

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on February 21, 2006 in Room 519-S of the Capitol.

All members were present except:  
Representative Steve Brunk- excused

Committee staff present  
Chris Courtwright, Legislative Research Department  
Martha Dorsey, Legislative Research Department  
Gordon Self, Revisor of Statutes  
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:  
Representative Lee Tafanelli  
Representative Ed O'Malley  
Matthew Goddard, Heartland Community Bankers Association

Others attending:  
See attached list.

**HB 2816 - Providing property tax deferrals on certain property owned by persons 65 years of age or older.**

The Chairman opened the public hearing on **HB 2816**.

Representative Lee Tafanelli provided the background on the bill. He spoke of the importance of the issue to the elderly regarding the uncertainty and tremendous rise in property tax, that results in hard decisions about whether they could continue to live in their homes or would be forced to move. He gave several examples when seniors were forced to move to assisted living or nursing homes, not due to ill health, but because they could not afford to stay in their homes. **HB 2816** is another alternative that would help seniors by deferring property tax until their death or when the deed is transferred. This bill would work within the framework of the existing tax policy and would be tested on a pilot basis of three years to provide stability and relief for Kansas' most vulnerable citizens. (No written testimony).

Representative Ed O'Malley said that as of 2002, twenty-four states and the District of Columbia had some sort of property tax deferral program. This bill does not require a Constitutional amendment and would not give property tax relief to every senior. It is a targeted program designed to give relief to those seniors who need it most. He delineated five key components of **HB 2816**:

- Seniors who qualify could elect to defer payment of property taxes until after their death or after the deed is transferred.
- To qualify, a home must be at or below the median home value for the county.
- To ensure local units of government would not be adversely affected, the state treasurer will pay to the county treasurer the amount of taxes deferred.
- Upon the death of the taxpayer or the sale/transfer of the home, the deferred taxes will be paid in whole to the state.
- Because this is a pilot program, it gives great latitude to the state treasurer to develop rules and regulations for the implementation of this proposal.

He concluded that this bill does not shift the tax burden to any other type of tax payer and there is no pain to the local units of government, since they continue to receive their tax revenue from the state. His testimony included topics covered under each section (Attachment 1). He added that they were prepared to offer a balloon amendment clarifying that this bill would not apply to homes that

## CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on February 21, 2006 in Room 519-S of the Capitol.

have a mortgage.

Matthew Goddard, Heartland Community Bankers Association, explained the process of reverse mortgages, wherein the homeowner receives a monthly check that enables them to stay in their home until their death, at which time their home belongs to the lender. In the case where the homeowner has a mortgage, in most cases the lender is already escrowing property tax, which causes practical application problems at the time the senior qualifies for the program.

Discussion followed regarding the criteria and process required for the program, valuation methodology, justification of 8% interest rate, fiscal impact of the bill and possibility of a tax lien certificate process.

Representative Brown requested that staff try to determine how many seniors would qualify for the program, using a wide variety of assumptions. Representative Kelly requested information on the average expenditure in Iowa, and interest rate they charged.

Chairman Wilk closed the public hearing on **HB 2816**.

### **HB 2601 - Sales tax holiday for sales of school supplies, clothing and computers.**

Chris Courtwright said that the bill would allow a sales tax holiday three or four days in July, for purchases of certain clothing, school supplies, and computers. Eight to 12 states have some version of this law targeted at back-to-school purchases. The fiscal note was \$3.62 million. There were two issues raised by the DOR: 1) compliance with the multi-state, stream-lined sales tax agreement; 2) ability of local units to pick and choose whether to participate in the program.

Representative Peck made a motion to move a balloon amendment, that changed the start date to the first Wednesday in August through midnight of the following Sunday. This date coincides with the Missouri law (Attachment 2). Representative Goico seconded the motion. The motion carried.

Chairman Wilk introduced visitors, members of the Student Council from the Good Shepherd School in Overland Park. He explained the process of amending changes to bills with the use of balloon amendments.

A balloon was distributed that strikes New Section 2, the local component of the bill and strikes the definitions of clothing, personal computers, school supplies, etc. It inserts seven pages of definitions directly from the multi-state stream-lined sales agreement, along with other requirements (Attachment 3).

Richard Cram explained the importance of compliance to the stream-lined sales agreement and necessary changes that will satisfy the business community.

Representative Kirk moved that they amend **HB 2601**, with the balloon by DOR that would bring them into compliance with stream-lined sales tax agreement. Representative Menghini seconded the motion.

Representative Menghini shared an E-mail from DOR stating that Kansas had received over \$1 million in voluntary remittances of use tax from individual tax payers on their income tax, in addition to a change of \$12 million in remote sales tax. She concluded those figures represented a significant amount that Kansas would lose if they were out of compliance with the stream-lined sales tax agreement.

Gordon Self advised that on page 21 of the amendment, the bottom line is missing and there is an amendment to the effective date. Because of the 60-day required notice, July 1, will not be adequate for a 2006 date, therefore that date was changed to the Kansas Register.

The Chairman advised the Committee that they would return to **HB 2601** at a future date and would start with further discussion on Representative Kirk's motion to amend DOR's balloon. He stated

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on February 21, 2006 in Room 519-S of the Capitol.

they would observe the standing order of requests for comments from Representatives Siegfried, Carlson, O'Malley and Kelly.

He explained the schedule for next week and adjourned the meeting at 10:30 A.M. The next meeting is March 1, 2006, a Joint meeting with Utilities, regarding five energy bills, in room 313-S.

# HOUSE TAXATION COMMITTEE GUEST LIST

DATE: Feb 21, 2006

NAME	REPRESENTING
Larry R Baer	LKM
Kathy Olsen	Ks Bankers Assn
Rachel Barnes	Rep. Gordon
Michelle Peterson	Capital Strategies
Dane Hoffman	Ks Assoc. of Realtors



REP. EDWARD J. O'MALLEY JR.  
STATE OF KANSAS, 24TH DISTRICT

## Testimony in support of House Bill 2816

Rep. Ed O'Malley  
February 20, 2006

House Bill 2816 is intended to bring property tax relief to Kansas senior citizens struggling to stay in their homes. As of 2002, 24 states and the District of Columbia had some sort of property tax deferral program.

Different from other proposals aimed at seniors, this initiative does not require passage of a constitutional amendment, nor does it require shifting the tax burden onto other property owners. In addition, this proposal would provide relief for seniors while not reducing revenue to schools, cities and counties.

The following are key components of House Bill 2816:

- 1 Seniors that qualify could elect to defer payment of property taxes until after their death or after the deed is transferred.
- 2 To qualify, a home must be at or below the median home value for the county.
- 3 To ensure local units of government would not be adversely affected, the state treasurer will pay to the county treasurer the amount of taxes deferred.
- 4 Upon the death of the taxpayer or the sale/transfer of the home, the deferred taxes will be paid in whole to the state.
- 5 Because this is a pilot program, we give great latitude to the state treasurer to develop rules and regulations for the implementation of this proposal.

This program is not for every senior; however, it may be ideal for those struggling to remain in their home because of high property taxes. I encourage your support for House Bill 2816.

**Section by section breakdown for HB 2816**

Section One	Title
Section Two	Definitions
Section Three	Describes how the deferral process will work.
Section Four	Describes criteria for qualifying for deferral program.
Section Five	Describes interest charge.
Section six	States that the state treasurer will pay the county treasurer the amount of tax deferred.
Section seven	States that the state treasurer is the entity that will hold the lien and be able to receive payments.
Section eight	Describes when a home is no longer eligible for the deferral program.
Section nine	Describes the time frame by which all deferred taxes must be paid.
Section 10	States that spouse of the taxpayer may continue to defer property taxes if the taxpayer dies or is moved from the home due to illness.
Section 11	Requires state treasurer to submit an annual report to the Legislature describing the effectiveness of the deferral program.
Section 12	The state treasurer shall adopt rules and regulations to administer the act.
Section 13	Describes pilot period (three years).
Section 14	Act will take effect on January 1, 2007.

## HOUSE BILL No. 2601

By Representatives Peck, Beamer, Brown, Carlson, Dahl, DeCastro, George, Goico, Grange, M. Holmes, E. Johnson, Kelley, Kelsey, Kiegerl, Knox, Mast, Mays, McCreary, F. Miller, Oharah, Otto and Watkins

1-12

Proposed Amendment to  
House Bill No. 2601  
Change of dates

House Taxation  
2-21-06  
Attachment 2

12 AN ACT concerning sales taxation; relating to sales tax exemption for  
13 certain sales of clothing, personal computers and school supplies;  
14 amending K.S.A. 2005 Supp. 79-3606 and repealing the existing  
15 section.

16  
17 *Be it enacted by the Legislature of the State of Kansas:*

18 Section 1. K.S.A. 2005 Supp. 79-3606 is hereby amended to read as  
19 follows: 79-3606. The following shall be exempt from the tax imposed by  
20 this act:

21 (a) All sales of motor-vehicle fuel or other articles upon which a sales  
22 or excise tax has been paid, not subject to refund, under the laws of this  
23 state except cigarettes as defined by K.S.A. 79-3301 and amendments  
24 thereto, cereal malt beverages and malt products as defined by K.S.A. 79-  
25 3817 and amendments thereto, including wort, liquid malt, malt syrup  
26 and malt extract, which is not subject to taxation under the provisions of  
27 K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant  
28 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to  
29 K.S.A. 65-3424d, and amendments thereto, drycleaning and laundry serv-  
30 ices taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and  
31 gross receipts from regulated sports contests taxed pursuant to the Kansas  
32 professional regulated sports act, and amendments thereto;

33 (b) all sales of tangible personal property or service, including the  
34 renting and leasing of tangible personal property, purchased directly by  
35 the state of Kansas, a political subdivision thereof, other than a school or  
36 educational institution, or purchased by a public or private nonprofit hos-  
37 pital or public hospital authority or nonprofit blood, tissue or organ bank  
38 and used exclusively for state, political subdivision, hospital or public hos-  
39 pital authority or nonprofit blood, tissue or organ bank purposes, except  
40 when: (1) Such state, hospital or public hospital authority is engaged or  
41 proposes to engage in any business specifically taxable under the provi-  
42 sions of this act and such items of tangible personal property or service  
43 are used or proposed to be used in such business, or (2) such political

1 sales of materials and services purchased by any class II or III railroad as  
2 classified by the federal surface transportation board for the construction,  
3 renovation, repair or replacement of class II or III railroad track and  
4 facilities used directly in interstate commerce. In the event any such track  
5 or facility for which materials and services were purchased sales tax ex-  
6 empt is not operational for five years succeeding the allowance of such  
7 exemption, the total amount of sales tax which would have been payable  
8 except for the operation of this subsection shall be recouped in accord-  
9 ance with rules and regulations adopted for such purpose by the secretary  
10 of revenue;

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

15 (fff) all sales of material handling equipment, racking systems and  
16 other related machinery and equipment that is used for the handling,  
17 movement or storage of tangible personal property in a warehouse or  
18 distribution facility in this state; all sales of installation, repair and main-  
19 tenance services performed on such machinery and equipment; and all  
20 sales of repair and replacement parts for such machinery and equipment.  
21 For purposes of this subsection, a warehouse or distribution facility means  
22 a single, fixed location that consists of buildings or structures in a contig-  
23 uous area where storage or distribution operations are conducted that are  
24 separate and apart from the business' retail operations, if any, and which  
25 do not otherwise qualify for exemption as occurring at a manufacturing  
26 or processing plant or facility. Material handling and storage equipment  
27 shall include aeration, dust control, cleaning, handling and other such  
28 equipment that is used in a public grain warehouse or other commercial  
29 grain storage facility, whether used for grain handling, grain storage, grain  
30 refining or processing, or other grain treatment operation;

31 (ggg) all sales of tangible personal property and services purchased  
32 by or on behalf of the Kansas Academy of Science which is exempt from  
33 federal income taxation pursuant to section 501(c)(3) of the federal in-  
34 ternal revenue code of 1986, and used solely by such academy for the  
35 preparation, publication and dissemination of education materials; ~~and~~

36 (hhh) all sales of tangible personal property and services purchased  
37 by or on behalf of all domestic violence shelters that are member agencies  
38 of the Kansas coalition against sexual and domestic violence; *and*

39 (iii) *on and after July 1, 2006, except as provided in section 2, all sales*  
40 *of any article of clothing having a taxable value of \$300 or less, all school*  
*supplies not to exceed \$100 per purchase, all computer software with a*  
*taxable value of \$300 or less and all personal computers or computer*  
43 *peripheral devices not to exceed \$2,000, during a four-day period begin-*

the



first

August

Sunday

1 ning at 12:01 a.m. on the ~~last~~ Wednesday in ~~July~~ and ending at midnight  
 2 on the ~~Saturday~~ following ~~in which all such described days are in July~~.  
 3 The provisions of this subsection apply to sales of items for personal use  
 4 only. As used in this subsection, (1) "clothing" means any article of wear-  
 5 ing apparel, including footwear, intended to be worn on or about the  
 6 human body. The term shall include, but not be limited to, cloth and other  
 7 material used to make school uniforms or other school clothing. Items  
 8 normally sold in pairs shall not be separated to qualify for the exemption.  
 9 The term shall not include watches, watchbands, jewelry, handbags, hand-  
 10 kerchiefs, umbrellas, scarves, headbands, or belt buckles; (2) "personal  
 11 computers" means a laptop, desktop or tower computer system which  
 12 consists of a central processing unit, random access memory, a storage  
 13 drive, a display monitor and a keyboard and devices designed for use in  
 14 conjunction with a personal computer, such as a disk drive, memory mod-  
 15 ular, compact disk drive, daughterboard, digitalizer, microphone, modem,  
 16 motherboard, mouse, multimedia speaker, printer, scanner, single-user  
 17 hardware, single-user operating system, soundcard or video card; and (3)  
 18 "school supplies" means any item normally used by students in a standard  
 19 classroom for educational purposes, including, but not limited to, text-  
 20 books, notebooks, paper, writing instruments, crayons, art supplies, rul-  
 21 ers, bookbags, backpacks, handheld calculators, chalk, maps and globes.  
 22 The term shall not include watches, radios, CD players, headphones,  
 23 sporting equipment, portable or desktop telephones, copiers or other office  
 24 equipment, furniture or fixtures.

25 New Sec. 2. The governing body of any city or county may adopt an  
 26 ordinance or resolution to exempt from any local sales tax all sales of  
 27 clothing, school supplies and computers and computer software as pro-  
 28 vided pursuant to the provisions of subsection (iii) of K.S.A. 79-3606, and  
 29 amendments thereto. Any such city or county may rescind the ordinance  
 30 or resolution. At least 45 days prior to the beginning of the period spec-  
 31 ified in subsection (iii) of K.S.A. 79-3606, and amendments thereto, a city  
 32 or county shall notify the director of taxation of the adoption or rescinding  
 33 of any such ordinance or resolution.

34 Sec. 3. K.S.A. 2005 Supp. 79-3606 is hereby repealed.

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

**HOUSE BILL No. 2601**

By Representatives Peck, Beamer, Brown, Carlson, Dahl, DeCastro, George, Goico, Grange, M. Holmes, E. Johnson, Kelley, Kelsey, Kiegerl, Knox, Mast, Mays, McCreary, F. Miller, Oharah, Otto and Watkins

1-12

Proposed Amendments to  
House Bill No. 2601  
Amendments for Conformity with  
Streamlined Sales and Use Tax Agreement

House Taxation  
2-21-06  
Attachment 3

12 AN ACT concerning sales taxation; relating to sales tax exemption for  
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14 amending K.S.A. 2005 Supp. 79-3606 and repealing the existing  
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17 *Be it enacted by the Legislature of the State of Kansas:*

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22 or excise tax has been paid, not subject to refund, under the laws of this  
23 state except cigarettes as defined by K.S.A. 79-3301 and amendments  
24 thereto, cereal malt beverages and malt products as defined by K.S.A. 79-  
25 3817 and amendments thereto, including wort, liquid malt, malt syrup  
26 and malt extract, which is not subject to taxation under the provisions of  
27 K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant  
28 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to  
29 K.S.A. 65-3424d, and amendments thereto, drycleaning and laundry serv-  
30 ices taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and  
31 gross receipts from regulated sports contests taxed pursuant to the Kansas  
32 professional regulated sports act, and amendments thereto;

33 (b) all sales of tangible personal property or service, including the  
34 renting and leasing of tangible personal property, purchased directly by  
35 the state of Kansas, a political subdivision thereof, other than a school or  
36 educational institution, or purchased by a public or private nonprofit hos-  
37 pital or public hospital authority or nonprofit blood, tissue or organ bank  
38 and used exclusively for state, political subdivision, hospital or public hos-  
39 pital authority or nonprofit blood, tissue or organ bank purposes, except

40 en: (1) Such state, hospital or public hospital authority is engaged or  
41 proposes to engage in any business specifically taxable under the provi-  
42 sions of this act and such items of tangible personal property or service  
43 are used or proposed to be used in such business, or (2) such political

1 sales of materials and services purchased by any class II or III railroad as  
 2 classified by the federal surface transportation board for the construction,  
 3 renovation, repair or replacement of class II or III railroad track and  
 4 facilities used directly in interstate commerce. In the event any such track  
 5 or facility for which materials and services were purchased sales tax ex-  
 6 empt is not operational for five years succeeding the allowance of such  
 7 exemption, the total amount of sales tax which would have been payable  
 8 except for the operation of this subsection shall be recouped in accord-  
 9 ance with rules and regulations adopted for such purpose by the secretary  
 10 of revenue;

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

15 (fff) all sales of material handling equipment, racking systems and  
 16 other related machinery and equipment that is used for the handling,  
 17 movement or storage of tangible personal property in a warehouse or  
 18 distribution facility in this state; all sales of installation, repair and main-  
 19 tenance services performed on such machinery and equipment; and all  
 20 sales of repair and replacement parts for such machinery and equipment.  
 21 For purposes of this subsection, a warehouse or distribution facility means  
 22 a single, fixed location that consists of buildings or structures in a contig-  
 23 uous area where storage or distribution operations are conducted that are  
 24 separate and apart from the business' retail operations, if any, and which  
 25 do not otherwise qualify for exemption as occurring at a manufacturing  
 26 or processing plant or facility. Material handling and storage equipment  
 27 shall include aeration, dust control, cleaning, handling and other such  
 28 equipment that is used in a public grain warehouse or other commercial  
 29 grain storage facility, whether used for grain handling, grain storage, grain  
 30 refining or processing, or other grain treatment operation;

31 (ggg) all sales of tangible personal property and services purchased  
 32 by or on behalf of the Kansas Academy of Science which is exempt from  
 33 federal income taxation pursuant to section 501(c)(3) of the federal in-  
 34 ternal revenue code of 1986, and used solely by such academy for the  
 35 preparation, publication and dissemination of education materials; ~~and~~

36 (hhh) all sales of tangible personal property and services purchased  
 37 by or on behalf of all domestic violence shelters that are member agencies  
 38 of the Kansas coalition against sexual and domestic violence; and

39 (iii) on and after July 1, 2006, ~~except as provided in section 2~~ all sales  
 40 of ~~any article of~~ clothing having a taxable value of \$300 or less, all school  
 41 supplies not to exceed \$100 per purchase, all computer software with a  
 42 taxable value of \$300 or less and all personal computers or computer  
 43 peripheral devices not to exceed \$2,000, during a four-day period begin-

prewritten  
 school  
 supplies

1 ning at 12:01 a.m. on the last Wednesday in July and ending at midnight  
 2 on the Saturday following in which all such described days are in July.  
 3 The provisions of this subsection apply to sales of items for personal use  
 4 only. ~~As used in this subsection, (1) "clothing" means any article of wear-~~  
 5 ~~ing apparel, including footwear, intended to be worn on or about the~~  
 6 ~~human body. The term shall include, but not be limited to, cloth and other~~  
 7 ~~material used to make school uniforms or other school clothing. Items~~  
 8 ~~normally sold in pairs shall not be separated to qualify for the exemption.~~  
 9 ~~The term shall not include watches, watchbands, jewelry, handbags, hand-~~  
 10 ~~kerchiefs, umbrellas, scarves, headbands, or belt buckles; (2) "personal~~  
 11 ~~computers" means a laptop, desktop or tower computer system which~~  
 12 ~~consists of a central processing unit, random access memory, a storage~~  
 13 ~~drive, a display monitor and a keyboard and devices designed for use in~~  
 14 ~~conjunction with a personal computer, such as a disk drive, memory mod-~~  
 15 ~~ule, compact disk drive, daughterboard, digitalizer, microphone, modem,~~  
 16 ~~motherboard, mouse, multimedia speaker, printer, scanner, single-user~~  
 17 ~~hardware, single-user operating system, soundcard or video card; and (3)~~  
 18 ~~"school supplies" means any item normally used by students in a standard~~  
 19 ~~classroom for educational purposes, including, but not limited to, text-~~  
 20 ~~books, notebooks, paper, writing instruments, crayons, art supplies, rul-~~  
 21 ~~ers, bookbags, backpacks, handheld calculators, chalk, maps and globes.~~  
 22 ~~The term shall not include watches, radios, CD players, headphones,~~  
 23 ~~sporting equipment, portable or desktop telephones, copiers or other office~~  
 24 ~~equipment, furniture or fixtures.~~

25 New Sec. 2. ~~The governing body of any city or county may adopt an~~  
 26 ~~ordinance or resolution to exempt from any local sales tax all sales of~~  
 27 ~~clothing, school supplies and computers and computer software as pro-~~  
 28 ~~vided pursuant to the provisions of subsection (m) of K.S.A. 79-3606, and~~  
 29 ~~amendments thereto. Any such city or county may rescind the ordinance~~  
 30 ~~or resolution. At least 45 days prior to the beginning of the period spec-~~  
 31 ~~ified in subsection (m) of K.S.A. 79-3606, and amendments thereto, a city~~  
 32 ~~or county shall notify the director of taxation of the adoption or rescinding~~  
 33 ~~of any such ordinance or resolution.~~

34 Sec. 3. K.S.A. 2005 Supp. 79-3606 is hereby repealed.

35 Sec. 4. This act shall take effect and be in force from and after its

Only items priced below the price threshold established in this subsection shall be exempt from taxation pursuant to this subsection. There shall be no exemption pursuant to this subsection for only a portion of the price of an individual item. The provisions of section 2, and amendments thereto, shall apply to the exemption contained in this subsection.

See insert A

INSERT A

New Sec. 2. (a) As used in this section and subsection (iii) of K.S.A. 79-3606, and amendments thereto:

(1) "Clothing" means all human wearing apparel suitable for general use. Clothing includes, but not limited to: Aprons, household and shop; athletic supporters; baby receiving blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; clothing accessories or equipment; coats and jackets; costumes; diapers, children and adult, including disposable diapers; ear muffs; footlets; formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and shoe laces; slippers; sneakers; socks and stockings; steel toed shoes; underwear; uniforms, athletic and non-athletic; and wedding apparel. Clothing shall not include: belts buckles sold separately; costume masks sold separately; patches and emblems sold separately; sewing equipment and supplies including, but not limited to, knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures, and thimbles; and sewing materials that become part of clothing including, but not limited to, buttons, fabric, lace, thread, yarn, and zippers;

(2) "clothing accessories or equipment" means incidental items worn on the person or in conjunction with clothing. Clothing accessories or equipment includes, but not be limited to: briefcases; cosmetics; hair notions, including, but not limited to, barrettes, hair bows, and hair nets; handbags; handkerchiefs; jewelry; sun glasses, non-prescription; umbrellas; wallets; watches and

wigs and hair pieces;

(3) “eligible property” means an item of a type, such as clothing, that qualifies for a sales tax exemption as provided in subsection (iii) of K.S.A. 79-3606, and amendments thereto;

(4) “layaway sale” means a transaction in which property is set aside for future delivery to a customer who makes a deposit, agrees to pay the balance of the purchase price over a period of time and, at the end of the payment period, receives the property. An order is accepted for layaway by the seller, when the seller removes the property from normal inventory or clearly identifies the property as sold to the purchaser;

(5) “rain check” means the seller allows a customer to purchase an item at a certain price at a later time because the particular item was out of stock;

(6) “school art supply” means an item commonly used by a student in a course of study for artwork. School art supply includes, but is not limited to: Clay and glazes; paints, acrylic, tempera and oil; paintbrushes for artwork; sketch and drawing pads; and watercolors;

(7) “school computer supply” means an item commonly used by a student in a course of study in which a computer is used. School computer supply includes, but is not limited to: Computer storage media, diskettes, compact disks; handheld electronic schedulers, except devices that are cellular phones; personal digital assistants, except devices that are cellular phones; computer printers; and printer supplies for computers, printer paper and printer ink;

(8) “school instructional material” means written material commonly used by a student in a course of study as a reference and to learn the subject being taught. School instructional material includes, but is not limited to: Reference books; reference maps and globes; textbooks; and workbooks; and

(9) "school supply" means an item commonly used by a student in a course of study. School supplies include, but are not limited to: binders; book bags; calculators; cellophane tape; blackboard chalk; compasses; composition books; crayons; erasers; folders, expandable, pocket, plastic and manila; glue, paste and paste sticks; highlighters; index cards; index card boxes; legal pads; lunch boxes; markers; notebooks; paper; loose leaf ruled notebook paper, copy paper, graph paper, tracing paper, manila paper, colored paper, poster board, and construction paper; pencil boxes and other school supply boxes; pencil sharpeners; pencils; pens; protractors; rulers; scissors; school art supplies; school instructional material; and writing tablets.

(b) The secretary shall provide notice of the exemption period to retailers at least 60 days prior to the first day of the calendar quarter in which the exemption period established in subsection (iii) of K.S.A. 79-3606, and amendments thereto, commences.

(c) The following procedures are to be used in administering the exemption as provided in subsection (iii) of K.S.A. 79-3606, and amendments thereto:

(1) A sale of eligible property under a layaway sale qualifies for the exemption if:

(A) Final payment on a layaway order is made by, and the property is given to, the purchaser during the exemption period; or

(B) the purchaser selects the property and the retailer accepts the order for the item during the exemption period, for immediate delivery upon full payment, even if delivery is made after the exemption period;

(2) there shall be no change during the period of exemption for the handling of a bundled sale as treated for sales tax purposes at times other than the exemption period;

(3) a discount by the seller reduces the sales price of the property and the discounted sales

price determines whether the sales price is within the price threshold provided in subsection (iii) of K.S.A. 79-3606, and amendments thereto. A coupon that reduces the sales price is treated as a discount if the seller is not reimbursed for the coupon amount by a third-party. If a discount applies to the total amount paid by a purchaser rather than to the sales price of a particular item and the purchaser has purchased both eligible property and taxable property, the seller should allocate the discount based on the total sales prices of the taxable property compared to the total sales prices of all property sold in that same transaction;

(4) articles that are normally sold as a single unit must continue to be sold in that manner. Such articles cannot be priced separately and sold as individual items in order to obtain the exemption;

(5) a rain check allows a customer to purchase an item at a certain price at a later time because the particular item was out of stock. Eligible property that customers purchase during the exemption period with use of a rain check will qualify for the exemption regardless of when the rain check was issued. Issuance of a rain check during the exemption period shall not qualify eligible property for the exemption if the property is actually purchased after the exemption period;

(6) the procedure for an exchange in regards to an exemption is as follows:

(A) If a customer purchases an item of eligible property during the exemption period, but later exchanges the item for a similar eligible item, even if a different size, different color or other feature, no additional tax is due even if the exchange is made after the exemption period;

(B) if a customer purchases an item of eligible property during the exemption period, but after the exemption period has ended, the customer returns the item and receives credit on the purchase of a different item, the appropriate sales tax is due on the sale of the newly purchased item;



and

(C) if a customer purchases an item of eligible property before the exemption period, but during the exemption period the customer returns the item and receives credit on the purchase of a different item of eligible property, no sales tax is due on the sale of the new item if the new item is purchased during the exemption period;

(7) delivery charges, including shipping, handling and service charges, are part of the sales price of eligible property. For the purpose of determining the price threshold, if all the property in a shipment qualifies as eligible property and the sales price for each item in the shipment is within the price threshold, then the seller does not have to allocate the delivery, handling or service charge to determine if the price threshold is exceeded. The shipment will be considered a sale of eligible products. If the shipment includes eligible property and taxable property, including an eligible item with a sales price in excess of the price threshold, the seller should allocate the delivery charge by using:

(A) A percentage based on the total sales prices of the taxable property compared to the total sales prices of all property in the shipment; or

(B) a percentage based on the total weight of the taxable property compared to the total weight of all property in the shipment; and

(C) the seller must tax the percentage of the delivery charge allocated to the taxable property but does not have to tax the percentage allocated to the eligible property;

(8) for the purpose of an exemption, eligible property qualifies for the exemption if:

(A) The item is both delivered to and paid for by the customer during the exemption period

; or

(B) the customer orders and pays for the item and the seller accepts the order during the exemption period for immediate shipment, even if delivery is made after the exemption period. The seller accepts an order when the seller has taken action to fill the order for immediate shipment. Actions to fill an order include placement of an in date stamp on a mail order or assignment of an order number to a telephone order. An order is for immediate shipment when the customer does not request delayed shipment. An order is for immediate shipment notwithstanding that the shipment may be delayed because of a backlog of orders or because stock is currently unavailable to, or on back order by, the seller;

(9) for a 60-day period immediately after the exemption period, when a customer returns a item that would qualify for the exemption, no credit for or refund of sales tax shall be given unless the customer provides a receipt or invoice that shows tax was paid, or the seller has sufficient documentation to show that tax was paid on the specific item. This 60-day period is set solely for the purpose of designating a time period during which the customer must provide documentation that shows that sales tax was paid on returned merchandise. The 60-day period is not intended to change a seller's policy on the time period during which the seller will accept returns; and

(10) the time zone of the seller's location determines the authorized time period for a sales tax holiday when the purchaser is located in one time zone and a seller is located in another.