

**HOUSE BILL No. 2355**

By Committee on Taxation

2-14

1 AN ACT concerning taxation; enacting the Kansas fair tax of 2013;  
2 eliminating sales taxes and phasing out income taxes; imposing a  
3 consumption tax; providing certain duties and requirements on retailers  
4 and providers and the department of revenue; exemptions; consumption  
5 allowance; creating the consumption tax transition committee;  
6 providing for state compensating consumption tax and local retailers'  
7 consumption tax and compensating consumption tax; amending K.S.A.  
8 2012 Supp. 79-32,110 and 79-3702 and repealing the existing sections.  
9

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

11 New Section 1. (a) The provisions of this act shall be known and may  
12 be cited as the Kansas fair tax act of 2013.

13 (b) The purpose of this act is to remove the state's dependence on the  
14 federal income tax system, remove the burden of collecting the state  
15 income tax from Kansas producers of goods and services, improve the  
16 efficiency of collecting the tax, apply a uniform tax rate for all personal  
17 consumption taxpayers, compensate retail tax collectors with a fee to  
18 offset cost of collecting the tax, encourage business expansion in Kansas  
19 without rewarding selected interest groups or organizations with special  
20 benefits, and provide a family consumption allowance in order to save all  
21 Kansas citizens from paying taxes on any amount of spending up to the  
22 official American poverty level needed for obtaining essential goods and  
23 services.

24 (c) Where applicable, terms in this act shall be defined as provided in  
25 K.S.A. 79-3602, and amendments thereto.

26 (d) The provisions of this act shall be effective on and after July 1,  
27 2013.

28 New Sec. 2. (a) On and after July 1, 2013, the Kansas income tax  
29 imposed pursuant to K.S.A. 79-32,110, and amendments thereto, on  
30 corporations and fiduciaries, the Kansas retailers' sales tax imposed  
31 pursuant to K.S.A. 79-3603, and amendments thereto, and the Kansas  
32 compensating tax are repealed and shall not be levied or imposed thereby.  
33 For tax years 2013 and 2014, the Kansas income tax imposed on  
34 individuals shall be as imposed pursuant to K.S.A. 79-32,110, and  
35 amendments thereto. On January 1, 2015, the Kansas income tax on  
36 individuals is repealed and shall not be levied or imposed thereby.

1 (b) Any tax described in this subsection or in K.S.A. 79-32,110, and  
2 amendments thereto, which is due and remains outstanding and payable by  
3 a taxpayer on January 1, 2014, shall remain due and payable to the state in  
4 accordance with the laws in effect when the tax obligations of the taxpayer  
5 were incurred.

6 (c) Any income tax credit which is outstanding on the effective date  
7 of the repeal or elimination of income tax for the taxpayer who earned the  
8 credit, shall no longer be valid on and after such date.

9 New Sec. 3. (a) Except as provided in section 4, and amendments  
10 thereto, for the privilege of engaging in the business of selling goods at the  
11 point of sale in this state or rendering or furnishing any services taxable  
12 under this act, there is hereby levied and there shall be collected and paid a  
13 consumption tax on the sales or selling price of new personally consumed  
14 goods and services at the rate of 6.3%. Cities and counties may collect a  
15 local consumption tax on the sales or selling price of new personally  
16 consumed goods and services as provided by sections 44 through 51, and  
17 amendments thereto, and as otherwise provided by law.

18 (b) In addition to the imposition of a consumption tax on goods and  
19 services as provided in subsection (a), such tax shall be levied on:

20 (1) Installment sales. Such consumption tax shall be prorated and  
21 collected by the retailer or provider at the time of each installment  
22 payment;

23 (2) insurance premiums. Such tax shall be prorated and collected by  
24 the insurance company at the time of payment of the premium. The rate of  
25 such tax shall be an amount equal to the difference between the rate set in  
26 subsection (a) and the amount of premium tax set pursuant to K.S.A. 40-  
27 252, and amendments thereto;

28 (3) medical insurance copayments; and

29 (4) rental payments for real property and tangible personal property  
30 for personal use.

31 New Sec. 4. The tax levied under this act shall be paid by the  
32 personal consumer to the retailer or provider and it shall be the duty of  
33 each and every retailer and provider in this state to collect from the  
34 personal consumer, the full amount of the tax imposed or in an amount  
35 equal as nearly as possible or practicable to the average equivalent thereof.  
36 Such tax shall be a debt from the personal consumer to the retailer, when  
37 so added to the original purchase price, and shall be recoverable at law in  
38 the same manner as other debts. In the event the full amount of the tax  
39 provided by this act is not paid to the retailer by the personal consumer, the  
40 director of taxation may proceed directly against the personal consumer to  
41 collect the full amount of the tax due on the retail sale.

42 New Sec. 5. Each personal consumer shall receive a sales receipt  
43 from the retailer or provider at the time of purchase. Such receipt shall

1 contain the before-tax price of the goods or service, the consumption tax  
2 rate, the total personal consumption tax rate on all services rendered and  
3 products sold for personal consumption, and the total monetary amount of  
4 sales transaction.

5 New Sec. 6. The following shall be exempt from the tax imposed by  
6 this act: (a) All sales of new or used residential or commercial real estate;

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

19 (c) all sales of tangible personal property or services, including the  
20 renting and leasing of tangible personal property, purchased directly by a  
21 public or private elementary or secondary school or public or private  
22 nonprofit educational institution and used primarily by such school or  
23 institution for nonsectarian programs and activities provided or sponsored  
24 by such school or institution or in the erection, repair or enlargement of  
25 buildings to be used for such purposes. The exemption herein provided  
26 shall not apply to erection, construction, repair, enlargement or equipment  
27 of buildings used primarily for human habitation;

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

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

39 (f) any motor vehicle, semitrailer or pole trailer, as such terms are  
40 defined by K.S.A. 8-126, and amendments thereto, or aircraft sold and  
41 delivered in this state to a bona fide resident of another state, which motor  
42 vehicle, semitrailer, pole trailer or aircraft is not to be registered or based  
43 in this state and which vehicle, semitrailer, pole trailer or aircraft will not

1 remain in this state more than 10 days;

2 (g) all isolated or occasional sales of tangible personal property,  
3 services, substances or things;

4 (h) all sales of tangible personal property which become an ingredient  
5 or component part of tangible personal property or services produced,  
6 manufactured or compounded for ultimate sale at retail within or without  
7 the state of Kansas; and any such producer, manufacturer or compounder  
8 may obtain from the director of taxation and furnish to the supplier an  
9 exemption certificate number for tangible personal property for use as an  
10 ingredient or component part of the property or services produced,  
11 manufactured or compounded;

12 (i) all sales of tangible personal property which are consumed in the  
13 production, manufacture, processing, mining, drilling, refining or  
14 compounding of tangible personal property, the treating of by-products or  
15 wastes derived from any such production process, the providing of  
16 services or the irrigation of crops for ultimate sale at retail within or  
17 without the state of Kansas; and any purchaser of such property may  
18 obtain from the director of taxation and furnish to the supplier an  
19 exemption certificate number for tangible personal property for  
20 consumption in such production, manufacture, processing, mining,  
21 drilling, refining, compounding, treating, irrigation and in providing such  
22 services;

23 (j) all sales of animals, fowl and aquatic plants and animals, the  
24 primary purpose of which is use in agriculture or aquaculture, as defined in  
25 K.S.A. 47-1901, and amendments thereto, the production of food for  
26 human consumption, the production of animal, dairy, poultry or aquatic  
27 plant and animal products, fiber or fur, or the production of offspring for  
28 use for any such purpose or purposes;

29 (k) all sales of farm machinery and equipment or aquaculture  
30 machinery and equipment, repair and replacement parts therefor and  
31 services performed in the repair and maintenance of such machinery and  
32 equipment. For the purposes of this subsection the term "farm machinery  
33 and equipment or aquaculture machinery and equipment" shall include a  
34 work-site utility vehicle, as defined in K.S.A. 8-126, and amendments  
35 thereto, and is equipped with a bed or cargo box for hauling materials, and  
36 shall also include machinery and equipment used in the operation of  
37 Christmas tree farming but shall not include any passenger vehicle, truck,  
38 truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as  
39 such terms are defined by K.S.A. 8-126, and amendments thereto. "Farm  
40 machinery and equipment" includes precision farming equipment that is  
41 portable or is installed or purchased to be installed on farm machinery and  
42 equipment. "Precision farming equipment" includes the following items  
43 used only in computer-assisted farming, ranching or aquaculture

1 production operations: Soil testing sensors, yield monitors, computers,  
2 monitors, software, global positioning and mapping systems, guiding  
3 systems, modems, data communications equipment and any necessary  
4 mounting hardware, wiring and antennas. Each purchaser of farm  
5 machinery and equipment or aquaculture machinery and equipment  
6 exempted herein must certify in writing on the copy of the invoice or sales  
7 ticket to be retained by the seller that the farm machinery and equipment  
8 or aquaculture machinery and equipment purchased will be used only in  
9 farming, ranching or aquaculture production. Farming or ranching shall  
10 include the operation of a feedlot and farm and ranch work for hire and the  
11 operation of a nursery;

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

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

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

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

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

29 (2) For purposes of this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (C) transportation, transmission and distribution equipment not  
41 primarily used in a production, warehousing or material handling  
42 operation at the plant or facility, including the means of conveyance of  
43 natural gas, electricity, oil or water, and equipment related thereto, located



1 outside the plant or facility;

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

5 (E) furniture and other furnishings;

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

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

12 (H) machinery and equipment used for general plant heating, cooling  
13 and lighting;

14 (I) motor vehicles that are registered for operation on public  
15 highways; or

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

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

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

29 (o) all sales of seeds and tree seedlings; fertilizers, insecticides,  
30 herbicides, germicides, pesticides and fungicides; and services, purchased  
31 and used for the purpose of producing plants in order to prevent soil  
32 erosion on land devoted to agricultural use;

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

43 (q) sales of digital goods, digital codes and subscriptions to digital

1 goods, to a purchaser who is a personal consumer, including sales of the  
2 right of permanent use granted by the seller and sales with less than the  
3 right of permanent use granted by the seller, and including sales when such  
4 use is conditional upon continued payment from the purchaser and when  
5 such use is not conditional upon continued payment from the purchaser. As  
6 used in this subsection:

7 (A) "Digital audio works" means works that result from the fixation  
8 of a series of musical, spoken or other sounds, including ringtones;

9 (B) "digital audio-visual works" means a series of related images  
10 which, when shown in succession, impart an impression of motion,  
11 together with accompanying sounds, if any;

12 (C) "digital books" means works that are generally recognized in the  
13 ordinary and usual sense as books;

14 (D) "digital code" means a code, which provides a purchaser with a  
15 right to obtain one or more products transferred electronically from within  
16 one or more product categories having the same tax treatment. A digital  
17 code may be obtained by any means, including email or by tangible means  
18 regardless of its designation as song code, video code or book code;

19 (E) "digital goods" means sounds, images, data, facts or information,  
20 or any combination thereof, transferred electronically, including, but not  
21 limited to, specified digital products and other products transferred  
22 electronically not included within the definition of specified digital  
23 products; "digital goods" does not include telecommunications services as  
24 defined in K.S.A. 79-3602, and amendments thereto, ancillary services as  
25 defined in K.S.A. 79-3602, and amendments thereto, or computer software  
26 as defined in K.S.A. 79-3602, and amendments thereto;

27 (F) "electronically transferred" means obtained by the purchaser by  
28 means other than tangible storage media;

29 (G) "permanent" means perpetual or for an indefinite or unspecified  
30 length of time. A right of permanent use is presumed to have been granted  
31 unless the agreement between the seller and the purchaser specifies or the  
32 circumstances surrounding the transaction suggest or indicate that the right  
33 to use terminates on the occurrence of a condition subsequent;

34 (H) "personal consumer" includes any person other than a person who  
35 receives by contract a product transferred electronically for further  
36 commercial broadcast, rebroadcast, transmission, retransmission,  
37 licensing, relicensing, distribution, redistribution or exhibition of the  
38 product, in whole or in part, to another person or persons. A person that  
39 purchases products transferred electronically or the code for specified  
40 digital products for the purpose of giving away such products or code shall  
41 not be considered to have engaged in the distribution or redistribution of  
42 such products or code and shall be treated as an end user;

43 (I) "ringtones" means digitized sound files that are downloaded onto a

1 device and that may be used to alert the customer with respect to a  
2 communication;

3 (J) "specified digital products" means electronically transferred  
4 digital audio works, digital audio-visual works and digital books; and

5 (K) "subscription" means an agreement with a seller that grants a  
6 consumer the right to obtain products transferred electronically from  
7 within one or more product categories having the same tax treatment, in a  
8 fixed quantity or for a fixed period of time, or both.

9 New Sec. 7. Each retailer or provider shall remit to the department of  
10 revenue by the opening of the 10<sup>th</sup> normal business day and hour of each  
11 month the total amount of Kansas personal consumption taxes collected  
12 and remitted by such retailer or provider during the previous calendar  
13 month, less 0.25% of such total amount. Such 0.25% retained by such  
14 retailer or provider shall serve to compensate such retailer or provider for  
15 collecting and remitting the Kansas personal consumption tax on behalf of  
16 and for the state of Kansas. The amount collected and remitted and the  
17 amount retained by such retailer or provider shall be shown on the  
18 monthly report. Generally accepted accounting procedures (GAAP) shall  
19 apply. Such retailer or provider shall be subject to audit at any time by the  
20 department of revenue.

21 New Sec. 8. (a) Each Kansas resident taxpayer having a valid social  
22 security number shall receive a monthly family consumption allowance to  
23 be distributed by the Kansas department of revenue, on or before the first  
24 day of each month. Such family consumption allowance shall be  
25 determined annually and be equal to the product of the rate of  
26 consumption tax as provided in section 2, and amendments thereto, and <sup>1</sup>/<sub>12</sub>  
27 of the annual poverty guidelines established in the federal register by the  
28 U.S. department of health and human services pursuant to 42 U.S.C. §  
29 9902(2), as amended.

30 (b) In the administration of this section, the following conditions shall  
31 apply:

32 (1) Such family consumption allowance or allowances shall be  
33 bundled as a single payment to each household, to include all eligible  
34 Kansas residents who share the same dwelling unit;

35 (2) the consumption allowance payee will be the designated head of  
36 household;

37 (3) consumption allowance or allowances paid to each respective  
38 payee shall be deposited directly by electronic means into a registered  
39 account owned by the payee at a licensed financial institution as  
40 designated by the payee;

41 (4) the payee shall file electronically a regular yearly report with the  
42 department of revenue every September, but no later than September 30,  
43 certifying the name and valid social security number of each member

1 residing in the same dwelling unit. Whenever the payee, number, or  
2 identities of any members of the household change, the payee must  
3 immediately notify the department of revenue, and submit electronically a  
4 revised report within two weeks or less; and

5 (5) the payee's identity and signature must appear on the certified  
6 report. The penalty for filing a false certificate shall be the same as  
7 provided in K.S.A. 79-3615, and amendments thereto, for filing a false  
8 return.

9 (c) As used in this section, (1) "household" means a payee, a payee  
10 and spouse who occupy the household dwelling or a payee and one or  
11 more individuals not related as husband and wife who together share the  
12 household dwelling; and

13 (2) "resident" means a natural person who is domiciled in this state. A  
14 natural person who spends in the aggregate more than six months of the  
15 taxable year within this state shall be presumed to be a resident for  
16 purposes of this act in absence of proof to the contrary. A nonresident  
17 individual means an individual other than a resident individual.

18 New Sec. 9. It shall be unlawful for any retailer to advertise or hold  
19 out, or state to the public, or to any consumer, directly or indirectly, that  
20 the tax, or any part thereof, imposed by this act will be assumed or  
21 absorbed by the retailer, or that it will not be considered as an element in  
22 the price to the consumer, or if added, that it, or any part thereof, will be  
23 refunded.

24 New Sec. 10. (a) Except as otherwise provided, it shall be unlawful  
25 for any person to engage in the business of selling goods at retail or  
26 furnishing taxable services in this state without a registration certificate  
27 from the director of taxation. Application for such certificate shall be made  
28 to the director upon forms furnished by the director, and shall state the  
29 name of the applicant, the address or addresses at which the applicant  
30 proposes to engage in such business, and the character of such business.  
31 Utilities taxable under this act shall not be required to register but shall  
32 comply with all other provisions of this act. The taxpayer may be  
33 registered by an agent. Such appointment of the agent by the taxpayer shall  
34 be in writing and submitted to the director. The taxpayer shall be issued a  
35 registration certificate to engage in the business for which application is  
36 made unless the applicant at the time of making such application owes any  
37 tax, penalty or interest, and in such case, before a registration certificate is  
38 issued, the director of taxation shall require the applicant to pay the  
39 amount owed.

40 (b) A separate registration certificate shall be issued for each place of  
41 business, and shall be conspicuously displayed therein.

42 (c) A seller registering under the agreement is considered registered  
43 in this state and shall not be required to pay any registration fees or other

1 charges to register in this state if the seller has no legal requirement to  
2 register. A written signature from the seller registering under the agreement  
3 is not required. An agent may register a seller under uniform procedures  
4 determined by the secretary. A seller may cancel its registration under the  
5 system at any time under uniform procedures determined by the secretary.  
6 Cancellation does not relieve the seller of its liability for remitting to this  
7 state any taxes collected.

8 (d) The secretary may suspend or revoke the registration certificate of  
9 any taxpayer found in default for a period of at least 60 days in the  
10 payment of any tax or in the filing of any return. Prior to taking any action,  
11 the secretary shall provide the taxpayer 30 days' notice of the time and  
12 place of a hearing to be conducted pursuant to the Kansas administrative  
13 procedure act to show cause why such registration certificate should not be  
14 suspended or revoked. A suspended or revoked registration certificate shall  
15 not be reinstated until all outstanding tax, penalty and interest liabilities  
16 are satisfied. A suspension or revocation pursuant to this subsection shall  
17 be applicable to any individual who is a responsible party for the  
18 collection or payment of tax as provided by law.

19 (e) It shall be unlawful for any person to engage in the business of  
20 selling goods at retail or furnishing taxable services in this state after such  
21 person's registration certificate has been suspended or revoked.

22 New Sec. 11. (a) Every person engaged in the business of selling  
23 goods at retail or furnishing services taxable in this state, shall keep  
24 records and books of all such sales, together with invoices, bills of lading,  
25 sales records, copies of bills of sale and other pertinent papers and  
26 documents. Such books and records and other papers and documents shall,  
27 at all times during business hours of the day, be available for and subject to  
28 inspection by the director, or the director's duly authorized agents and  
29 employees, for a period of three years from the last day of the calendar  
30 year or of the fiscal year of the retailer, whichever comes later, to which  
31 the records pertain. Such records shall be preserved during the entire  
32 period during which they are subject to inspection by the director, unless  
33 the director in writing previously authorizes their disposal. Any person  
34 selling goods or furnishing taxable services shall be prohibited from  
35 asserting that any sales are exempt from taxation unless the retailer has in  
36 the retailer's possession a properly executed exemption certificate provided  
37 by the consumer claiming the exemption, except as follows: (1) A retailer  
38 is relieved of liability for tax otherwise applicable if the retailer obtains a  
39 fully completed exemption certificate or captures the relevant data  
40 elements required by the director within 90 days subsequent to the date of  
41 the sale; or (2) if the retailer has not obtained an exemption certificate or  
42 all relevant data elements, the retailer, within 120 days subsequent to a  
43 request for substantiation by the director, either may obtain a fully

1 completed exemption certificate from the purchaser, taken in good faith  
2 which meets the requirements specified in this subsection, or obtain other  
3 information establishing that the transaction was not subject to tax.  
4 Otherwise, the sales shall be deemed to be taxable sales under this act. The  
5 seller shall obtain an exemption certificate that claims an exemption that  
6 was authorized pursuant to Kansas law on the date of the transaction in the  
7 jurisdiction where the transaction is sourced pursuant to law, could be  
8 applicable to the item being purchased and is reasonable for the  
9 purchaser's type of business. If the seller obtains an exemption certificate  
10 or other information as described in this subsection, the seller is relieved of  
11 any liability for the tax on the transaction unless it is discovered through  
12 the audit process that the seller had knowledge or had reason to know at  
13 the time such information was provided that the information relating to the  
14 exemption claimed was materially false or the seller otherwise knowingly  
15 participated in activity intended to purposefully evade the tax that is  
16 properly due on the transaction, and it must be established that the seller  
17 had knowledge or had reason to know at the time the information was  
18 provided that the information was materially false.

19 (b) The amount of tax imposed by this act is to be assessed within  
20 three years after the return is filed, and no proceedings in court for the  
21 collection of such taxes shall begin after the expiration of such period. In  
22 the case of a false or fraudulent return with intent to evade tax, the tax may  
23 be assessed or a proceeding in court for collection of such tax may begin at  
24 any time within two years from the discovery of such fraud. No  
25 assessment shall be made for any period preceding the date of registration  
26 of the retailer by more than three years except in cases of fraud. No refund  
27 or credit shall be allowed by the director after three years from the due  
28 date of the return for the reporting period unless before the expiration of  
29 such period a claim therefor is filed by the taxpayer. For all mailed returns,  
30 including refund claims, each return or refund claim shall be presumed to  
31 have been filed with the department on the postmark date of such return or  
32 refund claim or if such date is illegible, the date three days prior to the date  
33 such return or refund claim is received.

34 (c) Before the expiration of time prescribed in this section for the  
35 assessment of additional tax or the filing of a claim for refund, the director  
36 is hereby authorized to enter into an agreement in writing with the  
37 taxpayer consenting to the extension of the periods of limitations for the  
38 assessment of tax or for the filing of a claim for refund, at any time prior to  
39 the expiration of the period of limitations. The period so agreed upon may  
40 be extended by subsequent agreements in writing made before the  
41 expiration of the period previously agreed upon. In consideration of such  
42 agreement or agreements, interest due in excess of 48 months on any  
43 additional tax shall be waived.

1 (d) Interest at the rate prescribed by K.S.A. 79-2968, and  
2 amendments thereto, shall be allowed on any overpayment of tax  
3 computed from the filing date of the return claiming the refund, except that  
4 no interest shall be allowed on any such refund if the same is paid within  
5 120 days after the filing date of the return claiming the refund or the date  
6 of payment, whichever is later.

7 New Sec. 12. The director of taxation shall examine all returns filed  
8 under the provisions of this act, and shall issue final determinations of tax  
9 liability hereunder. Any determination may be made on the basis of a  
10 generally recognized valid and reliable sampling technique, whether or not  
11 the person being audited has complete records of transactions and whether  
12 or not such person consents. In any such case, the director shall notify the  
13 taxpayer in writing of the sampling technique to be utilized, including the  
14 design and population of such sample. If the taxpayer demonstrates that  
15 any such technique used was not in accordance with generally recognized  
16 sampling techniques, the audit shall be dismissed with respect to that  
17 portion of the audit based upon such technique, and a new audit shall be  
18 performed. Within 60 days after the mailing of notice of the director's  
19 determination any taxpayer may request an informal conference with the  
20 secretary of revenue or the secretary's designee relating to such taxpayer's  
21 tax liability, including the issue of whether the use of a generally  
22 recognized sampling technique achieved a result that was reflective of the  
23 taxpayer's actual tax liability, and an informal conference thereon shall be  
24 conducted and the secretary of revenue or the secretary's designee shall  
25 make a final determination and give the taxpayer notice thereof. In case  
26 any person required by the provisions of this act to make a return fails or  
27 refuses to do so, the secretary of revenue or the secretary's designee, after  
28 notice to such person, shall make a final determination of the amount of  
29 such tax according to the best judgment and information of the secretary of  
30 revenue or the secretary's designee.

31 Whenever the director of taxation has reason to believe that a person  
32 liable for tax under any provisions of this act is about to depart from the  
33 state or to remove such person's property therefrom, or to conceal oneself  
34 or such person's property therein, or to do any other act tending to  
35 prejudice, jeopardize or render wholly or partly ineffectual the collection  
36 of such sales tax unless proceedings be brought without delay, the director  
37 shall immediately make an assessment for all sales taxes due from such  
38 taxpayer, noting such finding on the assessment. The assessment shall be  
39 made on the basis of emergency proceedings in accordance with the  
40 provisions of K.S.A. 77-536, and amendments thereto. Thereupon a  
41 warrant shall forthwith be issued for the collection of the tax as provided  
42 in K.S.A. 79-3235, and amendments thereto. The taxpayer may within 15  
43 days from the date of filing of such warrant request an informal conference

1 with the secretary or the secretary's designee on the correctness of the  
2 jeopardy assessment.

3 New Sec. 13. For the purpose of ascertaining the correctness of any  
4 return, or for the purpose of determining the amount of tax due from any  
5 person engaged in the business of selling tangible personal property at  
6 retail, or furnishing services taxable hereunder, the director of taxation, or  
7 any officer or employee of the director of taxation designated, in writing,  
8 may hold investigations and hearings concerning any matters covered by  
9 this act, and may examine any books, papers, records, or memoranda  
10 bearing upon such sales of any such person, and may require the  
11 attendance of such person or any officer or employee of such person, or of  
12 any person having knowledge of such sales, and may take testimony and  
13 require proof for its information. In the conduct of any investigation or  
14 hearing, neither the director nor any officer or employee thereof shall be  
15 bound by the technical rules of evidence, and no informality in any  
16 proceeding, or in the manner of taking testimony, shall invalidate any  
17 order or decision made or approved by the director. The director, or any  
18 officer or employee thereof, shall have power to administer oaths to such  
19 persons.

20 New Sec. 14. The tax imposed by this act shall be a lien upon the  
21 property of any person who shall sell such person's business consisting of  
22 tangible personal property. The person acquiring such business or property  
23 shall withhold a sufficient amount of the purchase price thereof to cover  
24 the amount of any taxes due and unpaid by the seller, until the seller shall  
25 furnish the purchaser with a receipt from the director of taxation, as herein  
26 provided, showing that such taxes have been paid. The purchaser shall be  
27 personally liable for the payment of any unpaid taxes of the seller, to the  
28 extent of the value of the property received by the purchaser, and if a  
29 receipt is not furnished by such seller within 20 days from the date of sale  
30 of such business, the purchaser shall remit the amount of such unpaid taxes  
31 to the director of taxation on or before the 20<sup>th</sup> day of the month  
32 succeeding that in which such person acquired such business or property.

33 New Sec. 15. All notices required to be mailed to the taxpayer under  
34 the provisions of this act, if mailed to such person at such person's last  
35 known address as shown on the records of the director of taxation, shall be  
36 sufficient for the purposes of this act.

37 New Sec. 16. Any information obtained by the department of revenue  
38 in connection with administration of this act is subject to the  
39 confidentiality provisions as set forth in K.S.A. 75-5133, and amendments  
40 thereto.

41 New Sec. 17. (a) If any taxpayer shall fail to pay the tax required  
42 under this act at the time required by or under the provisions of this act,  
43 there shall be added to the unpaid balance of the tax, interest at the rate per



1 month prescribed by subsection (a) of K.S.A. 79-2968, and amendments  
2 thereto, from the date the tax was due until paid.

3 (b) If any taxpayer fails to file a return or pay the tax if one is due, at  
4 the time required by or under the provisions of this act, there shall be  
5 added to the tax an additional amount equal to 1% of the unpaid balance of  
6 the tax due for each month or fraction thereof during which such failure  
7 continues, not exceeding 24% in the aggregate, plus interest at the rate  
8 prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto,  
9 from the date the tax was due until paid. Notwithstanding the foregoing, in  
10 the event an assessment is issued following a field audit for any period for  
11 which a return was filed by the taxpayer and all of the tax was paid  
12 pursuant to such return, a penalty shall be imposed for the period included  
13 in the assessment in an amount of 1% per month not exceeding 10% of the  
14 unpaid balance of tax due shown in the notice of assessment. If after  
15 review of a return for any period included in the assessment, the secretary  
16 or secretary's designee determines that the underpayment of tax was due to  
17 the failure of the taxpayer to make a reasonable attempt to comply with the  
18 provisions of this act, such penalty shall be imposed for the period  
19 included in the assessment in the amount of 25% of the unpaid balance of  
20 tax due.

21 (c) If any taxpayer, with fraudulent intent, fails to pay any tax or  
22 make, render or sign any return, or to supply any information, within the  
23 time required by or under the provisions of this act, there shall be added to  
24 the tax a penalty in an amount equal to 50% of the unpaid balance of tax  
25 due.

26 (d) Penalty or interest applied under the provisions of subsections (a)  
27 and (b) shall be in addition to the penalty added under any other provisions  
28 of this section.

29 (e) Whenever the secretary or the secretary's designee determines that  
30 the failure of the taxpayer to comply with the provisions of subsections (a)  
31 and (b) was due to reasonable causes, the secretary or the secretary's  
32 designee may waive or reduce any of the penalties and may reduce the  
33 interest rate to the underpayment rate prescribed and determined for the  
34 applicable period under section 6621 of the federal internal revenue code  
35 upon making a record of the reasons therefor.

36 (f) In addition to all other penalties provided by this section, any  
37 person who willfully fails to make a return or to pay any tax imposed  
38 under this act, or who makes a false or fraudulent return, or fails to keep  
39 any books or records prescribed by this act, or who willfully violates any  
40 rule and regulation of the secretary of revenue, for the enforcement and  
41 administration of this act, or who aids and abets another in attempting to  
42 evade the payment of any tax imposed by this act, or who violates any  
43 other provision of this act, shall, upon conviction thereof, be fined not less

1 than \$500, nor more than \$10,000, or be imprisoned in the county jail not  
2 less than one month, nor more than six months, or be both so fined and  
3 imprisoned, in the discretion of the court.

4 (g) No penalty assessed hereunder shall be collected if the taxpayer  
5 has had the tax abated on appeal, and any penalty collected upon such tax  
6 shall be refunded.

7 (h) A person applying to the department for a refund of any tax  
8 imposed under this act that was not previously collected by the retailer, or  
9 that the retailer has already refunded to such person, shall be subject to a  
10 penalty of 50% of the amount of any such tax sought to be refunded. No  
11 such penalty shall be imposed against such person if the retailer collected  
12 the tax but did not remit such tax to the department.

13 New Sec. 18. Whenever any taxpayer liable to pay any tax, refuses or  
14 neglects to pay the tax, the amount, including any interest or penalty, shall  
15 be collected in the following manner. The secretary of revenue or the  
16 secretary's designee shall issue a warrant under the hand of the secretary or  
17 the secretary's designee and official seal directed to the sheriff of any  
18 county of the state commanding the sheriff to levy upon and sell the real  
19 and personal property of the taxpayer found within the sheriff's county to  
20 satisfy the tax, including penalty and interest, and the cost of executing the  
21 warrant and to return such warrant to the secretary or the secretary's  
22 designee and pay to the secretary or the secretary's designee the money  
23 collected by virtue thereof not more than 90 days from the date of the  
24 warrant. Firearms seized may be appraised and disposed of in the same  
25 manner prescribed in K.S.A. 79-5212, and amendments thereto. The  
26 sheriff shall, within five days, after the receipt of the warrant file with the  
27 clerk of the district court of the county a copy thereof, and thereupon the  
28 clerk shall either enter in the appearance docket the name of the taxpayer  
29 mentioned in the warrant, the amount of the tax or portion of it, interest  
30 and penalties for which the warrant is issued and the date such copy is  
31 filed and note the taxpayer's name in the general index. No fee shall be  
32 charged for either such entry. The amount of such warrant so docketed  
33 shall thereupon become a lien upon the title to, and interest in, the real  
34 property of the taxpayer against whom it is issued. The sheriff shall  
35 proceed in the same manner and with the same effect as prescribed by law  
36 with respect to executions issued against property upon judgments of a  
37 court of record, and shall be entitled to the same fees for services.

38 The court in which the warrant is docketed shall have jurisdiction over  
39 all subsequent proceedings as fully as though a judgment had been  
40 rendered in the court. A warrant of similar terms, force and effect may be  
41 issued by the secretary or the secretary's designee and directed to any  
42 officer or employee of the secretary or the secretary's designee, and in the  
43 execution thereof such officer or employee shall have all the powers

1 conferred by law upon sheriffs with respect to executions issued against  
2 property upon judgments of a court of record and the subsequent  
3 proceedings thereunder shall be the same as provided where the warrant is  
4 issued directly to the sheriff. The taxpayer shall have the right to redeem  
5 the real estate within a period of 18 months from the date of such sale. If a  
6 warrant is returned, unsatisfied in full, the secretary or the secretary's  
7 designee shall have the same remedies to enforce the claim for taxes as if  
8 the state of Kansas had recovered judgment against the taxpayer for the  
9 amount of the tax. No law exempting any goods and chattels, land and  
10 tenements from forced sale under execution shall apply to a levy and sale  
11 under any of the warrants or upon any execution issued upon any  
12 judgment rendered in any action for consumption or compensating  
13 consumption taxes. Except as provided further, the secretary or the  
14 secretary's designee shall have the right after a warrant has been returned  
15 unsatisfied, or satisfied only in part, to issue alias warrants until the full  
16 amount of the tax is collected. No costs incurred by the sheriff or the clerk  
17 of the court shall be charged to the secretary or the secretary's designee.

18 If execution is not issued within 10 years from the date of the docketing  
19 of any such warrant, or if 10 years shall have intervened between the date  
20 of the last execution issued on such warrant, and the time of issuing  
21 another writ of execution thereon, such warrant shall become dormant, and  
22 shall cease to operate as a lien on the real estate of the delinquent taxpayer.  
23 Such dormant warrant may be revived in like manner as dormant  
24 judgments under the code of civil procedure.

25 New Sec. 19. (a) The secretary of revenue or the secretary's designee  
26 shall administer and enforce this act. The secretary shall adopt rules and  
27 regulations for the administration of this act. The secretary or the  
28 secretary's designee may upon application of any taxpayer give such  
29 applicant the privilege of paying the tax levied by this act upon the basis of  
30 gross receipts accrued but not received provided such applicant's books are  
31 regularly kept on such basis. The secretary or the secretary's designee shall  
32 appoint agents and employees for the enforcement and administration of  
33 this act.

34 (b) The secretary of revenue or the secretary's designee may abate all  
35 or part of any tax liabilities under this act as provided by the secretary.

36 New Sec. 20. (a) For the purposes of more efficiently securing the  
37 payment, collection and accounting for the taxes provided for under this  
38 act, agreements between competing retailers or the adoption of appropriate  
39 rules and regulations by organizations or associations of retailers to  
40 provide uniform methods for adding and collecting the full amount of the  
41 tax imposed by this act, or an amount equal as nearly as possible or  
42 practicable to the average equivalent thereof, and which do not involve  
43 price-fixing agreements otherwise unlawful, and which shall first have the

1 approval of the director of taxation, are expressly authorized and shall be  
2 held not to be in violation of any antitrust laws of this state. It shall be the  
3 duty of the director of taxation to cooperate with such retailers,  
4 organizations, or associations in formulating such agreements, rules and  
5 regulations. The secretary of revenue shall adopt rules and regulations for  
6 adding and collecting such tax, or an amount equal as nearly as possible or  
7 practicable to the average equivalent thereof, by providing different  
8 methods applying uniformly to retailers within the same general  
9 classification for the purpose of enabling such retailers to add and collect,  
10 as far as practicable, the amount of such tax.

11 (b) The secretary of revenue may adopt rules and regulations to  
12 provide for the issuance of permits to certain businesses which grant direct  
13 payment authority that allows certain purchases to be made without the  
14 payment of tax to the vendor or service provider and requires the permit  
15 holder to self-accrue any tax that is due and pay such tax directly to the  
16 department of revenue. The secretary shall be accorded broad discretion in  
17 establishing qualification standards for direct pay authority, in entering  
18 into agreement with permit holders that fix accounting and reporting  
19 requirements, in granting and canceling the direct pay privilege, and in  
20 establishing other requirements for administration of this section.

21 New Sec. 21. (a) All revenue collected or received by the director of  
22 taxation from the taxes imposed by this act shall be remitted to the state  
23 treasurer in accordance with the provisions of K.S.A. 75-4215, and  
24 amendments thereto. Upon receipt of each such remittance, the state  
25 treasurer shall deposit the entire amount in the state treasury, less amounts  
26 withheld as provided in subsection (b) and amounts credited as provided in  
27 subsection (c), (d) and (e), to the credit of the state general fund.

28 (b) A refund fund, designated as "consumption tax refund fund" not  
29 to exceed \$100,000 shall be set apart and maintained by the director from  
30 consumption tax collections and estimated tax collections and held by the  
31 state treasurer for prompt payment of all consumption tax refunds  
32 including refunds authorized under the provisions of K.S.A. 79-3635, and  
33 amendments thereto. Such fund shall be in such amount, within the limit  
34 set by this section, as the director shall determine is necessary to meet  
35 current refunding requirements under this act. In the event such fund as  
36 established by this section is, at any time, insufficient to provide for the  
37 payment of refunds due claimants thereof, the director shall certify the  
38 amount of additional funds required to the director of accounts and reports  
39 who shall promptly transfer the required amount from the state general  
40 fund to the consumption tax refund fund, and notify the state treasurer,  
41 who shall make proper entry in the records.

42 (c) On January 1, 2014, and thereafter, the state treasurer shall credit  
43 11.233% of the revenue collected and received from the tax imposed by

1 this act, at the rate of 6.3%, and deposited as provided by subsection (a),  
2 exclusive of amounts credited pursuant to subsection (d), in the state  
3 highway fund.

4 (d) The state treasurer shall credit all revenue collected or received  
5 from the tax imposed by this act, as certified by the director, from  
6 taxpayers doing business within that portion of a STAR bond project  
7 district occupied by a STAR bond project or taxpayers doing business with  
8 such entity financed by a STAR bond project as defined in K.S.A. 2012  
9 Supp. 12-17,162, and amendments thereto, that was determined by the  
10 secretary of commerce to be of statewide as well as local importance or  
11 will create a major tourism area for the state or the project was designated  
12 as a STAR bond project as defined in K.S.A. 2012 Supp. 12-17,162, and  
13 amendments thereto, to the city bond finance fund, which fund is hereby  
14 created. The provisions of this subsection shall expire when the total of all  
15 amounts credited hereunder and under subsection (d) of K.S.A. 79-3710,  
16 and amendments thereto, is sufficient to retire the special obligation bonds  
17 issued for the purpose of financing all or a portion of the costs of such  
18 STAR bond project.

19 (e) All revenue certified by the director of taxation as having been  
20 collected or received from the tax imposed on the sale or furnishing of gas,  
21 water, electricity and heat for use or consumption within the intermodal  
22 facility district described in this subsection, shall be credited by the state  
23 treasurer to the state highway fund. Such revenue may be transferred by  
24 the secretary of transportation to the rail service improvement fund  
25 pursuant to law. The provisions of this subsection shall take effect upon  
26 certification by the secretary of transportation that a notice to proceed has  
27 been received for the construction of the improvements within the  
28 intermodal facility district, but not later than December 31, 2010, and shall  
29 expire when the secretary of revenue determines that the total of all  
30 amounts credited hereunder and pursuant to subsection (e) of K.S.A. 79-  
31 3710, and amendments thereto, is equal to \$53,300,000, but not later than  
32 December 31, 2045. Thereafter, all revenues shall be collected and  
33 distributed in accordance with applicable law. For all tax reporting periods  
34 during which the provisions of this subsection are in effect, none of the  
35 exemptions contained in section 4, and amendments thereto, shall apply to  
36 the sale or furnishing of any gas, water, electricity and heat for use or  
37 consumption within the intermodal facility district. As used in this  
38 subsection, "intermodal facility district" shall consist of an intermodal  
39 transportation area as defined by subsection (oo) of K.S.A. 12-1770a, and  
40 amendments thereto, located in Johnson county within the polygonal-  
41 shaped area having waverly road as the eastern boundary, 191<sup>st</sup> street as  
42 the southern boundary, four corners road as the western boundary, and  
43 highway 56 as the northern boundary, and the polygonal-shaped area

1 having poplar road as the eastern boundary, 183<sup>rd</sup> street as the southern  
2 boundary, waverly road as the western boundary, and the BNSF mainline  
3 track as the northern boundary, that includes capital investment in an  
4 amount exceeding \$150 million for the construction of an intermodal  
5 facility to handle the transfer, storage and distribution of freight through  
6 railway and trucking operations.

7 New Sec. 22. (a) For the purpose of the proper administration of this  
8 act and to prevent evasion of the tax imposed thereunder, it shall be  
9 presumed that all gross receipts from the sale of tangible personal property  
10 or enumerated services are subject to tax until the contrary is established.  
11 The burden of proving that a sale is not subject to tax is upon the seller  
12 unless the seller takes from the purchaser an exemption certificate to the  
13 effect that the property or service purchased is not subject to tax.

14 (b) An exemption certificate shall relieve the seller from collecting  
15 and remitting tax if the seller has obtained the required identifying  
16 information as determined by the director, from the purchaser and the  
17 reason for claiming the exemption at the time of purchase and has  
18 maintained proper records of exempt transactions pursuant to subsection  
19 (a) of section 11, and amendments thereto, and provided them to the  
20 director when requested, except that no such relief from liability shall  
21 apply to a seller who: Fraudulently fails to collect the tax; solicits  
22 purchasers to participate in the unlawful claim of an exemption; accepts an  
23 exemption certificate claiming an entity based exemption when the subject  
24 of the transaction is actually received by the purchaser at a location  
25 operated by the seller and the director provides an exemption certificate  
26 that clearly and affirmatively indicates that the claimed exemption is not  
27 available. The seller shall obtain the same information for proof of a  
28 claimed exemption regardless of the medium in which the transaction  
29 occurred. The purchaser improperly claiming an exemption shall remain  
30 liable for the nonpayment of tax.

31 (c) The exemption certificate shall be substantially in such form as  
32 the director may prescribe. The seller shall use the standard form for  
33 claiming an exemption electronically as adopted by the director. A seller  
34 may require a purchaser to provide a copy of the purchaser's tax  
35 registration certificate with a resale certificate as a condition for honoring  
36 the purchaser's resale exemption claim, except that in the case of drop  
37 shipment sales into this state, the third party vendor may claim a resale  
38 exemption based on an exemption certificate provided by its customer, re-  
39 seller, or any other information acceptable to the secretary available to the  
40 third party vendor evidencing qualification for a resale exemption,  
41 regardless of whether the customer, re-seller, is registered to collect and  
42 remit consumption and compensating consumption tax in this state. A  
43 purchaser is not required to provide a signature to claim an exemption

1 from tax unless a paper exemption certificate is used. A seller is relieved of  
2 liability for the tax otherwise applicable if it obtains a blanket exemption  
3 certificate for a purchaser with which the seller has a recurring business  
4 relationship. Such blanket certificate need not be renewed or updated by  
5 the seller for exemption certificate information or data elements when  
6 there is a recurring business relationship between the buyer and seller. For  
7 purposes of this subsection, a recurring business relationship exists when a  
8 period of no more than 12 months elapses between sales transactions.

9 (d) To lawfully present a resale exemption certificate the purchaser  
10 must be engaged in the business of selling property or services of the same  
11 kind that is purchased, hold a registration certificate, except as otherwise  
12 permitted in subsection (c) for drop shipment sales into this state, and at  
13 the time of purchase, either intend to resell the property in the regular  
14 course of business or be unable to ascertain whether the property will be  
15 resold or used for some other purpose. A resale exemption certificate may  
16 be used for resale of services to tangible personal property and not for  
17 services to real property.

18 (e) Any person who issues a resale certificate or other exemption  
19 certificate in order to unlawfully avoid payment of tax for business or  
20 personal gain shall be guilty of a misdemeanor and upon conviction shall  
21 be punished by a fine of not more than \$1,000 or imprisonment for not  
22 more than one year, or by both. In addition, if the director determines that  
23 a person issued a resale certificate in order to unlawfully avoid payment of  
24 tax for business or personal gain, the director shall increase any penalty  
25 that is due from the person under section 17, and amendments thereto, by  
26 \$250 or 10 times the tax due, whichever is greater, on each transaction  
27 where the misuse of a resale certificate occurred.

28 (f) Exemption certificates issued by an entity claiming a specific  
29 exemption under section 6, and amendments thereto, based on the status of  
30 the entity shall bear the name, address of the entity and identification  
31 number issued to the entity pursuant to K.S.A. 2012 Supp. 79-3692, and  
32 amendments thereto. Such certificate shall be signed by an authorized  
33 person of the nonprofit entity, if in paper form, and contain the tax  
34 identification number of the entity. The certificate shall be substantially in  
35 such form as the director may prescribe. A seller may require that  
36 payments be made on an exempt entity's check, warrant, voucher or  
37 charged to the entity's account as a condition for honoring the entity's  
38 exemption claim.

39 (g) It shall be the duty of every person who purchases tangible  
40 personal property or services that are taxable under this act to pay the full  
41 amount of tax that is lawfully due to the retailer making the sale. Any  
42 person who willfully and intentionally refuses to pay such tax to the  
43 retailer shall be guilty of a misdemeanor and upon conviction shall be

1 punished and fined as provided by subsection (g) of section 17, and  
2 amendments thereto.

3 New Sec. 23. (a) A refund request for an amount equal to or  
4 exceeding \$50 may be filed directly by a consumer or purchaser if the  
5 consumer or purchaser: (1) Paid the tax directly to the department; (2)  
6 provides evidence that the retailer refused or was unavailable to refund the  
7 tax; (3) provides evidence that the retailer did not act upon its refund  
8 request in a timely manner as provided in subsection (b); or (4) provides a  
9 notarized statement to the department from the retailer that the retailer: (A)  
10 Will not claim a refund of the same tax included in the purchaser's or  
11 consumer's refund request; (B) agrees to provide to the consumer or  
12 purchaser any information or documentation in the retailer's possession  
13 needed for submission to the department to support or prove the refund  
14 claim; (C) has remitted to the state the tax sought to be refunded; and (D)  
15 has not taken or will not take a credit for such tax. A retailer providing  
16 false information in any such statement shall be subject to penalties  
17 prescribed by section 17, and amendments thereto.

18 (b) A cause of action against the seller for the over-collected  
19 consumption or compensating consumption taxes does not accrue until a  
20 purchaser has provided written notice to a seller and the seller has had 60  
21 days to respond. Such notice to the seller must contain the information  
22 necessary to determine the validity of the request. In connection with a  
23 purchaser's request from a seller for over-collected consumption or  
24 compensating consumption taxes, a seller shall be presumed to have a  
25 reasonable business practice, if in the collection of such consumption or  
26 compensating consumption taxes, the seller uses either a provider or a  
27 system, including a proprietary system, that is certified by the state and has  
28 remitted to the state all taxes collected less any deductions, credits or  
29 collection allowances. If the director of taxation finds upon proper  
30 showing that a consumer or purchaser submitted a refund request to a  
31 retailer that was not acted upon by the retailer in a timely manner, the  
32 director shall extend the time for filing the request with the department  
33 beyond the three year limitation period that is otherwise provided by the  
34 time attributed to the delay caused by the retailer.

35 New Sec. 24. (a) Any individual who is responsible for collection or  
36 payment of tax or control, receipt, custody or disposal of funds due and  
37 owing under this act who willfully fails to collect such tax, or account for  
38 and pay over such tax, or attempts in any manner to evade or defeat such  
39 tax or the payment thereof shall be personally liable for the total amount of  
40 the tax evaded, or not collected, or not accounted for and paid over,  
41 together with any interest and penalty imposed thereon. The provisions of  
42 this section shall apply regardless of the: (1) Relationship with the retailer  
43 held by such individual; (2) form under which the retailer conducts



1 business, whether a sole proprietorship, partnership or corporation; or (3)  
2 dissolution of the business. As used in this section, "willfully" has the  
3 same meaning as such term has for federal tax purposes in 26 U.S.C. §  
4 6672.

5 (b) A notice of assessment issued to a responsible individual shall be  
6 considered to be a proceeding for the collection of the tax liability of the  
7 business. If the liability of the business is determined in a proceeding that  
8 has become final, any notice of assessment against a responsible individual  
9 must be issued within three years after the proceeding against the business  
10 has become final.

11 (c) Within 60 days after the mailing of a notice of assessment against  
12 a responsible individual, the person assessed may request an informal  
13 conference with the secretary of revenue under K.S.A. 79-3226, and  
14 amendments thereto, for a determination of whether such person is a  
15 responsible individual under subsection (a) and for a determination of the  
16 tax liability of the business.

17 (d) If notice of assessment and warrant are issued to a responsible  
18 individual pursuant to section 12, and amendments thereto, or any other  
19 jeopardy provision of chapter 79 of the Kansas Statutes Annotated, and  
20 amendments thereto, the person assessed may request that the informal  
21 conference held pursuant to subsection (c) be expedited. When such a  
22 request is made, the secretary shall schedule the conference to be held  
23 within 21 days after receipt of the request and shall issue a written final  
24 determination within 21 days after the close of the conference.

25 New Sec. 25. The provisions of K.S.A. 79-3667 et seq., and  
26 amendments thereto, shall be applicable to this act.

27 New Sec. 26. (a) There is hereby created a consumption tax transition  
28 committee. Such committee shall provide recommendations for necessary  
29 procedures, administrative processes and legislation to effectuate the  
30 implementation of this act.

31 (b) Members of the transition committee shall consist of:

32 (1) One member of the committee on taxation of the house of  
33 representatives appointed by the speaker of the house of representatives;

34 (2) one member of the committee on assessment and taxation of the  
35 senate appointed by the president of the senate;

36 (3) one member of the committee on appropriations of the house of  
37 representatives appointed by the speaker of the house of representatives;

38 (4) one member of the committee on ways and means of the senate  
39 appointed by the president of the senate;

40 (5) the secretary of revenue;

41 (6) the state treasurer; and

42 (7) the secretary of state.

43 (c) The committee shall select a chairperson.

1 (d) The committee shall make a report of such recommendations  
2 including any necessary legislation to effectuate such recommendations to  
3 the legislature prior to January 1, 2014.

4 New Sec. 27. (a) If any person sells or leases tangible personal  
5 property to the state, a state department, a state agency or an agent thereof,  
6 that person and any affiliated person shall, as a prerequisite for any such  
7 sale or lease, register with the department of revenue as a retailer and

8 comply with all legal requirements imposed on a retailer, including the  
9 requirement to collect and remit tax on all taxable sales of tangible  
10 personal property to customers in this state.

11 (b) Any ruling, agreement or contract, whether written or oral,  
12 express or implied, between a retailer and this state's executive branch, or  
13 any other state agency or department, stating, agreeing or ruling that the  
14 retailer is not required to collect tax in this state despite the presence of a  
15 warehouse, distribution center or fulfillment center in the state that is  
16 owned or operated by the retailer or an affiliated person of the retailer shall  
17 be null and void unless it is specifically approved by a majority vote of  
18 each of the houses of the Kansas legislature.

19 (c) As used in this section, "affiliated person" means any person that  
20 is a member of the same "controlled group of corporations" as defined in  
21 section 1563(a) of the federal internal revenue code as the retailer or any  
22 other entity that, notwithstanding its form of organization, bears the same  
23 ownership relationship to the retailer as a corporation that is a member of  
24 the same "controlled group of corporations" as defined in section 1563(a)  
25 of the federal internal revenue code.

26 Sec. 28. K.S.A. 2012 Supp. 79-3702 is hereby amended to read as  
27 follows: 79-3702. For the purposes of this act: (a) "Purchase price" means  
28 the consideration paid or given or contracted to be paid or given by any  
29 person to the seller of an article of tangible personal property for the article  
30 purchased. The term shall include, in addition to the consideration paid or  
31 given or contracted to be paid or given, the actual cost of transportation  
32 from the place where the article was purchased to the person using the  
33 same in this state. If a cash discount is allowed and taken on the sale it  
34 shall be deducted in arriving at the purchase price.

35 (b) The meaning ascribed to words and phrases in K.S.A. 79-3602,  
36 and amendments thereto, insofar as is practicable, shall be applicable  
37 herein unless otherwise provided. The provisions of K.S.A. 79-3601 to 79-  
38 3625, inclusive *et seq.*, 79-3650, K.S.A. 2012 Supp. 79-3693 and 79-3694,  
39 and amendments thereto, relating to enforcement, collection and  
40 administration, insofar as practicable, shall have full force and effect with  
41 respect to taxes imposed under the provisions of this act.

42 (c) "Use" means the exercise within this state by any person of any  
43 right or power over tangible personal property incident to the ownership of

1 that property, except that it shall not include processing, or the sale of the  
2 property in the regular course of business, and except storage as  
3 hereinafter defined.

4 (d) "Storage" means any keeping or retaining in this state for any  
5 purpose except sale in the regular course of business or subsequent use  
6 solely outside this state of tangible personal property purchased from a  
7 retailer.

8 (e) "Storage" and "use" do not include the keeping, retaining or  
9 exercising of any right or power over tangible personal property shipped or  
10 brought into this state for the purpose of subsequently transporting it  
11 outside the state for use thereafter solely outside the state, or for the  
12 purpose of being processed, fabricated, or manufactured into, attached to  
13 or incorporated into, other tangible personal property to be transported  
14 outside the state and thereafter used solely outside the state.

15 (f) "Property used in processing" means: (1) Any tangible personal  
16 property which, when used in fabrication, compounding, manufacturing or  
17 germination, becomes an integral part of the new article resulting from  
18 such fabrication, compounding, manufacturing, or germination, and  
19 intended to be sold ultimately at retail; (2) fuel which is consumed in  
20 creating power, heat, or steam for processing or for generating electric  
21 current.

22 (g) "Retailer" means every person engaged in the business of selling  
23 tangible personal property for use within the meaning of this act, except  
24 that, when in the opinion of the director it is necessary for the efficient  
25 administration of this act to regard any salesperson, representatives,  
26 truckers, peddlers or canvassers as the agents of the dealers, distributors,  
27 supervisors, employers or persons under whom they operate or from whom  
28 they obtain the tangible personal property sold by them, irrespective of  
29 whether they are making sales on their own behalf or on behalf of such  
30 dealers, distributors, supervisors, employers, or persons, the director may  
31 so regard them and may regard the dealers, distributors, supervisors,  
32 employers, or persons as retailers for the purposes of this act.

33 (h) (1) "Retailer doing business in this state" or any like term, means:  
34 (A) Any retailer having or maintaining in this state, permanently,  
35 temporarily, directly or indirectly through a subsidiary, agent or  
36 representative, an office, distribution house, sales house, warehouse or  
37 other place of business;

38 (B) any retailer having an employee, independent contractor, agent,  
39 representative, salesperson, canvasser or solicitor operating in this state  
40 either permanently or temporarily, under the authority of the retailer or its  
41 subsidiary, for the purpose of selling, delivering, installing, assembling,  
42 servicing, repairing, soliciting sales or the taking of orders for tangible  
43 personal property;

1 (C) any retailer, including a contractor, repair person or other service  
2 provider, who enters this state to perform services that are enumerated in  
3 K.S.A. 79-3603, and amendments thereto, and who is required to secure a  
4 retailer's sales tax registration certificate before performing those services;

5 (D) any retailer deriving rental receipts from a lease of tangible  
6 personal property situated in this state;

7 (E) any person having a franchisee or licensee operating under its  
8 trade name if the franchisee or the licensee is required to collect the tax  
9 under the Kansas retailers' sales tax act;

10 (F) any person regularly maintaining a stock of tangible personal  
11 property in this state for sale in the normal course of business; and

12 (G) any retailer who has any other contact with this state that would  
13 allow this state to require the retailer to collect and remit tax under the  
14 provisions of the constitution and laws of the United States.

15 (2) A retailer shall be presumed to be doing business in this state if:

16 (A) Both of the following conditions exist:

17 (i) The retailer holds a substantial ownership interest in, or is owned  
18 in whole substantial part by, a retailer maintaining a sales location in  
19 Kansas; and

20 (ii) the retailer sells the same or a substantially similar line of  
21 products as the related Kansas retailer and does so under the same or a  
22 substantially similar business name, or the Kansas facilities or Kansas  
23 employees of the related Kansas retailer are used to advertise, promote or  
24 facilitate sales by the retailer to consumers.

25 (B) The retailer holds a substantial ownership interest in, or is owned  
26 in whole or in substantial part by, a business that maintains a distribution  
27 house, sales house, warehouse or similar place of business in Kansas that  
28 delivers *or facilitates the delivery of* property sold by the retailer to  
29 consumers.

30 (C) For purposes of paragraphs (A) and (B):

31 (i) "Substantial ownership interest" means an interest in an entity that  
32 is not less than the degree of ownership of equity interest in an entity that  
33 is specified by Section 78p of Title 15 of the United States Code, or any  
34 successor to that statute, with respect to a person other than a director or  
35 officer; and

36 (ii) "ownership" means and includes both direct ownership, and  
37 indirect ownership through a parent, subsidiary or affiliate.

38 (D) *The retailer enters into an agreement with one or more residents*  
39 *of this state under which the resident, for a commission or other*  
40 *consideration, directly or indirectly refers potential customers, whether by*  
41 *a link on an internet website, by telemarketing, by an in-person oral*  
42 *presentation, or otherwise, to the retailer; if the cumulative gross receipts*  
43 *from sales by the retailer to customers in the state who are referred to the*

1 retailer by all residents with this type of an agreement with the retailer is  
 2 in excess of \$10,000 during the preceding 12 months. This presumption  
 3 may be rebutted by submitting proof that the residents with whom the  
 4 retailer has an agreement did not engage in any activity within the state  
 5 that was significantly associated with the retailer's ability to establish or  
 6 maintain the retailer's market in the state during the preceding 12 months.  
 7 Such proof may consist of sworn written statements from all of the  
 8 residents with whom the retailer has an agreement stating that they did not  
 9 engage in any solicitation in the state on behalf of the retailer during the  
 10 preceding year, provided that such statements were provided and obtained  
 11 in good faith. This subparagraph shall take effect 90 days after the  
 12 enactment of this statute and shall apply to sales made and uses occurring  
 13 on or after the effective date of this subparagraph and without regard to  
 14 the date the retailer and the resident entered into the agreement described  
 15 in this subparagraph. The term "preceding 12 months" as used in this  
 16 subparagraph includes the 12 months commencing prior to the effective  
 17 date of this subparagraph.

18 (3) The processing of orders electronically, by fax, telephone, the  
 19 internet or other electronic ordering process, does not relieve a retailer of  
 20 responsibility for collection of the tax from the purchaser if the retailer is  
 21 doing business in this state pursuant to this section.

22 (i) "Director" means the director of taxation.

23 Sec. 29. K.S.A. 2012 Supp. 79-32,110 is hereby amended to read as  
 24 follows: 79-32,110. (a) *Resident Individuals*. Except as otherwise provided  
 25 by subsection (a) of K.S.A. 79-3220, and amendments thereto, a tax is  
 26 hereby imposed upon the Kansas taxable income of every resident  
 27 individual, which tax shall be computed in accordance with the following  
 28 tax schedules:

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

30 (A) For tax year 2012:

31	If the taxable income is:.....	The tax is:
32	Not over \$30,000.....	3.5% of Kansas taxable income
33	Over \$30,000 but not over.....	\$1,050 plus 6.25% of excess
34	\$60,000.....	over \$30,000
35	Over \$60,000.....	\$2,925 plus 6.45% of excess
36		over \$60,000

37 (B) For tax year 2013, and all tax years thereafter:

38	If the taxable income is:	The tax is:
39	Not over \$30,000.....	3.0% of Kansas taxable income
40	Over \$30,000.....	\$900 plus 4.9% of excess over
41		\$30,000

42 (C) For tax year 2014:

43	If the taxable income is:.....	The tax is:
44	Not over \$30,000.....	1.5% of Kansas taxable income
45	Over \$30,000.....	\$450 plus 2.45% of excess over

1 \$30,000  
 2 (2) *All other individuals.*  
 3 (A) For tax year 2012:  
 4 If the taxable income is:.....The tax is:  
 5 Not over \$15,000.....3.5% of Kansas taxable income  
 6 Over \$15,000 but not over.....\$525 plus 6.25% of excess  
 7 \$30,000.....over \$15,000  
 8 Over \$30,000.....\$1,462.50 plus 6.45% of excess  
 9 over \$30,000

10 (B) For tax year 2013, and all tax years thereafter:  
 11 If the taxable income is:.....The tax is:  
 12 Not over \$15,000.....3.0 % of Kansas taxable income  
 13 Over \$15,000.....\$450 plus 4.9% of excess over  
 14 \$15,000

15 (C) For tax year 2014:  
 16 If the taxable income is:.....The tax is:  
 17 Not over \$15,000.....1.5% of Kansas taxable income  
 18 Over \$15,000.....\$225 plus 2.45% of excess  
 19 over \$15,000

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

25 ~~(e) *Corporations.* A tax is hereby imposed upon the Kansas taxable~~  
 26 ~~income of every corporation doing business within this state or deriving~~  
 27 ~~income from sources within this state. Such tax shall consist of a normal~~  
 28 ~~tax and a surtax and shall be computed as follows:~~

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

31 ~~(2) (A) for tax year 2008, the surtax shall be in an amount equal to~~  
 32 ~~3.1% of the Kansas taxable income of such corporation in excess of~~  
 33 ~~\$50,000;~~

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

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

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

43 New Sec. 30. (a) The provisions of sections 30 through 43, and  
 44 amendments thereto, shall be known and may be cited as the Kansas  
 45 compensating consumption tax act.

1 (b) As used in sections 30 through 43, and amendments thereto, "act"  
2 means the Kansas compensating consumption tax act.

3 New Sec. 31. There is hereby levied and there shall be collected from  
4 every person in this state a compensating consumption tax or excise for the  
5 privilege of using, storing, or consuming within this state any article of  
6 tangible personal property. Such tax shall be levied and collected in an  
7 amount equal to the consideration paid by the taxpayer multiplied by the  
8 rate of 6.3%. Within a redevelopment district established pursuant to  
9 K.S.A. 74-8921, and amendments thereto, there is hereby levied and there  
10 shall be collected and paid an additional tax of 2% until the earlier of: (1)  
11 The date the bonds issued to finance or refinance the redevelopment  
12 project undertaken in the district have been paid in full; or (2) the final  
13 scheduled maturity of the first series of bonds issued to finance the  
14 redevelopment project. All property purchased or leased within or without  
15 this state and subsequently used, stored or consumed in this state shall be  
16 subject to the compensating consumption tax if the same property or  
17 transaction would have been subject to the Kansas consumption tax had  
18 the transaction been wholly within this state.

19 New Sec. 32. For the purpose of the proper administration of the  
20 provisions of this act and to prevent evasion of the tax, evidence that  
21 tangible personal property was sold by any person for delivery in this state  
22 shall be prima facie evidence that such tangible personal property was sold  
23 for use in this state.

24 New Sec. 33. The provisions of this act shall not apply:

25 (a) In respect to the use, storage or consumption of any article of  
26 tangible personal property brought into the state of Kansas by a  
27 nonresident who is within the state for not to exceed 60 days for such  
28 nonresident's use or enjoyment while within the state; or by a railroad or  
29 public utility for consumption or movement in interstate commerce;

30 (b) in respect to the use, storage or consumption of tangible personal  
31 property purchased other than at retail;

32 (c) in respect to the use, storage or consumption of any article of  
33 tangible personal property the sale or use of which has already been  
34 subjected to a tax equal to or in excess of that imposed by this act, whether  
35 under the laws of this state or of some other state of the United States; and

36 (d) in respect to the use, storage or consumption of any article of  
37 tangible personal property brought into or used within the state of Kansas  
38 if such article of tangible personal property would not have been subject to  
39 tax under the provisions of section 1 et seq., and amendments thereto, if  
40 purchased within this state.

41 New Sec. 34. If any article of tangible personal property has already  
42 been subjected to a tax by this or any other state in respect to its sale or use  
43 in an amount less than the tax imposed by the provisions of this act, the

1 provisions of this act shall apply, but at a rate measured by the difference  
2 only between the rate fixed in section 31, and amendments thereto, and the  
3 rate by which the previous tax upon the sale or use was computed.

4 New Sec. 35. The tax levied under section 31, and amendments  
5 thereto, shall be paid by the consumer or user to the retailer and it shall be  
6 the duty of each and every retailer to collect from the consumer or user the  
7 full amount of the tax imposed by the provisions of this act. Such tax shall  
8 be a debt from the consumer or user to the retailer when added to the  
9 original purchase price, and shall be recoverable at law in the same manner  
10 as other debts. If the tax levied under section 31, and amendments thereto,  
11 is not collected by the retailer, then the person using, consuming or storing  
12 tangible personal property in this state shall file a return and pay the tax, as  
13 required by section 31, and amendments thereto, notwithstanding the  
14 foregoing provisions of this section or any other provision of this act.

15 New Sec. 36. It shall be unlawful for any retailer to advertise or hold  
16 out, or state to the public, or to any consumer, directly or indirectly, that  
17 the tax, or any part thereof, imposed by the provisions of this act, shall be  
18 assumed or absorbed by the retailer, or that it shall not be considered as an  
19 element in the price to the consumer, or if collected, that it, or any part  
20 thereof, shall be refunded.

21 New Sec. 37. Every retailer doing business in this state and making  
22 sales of tangible personal property for use, storage or consumption in this  
23 state, not exempted under the provisions of this act, at the time of making  
24 such sales, whether within or without the state, shall collect the tax  
25 imposed by this act from the purchaser, and give the purchaser a receipt  
26 therefor. Each such retailer shall list with the director the name and address  
27 of all such retailer's agents operating in this state, and the location of any  
28 and all such retailer's distribution or sales houses or offices or other places  
29 of business in this state.

30 New Sec. 38. The secretary of revenue or the secretary's designee  
31 may upon application, authorize the collection of the tax by section 31,  
32 and amendments thereto, imposed by any retailer not doing business  
33 within this state. Such retailer shall be issued, without charge, a permit to  
34 collect such tax in such manner, and subject to such regulations and  
35 agreements as the secretary shall prescribe. When so authorized, it shall be  
36 the duty of such retailer to collect the tax upon all tangible personal  
37 property sold for use, storage or consumption within this state, in the same  
38 manner and subject to the same requirements as a retailer doing business  
39 within this state. Such authority and permit may be canceled when, at any  
40 time, the secretary or the secretary's designee considers such tax can more  
41 effectively be collected from the person using, storing or consuming such  
42 property in this state.

43 New Sec. 39. (a) Each retailer or person subject to the provisions of



1 this act shall make remittances of the tax imposed by section 31, and  
2 amendments thereto, and file returns in accordance with the provisions of  
3 section 7, and amendments thereto, except that the time schedule for  
4 remitting tax and filing returns shall be determined on the basis of calendar  
5 year compensating consumption tax liability in lieu of calendar year  
6 consumption tax liability. Returns shall show in detail the total quantity of  
7 tangible personal property sold by any retailer or used, stored or consumed  
8 by any person within the state during the period for which the return is  
9 filed subject to the tax herein imposed, and such other information as the  
10 director may deem pertinent. The director, upon request and a proper  
11 showing of the necessity therefor, may grant an extension of time not to  
12 exceed 60 days for making any return and payment. Returns shall be  
13 signed by the retailer or such retailer's duly authorized agent, and must be  
14 certified by such retailer to be correct.

15 (b) If any taxpayer fails to pay the tax required under the provisions  
16 of section 31, and amendments thereto, at the time required by or under the  
17 provisions of this section, there shall be added to the unpaid balance of the  
18 tax, interest at the rate per month prescribed by subsection (a) of K.S.A.  
19 79-2968, and amendments thereto, from the date the tax was due until  
20 paid.

21 (c) If any taxpayer fails to file a return or pay the tax if one is due, at  
22 the time required by or under the provisions of this act, there shall be  
23 added to the tax an additional amount equal to 1% of the unpaid balance of  
24 the tax due for each month or fraction thereof during which such failure  
25 continues, not exceeding 24% in the aggregate, plus interest at the rate  
26 prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto,  
27 from the date the tax was due until paid. Notwithstanding the provisions of  
28 this subsection, in the event an assessment is issued following a field audit  
29 for any period for which a return was filed by the taxpayer and all of the  
30 tax was paid pursuant to such return, a penalty shall be imposed for the  
31 period included in the assessment in an amount of 1% per month not  
32 exceeding 10% of the unpaid balance of tax due shown in the notice of  
33 assessment. If after review of a return for any period included in the  
34 assessment, the secretary or secretary's designee determines that the  
35 underpayment of tax was due to the failure of the taxpayer to make a  
36 reasonable attempt to comply with the provisions of this act, such penalty  
37 shall be imposed for the period included in the assessment in the amount  
38 of 25% of the unpaid balance of tax due.

39 (d) If any taxpayer, with fraudulent intent, fails to pay any tax or  
40 make, render or sign any return, or to supply any information, within the  
41 time required by or under the provisions of this section, there shall be  
42 added to the tax a penalty in an amount equal to 50% of the unpaid balance  
43 of tax due.

1 (e) Penalty or interest applied under the provisions of subsections (b)  
2 and (c) shall be in addition to the penalty added under any other provisions  
3 of this section.

4 (f) Whenever the secretary of revenue or the secretary's designee  
5 determines that the failure of the taxpayer to comply with the provisions of  
6 subsections (b) and (e) was due to reasonable causes, the secretary or the  
7 secretary's designee may waive or reduce any of the penalties and may  
8 reduce the interest rate to the underpayment rate prescribed and  
9 determined for the applicable period under section 6621 of the federal  
10 internal revenue code upon making a record of the reasons therefor.

11 (g) In addition to all other penalties provided by this section, any  
12 person who willfully fails to make a return or to pay any tax imposed  
13 under this act, or who makes a false or fraudulent return, or fails to keep  
14 any books or records prescribed by this act, or who willfully violates any  
15 regulations of the secretary of revenue, for the enforcement and  
16 administration of this act, or who aids and abets another in attempting to  
17 evade the payment of any tax imposed by this act, or who violates any  
18 other provision of this act, shall, upon conviction thereof, shall be fined  
19 not less than \$100 nor more than \$1,000, or be imprisoned in the county  
20 jail not less than one month nor more than six months, or be both so fined  
21 and imprisoned, in the discretion of the court.

22 (h) No penalty assessed hereunder shall be collected if the taxpayer  
23 has had the tax abated on appeal, and any penalty collected upon such tax  
24 shall be refunded.

25 New Sec. 40. Whenever any taxpayer or person liable to pay any tax  
26 provided by this act refuses or neglects to pay such tax, the amount of such  
27 tax, including any interest or penalty, shall be collected in the manner  
28 provided by section 17, and amendments thereto.

29 New Sec. 41. (a) All revenue collected or received by the director  
30 under the provisions of this act shall be remitted to the state treasurer in  
31 accordance with the provisions of K.S.A. 75-4215, and amendments  
32 thereto. Upon receipt of each such remittance, the state treasurer shall  
33 deposit the entire amount in the state treasury, less amounts set apart as  
34 provided in subsection (b) and amounts credited as provided in subsection  
35 (c), (d) and (e), to the credit of the state general fund.

36 (b) A revolving fund, designated as "compensating consumption tax  
37 refund fund" not to exceed \$10,000 shall be set apart and maintained by  
38 the director from compensating consumption tax collections and estimated  
39 tax collections and held by the state treasurer for prompt payment of all  
40 compensating consumption tax refunds. Such fund shall be in such  
41 amount, within the limit set by this section, as the director shall determine  
42 is necessary to meet current refunding requirements under this act.

43 (c) On July 1, 2013, and thereafter, the state treasurer shall credit

1 11.233% of the revenue collected and received from the tax imposed by  
2 section 31, and amendments thereto, at the rate of 6.3%, and deposited as  
3 provided by subsection (a), exclusive of amounts credited pursuant to  
4 subsection (d), in the state highway fund.

5 New Sec. 42. The director of taxation may require any retailer,  
6 vendor, user or consumer of tangible personal property, incurring  
7 compensating consumption tax liability under this act, prior to engaging in  
8 business within the state of Kansas, to register and file such information as  
9 the director deems pertinent.

10 New Sec. 43. When in the judgment of the director of taxation, it is  
11 necessary, in order to secure the collection of any tax, penalties or interest,  
12 due, or to become due, under this act, the director may require any person  
13 subject to such tax to file a bond with the director in such form and amount  
14 as the director may prescribe.

15 New Sec. 44. (a) No city shall impose a retailers' consumption tax  
16 under the provisions of this act without the governing body of such city  
17 having first submitted such proposition to and having received the  
18 approval of a majority of the electors of the city voting thereon at an  
19 election called and held therefor. The governing body of any city may  
20 submit the question of imposing a retailers' consumption tax and the  
21 governing body shall be required to submit the question upon submission  
22 of a petition signed by electors of such city equal in number to not less  
23 than 10% of the electors of such city.

24 (b) Any city or countywide retailers' sales tax imposed prior to July 1,  
25 2013, pursuant to law shall remain effective as prescribed by law.

26 (c) The boards of county commissioners of any two or more  
27 contiguous counties, upon adoption of a joint resolution by such boards,  
28 may submit the question of imposing a retailers' consumption tax within  
29 such counties to the electors of such counties at an election called and held  
30 thereon and such boards of any two or more contiguous counties shall be  
31 required to submit such question upon submission of a petition in each of  
32 such counties, signed by a number of electors of each of such counties  
33 where submitted equal in number to not less than 10% of the electors of  
34 each of such counties who voted at the last preceding general election for  
35 the office of secretary of state, or upon receiving resolutions requesting  
36 such an election passed by not less than  $\frac{2}{3}$  of the membership of the  
37 governing body of each of one or more cities within each of such counties  
38 which contains a population of not less than 25% of the entire population  
39 of each of such counties, or upon receiving resolutions requesting such an  
40 election passed by  $\frac{2}{3}$  of the membership of the governing body of each of  
41 one or more taxing subdivisions within each of such counties which levy  
42 not less than 25% of the property taxes levied by all taxing subdivisions  
43 within each of such counties.

1 (d) Any city or county proposing to adopt a retailers' consumption tax  
2 shall give notice of its intention to submit such proposition for approval by  
3 the electors in the manner required by K.S.A. 10-120, and amendments  
4 thereto. The notices shall state the time of the election and the rate and  
5 effective date of the proposed tax. If a majority of the electors voting  
6 thereon at such election fail to approve the proposition, such proposition  
7 may be resubmitted under the conditions and in the manner provided in  
8 this act for submission of the proposition. If a majority of the electors  
9 voting thereon at such election shall approve the levying of such tax, the  
10 governing body of any such city or county shall provide by ordinance or  
11 resolution, as the case may be, for the levy of the tax. Any repeal of such  
12 tax or any reduction or increase in the rate thereof, within the limits  
13 prescribed by K.S.A. 12-189, and section 46, and amendments thereto,  
14 shall be accomplished in the manner provided herein for the adoption and  
15 approval of such tax except that the repeal of any such city retailers'  
16 consumption tax may be accomplished by the adoption of an ordinance so  
17 providing.

18 (e) The sufficiency of the number of signers of any petition filed  
19 under this section shall be determined by the county election officer. Every  
20 election held under this act shall be conducted by the county election  
21 officer.

22 (f) The governing body of the city or county proposing to levy any  
23 retailers' consumption tax shall specify the purpose or purposes for which  
24 the revenue would be used, and a statement generally describing such  
25 purpose or purposes shall be included as a part of the ballot proposition.

26 New Sec. 45. For the purpose of levying taxes pursuant to section 44  
27 et seq., and amendments thereto, there is hereby specifically conferred  
28 upon cities and counties of this state the power and authority to impose  
29 taxes upon services rendered without the boundaries of the taxing  
30 jurisdiction by retailers having a place of business located within such  
31 taxing jurisdiction.

32 New Sec. 46. (a) The rate of any city retailers' consumption tax shall  
33 be fixed in increments of .05% and in an amount combined with any  
34 retailers' sales tax imposed by such city not to exceed 2% in total for  
35 general purposes and not to exceed 1% in total for special purposes which  
36 shall be determined by the governing body of the city. For any retailers'  
37 consumption tax imposed by a city for special purposes, such city shall  
38 specify the purposes for which such tax is imposed. All such special  
39 purpose retailers' consumption taxes imposed by a city shall expire after 10  
40 years from the date such tax is first collected. The rate of any countywide  
41 retailers' consumption tax shall be fixed in an amount combined with any  
42 retailers' sales tax imposed by such county not to exceed 1% in total and  
43 shall be fixed in increments of .25%, and which amount shall be

1 determined by the board of county commissioners.

2 (b) Any county or city levying a retailers' consumption tax is hereby  
3 prohibited from administering or collecting such tax locally, but shall  
4 utilize the services of the state department of revenue to administer,  
5 enforce and collect such tax. Except as otherwise specifically provided in  
6 section 47, and amendments thereto, such tax shall be identical in its  
7 application, and exemptions therefrom, to the Kansas retailers'  
8 consumption tax laws and all laws and administrative rules and regulations  
9 of the state department of revenue relating to the Kansas retailers'  
10 consumption tax shall apply to such local consumption tax insofar as such  
11 laws and rules and regulations may be made applicable. The state director  
12 of taxation is hereby authorized to administer, enforce and collect such  
13 local consumption taxes and to adopt such rules and regulations as may be  
14 necessary for the efficient and effective administration and enforcement  
15 thereof.

16 (c) Upon receipt of a certified copy of an ordinance or resolution  
17 authorizing the levy of a local retailers' consumption tax, the director of  
18 taxation shall cause such taxes to be collected within or without the  
19 boundaries of such taxing subdivision at the same time and in the same  
20 manner provided for the collection of the state retailers' consumption tax.  
21 Such copy shall be submitted to the director of taxation within 30 days  
22 after adoption of any such ordinance or resolution. All moneys collected  
23 by the director of taxation under the provisions of this section shall be  
24 credited to a county and city retailers' consumption tax fund which fund is  
25 hereby established in the state treasury. Any refund due on any county or  
26 city retailers' consumption tax collected pursuant to this law shall be paid  
27 out of the consumption tax refund fund and reimbursed by the director of  
28 taxation from collections of local retailers' consumption tax revenue. All  
29 local retailers' consumption tax revenues collected within any county or  
30 city pursuant to law shall be apportioned and remitted at least quarterly by  
31 the state treasurer, on instruction from the director of taxation, to the  
32 treasurer of such county or city.

33 (d) Revenue that is received from the imposition of a local retailers'  
34 consumption tax which exceeds the amount of revenue required to pay the  
35 costs of a special project for which such revenue was pledged shall be  
36 credited to the city or county general fund, as the case requires.

37 (e) The director of taxation shall provide, upon request by a city or  
38 county clerk or treasurer or finance officer of any city or county levying a  
39 local retailers' consumption tax, monthly reports identifying each retailer  
40 doing business in such city or county or making taxable sales sourced to  
41 such city or county, setting forth the tax liability and the amount of such  
42 tax remitted by each retailer during the preceding month and identifying  
43 each business location maintained by the retailer and such retailer's

1 consumption or compensating consumption tax registration or account  
2 number. Such report shall be made available to the clerk or treasurer or  
3 finance officer of such city or county within a reasonable time after it has  
4 been requested from the director of taxation. The director of taxation shall  
5 be allowed to assess a reasonable fee for the issuance of such report.  
6 Information received by any city or county pursuant to this section shall be  
7 confidential, and it shall be unlawful for any officer or employee of such  
8 city or county to divulge any such information in any manner. Any  
9 violation of this paragraph by a city or county officer or employee is a  
10 class A misdemeanor, and such officer or employee shall be dismissed  
11 from office. Reports of violations of this paragraph shall be investigated by  
12 the attorney general. The district attorney or county attorney and the  
13 attorney general shall have authority to prosecute violations of this  
14 paragraph.

15 New Sec. 47. The following sales shall be subject to the taxes levied  
16 and collected by all cities and counties under the provisions of section 44  
17 et seq., and amendments thereto:

18 (a) All sales of natural gas, electricity, heat and water delivered  
19 through mains, lines or pipes to residential premises for noncommercial  
20 use by the occupant of such premises and all sales of natural gas,  
21 electricity, heat and water delivered through mains, lines or pipes for  
22 agricultural use;

23 (b) all sales of propane gas, LP-gas, coal, wood and other fuel sources  
24 for the production of heat or lighting for noncommercial use of an  
25 occupant of residential premises; and

26 (c) all sales of intrastate telephone and telegraph services for  
27 noncommercial use.

28 New Sec. 48. All retail transactions consummated within a county or  
29 city having a retail consumption tax, which transactions are subject to the  
30 Kansas retailers' consumption tax, shall also be subject to such county or  
31 city retail consumption tax. Except as hereinafter provided, all retail sales,  
32 for the purpose of this act, shall be considered to have been consummated  
33 at the location determined by the sourcing rules as provided in K.S.A.  
34 2012 Supp. 79-3670, and amendments thereto. The retail sales or transfer  
35 of watercraft, modular homes, manufactured homes or mobile homes, shall  
36 be considered consummated at the place of business of the retailer and  
37 sourced to such location. The retail sale, excluding the lease or rental, of  
38 motor vehicles, trailers, semi-trailers or aircraft that do not qualify as  
39 transportation equipment, as defined in subsection (d) of K.S.A. 2012  
40 Supp. 79-3670, and amendments thereto, shall be considered  
41 consummated at the place of business of the retailer and sourced to such  
42 location. The isolated or occasional sale of any motor vehicle or trailer  
43 shall be considered consummated at the taxing jurisdiction where the sale

1 is made. If the sale negotiations occurred in different cities or counties, the  
2 situs of the sale for local sales tax purposes shall be the place where the  
3 motor vehicle or trailer was kept at the time negotiations were first entered  
4 into. In the event the place of business of a retailer is doubtful the place or  
5 places at which the retail sales are consummated for the purposes of this  
6 act shall be determined under rules and regulations adopted by the  
7 secretary of revenue which rules and regulations shall be considered with  
8 state and federal law insofar as applicable. The director of taxation is  
9 hereby authorized to request and receive from any retailer or from any city  
10 or county levying the tax such information as may be reasonably necessary  
11 to determine the liability of retailers for any county or city consumption  
12 tax. The collection of any consumption tax of a county or city approved at  
13 any election shall commence on the first day of the calendar quarter next  
14 following the 90<sup>th</sup> day after the date that the city or county has provided  
15 written notice to the director of taxation of the election authorizing the  
16 levy of such tax. The collection of any such consumption tax applicable to  
17 printed catalog purchases wherein the purchaser computed the tax based  
18 upon local tax rates published in the catalog, shall not commence until the  
19 first day of the calendar quarter next following the 150<sup>th</sup> day after the date  
20 that the city or county has provided written notice to the director of  
21 taxation of the election authorizing the levy of such tax. The director of  
22 taxation shall provide notice to sellers of such taxes within 30 days after  
23 receiving such notice from the city or county.

24 A city retailers' consumption tax shall not become effective within any  
25 area annexed by a city levying such tax until the first day of the calendar  
26 quarter next following the 90<sup>th</sup> day after the date that the governing body  
27 of such city provided the state department of revenue with a certified copy  
28 of the annexation ordinance and a map of the city detailing the annexed  
29 area. The director of taxation shall provide notice to sellers of such tax  
30 within 30 days after receiving such notice from the city or county.

31 Whenever any consumption tax, imposed by any city or county under  
32 the provisions of law, shall become effective, at any time prior to the time  
33 that revenue derived therefrom may be budgeted for expenditure in such  
34 year, such revenue shall be credited to the funds of the taxing subdivision  
35 or subdivisions and shall be carried forward to the credit of such funds for  
36 the ensuing budget year in the manner provided for carrying forward  
37 balances remaining in such funds at the end of a budget year.

38 New Sec. 49. (a) Except as otherwise provided by subsection (b) or  
39 (d), all revenue received by the director of taxation from a countywide  
40 retailers' consumption tax shall be apportioned among the county and each  
41 city located in such county in the following manner: (1) One-half of all  
42 revenue received by the director of taxation shall be apportioned among  
43 the county and each city located in such county in the proportion that the

1 total tangible property tax levies made in such county in the preceding  
2 year for all funds of each such governmental unit bear to the total of all  
3 such levies made in the preceding year; and (2) one-half of all revenue  
4 received by the director of taxation from such countywide retailers'  
5 consumption tax shall be apportioned among the county and each city  
6 located in such county, first to the county that portion of the revenue equal  
7 to the proportion that the population of the county residing in the  
8 unincorporated area of the county bears to the total population of the  
9 county, and second to the cities in the proportion that the population of  
10 each city bears to the total population of the county, except that no persons  
11 residing within the Fort Riley military reservation shall be included in the  
12 determination of the population of any city located within Riley county.  
13 All revenue apportioned to a county shall be paid to its county treasurer  
14 and shall be credited to the general fund of the county.

15 (b) (1) Except as otherwise provided by paragraph (2) of this  
16 subsection, for purposes of subsections (a) and (b), the term "total tangible  
17 property tax levies" means the aggregate dollar amount of tax revenue  
18 derived from ad valorem tax levies applicable to all tangible property  
19 located within each such city or county. The ad valorem property tax levy  
20 of any county or city district entity or subdivision shall be included within  
21 this term if the levy of any such district entity or subdivision is applicable  
22 to all tangible property located within each such city or county.

23 (2) For the purposes of subsections (a) and (b), any ad valorem  
24 property tax levied on property located in a city in Johnson county for the  
25 purpose of providing fire protection service in such city shall be included  
26 within the term "total tangible property tax levies" for such city regardless  
27 of its applicability to all tangible property located within each such city. If  
28 the tax is levied by a district which extends across city boundaries, for  
29 purposes of this computation, the amount of such levy shall be apportioned  
30 among each city in which such district extends in the proportion that such  
31 tax levied within each city bears to the total tax levied by the district.

32 (c) All revenue apportioned to the several cities of the county shall be  
33 paid to the respective treasurers thereof and deposited in the general fund  
34 of the city. Whenever the territory of any city is located in two or more  
35 counties and any one or more of such counties do not levy a countywide  
36 retailers' consumption tax, or whenever such counties do not levy  
37 countywide retailers' consumption taxes at a uniform rate, the revenue  
38 received by such city from the proceeds of the countywide retailers'  
39 consumption tax, as an alternative to depositing the same in the general  
40 fund, may be used for the purpose of reducing the tax levies of such city  
41 upon the taxable tangible property located within the county levying such  
42 countywide retailers' consumption tax.

43 (d) Prior to March 1 of each year, the secretary of revenue shall



1 advise each county treasurer of the revenue collected in such county from  
2 the state retailers' consumption tax for the preceding calendar year.

3 (e) Prior to December 31 of each year, the clerk of every county  
4 imposing a countywide retailers' consumption tax shall provide such  
5 information deemed necessary by the secretary of revenue to apportion  
6 and remit revenue to the counties and cities pursuant to this section.

7 New Sec. 50. (a) Subject to the provisions of subsections (b) and (c),  
8 no city or county shall levy or impose an excise tax or a tax in the nature  
9 of an excise, other than a retailers' consumption tax and a compensating  
10 consumption tax, but the provisions of this section shall not be construed  
11 as prohibiting any city from: (1) Contracting with a utility for a fixed  
12 charge based upon a percentage of gross receipts derived from the service  
13 permitted by grant, right, privilege or franchise to such utility; (2)  
14 imposing an occupation tax or license fee for the privilege of engaging in  
15 any business, trade, occupation or profession, or rendering or furnishing  
16 any service, but the determination of any such license fee shall not be  
17 based upon any amount the licensee has received from the sale or transfer  
18 of personal or real property, or for the rendering or furnishing of a service,  
19 or on the income of the licensee; (3) levying any occupation tax or license  
20 fee imposed by such city prior to the effective date of this act; (4) retaining  
21 any development excise tax as levied or imposed by such city in existence  
22 on January 1, 2006; or (5) levying an excise tax on tickets for admissions  
23 to concerts, theatrical performances, sports contests or other similar  
24 performances which take place on property owned by a city or county.

25 (b) No license fee described in subsection (a)(2) shall be imposed  
26 upon any utility contracting with and subject to a charge, described in  
27 subsection (a)(1), by such city.

28 (c) (1) On or after July 1, 2006, no city that has levied or imposed any  
29 tax described in subsection (a)(4) shall increase the rate of such tax  
30 without the governing body of such city having first submitted a  
31 proposition to increase the rate of such development excise tax to and  
32 having received the approval of a majority of the electors of the city voting  
33 thereon at an election called and held therefor.

34 (2) Any city proposing to increase the rate of a development excise  
35 tax shall give notice of its intention to submit such proposition for  
36 approval by the electors by publishing notice of such election in a  
37 newspaper of general circulation in the city, once each week for two  
38 consecutive weeks. The first publication shall be not less than 21 days  
39 prior to the election. The notices shall state the time of the election and the  
40 rate and effective date of the proposed tax rate increase. If a majority of  
41 the electors voting thereon at such election fail to approve the proposition,  
42 such proposition may be resubmitted under the conditions and in the  
43 manner provided in this act for submission of the proposition. If a majority

1 of the electors voting thereon at such election shall approve the increase of  
2 such tax rate, the governing body of any such city shall provide by  
3 ordinance for the increase of the tax rate.

4 (3) Every election held under this act shall be conducted by the  
5 county election officer.

6 (4) The governing body of the city proposing to increase such a  
7 development excise tax shall specify the purpose or purposes for which the  
8 revenue would be used, and a statement generally describing such purpose  
9 or purposes shall be included as a part of the ballot proposition.

10 New Sec. 51. The governing body of any city or the board of  
11 commissioners of any county which has adopted an ordinance or  
12 resolution submitting to the electors of such city or county a proposition  
13 on the imposition of a retailers' consumption tax within such city or county  
14 in accordance with the provisions of section 44, and amendments thereto,  
15 and the governing body of any city located within a county the electors of  
16 which are scheduled to vote or have voted on the proposition of imposing  
17 a countywide retailers' consumption tax, may adopt an ordinance or  
18 resolution pledging the general purposes proposed for the future use of all  
19 or a portion of the revenue to be received from such tax if the proposition  
20 is or has been approved by the voters. Such ordinance or resolution shall  
21 be adopted in accordance with the provisions and procedural requirements  
22 of K.S.A. 12-137 or 19-117, and amendments thereto, and shall continue  
23 in effect for the time specified therein unless the same is repealed or  
24 amended in accordance with the provisions and procedural requirements of  
25 the appropriate statute. Any pledge of revenue to be received from such  
26 tax, or obligations secured by such pledge, made or incurred under the  
27 provisions of this section shall not be subject to the provisions of articles  
28 10 and 11 of chapter 10 of the Kansas Statutes Annotated and K.S.A. 79-  
29 2925, and amendments thereto.

30 New Sec. 52. (a) A compensating consumption tax for the privilege of  
31 using or storing within a city or county any tangible personal property or  
32 any vehicle which is required to be registered under the provisions of  
33 article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments  
34 thereto, or any vessel, as defined by K.S.A. 82a-802, and amendments  
35 thereto, is hereby imposed by every city, county or municipal university  
36 imposing a retailers' consumption tax. The rate of any such tax shall be  
37 fixed at the same rate as such city's, county's or university's retailers'  
38 consumption tax. Any city, county or municipal university imposing a  
39 compensating consumption tax is prohibited from administering or  
40 collecting such tax locally, but shall utilize the services of the state  
41 department of revenue to administer, enforce and collect such tax. Such tax  
42 shall be identical in its application and exemptions therefrom to the Kansas  
43 compensating tax, and all laws and rules and regulations of the state

1 department of revenue relating to the Kansas compensating tax shall apply  
2 to such local compensating consumption tax insofar as the same may be  
3 made applicable.

4 (b) The secretary of revenue is authorized to administer, enforce and  
5 collect a city's, county's or municipal university's compensating  
6 consumption tax and to adopt such rules and regulations necessary for the  
7 efficient and effective administration, enforcement and collection thereof.  
8 The state director of taxation shall cause such taxes to be collected within  
9 the boundaries of such taxing subdivision at the same time and in the same  
10 manner provided for the collection of the state compensating consumption  
11 tax. All moneys collected by the director of taxation pursuant to the  
12 provisions of this section shall be credited to the city and county  
13 compensating consumption tax fund or to the municipal university  
14 compensating consumption tax fund, which funds are hereby established  
15 in the state treasury. Any refund due on any city's, county's or municipal  
16 university's compensating consumption tax collected pursuant to this  
17 section shall be paid out of the consumption tax refund fund and  
18 reimbursement to such fund shall be made by the director of taxation from  
19 collections of local compensating consumption tax revenue. All moneys  
20 collected pursuant to this section for a city or county shall be remitted at  
21 least quarterly by the state treasurer to the treasurer of such city, county or  
22 university.

23 (c) All revenue received by any county treasurer from a countywide  
24 compensating consumption tax shall be apportioned among the county and  
25 each city located in such county in the same manner as provided in K.S.A.  
26 12-192, and amendments thereto, for the apportionment of revenue  
27 received from a countywide retailers' consumption tax.

28 New Sec. 53. (a) A compensating consumption tax for the privilege  
29 of using or storing within a city or county any vehicle which is required to  
30 be registered under the provisions of article 1 of chapter 8 of the Kansas  
31 Statutes Annotated, and amendments thereto, and which is purchased  
32 within this state but without the local retailers' consumption taxing  
33 jurisdiction of such city or county, is hereby imposed by every city or  
34 county imposing a retailers' consumption tax. The rate of any such tax  
35 shall be equal to the difference between the aggregate rate of all local  
36 retailers' consumption tax rates imposed by all local retailers' consumption  
37 taxing jurisdictions of the situs of such vehicle less the aggregate rate of all  
38 local retailers' consumption tax rates imposed by all local retailers'  
39 consumption taxing jurisdictions of the situs of the purchase of such  
40 vehicle. Except as otherwise provided in this section, any city or county  
41 imposing a compensating consumption tax is prohibited from  
42 administering such tax locally, but shall utilize the services of the state  
43 department of revenue to administer and enforce such tax. All laws and

1 rules and regulations of the state department of revenue relating to the  
2 Kansas compensating consumption tax shall apply to such local  
3 compensating consumption tax insofar as the same may be made  
4 applicable. Such tax shall be collected by the county treasurer at the time  
5 the vehicle is registered in this state following a sale occurring within this  
6 state. Registration of such vehicle within a taxing jurisdiction shall be  
7 deemed to constitute use or storage thereof for compensating consumption  
8 tax purposes and the residence or place of business of the applicant shall  
9 be deemed to be the situs of such use or storage for purposes of the  
10 collection and distribution thereof.

11 (b) The secretary of revenue is authorized to administer and enforce a  
12 city's or county's compensating consumption tax and to adopt such rules  
13 and regulations necessary for the efficient and effective administration,  
14 enforcement and collection thereof.

15 (c) All revenue received by any county treasurer from a countywide  
16 compensating consumption tax shall be apportioned among the county and  
17 each city located in such county in the same manner as provided in K.S.A.  
18 12-192, and amendments thereto, for the apportionment of revenue  
19 received from a countywide retailers' consumption tax, and all revenue  
20 received from a city compensating consumption tax shall be remitted at  
21 least quarterly to the treasurer of such city.

22 Sec. 54. K.S.A. 2012 Supp. 79-32,110 and 79-3702 are hereby  
23 repealed.

24 Sec. 55. This act shall take effect and be in force from and after its  
25 publication in the statute book.