

HOUSE BILL No. 2675

By Representatives Helgerson and Trimmer

2-10

1 AN ACT establishing the Kansas efficiency fund, Kansas rainy day fund
2 and sales tax on food rate reduction fund in the state treasury;
3 disposition of moneys identified as savings from the Kansas statewide
4 efficiency review; relating to the sales tax rate on food; making and
5 concerning appropriations for the fiscal year ending June 30, 2017, for
6 certain agencies; amending K.S.A. 75-6704 and K.S.A. 2015 Supp. 79-
7 3602, 79-3603, 79-3620, 79-3703 and 79-3710 and repealing the
8 existing sections.
9

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

11 New Section 1. (a) There is hereby established in the state treasury
12 the Kansas efficiency fund, which shall constitute a trust fund and shall be
13 invested, managed and administered in accordance with the provisions of
14 this act by the board of trustees of the Kansas public employees retirement
15 system established by K.S.A. 74-4905, and amendments thereto. All
16 expenditures from the Kansas efficiency fund shall be for:

17 (1) Transfers to the rainy day fund pursuant to section 4, and
18 amendments thereto;

19 (2) educational funding for kindergarten or any of the grades one
20 through 12;

21 (3) transfers to the sales tax on food rate reduction fund pursuant to
22 section 4, and amendments thereto; and

23 (4) operating expenses of the board of trustees, including the
24 expenses of investing and managing the moneys, which are attributable to
25 the Kansas efficiency fund.

26 (b) All expenditures from the Kansas efficiency fund shall be made in
27 accordance with appropriation acts upon warrants of the director of
28 accounts and reports issued pursuant to vouchers approved by chairperson
29 of the board of trustees of the Kansas public employees retirement system
30 or by the chairperson's designee. All moneys received pursuant to the
31 provisions of section 4, and amendments thereto, shall be deposited in the
32 state treasury in accordance with the provisions of K.S.A. 75-4215, and
33 amendments thereto, and shall be credited to the Kansas efficiency fund.

34 (c) On or before the 10th day of each month, the director of accounts
35 and reports shall transfer from the state general fund to the Kansas
36 efficiency fund interest earnings based on:

1 (1) The average daily balance of repaid moneys in the Kansas
2 efficiency fund for the preceding month; and

3 (2) the net earnings rate for the pooled money investment portfolio
4 for the preceding month.

5 New Sec. 2. (a) There is hereby established in the state treasury the
6 Kansas rainy day fund which shall constitute a trust fund and shall be
7 invested, managed and administered in accordance with the provisions of
8 this act by the board of trustees of the Kansas public employees retirement
9 system established by K.S.A. 74-4905, and amendments thereto. All
10 expenditures from the Kansas rainy day fund shall be for:

11 (1) Any fiscal year when it appears that the resources of the general
12 fund or any special revenue fund are likely to be insufficient to cover the
13 appropriations made against such general fund or special revenue fund as
14 certified by the director of the budget and the director of legislative
15 research or in order to execute an allotment ordered by the governor
16 pursuant to K.S.A. 75-3722, and amendments thereto; and

17 (2) operating expenses of the board of trustees, including the
18 expenses of investing and managing the moneys, which are attributable to
19 the Kansas rainy day fund.

20 (b) No moneys in the Kansas rainy day fund shall be expended
21 pursuant to this subsection unless the expenditure either has been approved
22 by an appropriation or other act of the legislature or has been approved by
23 the state finance council acting on this matter which is hereby
24 characterized as a matter of legislative delegation and subject to the
25 guidelines prescribed in K.S.A. 75-3711(c), and amendments thereto.

26 (c) All expenditures from the Kansas rainy day fund shall be made in
27 accordance with appropriation acts pursuant to subsection (b) upon
28 warrants of the director of accounts and reports issued pursuant to
29 vouchers approved by chairperson of the board of trustees of the Kansas
30 public employees retirement system or by the chairperson's designee. All
31 moneys received pursuant to the provisions of section 4, and amendments
32 thereto, shall be deposited in the state treasury in accordance with the
33 provisions of K.S.A. 75-4215, and amendments thereto, and shall be
34 credited to the Kansas rainy day fund.

35 (d) On or before the 10th day of each month, the director of accounts
36 and reports shall transfer from the state general fund to the Kansas rainy
37 day fund interest earnings based on:

38 (1) The average daily balance of repaid moneys in the Kansas rainy
39 day fund for the preceding month; and

40 (2) the net earnings rate for the pooled money investment portfolio
41 for the preceding month.

42 New Sec. 3. (a) There is hereby established in the state treasury the
43 sales tax on food rate reduction fund. All expenditures from the sales tax

1 on food rate reduction fund shall be for reducing the sales tax rate on food
2 pursuant to the provisions of section 5, and amendments thereto.

3 (b) All expenditures from the sales tax on food rate reduction fund
4 shall be made in accordance with appropriation acts upon warrants of the
5 director of accounts and reports issued pursuant to vouchers approved by
6 secretary of revenue or by the secretary's designee. All moneys received
7 pursuant to the provisions of section 3, and amendments thereto, shall be
8 deposited in the state treasury in accordance with the provisions of K.S.A.
9 75-4215, and amendments thereto, and shall be credited to the sales tax on
10 food rate reduction fund.

11 (d) On or before the 10th day of each month, the director of accounts
12 and reports shall transfer from the state general fund to the sales tax on
13 food rate reduction fund interest earnings based on:

14 (1) The average daily balance of repaid moneys in the sales tax on
15 food rate reduction fund for the preceding month; and

16 (2) the net earnings rate for the pooled money investment portfolio
17 for the preceding month.

18 New Sec. 4. (a) Annually, the director of the budget shall
19 continuously monitor the implementation of the recommendations of the
20 Kansas statewide efficiency review, which was conducted during fiscal
21 year 2016. Commencing on August 1, 2016, and on or before each August
22 1 thereafter, the director of the budget shall determine and certify to the
23 director of accounts and reports the amount that is determined by the
24 director of the budget to be actual or projected cost savings as a result of
25 the implementation of such efficiency recommendations during the
26 preceding fiscal year. Upon receipt of such certification, the director of
27 accounts and reports shall transfer such amount from the state general fund
28 to the Kansas efficiency fund.

29 (b) Except as provided further, following the transfer to the Kansas
30 efficiency fund, the director of accounts and reports shall:

31 (1) Transfer the first \$50,000,000 from the Kansas efficiency fund to
32 the the Kansas rainy day fund pursuant to section 2, and amendments
33 thereto;

34 (2) of the balance which remains in the Kansas efficiency fund after
35 the transfer specified in subsection (b)(1), expend the next \$300,000,000
36 for additional educational funding for kindergarten or any of the grades
37 one through 12, subject to appropriation acts; and

38 (3) of the balance which remains in the Kansas efficiency fund after
39 the transfer specified in subsection (b)(1) and the expenditures in
40 subsection (b)(2), transfer up to \$450,000,000, to the sales tax on food rate
41 reduction fund pursuant to section 3, and amendments thereto.

42 (c) At the same time as the director of the budget transmits each such
43 certification to the director of accounts and reports, the director of the

1 budget shall transmit a copy of such certification to the director of
2 legislative research. All transfers made in accordance with the provisions
3 of this subsection shall be considered to be demand transfers from the state
4 general fund.

5 (d) During any fiscal year, if on August 1, the unencumbered balance
6 in the Kansas rainy day fund, minus any interest transferred into the fund,
7 is greater than \$500,000,000, no additional moneys shall be transferred as
8 authorized by this section until such time as such balance falls below
9 \$500,000,000. At such time, the transfers shall resume.

10 (e) The moneys which are authorized to be expended by subsection
11 (b)(2) shall be reduced by any amount of additional general fund
12 appropriations provided by the legislature during such fiscal year for
13 educational funding for kindergarten or any of the grades one through 12.
14 Moneys expended as provided herein shall be used to supplement existing
15 appropriations from the preceding fiscal year and shall not be used to
16 supplant general fund appropriations for educational funding for
17 kindergarten or any of the grades one through 12 from the preceding fiscal
18 year.

19 New Sec. 5. (a) Commencing with fiscal year 2017, the director of
20 legislative research shall certify such amount in the sales tax on food rate
21 reduction fund to the secretary of revenue and the director of the budget.
22 Upon receipt of such certified amount, the secretary shall compute the
23 sales and compensating use tax rate reductions for the sale of food and
24 food ingredients to go into effect for the next tax year that would reduce by
25 such certified amount, in dollars, the sales and compensating use tax rates
26 for the sale of food and food ingredients during the next tax year according
27 to the provisions of this section. The secretary shall compute any sales and
28 compensating use tax rate reductions for the sale of food and food
29 ingredients so that any excess amount is applied such that an equal number
30 of dollars are used to lower the sales and compensating use tax rates for
31 the sale of food and food ingredients in K.S.A. 79-3603 and 79-3703, and
32 amendments thereto. In any such computation by the secretary pursuant to
33 this subsection, the resulting sales and compensating use tax rates for the
34 sale of food and food ingredients shall be rounded down to the nearest
35 0.01%. Based on all such determinations, the secretary shall reduce the
36 sales and compensating use tax rates prescribed by K.S.A. 79-3603 and
37 79-3703, and amendments thereto, as required by this section.

38 (b) The secretary of revenue shall report any reduction in sales and
39 compensating use tax rates for the sale of food and food ingredients
40 prescribed by this section to the chairperson of the assessment and taxation
41 committee of the senate, the chairperson of the taxation committee of the
42 house of representatives and the governor, and shall cause notice of any
43 such reduction to be published in the Kansas register prior to September

1 15 of the calendar year immediately preceding the tax year in which such
2 reduction takes effect.

3 Sec. 6.

4 DEPARTMENT OF REVENUE

5 (a) There is appropriated for the above agency from the following
6 special revenue fund or funds for the fiscal year ending June 30, 2017, all
7 moneys now or hereafter lawfully credited to and available in such fund or
8 funds, except that expenditures other than refunds authorized by law shall
9 not exceed the following:

10 Sales tax on food rate reduction fund.....No limit

11 Sec. 7.

12 KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM

13 (a) There is appropriated for the above agency from the following
14 special revenue fund or funds for the fiscal year ending June 30, 2017, all
15 moneys now or hereafter lawfully credited to and available in such fund or
16 funds, except that expenditures other than refunds authorized by law shall
17 not exceed the following:

18 Kansas efficiency fund \$0

19 Kansas rainy day fund \$0

20 Sec. 8. K.S.A. 75-6704 is hereby amended to read as follows: 75-
21 6704. (a) The director of the budget shall continuously monitor the status
22 of the state general fund with regard to estimated and actual revenues and
23 approved and actual expenditures and demand transfers. Periodically, the
24 director of the budget shall estimate the amount of the unencumbered
25 ending balance of moneys in the state general fund for the current fiscal
26 year and the total amount of anticipated expenditures, demand transfers
27 and encumbrances of moneys in the state general fund for the current
28 fiscal year. If the amount of such unencumbered ending balance in the
29 state general fund is less than \$100,000,000, the director of the budget
30 shall certify to the governor the difference between \$100,000,000 and the
31 amount of such unencumbered ending balance in the state general fund,
32 after adjusting the estimates of the amounts of such demand transfers with
33 regard to new estimates of revenues to the state general fund, where
34 appropriate.

35 (b) Upon receipt of any such certification and subject to approval of
36 the state finance council acting on this matter which is hereby declared to
37 be a matter of legislative delegation and subject to the guidelines
38 prescribed by ~~subsection (c) of K.S.A. 75-3711c(c)~~, and amendments
39 thereto, the governor may issue an executive order reducing, by applying a
40 percentage reduction determined by the governor in accordance with this
41 section,-:

42 (1) The amount authorized to be expended from each appropriation
43 from the state general fund for the current fiscal year, other than any item

1 of appropriation for debt service for payments pursuant to contractual
2 bond obligations or any item of appropriation for employer contributions
3 for the employers who are eligible employers as specified in ~~subsections~~
4 ~~(1), (2) and (3)~~ of K.S.A. 74-4931(1), (2) and (3), and amendments
5 thereto, under the Kansas public employees retirement system pursuant to
6 K.S.A. 74-4939, and amendments thereto; and

7 (2) the amount of each demand transfer from the state general fund
8 for the current fiscal year, other than any demand transfer to the school
9 district capital improvements fund for distribution to school districts
10 pursuant to K.S.A. 75-2319, and amendments thereto, *or to the Kansas*
11 *efficiency fund pursuant to section 2, and amendments thereto.*

12 (c) The reduction imposed by an executive order issued under this
13 section shall be determined by the governor and may be equal to or less
14 than the amount certified under subsection (a). Except as otherwise
15 specifically provided by this section, the percentage reduction applied
16 under subsection (b) shall be the same for each item of appropriation and
17 each demand transfer and shall be imposed equally on all such items of
18 appropriation and demand transfers without exception. No such percentage
19 reduction and no provisions of any such executive order under this section
20 shall apply or be construed to reduce any:

21 (1) Item of appropriation for debt service for payments pursuant to
22 contractual bond obligations ~~or~~;

23 (2) any item of appropriation for employer contributions for the
24 employers who are eligible employers as specified in ~~subsections (1), (2)~~
25 ~~and (3)~~ of K.S.A. 74-4931(1), (2) and (3), and amendments thereto, under
26 the Kansas public employees retirement system pursuant to K.S.A. 74-
27 4939, and amendments thereto; or

28 (3) any demand transfer to the school district capital improvements
29 fund for distribution to school districts pursuant to K.S.A. 75-2319 and
30 amendments thereto, *or to the Kansas efficiency fund pursuant to section*
31 *2, and amendments thereto.*

32 The provisions of such executive order shall be effective for all state
33 agencies of the executive, legislative and judicial branches of state
34 government.

35 (d) If the governor issues an executive order under this section, the
36 director of accounts and reports shall not issue any warrant for the
37 payment of moneys in the state general fund or make any demand transfer
38 of moneys in the state general fund for any state agency unless such
39 warrant or demand transfer is in accordance with such executive order and
40 such warrant or demand transfer does not exceed the amount of money
41 permitted to be expended or transferred from the state general fund.

42 (e) Nothing in this section shall be construed to: (1) Require the
43 governor to issue an executive order under this section upon receipt of any

1 such certification by the director of the budget; or (2) restrict the number
2 of times that the director of the budget may make a certification under this
3 section or that the governor may issue an executive order under this
4 section.

5 Sec. 9. K.S.A. 2015 Supp. 79-3602 is hereby amended to read as
6 follows: 79-3602. Except as otherwise provided, as used in the Kansas
7 retailers' sales tax act:

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

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

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

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

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

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

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

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

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

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

1 include multiple items of printed material delivered to a single address.

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

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

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

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

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

39 (p) "Ingredient or component part" means tangible personal property
40 which is necessary or essential to, and which is actually used in and
41 becomes an integral and material part of tangible personal property or
42 services produced, manufactured or compounded for sale by the producer,
43 manufacturer or compounder in its regular course of business. The

1 following items of tangible personal property are hereby declared to be
2 ingredients or component parts, but the listing of such property shall not be
3 deemed to be exclusive nor shall such listing be construed to be a
4 restriction upon, or an indication of, the type or types of property to be
5 included within the definition of "ingredient or component part" as herein
6 set forth:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (aa) "Political subdivision" means any municipality, agency or
17 subdivision of the state which is, or shall hereafter be, authorized to levy
18 taxes upon tangible property within the state or which certifies a levy to a
19 municipality, agency or subdivision of the state which is, or shall hereafter
20 be, authorized to levy taxes upon tangible property within the state. Such
21 term also shall include any public building commission, housing, airport,
22 port, metropolitan transit or similar authority established pursuant to law
23 and the horsethief reservoir benefit district established pursuant to K.S.A.
24 82a-2201, and amendments thereto.

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

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

1 or an invoice or other statement of the price given to the purchaser for
2 such modification or enhancement, such modification or enhancement
3 shall not constitute prewritten computer software.

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

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

20 (B) electricity, gas and water; and

21 (C) petroleum products, lubricants, chemicals, solvents, reagents and
22 catalysts.

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

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

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

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

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

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

39 (kk) "Sale" or "sales" means the exchange of tangible personal
40 property, as well as the sale thereof for money, and every transaction,
41 conditional or otherwise, for a consideration, constituting a sale, including
42 the sale or furnishing of electrical energy, gas, water, services or
43 entertainment taxable under the terms of this act and including, except as

1 provided in the following provision, the sale of the use of tangible personal
2 property by way of a lease, license to use or the rental thereof regardless of
3 the method by which the title, possession or right to use the tangible
4 personal property is transferred. The term "sale" or "sales" shall not mean
5 the sale of the use of any tangible personal property used as a dwelling by
6 way of a lease or rental thereof for a term of more than 28 consecutive
7 days.

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

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

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

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

19 (D) delivery charges; and

20 (E) installation charges.

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

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

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

28 (C) the amount of the consideration attributable to the sale is fixed
29 and determinable by the seller at the time of the sale of the item to the
30 purchaser; and

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

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

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

42 (iii) the price reduction or discount is identified as a third party price
43 reduction or discount on the invoice received by the purchaser or on a

1 coupon, certificate or other documentation presented by the purchaser.

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

3 (A) Discounts, including cash, term or coupons that are not
4 reimbursed by a third party that are allowed by a seller and taken by a
5 purchaser on a sale;

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

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

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

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

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

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

22 (oo) "Sourcing rules" means the rules set forth in K.S.A. 2015 Supp.
23 79-3670 through 79-3673, K.S.A. 12-191 and 12-191a, and amendments
24 thereto, which shall apply to identify and determine the state and local
25 taxing jurisdiction sales or use taxes to pay, or collect and remit on a
26 particular retail sale.

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

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

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

35 (ss) "Entity-based exemption" means an exemption based on who
36 purchases the product or who sells the product. An exemption that is
37 available to all individuals shall not be considered an entity-based
38 exemption.

39 (tt) "Over-the-counter" drug means a drug that contains a label that
40 identifies the product as a drug as required by 21 C.F.R. § 201.66. The
41 over-the-counter drug label includes: (1) A drug facts panel; or (2) a
42 statement of the active ingredients with a list of those ingredients
43 contained in the compound, substance or preparation. Over-the-counter

1 drugs do not include grooming and hygiene products such as soaps,
2 cleaning solutions, shampoo, toothpaste, antiperspirants and sun tan
3 lotions and screens.

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

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

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

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

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

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

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

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

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

- 1 (3) tangible personal property;
- 2 (4) advertising, including, but not limited to, directory advertising;
- 3 (5) billing and collection services provided to third parties;
- 4 (6) internet access service;
- 5 (7) radio and television audio and video programming services,
- 6 regardless of the medium, including the furnishing of transmission,
- 7 conveyance and routing of such services by the programming service
- 8 provider. Radio and television audio and video programming services shall
- 9 include, but not be limited to, cable service as defined in 47 U.S.C. §
- 10 522(6) and audio and video programming services delivered by
- 11 commercial mobile radio service providers, as defined in 47 C.F.R. § 20.3;
- 12 (8) ancillary services; or
- 13 (9) digital products delivered electronically, including, but not limited
- 14 to, software, music, video, reading materials or ring tones.
- 15 (bbb) "800 service" means a telecommunications service that allows a
- 16 caller to dial a toll-free number without incurring a charge for the call. The
- 17 service is typically marketed under the name 800, 855, 866, 877 and 888
- 18 toll-free calling, and any subsequent numbers designated by the federal
- 19 communications commission.
- 20 (ccc) "900 service" means an inbound toll telecommunications
- 21 service purchased by a subscriber that allows the subscriber's customers to
- 22 call in to the subscriber's prerecorded announcement or live service. 900
- 23 service does not include the charge for collection services provided by the
- 24 seller of the telecommunications services to the subscriber, or service or
- 25 product sold by the subscriber to the subscriber's customer. The service is
- 26 typically marketed under the name 900 service, and any subsequent
- 27 numbers designated by the federal communications commission.
- 28 (ddd) "Value-added non-voice data service" means a service that
- 29 otherwise meets the definition of telecommunications services in which
- 30 computer processing applications are used to act on the form, content,
- 31 code or protocol of the information or data primarily for a purpose other
- 32 than transmission, conveyance or routing.
- 33 (eee) "International" means a telecommunications service that
- 34 originates or terminates in the United States and terminates or originates
- 35 outside the United States, respectively. United States includes the District
- 36 of Columbia or a U.S. territory or possession.
- 37 (fff) "Interstate" means a telecommunications service that originates
- 38 in one United States state, or a United States territory or possession, and
- 39 terminates in a different United States state or a United States territory or
- 40 possession.
- 41 (ggg) "Intrastate" means a telecommunications service that originates
- 42 in one United States state or a United States territory or possession, and
- 43 terminates in the same United States state or a United States territory or

1 possession.

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

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

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

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

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

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

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

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

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

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

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

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

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

35 Sec. 10. K.S.A. 2015 Supp. 79-3603 is hereby amended to read as
36 follows: 79-3603. For the privilege of engaging in the business of selling
37 tangible personal property at retail in this state or rendering or furnishing
38 any of the services taxable under this act, there is hereby levied and there
39 shall be collected and paid a tax at the rate of 6.15%, and commencing
40 July 1, 2015, at the rate of 6.5%. Within a redevelopment district
41 established pursuant to K.S.A. 74-8921, and amendments thereto, there is
42 hereby levied and there shall be collected and paid an additional tax at the
43 rate of 2% until the earlier of the date the bonds issued to finance or

1 refinance the redevelopment project have been paid in full or the final
2 scheduled maturity of the first series of bonds issued to finance any part of
3 the project upon:

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

6 (b) the gross receipts from intrastate, interstate or international
7 telecommunications services and any ancillary services sourced to this
8 state in accordance with K.S.A. 2015 Supp. 79-3673, and amendments
9 thereto, except that telecommunications service does not include: (1) Any
10 interstate or international 800 or 900 service; (2) any interstate or
11 international private communications service as defined in K.S.A. 2015
12 Supp. 79-3673, and amendments thereto; (3) any value-added nonvoice
13 data service; (4) any telecommunication service to a provider of
14 telecommunication services which will be used to render
15 telecommunications services, including carrier access services; or (5) any
16 service or transaction defined in this section among entities classified as
17 members of an affiliated group as provided by section 1504 of the federal
18 internal revenue code of 1986, as in effect on January 1, 2001;

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

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

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

43 (f) the gross receipts from the operation of any coin-operated device

1 dispensing or providing tangible personal property, amusement or other
2 services except laundry services, whether automatic or manually operated;

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

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

27 (l) (1) except as otherwise provided by paragraph (2), the gross
28 receipts received from the sales of tangible personal property to all
29 contractors, subcontractors or repairmen for use by them in erecting
30 structures, or building on, or otherwise improving, altering, or repairing
31 real 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 for
34 the purposes described by paragraph (1) shall be deemed a retailer with
35 respect to purchases for and sales from such inventory, except that the
36 gross receipts received from any such sale, other than a sale at retail, shall
37 be equal to the total purchase price paid for such property and the tax
38 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 tax
42 shall not be levied and collected upon the gross receipts received from: (1)
43 Fees and charges by any political subdivision, by any organization exempt

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

10 (n) the gross receipts received from dues charged by public and
11 private clubs, drinking establishments, organizations and businesses,
12 payment of which entitles a member to the use of facilities for recreation
13 or entertainment, but such tax shall not be levied and collected upon the
14 gross receipts received from: (1) Dues charged by any organization exempt
15 from property taxation pursuant to K.S.A. 79-201 *Eighth* and *Ninth*, and
16 amendments thereto; and (2) sales of memberships in a nonprofit
17 organization which is exempt from federal income taxation pursuant to
18 section 501(c)(3) of the federal internal revenue code of 1986, and whose
19 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
23 company solely in exchange for stock securities or membership interest in
24 such corporation or limited liability company; (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 to
29 taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and
30 amendments thereto, by an immediate family member to another
31 immediate family member. For the purposes of paragraph (3), immediate
32 family member means lineal ascendants or descendants, and their spouses.
33 Any amount of sales tax paid pursuant to the Kansas retailers sales tax act
34 on the isolated or occasional sale of motor vehicles or trailers on and after
35 July 1, 2004, which the base for computing the tax was the value pursuant
36 to K.S.A. 79-5105(a), (b)(1) and (b)(2), and amendments thereto, when
37 such amount was higher than the amount of sales tax which would have
38 been paid under the law as it existed on June 30, 2004, shall be refunded to
39 the taxpayer pursuant to the procedure prescribed by this section. Such
40 refund shall be in an amount equal to the difference between the amount of
41 sales tax paid by the taxpayer and the amount of sales tax which would
42 have been paid by the taxpayer under the law as it existed on June 30,
43 2004. Each claim for a sales tax refund shall be verified and submitted not

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

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

22 For the purposes of this subsection:

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

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

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

43 (4) "residence" shall mean only those enclosures within which

1 individuals customarily live;

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

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

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

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

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

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

27 (u) the gross receipts received from the sale of prepaid calling service
28 and prepaid wireless calling service as defined in K.S.A. 2015 Supp. 79-
29 3673, and amendments thereto;

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

33 (w) all sales of charitable raffle tickets in accordance with K.S.A.
34 2015 Supp. 75-5171 et seq., and amendments thereto, shall be exempt
35 from taxes imposed pursuant to this section; *and*

36 (x) *the tax rate on the sale of food and food ingredients shall be*
37 *adjusted pursuant to the provisions of section 5, and amendments thereto.*

38 Sec. 11. K.S.A. 2015 Supp. 79-3620 is hereby amended to read as
39 follows: 79-3620. (a) All revenue collected or received by the director of
40 taxation from the taxes imposed by this act shall be remitted to the state
41 treasurer in accordance with the provisions of K.S.A. 75-4215, and
42 amendments thereto. Upon receipt of each such remittance, the state
43 treasurer shall deposit the entire amount in the state treasury, less amounts

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

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

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

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

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

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

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

40 (6) On July 1, 2016, and thereafter, the state treasurer shall credit
41 16.154% of the revenue collected and received from the tax imposed by
42 K.S.A. 79-3603, and amendments thereto, at the rate of 6.5%, and
43 deposited as provided by subsection (a), exclusive of amounts credited

1 pursuant to subsection (d), in the state highway fund. *The state treasurer*
2 *shall adjust the revenue distributions upon certification by the director of*
3 *legislative research so that the state highway fund receives the same*
4 *distribution percentage should the sales tax rate for food and food*
5 *ingredients be adjusted pursuant to K.S.A. 79-3603, and amendments*
6 *thereto.*

7 (d) The state treasurer shall credit all revenue collected or received
8 from the tax imposed by K.S.A. 79-3603, and amendments thereto, as
9 certified by the director, from taxpayers doing business within that portion
10 of a STAR bond project district occupied by a STAR bond project or
11 taxpayers doing business with such entity financed by a STAR bond
12 project as defined in K.S.A. 2015 Supp. 12-17,162, and amendments
13 thereto, that was determined by the secretary of commerce to be of
14 statewide as well as local importance or will create a major tourism area
15 for the state or the project was designated as a STAR bond project as
16 defined in K.S.A. 2015 Supp. 12-17,162, and amendments thereto, to the
17 city bond finance fund, which fund is hereby created. The provisions of
18 this subsection shall expire when the total of all amounts credited
19 hereunder and under K.S.A. 79-3710(d), and amendments thereto, is
20 sufficient to retire the special obligation bonds issued for the purpose of
21 financing all or a portion of the costs of such STAR bond project.

22 (e) All revenue certified by the director of taxation as having been
23 collected or received from the tax imposed by K.S.A. 79-3603(c), and
24 amendments thereto, on the sale or furnishing of gas, water, electricity and
25 heat for use or consumption within the intermodal facility district
26 described in this subsection, shall be credited by the state treasurer to the
27 state highway fund. Such revenue may be transferred by the secretary of
28 transportation to the rail service improvement fund pursuant to law. The
29 provisions of this subsection shall take effect upon certification by the
30 secretary of transportation that a notice to proceed has been received for
31 the construction of the improvements within the intermodal facility
32 district, but not later than December 31, 2010, and shall expire when the
33 secretary of revenue determines that the total of all amounts credited
34 hereunder and pursuant to K.S.A. 79-3710(e), and amendments thereto, is
35 equal to \$53,300,000, but not later than December 31, 2045. Thereafter, all
36 revenues shall be collected and distributed in accordance with applicable
37 law. For all tax reporting periods during which the provisions of this
38 subsection are in effect, none of the exemptions contained in K.S.A. 79-
39 3601 et seq., and amendments thereto, shall apply to the sale or furnishing
40 of any gas, water, electricity and heat for use or consumption within the
41 intermodal facility district. As used in this subsection, "intermodal facility
42 district" shall consist of an intermodal transportation area as defined by
43 K.S.A. 12-1770a(oo), and amendments thereto, located in Johnson county

1 within the polygonal-shaped area having Waverly Road as the eastern
2 boundary, 191st Street as the southern boundary, Four Corners Road as the
3 western boundary, and Highway 56 as the northern boundary, and the
4 polygonal-shaped area having Poplar Road as the eastern boundary, 183rd
5 Street as the southern boundary, Waverly Road as the western boundary,
6 and the BNSF mainline track as the northern boundary, that includes
7 capital investment in an amount exceeding \$150 million for the
8 construction of an intermodal facility to handle the transfer, storage and
9 distribution of freight through railway and trucking operations.

10 Sec. 12. K.S.A. 2015 Supp. 79-3703 is hereby amended to read as
11 follows: 79-3703. There is hereby levied and there shall be collected from
12 every person in this state a tax or excise for the privilege of using, storing,
13 or consuming within this state any article of tangible personal property.
14 Such tax shall be levied and collected in an amount equal to the
15 consideration paid by the taxpayer multiplied by the rate of 6.5%, *except*
16 *that the rate upon food and food ingredients shall be adjusted pursuant to*
17 *the provisions of section 5, and amendments thereto.* Within a
18 redevelopment district established pursuant to K.S.A. 74-8921, and
19 amendments thereto, there is hereby levied and there shall be collected and
20 paid an additional tax of 2% until the earlier of: (1) The date the bonds
21 issued to finance or refinance the redevelopment project undertaken in the
22 district have been paid in full; or (2) the final scheduled maturity of the
23 first series of bonds issued to finance the redevelopment project. All
24 property purchased or leased within or without this state and subsequently
25 used, stored or consumed in this state shall be subject to the compensating
26 tax if the same property or transaction would have been subject to the
27 Kansas retailers' sales tax had the transaction been wholly within this state.

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

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

43 (c) (1) On July 1, 2010, the state treasurer shall credit 11.427% of the

1 revenue collected and received from the tax imposed by K.S.A. 79-3703,
2 and amendments thereto, at the rate of 6.3%, and deposited as provided by
3 subsection (a), exclusive of amounts credited pursuant to subsection (d), in
4 the state highway fund.

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

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

15 (4) On July 1, 2013, the state treasurer shall credit 17.073% of the
16 revenue collected and received from the tax imposed by K.S.A. 79-3703,
17 and amendments thereto, at the rate of 6.15%, and deposited as provided
18 by subsection (a), exclusive of amounts credited pursuant to subsection
19 (d), in the state highway fund.

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

25 (6) On July 1, 2016, and thereafter, the state treasurer shall credit
26 16.154% of the revenue collected and received from the tax imposed by
27 K.S.A. 79-3703, and amendments thereto, at the rate of 6.5%, and
28 deposited as provided by subsection (a), exclusive of amounts credited
29 pursuant to subsection (d), in the state highway fund. *The state treasurer*
30 *shall adjust the revenue distributions upon certification by the director of*
31 *legislative research so that the state highway fund receives the same*
32 *distribution percentage should the compensation use tax rate for food and*
33 *food ingredients be adjusted pursuant to K.S.A. 79-3703, and amendments*
34 *thereto.*

35 (d) The state treasurer shall credit all revenue collected or received
36 from the tax imposed by K.S.A. 79-3703, and amendments thereto, as
37 certified by the director, from taxpayers doing business within that portion
38 of a redevelopment district occupied by a redevelopment project that was
39 determined by the secretary of commerce to be of statewide as well as
40 local importance or will create a major tourism area for the state as defined
41 in K.S.A. 12-1770a, and amendments thereto, to the city bond finance
42 fund created by K.S.A. 79-3620(d), and amendments thereto. The
43 provisions of this subsection shall expire when the total of all amounts

1 credited hereunder and under K.S.A. 79-3620(d), and amendments thereto,
2 is sufficient to retire the special obligation bonds issued for the purpose of
3 financing all or a portion of the costs of such redevelopment project.

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

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

37 Sec. 14. K.S.A. 75-6704 and K.S.A. 2015 Supp. 79-3602, 79-3603,
38 79-3620, 79-3703 and 79-3710 are hereby repealed.

39 Sec. 15. This act shall take effect and be in force from and after its
40 publication in the statute book.