

## HOUSE BILL No. 2408

By Committee on Appropriations

3-20

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1 AN ACT concerning sales taxation; relating to exemptions; food;  
2 amending K.S.A. 2012 Supp. 79-3606 and repealing the existing  
3 section.

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

6 Section 1. K.S.A. 2012 Supp. 79-3606 is hereby amended to read as  
7 follows: 79-3606. The following shall be exempt from the tax imposed by  
8 this act:

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

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

35 (c) all sales of tangible personal property or services, including the  
36 renting and leasing of tangible personal property, purchased directly by a

1 public or private elementary or secondary school or public or private  
2 nonprofit educational institution and used primarily by such school or  
3 institution for nonsectarian programs and activities provided or sponsored  
4 by such school or institution or in the erection, repair or enlargement of  
5 buildings to be used for such purposes. The exemption herein provided  
6 shall not apply to erection, construction, repair, enlargement or equipment  
7 of buildings used primarily for human habitation;

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

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

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

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

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

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

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

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

41 (j) meals served without charge or food used in the preparation of  
42 such meals to employees of any restaurant, eating house, dining car, hotel,  
43 drugstore or other place where meals or drinks are regularly sold to the

1 public if such employees' duties are related to the furnishing or sale of  
2 such meals or drinks;

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

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

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

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

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

38 (p) all sales of drugs dispensed pursuant to a prescription order by a  
39 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-  
40 1626, and amendments thereto. As used in this subsection, "drug" means a  
41 compound, substance or preparation and any component of a compound,  
42 substance or preparation, other than food and food ingredients, dietary  
43 supplements or alcoholic beverages, recognized in the official United

1 States pharmacopoeia, official homeopathic pharmacopoeia of the United  
2 States or official national formulary, and supplement to any of them,  
3 intended for use in the diagnosis, cure, mitigation, treatment or prevention  
4 of disease or intended to affect the structure or any function of the body;

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

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

29 (s) except as provided in K.S.A. 2012 Supp. 82a-2101, and  
30 amendments thereto, all sales of tangible personal property or services  
31 purchased directly or indirectly by a groundwater management district  
32 organized or operating under the authority of K.S.A. 82a-1020 et seq., and  
33 amendments thereto, by a rural water district organized or operating under  
34 the authority of K.S.A. 82a-612, and amendments thereto, or by a water  
35 supply district organized or operating under the authority of K.S.A. 19-  
36 3501 et seq., 19-3522 et seq., or 19-3545, and amendments thereto, which  
37 property or services are used in the construction activities, operation or  
38 maintenance of the district;

39 (t) all sales of farm machinery and equipment or aquaculture  
40 machinery and equipment, repair and replacement parts therefor and  
41 services performed in the repair and maintenance of such machinery and  
42 equipment. For the purposes of this subsection the term "farm machinery  
43 and equipment or aquaculture machinery and equipment" shall include a

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

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

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

38 (w) all sales of natural gas, electricity, heat and water delivered  
39 through mains, lines or pipes: (1) To residential premises for  
40 noncommercial use by the occupant of such premises; (2) for agricultural  
41 use and also, for such use, all sales of propane gas; (3) for use in the  
42 severing of oil; and (4) to any property which is exempt from property  
43 taxation pursuant to K.S.A. 79-201b, *Second* through *Sixth*. As used in this

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

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

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

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

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

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

27 (cc) all sales of tangible personal property or services purchased prior  
28 to January 1, 2012, except as otherwise provided, for the purpose of and in  
29 conjunction with constructing, reconstructing, enlarging or remodeling a  
30 business or retail business which meets the requirements established in  
31 K.S.A. 74-50,115, and amendments thereto, and the sale and installation of  
32 machinery and equipment purchased for installation at any such business  
33 or retail business, and all sales of tangible personal property or services  
34 purchased on or after January 1, 2012, for the purpose of and in  
35 conjunction with constructing, reconstructing, enlarging or remodeling a  
36 business which meets the requirements established in K.S.A. 74-50,115(e),  
37 and amendments thereto, and the sale and installation of machinery and  
38 equipment purchased for installation at any such business. When a person  
39 shall contract for the construction, reconstruction, enlargement or  
40 remodeling of any such business or retail business, such person shall  
41 obtain from the state and furnish to the contractor an exemption certificate  
42 for the project involved, and the contractor may purchase materials,  
43 machinery and equipment for incorporation in such project. The contractor



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

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

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

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

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

41 (hh) all sales of medical supplies and equipment, including durable  
42 medical equipment, purchased directly by a nonprofit skilled nursing home  
43 or nonprofit intermediate nursing care home, as defined by K.S.A. 39-923,

1 and amendments thereto, for the purpose of providing medical services to  
2 residents thereof. This exemption shall not apply to tangible personal  
3 property customarily used for human habitation purposes. As used in this  
4 subsection, "durable medical equipment" means equipment including  
5 repair and replacement parts for such equipment, which can withstand  
6 repeated use, is primarily and customarily used to serve a medical purpose,  
7 generally is not useful to a person in the absence of illness or injury and is  
8 not worn in or on the body, but does not include mobility enhancing  
9 equipment as defined in subsection (r), oxygen delivery equipment, kidney  
10 dialysis equipment or enteral feeding systems;

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

17 (jj) all sales of tangible personal property or services, including the  
18 renting and leasing of tangible personal property, purchased directly on  
19 behalf of a community-based facility for people with intellectual disability  
20 or mental health center organized pursuant to K.S.A. 19-4001 et seq., and  
21 amendments thereto, and licensed in accordance with the provisions of  
22 K.S.A. 75-3307b, and amendments thereto, and all sales of tangible  
23 personal property or services purchased by contractors during the time  
24 period from July, 2003, through June, 2006, for the purpose of  
25 constructing, equipping, maintaining or furnishing a new facility for a  
26 community-based facility for people with intellectual disability or mental  
27 health center located in Riverton, Cherokee County, Kansas, which would  
28 have been eligible for sales tax exemption pursuant to this subsection if  
29 purchased directly by such facility or center. This exemption shall not  
30 apply to tangible personal property customarily used for human habitation  
31 purposes;

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

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

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

39 (2) For purposes of this subsection:

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

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

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

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

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

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

11 (E) "repair and replacement parts and accessories" means all parts  
12 and accessories for exempt machinery and equipment, including, but not  
13 limited to, dies, jigs, molds, patterns and safety devices that are attached to  
14 exempt machinery or that are otherwise used in production, and parts and  
15 accessories that require periodic replacement such as belts, drill bits,  
16 grinding wheels, grinding balls, cutting bars, saws, refractory brick and  
17 other refractory items for exempt kiln equipment used in production  
18 operations;

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

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

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

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

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

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

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

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

40 (G) to produce energy for, lubricate, control the operating of or  
41 otherwise enable the functioning of other production machinery and  
42 equipment and the continuation of production operations;

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

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

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

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

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

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

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

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

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

42 (A) Machinery and equipment used for nonproduction purposes,  
43 including, but not limited to, machinery and equipment used for plant

1 security, fire prevention, first aid, accounting, administration, record  
2 keeping, advertising, marketing, sales or other related activities, plant  
3 cleaning, plant communications, and employee work scheduling;

4 (B) machinery, equipment and tools used primarily in maintaining  
5 and repairing any type of machinery and equipment or the building and  
6 plant;

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

12 (D) office machines and equipment including computers and related  
13 peripheral equipment not used directly and primarily to control or measure  
14 the manufacturing process;

15 (E) furniture and other furnishings;

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

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

22 (H) machinery and equipment used for general plant heating, cooling  
23 and lighting;

24 (I) motor vehicles that are registered for operation on public  
25 highways; or

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

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

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

39 (II) all sales of educational materials purchased for distribution to the  
40 public at no charge by a nonprofit corporation organized for the purpose of  
41 encouraging, fostering and conducting programs for the improvement of  
42 public health;

43 (mm) all sales of seeds and tree seedlings; fertilizers, insecticides,

1 herbicides, germicides, pesticides and fungicides; and services, purchased  
2 and used for the purpose of producing plants in order to prevent soil  
3 erosion on land devoted to agricultural use;

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

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

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

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

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

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

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

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

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

39 (1) The American Heart Association, Kansas Affiliate, Inc. for the  
40 purposes of providing education, training, certification in emergency  
41 cardiac care, research and other related services to reduce disability and  
42 death from cardiovascular diseases and stroke;

43 (2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of

1 advocacy for persons with mental illness and to education, research and  
2 support for their families;

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

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

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

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

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

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

26 (9) the heartstrings community foundation for the purpose of  
27 providing training, employment and activities for adults with  
28 developmental disabilities;

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

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

37 (12) the CHWC, Inc., for the purpose of rebuilding urban core  
38 neighborhoods through the construction of new homes, acquiring and  
39 renovating existing homes and other related activities, and promoting  
40 economic development in such neighborhoods;

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

43 (14) the Dreams Work, Inc., for the purpose of providing young adult



1 day services to individuals with developmental disabilities and assisting  
2 families in avoiding institutional or nursing home care for a  
3 developmentally disabled member of their family;

4 (15) the KSDS, Inc., for the purpose of promoting the independence  
5 and inclusion of people with disabilities as fully participating and  
6 contributing members of their communities and society through the  
7 training and providing of guide and service dogs to people with  
8 disabilities, and providing disability education and awareness to the  
9 general public;

10 (16) the lyme association of greater Kansas City, Inc., for the purpose  
11 of providing support to persons with lyme disease and public education  
12 relating to the prevention, treatment and cure of lyme disease;

13 (17) the Dream Factory, Inc., for the purpose of granting the dreams  
14 of children with critical and chronic illnesses;

15 (18) the Ottawa Suzuki Strings, Inc., for the purpose of providing  
16 students and families with education and resources necessary to enable  
17 each child to develop fine character and musical ability to the fullest  
18 potential;

19 (19) the International Association of Lions Clubs for the purpose of  
20 creating and fostering a spirit of understanding among all people for  
21 humanitarian needs by providing voluntary services through community  
22 involvement and international cooperation;

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

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

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

33 (23) the angel babies association, for the purpose of providing  
34 assistance, support and items of necessity to teenage mothers and their  
35 babies; and

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

38 (ww) all sales of tangible personal property purchased by the Habitat  
39 for Humanity for the exclusive use of being incorporated within a housing  
40 project constructed by such organization;

41 (xx) all sales of tangible personal property and services purchased by  
42 a nonprofit zoo which is exempt from federal income taxation pursuant to  
43 section 501(c)(3) of the federal internal revenue code of 1986, or on behalf

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

43 (yy) all sales of tangible personal property and services purchased by

1 a parent-teacher association or organization, and all sales of tangible  
2 personal property by or on behalf of such association or organization;

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

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

1 which such certificate was issued, such organization concerned shall be  
2 liable for tax on all materials purchased for the project, and upon payment  
3 thereof it may recover the same from the contractor together with  
4 reasonable attorney fees. Any contractor or any agent, employee or  
5 subcontractor thereof, who shall use or otherwise dispose of any materials  
6 purchased under such a certificate for any purpose other than that for  
7 which such a certificate is issued without the payment of the sales or  
8 compensating tax otherwise imposed upon such materials, shall be guilty  
9 of a misdemeanor and, upon conviction therefor, shall be subject to the  
10 penalties provided for in subsection (g) of K.S.A. 79-3615, and  
11 amendments thereto. Sales tax paid on and after July 1, 1998, but prior to  
12 the effective date of this act upon the gross receipts received from any sale  
13 exempted by the amendatory provisions of this subsection shall be  
14 refunded. Each claim for a sales tax refund shall be verified and submitted  
15 to the director of taxation upon forms furnished by the director and shall  
16 be accompanied by any additional documentation required by the director.  
17 The director shall review each claim and shall refund that amount of sales  
18 tax paid as determined under the provisions of this subsection. All refunds  
19 shall be paid from the sales tax refund fund upon warrants of the director  
20 of accounts and reports pursuant to vouchers approved by the director or  
21 the director's designee;

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

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

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

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

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

1 railroad sidings providing access thereto;

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

30 (www) all sales of tangible personal property purchased by or on  
31 behalf of the Frontenac Education Foundation, which is exempt from  
32 federal income taxation pursuant to section 501(c)(3) of the federal  
33 internal revenue code, for the purpose of providing education support for  
34 students, and all sales of any such property by or on behalf of such  
35 organization for such purpose;

36 (xxx) all sales of personal property and services purchased by the  
37 booth theatre foundation, inc., an organization which is exempt from  
38 federal income taxation pursuant to section 501(c)(3) of the federal  
39 internal revenue code of 1986, and which such personal property and  
40 services are used by any such organization in the constructing, equipping,  
41 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling  
42 of the booth theatre, and all sales of tangible personal property or services  
43 purchased by a contractor for the purpose of constructing, equipping,

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

1 director. The director shall review each claim and shall refund that amount  
2 of sales tax paid as determined under the provisions of this subsection. All  
3 refunds shall be paid from the sales tax refund fund upon warrants of the  
4 director of accounts and reports pursuant to vouchers approved by the  
5 director or the director's designee;

6 (yyy) all sales of tangible personal property and services purchased  
7 by TLC charities foundation, inc., hereinafter referred to as TLC charities,  
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 encouraging private philanthropy  
11 to further the vision, values, and goals of TLC for children and families,  
12 inc.; and all sales of such property and services by or on behalf of TLC  
13 charities for any such purpose and all sales of tangible personal property or  
14 services purchased by a contractor for the purpose of constructing,  
15 maintaining, repairing, enlarging, furnishing or remodeling facilities for  
16 the operation of services for TLC charities for any such purpose which  
17 would be exempt from taxation under the provisions of this section if  
18 purchased directly by TLC charities. 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 charities. When TLC  
22 charities contracts for the purpose of constructing, maintaining, repairing,  
23 enlarging, furnishing or remodeling such facilities, it shall obtain from  
24 the state and furnish to the contractor an exemption certificate for the project  
25 involved, and the contractor may purchase materials for incorporation in  
26 such project. The contractor shall furnish the number of such certificate to  
27 all suppliers from whom such purchases are made, and such suppliers shall  
28 execute invoices covering the same bearing the number of such certificate.  
29 Upon completion of the project the contractor shall furnish to TLC  
30 charities a sworn statement, on a form to be provided by the director of  
31 taxation, that all purchases so made were entitled to exemption under this  
32 subsection. All invoices shall be held by the contractor for a period of five  
33 years and shall be subject to audit by the director of taxation. If any  
34 materials purchased under such a certificate are found not to have been  
35 incorporated in the building or other project or not to have been returned  
36 for credit or the sales or compensating tax otherwise imposed upon such  
37 materials which will not be incorporated into the building or other project  
38 reported and paid by such contractor to the director of taxation not later  
39 than the 20<sup>th</sup> day of the month following the close of the month in which it  
40 shall be determined that such materials will not be used for the purpose for  
41 which such certificate was issued, TLC charities shall be liable for tax on  
42 all materials purchased for the project, and upon payment thereof it may  
43 recover the same from the contractor together with reasonable attorney

1 fees. Any contractor or any agent, employee or subcontractor thereof, who  
2 shall use or otherwise dispose of any materials purchased under such a  
3 certificate for any purpose other than that for which such a certificate is  
4 issued without the payment of the sales or compensating tax otherwise  
5 imposed 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 (zzz) all sales of tangible personal property purchased by the rotary  
9 club of shawnee foundation which is exempt from federal income taxation  
10 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,  
11 as amended, used for the purpose of providing contributions to community  
12 service organizations and scholarships;

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

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

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

33 (dddd) all sales of tangible personal property or services purchased  
34 by or on behalf of Goodwill Industries or Easter Seals of Kansas, Inc.,  
35 both of which are exempt from federal income taxation pursuant to section  
36 501(c)(3) of the federal internal revenue code, for the purpose of providing  
37 education, training and employment opportunities for people with  
38 disabilities and other barriers to employment;

39 (eeee) all sales of tangible personal property or services purchased by  
40 or on behalf of All American Beef Battalion, Inc., which is exempt from  
41 federal income taxation pursuant to section 501(c)(3) of the federal  
42 internal revenue code, for the purpose of educating, promoting and  
43 participating as a contact group through the beef cattle industry in order to



1 carry out such projects that provide support and morale to members of the  
2 United States armed forces and military services;

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

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

6 (gggg) all sales of game birds for which the primary purpose is use in  
7 hunting; and

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

15 (1) *"Food and food ingredients" means substances, whether in liquid,*  
16 *concentrated, solid, frozen, dried or dehydrated form that are sold for*  
17 *ingestion or chewing by humans and are consumed for their taste or*  
18 *nutritional value;*

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

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

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

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

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

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

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

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

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

38 (iv) *food sold by a seller whose primary North American industry*  
39 *classification system, United States, 2002 edition, classification is*  
40 *manufacturing in sector 311, except subsection 3118.*

41 Sec. 2. K.S.A. 2012 Supp. 79-3606 is hereby repealed.

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