

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on March 18, 2005 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Chris Courtwright, Legislative Research Department
 Martha Dorsey, Legislative Research Department
 Gordon Self, Revisor of Statutes
 Richard Cram, Department of Revenue
 Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Secretary Wagnon, Department of Revenue

Others attending:

See attached list.

HB 2131 - Delay of destination sourcing rules for sales tax purposes until action of Congress

The Chairman opened the floor for discussion.

In response to questions and many requests, a pamphlet of information, regarding Streamlined Sales Tax, was distributed from the Department of Revenue (Attachment 1) Data included: (1) Time line and organizational structure, (2) Fiscal impact on exemption for florists, (3) Tax credit for sales and use tax retailers, (4) Sales and use tax filing reimbursements, (5) State and local revenue projections (6) Sales and use taxes, and (7) Data on number of retailers by the amount of state and local sales tax reported on Sept. 2004 tax return.

Representative Siegfried distributed copies of a balloon amendment for **HB 2131** that would allow a retailer to elect to continue to apply the destination based sourcing provisions tax rules or apply the origin based sourcing provisions contained in the act, until the time that legislation enacted by the United States Congress becomes effective (Attachment 2).

Representative Siegfried made a motion to amend the balloon into **HB 2131**. Representative Brunk seconded the motion.

Discussion regarding the pros and cons of the moratorium and ramifications of the amendment to the business community.

Representative Siegfried closed his motion for his amendment. The motion carried. (13-9)

Representative Siegfried made the motion that **HB 2131**, as amended, be passed out favorable for passage. Representative Kelley seconded the motion.

The Chairman commended the Committee for the respect and consideration that they had exhibited during the intense debate, stating that this is the legislative process and worthy of the time spent. He stressed that this was a profound policy matter that would have an enormous effect on the next generation. He thanked Secretary Wagnon and staff for their extensive efforts pertaining to SSTP. Several Committee members recognized and expressed appreciation for the Chairman's leadership during the procedures.

Representative Siegfried closed his motion to pass out **HB 2131**, as amended. The motion passed (12-11). The following Committee members requested that their "yes" votes be recorded: Representatives Brown, Brunk, Carlson, George, Goico, Kelley, Kinzer, Peck and Siegfried.

The meeting was recessed at 10:10 a.m. and reconvened at 1:25 p.m.

SB 138 - Income tax credit for business firms employing certain teachers when school is not in session.

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on March 18, 2005 in Room 519-S of the Capitol.

The Chairman opened the floor for discussion.

Secretary Wagon reviewed a balloon that addressed issues the Committee had previously raised regarding **SB 138** (Attachment 3). The amendments related to: (1) division of no more than \$125,000 in credits shall be allowed for business firms located in any one congressional district per fiscal year, on a first come-first served basis. (2) issues relating to procedures for businesses seeking approval (3) rules pertaining to the partnership agreement between business and teacher (4) requirement of written description of the duties and skill level of the proposed position. (5) Secretary of Revenue shall submit an annual report to the Legislative Educational Planning Committee regarding utilization of credits to evaluate the program and (6) contract between the business and teacher with provisions for payback if the teacher does not return to the classroom and (07) sunset clause of January 1, 2008.

Representative Dillmore made a motion to amend the language from Secretary Wagon's balloon into SB 138. Representative Menghini seconded the motion. The motion carried..

Representative Owens made a motion to adopt a conceptual amendment to SB 138, that would allow for a transfer of an allocation of a particular Congressional district to another district where there are more requests. Representative Thull seconded the motion The motion carried.

In response to the Chairman's question regarding the details of the bill, Secretary Wagon stated that the Department had very broad general rules and regulation authority that allowed them to administer any legislation enacted by the Legislature.

Representative Huff made the motion the House Taxation Committee move SB 138, as amended, favorable for passage. Representative Thull seconded the motion.

Representative Thull made a conceptual substitute motion to SB 138 that would prohibit direct family members from being hired by direct family members of the business that applied for this program. Representative Owens seconded the motion. It was agreed that the Secretary of Revenue be given the latitude to insert proper legal language to achieve that intent. The motion carried.

Representative Owens raised a concern over the varying percentages of exemptions between the districts. After discussion, he agreed to hold that issue until the 2006 session.

Representative Owens made a motion that SB 138, as amended, be moved out favorably for passage. Representative Goico seconded the motion. The motion carried.

SB 37 - Franchise fee law modifications relating to fee name, extensions and information required.

Representative O'Malley moved to amend the request by Secretary Wagon, regarding a franchise tax interpretation issue, into SB 37. Representative Thull seconded the motion. The motion carried.

Representative O'Malley made the motion that the House Taxation Committee pass out SB 37, as amended, favorable for passage. Representative Carlin seconded the motion.

Representative Brunk made a conceptual substitute motion that would change the fee structure to a total of \$40, instead of \$55. (\$25 would go to the General Fund and \$15 to the Secretary of State's office). Representative Owens seconded the motion. The fiscal impact would be a loss of revenue \$1.5 million to the general fund. The motion carried.

Representative O'Malley made the motion that the House Taxation Committee pass out SB 37, as amended, favorable for passage. Representative Brunk seconded the motion. The motion carried.

SB 158 - Property tax exemption for hay and cotton storage structures.

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on March 18, 2005 in Room 519-S of the Capitol.

Representative Dillmore moved that the House Taxation Committee recommend **SB 158** favorably for passage. Representative Carlin seconded the motion. The motion carried.

SB 209 - Transportation Development District Act, district sales tax

Representative Owens moved **SB 209** favorable for passage. Representative Thull seconded the motion.

Representative O'Malley made a substitute motion to amend **SB 209** to insert language (Attachment 4) that would allow for the funds to be used for *utility relocations; sanitary and storm sewers and lift stations; drainage conduits, channels and levees; street light fixtures, connection and facilities; underground gas, water, heating and electrical services and connections located within or without the public right-of-way; sidewalks and pedestrian underpasses or overpasses; water mains and extensions.* Representative Owens seconded the motion. The motion carried.

Representative Owens made the motion that **SB 209**, as amended, be passed out favorably. Representative Carlin seconded the motion. The motion carried.

The Chairman reviewed the Committee's work for March 21 and 22. The meeting was adjourned at 2:20 p.m. The next meeting is March 21, 2005.

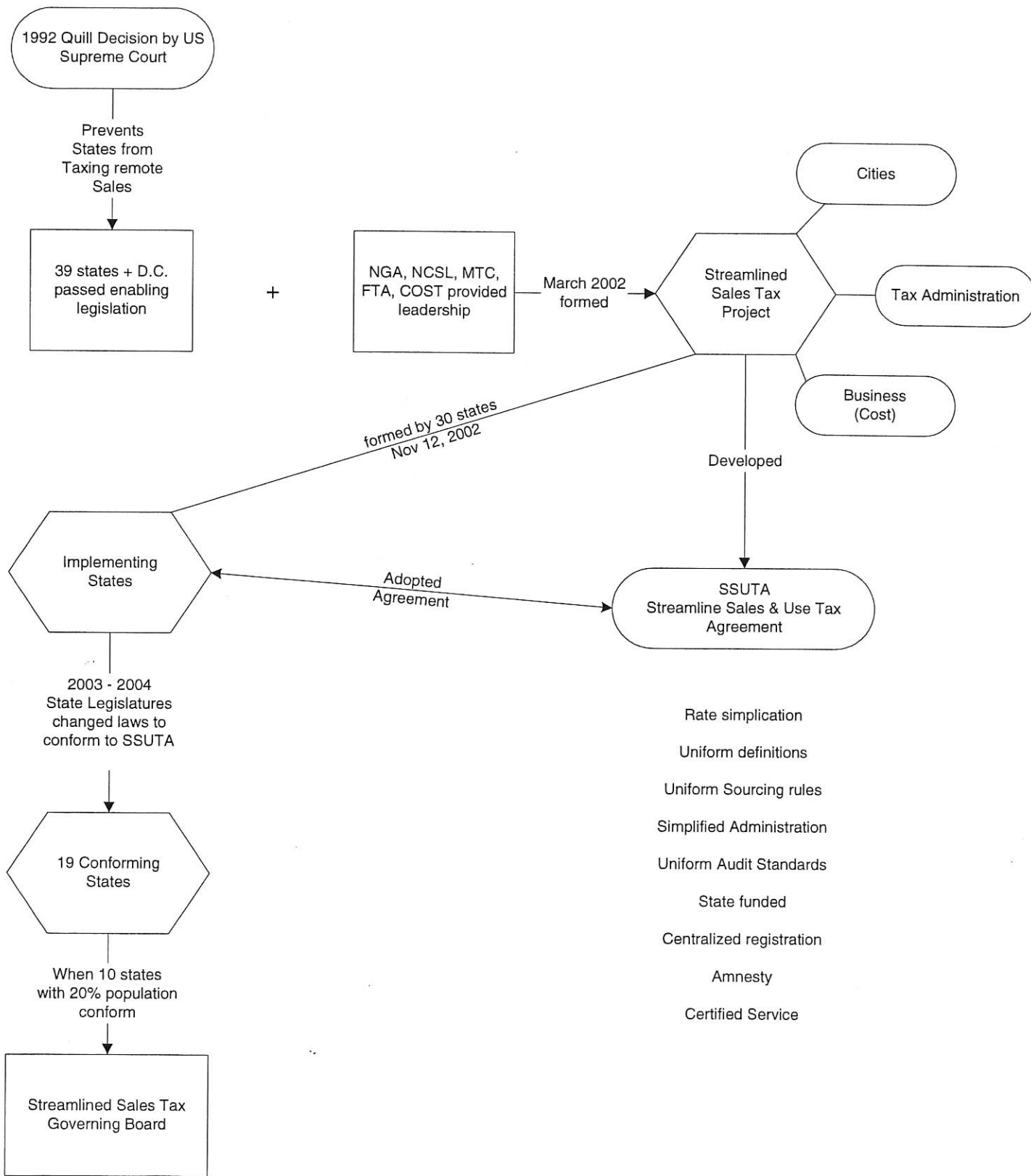
HOUSE TAXATION COMMITTEE GUEST LIST

DATE: March 18, 2005

NAME	REPRESENTING
Melissa Wangemann	Sec of State
Hailey Kinzer	
Michelle Kinzer	
Pearce Kinzer	
KEN DANIEL	KSSMALLBIZ.COM
Bob Corkins	Freestate Center
Amber Siemendi	DMCH of KS
George Peterson	Ks Taxpayers Network
Pam Scott	Ks Funeral Directors Assn
Kon Seiber	Heru haw Firm
BRAD HARRISON	KFB
Martha Ann Smith	KMHA
Jane Rutherford	Little Zoo & Rel.
Erik Santorius	City of Overland Park
Tony Folsom	PVD
Cheri Frotschner	Div of Budget
LARRY R BAER	LKM
Ann Dukes	DN of the Budget
Chris Wilson	KBIA

Julie Clark Ballma

How the Streamlined Sales Tax Came into Being: Organizational Structure



(Anticipated Start on 7/1/2005)

Kansas Department of Revenue
Fiscal Impact on Exemption for Florists

The fiscal impact of impacting florists from Kansas sales and use tax is estimated to result in the loss of \$5.6 million in fiscal year 2006. The estimate assumes all purchases of flowers bouquets as well as balloon, candy or other bouquets typically provided and delivered by florists to be exempt from state and local sales tax. If not all of these products were exempt, the florists would continue to have deliveries. The proposed exemption would be on the sale of cut flowers, plants, balloons or other bouquets and would apply to florists, grocery stores, general merchandise stores, or other businesses that provide the service.

The estimated was developed based on fiscal year 2004 sales tax collection reports and from a review of industry data. In fiscal year 2004, state sales tax collections of \$2.64 million were recorded by businesses classified as florists. Assuming florist stores comprise 50% of the business activity in the state with a 3.5% growth factor, the total state sales tax revenue estimated can be developed. In addition, there would be the loss of \$1.4 million in local sales tax revenues.

		Total		SGF		Highway
FY 06	\$	5.60	\$	5.34	\$	0.26
FY 07	\$	5.80	\$	5.38	\$	0.42
FY 08	\$	6.00	\$	5.26	\$	0.74
FY 09	\$	6.21	\$	5.45	\$	0.76
FY 10	\$	6.43	\$	5.64	\$	0.79
Total to FY 10	\$	30.03	\$	27.06	\$	2.96

As a footnote, the industry currently projects that 10% of all flower sales are generated through on-line, Internet transactions.

Kansas Department of Revenue
Tax Credit for Sales and Use Tax Retailers
Fiscal Impact

Cost of Tax Credit

Tax Credit Amount	Multi-Jurisdiction Filers Only
\$ 1,000	\$ 21,113,000
\$ 2,000	\$ 42,226,000
\$ 3,000	\$ 63,339,000
\$ 4,000	\$ 84,452,000
\$ 5,000	\$ 105,565,000

Number of Filers

Sales Tax	60,000
Use Tax	10,500

Number of Filers reporting Multi-Jurisdictions

Sales Tax	14,900
Use Tax	6,213

Kansas Department of Revenue
Office of Policy and Research
Sales and Use Tax Filing Reimbursements

5-1

State and Local Collections Dollar Range	Retailers Sales Accounts	Retailers Use Accounts	Consumers Use Accounts	# returns filed	\$100 cap Monthly			\$100 cap Monthly		\$100 cap Monthly		\$100 cap Monthly	
					Avg Tax Per Return	0.5% Discount Monthly	Yearly amount	1% Discount Monthly	Yearly amount	2% Discount Monthly	Yearly amount	3% Discount Monthly	Yearly amount
\$ - \$ 80	8,792	527	802	1	\$ 80	\$ 0.4	\$ 4,048	\$ 0.80	\$ 8,097	\$ 1.60	\$ 16,194	\$ 2.40	\$ 24,290
\$ 81 \$ 3,200	27,398	2,589	2,515	4	\$ 1,641	\$ 8	\$ 1,066,391	\$ 16	\$ 2,132,781	\$ 33	\$ 4,265,562	\$ 49	\$ 6,398,344
\$ 3,201 \$ 4,000	1,917	229	127	12	\$ 3,601	\$ 18	\$ 491,036	\$ 36	\$ 982,072	\$ 72	\$ 1,964,145	\$ 108	\$ 2,946,217
\$ 4,001 \$ 5,000	1,882	229	125	12	\$ 4,501	\$ 23	\$ 603,787	\$ 45	\$ 1,207,574	\$ 90	\$ 2,415,148	\$ 100	\$ 2,683,200
\$ 5,001 \$ 6,000	1,462	169	94	12	\$ 5,501	\$ 28	\$ 569,302	\$ 55	\$ 1,138,604	\$ 100	\$ 2,070,000	\$ 100	\$ 2,070,000
\$ 6,001 \$ 7,000	1,235	155	78	12	\$ 6,501	\$ 33	\$ 572,564	\$ 65	\$ 1,145,128	\$ 100	\$ 1,761,600	\$ 100	\$ 1,761,600
\$ 7,001 \$ 8,000	1,107	134	64	12	\$ 7,501	\$ 38	\$ 587,289	\$ 75	\$ 1,174,578	\$ 100	\$ 1,566,000	\$ 100	\$ 1,566,000
\$ 8,001 \$ 9,000	924	110	47	12	\$ 8,501	\$ 43	\$ 551,342	\$ 85	\$ 1,102,685	\$ 100	\$ 1,297,200	\$ 100	\$ 1,297,200
\$ 9,001 \$ 10,000	818	121	39	12	\$ 9,501	\$ 48	\$ 557,489	\$ 95	\$ 1,114,979	\$ 100	\$ 1,173,600	\$ 100	\$ 1,173,600
\$ 10,001 \$ 25,000	5,858	729	305	12	\$ 17,501	\$ 88	\$ 7,236,807	\$ 100	\$ 8,270,400	\$ 100	\$ 8,270,400	\$ 100	\$ 8,270,400
\$ 25,001 \$ 32,000	1,153	157	58	12	\$ 28,501	\$ 100	\$ 1,641,600	\$ 100	\$ 1,641,600	\$ 100	\$ 1,641,600	\$ 100	\$ 1,641,600
\$ 32,001 \$ 50,000	1,935	197	106	12	\$ 41,001	\$ 100	\$ 2,685,600	\$ 100	\$ 2,685,600	\$ 100	\$ 2,685,600	\$ 100	\$ 2,685,600
\$ 50,001 \$ 75,000	1,377	163	76	12	\$ 62,501	\$ 100	\$ 1,939,200	\$ 100	\$ 1,939,200	\$ 100	\$ 1,939,200	\$ 100	\$ 1,939,200
\$ 75,001 \$ 100,000	728	79	30	12	\$ 87,501	\$ 100	\$ 1,004,400	\$ 100	\$ 1,004,400	\$ 100	\$ 1,004,400	\$ 100	\$ 1,004,400
\$ 100,001 \$ 250,000	1,385	165	76	12	\$ 175,001	\$ 100	\$ 1,951,200	\$ 100	\$ 1,951,200	\$ 100	\$ 1,951,200	\$ 100	\$ 1,951,200
\$ 250,001 \$ 500,000	558	63	37	12	\$ 375,001	\$ 100	\$ 789,600	\$ 100	\$ 789,600	\$ 100	\$ 789,600	\$ 100	\$ 789,600
\$ 500,001 \$ 1,000,000	243	20	17	12	\$ 750,001	\$ 100	\$ 336,000	\$ 100	\$ 336,000	\$ 100	\$ 336,000	\$ 100	\$ 336,000
\$ 1,000,001 \$ 5,000,000	245	13	12	12	\$ 3,000,001	\$ 100	\$ 324,000	\$ 100	\$ 324,000	\$ 100	\$ 324,000	\$ 100	\$ 324,000
\$ 5,000,001 \$ 10,000,000	9	-	1	12	\$ 7,500,001	\$ 100	\$ 12,000	\$ 100	\$ 12,000	\$ 100	\$ 12,000	\$ 100	\$ 12,000
\$ 10,000,001	23	-	2	12	\$ 10,000,001	\$ 100	\$ 30,000	\$ 100	\$ 30,000	\$ 100	\$ 30,000	\$ 100	\$ 30,000
	59,049	5,849	4,611				\$ 22,953,656		\$ 28,990,498		\$ 35,513,449		\$ 38,904,451

Kansas Department of Revenue
Office of Policy and Research
State and Local Revenue Projections

**Consensus Estimates for Fiscal Years 2005 & 2006
and FY 2004 Actual Receipts – State General Fund**
(Dollars in Thousands)

	FY 2004 (Actual)		FY 2005 (Revised)		FY 2006	
	Amount	Percent Change	Amount	Percent Change	Amount	Percent Change
Retail Sales	\$1,612,067	2.8 %	\$1,650,000	2.4 %	\$1,700,000	3.0 %
Compensating Use	\$ 214,502	(5.1%)	\$ 233,000	8.6%	\$ 237,000	1.7%
Consumers	\$ 84,880		\$ 92,200		\$ 93,783	
Retailers	\$ 129,622		\$ 140,800		\$ 143,217	

Local Sales and Use Tax Estimates
(Dollars in Thousands)

	FY 2004 (Actual)		FY 2005 (Revised)		FY 2006	
	Amount	Percent Change	Amount	Percent Change	Amount	Percent Change
Retail Sales	\$527,436	n/a	\$ 554,937	6.4%	\$ 571,585	3%
Compensating Use	\$ 18,475	n/a	\$ 74,032	169.6%	\$ 75,180	1.7%
Consumers	\$ 15,429		\$ 36,316		\$ 36,933	
Retailers	\$ 3,046		\$ 37,716		\$ 38,357	

FY 2005 estimate is based on the consensus estimate growth rates. Changes, additions, and removal of tax rates will impact the total revenues distributed to cities and counties. Growth in use tax in FY 04 was due to the expansion of the local use tax effective July 1, 2003. Prior to July 1, 2003, only vehicles and watercraft were subject to local use tax.

Estimated Revenues from Remote Sales

(New non-Kansas remote businesses, since January 2001; not located in a border state)

	FY 2004 (Actual)		FY 2005 (Revised)		FY 2006	
	Amount	Percent Change	Amount	Percent Change	Amount	Percent Change
Retailers' Use Tax Revenue						
State	\$500,000	n/a	\$5,000,000	900%	\$12,000,000	140%
Local	\$125,000	n/a	\$1,250,000	900%	\$ 3,000,000	140%

A significant part of the growth in use tax from remote sales in fiscal year 2005 is due to the voluntary remittance of several major retailers who publicly announced this intention of collecting the tax. These included Wal-Mart and Amazon.com. Their voluntary compliance can be directly linked to the state's Streamlined Sales Tax participation.

Going forward, the affiliate nexus legislation passed in 2004 will assist the state in continued growth of use tax from remote sales. Additionally, businesses continue the trend of combining e-commerce and brick-n-mortar companies to provide "one-stop" shopping for their customers, which will benefit the state's use tax collections.

The US Census Bureau reported that e-commerce sales for 2004 were estimated at \$69.2 billion, an increase of 23% from 2003, accounting for 1.9% of total sales, up from 1.6% of all sales in 2003. Projections are that e-commerce will make up 10-12% of all retail trade by 2010.

Kansas Department of Revenue
Office of Policy and Research
Sales and Use Taxes

State and Local Collections Dollar Range		Number Accounts	State and Local Tax Collections	Gross Sales (\$ in millions)	Percent Revenue (cumm.)	Jurisdictions Average	Reported Highest	Filing Frequency
\$ 10,000,001		23	\$ 606,194,357	\$ 35,522.53	28.1%	107.70	374	Prepay Mnth
\$ 5,000,001	\$ 10,000,000	9	\$ 60,524,220	\$ 4,797.65	30.9%	77.56	329	Prepay Mnth
\$ 1,000,001	\$ 5,000,000	245	\$ 482,799,630	\$ 37,595.37	53.2%	61.84	722	Prepay Mnth
\$ 500,001	\$ 1,000,000	243	\$ 170,601,442	\$ 13,673.30	61.1%	40.18	592	Prepay Mnth
\$ 250,001	\$ 500,000	558	\$ 197,199,766	\$ 15,142.97	70.2%	32.92	423	Prepay Mnth
\$ 100,001	\$ 250,000	1,385	\$ 211,904,395	\$ 19,103.19	80.0%	23.31	605	Prepay Mnth
\$ 75,001	\$ 100,000	728	\$ 63,110,455	\$ 5,851.39	83.0%	17.74	507	Prepay Mnth
\$ 50,001	\$ 75,000	1,377	\$ 84,421,507	\$ 9,919.73	86.9%	14.14	611	Prepay Mnth
\$ 32,001	\$ 50,000	1,935	\$ 77,445,215	\$ 9,695.73	90.5%	12.65	579	Monthly
\$ 25,001	\$ 32,000	1,153	\$ 32,553,609	\$ 4,339.91	92.0%	8.44	335	Monthly
\$ 10,001	\$ 25,000	5,858	\$ 93,127,618	\$ 12,771.61	96.3%	6.21	465	Monthly
\$ 9,001	\$ 10,000	818	\$ 7,769,530	\$ 1,539.86	96.6%	4.89	176	Monthly
\$ 8,001	\$ 9,000	924	\$ 7,857,265	\$ 1,294.36	97.0%	4.23	168	Monthly
\$ 7,001	\$ 8,000	1,107	\$ 8,271,775	\$ 1,334.67	97.4%	4.08	339	Monthly
\$ 6,001	\$ 7,000	1,235	\$ 8,013,455	\$ 1,438.89	97.7%	3.72	267	Monthly
\$ 5,001	\$ 6,000	1,462	\$ 8,024,338	\$ 1,520.28	98.1%	4.21	209	Monthly
\$ 4,001	\$ 5,000	1,882	\$ 8,415,606	\$ 1,902.31	98.5%	3.60	227	Monthly
\$ 3,201	\$ 4,000	1,917	\$ 6,861,842	\$ 1,464.85	98.8%	3.70	302	Monthly
\$ 81	\$ 3,200	27,398	\$ 25,080,527	\$ 11,517.96	100.0%	2.12	198	Quarterly
\$ -	\$ 80	8,792	\$ 298,679	\$ 984.44	100.0%	1.24	62	Annual
		59,049	\$ 2,160,475,231	\$ 191,411		4.88		

State and Local Collections Dollar Range		Number Accounts	State and Local Tax Collections	Gross Sales	Percent Revenue (cumm.)	Jurisdictions Average	Reported Highest	Filing Frequency
\$ 10,000,001		2	43,090,790	\$ 1,878.12	16.1%	14.50	21	Prepay Mnth
\$ 5,000,001	\$ 10,000,000	1	8,753,620	\$ 351.13	19.3%	8.00	233	Prepay Mnth
\$ 1,000,001	\$ 5,000,000	25	46,901,871	\$ 2,548.95	36.8%	110.04	419	Prepay Mnth
\$ 500,001	\$ 1,000,000	37	24,289,132	\$ 1,270.22	45.9%	82.08	645	Prepay Mnth
\$ 250,001	\$ 500,000	100	34,068,058	\$ 2,149.90	58.6%	69.57	618	Prepay Mnth
\$ 100,001	\$ 250,000	241	37,329,397	\$ 4,064.69	72.6%	68.32	632	Prepay Mnth
\$ 75,001	\$ 100,000	109	9,375,816	\$ 1,493.64	76.1%	54.83	549	Prepay Mnth
\$ 50,001	\$ 75,000	239	14,668,343	\$ 1,436.99	81.5%	36.93	356	Prepay Mnth
\$ 32,001	\$ 50,000	303	11,940,437	\$ 1,369.15	86.0%	37.59	489	Monthly
\$ 25,001	\$ 32,000	215	6,085,283	\$ 573.74	88.3%	33.81	607	Monthly
\$ 10,001	\$ 25,000	1,034	16,361,756	\$ 2,721.95	94.4%	23.70	611	Monthly
\$ 9,001	\$ 10,000	160	1,518,167	\$ 221.83	94.9%	22.68	277	Monthly
\$ 8,001	\$ 9,000	157	1,338,746	\$ 206.62	95.4%	20.79	288	Monthly
\$ 7,001	\$ 8,000	198	1,484,322	\$ 232.02	96.0%	17.13	317	Monthly
\$ 6,001	\$ 7,000	233	1,508,998	\$ 1,027.98	96.5%	16.51	326	Monthly
\$ 5,001	\$ 6,000	263	1,441,164	\$ 397.07	97.1%	17.92	434	Monthly
\$ 4,001	\$ 5,000	354	1,593,298	\$ 1,226.63	97.7%	14.49	201	Monthly
\$ 3,201	\$ 4,000	356	1,275,335	\$ 231.33	98.2%	10.97	219	Monthly
\$ 81	\$ 3,200	5,104	4,910,680	\$ 2,378.59	100.0%	5.39	216	Quarterly
\$ -	\$ 80	1,329	43,084	\$ 134.32	100.0%	1.43	25	Annual
		10,460	\$ 267,978,297	\$ 25,915		13.81		

Kansas Department of Revenue
Number of Jurisdictions reported by Retailers for Sept 2004

Number of Retailers by the amount of state and local sales tax reported on Sept 2004 tax return

Number of Jurisdictions Reported	\$0 to \$100	\$101 to \$250	\$251 to \$500	\$501 to \$1,000	\$1001 to \$2,500	2501 to \$5,000	\$5,001 to \$10,000	\$10,001 to \$20,000	\$20,001	Total	Percent of Total	Percent (Cumm.)
1	8,010	6,369	5,616	4,669	4,836	2,292	1,254	502	403	33,951	79.1%	
2	477	389	345	305	347	236	178	122	101	2,500	5.8%	84.9%
3	176	224	178	186	179	109	73	56	71	1,252	2.9%	87.9%
4	100	136	131	135	140	75	53	36	59	865	2.0%	89.9%
5	47	79	99	98	140	68	33	26	48	638	1.5%	91.4%
6	26	68	64	81	102	56	37	20	30	484	1.1%	92.5%
7	15	37	40	47	71	56	31	19	28	344	0.8%	93.3%
8	8	20	34	55	72	46	37	7	26	305	0.7%	94.0%
9	11	29	32	35	58	34	25	18	13	255	0.6%	94.6%
10	6	20	43	32	65	41	29	17	19	272	0.6%	95.2%
11 or more	25	98	127	192	325	318	302	245	411	2,043	4.8%	100.0%
# of Businesses	8,901	7,469	6,709	5,835	6,335	3,331	2,052	1,068	1,209	42,909	100.0%	

HOUSE BILL No. 2131

By Committee on Taxation

1-21

Proposed Amendment to
House Bill No. 2131

Hs Taxation Committee
March 18, 2005
Attachment 2

9 AN ACT concerning sales taxation; relating to destination sourcing rules;
10 amending K.S.A. 2004 Supp. 12-191, 79-3603, 79-3667, 79-3668, 79-
11 3669, 79-3670, 79-3671, 79-3672, 79-3673 and 79-3682 and repealing
12 the existing sections.
13

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

15 Section 1. K.S.A. 2004 Supp. 12-191 is hereby amended to read as
16 follows: 12-191. All retail transactions consummated within a county or
17 city having a retail sales tax, which transactions are subject to the Kansas
18 retailers' sales tax, shall also be subject to such county or city retail sales
19 tax. Except as hereinafter provided, all retail sales, for the purpose of this
20 act, shall be considered to have been consummated: ~~Commencing on the~~
21 *effective date of this act and ending on the date that legislation enacted*
22 *by the United States Congress becomes effective that authorizes the sec-*
23 *retary of revenue to require some out-of-state, remote sellers lacking phys-*
24 *ical presence in this state to collect and remit state and local sales or use*
25 *taxes, at the place of business of the retailer. During such time period,*
26 *retail sales involving the use, consumption, or furnishing of gas, water,*
27 *electricity and heat, for the purposes of this act, shall be considered to*
28 *have been consummated at the situs of the user or recipient thereof, and*
29 *retail sales involving the use or furnishing of telephone service or services*
30 *taxed under subsection (k) of K.S.A. 79-3603, and amendments thereto,*
31 *shall be considered to have been consummated at the situs of the sub-*
32 *scriber billed therefor; retail sales involving the leasing of telecommuni-*
33 *cation or data processing equipment commonly used in connection with*
34 *telephone services shall be considered to have been consummated at the*
35 *situs of the lessee; and retail sales involving the furnishing of services*
36 *taxable under subsection (p), (q) and (r) of K.S.A. 79-3603, and amend-*
37 *ments thereto, pursuant to a contract under which the sale of such services*
38 *and the furnishing of tangible personal property exceeds \$10,000 per con-*
39 *tract per contractor shall be considered to have been consummated at the*
40 *situs where such services are performed; and (2) on and after the date*
41 *that legislation enacted by the United States Congress becomes effective*
42 *that authorizes the secretary of revenue to require some out-of-state, re-*
43 *mate sellers lacking physical presence in this state to collect and remit*

Except as provided in section 12, and amendments thereto,

1 *state and local sales or use taxes*, at the location determined by the source-
2 *ing rules* as provided in K.S.A. 2004 Supp. 79-3670, 79-3671, 79-3672
3 *and 79-3673*, and amendments thereto. The retail sales or transfer of
4 watercraft, modular homes, manufactured homes or mobile homes, shall
5 be considered consummated at the place of business of the retailer and
6 sourced to such location. The retail sale, excluding the lease or rental, of
7 motor vehicles, trailers, semi-trailers or aircraft that do not qualify as
8 transportation equipment, as defined in subsection (d) of K.S.A. 2004
9 Supp. 79-3670, and amendments thereto, shall be considered consum-
10 mated at the place of business of the retailer and sourced to such location.

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

36 A city retailers' sales tax shall not become effective within any area
37 annexed by a city levying such tax until the first day of the calendar quarter
38 next following the 90th day after the date that the governing body of such
39 city provided the state department of revenue with a certified copy of the
40 annexation ordinance and a map of the city detailing the annexed area.
41 The director of taxation shall provide notice to sellers of such tax within
42 30 days after receiving such notice from the city or county.

43 Whenever any sales tax, imposed by any city or county under the pro-

visions of this act, shall become effective, at any time prior to the time that revenue derived therefrom may be budgeted for expenditure in such year, such revenue shall be credited to the funds of the taxing subdivision or subdivisions and shall be carried forward to the credit of such funds for the ensuing budget year in the manner provided for carrying forward balances remaining in such funds at the end of a budget year.

Sec. 2. K.S.A. 2004 Supp. 79-3603 is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of 5.3%. Within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

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

(b) (1) the gross receipts from intrastate telephone or telegraph services; (2) the gross receipts received from the sale of interstate telephone or telegraph services, which (A) originate within this state and terminate outside the state and are billed to a customer's telephone number or account in this state; or (B) originate outside this state and terminate within this state and are billed to a customer's telephone number or account in this state except that the sale of interstate telephone or telegraph service does not include: (A) Any interstate incoming or outgoing wide area telephone service or wide area transmission type service which entitles the subscriber to make or receive an unlimited number of communications to or from persons having telephone service in a specified area which is outside the state in which the station provided this service is located; (B) any interstate private communications service to the persons contracting for the receipt of that service that entitles the purchaser to exclusive or priority use of a communications channel or group of channels between exchanges; (C) any value-added nonvoice service in which computer processing applications are used to act on the form, content, code or protocol of the information to be transmitted; (D) any telecommunication service to a provider of telecommunication services which will be used to render telecommunications services, including carrier access services; or (E) any service or transaction defined in this section among entities classified as members of an affiliated group as provided by section 1504 of the federal internal revenue code of 1986, as in effect on January 1, 2001; and (3) the gross receipts from the provision

1 of services taxable under this subsection which are billed on a combined
2 basis with nontaxable services, shall be accounted for and the tax remitted
3 as follows: The taxable portion of the selling price of those combined
4 services shall include only those charges for taxable services if the selling
5 price for the taxable services can be readily distinguishable in the retailer's
6 books and records from the selling price for the nontaxable services. Oth-
7 erwise, the gross receipts from the sale of both taxable and nontaxable
8 services billed on a combined basis shall be deemed attributable to the
9 taxable services included therein. Within 90 days of billing taxable services
10 on a combined basis with nontaxable services, the retailer shall enter into
11 a written agreement with the secretary identifying the methodology to be
12 used in determining the taxable portion of the selling price of those com-
13 bined services. The burden of proving that any receipt or charge is not
14 taxable shall be upon the retailer. Upon request from the customer, the
15 retailer shall disclose to the customer the selling price for the taxable
16 services included in the selling price for the taxable and nontaxable serv-
17 ices billed on a combined basis;

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

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

37 (e) the gross receipts from the sale of admissions to any place pro-
38 viding amusement, entertainment or recreation services including admis-
39 sions to state, county, district and local fairs, but such tax shall not be
40 levied and collected upon the gross receipts received from sales of ad-
41 missions to any cultural and historical event which occurs triennially;

42 (f) the gross receipts from the operation of any coin-operated device
43 dispensing or providing tangible personal property, amusement or other

1 services except laundry services, whether automatic or manually operated;

2 (g) the gross receipts from the service of renting of rooms by hotels,
3 as defined by K.S.A. 36-501 and amendments thereto, or by accommo-
4 dation brokers, as defined by K.S.A. 12-1692, and amendments thereto
5 but such tax shall not be levied and collected upon the gross receipts
6 received from sales of such service to the federal government and any
7 agency, officer or employee thereof in association with the performance
8 of official government duties;

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

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

23 (j) the gross receipts from the rendering of the services of washing
24 and washing and waxing of vehicles;

25 (k) the gross receipts from cable, community antennae and other sub-
26 scriber radio and television services;

27 (l) (1) except as otherwise provided by paragraph (2), the gross re-
28 cepts received from the sales of tangible personal property to all con-
29 tractors, subcontractors or repairmen for use by them in erecting struc-
30 tures, or building on, or otherwise improving, altering, or repairing real
31 or personal property.

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

39 (m) the gross receipts received from fees and charges by public and
40 private clubs, drinking establishments, organizations and businesses for
41 participation in sports, games and other recreational activities, but such
42 tax shall not be levied and collected upon the gross receipts received from:
43 (1) Fees and charges by any political subdivision, by any organization

1 exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-
2 201, and amendments thereto, or by any youth recreation organization
3 exclusively providing services to persons 18 years of age or younger which
4 is exempt from federal income taxation pursuant to section 501(c)(3) of
5 the federal internal revenue code of 1986, for participation in sports,
6 games and other recreational activities; and (2) entry fees and charges for
7 participation in a special event or tournament sanctioned by a national
8 sporting association to which spectators are charged an admission which
9 is taxable pursuant to subsection (e);

10 (n) the gross receipts received from dues charged by public and pri-
11 vate clubs, drinking establishments, organizations and businesses, pay-
12 ment of which entitles a member to the use of facilities for recreation or
13 entertainment, but such tax shall not be levied and collected upon the
14 gross receipts received from: (1) Dues charged by any organization ex-
15 empt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of
16 K.S.A. 79-201, and amendments thereto; and (2) sales of memberships
17 in a nonprofit organization which is exempt from federal income taxation
18 pursuant to section 501 (c)(3) of the federal internal revenue code of
19 1986, and whose purpose is to support the operation of a nonprofit zoo;

20 (o) the gross receipts received from the isolated or occasional sale of
21 motor vehicles or trailers but not including: (1) The transfer of motor
22 vehicles or trailers by a person to a corporation or limited liability com-
23 pany solely in exchange for stock securities or membership interest in
24 such corporation or limited liability company; or (2) the transfer of motor
25 vehicles or trailers by one corporation or limited liability company to
26 another when all of the assets of such corporation or limited liability
27 company are transferred to such other corporation or limited liability
28 company; or (3) the sale of motor vehicles or trailers which are subject
29 to taxation pursuant to the provisions of K.S.A. 79-5101 *et seq.*, and
30 amendments thereto, by an immediate family member to another im-
31 mediate family member. For the purposes of clause (3), immediate family
32 member means lineal ascendants or descendants, and their spouses. The
33 base for computing the tax shall be the stated selling price of the motor
34 vehicle or trailer or the value pursuant to subsections (a), (b)(1) and (b)(2)
35 of K.S.A. 79-5105, and amendments thereto, whichever amount is higher.
36 The actual selling price shall be the base for computing the tax on the
37 isolated or occasional sale of wrecked or damaged vehicles. In determin-
38 ing the base for computing the tax on such isolated or occasional sale, the
39 fair market value of any motor vehicle or trailer traded in by the purchaser
40 to the seller may be deducted from the selling price;

41 (p) the gross receipts received for the service of installing or applying
42 tangible personal property which when installed or applied is not being
43 held for sale in the regular course of business, and whether or not such

1 tangible personal property when installed or applied remains tangible
2 personal property or becomes a part of real estate, except that no tax shall
3 be imposed upon the service of installing or applying tangible personal
4 property in connection with the original construction of a building or
5 facility, the original construction, reconstruction, restoration, remodeling,
6 renovation, repair or replacement of a residence or the construction, re-
7 construction, restoration, replacement or repair of a bridge or highway.

8 For the purposes of this subsection:

9 (1) "Original construction" shall mean the first or initial construction
10 of a new building or facility. The term "original construction" shall include
11 the addition of an entire room or floor to any existing building or facility,
12 the completion of any unfinished portion of any existing building or fa-
13 cility and the restoration, reconstruction or replacement of a building or
14 facility damaged or destroyed by fire, flood, tornado, lightning, explosion
15 or earthquake, but such term, except with regard to a residence, shall not
16 include replacement, remodeling, restoration, renovation or reconstruc-
17 tion under any other circumstances;

18 (2) "building" shall mean only those enclosures within which individ-
19 uals customarily are employed, or which are customarily used to house
20 machinery, equipment or other property, and including the land improve-
21 ments immediately surrounding such building;

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

28 (4) "residence" shall mean only those enclosures within which indi-
29 viduals customarily live;

30 (q) the gross receipts received for the service of repairing, servicing,
31 altering or maintaining tangible personal property which when such serv-
32 ices are rendered is not being held for sale in the regular course of busi-
33 ness, and whether or not any tangible personal property is transferred in
34 connection therewith. The tax imposed by this subsection shall be appli-
35 cable to the services of repairing, servicing, altering or maintaining an
36 item of tangible personal property which has been and is fastened to,
37 connected with or built into real property;

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

41 (s) on and after January 1, 2005, the gross receipts received from the
42 sale of prewritten computer software and the sale of the services of mod-
43 ifying, altering, updating or maintaining prewritten computer software.

1 whether the prewritten computer software is installed or delivered elec-
 2 tronically by tangible storage media physically transferred to the pur-
 3 chaser or by load and leave;

4 (t) the gross receipts received for telephone answering services, mo-
 5 bile telecommunication services, beeper services and other similar serv-
 6 ices. On and after August 1, 2002, the provisions of the federal mobile
 7 telecommunications sourcing act as in effect on January 1, 2002, shall be
 8 applicable to all sales of mobile telecommunication services taxable pur-
 9 suant to this subsection. The secretary of revenue is hereby authorized
 10 and directed to perform any act deemed necessary to properly implement
 11 such provisions;

12 (u) the gross receipts received from the sale of prepaid calling service
 13 ~~as defined in K.S.A. 2004 Supp. 79-3673, and amendments thereto. As~~
 14 *used in this subsection "prepaid calling service" means the right to access*
 15 *exclusively telecommunications services, which must be paid for in ad-*
 16 *vance and which enables the origination of calls using an access number*
 17 *or authorization code, whether manually or electronically dialed, and that*
 18 *is sold in predetermined units or dollars of which the number declines*
 19 *with use in a known amount; and*

20 (v) the gross receipts received from the sales of bingo cards, bingo
 21 faces and instant bingo tickets by licensees under K.S.A. 79-4701, *et seq.*,
 22 and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1,
 23 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before
 24 July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo
 25 faces and instant bingo tickets by licensees under K.S.A. 79-4701 *et seq.*,
 26 and amendments thereto, shall be exempt from taxes imposed pursuant
 27 to this section.

28 Sec. 3. K.S.A. 2004 Supp. 79-3667 is hereby amended to read as
 29 follows: 79-3667. On and after the databases are developed pursuant to
 30 subsections (a), (b) and (c) of K.S.A. 2004 Supp. 79-3668 and amend-
 31 ments thereto and after the state has joined and become a member of
 32 the agreement, sellers and certified service providers (CSPs) are relieved
 33 from liability for state and local sales and use tax for having charged and
 34 collected the incorrect amount of sales tax resulting from the seller or
 35 certified service provider relying on erroneous data provided by the sec-
 36 retary on tax rates, boundaries or taxing jurisdiction assignments. If the
 37 secretary provides an address-based system for assigning taxing jurisdic-
 38 tions that meets the requirements developed pursuant to the federal mo-
 39 bile telecommunications sourcing act, no liability relief is provided to
 40 sellers or certified service providers for errors resulting from reliance on
 41 the information provided under the provisions of subsection (c) of K.S.A.
 42 2004 Supp. 79-3668 and amendments thereto. *The provisions of this sec-*
 43 *tion shall not be effective for the period commencing on the effective date*

[Except as provided in section 12, and amendments thereto,

1 of this act, and ending on the date that legislation enacted by the United
 2 States Congress becomes effective that authorizes the secretary of revenue
 3 to require some out-of-state, remote sellers lacking physical presence in
 4 this state to collect and remit state and local sales or use taxes.

5 Sec. 4. K.S.A. 2004 Supp. 79-3668 is hereby amended to read as
 6 follows: 79-3668. (a) The secretary shall provide and maintain a database
 7 that describes boundary changes for all taxing jurisdictions. This database
 8 shall include a description of the change and the effective date of the
 9 change for sales and use tax purposes.

10 (b) The secretary shall provide and maintain a database of all sales
 11 and use tax rates for all taxing jurisdictions. For the identification of coun-
 12 ties and cities, codes corresponding to the rates must be provided ac-
 13 cording to federal information processing standards (FIPS) as developed
 14 by the national institute of standards and technology. For the identifica-
 15 tion of all other jurisdictions, codes corresponding to the rates must be
 16 in the format determined by the secretary.

17 (c) The secretary must provide and maintain a database that assigns
 18 each five- and nine-digit zip code to the proper rates and taxing jurisdic-
 19 tions. The lowest combined tax rate imposed in the zip code area shall
 20 apply if the area includes more than one tax rate in any level of taxing
 21 jurisdiction. If a nine-digit zip code designation is not available for a street
 22 address, or if a seller is unable to determine the nine-digit zip code des-
 23 ignation of a purchaser after exercising due diligence to determine the
 24 designation, the seller may apply the rate for the five-digit zip code area.
 25 For purposes of this section, there is a rebuttable presumption that a
 26 seller has exercised due diligence if the seller has attempted to determine
 27 the nine-digit zip code designation by utilizing software approved by the
 28 secretary that makes this designation from the street address and the five-
 29 digit zip code of the purchaser.

30 (d) The secretary shall participate with other member states in the
 31 development of an address-based system for assigning taxing jurisdictions.
 32 The system must meet the requirements developed pursuant to the fed-
 33 eral mobile telecommunications sourcing act (4 U.S.C. § 119).

34 (e) The electronic databases provided for in subsections (a), (b), (c)
 35 and (d) shall be in downloadable format as determined by the secretary.
 36 The provisions of subsections (c) and (d) do not apply when the purchased
 37 product is received by the purchaser at the business location of the seller.

38 (f) ~~The provisions of this section shall not be effective for the period~~
 39 ~~commencing on the effective date of this act, and ending on the date that~~
 40 ~~legislation enacted by the United States Congress becomes effective that~~
 41 ~~authorizes the secretary of revenue to require some out-of-state, remote~~
 42 ~~sellers lacking physical presence in this state to collect and remit state and~~
 43 ~~local sales or use taxes.~~

Except as provided in section 12, and amendments thereto,

1 Sec. 5. K.S.A. 2004 Supp. 79-3669 is hereby amended to read as
 2 follows: 79-3669. (a) The retail sale of a product shall be sourced in ac-
 3 cordance with K.S.A. 2004 Supp. 79-3670 and amendments thereto. The
 4 provisions of K.S.A. 2004 Supp. 79-3670 and amendments thereto apply
 5 regardless of the characterization of a product as tangible personal prop-
 6 erty, a digital good or a service. The provisions of K.S.A. 2004 Supp. 79-
 7 3670 and amendments thereto only apply to determine a seller's obliga-
 8 tion to pay or collect and remit a sales or use tax with respect to the
 9 seller's retail sale of a product. These provisions do not affect the obli-
 10 gation of a purchaser or lessee to remit tax on the use of the product to
 11 the taxing jurisdictions of that use.

12 (b) K.S.A. 2004 Supp. 79-3670 and amendments thereto does not
 13 apply to sales or use taxes levied on the following: (1) The retail sale or
 14 transfer of water craft, modular homes, manufactured homes or mobile
 15 homes. The retail sale of these items shall be sourced according to K.S.A.
 16 12-191 and amendments thereto;

17 (2) the retail sales, excluding lease or rental, of motor vehicles, trail-
 18 ers, semi-trailers or aircraft that do not qualify as transportation equip-
 19 ment, as defined in subsection (d) of K.S.A. 2004 Supp. 79-3670 and
 20 amendments thereto. The retail sale of these items shall be sourced ac-
 21 cording to K.S.A. 12-191 and amendments thereto and the lease or rental
 22 of these items must be sourced according to subsection (c) of K.S.A. 2004
 23 Supp. 79-3670 and amendments thereto; and

24 (3) telecommunications services, as set out in K.S.A. 2004 Supp. 79-
 25 3673 and amendments thereto, shall be sourced in accordance with
 26 K.S.A. 2004 Supp. 79-3673 and amendments thereto.

27 (c) ~~The provisions of this section shall not be effective for the period~~
 28 ~~commencing on the effective date of this act, and ending on the date that~~
 29 ~~legislation enacted by the United States Congress becomes effective that~~
 30 ~~authorizes the secretary of revenue to require some out-of-state, remote~~
 31 ~~sellers lacking physical presence in this state to collect and remit state and~~
 32 ~~local sales or use taxes.~~

33 Sec. 6. K.S.A. 2004 Supp. 79-3670 is hereby amended to read as
 34 follows: 79-3670. (a) The retail sale, excluding lease or rental, of a product
 35 shall be sourced as follows: (1) When the product is received by the
 36 purchaser at a business location of the seller, the sale is sourced to that
 37 business location;

38 (2) when the product is not received by the purchaser at a business
 39 location of the seller, the sale is sourced to the location where receipt by
 40 the purchaser, or the purchaser's donee, designated as such by the pur-
 41 chaser, occurs, including the location indicated by instructions for delivery
 42 to the purchaser or donee, known to the seller;

43 (3) when subsection (a)(1) and (a)(2) do not apply, the sale is sourced

[Except as provided in section 12, and amendments thereto,

1 to the location indicated by an address for the purchaser that is available
2 from the business records of the seller that are maintained in the ordinary
3 course of the seller's business when use of this address does not constitute
4 bad faith;

5 (4) when subsections (a)(1), (a)(2) and (a)(3) do not apply, the sale is
6 sourced to the location indicated by an address for the purchaser obtained
7 during the consummation of the sale, including the address of a pur-
8 chaser's payment instrument, if no other address is available, when use
9 of this address does not constitute bad faith;

10 (5) when none of the previous rules of subsection (a)(1), (a)(2), (a)(3)
11 or (a)(4) apply, including the circumstance in which the seller is without
12 sufficient information to apply the previous rules, then the location will
13 be determined by the address from which tangible personal property was
14 shipped, from which the digital good or the computer software delivered
15 electronically was first available for transmission by the seller, or from
16 which the service was provided, disregarding for these purposes any lo-
17 cation that merely provided the digital transfer of the product sold.

18 (b) The lease or rental of tangible personal property, other than prop-
19 erty identified in subsection (c) or (d), shall be sourced as follows: (1) For
20 a lease or rental that requires recurring periodic payments, the first pe-
21 riodic payment is sourced the same as a retail sale in accordance with the
22 provisions of subsection (a). Periodic payments made subsequent to the
23 first payment are sourced to the primary property location for each period
24 covered by the payment. The primary property location shall be as indi-
25 cated by an address for the property provided by the lessee that is avail-
26 able to the lessor from its records maintained in the ordinary course of
27 business, when use of this address does not constitute bad faith. The
28 property location shall not be altered by intermittent use at different
29 locations, such as use of business property that accompanies employees
30 on business trips and service calls;

31 (2) for a lease or rental that does not require recurring periodic pay-
32 ments, the payment is sourced the same as a retail sale in accordance
33 with the provisions of subsection (a); and

34 (3) this subsection does not affect the imposition or computation of
35 sales or use tax on leases or rentals based on a lump sum or accelerated
36 basis, or on the acquisition of property for lease.

37 (c) The lease or rental of motor vehicles, trailers, semi-trailers or air-
38 craft that do not qualify as transportation equipment, as defined in sub-
39 section (d), shall be sourced as follows: (1) For a lease or rental that
40 requires recurring periodic payments, each periodic payment is sourced
41 to the primary property location. The primary property location shall be
42 as indicated by an address for the property provided by the lessee that is
43 available to the lessor from its records maintained in the ordinary course

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1 of business, when use of this address does not constitute bad faith. This
 2 location shall not be altered by intermittent use at different locations;

3 (2) for a lease or rental that does not require recurring periodic pay-
 4 ments, the payment is sourced the same as a retail sale in accordance
 5 with the provisions of subsection (a); and

6 (3) this subsection does not affect the imposition or computation of
 7 sales or use tax on leases or rentals based on a lump sum or accelerated
 8 basis or on the acquisition of property for lease.

9 (d) The retail sale, including lease or rental, of transportation equip-
 10 ment shall be sourced the same as a retail sale in accordance with the
 11 provisions of subsection (a), notwithstanding the exclusion of lease or
 12 rental in subsection (a). "Transportation equipment" means any of the
 13 following: (1) Locomotives and railcars that are utilized for the carriage
 14 of persons or property in interstate commerce:

15 (2) trucks and truck-tractors with a gross vehicle weight rating
 16 (GVWR) of 10,001 pounds or greater, trailers, semi-trailers or passenger
 17 buses that are: (A) Registered through the international registration plan;
 18 and

19 (B) operated under authority of a carrier authorized and certificated
 20 by the United States department of transportation or another federal or
 21 a foreign authority to engage in the carriage of persons or property in
 22 interstate or foreign commerce;

23 (3) aircraft that are operated by air carriers authorized and certifi-
 24 cated by the United States department of transportation or another fed-
 25 eral or a foreign authority to engage in the carriage of persons or property
 26 in interstate or foreign commerce; and

27 (4) containers designed for use on and component parts attached or
 28 secured on the items set forth in subsection (d)(1), (d)(2) and (d)(3).

29 (e) As used in this section, the terms "receive" and "receipt" mean:

30 (1) Taking possession of tangible personal property;

31 (2) making first use of services; or

32 (3) taking possession or making first use of digital goods, whichever
 33 comes first. The terms receive and receipt do not include possession by
 34 a shipping company on behalf of the purchaser.

35 (f) ~~The provisions of this section shall not be effective for the period~~
 36 ~~commencing on the effective date of this act, and ending on the date that~~
 37 ~~legislation enacted by the United States Congress becomes effective that~~
 38 ~~authorizes the secretary of revenue to require some out-of-state, remote~~
 39 ~~sellers lacking physical presence in this state to collect and remit state and~~
 40 ~~local sales or use taxes.~~

Except as provided in section 12, and amendments thereto,

41 Sec. 7. K.S.A. 2004 Supp. 79-3671 is hereby amended to read as
 42 follows: 79-3671. (a) Notwithstanding the provisions of K.S.A. 2004 Supp.
 43 79-3670 and amendments thereto, a business purchaser that is not a

1 holder of a direct pay permit that knows at the time of its purchase of a
 2 digital good, computer software delivered electronically or a service that
 3 the digital good, computer software delivered electronically or service will
 4 be concurrently available for use in more than one jurisdiction shall de-
 5 liver to the seller in conjunction with its purchase a multiple points of use
 6 or MPU exemption form disclosing this fact.

7 (b) Upon receipt of the MPU exemption form, the seller is relieved
 8 of all obligation to collect, pay or remit the applicable tax and the pur-
 9 chaser shall be obligated to collect, pay or remit the applicable tax on a
 10 direct pay basis.

11 (c) A purchaser delivering the MPU exemption form may use any
 12 reasonable, but consistent and uniform, method of apportionment that is
 13 supported by the purchaser's business records as they exist at the time of
 14 the consummation of the sale.

15 (d) The MPU exemption form will remain in effect for all future sales
 16 by the seller to the purchaser, except as to the subsequent sale's specific
 17 apportionment that is governed by the principle of subsection (c) and the
 18 facts existing at the time of the sale, until it is revoked in writing.

19 (e) A holder of a direct pay permit shall not be required to deliver
 20 the MPU exemption form to the seller. A direct pay permit holder shall
 21 follow the provisions of subsection (c) in apportioning the tax due on a
 22 digital good or a service that will be concurrently available for use in more
 23 than one jurisdiction.

Except as provided in section 12, and amendments thereto,

24 (f) *The provisions of this section shall not be effective for the period*
 25 *commencing on the effective date of this act, and ending on the date that*
 26 *legislation enacted by the United States Congress becomes effective that*
 27 *authorizes the secretary of revenue to require some out-of-state, remote*
 28 *sellers lacking physical presence in this state to collect and remit state and*
 29 *local sales or use taxes.*

30 Sec. 8. K.S.A. 2004 Supp. 79-3672 is hereby amended to read as
 31 follows: 79-3672. (a) (1) Notwithstanding the provisions of K.S.A. 2004
 32 Supp. 79-3670 and amendments thereto, a purchaser of direct mail that
 33 is not a holder of a direct pay permit shall provide to the seller in con-
 34 junction with the purchase either a direct mail form or information to
 35 show the jurisdictions to which the direct mail is delivered to recipients.

36 (2) Upon receipt of the direct mail form, the seller is relieved of all
 37 obligations to collect, pay or remit the applicable tax and the purchaser
 38 is obligated to pay or remit the applicable tax on a direct pay basis. A
 39 direct mail form shall remain in effect for all future sales of direct mail
 40 by the seller to the purchaser until it is revoked in writing.

41 (3) Upon receipt of information from the purchaser showing the ju-
 42 risdictions to which the direct mail is delivered to recipients, the seller
 43 shall collect the tax according to the delivery information provided by the

1 purchaser. In the absence of bad faith, the seller is relieved of any further
 2 obligation to collect tax on any transaction where the seller has collected
 3 tax pursuant to the delivery information provided by the purchaser.

4 (b) If the purchaser of direct mail does not have a direct pay permit
 5 and does not provide the seller with either a direct mail form or delivery
 6 information, as required by subsection (a), the seller shall collect the tax
 7 according to subsection (a)(5) of K.S.A. 2004 Supp. 79-3670 and amend-
 8 ments thereto. Nothing in this subsection shall limit a purchaser's obli-
 9 gation for sales or use tax to any state to which the direct mail is delivered.

10 (c) If a purchaser of direct mail provides the seller with document-
 11 tion of direct pay authority, the purchaser shall not be required to pro-
 12 vide a direct mail form or delivery information to the seller.

Except as provided in section 12, and amendments thereto,

13 ~~(d) The provisions of this section shall not be effective for the period~~
 14 ~~commencing on the effective date of this act, and ending on the date that~~
 15 ~~legislation enacted by the United States Congress becomes effective that~~
 16 ~~authorizes the secretary of revenue to require some out-of-state, remote~~
 17 ~~sellers lacking physical presence in this state to collect and remit state and~~
 18 ~~local sales or use taxes.~~

19 Sec. 9. K.S.A. 2004 Supp. 79-3673 is hereby amended to read as
 20 follows: 79-3673. (a) Except for the defined telecommunication services
 21 in subsection (c), the sale of telecommunication service sold on a call-by-
 22 call basis shall be sourced to each level of taxing jurisdiction where the
 23 call originates and terminates in that jurisdiction or each level of taxing
 24 jurisdiction where the call either originates or terminates and in which
 25 the service address is also located.

26 (b) Except for the defined telecommunication services in subsection
 27 (c), a sale of telecommunications services sold on a basis other than a call-
 28 by-call basis, is sourced to the customer's place of primary use.

29 (c) The sale of the following telecommunication services shall be
 30 sourced to each level of taxing jurisdiction as follows: (1) A sale of mobile
 31 communications services other than air-to-ground radiotelephone service
 32 and prepaid calling service, is sourced to the customer's place of primary
 33 use as required by the mobile telecommunications sourcing act;

34 (2) a sale of post-paid calling service is sourced to the origination
 35 point of the telecommunications signal as first identified by either the
 36 seller's telecommunications system, or information received by the seller
 37 from its service provider, where the system used to transport such signals
 38 is not that of the seller; and

39 (3) a sale of prepaid calling service is sourced in accordance with
 40 K.S.A. 2004 Supp. 79-3670 and amendments thereto, except that in the
 41 case of a sale of mobile telecommunications service that is a prepaid
 42 telecommunications service, the rule provided in subsection (a)(5) of
 43 K.S.A. 2004 Supp. 79-3670 and amendments thereto shall include as an

1 option the location associate with the mobile telephone number.

2 (d) A sale of a private communication service is sourced as follows:

3 (1) Service for a separate charge related to a customer channel termina-
4 tion point is sourced to each level of jurisdiction in which such customer
5 channel termination point is located;

6 (2) service where all customer termination points are located entirely
7 within one jurisdiction or levels of jurisdiction is sourced in such juris-
8 diction in which the customer channel termination points are located;

9 (3) service for segments of a channel between two customer channel
10 termination points located in different jurisdictions and which segment
11 of channel are separately charged is sourced 50% in each level of juris-
12 diction in which the customer channel termination points are located; and

13 (4) service for segments of a channel located in more than one juris-
14 diction or levels of jurisdiction and which segments are not separately
15 billed is sourced in each jurisdiction based on the percentage determined
16 by dividing the number of customer channel termination points in such
17 jurisdiction by the total number of customer channel termination points.

18 (e) As used in this section: (1) "Air-to-ground radiotelephone service"
19 means a radio service, as that term is defined in 47 CFR 22.99, in which
20 common carriers are authorized to offer and provide radio telecommu-
21 nications service for hire to subscribers in aircraft;

22 (2) "call-by-call basis" means any method of charging for telecom-
23 munications services where the price is measured by individual calls;

24 (3) "communications channel" means a physical or virtual path of
25 communications over which signals are transmitted between or among
26 customer channel termination points;

27 (4) "customer" means the person or entity that contracts with the
28 seller of telecommunications services. If the end user of telecommuni-
29 cations services is not the contracting party, the end user of the telecom-
30 munication service is the customer of the telecommunication service,
31 but this sentence only applies for the purpose of sourcing sales of tele-
32 communications services under this section. Customer does not include
33 a reseller of telecommunications service or for mobile telecommunica-
34 tions service of a serving carrier under an agreement to serve the cus-
35 tomer outside the home service provider's licensed service area;

36 (5) "customer channel termination point" means the location where
37 the customer either inputs or receives the communication;

38 (6) "end user" means the person who utilizes the telecommunication
39 service. In the case of an entity, end user means the individual who utilizes
40 the services on behalf of the entity;

41 (7) "home service provider" means the same as that term in defined
42 in section 124(5) of Public Law 106-252 (mobile telecommunications
43 sourcing act);

1 (8) "mobile telecommunications service" means the same as that
 2 term is defined in section 124(5) of Public Law 106-252 (mobile telecom-
 3 munications sourcing act);

4 (9) "place of primary use" means the street address representative of
 5 where the customer's use of the telecommunications service primarily
 6 occurs, which must be the residential street address or the primary busi-
 7 ness street address of the customer. In the case of mobile telecommu-
 8 nications services, place of primary use must be within the licensed serv-
 9 ice area of the home service provider;

10 (10) "post-paid calling service" means the telecommunications serv-
 11 ice obtained by making a payment on a call-by-call basis either through
 12 the use of a credit card or payment mechanism such as a bank card, travel
 13 card, credit card or debit card, or by charge made to which a telephone
 14 number which is not associated with the origination or termination of the
 15 telecommunications service. A post-paid calling service includes a tele-
 16 communications service that would be a prepaid calling service except it
 17 is not exclusively a telecommunication service;

18 (11) "prepaid calling service" means the right to access exclusively
 19 telecommunications services, which must be paid for in advance and
 20 which enables the origination of calls using an access number or author-
 21 ization code, whether manually or electronically dialed, and that is sold
 22 in predetermined units or dollars of which the number declines with use
 23 in a known amount;

24 (12) "private communication service" means a telecommunication
 25 service that entitles the customer to exclusive or priority use of a com-
 26 munication channel or group of channels between or among termination
 27 points, regardless of the manner in which such channel or channels are
 28 connected, and includes switching capacity, extension lines, stations and
 29 any other associated services that are provided in connection with the use
 30 of such channel or channels; and

31 (13) "service address" means: (A) The location of the telecommuni-
 32 cations equipment to which a customer's call is charged and from which
 33 the call originates or terminates, regardless of where the call is billed or
 34 paid;

35 (B) if the location in subsection (13)(A) is not known, service address
 36 means the origination point of the signal of the telecommunications serv-
 37 ices first identified by either the seller's telecommunications system or in
 38 information received by the seller from its service provider, where the
 39 system used to transport such signals is not that of the seller; and

40 (C) if the location in subsections (13)(A) and (13)(B) are not known,
 41 the service address means the location of the customer's place of primary
 42 use.

43 (f) *The provisions of this section shall not be effective for the period*

Except as provided in section 12, and amendments thereto,

1 *commencing on the effective date of this act, and ending on the date that*
 2 *legislation enacted by the United States Congress becomes effective that*
 3 *authorizes the secretary of revenue to require some out-of-state, remote*
 4 *sellers lacking physical presence in this state to collect and remit state and*
 5 *local sales or use taxes.*

6 Sec. 10. K.S.A. 2004 Supp. 79-3682 is hereby amended to read as
 7 follows: 79-3682. (a) The provisions of K.S.A. 2004 Supp. 79-3666
 8 through 79-3682 and amendments thereto shall be known and may be
 9 cited as the streamlined sales and use tax agreement conformity act.

10 (b) *Except as otherwise specifically provided*, the provisions of K.S.A.
 11 2004 Supp. 79-3666 through 79-3682 shall be effective on and after July
 12 1, 2003.

13 New Sec. 11. The legislature of the state of Kansas shall not enact
 14 legislation to provide for reasonable compensation for expenses incurred
 15 by out-of-state, remote sellers related to the administration, collection
 16 and remittance of sales and use taxes and the tax processing costs of such
 17 out-of-state, remote sellers pursuant to the requirements of legislation
 18 enacted by the United States Congress, unless such legislation enacted
 19 by the legislature of the state of Kansas also provides for reasonable com-
 20 pensation for expenses incurred by in-state sellers related to the admin-
 21 istration, collection and remittance of sales and use taxes and the tax
 22 processing costs of in-state sellers in an amount equal to that provided
 23 for such out-of-state, remote sellers.

24 Sec. ~~12~~ K.S.A. 2004 Supp. 12-191, 79-3603, 79-3667, 79-3668, 79-
 25 3669, 79-3670, 79-3671, 79-3672, 79-3673 and 79-3682 are hereby
 26 repealed.

27 Sec. ~~13~~ This act shall take effect and be in force from and after its
 28 publication in the Kansas register.

New Sec. 12. Commencing on the effective date of this act, and ending on the date that legislation enacted by the United States Congress becomes effective that authorizes the secretary of revenue to require some out-of-state remote sellers lacking physical presence in this state to collect and remit state and local sales or use tax, for any retailer who is sourcing taxable retail sales of such retailer pursuant to the destination based sourcing provisions contained in K.S.A. 12-191 and K.S.A. 2004 Supp. 79-3670, 79-3671, 79-3672 and 79-3673, and amendments thereto, prior to the effective date of this act, such retailer may elect to continue to apply such destination based sourcing provisions or apply the origin based sourcing provisions contained in this act.

And by renumbering the remaining sections accordingly.

Supp Note on HB 2131 as Amended by House Tax

Brief

HB 2131, as amended, would repeal a number of destination-based sales tax sourcing provisions originally enacted in 2003 and would restore all sourcing rules which had been in place prior to July 1, 2003. (Sales would be sourced to the location of the retailers (origin-based sourcing), except for certain telecommunications and utility services; as well as sales of property and services in connection with contracts in excess of \$10,000.) However, those retailers in compliance with destination sourcing on the effective date of the bill (publication in the *Kansas Register*) would have the option of continuing to use those provisions or of switching back to origin sourcing.

The destination-sourcing provisions would become effective again immediately upon the effective date of any legislation enacted by Congress that authorizes the Kansas Secretary of Revenue to require certain out-of-state sellers lacking physical presence in the state to collect and remit state and local sales and use taxes.

The bill also would prohibit future Kansas Legislatures from enacting compensation for expenses incurred by out-of-state sellers related to tax collection and processing without also compensating in-state sellers.

Background

A fiscal note prepared by the Budget Division indicated that sales tax receipts would be expected to decline by \$9 million in FY 2006. This is the amount currently expected to be received from voluntary collections of sales and use tax by remote retailers as a result of Kansas' being in substantial compliance with the provisions of the Streamlined Sales and Use Tax Agreement. Of this amount, \$8.575 would be attributable to a reduction in SGF receipts; and \$0.425 million would be attributable to a reduction in SHF receipts.

Legislation enacted in 2004 had authorized retailers prior to January 1, 2005, to elect to utilize origin-based sourcing provisions in effect on June 30, 2003, as an alternative to the destination-based sourcing provisions which became effective July 1, 2003.

The House Committee amended the bill at the suggestion of Representative Siegfried to add the provisions authorizing those retailers in compliance with destination sourcing to continue to utilize that methodology in lieu of changing back to origin sourcing.

SENATE BILL No. 138

By Committee on Commerce

1-28

12 AN ACT concerning taxation; providing for a tax credit against the in-
13 come tax liability of certain business firms.

14
15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. (a) For taxable years commencing after December 31,
17 2004, any business firm which has entered into a partnership agreement
18 pursuant to subsection ~~(d)~~ shall be allowed a credit against the income
19 tax imposed by the Kansas income tax act as follows:

20 (1) An amount equal to 25% of the amount paid during the taxable
21 year by such business firm to teachers as salary pursuant to the partner-
22 ship agreement; or

23 (2) an amount equal to 30% of the amount paid during the taxable
24 year by such business firm to teachers as salary pursuant to the partner-
25 ship agreement if the teacher is teaching in a school district located in a
26 rural community, underserved area, or underperforming urban area.

27 (b) ~~[In no event shall the total amount of credits allowed under~~
28 ~~this section exceed \$500,000 for any one fiscal year.~~

29 (c) The credit allowed by this section shall not exceed the amount
30 of tax imposed under the Kansas income tax act reduced by the sum of
31 any other credits allowable pursuant to law. Such credit shall be deducted
32 from the taxpayer's income tax liability for the taxable year in which the
33 expenditures are made by the taxpayer. The taxpayer shall not be allowed
34 to carry over any amount of such credit exceeding the taxpayer's income
35 tax liability.

36 ~~(e) [(d)]~~ As used in this section:

37 (1) "Business firm" means any business entity authorized to do busi-
38 ness in the state of Kansas which is subject to the state income tax im-
39 posed by the provisions of the Kansas income tax act and any individual
40 subject to the state income tax imposed by the provisions of the Kansas
41 income tax act.

42 (2) "Underserved area" shall have the meaning ascribed thereto by
43 K.S.A. 74-32,101, and amendments thereto.

(d) Prior to a business firm claiming this tax credit, the secretary of revenue shall require each business firm to submit for approval the following information on forms as prescribed by the secretary: (1) each partnership agreement; (2) the salary amount paid to each teacher during the taxable year by such business firm pursuant to such partnership agreement and for which the tax credit is sought; and (3) such further information as the secretary may require to administer this provision.

and of that amount, no more than \$125,000 in credits shall be allowed for business firms located in any one congressional district per fiscal year. The secretary of revenue shall approve such credits in advance on a first come-first serve basis, pursuant to subsection (d).

1 (3) "Teacher" means a person who holds a certificate to teach in
2 Kansas with an endorsement in the areas of mathematics, science, physics,
3 chemistry or biology and has entered into a partnership agreement.

f

4 (4) "Partnership agreement" means an agreement entered into pur-
5 suant to subsection (d).

6 (5) "Rural community" shall have the meaning ascribed thereto by
7 K.S.A. 79-32,195, and amendments thereto.

8 (6) "Underperforming urban area" means an area of the state in
9 which low academic performance by pupils in school districts in such area
10 as determined and specified by the state board of education.

f

11 ~~(d)~~ [(f)] The board of education of any school district, teacher and
12 business firm may enter a partnership agreement under which such busi-
13 ness firm agrees to employ such teacher *in a position that requires*
14 *mathematics or science skills commensurate with the classes that*
15 *the teacher regularly teaches* during the ~~months~~ *times* in which school
16 is not regularly in session.

17 Sec. 2. This act shall take effect and be in force from and after its
18 publication in the statute book.

The provisions of this act shall expire for any tax year commencing on or after January 1, 2008.

Such agreement shall contain a description of the duties of the position the teacher will be performing, sufficient to establish that such position satisfies the criteria set forth in subsection (f).

If a teacher entering into a partnership agreement voluntarily leaves the employ of the school district to be employed by the business firm during the term of the agreement or within one year after the agreement is completed or terminated the business firm shall repay to the state all credits claimed pursuant to this section. Such payment shall be due as part of the tax liability of the business entity for the tax year in which the teacher is no longer employed by the school district.

(g) The secretary of revenue shall submit an annual report to the chairperson of the legislative educational planning committee regarding utilization of the credits claimed pursuant to this act, for purposes of evaluation of the program by such committee. Such report shall be due on or before the first day of the legislative session, commencing with the 2007 legislative session and ending with the 2009 legislative session.

1 in planning and doing any project and may include a charge of not to
2 exceed 5% of the total cost of a project or the cost of work done by the
3 municipality to reimburse the municipality for the services rendered by
4 the municipality in the administration and supervision of such project by
5 its general officers; and (2) in the case of property and projects already
6 owned by the municipality and previously financed by the issuance of
7 bonds, "cost" means costs authorized by K.S.A. 10-116a and amendments
8 thereto.

9 (f) "District" means a transportation *and infrastructure* development
10 district created pursuant to this act.

11 (g) "Governing body" means the governing body of a city or the board
12 of county commissioners of a county.

13 (h) "Municipality" means any city or county.

14 (i) "Newspaper" means the official newspaper of the municipality.

15 (j) "Owner" means the owner or owners of record, whether resident
16 or not, of real property within the district.

17 (k) "Project" means any project or undertaking, whether within or
18 without the district, to: (1) Improve, construct, reconstruct, maintain,
19 restore, replace, renew, repair, install, furnish, equip or extend any
20 bridge, street, road, highway access road, interchange, intersection, sign-
21 ing, signalization, parking lot, bus stop, station, garage, terminal, hangar,
22 shelter, rest area, dock, wharf, lake or river port, airport, railroad, light
23 rail or other mass transit facility or any other transportation related project
24 or infrastructure;

- 25 (2) [REDACTED];
- 26 (3) [REDACTED];
- 27 (4) [REDACTED] utility relocations; and
- 28 (5) sanitary and storm sewers and lift stations;
- 29 (6) drainage conduits, channels, levees [REDACTED];
- 30 (7) [REDACTED];
- 31 [REDACTED];
- 32 (8) street light fixtures, connection and facilities;
- 33 (9) underground gas, water, heating and electrical services and con-
34 nections located within or without the public right-of-way;
- 35 (10) sidewalks and pedestrian underpasses or overpasses;
- 36 (11) [REDACTED];
- 37 [REDACTED];
- 38 (12) water mains and extensions;
- 39 (13) [REDACTED];
- 40 (14) [REDACTED];
- 41 (15) [REDACTED];
- 42 [REDACTED];
- 43 (16) [REDACTED];



Add
SB 209
to