

HOUSE BILL No. 2444

By Representative Hutton

1-8

1 AN ACT concerning taxation; relating to income tax, addition and
2 subtraction modifications; sales and compensating use tax, rates, food
3 and distribution thereof; amending K.S.A. 2015 Supp. 79-32,117, 79-
4 3602, 79-3603, 79-3620, 79-3703 and 79-3710 and repealing the
5 existing sections.
6

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

8 Section 1. K.S.A. 2015 Supp. 79-32,117 is hereby amended to read as
9 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual
10 means such individual's federal adjusted gross income for the taxable year,
11 with the modifications specified in this section.

12 (b) There shall be added to federal adjusted gross income:

13 (i) Interest income less any related expenses directly incurred in the
14 purchase of state or political subdivision obligations, to the extent that the
15 same is not included in federal adjusted gross income, on obligations of
16 any state or political subdivision thereof, but to the extent that interest
17 income on obligations of this state or a political subdivision thereof issued
18 prior to January 1, 1988, is specifically exempt from income tax under the
19 laws of this state authorizing the issuance of such obligations, it shall be
20 excluded from computation of Kansas adjusted gross income whether or
21 not included in federal adjusted gross income. Interest income on
22 obligations of this state or a political subdivision thereof issued after
23 December 31, 1987, shall be excluded from computation of Kansas
24 adjusted gross income whether or not included in federal adjusted gross
25 income.

26 (ii) Taxes on or measured by income or fees or payments in lieu of
27 income taxes imposed by this state or any other taxing jurisdiction to the
28 extent deductible in determining federal adjusted gross income and not
29 credited against federal income tax. This paragraph shall not apply to taxes
30 imposed under the provisions of K.S.A. 79-1107 or 79-1108, and
31 amendments thereto, for privilege tax year 1995, and all such years
32 thereafter.

33 (iii) The federal net operating loss deduction, *except that the federal*
34 *net operating loss deduction shall not be added to an individual's federal*
35 *adjusted gross income for tax years beginning after December 31, 2015.*

36 (iv) Federal income tax refunds received by the taxpayer if the

1 deduction of the taxes being refunded resulted in a tax benefit for Kansas
2 income tax purposes during a prior taxable year. Such refunds shall be
3 included in income in the year actually received regardless of the method
4 of accounting used by the taxpayer. For purposes hereof, a tax benefit shall
5 be deemed to have resulted if the amount of the tax had been deducted in
6 determining income subject to a Kansas income tax for a prior year
7 regardless of the rate of taxation applied in such prior year to the Kansas
8 taxable income, but only that portion of the refund shall be included as
9 bears the same proportion to the total refund received as the federal taxes
10 deducted in the year to which such refund is attributable bears to the total
11 federal income taxes paid for such year. For purposes of the foregoing
12 sentence, federal taxes shall be considered to have been deducted only to
13 the extent such deduction does not reduce Kansas taxable income below
14 zero.

15 (v) The amount of any depreciation deduction or business expense
16 deduction claimed on the taxpayer's federal income tax return for any
17 capital expenditure in making any building or facility accessible to the
18 handicapped, for which expenditure the taxpayer claimed the credit
19 allowed by K.S.A. 79-32,177, and amendments thereto.

20 (vi) Any amount of designated employee contributions picked up by
21 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,
22 and amendments thereto.

23 (vii) The amount of any charitable contribution made to the extent the
24 same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-
25 32,196, and amendments thereto.

26 (viii) The amount of any costs incurred for improvements to a swine
27 facility, claimed for deduction in determining federal adjusted gross
28 income, to the extent the same is claimed as the basis for any credit
29 allowed pursuant to K.S.A. 2015 Supp. 79-32,204, and amendments
30 thereto.

31 (ix) The amount of any ad valorem taxes and assessments paid and
32 the amount of any costs incurred for habitat management or construction
33 and maintenance of improvements on real property, claimed for deduction
34 in determining federal adjusted gross income, to the extent the same is
35 claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203,
36 and amendments thereto.

37 (x) Amounts received as nonqualified withdrawals, as defined by
38 K.S.A. 2015 Supp. 75-643, and amendments thereto, if, at the time of
39 contribution to a family postsecondary education savings account, such
40 amounts were subtracted from the federal adjusted gross income pursuant
41 to K.S.A. 79-32,117(c)(xv), and amendments thereto, or if such amounts
42 are not already included in the federal adjusted gross income.

43 (xi) The amount of any contribution made to the same extent the

1 same is claimed as the basis for the credit allowed pursuant to K.S.A. 2015
2 Supp. 74-50,154, and amendments thereto.

3 (xii) For taxable years commencing after December 31, 2004,
4 amounts received as withdrawals not in accordance with the provisions of
5 K.S.A. 2015 Supp. 74-50,204, and amendments thereto, if, at the time of
6 contribution to an individual development account, such amounts were
7 subtracted from the federal adjusted gross income pursuant to subsection
8 (c)(xiii), or if such amounts are not already included in the federal adjusted
9 gross income.

10 (xiii) The amount of any expenditures claimed for deduction in
11 determining federal adjusted gross income, to the extent the same is
12 claimed as the basis for any credit allowed pursuant to K.S.A. 2015 Supp.
13 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

14 (xiv) The amount of any amortization deduction claimed in
15 determining federal adjusted gross income to the extent the same is
16 claimed for deduction pursuant to K.S.A. 2015 Supp. 79-32,221, and
17 amendments thereto.

18 (xv) The amount of any expenditures claimed for deduction in
19 determining federal adjusted gross income, to the extent the same is
20 claimed as the basis for any credit allowed pursuant to K.S.A. 2015 Supp.
21 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233
22 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-
23 32,248 or 79-32,251 through 79-32,254, and amendments thereto.

24 (xvi) The amount of any amortization deduction claimed in
25 determining federal adjusted gross income to the extent the same is
26 claimed for deduction pursuant to K.S.A. 2015 Supp. 79-32,227, 79-
27 32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments
28 thereto.

29 (xvii) The amount of any amortization deduction claimed in
30 determining federal adjusted gross income to the extent the same is
31 claimed for deduction pursuant to K.S.A. 2015 Supp. 79-32,256, and
32 amendments thereto.

33 (xviii) For taxable years commencing after December 31, 2006, the
34 amount of any ad valorem or property taxes and assessments paid to a state
35 other than Kansas or local government located in a state other than Kansas
36 by a taxpayer who resides in a state other than Kansas, when the law of
37 such state does not allow a resident of Kansas who earns income in such
38 other state to claim a deduction for ad valorem or property taxes or
39 assessments paid to a political subdivision of the state of Kansas in
40 determining taxable income for income tax purposes in such other state, to
41 the extent that such taxes and assessments are claimed as an itemized
42 deduction for federal income tax purposes.

43 (xix) For ~~all~~ taxable years beginning after December 31, 2012, *and*

1 *ending before January 1, 2016*, the amount of any: (1) Loss from business
2 as determined under the federal internal revenue code and reported from
3 schedule C and on line 12 of the taxpayer's form 1040 federal individual
4 income tax return; (2) loss from rental real estate, royalties, partnerships, S
5 corporations, except those with wholly owned subsidiaries subject to the
6 Kansas privilege tax, estates, trusts, residual interest in real estate
7 mortgage investment conduits and net farm rental as determined under the
8 federal internal revenue code and reported from schedule E and on line 17
9 of the taxpayer's form 1040 federal individual income tax return; and (3)
10 farm loss as determined under the federal internal revenue code and
11 reported from schedule F and on line 18 of the taxpayer's form 1040
12 federal income tax return; all to the extent deducted or subtracted in
13 determining the taxpayer's federal adjusted gross income. For purposes of
14 this subsection, references to the federal form 1040 and federal schedule
15 C, schedule E, and schedule F, shall be to such form and schedules as they
16 existed for tax year 2011, and as revised thereafter by the internal revenue
17 service.

18 (xx) For ~~all~~ taxable years beginning after December 31, 2012, *and*
19 *ending before January 1, 2016*, the amount of any deduction for self-
20 employment taxes under section 164(f) of the federal internal revenue
21 code as in effect on January 1, 2012, and amendments thereto, in
22 determining the federal adjusted gross income of an individual taxpayer, to
23 the extent the deduction is attributable to income reported on schedule C,
24 E or F and on line 12, 17 or 18 of the taxpayer's form 1040 federal income
25 tax return.

26 (xxi) For ~~all~~ taxable years beginning after December 31, 2012, *and*
27 *ending before January 1, 2016*, the amount of any deduction for pension,
28 profit sharing, and annuity plans of self-employed individuals under
29 section 62(a)(6) of the federal internal revenue code as in effect on January
30 1, 2012, and amendments thereto, in determining the federal adjusted gross
31 income of an individual taxpayer.

32 (xxii) For ~~all~~ taxable years beginning after December 31, 2012, *and*
33 *ending before January 1, 2016*, the amount of any deduction for health
34 insurance under section 162(l) of the federal internal revenue code as in
35 effect on January 1, 2012, and amendments thereto, in determining the
36 federal adjusted gross income of an individual taxpayer.

37 (xxiii) For ~~all~~ taxable years beginning after December 31, 2012, *and*
38 *ending before January 1, 2016*, the amount of any deduction for domestic
39 production activities under section 199 of the federal internal revenue code
40 as in effect on January 1, 2012, and amendments thereto, in determining
41 the federal adjusted gross income of an individual taxpayer.

42 (xxiv) For taxable years commencing after December 31, 2013, that
43 portion of the amount of any expenditure deduction claimed in

1 determining federal adjusted gross income for expenses paid for medical
2 care of the taxpayer or the taxpayer's spouse or dependents when such
3 expenses were paid or incurred for an abortion, or for a health benefit plan,
4 as defined in K.S.A. 2015 Supp. 65-6731, and amendments thereto, for the
5 purchase of an optional rider for coverage of abortion in accordance with
6 K.S.A. 2015 Supp. 40-2,190, and amendments thereto, to the extent that
7 such taxes and assessments are claimed as an itemized deduction for
8 federal income tax purposes.

9 (xxv) For taxable years commencing after December 31, 2013, that
10 portion of the amount of any expenditure deduction claimed in
11 determining federal adjusted gross income for expenses paid by a taxpayer
12 for health care when such expenses were paid or incurred for abortion
13 coverage, a health benefit plan, as defined in K.S.A. 2015 Supp. 65-6731,
14 and amendments thereto, when such expenses were paid or incurred for
15 abortion coverage or amounts contributed to health savings accounts for
16 such taxpayer's employees for the purchase of an optional rider for
17 coverage of abortion in accordance with K.S.A. 2015 Supp. 40-2,190, and
18 amendments thereto, to the extent that such taxes and assessments are
19 claimed as a deduction for federal income tax purposes.

20 (c) There shall be subtracted from federal adjusted gross income:

21 (i) Interest or dividend income on obligations or securities of any
22 authority, commission or instrumentality of the United States and its
23 possessions less any related expenses directly incurred in the purchase of
24 such obligations or securities, to the extent included in federal adjusted
25 gross income but exempt from state income taxes under the laws of the
26 United States.

27 (ii) Any amounts received which are included in federal adjusted
28 gross income but which are specifically exempt from Kansas income
29 taxation under the laws of the state of Kansas.

30 (iii) The portion of any gain or loss from the sale or other disposition
31 of property having a higher adjusted basis for Kansas income tax purposes
32 than for federal income tax purposes on the date such property was sold or
33 disposed of in a transaction in which gain or loss was recognized for
34 purposes of federal income tax that does not exceed such difference in
35 basis, but if a gain is considered a long-term capital gain for federal
36 income tax purposes, the modification shall be limited to that portion of
37 such gain which is included in federal adjusted gross income.

38 (iv) The amount necessary to prevent the taxation under this act of
39 any annuity or other amount of income or gain which was properly
40 included in income or gain and was taxed under the laws of this state for a
41 taxable year prior to the effective date of this act, as amended, to the
42 taxpayer, or to a decedent by reason of whose death the taxpayer acquired
43 the right to receive the income or gain, or to a trust or estate from which

1 the taxpayer received the income or gain.

2 (v) The amount of any refund or credit for overpayment of taxes on
3 or measured by income or fees or payments in lieu of income taxes
4 imposed by this state, or any taxing jurisdiction, to the extent included in
5 gross income for federal income tax purposes.

6 (vi) Accumulation distributions received by a taxpayer as a
7 beneficiary of a trust to the extent that the same are included in federal
8 adjusted gross income.

9 (vii) Amounts received as annuities under the federal civil service
10 retirement system from the civil service retirement and disability fund and
11 other amounts received as retirement benefits in whatever form which
12 were earned for being employed by the federal government or for service
13 in the armed forces of the United States.

14 (viii) Amounts received by retired railroad employees as a
15 supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and
16 228c (a)(1) et seq.

17 (ix) Amounts received by retired employees of a city and by retired
18 employees of any board of such city as retirement allowances pursuant to
19 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter
20 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and
21 amendments thereto.

22 (x) For taxable years beginning after December 31, 1976, the amount
23 of the federal tentative jobs tax credit disallowance under the provisions of
24 26 U.S.C. § 280 C. For taxable years ending after December 31, 1978, the
25 amount of the targeted jobs tax credit and work incentive credit
26 disallowances under 26 U.S.C. § 280 C.

27 (xi) For taxable years beginning after December 31, 1986, dividend
28 income on stock issued by Kansas venture capital, inc.

29 (xii) For taxable years beginning after December 31, 1989, amounts
30 received by retired employees of a board of public utilities as pension and
31 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249,
32 and amendments thereto.

33 (xiii) For taxable years beginning after December 31, 2004, amounts
34 contributed to and the amount of income earned on contributions deposited
35 to an individual development account under K.S.A. 2015 Supp. 74-50,201
36 et seq., and amendments thereto.

37 (xiv) For ~~all~~ taxable years commencing after December 31, 1996, that
38 portion of any income of a bank organized under the laws of this state or
39 any other state, a national banking association organized under the laws of
40 the United States, an association organized under the savings and loan
41 code of this state or any other state, or a federal savings association
42 organized under the laws of the United States, for which an election as an
43 S corporation under subchapter S of the federal internal revenue code is in

1 effect, which accrues to the taxpayer who is a stockholder of such
2 corporation and which is not distributed to the stockholders as dividends of
3 the corporation. For ~~all~~ taxable years beginning after December 31, 2012,
4 *and ending before January 1, 2016*, the amount of modification under this
5 subsection shall exclude the portion of income or loss reported on schedule
6 E and included on line 17 of the taxpayer's form 1040 federal individual
7 income tax return.

8 (xv) For ~~all~~ taxable years beginning after December 31, 2006,
9 amounts not exceeding \$3,000, or \$6,000 for a married couple filing a
10 joint return, for each designated beneficiary which are contributed to a
11 family postsecondary education savings account established under the
12 Kansas postsecondary education savings program or a qualified tuition
13 program established and maintained by another state or agency or
14 instrumentality thereof pursuant to section 529 of the internal revenue
15 code of 1986, as amended, for the purpose of paying the qualified higher
16 education expenses of a designated beneficiary at an institution of
17 postsecondary education. The terms and phrases used in this paragraph
18 shall have the meaning respectively ascribed thereto by the provisions of
19 K.S.A. 2015 Supp. 75-643, and amendments thereto, and the provisions of
20 such section are hereby incorporated by reference for all purposes thereof.

21 (xvi) For ~~all~~ taxable years beginning after December 31, 2004,
22 amounts received by taxpayers who are or were members of the armed
23 forces of the United States, including service in the Kansas army and air
24 national guard, as a recruitment, sign up or retention bonus received by
25 such taxpayer as an incentive to join, enlist or remain in the armed services
26 of the United States, including service in the Kansas army and air national
27 guard, and amounts received for repayment of educational or student loans
28 incurred by or obligated to such taxpayer and received by such taxpayer as
29 a result of such taxpayer's service in the armed forces of the United States,
30 including service in the Kansas army and air national guard.

31 (xvii) For ~~all~~ taxable years beginning after December 31, 2004,
32 amounts received by taxpayers who are eligible members of the Kansas
33 army and air national guard as a reimbursement pursuant to K.S.A. 48-
34 281, and amendments thereto, and amounts received for death benefits
35 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to section
36 1 or section 2 of chapter 207 of the 2005 Session Laws of Kansas, and
37 amendments thereto, to the extent that such death benefits are included in
38 federal adjusted gross income of the taxpayer.

39 (xviii) For the taxable year beginning after December 31, 2006,
40 amounts received as benefits under the federal social security act which
41 are included in federal adjusted gross income of a taxpayer with federal
42 adjusted gross income of \$50,000 or less, whether such taxpayer's filing
43 status is single, head of household, married filing separate or married filing

1 jointly; and for all taxable years beginning after December 31, 2007,
2 amounts received as benefits under the federal social security act which
3 are included in federal adjusted gross income of a taxpayer with federal
4 adjusted gross income of \$75,000 or less, whether such taxpayer's filing
5 status is single, head of household, married filing separate or married filing
6 jointly.

7 (xix) Amounts received by retired employees of Washburn university
8 as retirement and pension benefits under the university's retirement plan.

9 (xx) For ~~all~~ taxable years beginning after December 31, 2012, *and*
10 *ending before January 1, 2016*, the amount of any: (1) Net profit from
11 business as determined under the federal internal revenue code and
12 reported from schedule C and on line 12 of the taxpayer's form 1040
13 federal individual income tax return; (2) net income, not including
14 guaranteed payments as defined in section 707(c) of the federal internal
15 revenue code and as reported to the taxpayer from federal schedule K-1,
16 (form 1065-B), in box 9, code F or as reported to the taxpayer from federal
17 schedule K-1, (form 1065) in box 4, from rental real estate, royalties,
18 partnerships, S corporations, estates, trusts, residual interest in real estate
19 mortgage investment conduits and net farm rental as determined under the
20 federal internal revenue code and reported from schedule E and on line 17
21 of the taxpayer's form 1040 federal individual income tax return; and (3)
22 net farm profit as determined under the federal internal revenue code and
23 reported from schedule F and on line 18 of the taxpayer's form 1040
24 federal income tax return; all to the extent included in the taxpayer's
25 federal adjusted gross income. For purposes of this subsection, references
26 to the federal form 1040 and federal schedule C, schedule E, and schedule
27 F, shall be to such form and schedules as they existed for tax year 2011
28 and as revised thereafter by the internal revenue service.

29 (xxi) For ~~all~~ taxable years beginning after December 31, 2013,
30 amounts equal to the unreimbursed travel, lodging and medical
31 expenditures directly incurred by a taxpayer while living, or a dependent
32 of the taxpayer while living, for the donation of one or more human organs
33 of the taxpayer, or a dependent of the taxpayer, to another person for
34 human organ transplantation. The expenses may be claimed as a
35 subtraction modification provided for in this section to the extent the
36 expenses are not already subtracted from the taxpayer's federal adjusted
37 gross income. In no circumstances shall the subtraction modification
38 provided for in this section for any individual, or a dependent, exceed
39 \$5,000. As used in this section, "human organ" means all or part of a liver,
40 pancreas, kidney, intestine, lung or bone marrow. The provisions of this
41 paragraph shall take effect on the day the secretary of revenue certifies to
42 the director of the budget that the cost for the department of revenue of
43 modifications to the automated tax system for the purpose of

1 implementing this paragraph will not exceed \$20,000.

2 (xxii) For ~~all~~ taxable years beginning after December 31, 2012, *and*
3 *ending before January 1, 2016*, the amount of net gain from the sale of: (1)
4 Cattle and horses, regardless of age, held by the taxpayer for draft,
5 breeding, dairy or sporting purposes, and held by such taxpayer for 24
6 months or more from the date of acquisition; and (2) other livestock,
7 regardless of age, held by the taxpayer for draft, breeding, dairy or
8 sporting purposes, and held by such taxpayer for 12 months or more from
9 the date of acquisition. The subtraction from federal adjusted gross income
10 shall be limited to the amount of the additions recognized under the
11 provisions of subsection (b)(xix) attributable to the business in which the
12 livestock sold had been used. As used in this paragraph, the term
13 "livestock" shall not include poultry.

14 (xxiii) For ~~all~~ taxable years beginning after December 31, 2012,
15 amounts received under either the Overland Park, Kansas police
16 department retirement plan or the Overland Park, Kansas fire department
17 retirement plan, both as established by the city of Overland Park, pursuant
18 to the city's home rule authority.

19 (xxiv) For ~~all~~ taxable years beginning after December 31, 2013, the
20 net gain from the sale from Christmas trees grown in Kansas and held by
21 the taxpayer for six years or more.

22 (d) There shall be added to or subtracted from federal adjusted gross
23 income the taxpayer's share, as beneficiary of an estate or trust, of the
24 Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and
25 amendments thereto.

26 (e) The amount of modifications required to be made under this
27 section by a partner which relates to items of income, gain, loss, deduction
28 or credit of a partnership shall be determined under K.S.A. 79-32,131, and
29 amendments thereto, to the extent that such items affect federal adjusted
30 gross income of the partner.

31 (f) *Any taxpayer who is in compliance with the provisions of this*
32 *section as they appear on June 30, 2016, shall not be assessed penalties*
33 *and interest arising from the underpayment of taxes due to changes to this*
34 *section effective July 1, 2016, so long as such underpayment is rectified on*
35 *or before April 15, 2017.*

36 Sec. 2. K.S.A. 2015 Supp. 79-3602 is hereby amended to read as
37 follows: 79-3602. Except as otherwise provided, as used in the Kansas
38 retailers' sales tax act:

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

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

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

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

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

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

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

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

18 (i) "Delivery charges" means charges by the seller of personal
19 property or services for preparation and delivery to a location designated
20 by the purchaser of personal property or services including, but not limited
21 to, transportation, shipping, postage, handling, crating and packing.
22 Delivery charges shall not include charges for delivery of direct mail if the
23 charges are separately stated on an invoice or similar billing document
24 given to the purchaser.

25 (j) "Direct mail" means printed material delivered or distributed by
26 United States mail or other delivery services to a mass audience or to
27 addressees on a mailing list provided by the purchaser or at the direction of
28 the purchaser when the cost of the items are not billed directly to the
29 recipients. Direct mail includes tangible personal property supplied
30 directly or indirectly by the purchaser to the direct mail seller for inclusion
31 in the package containing the printed material. Direct mail does not
32 include multiple items of printed material delivered to a single address.

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

34 (l) "Educational institution" means any nonprofit school, college and
35 university that offers education at a level above the 12th grade, and
36 conducts regular classes and courses of study required for accreditation by,
37 or membership in, the North Central Association of Colleges and Schools,
38 the state board of education, or that otherwise qualify as an "educational
39 institution," as defined by K.S.A. 74-50,103, and amendments thereto.
40 Such phrase shall include: (1) A group of educational institutions that
41 operates exclusively for an educational purpose; (2) nonprofit endowment
42 associations and foundations organized and operated exclusively to
43 receive, hold, invest and administer moneys and property as a permanent

1 fund for the support and sole benefit of an educational institution; (3)
2 nonprofit trusts, foundations and other entities organized and operated
3 principally to hold and own receipts from intercollegiate sporting events
4 and to disburse such receipts, as well as grants and gifts, in the interest of
5 collegiate and intercollegiate athletic programs for the support and sole
6 benefit of an educational institution; and (4) nonprofit trusts, foundations
7 and other entities organized and operated for the primary purpose of
8 encouraging, fostering and conducting scholarly investigations and
9 industrial and other types of research for the support and sole benefit of an
10 educational institution.

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

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

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

27 (p) "Ingredient or component part" means tangible personal property
28 which is necessary or essential to, and which is actually used in and
29 becomes an integral and material part of tangible personal property or
30 services produced, manufactured or compounded for sale by the producer,
31 manufacturer or compounder in its regular course of business. The
32 following items of tangible personal property are hereby declared to be
33 ingredients or component parts, but the listing of such property shall not be
34 deemed to be exclusive nor shall such listing be construed to be a
35 restriction upon, or an indication of, the type or types of property to be
36 included within the definition of "ingredient or component part" as herein
37 set forth:

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

41 (2) Containers, labels, shipping cases, paper bags, drinking straws,
42 paper plates, paper cups, twine and wrapping paper used in the distribution
43 and sale of property taxable under the provisions of this act by wholesalers

1 and retailers and which is not to be returned to such wholesaler or retailer
2 for reuse.

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

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

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

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

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

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

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

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

40 (C) providing tangible personal property along with an operator for a
41 fixed or indeterminate period of time. A condition of this exclusion is that
42 the operator is necessary for the equipment to perform as designed. For the
43 purpose of this subsection, an operator must do more than maintain,

1 inspect or set-up the tangible personal property.

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

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

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

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

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

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

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

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

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

34 (y) "Nonprofit blood bank" means any nonprofit place, organization,
35 institution or establishment that is operated wholly or in part for the
36 purpose of obtaining, storing, processing, preparing for transfusing,
37 furnishing, donating or distributing human blood or parts or fractions of
38 single blood units or products derived from single blood units, whether or
39 not any remuneration is paid therefor, or whether such procedures are done
40 for direct therapeutic use or for storage for future use of such products.

41 (z) "Persons" means any individual, firm, copartnership, joint
42 adventure, association, corporation, estate or trust, receiver or trustee, or
43 any group or combination acting as a unit, and the plural as well as the

1 singular number; and shall specifically mean any city or other political
2 subdivision of the state of Kansas engaging in a business or providing a
3 service specifically taxable under the provisions of this act.

4 (aa) "Political subdivision" means any municipality, agency or
5 subdivision of the state which is, or shall hereafter be, authorized to levy
6 taxes upon tangible property within the state or which certifies a levy to a
7 municipality, agency or subdivision of the state which is, or shall hereafter
8 be, authorized to levy taxes upon tangible property within the state. Such
9 term also shall include any public building commission, housing, airport,
10 port, metropolitan transit or similar authority established pursuant to law
11 and the horsethief reservoir benefit district established pursuant to K.S.A.
12 82a-2201, and amendments thereto.

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

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

35 (dd) "Property which is consumed" means tangible personal property
36 which is essential or necessary to and which is used in the actual process
37 of and consumed, depleted or dissipated within one year in: (1) The
38 production, manufacture, processing, mining, drilling, refining or
39 compounding of tangible personal property; (2) the providing of services;
40 (3) the irrigation of crops, for sale in the regular course of business; or (4)
41 the storage or processing of grain by a public grain warehouse or other
42 grain storage facility, and which is not reusable for such purpose. The
43 following is a listing of tangible personal property, included by way of

1 illustration but not of limitation, which qualifies as property which is
2 consumed:

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

8 (B) electricity, gas and water; and

9 (C) petroleum products, lubricants, chemicals, solvents, reagents and
10 catalysts.

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

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

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

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

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

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

27 (kk) "Sale" or "sales" means the exchange of tangible personal
28 property, as well as the sale thereof for money, and every transaction,
29 conditional or otherwise, for a consideration, constituting a sale, including
30 the sale or furnishing of electrical energy, gas, water, services or
31 entertainment taxable under the terms of this act and including, except as
32 provided in the following provision, the sale of the use of tangible personal
33 property by way of a lease, license to use or the rental thereof regardless of
34 the method by which the title, possession or right to use the tangible
35 personal property is transferred. The term "sale" or "sales" shall not mean
36 the sale of the use of any tangible personal property used as a dwelling by
37 way of a lease or rental thereof for a term of more than 28 consecutive
38 days.

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

- 1 (A) The seller's cost of the property sold;
- 2 (B) the cost of materials used, labor or service cost, interest, losses,
3 all costs of transportation to the seller, all taxes imposed on the seller and
4 any other expense of the seller;
- 5 (C) charges by the seller for any services necessary to complete the
6 sale, other than delivery and installation charges;
- 7 (D) delivery charges; and
- 8 (E) installation charges.
- 9 (2) "Sales or selling price" includes consideration received by the
10 seller from third parties if:
- 11 (A) The seller actually receives consideration from a party other than
12 the purchaser and the consideration is directly related to a price reduction
13 or discount on the sale;
- 14 (B) the seller has an obligation to pass the price reduction or discount
15 through to the purchaser;
- 16 (C) the amount of the consideration attributable to the sale is fixed
17 and determinable by the seller at the time of the sale of the item to the
18 purchaser; and
- 19 (D) one of the following criteria is met:
- 20 (i) The purchaser presents a coupon, certificate or other
21 documentation to the seller to claim a price reduction or discount where
22 the coupon, certificate or documentation is authorized, distributed or
23 granted by a third party with the understanding that the third party will
24 reimburse any seller to whom the coupon, certificate or documentation is
25 presented;
- 26 (ii) the purchaser identifies to the seller that the purchaser is a
27 member of a group or organization entitled to a price reduction or
28 discount. A preferred customer card that is available to any patron does not
29 constitute membership in such a group; or
- 30 (iii) the price reduction or discount is identified as a third party price
31 reduction or discount on the invoice received by the purchaser or on a
32 coupon, certificate or other documentation presented by the purchaser.
- 33 (3) "Sales or selling price" shall not include:
- 34 (A) Discounts, including cash, term or coupons that are not
35 reimbursed by a third party that are allowed by a seller and taken by a
36 purchaser on a sale;
- 37 (B) interest, financing and carrying charges from credit extended on
38 the sale of personal property or services, if the amount is separately stated
39 on the invoice, bill of sale or similar document given to the purchaser;
- 40 (C) any taxes legally imposed directly on the consumer that are
41 separately stated on the invoice, bill of sale or similar document given to
42 the purchaser;
- 43 (D) the amount equal to the allowance given for the trade-in of

1 property, if separately stated on the invoice, billing or similar document
2 given to the purchaser; and

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

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

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

10 (oo) "Sourcing rules" means the rules set forth in K.S.A. 2015 Supp.
11 79-3670 through 79-3673, K.S.A. 12-191 and 12-191a, and amendments
12 thereto, which shall apply to identify and determine the state and local
13 taxing jurisdiction sales or use taxes to pay, or collect and remit on a
14 particular retail sale.

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

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

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

23 (ss) "Entity-based exemption" means an exemption based on who
24 purchases the product or who sells the product. An exemption that is
25 available to all individuals shall not be considered an entity-based
26 exemption.

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

35 (uu) "Ancillary services" means services that are associated with or
36 incidental to the provision of telecommunications services, including, but
37 not limited to, detailed telecommunications billing, directory assistance,
38 vertical service and voice mail services.

39 (vv) "Conference bridging service" means an ancillary service that
40 links two or more participants of an audio or video conference call and
41 may include the provision of a telephone number. Conference bridging
42 service does not include the telecommunications services used to reach the
43 conference bridge.

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

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

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

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

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

25 (1) Data processing and information services that allow data to be
26 generated, acquired, stored, processed or retrieved and delivered by an
27 electronic transmission to a purchaser where such purchaser's primary
28 purpose for the underlying transaction is the processed data or
29 information;

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

32 (3) tangible personal property;

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

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

35 (6) internet access service;

36 (7) radio and television audio and video programming services,
37 regardless of the medium, including the furnishing of transmission,
38 conveyance and routing of such services by the programming service
39 provider. Radio and television audio and video programming services shall
40 include, but not be limited to, cable service as defined in 47 U.S.C. §
41 522(6) and audio and video programming services delivered by
42 commercial mobile radio service providers, as defined in 47 C.F.R. § 20.3;

43 (8) ancillary services; or

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

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

8 (ccc) "900 service" means an inbound toll telecommunications
9 service purchased by a subscriber that allows the subscriber's customers to
10 call in to the subscriber's prerecorded announcement or live service. 900
11 service does not include the charge for collection services provided by the
12 seller of the telecommunications services to the subscriber, or service or
13 product sold by the subscriber to the subscriber's customer. The service is
14 typically marketed under the name 900 service, and any subsequent
15 numbers designated by the federal communications commission.

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

21 (eee) "International" means a telecommunications service that
22 originates or terminates in the United States and terminates or originates
23 outside the United States, respectively. United States includes the District
24 of Columbia or a U.S. territory or possession.

25 (fff) "Interstate" means a telecommunications service that originates
26 in one United States state, or a United States territory or possession, and
27 terminates in a different United States state or a United States territory or
28 possession.

29 (ggg) "Intrastate" means a telecommunications service that originates
30 in one United States state or a United States territory or possession, and
31 terminates in the same United States state or a United States territory or
32 possession.

33 (hhh) *"Candy" means a preparation of sugar, honey or other natural*
34 *or artificial sweeteners in combination with chocolate, fruits, nuts or other*
35 *ingredients or flavorings in the form of bars, drops or pieces. Candy shall*
36 *not include any preparation containing flour and shall require no*
37 *refrigeration.*

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

40 (jjj) (l) *"Prepared food" means any of the following:*

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

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

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

4 (2) "Prepared food" does not include:

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

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

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

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

17 (lll) "Soft drinks" means nonalcoholic beverages that contain natural
18 or artificial sweeteners. "Soft drinks" does not include beverages that
19 contain milk or milk products; soy, rice or similar milk substitutes; or
20 greater than 50% of vegetable or fruit juice by volume.

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

23 Sec. 3. K.S.A. 2015 Supp. 79-3603 is hereby amended to read as
24 follows: 79-3603. For the privilege of engaging in the business of selling
25 tangible personal property at retail in this state or rendering or furnishing
26 any of the services taxable under this act, there is hereby levied and there
27 shall be collected and paid a tax at the rate of 6.15%, and commencing
28 July 1, 2015, at the rate of 6.5%. Within a redevelopment district
29 established pursuant to K.S.A. 74-8921, and amendments thereto, there is
30 hereby levied and there shall be collected and paid an additional tax at the
31 rate of 2% until the earlier of the date the bonds issued to finance or
32 refinance the redevelopment project have been paid in full or the final
33 scheduled maturity of the first series of bonds issued to finance any part of
34 the project upon:

35 (a) The gross receipts received from the sale of tangible personal
36 property at retail within this state;

37 (b) the gross receipts from intrastate, interstate or international
38 telecommunications services and any ancillary services sourced to this
39 state in accordance with K.S.A. 2015 Supp. 79-3673, and amendments
40 thereto, except that telecommunications service does not include: (1) Any
41 interstate or international 800 or 900 service; (2) any interstate or
42 international private communications service as defined in K.S.A. 2015
43 Supp. 79-3673, and amendments thereto; (3) any value-added nonvoice

1 data service; (4) any telecommunication service to a provider of
2 telecommunication services which will be used to render
3 telecommunications services, including carrier access services; or (5) any
4 service or transaction defined in this section among entities classified as
5 members of an affiliated group as provided by section 1504 of the federal
6 internal revenue code of 1986, as in effect on January 1, 2001;

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

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

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

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

34 (g) the gross receipts from the service of renting of rooms by hotels,
35 as defined by K.S.A. 36-501, and amendments thereto, or by
36 accommodation brokers, as defined by K.S.A. 12-1692, and amendments
37 thereto, but such tax shall not be levied and collected upon the gross
38 receipts received from sales of such service to the federal government and
39 any agency, officer or employee thereof in association with the
40 performance of official government duties;

41 (h) the gross receipts from the service of renting or leasing of tangible
42 personal property except such tax shall not apply to the renting or leasing
43 of machinery, equipment or other personal property owned by a city and

1 purchased from the proceeds of industrial revenue bonds issued prior to
2 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through
3 12-1749, and amendments thereto, and any city or lessee renting or leasing
4 such machinery, equipment or other personal property purchased with the
5 proceeds of such bonds who shall have paid a tax under the provisions of
6 this section upon sales made prior to July 1, 1973, shall be entitled to a
7 refund from the sales tax refund fund of all taxes paid thereon;

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

11 (j) the gross receipts from the rendering of the services of washing
12 and washing and waxing of vehicles;

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

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

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

27 (m) the gross receipts received from fees and charges by public and
28 private clubs, drinking establishments, organizations and businesses for
29 participation in sports, games and other recreational activities, but such tax
30 shall not be levied and collected upon the gross receipts received from: (1)
31 Fees and charges by any political subdivision, by any organization exempt
32 from property taxation pursuant to K.S.A. 79-201 *Ninth*, and amendments
33 thereto, or by any youth recreation organization exclusively providing
34 services to persons 18 years of age or younger which is exempt from
35 federal income taxation pursuant to section 501(c)(3) of the federal
36 internal revenue code of 1986, for participation in sports, games and other
37 recreational activities; and (2) entry fees and charges for participation in a
38 special event or tournament sanctioned by a national sporting association
39 to which spectators are charged an admission which is taxable pursuant to
40 subsection (e);

41 (n) the gross receipts received from dues charged by public and
42 private clubs, drinking establishments, organizations and businesses,
43 payment of which entitles a member to the use of facilities for recreation

1 or entertainment, but such tax shall not be levied and collected upon the
2 gross receipts received from: (1) Dues charged by any organization exempt
3 from property taxation pursuant to K.S.A. 79-201 *Eighth* and *Ninth*, and
4 amendments thereto; and (2) sales of memberships in a nonprofit
5 organization which is exempt from federal income taxation pursuant to
6 section 501(c)(3) of the federal internal revenue code of 1986, and whose
7 purpose is to support the operation of a nonprofit zoo;

8 (o) the gross receipts received from the isolated or occasional sale of
9 motor vehicles or trailers but not including: (1) The transfer of motor
10 vehicles or trailers by a person to a corporation or limited liability
11 company solely in exchange for stock securities or membership interest in
12 such corporation or limited liability company; (2) the transfer of motor
13 vehicles or trailers by one corporation or limited liability company to
14 another when all of the assets of such corporation or limited liability
15 company are transferred to such other corporation or limited liability
16 company; or (3) the sale of motor vehicles or trailers which are subject to
17 taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and
18 amendments thereto, by an immediate family member to another
19 immediate family member. For the purposes of paragraph (3), immediate
20 family member means lineal ascendants or descendants, and their spouses.
21 Any amount of sales tax paid pursuant to the Kansas retailers sales tax act
22 on the isolated or occasional sale of motor vehicles or trailers on and after
23 July 1, 2004, which the base for computing the tax was the value pursuant
24 to K.S.A. 79-5105(a), (b)(1) and (b)(2), and amendments thereto, when
25 such amount was higher than the amount of sales tax which would have
26 been paid under the law as it existed on June 30, 2004, shall be refunded to
27 the taxpayer pursuant to the procedure prescribed by this section. Such
28 refund shall be in an amount equal to the difference between the amount of
29 sales tax paid by the taxpayer and the amount of sales tax which would
30 have been paid by the taxpayer under the law as it existed on June 30,
31 2004. Each claim for a sales tax refund shall be verified and submitted not
32 later than six months from the effective date of this act to the director of
33 taxation upon forms furnished by the director and shall be accompanied by
34 any additional documentation required by the director. The director shall
35 review each claim and shall refund that amount of tax paid as provided by
36 this act. All such refunds shall be paid from the sales tax refund fund, upon
37 warrants of the director of accounts and reports pursuant to vouchers
38 approved by the director of taxation or the director's designee. No refund
39 for an amount less than \$10 shall be paid pursuant to this act. In
40 determining the base for computing the tax on such isolated or occasional
41 sale, the fair market value of any motor vehicle or trailer traded in by the
42 purchaser to the seller may be deducted from the selling price;

43 (p) the gross receipts received for the service of installing or applying

1 tangible personal property which when installed or applied is not being
2 held for sale in the regular course of business, and whether or not such
3 tangible personal property when installed or applied remains tangible
4 personal property or becomes a part of real estate, except that no tax shall
5 be imposed upon the service of installing or applying tangible personal
6 property in connection with the original construction of a building or
7 facility, the original construction, reconstruction, restoration, remodeling,
8 renovation, repair or replacement of a residence or the construction,
9 reconstruction, restoration, replacement or repair of a bridge or highway.

10 For the purposes of this subsection:

11 (1) "Original construction" shall mean the first or initial construction
12 of a new building or facility. The term "original construction" shall include
13 the addition of an entire room or floor to any existing building or facility,
14 the completion of any unfinished portion of any existing building or
15 facility and the restoration, reconstruction or replacement of a building,
16 facility or utility structure damaged or destroyed by fire, flood, tornado,
17 lightning, explosion, windstorm, ice loading and attendant winds,
18 terrorism or earthquake, but such term, except with regard to a residence,
19 shall not include replacement, remodeling, restoration, renovation or
20 reconstruction under any other circumstances;

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

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

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

33 (5) "utility structure" shall mean transmission and distribution lines
34 owned by an independent transmission company or cooperative, the
35 Kansas electric transmission authority or natural gas or electric public
36 utility; and

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

40 (q) the gross receipts received for the service of repairing, servicing,
41 altering or maintaining tangible personal property which when such
42 services are rendered is not being held for sale in the regular course of
43 business, and whether or not any tangible personal property is transferred

1 in connection therewith. The tax imposed by this subsection shall be
2 applicable to the services of repairing, servicing, altering or maintaining an
3 item of tangible personal property which has been and is fastened to,
4 connected with or built into real property;

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

8 (s) on and after January 1, 2005, the gross receipts received from the
9 sale of prewritten computer software and the sale of the services of
10 modifying, altering, updating or maintaining prewritten computer
11 software, whether the prewritten computer software is installed or
12 delivered electronically by tangible storage media physically transferred to
13 the purchaser or by load and leave;

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

15 (u) the gross receipts received from the sale of prepaid calling service
16 and prepaid wireless calling service as defined in K.S.A. 2015 Supp. 79-
17 3673, and amendments thereto;

18 (v) all sales of bingo cards, bingo faces and instant bingo tickets by
19 licensees under K.S.A. 2015 Supp. 75-5171 et seq., and amendments
20 thereto, shall be exempt from taxes imposed pursuant to this section; ~~and~~

21 (w) all sales of charitable raffle tickets in accordance with K.S.A.
22 2015 Supp. 75-5171 et seq., and amendments thereto, shall be exempt
23 from taxes imposed pursuant to this section; *and*

24 (x) *commencing July 1, 2016, and thereafter, the gross receipts from*
25 *the sale of food and food ingredients shall be taxed at the rate of 2.6%.*

26 Sec. 4. K.S.A. 2015 Supp. 79-3620 is hereby amended to read as
27 follows: 79-3620. (a) All revenue collected or received by the director of
28 taxation from the taxes imposed by this act shall be remitted to the state
29 treasurer in accordance with the provisions of K.S.A. 75-4215, and
30 amendments thereto. Upon receipt of each such remittance, the state
31 treasurer shall deposit the entire amount in the state treasury, less amounts
32 withheld as provided in subsection (b) and amounts credited as provided in
33 subsections (c), (d) and (e), to the credit of the state general fund.

34 (b) A refund fund, designated as "sales tax refund fund" not to exceed
35 \$100,000 shall be set apart and maintained by the director from sales tax
36 collections and estimated tax collections and held by the state treasurer for
37 prompt payment of all sales tax refunds. Such fund shall be in such
38 amount, within the limit set by this section, as the director shall determine
39 is necessary to meet current refunding requirements under this act. In the
40 event such fund as established by this section is, at any time, insufficient to
41 provide for the payment of refunds due claimants thereof, the director shall
42 certify the amount of additional funds required to the director of accounts
43 and reports who shall promptly transfer the required amount from the state

1 general fund to the sales tax refund fund, and notify the state treasurer,
2 who shall make proper entry in the records.

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

8 (2) On July 1, 2011, the state treasurer shall credit 11.26% of the
9 revenue collected and received from the tax imposed by K.S.A. 79-3603,
10 and amendments thereto, at the rate of 6.3%, and deposited as provided by
11 subsection (a), exclusive of amounts credited pursuant to subsection (d), in
12 the state highway fund.

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

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

23 (5) On July 1, 2015, the state treasurer shall credit 16.226% of the
24 revenue collected and received from the tax imposed by K.S.A. 79-3603,
25 and amendments thereto, at the rate of 6.5%, and deposited as provided by
26 subsection (a), exclusive of amounts credited pursuant to subsection (d), in
27 the state highway fund.

28 (6) On July 1, 2016, and thereafter, the state treasurer shall credit
29 ~~16.154%~~ 17.587% of the revenue collected and received from the tax
30 imposed by K.S.A. 79-3603, and amendments thereto, at the ~~rate~~ rates of
31 6.5% and 2.6%, and deposited as provided by subsection (a), exclusive of
32 amounts credited pursuant to subsection (d), in the state highway fund.

33 (d) The state treasurer shall credit all revenue collected or received
34 from the tax imposed by K.S.A. 79-3603, and amendments thereto, as
35 certified by the director, from taxpayers doing business within that portion
36 of a STAR bond project district occupied by a STAR bond project or
37 taxpayers doing business with such entity financed by a STAR bond
38 project as defined in K.S.A. 2015 Supp. 12-17,162, and amendments
39 thereto, that was determined by the secretary of commerce to be of
40 statewide as well as local importance or will create a major tourism area
41 for the state or the project was designated as a STAR bond project as
42 defined in K.S.A. 2015 Supp. 12-17,162, and amendments thereto, to the
43 city bond finance fund, which fund is hereby created. The provisions of

1 this subsection shall expire when the total of all amounts credited
2 hereunder and under K.S.A. 79-3710(d), and amendments thereto, is
3 sufficient to retire the special obligation bonds issued for the purpose of
4 financing all or a portion of the costs of such STAR bond project.

5 (e) All revenue certified by the director of taxation as having been
6 collected or received from the tax imposed by K.S.A. 79-3603(c), and
7 amendments thereto, on the sale or furnishing of gas, water, electricity and
8 heat for use or consumption within the intermodal facility district
9 described in this subsection, shall be credited by the state treasurer to the
10 state highway fund. Such revenue may be transferred by the secretary of
11 transportation to the rail service improvement fund pursuant to law. The
12 provisions of this subsection shall take effect upon certification by the
13 secretary of transportation that a notice to proceed has been received for
14 the construction of the improvements within the intermodal facility
15 district, but not later than December 31, 2010, and shall expire when the
16 secretary of revenue determines that the total of all amounts credited
17 hereunder and pursuant to K.S.A. 79-3710(e), and amendments thereto, is
18 equal to \$53,300,000, but not later than December 31, 2045. Thereafter, all
19 revenues shall be collected and distributed in accordance with applicable
20 law. For all tax reporting periods during which the provisions of this
21 subsection are in effect, none of the exemptions contained in K.S.A. 79-
22 3601 et seq., and amendments thereto, shall apply to the sale or furnishing
23 of any gas, water, electricity and heat for use or consumption within the
24 intermodal facility district. As used in this subsection, "intermodal facility
25 district" shall consist of an intermodal transportation area as defined by
26 K.S.A. 12-1770a(o), and amendments thereto, located in Johnson county
27 within the polygonal-shaped area having Waverly Road as the eastern
28 boundary, 191st Street as the southern boundary, Four Corners Road as the
29 western boundary, and Highway 56 as the northern boundary, and the
30 polygonal-shaped area having Poplar Road as the eastern boundary, 183rd
31 Street as the southern boundary, Waverly Road as the western boundary,
32 and the BNSF mainline track as the northern boundary, that includes
33 capital investment in an amount exceeding \$150 million for the
34 construction of an intermodal facility to handle the transfer, storage and
35 distribution of freight through railway and trucking operations.

36 Sec. 5. K.S.A. 2015 Supp. 79-3703 is hereby amended to read as
37 follows: 79-3703. There is hereby levied and there shall be collected from
38 every person in this state a tax or excise for the privilege of using, storing,
39 or consuming within this state any article of tangible personal property.
40 Such tax shall be levied and collected in an amount equal to the
41 consideration paid by the taxpayer multiplied by the rate of 6.5%, *except*
42 *that commencing July 1, 2016, such rate shall be 2.6% upon food and food*
43 *ingredients, as defined by K.S.A. 79-3602, and amendments thereto.*

1 Within a redevelopment district established pursuant to K.S.A. 74-8921,
2 and amendments thereto, there is hereby levied and there shall be collected
3 and paid an additional tax of 2% until the earlier of: (1) The date the bonds
4 issued to finance or refinance the redevelopment project undertaken in the
5 district have been paid in full; or (2) the final scheduled maturity of the
6 first series of bonds issued to finance the redevelopment project. All
7 property purchased or leased within or without this state and subsequently
8 used, stored or consumed in this state shall be subject to the compensating
9 tax if the same property or transaction would have been subject to the
10 Kansas retailers' sales tax had the transaction been wholly within this state.

11 Sec. 6. K.S.A. 2015 Supp. 79-3710 is hereby amended to read as
12 follows: 79-3710. (a) All revenue collected or received by the director
13 under the provisions of this act shall be remitted to the state treasurer in
14 accordance with the provisions of K.S.A. 75-4215, and amendments
15 thereto. Upon receipt of each such remittance, the state treasurer shall
16 deposit the entire amount in the state treasury, less amounts set apart as
17 provided in subsection (b) and amounts credited as provided in subsection
18 (c), (d) and (e), to the credit of the state general fund.

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

26 (c) (1) On July 1, 2010, the state treasurer shall credit 11.427% of the
27 revenue collected and received from the tax imposed by K.S.A. 79-3703,
28 and amendments thereto, at the rate of 6.3%, and deposited as provided by
29 subsection (a), exclusive of amounts credited pursuant to subsection (d), in
30 the state highway fund.

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

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

41 (4) On July 1, 2013, the state treasurer shall credit 17.073% of the
42 revenue collected and received from the tax imposed by K.S.A. 79-3703,
43 and amendments thereto, at the rate of 6.15%, and deposited as provided

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

3 (5) On July 1, 2015, the state treasurer shall credit 16.226% of the
4 revenue collected and received from the tax imposed by K.S.A. 79-3703,
5 and amendments thereto, at the rate of 6.5%, and deposited as provided by
6 subsection (a), exclusive of amounts credited pursuant to subsection (d), in
7 the state highway fund.

8 (6) On July 1, 2016, and thereafter, the state treasurer shall credit
9 ~~16.154%~~ 17.587% of the revenue collected and received from the tax
10 imposed by K.S.A. 79-3703, and amendments thereto, at the ~~rate~~ rates of
11 6.5% and 2.6%, and deposited as provided by subsection (a), exclusive of
12 amounts credited pursuant to subsection (d), in the state highway fund.

13 (d) The state treasurer shall credit all revenue collected or received
14 from the tax imposed by K.S.A. 79-3703, and amendments thereto, as
15 certified by the director, from taxpayers doing business within that portion
16 of a redevelopment district occupied by a redevelopment project that was
17 determined by the secretary of commerce to be of statewide as well as
18 local importance or will create a major tourism area for the state as defined
19 in K.S.A. 12-1770a, and amendments thereto, to the city bond finance
20 fund created by K.S.A. 79-3620(d), and amendments thereto. The
21 provisions of this subsection shall expire when the total of all amounts
22 credited hereunder and under K.S.A. 79-3620(d), and amendments thereto,
23 is sufficient to retire the special obligation bonds issued for the purpose of
24 financing all or a portion of the costs of such redevelopment project.

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

27 (e) All revenue certified by the director of taxation as having been
28 collected or received from the tax imposed by K.S.A. 79-3603(c), and
29 amendments thereto, on the sale or furnishing of gas, water, electricity and
30 heat for use or consumption within the intermodal facility district
31 described in this subsection, shall be credited by the state treasurer to the
32 state highway fund. Such revenue may be transferred by the secretary of
33 transportation to the rail service improvement fund pursuant to law. The
34 provisions of this subsection shall take effect upon certification by the
35 secretary of transportation that a notice to proceed has been received for
36 the construction of the improvements within the intermodal facility
37 district, but not later than December 31, 2010, and shall expire when the
38 secretary of revenue determines that the total of all amounts credited
39 hereunder and pursuant to K.S.A. 79-3620(e), and amendments thereto, is
40 equal to \$53,300,000, but not later than December 31, 2045. Thereafter, all
41 revenues shall be collected and distributed in accordance with applicable
42 law. For all tax reporting periods during which the provisions of this
43 subsection are in effect, none of the exemptions contained in K.S.A. 79-

1 3601 et seq., and amendments thereto, shall apply to the sale or furnishing
2 of any gas, water, electricity and heat for use or consumption within the
3 intermodal facility district. As used in this subsection, "intermodal facility
4 district" shall consist of an intermodal transportation area as defined by
5 K.S.A. 12-1770a(oo), and amendments thereto, located in Johnson county
6 within the polygonal-shaped area having Waverly Road as the eastern
7 boundary, 191st Street as the southern boundary, Four Corners Road as the
8 western boundary, and Highway 56 as the northern boundary, and the
9 polygonal-shaped area having Poplar Road as the eastern boundary, 183rd
10 Street as the southern boundary, Waverly Road as the western boundary,
11 and the BNSF mainline track as the northern boundary, that includes
12 capital investment in an amount exceeding \$150 million for the
13 construction of an intermodal facility to handle the transfer, storage and
14 distribution of freight through railway and trucking operations.

15 Sec. 7. K.S.A. 2015 Supp. 79-32,117, 79-3602, 79-3603, 79-3620,
16 79-3703 and 79-3710 are hereby repealed.

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