

House Substitute for SENATE BILL No. 270

By Committee on Taxation

5-13

1 AN ACT concerning taxation; relating to income tax, rates, itemized
2 deductions; tax amnesty; sales and compensating use tax, rates, food;
3 amending K.S.A. 2014 Supp. 79-32,110, 79-32,120, 79-3602, 79-3603,
4 79-3620, 79-3695, 79-3703 and 79-3710 and repealing the existing
5 sections.
6

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

8 New Section 1. (a) (1) Notwithstanding the provisions of any other
9 law to the contrary, with respect to the following taxes administered by the
10 department of revenue, an amnesty from the assessment or payment of all
11 penalties and interest with respect to unpaid taxes or taxes due and owing
12 shall apply upon compliance with the provisions of this section and if such
13 tax liability is paid in full within the amnesty period, from September 1,
14 2015, to October 15, 2015: (A) Privilege tax under K.S.A. 79-1106 et seq.,
15 and amendments thereto; (B) taxes under the Kansas estate tax act, K.S.A.
16 2006 Supp. 79-15,100 et seq., prior to their repeal; (C) taxes under the
17 Kansas income tax act, K.S.A. 79-3201 et seq., and amendments thereto;
18 (D) taxes under the Kansas withholding and declaration of estimated tax
19 act, K.S.A. 79-3294 et seq., and amendments thereto; (E) taxes under the
20 Kansas cigarette and tobacco products act, K.S.A. 79-3301 et seq., and
21 amendments thereto; (F) taxes under the Kansas retailers' sales tax act,
22 K.S.A. 79-3601 et seq., and amendments thereto, and the Kansas
23 compensating tax act, K.S.A. 79-3701 et seq., and amendments thereto;
24 (G) local sales and use taxes under K.S.A. 12-187 et seq., and amendments
25 thereto; (H) liquor enforcement tax under K.S.A. 79-4101 et seq., and
26 amendments thereto; (I) liquor drink tax under K.S.A. 79-74a01 et seq.,
27 and amendments thereto; and (J) mineral severance tax under K.S.A. 79-
28 4216 et seq., and amendments thereto.

29 (2) Amnesty under this section shall apply only to tax liabilities due
30 and unpaid for tax periods ending on or before December 31, 2013. For the
31 eligible taxes and tax periods, amnesty shall apply to the under-reporting
32 of such tax liabilities, the nonpayment of such taxes and the nonreporting
33 of such tax liabilities.

34 (3) Amnesty shall not apply to any matter or matters for which, on or
35 after September 1, 2015, any one of the following circumstances exist: (A)
36 The taxpayer has received notice of the commencement of an audit; (B) an

1 audit is in progress; (C) the taxpayer has received notice of an assessment
2 pursuant to K.S.A. 79-2971 or 79-3643, and amendments thereto; (D) as a
3 result of an audit, the taxpayer has received notice of a proposed or
4 estimated assessment or notice of an assessment; (E) the time to
5 administratively appeal an issued assessment has not yet expired; or (F) an
6 assessment resulting from an audit, or any portion of such assessment, is
7 pending in the administrative appeals process before the secretary or the
8 secretary's designee pursuant to K.S.A. 79-3226 or 79-3610, and
9 amendments thereto, or the state board of tax appeals, or is pending in the
10 judicial review process before any state or federal district or appellate
11 court. Amnesty shall not apply to any matter that is the subject of an
12 assessment, or any portion of an assessment, which has been affirmed by a
13 reviewing state or federal district or appellate court. Amnesty shall not
14 apply to any party to any criminal investigation or to any civil or criminal
15 litigation that is pending in any court of the United States or this state for
16 nonpayment, delinquency or fraud in relation to any tax imposed by the
17 state of Kansas. Amnesty shall not apply to any matter involving
18 individual or corporate income tax liability resulting from an audit or
19 adjustment by the federal internal revenue service and reported to the
20 Kansas department of revenue pursuant to K.S.A. 79-3230(f), and
21 amendments thereto.

22 (b) Upon written application by the taxpayer, on forms prescribed by
23 the secretary of revenue, and upon compliance with the provisions of this
24 section, the department of revenue may waive the imposition and
25 collection of any penalty or interest which may be applicable with respect
26 to taxes eligible for amnesty. The department of revenue may require all
27 applications for amnesty pursuant to this section be submitted
28 electronically.

29 (c) Amnesty for penalties and interest shall be granted only to those
30 eligible taxpayers who, within the amnesty period of September 1, 2015,
31 to October 15, 2015, and in accordance with rules and regulations
32 established by the secretary of revenue, have properly filed a tax return for
33 each taxable period for which amnesty is requested, paid the entire balance
34 of tax due and obtained approval of such amnesty by the department of
35 revenue.

36 (d) If a taxpayer elects to participate in the amnesty program
37 established pursuant to this section as evidenced by full payment of the tax
38 due as established by the secretary of revenue, that election shall constitute
39 an express and absolute relinquishment of all administrative and judicial
40 rights of appeal with respect to such tax liability. No tax payment received
41 pursuant to this section shall be eligible for refund or credit. No payment
42 of penalties or interest made prior to September 1, 2015, shall be eligible
43 for amnesty.

1 (e) For such tax returns for which amnesty has been requested,
 2 nothing in this section shall be interpreted to prohibit the department from
 3 adjusting such tax return as a result of a federal, department or other state
 4 agency audit.

5 (f) Fraud or intentional misrepresentation of a material fact in
 6 connection with an application for amnesty shall void such application and
 7 any waiver of penalties and interest from amnesty.

8 (g) The department may promulgate such rules and regulations or
 9 issue administrative guidelines as are necessary to administer the
 10 provisions of this section.

11 Sec. 2. K.S.A. 2014 Supp. 79-32,110 is hereby amended to read as
 12 follows: 79-32,110.(a) *Resident Individuals*. Except as otherwise provided
 13 by ~~subsection (a)~~ of K.S.A. 79-3220(a), and amendments thereto, a tax is
 14 hereby imposed upon the Kansas taxable income of every resident
 15 individual, which tax shall be computed in accordance with the following
 16 tax schedules:

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

18 (A) For tax year 2012:

19 If the taxable income is:	The tax is:
20 Not over \$30,000.....	3.5% of Kansas taxable income
21 Over \$30,000 but not over 22 \$60,000	\$1,050 plus 6.25% of excess over \$30,000
23 Over \$60,000.....	\$2,925 plus 6.45% of excess over \$60,000

25 (B) For tax year 2013:

26 If the taxable income is:	The tax is:
27 Not over \$30,000.....	3.0% of Kansas taxable income
28 Over \$30,000.....	\$900 plus 4.9% of excess over 29 \$30,000

30 (C) For tax year 2014:

31 If the taxable income is:	The tax is:
32 Not over \$30,000.....	2.7% of Kansas taxable income
33 Over \$30,000.....	\$810 plus 4.8% of excess over 34 \$30,000

35 (D) For tax year 2015:

36 If the taxable income is:	The tax is:
37 Not over \$30,000.....	2.7% 2.55% of Kansas taxable income
38 Over \$30,000.....	\$810 \$765 plus 4.6% of excess over 39 \$30,000

40 (E) For tax year 2016:

41 If the taxable income is:	The tax is:
42 Not over \$30,000.....	2.4% of Kansas taxable income
43 Over \$30,000.....	\$720 plus 4.6% of excess over

1		\$30,000
2	(F) For tax year 2017:	
3	If the taxable income is:	The tax is:
4	Not over \$30,000.....	2.3% of Kansas taxable income
5	Over \$30,000.....	\$690 plus 4.6% of excess over
6		\$30,000
7	(G) For tax year 2018, and all tax years thereafter:	
8	If the taxable income is:	The tax is:
9	Not over \$30,000.....	2.3% of Kansas taxable income
10	Over \$30,000.....	\$690 plus 3.9% of excess over
11		\$30,000
12	(2) <i>All other individuals.</i>	
13	(A) For tax year 2012:	
14	If the taxable income is:	The tax is:
15	Not over \$15,000.....	3.5% of Kansas taxable income
16	Over \$15,000 but not over	\$525 plus 6.25% of excess
17	\$30,000.....	over \$15,000
18	Over \$30,000.....	\$1,462.50 plus 6.45% of excess
19		over \$30,000
20	(B) For tax year 2013:	
21	If the taxable income is:	The tax is:
22	Not over \$15,000.....	3.0% of Kansas taxable income
23	Over \$15,000.....	\$450 plus 4.9% of excess over
24		\$15,000
25	(C) For tax year 2014:	
26	If the taxable income is:	The tax is:
27	Not over \$15,000.....	2.7% of Kansas taxable income
28	Over \$15,000.....	\$405 plus 4.8% of excess over
29		\$15,000
30	(D) For tax year 2015:	
31	If the taxable income is:	The tax is:
32	Not over \$15,000.....	2.7% 2.55% of Kansas taxable income
33	Over \$15,000.....	\$405 \$382.50 plus 4.6% of excess over
34		\$15,000
35	(E) For tax year 2016:	
36	If the taxable income is:	The tax is:
37	Not over \$15,000.....	2.4% of Kansas taxable income
38	Over \$15,000.....	\$360 plus 4.6% of excess over
39		\$15,000
40	(F) For tax year 2017:	
41	If the taxable income is:	The tax is:
42	Not over \$15,000.....	2.3% of Kansas taxable income
43	Over \$15,000.....	\$345 plus 4.6% of excess over

1		\$15,000
2	(G) For tax year 2018, and all tax years thereafter:	
3	If the taxable income is:	The tax is:
4	Not over \$15,000.....	2.3% of Kansas taxable income
5	Over \$15,000.....	\$345 plus 3.9% of excess over
6		\$15,000

7 (b) *Nonresident Individuals.* A tax is hereby imposed upon the Kansas
 8 taxable income of every nonresident individual, which tax shall be an
 9 amount equal to the tax computed under subsection (a) as if the
 10 nonresident were a resident multiplied by the ratio of modified Kansas
 11 source income to Kansas adjusted gross income.

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

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

18 (2) (A) for tax year 2008, the surtax shall be in an amount equal to
 19 3.1% of the Kansas taxable income of such corporation in excess of
 20 \$50,000;

21 (B) for tax years 2009 and 2010, the surtax shall be in an amount
 22 equal to 3.05% of the Kansas taxable income of such corporation in excess
 23 of \$50,000; and

24 (C) for tax year 2011, and all tax years thereafter, the surtax shall be
 25 in an amount equal to 3% of the Kansas taxable income of such
 26 corporation in excess of \$50,000.

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

30 (e) Tax rates provided in this section shall be adjusted pursuant to the
 31 provisions of K.S.A. 2014 Supp. 79-32,269, and amendments thereto.

32 Sec. 3. K.S.A. 2014 Supp. 79-32,120 is hereby amended to read as
 33 follows: 79-32,120. (a) (1) If federal taxable income of an individual is
 34 determined by itemizing deductions from such individual's federal
 35 adjusted gross income, such individual may elect to deduct the Kansas
 36 itemized deduction in lieu of the Kansas standard deduction.

37 (2) For the tax year commencing on January 1, 2013, the Kansas
 38 itemized deduction of an individual means 70% of the total amount of
 39 deductions from federal adjusted gross income, other than federal
 40 deductions for personal exemptions, as provided in the federal internal
 41 revenue code with the modifications specified in this section.

42 (3) For the tax year commencing on January 1, 2014, the Kansas
 43 itemized deduction of an individual means 65% of the total amount of

1 deductions from federal adjusted gross income, other than federal
2 deductions for personal exemptions, as provided in the federal internal
3 revenue code with the modifications specified in this section.

4 (4) For the tax ~~year~~ *years* commencing on *and after* January 1, 2015,
5 the Kansas itemized deduction of an individual means ~~60% of the total~~
6 ~~amount of~~ *following* deductions from federal adjusted gross income, other
7 than federal deductions for personal exemptions, as provided in the federal
8 internal revenue code *and* with the modifications specified in this section:
9 (A) 100% of contributions that qualify as charitable contributions
10 allowable as deductions in section 170 of the federal internal revenue
11 code; (B) 50% of the amount of qualified residence interest as provided in
12 section 163(h) of the federal internal revenue code; and (C) 50% of the
13 amount of taxes on real and personal property as provided in section
14 164(a) of the federal internal revenue code.

15 (5) ~~For the tax year commencing on January 1, 2016, the Kansas~~
16 ~~itemized deduction of an individual means 55% of the total amount of~~
17 ~~deductions from federal adjusted gross income, other than federal~~
18 ~~deductions for personal exemptions, as provided in the federal internal~~
19 ~~revenue code with the modifications specified in this section.~~

20 (6) ~~For tax years commencing on and after January 1, 2017, the~~
21 ~~Kansas itemized deduction of an individual means 50% of the total amount~~
22 ~~of deductions from federal adjusted gross income, other than federal~~
23 ~~deductions for personal exemptions, as provided in the federal internal~~
24 ~~revenue code with the modifications specified in this section.~~

25 (b) The total amount of deductions from federal adjusted gross
26 income shall be reduced by the total amount of income taxes imposed by
27 or paid to this state or any other taxing jurisdiction to the extent that the
28 same are deducted in determining the federal itemized deductions and by
29 the amount of all depreciation deductions claimed for any real or tangible
30 personal property upon which the deduction allowed by K.S.A. 2014
31 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250,
32 79-32,255 or 79-32,256, and amendments thereto, is or has been claimed.

33 (e) ~~The provisions of this section that provide for a reduction in the~~
34 ~~total amount of deductions from federal adjusted gross income shall not~~
35 ~~apply to contributions that qualify as charitable contributions allowable as~~
36 ~~deductions in section 170 of the federal internal revenue code, and~~
37 ~~amendments thereto.~~

38 (d) ~~Notwithstanding any provision of this section to the contrary, for~~
39 ~~taxable years commencing after January 1, 2013, the total amount of~~
40 ~~deductions from federal adjusted gross income shall be reduced by the~~
41 ~~total amount of wagering losses claimed as an itemized deduction in~~
42 ~~section 165(d) of the federal internal revenue code, and amendments~~
43 ~~thereto.~~

1 Sec. 4. K.S.A. 2014 Supp. 79-3602 is hereby amended to read as
2 follows: 79-3602. Except as otherwise provided, as used in the Kansas
3 retailers' sales tax act:

4 (a) "Agent" means a person appointed by a seller to represent the
5 seller before the member states.

6 (b) "Agreement" means the multistate agreement entitled the
7 streamlined sales and use tax agreement approved by the streamlined sales
8 tax implementing states at Chicago, Illinois on November 12, 2002.

9 (c) "Alcoholic beverages" means beverages that are suitable for
10 human consumption and contain 0.05% or more of alcohol by volume.

11 (d) "Certified automated system (CAS)" means software certified
12 under the agreement to calculate the tax imposed by each jurisdiction on a
13 transaction, determine the amount of tax to remit to the appropriate state
14 and maintain a record of the transaction.

15 (e) "Certified service provider (CSP)" means an agent certified under
16 the agreement to perform all the seller's sales and use tax functions, other
17 than the seller's obligation to remit tax on its own purchases.

18 (f) "Computer" means an electronic device that accepts information
19 in digital or similar form and manipulates it for a result based on a
20 sequence of instructions.

21 (g) "Computer software" means a set of coded instructions designed
22 to cause a computer or automatic data processing equipment to perform a
23 task.

24 (h) "Delivered electronically" means delivered to the purchaser by
25 means other than tangible storage media.

26 (i) "Delivery charges" means charges by the seller of personal
27 property or services for preparation and delivery to a location designated
28 by the purchaser of personal property or services including, but not limited
29 to, transportation, shipping, postage, handling, crating and packing.
30 Delivery charges shall not include charges for delivery of direct mail if the
31 charges are separately stated on an invoice or similar billing document
32 given to the purchaser.

33 (j) "Direct mail" means printed material delivered or distributed by
34 United States mail or other delivery services to a mass audience or to
35 addressees on a mailing list provided by the purchaser or at the direction of
36 the purchaser when the cost of the items are not billed directly to the
37 recipients. Direct mail includes tangible personal property supplied
38 directly or indirectly by the purchaser to the direct mail seller for inclusion
39 in the package containing the printed material. Direct mail does not
40 include multiple items of printed material delivered to a single address.

41 (k) "Director" means the state director of taxation.

42 (l) "Educational institution" means any nonprofit school, college and
43 university that offers education at a level above the ~~twelfth~~ 12th grade, and

1 conducts regular classes and courses of study required for accreditation by,
2 or membership in, the North Central Association of Colleges and Schools,
3 the state board of education, or that otherwise qualify as an "educational
4 institution," as defined by K.S.A. 74-50,103, and amendments thereto.
5 Such phrase shall include: (1) A group of educational institutions that
6 operates exclusively for an educational purpose; (2) nonprofit endowment
7 associations and foundations organized and operated exclusively to
8 receive, hold, invest and administer moneys and property as a permanent
9 fund for the support and sole benefit of an educational institution; (3)
10 nonprofit trusts, foundations and other entities organized and operated
11 principally to hold and own receipts from intercollegiate sporting events
12 and to disburse such receipts, as well as grants and gifts, in the interest of
13 collegiate and intercollegiate athletic programs for the support and sole
14 benefit of an educational institution; and (4) nonprofit trusts, foundations
15 and other entities organized and operated for the primary purpose of
16 encouraging, fostering and conducting scholarly investigations and
17 industrial and other types of research for the support and sole benefit of an
18 educational institution.

19 (m) "Electronic" means relating to technology having electrical,
20 digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

21 (n) "Food and food ingredients" means substances, whether in liquid,
22 concentrated, solid, frozen, dried or dehydrated form, that are sold for
23 ingestion or chewing by humans and are consumed for their taste or
24 nutritional value. "Food and food ingredients" does not include alcoholic
25 beverages, *candy, dietary supplements, food sold through vending*
26 *machines, prepared food, soft drinks* or tobacco.

27 (o) "Gross receipts" means the total selling price or the amount
28 received as defined in this act, in money, credits, property or other
29 consideration valued in money from sales at retail within this state; and
30 embraced within the provisions of this act. The taxpayer, may take credit
31 in the report of gross receipts for: (1) An amount equal to the selling price
32 of property returned by the purchaser when the full sale price thereof,
33 including the tax collected, is refunded in cash or by credit; and (2) an
34 amount equal to the allowance given for the trade-in of property.

35 (p) "Ingredient or component part" means tangible personal property
36 which is necessary or essential to, and which is actually used in and
37 becomes an integral and material part of tangible personal property or
38 services produced, manufactured or compounded for sale by the producer,
39 manufacturer or compounder in its regular course of business. The
40 following items of tangible personal property are hereby declared to be
41 ingredients or component parts, but the listing of such property shall not be
42 deemed to be exclusive nor shall such listing be construed to be a
43 restriction upon, or an indication of, the type or types of property to be

1 included within the definition of "ingredient or component part" as herein
2 set forth:

3 (1) Containers, labels and shipping cases used in the distribution of
4 property produced, manufactured or compounded for sale which are not to
5 be returned to the producer, manufacturer or compounder for reuse.

6 (2) Containers, labels, shipping cases, paper bags, drinking straws,
7 paper plates, paper cups, twine and wrapping paper used in the distribution
8 and sale of property taxable under the provisions of this act by wholesalers
9 and retailers and which is not to be returned to such wholesaler or retailer
10 for reuse.

11 (3) Seeds and seedlings for the production of plants and plant
12 products produced for resale.

13 (4) Paper and ink used in the publication of newspapers.

14 (5) Fertilizer used in the production of plants and plant products
15 produced for resale.

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

22 (q) "Isolated or occasional sale" means the nonrecurring sale of
23 tangible personal property, or services taxable hereunder by a person not
24 engaged at the time of such sale in the business of selling such property or
25 services. Any religious organization which makes a nonrecurring sale of
26 tangible personal property acquired for the purpose of resale shall be
27 deemed to be not engaged at the time of such sale in the business of selling
28 such property. Such term shall include: (1) Any sale by a bank, savings and
29 loan institution, credit union or any finance company licensed under the
30 provisions of the Kansas uniform consumer credit code of tangible
31 personal property which has been repossessed by any such entity; and (2)
32 any sale of tangible personal property made by an auctioneer or agent on
33 behalf of not more than two principals or households if such sale is
34 nonrecurring and any such principal or household is not engaged at the
35 time of such sale in the business of selling tangible personal property.

36 (r) "Lease or rental" means any transfer of possession or control of
37 tangible personal property for a fixed or indeterminate term for
38 consideration. A lease or rental may include future options to purchase or
39 extend.

40 (1) Lease or rental does not include: (A) A transfer of possession or
41 control of property under a security agreement or deferred payment plan
42 that requires the transfer of title upon completion of the required
43 payments;

1 (B) a transfer or possession or control of property under an agreement
2 that requires the transfer of title upon completion of required payments and
3 payment of an option price does not exceed the greater of \$100 or 1% of
4 the total required payments; or

5 (C) providing tangible personal property along with an operator for a
6 fixed or indeterminate period of time. A condition of this exclusion is that
7 the operator is necessary for the equipment to perform as designed. For the
8 purpose of this subsection, an operator must do more than maintain,
9 inspect or set-up the tangible personal property.

10 (2) Lease or rental does include agreements covering motor vehicles
11 and trailers where the amount of consideration may be increased or
12 decreased by reference to the amount realized upon sale or disposition of
13 the property as defined in 26 U.S.C. § 7701(h)(1).

14 (3) This definition shall be used for sales and use tax purposes
15 regardless if a transaction is characterized as a lease or rental under
16 generally accepted accounting principles, the internal revenue code, the
17 uniform commercial code, K.S.A. 84-1-101 et seq., and amendments
18 thereto, or other provisions of federal, state or local law.

19 (4) This definition will be applied only prospectively from the
20 effective date of this act and will have no retroactive impact on existing
21 leases or rentals.

22 (s) "Load and leave" means delivery to the purchaser by use of a
23 tangible storage media where the tangible storage media is not physically
24 transferred to the purchaser.

25 (t) "Member state" means a state that has entered in the agreement,
26 pursuant to provisions of article VIII of the agreement.

27 (u) "Model 1 seller" means a seller that has selected a CSP as its
28 agent to perform all the seller's sales and use tax functions, other than the
29 seller's obligation to remit tax on its own purchases.

30 (v) "Model 2 seller" means a seller that has selected a CAS to
31 perform part of its sales and use tax functions, but retains responsibility for
32 remitting the tax.

33 (w) "Model 3 seller" means a seller that has sales in at least five
34 member states, has total annual sales revenue of at least \$500,000,000, has
35 a proprietary system that calculates the amount of tax due each jurisdiction
36 and has entered into a performance agreement with the member states that
37 establishes a tax performance standard for the seller. As used in this
38 subsection a seller includes an affiliated group of sellers using the same
39 proprietary system.

40 (x) "Municipal corporation" means any city incorporated under the
41 laws of Kansas.

42 (y) "Nonprofit blood bank" means any nonprofit place, organization,
43 institution or establishment that is operated wholly or in part for the

1 purpose of obtaining, storing, processing, preparing for transfusing,
2 furnishing, donating or distributing human blood or parts or fractions of
3 single blood units or products derived from single blood units, whether or
4 not any remuneration is paid therefor, or whether such procedures are done
5 for direct therapeutic use or for storage for future use of such products.

6 (z) "Persons" means any individual, firm, copartnership, joint
7 adventure, association, corporation, estate or trust, receiver or trustee, or
8 any group or combination acting as a unit, and the plural as well as the
9 singular number; and shall specifically mean any city or other political
10 subdivision of the state of Kansas engaging in a business or providing a
11 service specifically taxable under the provisions of this act.

12 (aa) "Political subdivision" means any municipality, agency or
13 subdivision of the state which is, or shall hereafter be, authorized to levy
14 taxes upon tangible property within the state or which certifies a levy to a
15 municipality, agency or subdivision of the state which is, or shall hereafter
16 be, authorized to levy taxes upon tangible property within the state. Such
17 term also shall include any public building commission, housing, airport,
18 port, metropolitan transit or similar authority established pursuant to law
19 and the horsethief reservoir benefit district established pursuant to K.S.A.
20 82a-2201, and amendments thereto.

21 (bb) "Prescription" means an order, formula or recipe issued in any
22 form of oral, written, electronic or other means of transmission by a duly
23 licensed practitioner authorized by the laws of this state.

24 (cc) "Prewritten computer software" means computer software,
25 including prewritten upgrades, which is not designed and developed by the
26 author or other creator to the specifications of a specific purchaser. The
27 combining of two or more prewritten computer software programs or
28 prewritten portions thereof does not cause the combination to be other than
29 prewritten computer software. Prewritten computer software includes
30 software designed and developed by the author or other creator to the
31 specifications of a specific purchaser when it is sold to a person other than
32 the purchaser. Where a person modifies or enhances computer software of
33 which the person is not the author or creator, the person shall be deemed to
34 be the author or creator only of such person's modifications or
35 enhancements. Prewritten computer software or a prewritten portion
36 thereof that is modified or enhanced to any degree, where such
37 modification or enhancement is designed and developed to the
38 specifications of a specific purchaser, remains prewritten computer
39 software, except that where there is a reasonable, separately stated charge
40 or an invoice or other statement of the price given to the purchaser for
41 such modification or enhancement, such modification or enhancement
42 shall not constitute prewritten computer software.

43 (dd) "Property which is consumed" means tangible personal property

1 which is essential or necessary to and which is used in the actual process
2 of and consumed, depleted or dissipated within one year in: (1) The
3 production, manufacture, processing, mining, drilling, refining or
4 compounding of tangible personal property; (2) the providing of
5 services; (3) the irrigation of crops, for sale in the regular course of
6 business; or (4) the storage or processing of grain by a public grain
7 warehouse or other grain storage facility, and which is not reusable for
8 such purpose. The following is a listing of tangible personal property,
9 included by way of illustration but not of limitation, which qualifies as
10 property which is consumed:

11 (A) Insecticides, herbicides, germicides, pesticides, fungicides,
12 fumigants, antibiotics, biologicals, pharmaceuticals, vitamins and
13 chemicals for use in commercial or agricultural production, processing or
14 storage of fruit, vegetables, feeds, seeds, grains, animals or animal
15 products whether fed, injected, applied, combined with or otherwise used;

16 (B) electricity, gas and water; and

17 (C) petroleum products, lubricants, chemicals, solvents, reagents and
18 catalysts.

19 (ee) "Purchase price" applies to the measure subject to use tax and
20 has the same meaning as sales price.

21 (ff) "Purchaser" means a person to whom a sale of personal property
22 is made or to whom a service is furnished.

23 (gg) "Quasi-municipal corporation" means any county, township,
24 school district, drainage district or any other governmental subdivision in
25 the state of Kansas having authority to receive or hold moneys or funds.

26 (hh) "Registered under this agreement" means registration by a seller
27 with the member states under the central registration system provided in
28 article IV of the agreement.

29 (ii) "Retailer" means a seller regularly engaged in the business of
30 selling, leasing or renting tangible personal property at retail or furnishing
31 electrical energy, gas, water, services or entertainment, and selling only to
32 the user or consumer and not for resale.

33 (jj) "Retail sale" or "sale at retail" means any sale, lease or rental for
34 any purpose other than for resale, sublease or subrent.

35 (kk) "Sale" or "sales" means the exchange of tangible personal
36 property, as well as the sale thereof for money, and every transaction,
37 conditional or otherwise, for a consideration, constituting a sale, including
38 the sale or furnishing of electrical energy, gas, water, services or
39 entertainment taxable under the terms of this act and including, except as
40 provided in the following provision, the sale of the use of tangible personal
41 property by way of a lease, license to use or the rental thereof regardless of
42 the method by which the title, possession or right to use the tangible
43 personal property is transferred. The term "sale" or "sales" shall not mean

1 the sale of the use of any tangible personal property used as a dwelling by
2 way of a lease or rental thereof for a term of more than 28 consecutive
3 days.

4 (ll) (1) "Sales or selling price" applies to the measure subject to sales
5 tax and means the total amount of consideration, including cash, credit,
6 property and services, for which personal property or services are sold,
7 leased or rented, valued in money, whether received in money or
8 otherwise, without any deduction for the following:

9 (A) The seller's cost of the property sold;

10 (B) the cost of materials used, labor or service cost, interest, losses,
11 all costs of transportation to the seller, all taxes imposed on the seller and
12 any other expense of the seller;

13 (C) charges by the seller for any services necessary to complete the
14 sale, other than delivery and installation charges;

15 (D) delivery charges; and

16 (E) installation charges.

17 (2) "Sales or selling price" includes consideration received by the
18 seller from third parties if:

19 (A) The seller actually receives consideration from a party other than
20 the purchaser and the consideration is directly related to a price reduction
21 or discount on the sale;

22 (B) the seller has an obligation to pass the price reduction or discount
23 through to the purchaser;

24 (C) the amount of the consideration attributable to the sale is fixed
25 and determinable by the seller at the time of the sale of the item to the
26 purchaser; and

27 (D) one of the following criteria is met:

28 (i) The purchaser presents a coupon, certificate or other
29 documentation to the seller to claim a price reduction or discount where
30 the coupon, certificate or documentation is authorized, distributed or
31 granted by a third party with the understanding that the third party will
32 reimburse any seller to whom the coupon, certificate or documentation is
33 presented;

34 (ii) the purchaser identifies to the seller that the purchaser is a
35 member of a group or organization entitled to a price reduction or
36 discount. A preferred customer card that is available to any patron does not
37 constitute membership in such a group; or

38 (iii) the price reduction or discount is identified as a third party price
39 reduction or discount on the invoice received by the purchaser or on a
40 coupon, certificate or other documentation presented by the purchaser.

41 (3) "Sales or selling price" shall not include:

42 (A) Discounts, including cash, term or coupons that are not
43 reimbursed by a third party that are allowed by a seller and taken by a

1 purchaser on a sale;

2 (B) interest, financing and carrying charges from credit extended on
3 the sale of personal property or services, if the amount is separately stated
4 on the invoice, bill of sale or similar document given to the purchaser;

5 (C) any taxes legally imposed directly on the consumer that are
6 separately stated on the invoice, bill of sale or similar document given to
7 the purchaser;

8 (D) the amount equal to the allowance given for the trade-in of
9 property, if separately stated on the invoice, billing or similar document
10 given to the purchaser; and

11 (E) commencing on July 1, 2006, and ending on June 30, 2009, cash
12 rebates granted by a manufacturer to a purchaser or lessee of a new motor
13 vehicle if paid directly to the retailer as a result of the original sale.

14 (mm) "Seller" means a person making sales, leases or rentals of
15 personal property or services.

16 (nn) "Service" means those services described in and taxed under the
17 provisions of K.S.A. 79-3603, and amendments thereto.

18 (oo) "Sourcing rules" means the rules set forth in K.S.A. 2014 Supp.
19 79-3670 through 79-3673, K.S.A. 12-191 and 12-191a, and amendments
20 thereto, which shall apply to identify and determine the state and local
21 taxing jurisdiction sales or use taxes to pay, or collect and remit on a
22 particular retail sale.

23 (pp) "Tangible personal property" means personal property that can
24 be seen, weighed, measured, felt or touched, or that is in any other manner
25 perceptible to the senses. Tangible personal property includes electricity,
26 water, gas, steam and prewritten computer software.

27 (qq) "Taxpayer" means any person obligated to account to the
28 director for taxes collected under the terms of this act.

29 (rr) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco or
30 any other item that contains tobacco.

31 (ss) "Entity-based exemption" means an exemption based on who
32 purchases the product or who sells the product. An exemption that is
33 available to all individuals shall not be considered an entity-based
34 exemption.

35 (tt) "Over-the-counter" drug means a drug that contains a label that
36 identifies the product as a drug as required by 21 C.F.R. § 201.66. The
37 over-the-counter drug label includes: (1) A drug facts panel; or (2) a
38 statement of the active ingredients with a list of those ingredients
39 contained in the compound, substance or preparation. Over-the-counter
40 drugs do not include grooming and hygiene products such as soaps,
41 cleaning solutions, shampoo, toothpaste, antiperspirants and sun tan
42 lotions and screens.

43 (uu) "Ancillary services" means services that are associated with or

1 incidental to the provision of telecommunications services, including, but
2 not limited to, detailed telecommunications billing, directory assistance,
3 vertical service and voice mail services.

4 (vv) "Conference bridging service" means an ancillary service that
5 links two or more participants of an audio or video conference call and
6 may include the provision of a telephone number. Conference bridging
7 service does not include the telecommunications services used to reach the
8 conference bridge.

9 (ww) "Detailed telecommunications billing service" means an
10 ancillary service of separately stating information pertaining to individual
11 calls on a customer's billing statement.

12 (xx) "Directory assistance" means an ancillary service of providing
13 telephone number information or address information, or both.

14 (yy) "Vertical service" means an ancillary service that is offered in
15 connection with one or more telecommunications services, which offers
16 advanced calling features that allow customers to identify callers and to
17 manage multiple calls and call connections, including conference bridging
18 services.

19 (zz) "Voice mail service" means an ancillary service that enables the
20 customer to store, send or receive recorded messages. Voice mail service
21 does not include any vertical services that the customer may be required to
22 have in order to utilize the voice mail service.

23 (aaa) "Telecommunications service" means the electronic
24 transmission, conveyance or routing of voice, data, audio, video or any
25 other information or signals to a point, or between or among points. The
26 term telecommunications service includes such transmission, conveyance
27 or routing in which computer processing applications are used to act on the
28 form, code or protocol of the content for purposes of transmissions,
29 conveyance or routing without regard to whether such service is referred to
30 as voice over Internet protocol services or is classified by the federal
31 communications commission as enhanced or value added.
32 Telecommunications service does not include:

33 (1) Data processing and information services that allow data to be
34 generated, acquired, stored, processed or retrieved and delivered by an
35 electronic transmission to a purchaser where such purchaser's primary
36 purpose for the underlying transaction is the processed data or
37 information;

38 (2) installation or maintenance of wiring or equipment on a
39 customer's premises;

40 (3) tangible personal property;

41 (4) advertising, including, but not limited to, directory advertising;

42 (5) billing and collection services provided to third parties;

43 (6) internet access service;

1 (7) radio and television audio and video programming services,
2 regardless of the medium, including the furnishing of transmission,
3 conveyance and routing of such services by the programming service
4 provider. Radio and television audio and video programming services shall
5 include, but not be limited to, cable service as defined in 47 U.S.C. §
6 522(6) and audio and video programming services delivered by
7 commercial mobile radio service providers, as defined in 47 C.F.R. § 20.3;

8 (8) ancillary services; or

9 (9) digital products delivered electronically, including, but not limited
10 to, software, music, video, reading materials or ring tones.

11 (bbb) "800 service" means a telecommunications service that allows a
12 caller to dial a toll-free number without incurring a charge for the call. The
13 service is typically marketed under the name 800, 855, 866, 877 and 888
14 toll-free calling, and any subsequent numbers designated by the federal
15 communications commission.

16 (ccc) "900 service" means an inbound toll telecommunications
17 service purchased by a subscriber that allows the subscriber's customers to
18 call in to the subscriber's prerecorded announcement or live service. 900
19 service does not include the charge for collection services provided by the
20 seller of the telecommunications services to the subscriber, or service or
21 product sold by the subscriber to the subscriber's customer. The service is
22 typically marketed under the name 900 service, and any subsequent
23 numbers designated by the federal communications commission.

24 (ddd) "Value-added non-voice data service" means a service that
25 otherwise meets the definition of telecommunications services in which
26 computer processing applications are used to act on the form, content,
27 code or protocol of the information or data primarily for a purpose other
28 than transmission, conveyance or routing.

29 (eee) "International" means a telecommunications service that
30 originates or terminates in the United States and terminates or originates
31 outside the United States, respectively. United States includes the District
32 of Columbia or a U.S. territory or possession.

33 (fff) "Interstate" means a telecommunications service that originates
34 in one United States state, or a United States territory or possession, and
35 terminates in a different United States state or a United States territory or
36 possession.

37 (ggg) "Intrastate" means a telecommunications service that originates
38 in one United States state or a United States territory or possession, and
39 terminates in the same United States state or a United States territory or
40 possession.

41 (hhh) "*Candy*" means a preparation of sugar, honey or other natural
42 or artificial sweeteners in combination with chocolate, fruits, nuts or other
43 ingredients or flavorings in the form of bars, drops or pieces. Candy shall

1 *not include any preparation containing flour and shall require no*
2 *refrigeration.*

3 (iii) *"Food sold through vending machines" means food dispensed*
4 *from a machine or other mechanical device that accepts payment.*

5 (jjj) (1) *"Prepared food" means any of the following:*

6 (A) *Food sold in a heated state or heated by the seller;*

7 (B) *two or more food ingredients mixed or combined by the seller for*
8 *sale as a single item; or*

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

12 (2) *"Prepared food" does not include:*

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

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

18 (C) *if sold without eating utensils provided by the seller, bakery*
19 *items, including breads, rolls, buns, biscuits, bagels, croissants, pastries,*
20 *donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies and*
21 *tortillas; or*

22 (D) *food sold by a seller whose primary North American industry*
23 *classification system, United States, 2002 edition, classification is*
24 *manufacturing in sector 311, except subsector 3118.*

25 (iii) *"Soft drinks" means nonalcoholic beverages that contain natural*
26 *or artificial sweeteners. "Soft drinks" does not include beverages that*
27 *contain milk or milk products; soy, rice or similar milk substitutes; or*
28 *greater than 50% of vegetable or fruit juice by volume.*

29 (mmm) *"Dietary supplement" shall have the same meaning ascribed*
30 *to it as in K.S.A. 79-3606(jjj), and amendments thereto.*

31 Sec. 5. K.S.A. 2014 Supp. 79-3603 is hereby amended to read as
32 follows: 79-3603. For the privilege of engaging in the business of selling
33 tangible personal property at retail in this state or rendering or furnishing
34 any of the services taxable under this act, there is hereby levied and there
35 shall be collected and paid a tax at the rate of 6.15%, *and commencing*
36 *July 1, 2015, at the rate of 6.85%*. Within a redevelopment district
37 established pursuant to K.S.A. 74-8921, and amendments thereto, there is
38 hereby levied and there shall be collected and paid an additional tax at the
39 rate of 2% until the earlier of the date the bonds issued to finance or
40 refinance the redevelopment project have been paid in full or the final
41 scheduled maturity of the first series of bonds issued to finance any part of
42 the project upon:

43 (a) The gross receipts received from the sale of tangible personal

1 property at retail within this state;

2 (b) the gross receipts from intrastate, interstate or international
3 telecommunications services and any ancillary services sourced to this
4 state in accordance with K.S.A. 2014 Supp. 79-3673, and amendments
5 thereto, except that telecommunications service does not include: (1) Any
6 interstate or international 800 or 900 service; (2) any interstate or
7 international private communications service as defined in K.S.A. 2014
8 Supp. 79-3673, and amendments thereto; (3) any value-added nonvoice
9 data service; (4) any telecommunication service to a provider of
10 telecommunication services which will be used to render
11 telecommunications services, including carrier access services; or (5) any
12 service or transaction defined in this section among entities classified as
13 members of an affiliated group as provided by section 1504 of the federal
14 internal revenue code of 1986, as in effect on January 1, 2001;

15 (c) the gross receipts from the sale or furnishing of gas, water,
16 electricity and heat, which sale is not otherwise exempt from taxation
17 under the provisions of this act, and whether furnished by municipally or
18 privately owned utilities, except that, on and after January 1, 2006, for
19 sales of gas, electricity and heat delivered through mains, lines or pipes to
20 residential premises for noncommercial use by the occupant of such
21 premises, and for agricultural use and also, for such use, all sales of
22 propane gas, the state rate shall be 0%; and for all sales of propane gas, LP
23 gas, coal, wood and other fuel sources for the production of heat or
24 lighting for noncommercial use of an occupant of residential premises, the
25 state rate shall be 0%, but such tax shall not be levied and collected upon
26 the gross receipts from: (1) The sale of a rural water district benefit unit;
27 (2) a water system impact fee, system enhancement fee or similar fee
28 collected by a water supplier as a condition for establishing service; or (3)
29 connection or reconnection fees collected by a water supplier;

30 (d) the gross receipts from the sale of meals or drinks furnished at any
31 private club, drinking establishment, catered event, restaurant, eating
32 house, dining car, hotel, drugstore or other place where meals or drinks are
33 regularly sold to the public;

34 (e) the gross receipts from the sale of admissions to any place
35 providing amusement, entertainment or recreation services including
36 admissions to state, county, district and local fairs, but such tax shall not
37 be levied and collected upon the gross receipts received from sales of
38 admissions to any cultural and historical event which occurs triennially;

39 (f) the gross receipts from the operation of any coin-operated device
40 dispensing or providing tangible personal property, amusement or other
41 services except laundry services, whether automatic or manually operated;

42 (g) the gross receipts from the service of renting of rooms by hotels,
43 as defined by K.S.A. 36-501, and amendments thereto, or by

1 accommodation brokers, as defined by K.S.A. 12-1692, and amendments
2 thereto, but such tax shall not be levied and collected upon the gross
3 receipts received from sales of such service to the federal government and
4 any agency, officer or employee thereof in association with the
5 performance of official government duties;

6 (h) the gross receipts from the service of renting or leasing of tangible
7 personal property except such tax shall not apply to the renting or leasing
8 of machinery, equipment or other personal property owned by a city and
9 purchased from the proceeds of industrial revenue bonds issued prior to
10 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through
11 12-1749, and amendments thereto, and any city or lessee renting or leasing
12 such machinery, equipment or other personal property purchased with the
13 proceeds of such bonds who shall have paid a tax under the provisions of
14 this section upon sales made prior to July 1, 1973, shall be entitled to a
15 refund from the sales tax refund fund of all taxes paid thereon;

16 (i) the gross receipts from the rendering of dry cleaning, pressing,
17 dyeing and laundry services except laundry services rendered through a
18 coin-operated device whether automatic or manually operated;

19 (j) the gross receipts from the rendering of the services of washing
20 and washing and waxing of vehicles;

21 (k) the gross receipts from cable, community antennae and other
22 subscriber radio and television services;

23 (l) (1) except as otherwise provided by paragraph (2), the gross
24 receipts received from the sales of tangible personal property to all
25 contractors, subcontractors or repairmen for use by them in erecting
26 structures, or building on, or otherwise improving, altering, or repairing
27 real or personal property.

28 (2) Any such contractor, subcontractor or repairman who maintains
29 an inventory of such property both for sale at retail and for use by them for
30 the purposes described by paragraph (1) shall be deemed a retailer with
31 respect to purchases for and sales from such inventory, except that the
32 gross receipts received from any such sale, other than a sale at retail, shall
33 be equal to the total purchase price paid for such property and the tax
34 imposed thereon shall be paid by the deemed retailer;

35 (m) the gross receipts received from fees and charges by public and
36 private clubs, drinking establishments, organizations and businesses for
37 participation in sports, games and other recreational activities, but such tax
38 shall not be levied and collected upon the gross receipts received from: (1)
39 Fees and charges by any political subdivision, by any organization exempt
40 from property taxation pursuant to ~~paragraph Ninth~~ of K.S.A. 79-
41 201*Ninth*, and amendments thereto, or by any youth recreation
42 organization exclusively providing services to persons 18 years of age or
43 younger which is exempt from federal income taxation pursuant to section

1 501(c)(3) of the federal internal revenue code of 1986, for participation in
2 sports, games and other recreational activities; and (2) entry fees and
3 charges for participation in a special event or tournament sanctioned by a
4 national sporting association to which spectators are charged an admission
5 which is taxable pursuant to subsection (e);

6 (n) the gross receipts received from dues charged by public and
7 private clubs, drinking establishments, organizations and businesses,
8 payment of which entitles a member to the use of facilities for recreation
9 or entertainment, but such tax shall not be levied and collected upon the
10 gross receipts received from: (1) Dues charged by any organization exempt
11 from property taxation pursuant to ~~paragraphs Eighth and Ninth~~ of K.S.A.
12 79-201 *Eighth and Ninth*, and amendments thereto; and (2) sales of
13 memberships in a nonprofit organization which is exempt from federal
14 income taxation pursuant to section 501(c)(3) of the federal internal
15 revenue code of 1986, and whose purpose is to support the operation of a
16 nonprofit zoo;

17 (o) the gross receipts received from the isolated or occasional sale of
18 motor vehicles or trailers but not including: (1) The transfer of motor
19 vehicles or trailers by a person to a corporation or limited liability
20 company solely in exchange for stock securities or membership interest in
21 such corporation or limited liability company; ~~or~~ (2) the transfer of motor
22 vehicles or trailers by one corporation or limited liability company to
23 another when all of the assets of such corporation or limited liability
24 company are transferred to such other corporation or limited liability
25 company; or (3) the sale of motor vehicles or trailers which are subject to
26 taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and
27 amendments thereto, by an immediate family member to another
28 immediate family member. For the purposes of ~~clause paragraph~~ (3),
29 immediate family member means lineal ascendants or descendants, and
30 their spouses. Any amount of sales tax paid pursuant to the Kansas
31 retailers sales tax act on the isolated or occasional sale of motor vehicles or
32 trailers on and after July 1, 2004, which the base for computing the tax
33 was the value pursuant to ~~subsections (a), (b)(1) and (b)(2)~~ of K.S.A. 79-
34 5105(a), (b)(1) and (b)(2), and amendments thereto, when such amount
35 was higher than the amount of sales tax which would have been paid under
36 the law as it existed on June 30, 2004, shall be refunded to the taxpayer
37 pursuant to the procedure prescribed by this section. Such refund shall be
38 in an amount equal to the difference between the amount of sales tax paid
39 by the taxpayer and the amount of sales tax which would have been paid
40 by the taxpayer under the law as it existed on June 30, 2004. Each claim
41 for a sales tax refund shall be verified and submitted not later than six
42 months from the effective date of this act to the director of taxation upon
43 forms furnished by the director and shall be accompanied by any

1 additional documentation required by the director. The director shall
2 review each claim and shall refund that amount of tax paid as provided by
3 this act. All such refunds shall be paid from the sales tax refund fund, upon
4 warrants of the director of accounts and reports pursuant to vouchers
5 approved by the director of taxation or the director's designee. No refund
6 for an amount less than \$10 shall be paid pursuant to this act. In
7 determining the base for computing the tax on such isolated or occasional
8 sale, the fair market value of any motor vehicle or trailer traded in by the
9 purchaser to the seller may be deducted from the selling price;

10 (p) the gross receipts received for the service of installing or applying
11 tangible personal property which when installed or applied is not being
12 held for sale in the regular course of business, and whether or not such
13 tangible personal property when installed or applied remains tangible
14 personal property or becomes a part of real estate, except that no tax shall
15 be imposed upon the service of installing or applying tangible personal
16 property in connection with the original construction of a building or
17 facility, the original construction, reconstruction, restoration, remodeling,
18 renovation, repair or replacement of a residence or the construction,
19 reconstruction, restoration, replacement or repair of a bridge or highway.

20 For the purposes of this subsection:

21 (1) "Original construction" shall mean the first or initial construction
22 of a new building or facility. The term "original construction" shall include
23 the addition of an entire room or floor to any existing building or facility,
24 the completion of any unfinished portion of any existing building or
25 facility and the restoration, reconstruction or replacement of a building,
26 facility or utility structure damaged or destroyed by fire, flood, tornado,
27 lightning, explosion, windstorm, ice loading and attendant winds,
28 terrorism or earthquake, but such term, except with regard to a residence,
29 shall not include replacement, remodeling, restoration, renovation or
30 reconstruction under any other circumstances;

31 (2) "building" shall mean only those enclosures within which
32 individuals customarily are employed, or which are customarily used to
33 house machinery, equipment or other property, and including the land
34 improvements immediately surrounding such building;

35 (3) "facility" shall mean a mill, plant, refinery, oil or gas well, water
36 well, feedlot or any conveyance, transmission or distribution line of any
37 cooperative, nonprofit, membership corporation organized under or subject
38 to the provisions of K.S.A. 17-4601 et seq., and amendments thereto, or
39 municipal or quasi-municipal corporation, including the land
40 improvements immediately surrounding such facility;

41 (4) "residence" shall mean only those enclosures within which
42 individuals customarily live;

43 (5) "utility structure" shall mean transmission and distribution lines

1 owned by an independent transmission company or cooperative, the
2 Kansas electric transmission authority or natural gas or electric public
3 utility; and

4 (6) "windstorm" shall mean straight line winds of at least 80 miles per
5 hour as determined by a recognized meteorological reporting agency or
6 organization;

7 (q) the gross receipts received for the service of repairing, servicing,
8 altering or maintaining tangible personal property which when such
9 services are rendered is not being held for sale in the regular course of
10 business, and whether or not any tangible personal property is transferred
11 in connection therewith. The tax imposed by this subsection shall be
12 applicable to the services of repairing, servicing, altering or maintaining an
13 item of tangible personal property which has been and is fastened to,
14 connected with or built into real property;

15 (r) the gross receipts from fees or charges made under service or
16 maintenance agreement contracts for services, charges for the providing of
17 which are taxable under the provisions of subsection (p) or (q);

18 (s) on and after January 1, 2005, the gross receipts received from the
19 sale of prewritten computer software and the sale of the services of
20 modifying, altering, updating or maintaining prewritten computer
21 software, whether the prewritten computer software is installed or
22 delivered electronically by tangible storage media physically transferred to
23 the purchaser or by load and leave;

24 (t) the gross receipts received for telephone answering services;

25 (u) the gross receipts received from the sale of prepaid calling service
26 and prepaid wireless calling service as defined in K.S.A. 2014 Supp. 79-
27 3673, and amendments thereto; ~~and~~

28 (v) the gross receipts received from the sales of bingo cards, bingo
29 faces and instant bingo tickets by licensees under K.S.A. 79-4701 et seq.,
30 and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1,
31 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before
32 July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo
33 faces and instant bingo tickets by licensees under K.S.A. 79-4701 et seq.,
34 and amendments thereto, shall be exempt from taxes imposed pursuant to
35 this section; *and*

36 (w) *commencing July 1, 2015, and thereafter, the gross receipts from*
37 *the sale of food and food ingredients shall be taxed at the rate of 5.90%.*

38 Sec. 6. K.S.A. 2014 Supp. 79-3620 is hereby amended to read as
39 follows: 79-3620.(a) All revenue collected or received by the director of
40 taxation from the taxes imposed by this act shall be remitted to the state
41 treasurer in accordance with the provisions of K.S.A. 75-4215, and
42 amendments thereto. Upon receipt of each such remittance, the state
43 treasurer shall deposit the entire amount in the state treasury, less amounts

1 withheld as provided in subsection (b) and amounts credited as provided in
2 subsections (c), (d) and (e), to the credit of the state general fund.

3 (b) A refund fund, designated as "sales tax refund fund" not to exceed
4 \$100,000 shall be set apart and maintained by the director from sales tax
5 collections and estimated tax collections and held by the state treasurer for
6 prompt payment of all sales tax refunds. Such fund shall be in such
7 amount, within the limit set by this section, as the director shall determine
8 is necessary to meet current refunding requirements under this act. In the
9 event such fund as established by this section is, at any time, insufficient to
10 provide for the payment of refunds due claimants thereof, the director shall
11 certify the amount of additional funds required to the director of accounts
12 and reports who shall promptly transfer the required amount from the state
13 general fund to the sales tax refund fund, and notify the state treasurer,
14 who shall make proper entry in the records.

15 ~~(c) (1) The state treasurer shall credit $\frac{5}{798}$ of the revenue collected or~~
16 ~~received from the tax imposed by K.S.A. 79-3603, and amendments~~
17 ~~thereto, at the rate of 4.9%, and deposited as provided in subsection (a),~~
18 ~~exclusive of amounts credited pursuant to subsection (d), in the state~~
19 ~~highway fund.~~

20 ~~(2) The state treasurer shall credit $\frac{5}{7406}$ of the revenue collected or~~
21 ~~received from the tax imposed by K.S.A. 79-3603, and amendments~~
22 ~~thereto, at the rate of 5.3%, and deposited as provided in subsection (a),~~
23 ~~exclusive of amounts credited pursuant to subsection (d), in the state~~
24 ~~highway fund.~~

25 ~~(3) On July 1, 2006, the state treasurer shall credit $\frac{19}{7265}$ of the revenue~~
26 ~~collected and received from the tax imposed by K.S.A. 79-3603, and~~
27 ~~amendments thereto, at the rate of 5.3%, and deposited as provided by~~
28 ~~subsection (a), exclusive of amounts credited pursuant to subsection (d), in~~
29 ~~the state highway fund.~~

30 ~~(4) On July 1, 2007, the state treasurer shall credit $\frac{13}{7406}$ of the revenue~~
31 ~~collected and received from the tax imposed by K.S.A. 79-3603, and~~
32 ~~amendments thereto, at the rate of 5.3%, and deposited as provided by~~
33 ~~subsection (a), exclusive of amounts credited pursuant to subsection (d), in~~
34 ~~the state highway fund.~~

35 ~~(5) On July 1, 2010, the state treasurer shall credit 11.427% of the~~
36 ~~revenue collected and received from the tax imposed by K.S.A. 79-3603,~~
37 ~~and amendments thereto, at the rate of 6.3%, and deposited as provided by~~
38 ~~subsection (a), exclusive of amounts credited pursuant to subsection (d), in~~
39 ~~the state highway fund.~~

40 ~~(6)(2) On July 1, 2011, the state treasurer shall credit 11.26% of the~~
41 ~~revenue collected and received from the tax imposed by K.S.A. 79-3603,~~
42 ~~and amendments thereto, at the rate of 6.3%, and deposited as provided by~~
43 ~~subsection (a), exclusive of amounts credited pursuant to subsection (d), in~~

1 the state highway fund.

2 ~~(7)(3)~~ On July 1, 2012, the state treasurer shall credit 11.233% of the
3 revenue collected and received from the tax imposed by K.S.A. 79-3603,
4 and amendments thereto, at the rate of 6.3%, and deposited as provided by
5 subsection (a), exclusive of amounts credited pursuant to subsection (d), in
6 the state highway fund.

7 ~~(8)(4)~~ On July 1, 2013, ~~and thereafter~~, the state treasurer shall credit
8 17.073% of the revenue collected and received from the tax imposed by
9 K.S.A. 79-3603, and amendments thereto, at the rate of 6.15%, and
10 deposited as provided by subsection (a), exclusive of amounts credited
11 pursuant to subsection (d), in the state highway fund.

12 *(5) On July 1, 2015, the state treasurer shall credit ~~15.516%~~*
13 *{15.720%} of the revenue collected and received from the tax imposed by*
14 *K.S.A. 79-3603, and amendments thereto, at the ~~rate~~ {rates} of 6.85%*
15 *{and 5.90%}, and deposited as provided by subsection (a), exclusive of*
16 *amounts credited pursuant to subsection (d), in the state highway fund.*

17 *(6) On July 1, 2016, and thereafter, the state treasurer shall credit*
18 *~~15.385%~~ {15.607%} of the revenue collected and received from the tax*
19 *imposed by K.S.A. 79-3603, and amendments thereto, at the ~~rate~~ {rates} of*
20 *6.85% {and 5.90%}, and deposited as provided by subsection (a),*
21 *exclusive of amounts credited pursuant to subsection (d), in the state*
22 *highway fund.*

23 (d) The state treasurer shall credit all revenue collected or received
24 from the tax imposed by K.S.A. 79-3603, and amendments thereto, as
25 certified by the director, from taxpayers doing business within that portion
26 of a STAR bond project district occupied by a STAR bond project or
27 taxpayers doing business with such entity financed by a STAR bond
28 project as defined in K.S.A. 2014 Supp. 12-17,162, and amendments
29 thereto, that was determined by the secretary of commerce to be of
30 statewide as well as local importance or will create a major tourism area
31 for the state or the project was designated as a STAR bond project as
32 defined in K.S.A. 2014 Supp. 12-17,162, and amendments thereto, to the
33 city bond finance fund, which fund is hereby created. The provisions of
34 this subsection shall expire when the total of all amounts credited
35 hereunder and under ~~subsection (d)~~ of K.S.A. 79-3710(d), and
36 amendments thereto, is sufficient to retire the special obligation bonds
37 issued for the purpose of financing all or a portion of the costs of such
38 STAR bond project.

39 (e) All revenue certified by the director of taxation as having been
40 collected or received from the tax imposed by ~~subsection (e)~~ of K.S.A. 79-
41 3603(c), and amendments thereto, on the sale or furnishing of gas, water,
42 electricity and heat for use or consumption within the intermodal facility
43 district described in this subsection, shall be credited by the state treasurer

1 to the state highway fund. Such revenue may be transferred by the
2 secretary of transportation to the rail service improvement fund pursuant to
3 law. The provisions of this subsection shall take effect upon certification
4 by the secretary of transportation that a notice to proceed has been
5 received for the construction of the improvements within the intermodal
6 facility district, but not later than December 31, 2010, and shall expire
7 when the secretary of revenue determines that the total of all amounts
8 credited hereunder and pursuant to ~~subsection (e) of K.S.A. 79-3710(e),~~
9 and amendments thereto, is equal to \$53,300,000, but not later than
10 December 31, 2045. Thereafter, all revenues shall be collected and
11 distributed in accordance with applicable law. For all tax reporting periods
12 during which the provisions of this subsection are in effect, none of the
13 exemptions contained in K.S.A. 79-3601 et seq., and amendments thereto,
14 shall apply to the sale or furnishing of any gas, water, electricity and heat
15 for use or consumption within the intermodal facility district. As used in
16 this subsection, "intermodal facility district" shall consist of an intermodal
17 transportation area as defined by ~~subsection (oo) of K.S.A. 12-1770a(oo),~~
18 and amendments thereto, located in Johnson county within the polygonal-
19 shaped area having Waverly Road as the eastern boundary, 191st Street as
20 the southern boundary, Four Corners Road as the western boundary, and
21 Highway 56 as the northern boundary, and the polygonal-shaped area
22 having Poplar Road as the eastern boundary, 183rd Street as the southern
23 boundary, Waverly Road as the western boundary, and the BNSF mainline
24 track as the northern boundary, that includes capital investment in an
25 amount exceeding \$150 million for the construction of an intermodal
26 facility to handle the transfer, storage and distribution of freight through
27 railway and trucking operations.

28 Sec. 7. K.S.A. 2014 Supp. 79-3695 is hereby amended to read as
29 follows: 79-3695. If any contractor has entered into a written binding
30 contract prior to May 1, ~~2010~~ 2015, for the original construction,
31 reconstruction, restoration, remodeling, renovation, repair or replacement
32 of a building, facility or residential structure, or for the construction,
33 reconstruction, restoration, replacement or repair of a bridge or highway,
34 the state sales tax applicable to such contracts shall be remitted at the rate
35 in effect prior to the state sales tax increase scheduled to take effect on
36 July 1, ~~2010~~ 2015, if the contractor gives notice and proof of such contract
37 to the director of taxation on or before July 10, ~~2010~~ 2015, which notice
38 and proof shall be in such form and of such sufficiency as the director shall
39 prescribe.

40 Sec. 8. K.S.A. 2014 Supp. 79-3703 is hereby amended to read as
41 follows: 79-3703. There is hereby levied and there shall be collected from
42 every person in this state a tax or excise for the privilege of using, storing,
43 or consuming within this state any article of tangible personal property.

1 Such tax shall be levied and collected in an amount equal to the
2 consideration paid by the taxpayer multiplied by the rate of 6.15%, *and*
3 *commencing July 1, 2015, at the rate of 6.85%*, **except that such rate**
4 **shall be 5.90% upon food and food ingredients, as defined by K.S.A.**
5 **79-3602, and amendments thereto**. Within a redevelopment district
6 established pursuant to K.S.A. 74-8921, and amendments thereto, there is
7 hereby levied and there shall be collected and paid an additional tax of 2%
8 until the earlier of: (1) The date the bonds issued to finance or refinance
9 the redevelopment project undertaken in the district have been paid in full;
10 or (2) the final scheduled maturity of the first series of bonds issued to
11 finance the redevelopment project. All property purchased or leased within
12 or without this state and subsequently used, stored or consumed in this
13 state shall be subject to the compensating tax if the same property or
14 transaction would have been subject to the Kansas retailers' sales tax had
15 the transaction been wholly within this state.

16 Sec. 9. K.S.A. 2014 Supp. 79-3710 is hereby amended to read as
17 follows: 79-3710. (a) All revenue collected or received by the director
18 under the provisions of this act shall be remitted to the state treasurer in
19 accordance with the provisions of K.S.A. 75-4215, and amendments
20 thereto. Upon receipt of each such remittance, the state treasurer shall
21 deposit the entire amount in the state treasury, less amounts set apart as
22 provided in subsection (b) and amounts credited as provided in subsection
23 (c), (d) and (e), to the credit of the state general fund.

24 (b) A revolving fund, designated as "compensating tax refund fund"
25 not to exceed \$10,000 shall be set apart and maintained by the director
26 from compensating tax collections and estimated tax collections and held
27 by the state treasurer for prompt payment of all compensating tax refunds.
28 Such fund shall be in such amount, within the limit set by this section, as
29 the director shall determine is necessary to meet current refunding
30 requirements under this act.

31 ~~(c) (1) The state treasurer shall credit $\frac{5}{98}$ of the revenue collected or~~
32 ~~received from the tax imposed by K.S.A. 79-3703, and amendments~~
33 ~~thereto, at the rate of 4.9%, and deposited as provided in subsection (a),~~
34 ~~exclusive of amounts credited pursuant to subsection (d), in the state~~
35 ~~highway fund.~~

36 ~~(2) The state treasurer shall credit $\frac{5}{106}$ of the revenue collected or~~
37 ~~received from the tax imposed by K.S.A. 79-3703, and amendments~~
38 ~~thereto, at the rate of 5.3%, and deposited as provided in subsection (a),~~
39 ~~exclusive of amounts credited pursuant to subsection (d), in the state~~
40 ~~highway fund.~~

41 ~~(3) On July 1, 2006, the state treasurer shall credit $\frac{19}{265}$ of the revenue~~
42 ~~collected or received from the tax imposed by K.S.A. 79-3703, and~~
43 ~~amendments thereto, at the rate of 5.3%, and deposited as provided by~~

1 subsection (a), exclusive of amounts credited pursuant to subsection (d), in
2 the state highway fund.

3 ~~(4) On July 1, 2007, the state treasurer shall credit ¹³/₁₀₆ of the revenue~~
4 ~~collected or received from the tax imposed by K.S.A. 79-3703, and~~
5 ~~amendments thereto, at the rate of 5.3%, and deposited as provided by~~
6 ~~subsection (a), exclusive of amounts credited pursuant to subsection (d), in~~
7 ~~the state highway fund.~~

8 ~~(5) On July 1, 2010, the state treasurer shall credit 11.427% of the~~
9 ~~revenue collected and received from the tax imposed by K.S.A. 79-3703,~~
10 ~~and amendments thereto, at the rate of 6.3%, and deposited as provided by~~
11 ~~subsection (a), exclusive of amounts credited pursuant to subsection (d), in~~
12 ~~the state highway fund.~~

13 ~~(6)(2) On July 1, 2011, the state treasurer shall credit 11.26% of the~~
14 ~~revenue collected and received from the tax imposed by K.S.A. 79-3703,~~
15 ~~and amendments thereto, at the rate of 6.3%, and deposited as provided by~~
16 ~~subsection (a), exclusive of amounts credited pursuant to subsection (d), in~~
17 ~~the state highway fund.~~

18 ~~(7)(3) On July 1, 2012, the state treasurer shall credit 11.233% of the~~
19 ~~revenue collected and received from the tax imposed by K.S.A. 79-3703,~~
20 ~~and amendments thereto, at the rate of 6.3%, and deposited as provided by~~
21 ~~subsection (a), exclusive of amounts credited pursuant to subsection (d), in~~
22 ~~the state highway fund.~~

23 ~~(8)(4) On July 1, 2013, and thereafter, the state treasurer shall credit~~
24 ~~17.073% of the revenue collected and received from the tax imposed by~~
25 ~~K.S.A. 79-3703, and amendments thereto, at the rate of 6.15%, and~~
26 ~~deposited as provided by subsection (a), exclusive of amounts credited~~
27 ~~pursuant to subsection (d), in the state highway fund.~~

28 ~~(5) On July 1, 2015, the state treasurer shall credit ~~15.516%~~~~
29 ~~{15.720%} of the revenue collected and received from the tax imposed by~~
30 ~~K.S.A. 79-3703, and amendments thereto, at the ~~rate~~ {rates} of 6.85%~~
31 ~~{and 5.90%}, and deposited as provided by subsection (a), exclusive of~~
32 ~~amounts credited pursuant to subsection (d), in the state highway fund.~~

33 ~~(6) On July 1, 2016, and thereafter, the state treasurer shall credit~~
34 ~~~~15.385%~~ {15.607%} of the revenue collected and received from the tax~~
35 ~~imposed by K.S.A. 79-3703, and amendments thereto, at the ~~rate~~ {rates} of~~
36 ~~6.85% {and 5.90%}, and deposited as provided by subsection (a),~~
37 ~~exclusive of amounts credited pursuant to subsection (d), in the state~~
38 ~~highway fund.~~

39 (d) The state treasurer shall credit all revenue collected or received
40 from the tax imposed by K.S.A. 79-3703, and amendments thereto, as
41 certified by the director, from taxpayers doing business within that portion
42 of a redevelopment district occupied by a redevelopment project that was
43 determined by the secretary of commerce to be of statewide as well as

1 local importance or will create a major tourism area for the state as defined
2 in K.S.A. 12-1770a, and amendments thereto, to the city bond finance
3 fund created by ~~subsection (d) of K.S.A. 79-3620(d)~~, and amendments
4 thereto. The provisions of this subsection shall expire when the total of all
5 amounts credited hereunder and under ~~subsection (d) of K.S.A. 79-~~
6 ~~3620(d)~~, and amendments thereto, is sufficient to retire the special
7 obligation bonds issued for the purpose of financing all or a portion of the
8 costs of such redevelopment project.

9 This subsection shall not apply to a project designated as a special bond
10 project as defined in ~~subsection (z) of K.S.A. 12-1770a(z)~~, and
11 amendments thereto.

12 (e) All revenue certified by the director of taxation as having been
13 collected or received from the tax imposed by ~~subsection (e) of K.S.A. 79-~~
14 ~~3603(c)~~, and amendments thereto, on the sale or furnishing of gas, water,
15 electricity and heat for use or consumption within the intermodal facility
16 district described in this subsection, shall be credited by the state treasurer
17 to the state highway fund. Such revenue may be transferred by the
18 secretary of transportation to the rail service improvement fund pursuant to
19 law. The provisions of this subsection shall take effect upon certification
20 by the secretary of transportation that a notice to proceed has been
21 received for the construction of the improvements within the intermodal
22 facility district, but not later than December 31, 2010, and shall expire
23 when the secretary of revenue determines that the total of all amounts
24 credited hereunder and pursuant to ~~subsection (e) of K.S.A. 79-3620(e)~~,
25 and amendments thereto, is equal to \$53,300,000, but not later than
26 December 31, 2045. Thereafter, all revenues shall be collected and
27 distributed in accordance with applicable law. For all tax reporting periods
28 during which the provisions of this subsection are in effect, none of the
29 exemptions contained in K.S.A. 79-3601 et seq., and amendments thereto,
30 shall apply to the sale or furnishing of any gas, water, electricity and heat
31 for use or consumption within the intermodal facility district. As used in
32 this subsection, "intermodal facility district" shall consist of an intermodal
33 transportation area as defined by ~~subsection (oo) of K.S.A. 12-1770a(oo)~~,
34 and amendments thereto, located in Johnson county within the polygonal-
35 shaped area having Waverly Road as the eastern boundary, 191st Street as
36 the southern boundary, Four Corners Road as the western boundary, and
37 Highway 56 as the northern boundary, and the polygonal-shaped area
38 having Poplar Road as the eastern boundary, 183rd Street as the southern
39 boundary, Waverly Road as the western boundary, and the BNSF mainline
40 track as the northern boundary, that includes capital investment in an
41 amount exceeding \$150 million for the construction of an intermodal
42 facility to handle the transfer, storage and distribution of freight through
43 railway and trucking operations.

1 Sec. 10. K.S.A. 2014 Supp. 79-32,110, 79-32,120, 79-3602, 79-3603,
2 79-3620, 79-3695, 79-3703 and 79-3710 are hereby repealed.

3 Sec. 11. This act shall take effect and be in force from and after its
4 publication in the statute book.