control the operating of or
2 otherwise enable the functioning of other production machinery and
3 equipment 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
6 transported;

7 (I) to transmit or transport electricity, coke, gas, water, steam or
8 similar substances used in production operations from the point of
9 generation, if produced by the manufacturer or processor at the plant site,
10 to that manufacturer's production operation; or, if purchased or delivered
11 from offsite, from the point where the substance enters the site of the plant
12 or facility to that manufacturer's production operations;

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

15 (K) to provide and control an environment required to maintain
16 certain 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 production
20 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
25 machinery and equipment used as an integral or essential part of an
26 integrated production operation: (A) Computers and related peripheral
27 equipment that are utilized by a manufacturing or processing business for
28 engineering of the finished product or for research and development or
29 product design; (B) machinery and equipment that is utilized by a
30 manufacturing or processing business to manufacture or rebuild tangible
31 personal property that is used in manufacturing or processing operations,
32 including tools, dies, molds, forms and other parts of qualifying machinery
33 and equipment; (C) portable plants for aggregate concrete, bulk cement
34 and asphalt including cement mixing drums to be attached to a motor
35 vehicle; (D) industrial fixtures, devices, support facilities and special
36 foundations necessary for manufacturing and production operations, and
37 materials and other tangible personal property sold for the purpose of
38 fabricating such fixtures, devices, facilities and foundations. An exemption
39 certificate for such purchases shall be signed by the manufacturer or
40 processor. If the fabricator purchases such material, the fabricator shall
41 also sign the exemption certificate; and (E) a manufacturing or processing
42 business' laboratory equipment that is not located at the plant or facility,
43 but that would otherwise qualify for exemption under subsection (3)(E).

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

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

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

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

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

19 (E) furniture and other furnishings;

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

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

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

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

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

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

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

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

1 public at no charge by a nonprofit corporation organized for the purpose of
2 encouraging, fostering and conducting programs for the improvement of
3 public health;

4 (mm) all sales of seeds and tree seedlings; fertilizers, insecticides,
5 herbicides, germicides, pesticides and fungicides; and services, purchased
6 and used for the purpose of producing plants in order to prevent soil
7 erosion on land devoted to agricultural use;

8 (nn) except as otherwise provided in this act, all sales of services
9 rendered by an advertising agency or licensed broadcast station or any
10 member, agent or employee thereof;

11 (oo) all sales of tangible personal property purchased by a community
12 action group or agency for the exclusive purpose of repairing or
13 weatherizing housing occupied by low income individuals;

14 (pp) all sales of drill bits and explosives actually utilized in the
15 exploration and production of oil or gas;

16 (qq) all sales of tangible personal property and services purchased by
17 a nonprofit museum or historical society or any combination thereof,
18 including a nonprofit organization which is organized for the purpose of
19 stimulating public interest in the exploration of space by providing
20 educational information, exhibits and experiences, which is exempt from
21 federal income taxation pursuant to section 501(c)(3) of the federal
22 internal revenue code of 1986;

23 (rr) all sales of tangible personal property which will admit the
24 purchaser thereof to any annual event sponsored by a nonprofit
25 organization which is exempt from federal income taxation pursuant to
26 section 501(c)(3) of the federal internal revenue code of 1986;

27 (ss) all sales of tangible personal property and services purchased by
28 a public broadcasting station licensed by the federal communications
29 commission as a noncommercial educational television or radio station;

30 (tt) all sales of tangible personal property and services purchased by
31 or on behalf of a not-for-profit corporation which is exempt from federal
32 income taxation pursuant to section 501(c)(3) of the federal internal
33 revenue code of 1986, for the sole purpose of constructing a Kansas
34 Korean War memorial;

35 (uu) all sales of tangible personal property and services purchased by
36 or on behalf of any rural volunteer fire-fighting organization for use
37 exclusively in the performance of its duties and functions;

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

43 (1) The American Heart Association, Kansas Affiliate, Inc. for the

1 purposes of providing education, training, certification in emergency
2 cardiac care, research and other related services to reduce disability and
3 death from cardiovascular diseases and stroke;

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

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

10 (4) the American Diabetes Association Kansas Affiliate, Inc. for the
11 purpose of eliminating diabetes through medical research, public education
12 focusing on disease prevention and education, patient education including
13 information on coping with diabetes, and professional education and
14 training;

15 (5) the American Lung Association of Kansas, Inc. for the purpose of
16 eliminating all lung diseases through medical research, public education
17 including information on coping with lung diseases, professional education
18 and training related to lung disease and other related services to reduce the
19 incidence of disability and death due to lung disease;

20 (6) the Kansas chapters of the Alzheimer's Disease and Related
21 Disorders Association, Inc. for the purpose of providing assistance and
22 support to persons in Kansas with Alzheimer's disease, and their families
23 and caregivers;

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

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

30 (9) the heartstrings community foundation for the purpose of
31 providing training, employment and activities for adults with
32 developmental disabilities;

33 (10) the Cystic Fibrosis Foundation, Heart of America Chapter, for
34 the purposes of assuring the development of the means to cure and control
35 cystic fibrosis and improving the quality of life for those with the disease;

36 (11) the spina bifida association of Kansas for the purpose of
37 providing financial, educational and practical aid to families and
38 individuals with spina bifida. Such aid includes, but is not limited to,
39 funding for medical devices, counseling and medical educational
40 opportunities;

41 (12) the CHWC, Inc., for the purpose of rebuilding urban core
42 neighborhoods through the construction of new homes, acquiring and
43 renovating existing homes and other related activities, and promoting

1 economic development in such neighborhoods;

2 (13) the cross-lines cooperative council for the purpose of providing
3 social services to low income individuals and families;

4 (14) the Dreams Work, Inc., for the purpose of providing young adult
5 day services to individuals with developmental disabilities and assisting
6 families in avoiding institutional or nursing home care for a
7 developmentally disabled member of their family;

8 (15) the KSDS, Inc., for the purpose of promoting the independence
9 and inclusion of people with disabilities as fully participating and
10 contributing members of their communities and society through the
11 training and providing of guide and service dogs to people with
12 disabilities, and providing disability education and awareness to the
13 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
25 humanitarian needs by providing voluntary services through community
26 involvement and international cooperation;

27 (20) the Johnson county young matrons, inc., for the purpose of
28 promoting a positive future for members of the community through
29 volunteerism, financial support and education through the efforts of an all
30 volunteer organization;

31 (21) the American Cancer Society, Inc., for the purpose of eliminating
32 cancer as a major health problem by preventing cancer, saving lives and
33 diminishing suffering from cancer, through research, education, advocacy
34 and service;

35 (22) the community services of Shawnee, inc., for the purpose of
36 providing food and clothing to those in need;

37 (23) the angel babies association, for the purpose of providing
38 assistance, support and items of necessity to teenage mothers and their
39 babies; and

40 (24) the Kansas fairgrounds foundation for the purpose of the
41 preservation, renovation and beautification of the Kansas state fairgrounds;

42 (ww) all sales of tangible personal property purchased by the Habitat
43 for Humanity for the exclusive use of being incorporated within a housing

1 project constructed by such organization;

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

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

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

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

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

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

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

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

1 revenue;

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

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

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

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

30 (iii) all sales of personal property and services purchased by an
31 organization which is exempt from federal income taxation pursuant to
32 section 501(c)(3) of the federal internal revenue code of 1986, and which
33 such personal property and services are used by any such organization in
34 the collection, storage and distribution of food products to nonprofit
35 organizations which distribute such food products to persons pursuant to a
36 food distribution program on a charitable basis without fee or charge, and
37 all sales of tangible personal property or services purchased by a
38 contractor for the purpose of constructing, equipping, reconstructing,
39 maintaining, repairing, enlarging, furnishing or remodeling facilities used
40 for the collection and storage of such food products for any such
41 organization which is exempt from federal income taxation pursuant to
42 section 501(c)(3) of the federal internal revenue code of 1986, which
43 would be exempt from taxation under the provisions of this section if

1 purchased directly by such organization. Nothing in this subsection shall
2 be deemed to exempt the purchase of any construction machinery,
3 equipment or tools used in the constructing, equipping, reconstructing,
4 maintaining, repairing, enlarging, furnishing or remodeling facilities for
5 any such organization. When any such organization shall contract for the
6 purpose of constructing, equipping, reconstructing, maintaining, repairing,
7 enlarging, furnishing or remodeling facilities, it shall obtain from the state
8 and furnish to the contractor an exemption certificate for the project
9 involved, and the contractor may purchase materials for incorporation in
10 such project. The contractor shall furnish the number of such certificate to
11 all suppliers from whom such purchases are made, and such suppliers shall
12 execute invoices covering the same bearing the number of such certificate.
13 Upon completion of the project the contractor shall furnish to such
14 organization concerned a sworn statement, on a form to be provided by the
15 director of taxation, that all purchases so made were entitled to exemption
16 under this subsection. All invoices shall be held by the contractor for a
17 period of five years and shall be subject to audit by the director of taxation.
18 If any materials purchased under such a certificate are found not to have
19 been incorporated in such facilities or not to have been returned for credit
20 or the sales or compensating tax otherwise imposed upon such materials
21 which will not be so incorporated in such facilities reported and paid by
22 such contractor to the director of taxation not later than the 20th day of
23 the month following the close of the month in which it shall be determined
24 that such materials will not be used for the purpose for which such
25 certificate was issued, such organization concerned shall be liable for tax
26 on all materials purchased for the project, and upon payment thereof it
27 may recover the same from the contractor together with reasonable
28 attorney fees. Any contractor or any agent, employee or subcontractor
29 thereof, who shall use or otherwise dispose of any materials purchased
30 under such a certificate for any purpose other than that for which such a
31 certificate is issued without the payment of the sales or compensating tax
32 otherwise imposed upon such materials, shall be guilty of a misdemeanor
33 and, upon conviction therefor, shall be subject to the penalties provided for
34 in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax
35 paid on and after July 1, 2005, but prior to the effective date of this act
36 upon the gross receipts received from any sale exempted by the
37 amendatory provisions of this subsection shall be refunded. Each claim for
38 a sales tax refund shall be verified and submitted to the director of taxation
39 upon forms furnished by the director and shall be accompanied by any
40 additional documentation required by the director. The director shall
41 review each claim and shall refund that amount of sales tax paid as
42 determined under the provisions of this subsection. All refunds shall be
43 paid from the sales tax refund fund upon warrants of the director of

1 accounts and reports pursuant to vouchers approved by the director or the
2 director's designee;

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

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

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

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

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

42 (ppp) all sales of tangible personal property and services purchased
43 by or on behalf of a homeless shelter which is exempt from federal income

1 taxation pursuant to section 501(c)(3) of the federal income tax code of
2 1986, and used by any such homeless shelter to provide emergency and
3 transitional housing for individuals and families experiencing
4 homelessness, and all sales of any such property by or on behalf of any
5 such homeless shelter for any such purpose;

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

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

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

16 (sss) all sales of tangible personal property and services purchased by
17 catholic charities or youthville, hereinafter referred to as charitable family
18 providers, which is exempt from federal income taxation pursuant to
19 section 501(c)(3) of the federal internal revenue code of 1986, and which
20 such property and services are used for the purpose of providing
21 emergency shelter and treatment for abused and neglected children as well
22 as meeting additional critical needs for children, juveniles and family, and
23 all sales of any such property by or on behalf of charitable family
24 providers for any such purpose; and all sales of tangible personal property
25 or services purchased by a contractor for the purpose of constructing,
26 maintaining, repairing, enlarging, furnishing or remodeling facilities for
27 the operation of services for charitable family providers for any such
28 purpose which would be exempt from taxation under the provisions of this
29 section if purchased directly by charitable family providers. Nothing in
30 this subsection shall be deemed to exempt the purchase of any construction
31 machinery, equipment or tools used in the constructing, maintaining,
32 repairing, enlarging, furnishing or remodeling such facilities for charitable
33 family providers. When charitable family providers contracts for the
34 purpose of constructing, maintaining, repairing, enlarging, furnishing or
35 remodeling such facilities, it shall obtain from the state and furnish to the
36 contractor an exemption certificate for the project involved, and the
37 contractor may purchase materials for incorporation in such project. The
38 contractor shall furnish the number of such certificate to all suppliers from
39 whom such purchases are made, and such suppliers shall execute invoices
40 covering the same bearing the number of such certificate. Upon
41 completion of the project the contractor shall furnish to charitable family
42 providers a sworn statement, on a form to be provided by the director of
43 taxation, that all purchases so made were entitled to exemption under this

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

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

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

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

1 project. The contractor shall furnish the number of such certificate to all
2 suppliers from whom such purchases are made, and such suppliers shall
3 execute invoices covering the same bearing the number of such certificate.
4 Upon completion of the project the contractor shall furnish to KCSL a
5 sworn statement, on a form to be provided by the director of taxation, that
6 all purchases so made were entitled to exemption under this subsection.
7 All invoices shall be held by the contractor for a period of five years and
8 shall be subject to audit by the director of taxation. If any materials
9 purchased under such a certificate are found not to have been incorporated
10 in the building or other project or not to have been returned for credit or
11 the sales or compensating tax otherwise imposed upon such materials
12 which will not be so incorporated in the building or other project reported
13 and paid by such contractor to the director of taxation not later than the
14 20th day of the month following the close of the month in which it shall be
15 determined that such materials will not be used for the purpose for which
16 such certificate was issued, KCSL shall be liable for tax on all materials
17 purchased for the project, and upon payment thereof it may recover the
18 same from the contractor together with reasonable attorney fees. Any
19 contractor or any agent, employee or subcontractor thereof, who shall use
20 or otherwise dispose of any materials purchased under such a certificate
21 for any purpose other than that for which such a certificate is issued
22 without the payment of the sales or compensating tax otherwise imposed
23 upon such materials, shall be guilty of a misdemeanor and, upon
24 conviction therefor, shall be subject to the penalties provided for in
25 subsection (g) of K.S.A. 79-3615, 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 by
28 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
30 internal 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
35 behalf of the Frontenac Education Foundation, which is exempt from
36 federal income taxation pursuant to section 501(c)(3) of the federal
37 internal revenue code, for the purpose of providing education support for
38 students, and all sales of any such property by or on behalf of such
39 organization 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
42 federal income taxation pursuant to section 501(c)(3) of the federal
43 internal revenue code of 1986, and which such personal property and

1 services are used by any such organization in the constructing, equipping,
2 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
3 of 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 remodeling
6 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, enlarging,
11 furnishing or remodeling facilities for any such organization. When any
12 such organization shall contract for the purpose of constructing, equipping,
13 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
14 facilities, it shall obtain from the state and furnish to the contractor an
15 exemption certificate for the project involved, and the contractor may
16 purchase materials for incorporation in such project. The contractor shall
17 furnish the number of such certificate to all suppliers from whom such
18 purchases are made, and such suppliers shall execute invoices covering the
19 same bearing the number of such certificate. Upon completion of the
20 project the contractor shall furnish to such organization concerned a sworn
21 statement, on a form to be provided by the director of taxation, that all
22 purchases so made were entitled to exemption under this subsection. All
23 invoices shall be held by the contractor for a period of five years and shall
24 be subject to audit by the director of taxation. If any materials purchased
25 under such a certificate are found not to have been incorporated in such
26 facilities or not to have been returned for credit or the sales or
27 compensating tax otherwise imposed upon such materials which will not
28 be so incorporated in such facilities reported and paid by such contractor
29 to the director of taxation not later than the 20th day of the month following
30 the close of the month in which it shall be determined that such materials
31 will not be used for the purpose for which such certificate was issued, such
32 organization concerned shall be liable for tax on all materials purchased
33 for the project, and upon payment thereof it may recover the same from
34 the contractor together with reasonable attorney fees. Any contractor or
35 any agent, employee or subcontractor thereof, who shall use or otherwise
36 dispose of any materials purchased under such a certificate for any purpose
37 other than that for which such a certificate is issued without the payment
38 of the sales or compensating tax otherwise imposed upon such materials,
39 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
40 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
41 and amendments thereto. Sales tax paid on and after January 1, 2007, but
42 prior to the effective date of this act upon the gross receipts received from
43 any sale which would have been exempted by the provisions of this

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

10 (yyy) all sales of tangible personal property and services purchased
11 by TLC charities foundation, inc., hereinafter referred to as TLC charities,
12 which is exempt from federal income taxation pursuant to section 501(c)
13 (3) of the federal internal revenue code of 1986, and which such property
14 and services are used for the purpose of encouraging private philanthropy
15 to further the vision, values, and goals of TLC for children and families,
16 inc.; and all sales of such property and services by or on behalf of TLC
17 charities for any such purpose and all sales of tangible personal property or
18 services purchased by a contractor for the purpose of constructing,
19 maintaining, repairing, enlarging, furnishing or remodeling facilities for
20 the operation of services for TLC charities for any such purpose which
21 would be exempt from taxation under the provisions of this section if
22 purchased directly by TLC charities. Nothing in this subsection shall be
23 deemed to exempt the purchase of any construction machinery, equipment
24 or tools used in the constructing, maintaining, repairing, enlarging,
25 furnishing or remodeling such facilities for TLC charities. When TLC
26 charities contracts for the purpose of constructing, maintaining, repairing,
27 enlarging, furnishing or remodeling such facilities, it shall obtain from the
28 state and furnish to the contractor an exemption certificate for the project
29 involved, and the contractor may purchase materials for incorporation in
30 such project. The contractor shall furnish the number of such certificate to
31 all suppliers from whom such purchases are made, and such suppliers shall
32 execute invoices covering the same bearing the number of such certificate.
33 Upon completion of the project the contractor shall furnish to TLC
34 charities a sworn statement, on a form to be provided by the director of
35 taxation, that all purchases so made were entitled to exemption under this
36 subsection. All invoices shall be held by the contractor for a period of five
37 years and shall be subject to audit by the director of taxation. If any
38 materials purchased under such a certificate are found not to have been
39 incorporated in the building or other project or not to have been returned
40 for credit or the sales or compensating tax otherwise imposed upon such
41 materials which will not be incorporated into the building or other project
42 reported and paid by such contractor to the director of taxation not later
43 than the 20th day of the month following the close of the month in which it

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

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

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

23 (bbbb) all sales of entry or participation fees, charges or tickets by
24 Guadalupe health foundation, which is exempt from federal income
25 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
26 for such organization's annual fundraising event which purpose is to
27 provide health care services for uninsured workers;

28 (cccc) all sales of tangible personal property or services purchased by
29 or on behalf of wayside waifs, inc., which is exempt from federal income
30 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
31 for the purpose of providing such organization's annual fundraiser, an
32 event whose purpose is to support the care of homeless and abandoned
33 animals, animal adoption efforts, education programs for children and
34 efforts to reduce animal over-population and animal welfare services, and
35 all sales of any such property, including entry or participation fees or
36 charges, by or on behalf of such organization for such purpose;

37 (dddd) all sales of tangible personal property or services purchased
38 by or on behalf of Goodwill Industries or Easter Seals of Kansas, Inc.,
39 both of which are exempt from federal income taxation pursuant to section
40 501(c)(3) of the federal internal revenue code, for the purpose of providing
41 education, training and employment opportunities for people with
42 disabilities and other barriers to employment;

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

1 or on behalf of All American Beef Battalion, Inc., which is exempt from
2 federal income taxation pursuant to section 501(c)(3) of the federal
3 internal revenue code, for the purpose of educating, promoting and
4 participating as a contact group through the beef cattle industry in order to
5 carry out such projects that provide support and morale to members of the
6 United States armed forces and military services; ~~and~~

7 (ffff) all sales of tangible personal property and services purchased by
8 sheltered living, inc., which is exempt from federal income taxation
9 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
10 and which such property and services are used for the purpose of
11 providing residential and day services for people with developmental
12 disabilities or mental retardation, or both, and all sales of any such
13 property by or on behalf of sheltered living, inc. for any such purpose; and
14 all sales of tangible personal property or services purchased by a
15 contractor for the purpose of rehabilitating, constructing, maintaining,
16 repairing, enlarging, furnishing or remodeling homes and facilities for
17 sheltered living, inc. for any such purpose which would be exempt from
18 taxation under the provisions of this section if purchased directly by
19 sheltered living, inc. Nothing in this subsection shall be deemed to exempt
20 the purchase of any construction machinery, equipment or tools used in the
21 constructing, maintaining, repairing, enlarging, furnishing or remodeling
22 such homes and facilities for sheltered living, inc. When sheltered living,
23 inc. contracts for the purpose of rehabilitating, constructing, maintaining,
24 repairing, enlarging, furnishing or remodeling such homes and facilities, it
25 shall obtain from the state and furnish to the contractor an exemption
26 certificate for the project involved, and the contractor may purchase
27 materials for incorporation in such project. The contractor shall furnish the
28 number of such certificate to all suppliers from whom such purchases are
29 made, and such suppliers shall execute invoices covering the same bearing
30 the number of such certificate. Upon completion of the project the
31 contractor shall furnish to sheltered living, inc. a sworn statement, on a
32 form to be provided by the director of taxation, that all purchases so made
33 were entitled to exemption under this subsection. All invoices shall be held
34 by the contractor for a period of five years and shall be subject to audit by
35 the director of taxation. If any materials purchased under such a certificate
36 are found not to have been incorporated in the building or other project or
37 not to have been returned for credit or the sales or compensating tax
38 otherwise imposed upon such materials which will not be so incorporated
39 in the building or other project reported and paid by such contractor to the
40 director of taxation not later than the 20th day of the month following the
41 close of the month in which it shall be determined that such materials will
42 not be used for the purpose for which such certificate was issued, sheltered
43 living, inc. shall be liable for tax on all materials purchased for the project,

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

10 *(gggg) all sales of game birds for which the primary purpose is use in*
11 *hunting; and*

12 *(hhhh) all sales of food and food ingredients and vitamins. As used in*
13 *this subsection, a sale of food and food ingredients does not include a sale*
14 *of alcoholic beverages as defined in subsection (c) of K.S.A. 79-3602, and*
15 *amendments thereto; or sales of prepared food or tobacco as defined in*
16 *subsection (qq) of K.S.A. 79-3602, and amendments thereto. A sale of food*
17 *and food ingredients shall include food sold through vending machines. As*
18 *used in this subsection:*

19 *(1) "food and food ingredients" means substances, whether in liquid,*
20 *concentrated, solid, frozen, dried or dehydrated form that are sold for*
21 *ingestion or chewing by humans and are consumed for their taste or*
22 *nutritional value;*

23 *(2) "food sold through vending machines" means food dispensed from*
24 *a machine or other mechanical device that accepts payment; and*

25 *(3)(A) "prepared food" means any of the following:*

26 *(i) Food sold in a heated state or heated by the seller;*

27 *(ii) two or more food ingredients mixed or combined by the seller for*
28 *sale as a single item; or*

29 *(iii) food sold with eating utensils provided by the seller, including*
30 *plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate*
31 *does not include a container or packaging used to transport the food.*

32 *(B) "Prepared food" does not include:*

33 *(i) Food that is only cut, repackaged or pasteurized by the seller;*

34 *(ii) eggs, fish, meat, poultry and foods containing these raw animal*
35 *foods requiring cooking by the consumer as recommended by the United*
36 *States food and drug administration, in chapter 3, part 401.11 of its food*
37 *code, so as to prevent foodborne illnesses;*

38 *(iii) if sold without eating utensils provided by the seller; bakery*
39 *items, including breads, rolls, buns, biscuits, bagels, croissants, pastries,*
40 *donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies and*
41 *tortillas; or*

42 *(iv) food sold by a seller whose primary North American industry*
43 *classification system, United States, 2002 edition, classification is*

1 *manufacturing in sector 311, except subsection 3118.*

2 Sec. 2. K.S.A. 2011 Supp. 79-3606 and 79-3606g are hereby
3 repealed.

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

6