

SENATE BILL No. 617

By Committee on Commerce

2-15

AN ACT concerning tax incentives for Kansas businesses; amending K.S.A. 2001 Supp. 79-3606 and repealing the existing section.

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

New Section 1. The purpose of this act is to create a simple, flexible and progressive system of tax incentives to equitably promote the development of Kansas businesses.

New Sec. 2. In order to be eligible to receive tax credits pursuant to this act, a taxpayer shall meet the following conditions:

(a) The taxpayer shall be a Kansas basic enterprise as defined in K.S.A. 74-50,103, and amendments thereto.

(b) The taxpayer shall pay average wages in excess of 90% of the average private sector wages for the county in which the taxpayer's facility is located.

(c) (1) The taxpayer shall have received written approval for and participate in the Kansas industrial training, Kansas industrial retraining or state of Kansas investments in lifelong learning program, subject to appropriation of funds and program criteria; or (2) invest an amount equal to or greater than 2% of the firm's total payroll costs in job training.

(d) If the taxpayer is not a Kansas basic enterprise, the taxpayer's facility must be located in an unincorporated area of a county with a population of less than 25,000 or a city with a population of less than 3,000 according to the 2000 decennial federal census.

New Sec. 3. A taxpayer that has satisfied the requirements of section 2, and amendments thereto, shall be eligible for business incentives as follow:

(a) For taxable years commencing after December 31, 2001, any taxpayer who shall invest in a qualified business facility, as defined in section 4 and amendments thereto, shall be allowed a credit for such investment, in an amount determined by the secretary of commerce and housing against the tax imposed by the Kansas income tax, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or as measured by the net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, for the taxable year during which commencement of commercial

1 operations, as defined in section 4 and amendments thereto, occurs at
2 such qualified business facility.

3 (1) The credit allowed by this subsection for any taxpayer who invests
4 in a qualified business facility shall be a portion of the income tax imposed
5 by the Kansas income tax act on the taxpayer's Kansas taxable income,
6 the premium tax or privilege fees imposed pursuant to K.S.A. 40-252,
7 and amendments thereto, or the privilege tax as measured by the net
8 income of financial institutions imposed pursuant to article 11 of chapter
9 79 of the Kansas Statutes Annotated, for the taxable year for which such
10 credit is allowed, but in the case where the qualified business facility
11 investment was made prior to January 1, 1996, not in excess of 50% of
12 such tax. The secretary of commerce and housing shall develop rules and
13 regulations establishing a matrix of criteria which shall then be calculated
14 to determine the precise amount of such credit. The matrix of criteria
15 established by the secretary shall provide for varying amounts of credit
16 so that the greater the average wage, the greater the credit provided. The
17 criteria developed by the secretary may include, but not be limited to:

18 (A) The rate of wages paid by the taxpayer relative to the average
19 private sector wages for the county in which the taxpayer's facility is
20 located;

21 (B) the total qualified project investment made by the taxpayer;

22 (C) the total number of project related jobs created;

23 (D) whether the project is in a metropolitan or non-metropolitan
24 county;

25 (E) whether the basic industry of the taxpayer's business is an indus-
26 try targeted by the Kansas department of commerce and housing. After
27 making such calculation, the secretary shall certify to both the tax payer
28 and the secretary of revenue the amount of such credit subject to the
29 limitations of this act.

30 (3) Where an employee performs services for the taxpayer outside
31 the qualified business facility, the employee shall be considered engaged
32 or maintained in employment at the qualified business facility if (1) the
33 employee's service performed outside the qualified business facility is
34 incidental to the employee's service inside the qualified business facility,
35 or (2) the base of operations or, the place from which the service is di-
36 rected or controlled, is at the qualified business facility.

37 (b) The exemption from sales tax provided in subsection (cc) of K.S.A.
38 79-3606.

39 New Sec. 4. As used in this act:

40 (a) "Commencement of commercial operations" shall be deemed to
41 occur during the first taxable year for which the qualified business facility
42 is first available for use by the taxpayer, or first capable of being used by
43 the taxpayer, in the revenue producing enterprise in which the taxpayer

1 intends to use the qualified business facility.

2 (b) "Facility" means any factory, mill, plant, refinery, warehouse,
3 feedlot, building, complex of buildings, or structure located within the
4 state, including the land on which such facility is located and all machin-
5 ery, equipment and other real and tangible personal property located at
6 or within such facility used in connection with the operation of such
7 facility.

8 (c) "Qualified business facility" means a facility which satisfies the
9 requirements of paragraphs (1) and (2) of this subsection.

10 (1) Such facility shall not be considered a qualified business facility
11 in the hands of the taxpayer if the taxpayer's only activity with respect to
12 such facility is to lease it to another person or persons. If the taxpayer
13 employs only a portion of such facility in the operation of a revenue
14 producing enterprise, and leases another portion of such facility to an-
15 other person or persons or does not otherwise use such other portions in
16 the operation of a revenue producing enterprise, the portion employed
17 by the taxpayer in the operation of a revenue producing enterprise shall
18 be considered a qualified business facility, if the requirements of para-
19 graph (2) of this subsection are satisfied.

20 (2) If such facility was acquired by the taxpayer from another person
21 or persons, such facility was not employed, immediately prior to the trans-
22 fer of title to such facility to the taxpayer, or to the commencement of
23 the term of the lease of such facility to the taxpayer, by any other person
24 or persons in the operation of the same or substantially identical
25 enterprise.

26 (3) Qualified business facility shall not include a swine production
27 facility as defined in K.S.A. 17-5903, and amendments thereto, or a public
28 utility, as defined in K.S.A. 66-104, and amendments thereto.

29 (d) "Vested tax credit" means a credit against the tax imposed pur-
30 suant to the Kansas income tax act, the premium tax imposed on insur-
31 ance companies pursuant to K.S.A. 40-252, and amendments thereto,
32 sales and compensating use tax pursuant to K.S.A. 79-3601 *et seq.*, and
33 amendments thereto, and the privilege tax as measured by net income of
34 financial institutions imposed pursuant to article 11 of chapter 79 of the
35 Kansas Statutes Annotated. Such a credit may be applied against any of
36 these taxes or sold or otherwise transferred to a third party. Such third
37 party may apply, subject to the provisions of this paragraph, the credit to
38 any tax liability incurred in the same manner as the taxpayer that originally
39 earned the credit. The value of any such credit which is transferred may
40 be redeemed at only 50% of the original value of the credit. Any amount
41 paid in excess of the value of the credit shall be taxable income of the
42 transferor. Any amount paid which is less than the value of the credit
43 shall be taxable income of the transferee.

1 Sec. 5. K.S.A. 2001 Supp. 79-3606 is hereby amended to read as
2 follows: 79-3606. The following shall be exempt from the tax imposed by
3 this act:

4 (a) All sales of motor-vehicle fuel or other articles upon which a sales
5 or excise tax has been paid, not subject to refund, under the laws of this
6 state except cigarettes as defined by K.S.A. 79-3301 and amendments
7 thereto, cereal malt beverages and malt products as defined by K.S.A. 79-
8 3817 and amendments thereto, including wort, liquid malt, malt syrup
9 and malt extract, which is not subject to taxation under the provisions of
10 K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant
11 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to
12 K.S.A. 65-3424d, and amendments thereto, and drycleaning and laundry
13 services taxed pursuant to K.S.A. 2001 Supp. 65-34,150, and amendments
14 thereto;

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

29 (c) all sales of tangible personal property or services, including the
30 renting and leasing of tangible personal property, purchased directly by
31 a public or private elementary or secondary school or public or private
32 nonprofit educational institution and used primarily by such school or
33 institution for nonsectarian programs and activities provided or sponsored
34 by such school or institution or in the erection, repair or enlargement of
35 buildings to be used for such purposes. The exemption herein provided
36 shall not apply to erection, construction, repair, enlargement or equip-
37 ment of buildings used primarily for human habitation;

38 (d) all sales of tangible personal property or services purchased by a
39 contractor for the purpose of constructing, equipping, reconstructing,
40 maintaining, repairing, enlarging, furnishing or remodeling facilities for
41 any public or private nonprofit hospital or public hospital authority, public
42 or private elementary or secondary school or a public or private nonprofit
43 educational institution, which would be exempt from taxation under the

1 provisions of this act if purchased directly by such hospital or public hos-
2 pital authority, school or educational institution; and all sales of tangible
3 personal property or services purchased by a contractor for the purpose
4 of constructing, equipping, reconstructing, maintaining, repairing, en-
5 larging, furnishing or remodeling facilities for any political subdivision of
6 the state or district described in subsection (s), the total cost of which is
7 paid from funds of such political subdivision or district and which would
8 be exempt from taxation under the provisions of this act if purchased
9 directly by such political subdivision or district. Nothing in this subsection
10 or in the provisions of K.S.A. 12-3418 and amendments thereto, shall be
11 deemed to exempt the purchase of any construction machinery, equip-
12 ment or tools used in the constructing, equipping, reconstructing, main-
13 taining, repairing, enlarging, furnishing or remodeling facilities for any
14 political subdivision of the state or any such district. As used in this sub-
15 section, K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds
16 of a political subdivision" shall mean general tax revenues, the proceeds
17 of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used
18 for the purpose of constructing, equipping, reconstructing, repairing, en-
19 larging, furnishing or remodeling facilities which are to be leased to the
20 donor. When any political subdivision of the state, district described in
21 subsection (s), public or private nonprofit hospital or public hospital au-
22 thority, public or private elementary or secondary school or public or
23 private nonprofit educational institution shall contract for the purpose of
24 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
25 ing, furnishing or remodeling facilities, it shall obtain from the state and
26 furnish to the contractor an exemption certificate for the project involved,
27 and the contractor may purchase materials for incorporation in such pro-
28 ject. The contractor shall furnish the number of such certificate to all
29 suppliers from whom such purchases are made, and such suppliers shall
30 execute invoices covering the same bearing the number of such certifi-
31 cate. Upon completion of the project the contractor shall furnish to the
32 political subdivision, district described in subsection (s), hospital or public
33 hospital authority, school or educational institution concerned a sworn
34 statement, on a form to be provided by the director of taxation, that all
35 purchases so made were entitled to exemption under this subsection. As
36 an alternative to the foregoing procedure, any such contracting entity may
37 apply to the secretary of revenue for agent status for the sole purpose of
38 issuing and furnishing project exemption certificates to contractors pur-
39 suant to rules and regulations adopted by the secretary establishing con-
40 ditions and standards for the granting and maintaining of such status. All
41 invoices shall be held by the contractor for a period of five years and shall
42 be subject to audit by the director of taxation. If any materials purchased
43 under such a certificate are found not to have been incorporated in the

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

19 (e) all sales of tangible personal property or services purchased by a
20 contractor for the erection, repair or enlargement of buildings or other
21 projects for the government of the United States, its agencies or instru-
22 mentalities, which would be exempt from taxation if purchased directly
23 by the government of the United States, its agencies or instrumentalities.
24 When the government of the United States, its agencies or instrumen-
25 talities shall contract for the erection, repair, or enlargement of any build-
26 ing or other project, it shall obtain from the state and furnish to the
27 contractor an exemption certificate for the project involved, and the con-
28 tractor may purchase materials for incorporation in such project. The
29 contractor shall furnish the number of such certificates to all suppliers
30 from whom such purchases are made, and such suppliers shall execute
31 invoices covering the same bearing the number of such certificate. Upon
32 completion of the project the contractor shall furnish to the government
33 of the United States, its agencies or instrumentalities concerned a sworn
34 statement, on a form to be provided by the director of taxation, that all
35 purchases so made were entitled to exemption under this subsection. As
36 an alternative to the foregoing procedure, any such contracting entity may
37 apply to the secretary of revenue for agent status for the sole purpose of
38 issuing and furnishing project exemption certificates to contractors pur-
39 suant to rules and regulations adopted by the secretary establishing con-
40 ditions and standards for the granting and maintaining of such status. All
41 invoices shall be held by the contractor for a period of five years and shall
42 be subject to audit by the director of taxation. Any contractor or any agent,
43 employee or subcontractor thereof, who shall use or otherwise dispose of

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

7 (f) tangible personal property purchased by a railroad or public utility
8 for consumption or movement directly and immediately in interstate
9 commerce;

10 (g) sales of aircraft including remanufactured and modified aircraft,
11 sales of aircraft repair, modification and replacement parts and sales of
12 services employed in the remanufacture, modification and repair of air-
13 craft sold to persons using directly or through an authorized agent such
14 aircraft and aircraft repair, modification and replacement parts as certified
15 or licensed carriers of persons or property in interstate or foreign com-
16 merce under authority of the laws of the United States or any foreign
17 government or sold to any foreign government or agency or instrumen-
18 tality of such foreign government and all sales of aircraft, aircraft parts,
19 replacement parts and services employed in the remanufacture, modifi-
20 cation and repair of aircraft for use outside of the United States;

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

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

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

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

36 (l) all isolated or occasional sales of tangible personal property, serv-
37 ices, substances or things, except isolated or occasional sale of motor
38 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.
39 79-3603 and amendments thereto;

40 (m) all sales of tangible personal property which become an ingre-
41 dient or component part of tangible personal property or services pro-
42 duced, manufactured or compounded for ultimate sale at retail within or
43 without the state of Kansas; and any such producer, manufacturer or

1 compounder may obtain from the director of taxation and furnish to the
2 supplier an exemption certificate number for tangible personal property
3 for use as an ingredient or component part of the property or services
4 produced, manufactured or compounded;

5 (n) all sales of tangible personal property which is consumed in the
6 production, manufacture, processing, mining, drilling, refining or com-
7 pounding of tangible personal property, the treating of by-products or
8 wastes derived from any such production process, the providing of serv-
9 ices or the irrigation of crops for ultimate sale at retail within or without
10 the state of Kansas; and any purchaser of such property may obtain from
11 the director of taxation and furnish to the supplier an exemption certifi-
12 cate number for tangible personal property for consumption in such pro-
13 duction, manufacture, processing, mining, drilling, refining, compound-
14 ing, treating, irrigation and in providing such services;

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

21 (p) all sales of drugs, as defined by K.S.A. 65-1626 and amendments
22 thereto, dispensed pursuant to a prescription order, as defined by K.S.A.
23 65-1626 and amendments thereto, by a licensed practitioner or a mid-
24 level practitioner as defined by K.S.A. 65-1626, and amendments thereto;

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

28 (r) all sales of prosthetic and orthopedic appliances prescribed in
29 writing by a person licensed to practice the healing arts, dentistry or
30 optometry. For the purposes of this subsection, the term prosthetic and
31 orthopedic appliances means any apparatus, instrument, device, or equip-
32 ment used to replace or substitute for any missing part of the body; used
33 to alleviate the malfunction of any part of the body; or used to assist any
34 disabled person in leading a normal life by facilitating such person's mo-
35 bility; such term shall include accessories attached or to be attached to
36 motor vehicles, but such term shall not include motor vehicles or personal
37 property which when installed becomes a fixture to real property;

38 (s) except as provided in K.S.A. 2001 Supp. 82a-2101, and amend-
39 ments thereto, all sales of tangible personal property or services pur-
40 chased directly or indirectly by a groundwater management district or-
41 ganized or operating under the authority of K.S.A. 82a-1020 *et seq.* and
42 amendments thereto, by a rural water district organized or operating un-
43 der the authority of K.S.A. 82a-612, and amendments thereto, or by a

1 water supply district organized or operating under the authority of K.S.A.
2 19-3501 *et seq.*, 19-3522 *et seq.* or 19-3545, and amendments thereto,
3 which property or services are used in the construction activities, opera-
4 tion or maintenance of the district;

5 (t) all sales of farm machinery and equipment or aquaculture ma-
6 chinery and equipment, repair and replacement parts therefor and serv-
7 ices performed in the repair and maintenance of such machinery and
8 equipment. For the purposes of this subsection the term “farm machinery
9 and equipment or aquaculture machinery and equipment” shall include
10 machinery and equipment used in the operation of Christmas tree farm-
11 ing but shall not include any passenger vehicle, truck, truck tractor, trailer,
12 semitrailer or pole trailer, other than a farm trailer, as such terms are
13 defined by K.S.A. 8-126 and amendments thereto. Each purchaser of
14 farm machinery and equipment or aquaculture machinery and equipment
15 exempted herein must certify in writing on the copy of the invoice or
16 sales ticket to be retained by the seller that the farm machinery and
17 equipment or aquaculture machinery and equipment purchased will be
18 used only in farming, ranching or aquaculture production. Farming or
19 ranching shall include the operation of a feedlot and farm and ranch work
20 for hire and the operation of a nursery;

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

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

36 (w) all sales of natural gas, electricity, heat and water delivered
37 through mains, lines or pipes: (1) To residential premises for noncom-
38 mercial use by the occupant of such premises; (2) for agricultural use and
39 also, for such use, all sales of propane gas; (3) for use in the severing of
40 oil; and (4) to any property which is exempt from property taxation pur-
41 suant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph,
42 “severing” shall have the meaning ascribed thereto by subsection (k) of
43 K.S.A. 79-4216, and amendments thereto;

1 (x) all sales of propane gas, LP-gas, coal, wood and other fuel sources
2 for the production of heat or lighting for noncommercial use of an oc-
3 cupant of residential premises;

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

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

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

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

22 (cc) all sales of tangible personal property or services purchased for
23 the purpose of and in conjunction with constructing, reconstructing, en-
24 larging or remodeling a business or retail business which meets the
25 requirements established in ~~K.S.A. 74-50,115~~ *section 2* and amendments
26 thereto, and the sale and installation of machinery and equipment pur-
27 chased for installation at any such business or retail business. When a
28 person shall contract for the construction, reconstruction, enlargement
29 or remodeling of any such business or retail business, such person shall
30 obtain from the state and furnish to the contractor an exemption certifi-
31 cate for the project involved, and the contractor may purchase materials,
32 machinery and equipment for incorporation in such project. The con-
33 tractor shall furnish the number of such certificates to all suppliers from
34 whom such purchases are made, and such suppliers shall execute invoices
35 covering the same bearing the number of such certificate. Upon comple-
36 tion of the project the contractor shall furnish to the owner of the business
37 or retail business a sworn statement, on a form to be provided by the
38 director of taxation, that all purchases so made were entitled to exemption
39 under this subsection. All invoices shall be held by the contractor for a
40 period of five years and shall be subject to audit by the director of taxation.
41 Any contractor or any agent, employee or subcontractor thereof, who shall
42 use or otherwise dispose of any materials, machinery or equipment pur-
43 chased under such a certificate for any purpose other than that for which

1 such a certificate is issued without the payment of the sales or compen-
2 sating tax otherwise imposed thereon, shall be guilty of a misdemeanor
3 and, upon conviction therefor, shall be subject to the penalties provided
4 for in subsection (g) of K.S.A. 79-3615 and amendments thereto. As used
5 in this subsection, “business” and “retail business” have the meanings
6 respectively ascribed thereto by K.S.A. 74-50,114 and amendments
7 thereto;

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

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

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

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

21 (hh) all sales of medical supplies and equipment purchased directly
22 by a nonprofit skilled nursing home or nonprofit intermediate nursing
23 care home, as defined by K.S.A. 39-923, and amendments thereto, for
24 the purpose of providing medical services to residents thereof. This ex-
25 emption shall not apply to tangible personal property customarily used
26 for human habitation purposes;

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

33 (jj) all sales of tangible personal property or services, including the
34 renting and leasing of tangible personal property, purchased directly on
35 behalf of a community-based mental retardation facility or mental health
36 center organized pursuant to K.S.A. 19-4001 *et seq.*, and amendments
37 thereto, and licensed in accordance with the provisions of K.S.A. 75-
38 3307b and amendments thereto. This exemption shall not apply to tan-
39 gible personal property customarily used for human habitation purposes;

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

43 (B) all sales of installation, repair and maintenance services per-

1 formed on such machinery and equipment; and

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

4 (2) For purposes of this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (G) to produce energy for, lubricate, control the operating of or oth-
6 erwise enable the functioning of other production machinery and equip-
7 ment and the continuation of production operations;

8 (H) to package the property being manufactured or processed in a
9 container or wrapping in which such property is normally sold or
10 transported;

11 (I) to transmit or transport electricity, coke, gas, water, steam or sim-
12 ilar substances used in production operations from the point of genera-
13 tion, if produced by the manufacturer or processor at the plant site, to
14 that manufacturer's production operation; or, if purchased or delivered
15 from offsite, from the point where the substance enters the site of the
16 plant or facility to that manufacturer's production operations;

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

19 (K) to provide and control an environment required to maintain cer-
20 tain levels of air quality, humidity or temperature in special and limited
21 areas of the plant or facility, where such regulation of temperature or
22 humidity is part of and essential to the production process;

23 (L) to treat, transport or store waste or other byproducts of produc-
24 tion operations at the plant or facility; or

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

27 (4) The following machinery, equipment and materials shall be
28 deemed to be exempt even though it may not otherwise qualify as ma-
29 chinery and equipment used as an integral or essential part of an inte-
30 grated production operation: (A) Computers and related peripheral
31 equipment that are utilized by a manufacturing or processing business
32 for engineering of the finished product or for research and development
33 or product design; (B) machinery and equipment that is utilized by a
34 manufacturing or processing business to manufacture or rebuild tangible
35 personal property that is used in manufacturing or processing operations,
36 including tools, dies, molds, forms and other parts of qualifying machinery
37 and equipment; (C) portable plants for aggregate concrete, bulk cement
38 and asphalt including cement mixing drums to be attached to a motor
39 vehicle; (D) industrial fixtures, devices, support facilities and special foun-
40 dations necessary for manufacturing and production operations, and ma-
41 terials and other tangible personal property sold for the purpose of fab-
42 ricating such fixtures, devices, facilities and foundations. An exemption
43 certificate for such purchases shall be signed by the manufacturer or

1 processor. If the fabricator purchases such material, the fabricator shall
2 also sign the exemption certificate; and (E) a manufacturing or processing
3 business' laboratory equipment that is not located at the plant or facility,
4 but that would otherwise qualify for exemption under subsection (3)(E).

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

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

12 (B) machinery, equipment and tools used primarily in maintaining
13 and repairing any type of machinery and equipment or the building and
14 plant;

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

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

23 (E) furniture and other furnishings;

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

27 (G) building fixtures that are not integral to the manufacturing op-
28 eration, such as utility systems for heating, ventilation, air conditioning,
29 communications, plumbing or electrical;

30 (H) machinery and equipment used for general plant heating, cooling
31 and lighting;

32 (I) motor vehicles that are registered for operation on public high-
33 ways; or

34 (J) employee apparel, except safety and protective apparel that is pur-
35 chased by an employer and furnished gratuitously to employees who are
36 involved in production or research activities.

37 (6) Subsections (3) and (5) shall not be construed as exclusive listings
38 of the machinery and equipment that qualify or do not qualify as an
39 integral or essential part of an integrated production operation. When
40 machinery or equipment is used as an integral or essential part of pro-
41 duction operations part of the time and for nonproduction purpose at
42 other times, the primary use of the machinery or equipment shall deter-
43 mine whether or not such machinery or equipment qualifies for

1 exemption.

2 (7) The secretary of revenue shall adopt rules and regulations nec-
3 essary to administer the provisions of this subsection;

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

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

12 (nn) except as otherwise provided in this act, all sales of services ren-
13 dered by an advertising agency or licensed broadcast station or any mem-
14 ber, agent or employee thereof;

15 (oo) all sales of tangible personal property purchased by a community
16 action group or agency for the exclusive purpose of repairing or weath-
17 erizing housing occupied by low income individuals;

18 (pp) all sales of drill bits and explosives actually utilized in the explo-
19 ration and production of oil or gas;

20 (qq) all sales of tangible personal property and services purchased by
21 a nonprofit museum or historical society or any combination thereof, in-
22 cluding a nonprofit organization which is organized for the purpose of
23 stimulating public interest in the exploration of space by providing edu-
24 cational information, exhibits and experiences, which is exempt from fed-
25 eral income taxation pursuant to section 501(c)(3) of the federal internal
26 revenue code of 1986;

27 (rr) all sales of tangible personal property which will admit the pur-
28 chaser thereof to any annual event sponsored by a nonprofit organization
29 which is exempt from federal income taxation pursuant to section
30 501(c)(3) of the federal internal revenue code of 1986;

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

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

39 (uu) all sales of tangible personal property and services purchased by
40 or on behalf of any rural volunteer fire-fighting organization for use ex-
41 clusively in the performance of its duties and functions;

42 (vv) all sales of tangible personal property purchased by any of the
43 following organizations which are exempt from federal income taxation

1 pursuant to section 501 (c)(3) of the federal internal revenue code of
2 1986, for the following purposes, and all sales of any such property by or
3 on behalf of any such organization for any such purpose:

4 (1) The American Heart Association, Kansas Affiliate, Inc. for the
5 purposes of providing education, training, certification in emergency car-
6 diac care, research and other related services to reduce disability and
7 death from cardiovascular diseases and stroke;

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

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

14 (4) the American Diabetes Association Kansas Affiliate, Inc. for the
15 purpose of eliminating diabetes through medical research, public edu-
16 cation focusing on disease prevention and education, patient education
17 including information on coping with diabetes, and professional education
18 and training;

19 (5) the American Lung Association of Kansas, Inc. for the purpose of
20 eliminating all lung diseases through medical research, public education
21 including information on coping with lung diseases, professional educa-
22 tion and training related to lung disease and other related services to
23 reduce the incidence of disability and death due to lung disease;

24 (6) the Kansas chapters of the Alzheimer's Disease and Related Dis-
25 orders Association, Inc. for the purpose of providing assistance and sup-
26 port to persons in Kansas with Alzheimer's disease, and their families and
27 caregivers;

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

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

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

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

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

39 (yy) all sales of tangible personal property and services purchased by
40 a parent-teacher association or organization, and all sales of tangible per-
41 sonal 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
5 the federal communications commission, and all sales of electricity which
6 are essential or necessary for the purpose of producing a broadcast signal
7 or 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 con-
14 structing, 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
19 tools used in the constructing, equipping, reconstructing, maintaining,
20 repairing, enlarging, furnishing or remodeling facilities for any such or-
21 ganization. When any such organization shall contract for the purpose of
22 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
23 ing, furnishing or remodeling facilities, it shall obtain from the state and
24 furnish to the contractor an exemption certificate for the project involved,
25 and the contractor may purchase materials for incorporation in such pro-
26 ject. The contractor shall furnish the number of such certificate to all
27 suppliers from whom such purchases are made, and such suppliers shall
28 execute invoices covering the same bearing the number of such certifi-
29 cate. Upon completion of the project the contractor shall furnish to such
30 organization concerned a sworn statement, on a form to be provided by
31 the director of taxation, that all purchases so made were entitled to ex-
32 emption under this subsection. All invoices shall be held by the contractor
33 for a period of five years and shall be subject to audit by the director of
34 taxation. If any materials purchased under such a certificate are found
35 not to have been incorporated in the building or other project or not to
36 have been returned for credit or the sales or compensating tax otherwise
37 imposed upon such materials which will not be so incorporated in the
38 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
40 the close of the month in which it shall be determined that such materials
41 will not be used for the purpose for which such certificate was issued,
42 such organization concerned shall be liable for tax on all materials pur-
43 chased for the project, and upon payment thereof it may recover the same

1 from the contractor together with reasonable attorney fees. Any contrac-
2 tor or any agent, employee or subcontractor thereof, who shall use or
3 otherwise dispose of any materials purchased under such a certificate for
4 any purpose other than that for which such a certificate is issued without
5 the payment of the sales or compensating tax otherwise imposed upon
6 such materials, shall be guilty of a misdemeanor and, upon conviction
7 therefor, shall be subject to the penalties provided for in subsection (g)
8 of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after
9 July 1, 1998, but prior to the effective date of this act upon the gross
10 receipts received from any sale exempted by the amendatory provisions
11 of this subsection shall be refunded. Each claim for a sales tax refund
12 shall be verified and submitted to the director of taxation upon forms
13 furnished by the director and shall be accompanied by any additional
14 documentation required by the director. The director shall review each
15 claim and shall refund that amount of sales tax paid as determined under
16 the provisions of this subsection. All refunds shall be paid from the sales
17 tax refund fund upon warrants of the director of accounts and reports
18 pursuant to 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
21 (c)(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 property
26 and services purchased by a primary care clinic or health center the pri-
27 mary purpose of which is to provide services to medically underserved
28 individuals and families, and which is exempt from federal income taxa-
29 tion pursuant to section 501 (c)(3) of the federal internal revenue code,
30 and all sales of tangible personal property or services purchased by a
31 contractor for the purpose of constructing, equipping, reconstructing,
32 maintaining, repairing, enlarging, furnishing or remodeling facilities for
33 any such clinic or center which would be exempt from taxation under the
34 provisions of this section if purchased directly by such clinic or center.
35 Nothing in this subsection shall be deemed to exempt the purchase of
36 any construction machinery, equipment or tools used in the constructing,
37 equipping, reconstructing, maintaining, repairing, enlarging, furnishing
38 or remodeling facilities for any such clinic or center. When any such clinic
39 or center shall contract for the purpose of constructing, equipping, re-
40 constructing, maintaining, repairing, enlarging, furnishing or remodeling
41 facilities, it shall obtain from the state and furnish to the contractor an
42 exemption certificate for the project involved, and the contractor may
43 purchase materials for incorporation in such project. The contractor shall

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

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

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

42 (fff) all sales of material handling equipment, racking systems and
43 other related machinery and equipment that is used for the handling,

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

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

20 New Sec. 6. The provisions of the high performance incentive act,
21 the Kansas enterprise zone act and the job expansion and investment tax
22 credit act shall expire for all taxable years commencing after December
23 31, 2001.

24 Sec. 7. K.S.A. 2001 Supp. 79-3606 is hereby repealed.

25 Sec. 8. This act shall take effect and be in force from and after its
26 publication in the statute book.

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