

HOUSE BILL No. 2338

By Committee on Taxation

2-15

1 AN ACT concerning taxation; providing a sales tax exemption for certain
2 commercial data centers; amending K.S.A. 2010 Supp. 79-3606 and
3 repealing the existing section.
4

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

6 Section 1. K.S.A. 2010 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
10 sales or excise tax has been paid, not subject to refund, under the laws of
11 this state except cigarettes as defined by K.S.A. 79-3301, and
12 amendments thereto, cereal malt beverages and malt products as defined
13 by K.S.A. 79-3817, and amendments thereto, including wort, liquid malt,
14 malt syrup and malt extract, which is not subject to taxation under the
15 provisions of K.S.A. 79-41a02, and amendments thereto, motor vehicles
16 taxed pursuant to K.S.A. 79-5117, and amendments thereto, tires taxed
17 pursuant to K.S.A. 65-3424d, and amendments thereto, drycleaning and
18 laundry services taxed pursuant to K.S.A. 65-34,150, and amendments
19 thereto, and gross receipts from regulated sports contests taxed pursuant
20 to the Kansas 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
23 the 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
28 purposes, except when: (1) Such state, hospital or public hospital
29 authority is engaged or proposes to engage in any business specifically
30 taxable under the provisions of this act and such items of tangible
31 personal property or service are used or proposed to be used in such
32 business; or (2) such political subdivision is engaged or proposes to
33 engage in the business of furnishing gas, electricity or heat to others and
34 such items of personal property or service are used or proposed to be used
35 in such business;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (p) all sales of drugs dispensed pursuant to a prescription order by a
41 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-
42 1626, and amendments thereto. As used in this subsection, "drug" means
43 a compound, substance or preparation and any component of a

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

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

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

32 (s) except as provided in K.S.A. 2010 Supp. 82a-2101, and
33 amendments thereto, all sales of tangible personal property or services
34 purchased directly or indirectly by a groundwater management district
35 organized or operating under the authority of K.S.A. 82a-1020 et seq.,
36 and amendments thereto, by a rural water district organized or operating
37 under the authority of K.S.A. 82a-612, and amendments thereto, or by a
38 water supply district organized or operating under the authority of K.S.A.
39 19-3501 et seq., 19-3522 et seq. or 19-3545, and amendments thereto,
40 which property or services are used in the construction activities,
41 operation or maintenance of the district;

42 (t) all sales of farm machinery and equipment or aquaculture
43 machinery and equipment, repair and replacement parts therefor and

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

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

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

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

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

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

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

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

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

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

31 (cc) all sales of tangible personal property or services purchased for
32 the purpose of and in conjunction with constructing, reconstructing,
33 enlarging or remodeling a business or retail business which meets the
34 requirements established in K.S.A. 74-50,115, and amendments thereto,
35 and the sale and installation of machinery and equipment purchased for
36 installation at any such business or retail business. When a person shall
37 contract for the construction, reconstruction, enlargement or remodeling
38 of any such business or retail business, such person shall obtain from the
39 state and furnish to the contractor an exemption certificate for the project
40 involved, and the contractor may purchase materials, machinery and
41 equipment for incorporation in such project. The contractor shall furnish
42 the number of such certificates to all suppliers from whom such
43 purchases are made, and such suppliers shall execute invoices covering

1 the same bearing the number of such certificate. Upon completion of the
2 project the contractor shall furnish to the owner of the business or retail
3 business a sworn statement, on a form to be provided by the director of
4 taxation, that all purchases so made were entitled to exemption under this
5 subsection. All invoices shall be held by the contractor for a period of
6 five years and shall be subject to audit by the director of taxation. Any
7 contractor or any agent, employee or subcontractor thereof, who shall use
8 or otherwise dispose of any materials, machinery or equipment purchased
9 under such a certificate for any purpose other than that for which such a
10 certificate is issued without the payment of the sales or compensating tax
11 otherwise imposed thereon, shall be guilty of a misdemeanor and, upon
12 conviction therefor, shall be subject to the penalties provided for in
13 subsection (g) of K.S.A. 79-3615, and amendments thereto. As used in
14 this subsection, "business" and "retail business" have the meanings
15 respectively ascribed thereto by K.S.A. 74-50,114, and amendments
16 thereto;

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

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

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

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

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

1 (ii) all sales of tangible personal property purchased directly by a
2 nonprofit organization for nonsectarian comprehensive multidiscipline
3 youth development programs and activities provided or sponsored by
4 such organization, and all sales of tangible personal property by or on
5 behalf of any such organization. This exemption shall not apply to
6 tangible personal property customarily used for human habitation
7 purposes;

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

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

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

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

29 (2) For purposes of this subsection:

30 (A) "Integrated production operation" means an integrated series of
31 operations engaged in at a manufacturing or processing plant or facility to
32 process, transform or convert tangible personal property by physical,
33 chemical or other means into a different form, composition or character
34 from that in which it originally existed. Integrated production operations
35 shall include: (i) Production line operations, including packaging
36 operations; (ii) preproduction operations to handle, store and treat raw
37 materials; (iii) post production handling, storage, warehousing and
38 distribution operations; and (iv) waste, pollution and environmental
39 control operations, if any;

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

43 (C) "manufacturing or processing plant or facility" means a single,

1 fixed location owned or controlled by a manufacturing or processing
2 business that consists of one or more structures or buildings in a
3 contiguous area where integrated production operations are conducted to
4 manufacture or process tangible personal property to be ultimately sold at
5 retail. Such term shall not include any facility primarily operated for the
6 purpose of conveying or assisting in the conveyance of natural gas,
7 electricity, oil or water. A business may operate one or more
8 manufacturing or processing plants or facilities at different locations to
9 manufacture or process a single product of tangible personal property to
10 be ultimately sold at retail;

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

1 refurbish and repair tangible personal property for its owner;

2 (E) "repair and replacement parts and accessories" means all parts
3 and accessories for exempt machinery and equipment, including, but not
4 limited to, dies, jigs, molds, patterns and safety devices that are attached
5 to exempt machinery or that are otherwise used in production, and parts
6 and accessories that require periodic replacement such as belts, drill bits,
7 grinding wheels, grinding balls, cutting bars, saws, refractory brick and
8 other refractory items for exempt kiln equipment used in production
9 operations;

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

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

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

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

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

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

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

27 (F) to plan, manage, control or record the receipt and flow of
28 inventories of raw materials, consumables and component parts, the flow
29 of the property undergoing manufacturing or processing and the
30 management of inventories of the finished product;

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

34 (H) to package the property being manufactured or processed in a
35 container or wrapping in which such property is normally sold or
36 transported;

37 (I) to transmit or transport electricity, coke, gas, water, steam or
38 similar substances used in production operations from the point of
39 generation, if produced by the manufacturer or processor at the plant site,
40 to that manufacturer's production operation; or, if purchased or delivered
41 from offsite, from the point where the substance enters the site of the
42 plant or facility to that manufacturer's production operations;

43 (J) to cool, heat, filter, refine or otherwise treat water, steam, acid,

1 oil, solvents or other substances that are used in production operations;

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

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

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

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

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

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

39 (B) machinery, equipment and tools used primarily in maintaining
40 and repairing any type of machinery and equipment or the building and
41 plant;

42 (C) transportation, transmission and distribution equipment not
43 primarily used in a production, warehousing or material handling

1 operation at the plant or facility, including the means of conveyance of
2 natural gas, electricity, oil or water, and equipment related thereto,
3 located outside the plant or facility;

4 (D) office machines and equipment including computers and related
5 peripheral equipment not used directly and primarily to control or
6 measure the manufacturing process;

7 (E) furniture and other furnishings;

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

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

14 (H) machinery and equipment used for general plant heating,
15 cooling and lighting;

16 (I) motor vehicles that are registered for operation on public
17 highways; or

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

21 (6) Subsections (3) and (5) shall not be construed as exclusive
22 listings of the machinery and equipment that qualify or do not qualify as
23 an integral or essential part of an integrated production operation. When
24 machinery or equipment is used as an integral or essential part of
25 production operations part of the time and for nonproduction purpose at
26 other times, the primary use of the machinery or equipment shall
27 determine whether or not such machinery or equipment qualifies for
28 exemption.

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

31 (ll) all sales of educational materials purchased for distribution to the
32 public at no charge by a nonprofit corporation organized for the purpose
33 of encouraging, fostering and conducting programs for the improvement
34 of public health;

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

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

42 (oo) all sales of tangible personal property purchased by a
43 community action group or agency for the exclusive purpose of repairing

- 1 or weatherizing housing occupied by low income individuals;
- 2 (pp) all sales of drill bits and explosives actually utilized in the
3 exploration and production of oil or gas;
- 4 (qq) all sales of tangible personal property and services purchased
5 by a nonprofit museum or historical society or any combination thereof,
6 including a nonprofit organization which is organized for the purpose of
7 stimulating public interest in the exploration of space by providing
8 educational information, exhibits and experiences, which is exempt from
9 federal income taxation pursuant to section 501(c)(3) of the federal
10 internal revenue code of 1986;
- 11 (rr) all sales of tangible personal property which will admit the
12 purchaser thereof to any annual event sponsored by a nonprofit
13 organization which is exempt from federal income taxation pursuant to
14 section 501(c)(3) of the federal internal revenue code of 1986;
- 15 (ss) all sales of tangible personal property and services purchased by
16 a public broadcasting station licensed by the federal communications
17 commission as a noncommercial educational television or radio station;
- 18 (tt) all sales of tangible personal property and services purchased by
19 or on behalf of a not-for-profit corporation which is exempt from federal
20 income taxation pursuant to section 501(c)(3) of the federal internal
21 revenue code of 1986, for the sole purpose of constructing a Kansas
22 Korean War memorial;
- 23 (uu) all sales of tangible personal property and services purchased
24 by or on behalf of any rural volunteer fire-fighting organization for use
25 exclusively in the performance of its duties and functions;
- 26 (vv) all sales of tangible personal property purchased by any of the
27 following organizations which are exempt from federal income taxation
28 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
29 for the following purposes, and all sales of any such property by or on
30 behalf of any such organization for any such purpose:
- 31 (1) The American Heart Association, Kansas Affiliate, Inc., for the
32 purposes of providing education, training, certification in emergency
33 cardiac care, research and other related services to reduce disability and
34 death from cardiovascular diseases and stroke;
- 35 (2) the Kansas Alliance for the Mentally Ill, Inc., for the purpose of
36 advocacy for persons with mental illness and to education, research and
37 support for their families;
- 38 (3) the Kansas Mental Illness Awareness Council, for the purposes
39 of advocacy for persons who are mentally ill and to education, research
40 and support for them and their families;
- 41 (4) the American Diabetes Association Kansas Affiliate, Inc., for the
42 purpose of eliminating diabetes through medical research, public
43 education focusing on disease prevention and education, patient

1 education including information on coping with diabetes, and
2 professional education and training;

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

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

13 (7) the Kansas chapters of the Parkinson's disease association, for
14 the purpose of eliminating Parkinson's disease through medical research
15 and public and professional education related to such disease;

16 (8) the National Kidney Foundation of Kansas and Western
17 Missouri, for the purpose of eliminating kidney disease through medical
18 research and public and private education related to such disease;

19 (9) the heartstrings community foundation, for the purpose of
20 providing training, employment and activities for adults with
21 developmental disabilities;

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

26 (11) the spina bifida association of Kansas. for the purpose of
27 providing financial, educational and practical aid to families and
28 individuals with spina bifida. Such aid includes, but is not limited to,
29 funding for medical devices, counseling and medical educational
30 opportunities;

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

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

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

41 (15) the KSDS, Inc., for the purpose of promoting the independence
42 and inclusion of people with disabilities as fully participating and
43 contributing members of their communities and society through the

1 training and providing of guide and service dogs to people with
2 disabilities, and providing disability education and awareness to the
3 general public;

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

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

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

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

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

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

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

27 (23) the angel babies association, for the purpose of providing
28 assistance, support and items of necessity to teenage mothers and their
29 babies; and

30 (24) the Kansas fairgrounds foundation for the purpose of the
31 preservation, renovation and beautification of the Kansas state
32 fairgrounds;

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

36 (xx) all sales of tangible personal property and services purchased
37 by a nonprofit zoo which is exempt from federal income taxation
38 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
39 or on behalf of such zoo by an entity itself exempt from federal income
40 taxation pursuant to section 501(c)(3) of the federal internal revenue code
41 of 1986 contracted with to operate such zoo and all sales of tangible
42 personal property or services purchased by a contractor for the purpose of
43 constructing, equipping, reconstructing, maintaining, repairing, enlarging,

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

39 (yy) all sales of tangible personal property and services purchased
40 by a parent-teacher association or organization, and all sales of tangible
41 personal property by or on behalf of such association or organization;

42 (zz) all sales of machinery and equipment purchased by over-the-air,
43 free access radio or television station which is used directly and primarily

1 for the purpose of producing a broadcast signal or is such that the failure
2 of the machinery or equipment to operate would cause broadcasting to
3 cease. For purposes of this subsection, machinery and equipment shall
4 include, but not be limited to, that required by rules and regulations of the
5 federal communications commission, and all sales of electricity which are
6 essential or necessary for the purpose of producing a broadcast signal or
7 is such that the failure of the electricity would cause broadcasting to
8 cease;

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

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

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

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

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

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

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

43 (fff) all sales of material handling equipment, racking systems and

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

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

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

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

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

41 (jjj) all sales of dietary supplements dispensed pursuant to a
42 prescription order by a licensed practitioner or a mid-level practitioner as
43 defined by K.S.A. 65-1626, and amendments thereto. As used in this

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

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

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

29 (nnn) all sales of tangible personal property and services purchased
30 by the West Sedgwick County-Sunrise Rotary Club and Sunrise
31 Charitable Fund for the purpose of constructing a boundless playground
32 which is an integrated, barrier free and developmentally advantageous
33 play 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
40 income taxation pursuant to section 501(c)(3) of the federal income tax
41 code of 1986, and used by any such homeless shelter to provide
42 emergency and transitional housing for individuals and families
43 experiencing homelessness, and all sales of any such property by or on

1 behalf of any 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
14 this section if purchased directly by TLC. Nothing in this subsection shall
15 be deemed to exempt the purchase of any construction machinery,
16 equipment or tools used in the constructing, maintaining, repairing,
17 enlarging, furnishing or remodeling such facilities for TLC. When TLC
18 contracts for the purpose of constructing, maintaining, repairing,
19 enlarging, furnishing or remodeling such facilities, it shall obtain from the
20 state and furnish to the contractor an exemption certificate for the project
21 involved, and the contractor may purchase materials for incorporation in
22 such project. The contractor shall furnish the number of such certificate to
23 all suppliers from whom such purchases are made, and such suppliers
24 shall execute invoices covering the same bearing the number of such
25 certificate. Upon completion of the project the contractor shall furnish to
26 TLC a sworn statement, on a form to be provided by the director of
27 taxation, that all purchases so made were entitled to exemption under this
28 subsection. All invoices shall be held by the contractor for a period of
29 five years and shall be subject to audit by the director of taxation. If any
30 materials purchased under such a certificate are found not to have been
31 incorporated in the building or other project or not to have been returned
32 for credit or the sales or compensating tax otherwise imposed upon such
33 materials which will not be so incorporated in the building or other
34 project reported and paid by such contractor to the director of taxation not
35 later than the 20th day of the month following the close of the month in
36 which it shall be determined that such materials will not be used for the
37 purpose for which such certificate was issued, TLC shall be liable for tax
38 on all materials purchased for the project, and upon payment thereof it
39 may recover the same from the contractor together with reasonable
40 attorney fees. Any contractor or any agent, employee or subcontractor
41 thereof, who shall use or otherwise dispose of any materials purchased
42 under such a certificate for any purpose other than that for which such a
43 certificate is issued without the payment of the sales or compensating tax

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 *(gggg) (1) (A) all sales or rental of computers and equipment that*
12 *are necessary for the maintenance and operation of a data center*
13 *business and property, whether directly or indirectly connected to the*
14 *computers, including but not limited to cooling systems, cooling towers,*
15 *and other temperature control infrastructure; power infrastructure for*
16 *transformation, distribution, or management of electricity used for the*
17 *maintenance and operation of the data center business, including but not*
18 *limited to, exterior dedicated business-owned substations, backup power*
19 *generation systems, battery systems, and related infrastructure; and*
20 *racking systems, cabling, and trays, which are necessary for the*
21 *maintenance and operation of the data center business;*

22 *(B) the sales of backup power generation fuel that is purchased by*
23 *a data center business for use in the items listed in paragraph (1); and*

24 *(C) the sales of electricity purchased for use by a data center*
25 *business.*

26 *(2) For the purposes of this subsection:*

27 *(A) "Data center" means a building rehabilitated or constructed to*
28 *house a group of networked server computers in one physical location in*
29 *order to centralize the storage, management, and dissemination of data*
30 *and information pertaining to any particular redundant or backup power*
31 *supplies, redundant data communications connections, environmental*
32 *controls and fire suppression systems. A data center business' facility also*
33 *includes a restricted access area employing advanced physical security*
34 *measures such as video surveillance systems and card-based security or*
35 *biometric security access systems; and*

36 *(B) "data center business" means an entity whose business, among*
37 *other businesses, is to operate a data center.*

38 *(3) For the purpose of claiming this exemption, all of the following*
39 *requirements shall be met:*

40 *(A) The purchaser or renter shall be a data center business;*

41 *(B) the data center business shall have a physical location in the*
42 *state of Kansas consisting of, in the aggregate, at least 5,000 square feet*
43 *in size that is used for the operations and maintenance of the data center*

1 *business; and*

2 *(C) the data center business shall make a minimum investment in a*
3 *physical location in the state of Kansas of \$25,000,000 within the first six*
4 *years of operation in Kansas, beginning with the date the data center*
5 *business initiates site preparation activities. The minimum investment*
6 *shall include the initial investment, including land and subsequent*
7 *acquisition of additional adjacent land and subsequent investment at the*
8 *Kansas location.*

9 *(4) This exemption shall apply from the date of the initial investment*
10 *in or the initiation of site preparation activities for the data center*
11 *business facility as described in paragraph (3).*

12 *(5) Failure to meet 80% of the minimum investment amount*
13 *requirement specified in paragraph (3) within the first six years of*
14 *operation from the date the data center business initiates site preparation*
15 *activities will result in the data center business losing the right to claim*
16 *this data center business exemption and the data center business shall*
17 *pay all sales or use tax that would have been due on the purchase or*
18 *rental or use of the items listed in this exemption, plus any applicable*
19 *penalty and interest imposed by law.*

20 *Sec. 2. K.S.A. 2010 Supp. 79-3606 is hereby repealed.*

21 *Sec. 3. This act shall take effect and be in force from and after its*
22 *publication in the statute book.*

23