

Substitute for SENATE BILL No. 97

By Committee on Assessment and Taxation

2-8

1 AN ACT concerning taxation; relating to income tax, rates, determination
2 of Kansas adjusted gross income, modifications; ~~sales and~~
3 ~~compensating use tax, food and food ingredients, rates; amending~~
4 ~~K.S.A. 2016 Supp. 79-32,110, 79-32,117, 79-32,120, 79-3602, 79-~~
5 ~~3603, 79-3620, 79-3703 and 79-3710 and 79-32,138~~ and repealing the
6 existing sections.
7

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

9 New Section 1. (a) ~~Commeneing with fiscal year 2019, in any fiscal~~
10 ~~year in which the amount of selected actual state general fund receipts~~
11 ~~from such fiscal year exceeds the selected actual state general fund~~
12 ~~receipts for the immediately preceding fiscal year by more than 1%, the~~
13 ~~director of legislative research shall certify such excess amount to the~~
14 ~~secretary of revenue and the director of the budget. Upon receipt of such~~
15 ~~certified amount, the secretary shall compute a reduction in the Kansas~~
16 ~~retailers' sales and compensating use tax rate by 0.2% on food and food~~
17 ~~ingredients to go into effect for the next tax year.~~

18 (b) ~~As used in this section, "selected actual state general fund~~
19 ~~receipts" means receipts from the following taxes and fees: Individual and~~
20 ~~corporation income taxes imposed under K.S.A. 79-32,110, and~~
21 ~~amendments thereto, financial institutions privilege taxes imposed under~~
22 ~~article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments~~
23 ~~thereto, retail sales taxes imposed under K.S.A. 79-3601 et seq., and~~
24 ~~amendments thereto, compensating use taxes imposed under K.S.A. 79-~~
25 ~~3701 et seq., and amendments thereto, cigarette and tobacco product taxes~~
26 ~~imposed under K.S.A. 79-3301 et seq., and amendments thereto, cereal~~
27 ~~malt beverage and liquor gallonage taxes imposed under K.S.A. 41-501 et~~
28 ~~seq., and amendments thereto, liquor enforcement taxes imposed under~~
29 ~~K.S.A. 79-4101 et seq., and amendments thereto, liquor drink taxes~~
30 ~~imposed under K.S.A. 79-41a01 et seq., and amendments thereto,~~
31 ~~corporation franchise taxes imposed under K.S.A. 79-5401, and~~
32 ~~amendments thereto, annual franchise fees charged pursuant to law and~~
33 ~~mineral severance taxes imposed under K.S.A. 79-4216 et seq., and~~
34 ~~amendments thereto.~~

35 See ~~2.~~ **Section 1.** K.S.A. 2016 Supp. 79-32,110 is hereby amended to
36 read as follows: 79-32,110. (a) *Resident Individuals.* Except as otherwise

1 provided by K.S.A. 79-3220(a), and amendments thereto, a tax is hereby
 2 imposed upon the Kansas taxable income of every resident individual,
 3 which tax shall be computed in accordance with the following tax
 4 schedules:

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

6 (A) For tax year 2012:

7 If the taxable income is:	The tax is:
8 Not over \$30,000.....	3.5% of Kansas taxable income
9 Over \$30,000 but not over	
10 \$60,000.....	\$1,050 plus 6.25% of excess
	over \$30,000
12 Over \$60,000.....	\$2,925 plus 6.45% of excess
	over \$60,000

14 (B) For tax year 2013:

15 If the taxable income is:	The tax is:
16 Not over \$30,000.....	3.0% of Kansas taxable income
17 Over \$30,000.....	\$900 plus 4.9% of excess over
	\$30,000

19 (C) For tax year 2014:

20 If the taxable income is:	The tax is:
21 Not over \$30,000.....	2.7% of Kansas taxable income
22 Over \$30,000.....	\$810 plus 4.8% of excess over
	\$30,000

24 (D) For tax ~~years~~ *year* 2015, ~~2016 and 2017~~ *and all tax years*
 25 *thereafter:*

26 If the taxable income is:	The tax is:
27 Not over \$30,000.....	2.7% of Kansas taxable income
28 Over \$30,000.....	\$810 plus 4.6% of excess over
	\$30,000

30 ~~(E) For tax year 2018, and all tax years thereafter:~~

31 If the taxable income is:	The tax is:
32 Not over \$30,000.....	2.6% of Kansas taxable income
33 Over \$30,000.....	\$780 plus 4.6% of
	excess over \$30,000

35 (2) *All other individuals.*

36 (A) For tax year 2012:

37 If the taxable income is:	The tax is:
38 Not over \$15,000.....	3.5% of Kansas taxable income
39 Over \$15,000 but not over	
40 \$30,000.....	\$525 plus 6.25% of excess
	over \$15,000
42 Over \$30,000.....	\$1,462.50 plus 6.45% of excess
	over \$30,000

1 (B) For tax year 2013:

2 If the taxable income is:	The tax is:
3 Not over \$15,000.....	3.0% of Kansas taxable income
4 Over \$15,000.....	\$450 plus 4.9% of excess over
5	\$15,000

6 (C) For tax year 2014:

7 If the taxable income is:	The tax is:
8 Not over \$15,000.....	2.7% of Kansas taxable income
9 Over \$15,000.....	\$405 plus 4.8% of excess over
10	\$15,000

11 (D) For tax ~~years~~ *year* 2015, ~~2016 and 2017~~ *and all tax years*
12 *thereafter*:

13 If the taxable income is:	The tax is:
14 Not over \$15,000.....	2.7% of Kansas taxable income
15 Over \$15,000.....	\$405 plus 4.6% of excess over
16	\$15,000

17 ~~(E) For tax year 2018, and all tax years thereafter:~~

18 If the taxable income is:	The tax is:
19 Not over \$15,000.....	2.6% of Kansas taxable income
20 Over \$15,000.....	\$390 plus 4.6% of
21 _____	excess over \$15,000

22 ~~(3) All resident individuals. For tax year 2018, and all tax years~~
23 ~~thereafter, for all individuals regardless of filing status, the tax shall be in~~
24 ~~an amount equal to 3.9% of the Kansas taxable income of such individual.~~

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

30 (c) *Corporations.* A tax is hereby imposed upon the Kansas taxable
31 income of every corporation doing business within this state or deriving
32 income from sources within this state. Such tax shall consist of a normal
33 tax and a surtax and shall be computed as follows:

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

36 (2) (A) for tax year 2008, the surtax shall be in an amount equal to
37 3.1% of the Kansas taxable income of such corporation in excess of
38 \$50,000;

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

42 (C) for tax year 2011, and all tax years thereafter, the surtax shall be
43 in an amount equal to 3% of the Kansas taxable income of such

1 corporation in excess of \$50,000.

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

5 (e) Tax rates provided in this section shall be adjusted pursuant to the
6 provisions of K.S.A. 2016 Supp. 79-32,269, and amendments thereto.

7 (f) Notwithstanding the provisions of subsections (a) and (b), for tax
8 ~~year years year~~ 2016, ~~and all tax years thereafter and 2017~~, **and all tax**
9 **years thereafter**, married individuals filing joint returns with taxable
10 income of \$12,500 or less, and all other individuals with taxable income of
11 \$5,000 or less, shall have a tax liability of zero.

12 ~~Sec. 3-2.~~ K.S.A. 2016 Supp. 79-32,117 is hereby amended to read as
13 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual
14 means such individual's federal adjusted gross income for the taxable year,
15 with the modifications specified in this section.

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

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

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

37 (iii) The federal net operating loss deduction, *except that the federal*
38 *net operating loss deduction shall not be added to an individual's federal*
39 *adjusted gross income for tax years beginning after December 31, ~~2016~~*
40 **2017**.

41 (iv) Federal income tax refunds received by the taxpayer if the
42 deduction of the taxes being refunded resulted in a tax benefit for Kansas
43 income tax purposes during a prior taxable year. Such refunds shall be

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

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

18 (vi) Any amount of designated employee contributions picked up by
19 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,
20 and amendments thereto, ~~and commencing in tax year 2017, and all tax~~
21 ~~years thereafter, any amount of member contributions made on a pre-tax~~
22 ~~basis pursuant to K.S.A. 74-4925, and amendments thereto.~~

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

26 (viii) The amount of any costs incurred for improvements to a swine
27 facility, claimed for deduction in determining federal adjusted gross
28 income, to the extent the same is claimed as the basis for any credit
29 allowed pursuant to K.S.A. 2016 Supp. 79-32,204, and amendments
30 thereto.

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

37 (x) Amounts received as nonqualified withdrawals, as defined by
38 K.S.A. 2016 Supp. 75-643, and amendments thereto, if, at the time of
39 contribution to a family postsecondary education savings account, such
40 amounts were subtracted from the federal adjusted gross income pursuant
41 to K.S.A. 79-32,117(c)(xv), and amendments thereto, or if such amounts
42 are not already included in the federal adjusted gross income.

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

1 same is claimed as the basis for the credit allowed pursuant to K.S.A. 2016
2 Supp. 74-50,154, and amendments thereto.

3 (xii) For taxable years commencing after December 31, 2004,
4 amounts received as withdrawals not in accordance with the provisions of
5 K.S.A. 2016 Supp. 74-50,204, and amendments thereto, if, at the time of
6 contribution to an individual development account, such amounts were
7 subtracted from the federal adjusted gross income pursuant to subsection
8 (c)(xiii), or if such amounts are not already included in the federal adjusted
9 gross income.

10 (xiii) The amount of any expenditures claimed for deduction in
11 determining federal adjusted gross income, to the extent the same is
12 claimed as the basis for any credit allowed pursuant to K.S.A. 2016 Supp.
13 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

14 (xiv) The amount of any amortization deduction claimed in
15 determining federal adjusted gross income to the extent the same is
16 claimed for deduction pursuant to K.S.A. 2016 Supp. 79-32,221, and
17 amendments thereto.

18 (xv) The amount of any expenditures claimed for deduction in
19 determining federal adjusted gross income, to the extent the same is
20 claimed as the basis for any credit allowed pursuant to K.S.A. 2016 Supp.
21 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233
22 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-
23 32,248 or 79-32,251 through 79-32,254, and amendments thereto.

24 (xvi) The amount of any amortization deduction claimed in
25 determining federal adjusted gross income to the extent the same is
26 claimed for deduction pursuant to K.S.A. 2016 Supp. 79-32,227, 79-
27 32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments
28 thereto.

29 (xvii) The amount of any amortization deduction claimed in
30 determining federal adjusted gross income to the extent the same is
31 claimed for deduction pursuant to K.S.A. 2016 Supp. 79-32,256, and
32 amendments thereto.

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

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

1 *ending before January 1, ~~2017~~ 2018*, the amount of any: (1) Loss from
2 business as determined under the federal internal revenue code and
3 reported from schedule C and on line 12 of the taxpayer's form 1040
4 federal individual income tax return; (2) loss from rental real estate,
5 royalties, partnerships, S corporations, except those with wholly owned
6 subsidiaries subject to the Kansas privilege tax, estates, trusts, residual
7 interest in real estate mortgage investment conduits and net farm rental as
8 determined under the federal internal revenue code and reported from
9 schedule E and on line 17 of the taxpayer's form 1040 federal individual
10 income tax return; and (3) farm loss as determined under the federal
11 internal revenue code and reported from schedule F and on line 18 of the
12 taxpayer's form 1040 federal income tax return; all to the extent deducted
13 or subtracted in determining the taxpayer's federal adjusted gross income.
14 For purposes of this subsection, references to the federal form 1040 and
15 federal schedule C, schedule E, and schedule F, shall be to such form and
16 schedules as they existed for tax year 2011, and as revised thereafter by the
17 internal revenue service.

18 (xx) For ~~all~~ taxable years beginning after December 31, 2012, *and*
19 *ending before January 1, ~~2017~~ 2018*, the amount of any deduction for self-
20 employment taxes under section 164(f) of the federal internal revenue
21 code as in effect on January 1, 2012, and amendments thereto, in
22 determining the federal adjusted gross income of an individual taxpayer, to
23 the extent the deduction is attributable to income reported on schedule C,
24 E or F and on line 12, 17 or 18 of the taxpayer's form 1040 federal income
25 tax return.

26 (xxi) For ~~all~~ taxable years beginning after December 31, 2012, *and*
27 *ending before January 1, ~~2017~~ 2018*, the amount of any deduction for
28 pension, profit sharing, and annuity plans of self-employed individuals
29 under section 62(a)(6) of the federal internal revenue code as in effect on
30 January 1, 2012, and amendments thereto, in determining the federal
31 adjusted gross income of an individual taxpayer.

32 (xxii) For ~~all~~ taxable years beginning after December 31, 2012, *and*
33 *ending before January 1, ~~2017~~ 2018*, the amount of any deduction for
34 health insurance under section 162(l) of the federal internal revenue code
35 as in effect on January 1, 2012, and amendments thereto, in determining
36 the federal adjusted gross income of an individual taxpayer.

37 (xxiii) For ~~all~~ taxable years beginning after December 31, 2012, *and*
38 *ending before January 1, ~~2017~~ 2018*, the amount of any deduction for
39 domestic production activities under section 199 of the federal internal
40 revenue code as in effect on January 1, 2012, and amendments thereto, in
41 determining the federal adjusted gross income of an individual taxpayer.

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

1 determining federal adjusted gross income for expenses paid for medical
2 care of the taxpayer or the taxpayer's spouse or dependents when such
3 expenses were paid or incurred for an abortion, or for a health benefit plan,
4 as defined in K.S.A. 2016 Supp. 65-6731, and amendments thereto, for the
5 purchase of an optional rider for coverage of abortion in accordance with
6 K.S.A. 2016 Supp. 40-2,190, and amendments thereto, to the extent that
7 such taxes and assessments are claimed as an itemized deduction for
8 federal income tax purposes.

9 (xxv) For taxable years commencing after December 31, 2013, that
10 portion of the amount of any expenditure deduction claimed in
11 determining federal adjusted gross income for expenses paid by a taxpayer
12 for health care when such expenses were paid or incurred for abortion
13 coverage, a health benefit plan, as defined in K.S.A. 2016 Supp. 65-6731,
14 and amendments thereto, when such expenses were paid or incurred for
15 abortion coverage or amounts contributed to health savings accounts for
16 such taxpayer's employees for the purchase of an optional rider for
17 coverage of abortion in accordance with K.S.A. 2016 Supp. 40-2,190, and
18 amendments thereto, to the extent that such taxes and assessments are
19 claimed as a deduction for federal income tax purposes.

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

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

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

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

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

1 the taxpayer received the income or gain.

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

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

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

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

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

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

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

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

33 (xiii) For taxable years beginning after December 31, 2004, amounts
34 contributed to and the amount of income earned on contributions deposited
35 to an individual development account under K.S.A. 2016 Supp. 74-50,201
36 et seq., and amendments thereto.

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

1 effect, which accrues to the taxpayer who is a stockholder of such
2 corporation and which is not distributed to the stockholders as dividends of
3 the corporation. For ~~all~~ taxable years beginning after December 31, 2012,
4 *and ending before January 1, ~~2017~~ 2018*, the amount of modification
5 under this subsection shall exclude the portion of income or loss reported
6 on schedule E and included on line 17 of the taxpayer's form 1040 federal
7 individual income tax return.

8 (xv) For all taxable years beginning after December 31, 2006,
9 amounts not exceeding \$3,000, or \$6,000 for a married couple filing a
10 joint return, for each designated beneficiary which are contributed to a
11 family postsecondary education savings account established under the
12 Kansas postsecondary education savings program or a qualified tuition
13 program established and maintained by another state or agency or
14 instrumentality thereof pursuant to section 529 of the internal revenue
15 code of 1986, as amended, for the purpose of paying the qualified higher
16 education expenses of a designated beneficiary at an institution of
17 postsecondary education. The terms and phrases used in this paragraph
18 shall have the meaning respectively ascribed thereto by the provisions of
19 K.S.A. 2016 Supp. 75-643, and amendments thereto, and the provisions of
20 such section are hereby incorporated by reference for all purposes thereof.

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

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

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

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

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

9 (xx) For ~~all~~ taxable years beginning after December 31, 2012, *and*
10 *ending before January 1, ~~2017~~ 2018*, the amount of any: (1) Net profit
11 from business as determined under the federal internal revenue code and
12 reported from schedule C and on line 12 of the taxpayer's form 1040
13 federal individual income tax return; (2) net income, not including
14 guaranteed payments as defined in section 707(c) of the federal internal
15 revenue code and as reported to the taxpayer from federal schedule K-1,
16 (form 1065-B), in box 9, code F or as reported to the taxpayer from federal
17 schedule K-1, (form 1065) in box 4, from rental real estate, royalties,
18 partnerships, S corporations, estates, trusts, residual interest in real estate
19 mortgage investment conduits and net farm rental as determined under the
20 federal internal revenue code and reported from schedule E and on line 17
21 of the taxpayer's form 1040 federal individual income tax return; and (3)
22 net farm profit as determined under the federal internal revenue code and
23 reported from schedule F and on line 18 of the taxpayer's form 1040
24 federal income tax return; all to the extent included in the taxpayer's
25 federal adjusted gross income. For purposes of this subsection, references
26 to the federal form 1040 and federal schedule C, schedule E, and schedule
27 F, shall be to such form and schedules as they existed for tax year 2011
28 and as revised thereafter by the internal revenue service.

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

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

2 (xxii) For ~~all~~ taxable years beginning after December 31, 2012, **and**
3 **ending before January 1, 2018**, the amount of net gain from the sale of:
4 (1) Cattle and horses, regardless of age, held by the taxpayer for draft,
5 breeding, dairy or sporting purposes, and held by such taxpayer for 24
6 months or more from the date of acquisition; and (2) other livestock,
7 regardless of age, held by the taxpayer for draft, breeding, dairy or
8 sporting purposes, and held by such taxpayer for 12 months or more from
9 the date of acquisition. The subtraction from federal adjusted gross income
10 shall be limited to the amount of the additions recognized under the
11 provisions of subsection (b)(xix) attributable to the business in which the
12 livestock sold had been used. As used in this paragraph, the term
13 "livestock" shall not include poultry.

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

19 (xxiv) For ~~all~~ taxable years beginning after December 31, 2013, **and**
20 **ending before January 1, 2018**, the net gain from the sale from Christmas
21 trees grown in Kansas and held by the taxpayer for six years or more.

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

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

31 ~~(f) Any taxpayer who is in compliance with the provisions of this~~
32 ~~section, as they appear on June 30, 2017, shall not be assessed penalties~~
33 ~~and interest arising from the underpayment of taxes due to changes to this~~
34 ~~section that became law on July 1, 2017, so long as such underpayment~~
35 ~~occurred prior to July 1, 2017, and is rectified on or before April 15, 2018.~~

36 Sec. 4. K.S.A. 2016 Supp. 79-32,120 is hereby amended to read as
37 follows: 79-32,120. (a) (1) If federal taxable income of an individual is
38 determined by itemizing deductions from such individual's federal
39 adjusted gross income, such individual may elect to deduct the Kansas
40 itemized deduction in lieu of the Kansas standard deduction.

41 (2) ~~For the tax year commencing on January 1, 2013, the Kansas~~
42 ~~itemized deduction of an individual means 70% of the total amount of~~
43 ~~deductions from federal adjusted gross income, other than federal~~

1 deductions for personal exemptions, as provided in the federal internal
2 revenue code with the modifications specified in this section.

3 ~~(3) For the tax year commencing on January 1, 2014, the Kansas~~
4 ~~itemized deduction of an individual means 65% of the total amount of~~
5 ~~deductions from federal adjusted gross income, other than federal~~
6 ~~deductions for personal exemptions, as provided in the federal internal~~
7 ~~revenue code with the modifications specified in this section.~~

8 ~~(4) For the tax years commencing on and after January 1, 2015, and~~
9 ~~ending before January 1, 2017, the Kansas itemized deduction of an~~
10 ~~individual means the following deductions from federal adjusted gross~~
11 ~~income, other than federal deductions for personal exemptions, as~~
12 ~~provided in the federal internal revenue code with the modifications~~
13 ~~specified in this section: (A) 100% of charitable contributions that qualify~~
14 ~~as charitable contributions allowable as deductions in section 170 of the~~
15 ~~federal internal revenue code; (B) 50% of the amount of qualified~~
16 ~~residence interest as provided in section 163(h) of the federal internal~~
17 ~~revenue code; and (C) 50% of the amount of taxes on real and personal~~
18 ~~property as provided in section 164(a) of the federal internal revenue code.~~

19 ~~(5) For the tax years commencing on and after January 1, 2017, the~~
20 ~~Kansas itemized deduction of an individual means the following~~
21 ~~deductions from federal adjusted gross income, other than federal~~
22 ~~deductions for personal exemptions, as provided in the federal internal~~
23 ~~revenue code with the modifications specified in this section: (A) 100% of~~
24 ~~charitable contributions that qualify as charitable contributions allowable~~
25 ~~as deductions in section 170 of the federal internal revenue code; (B)~~
26 ~~100% of expenses for medical care allowable as deductions in section 213~~
27 ~~of the federal internal revenue code; (C) 50% of the amount of qualified~~
28 ~~residence interest as provided in section 163(h) of the federal internal~~
29 ~~revenue code; and (D) 50% of the amount of taxes on real and personal~~
30 ~~property as provided in section 164(a) of the federal internal revenue~~
31 ~~code.~~

32 (b) The total amount of deductions from federal adjusted gross
33 income shall be reduced by the total amount of income taxes imposed by
34 or paid to this state or any other taxing jurisdiction to the extent that the
35 same are deducted in determining the federal itemized deductions and by
36 the amount of all depreciation deductions claimed for any real or tangible
37 personal property upon which the deduction allowed by K.S.A. 2016-
38 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250,
39 79-32,255 or 79-32,256, and amendments thereto, is or has been claimed.

40 Sec. 5.—K.S.A. 2016 Supp. 79-3602 is hereby amended to read as
41 follows: 79-3602. Except as otherwise provided, as used in the Kansas
42 retailers' sales tax act:

43 (a) "Agent" means a person appointed by a seller to represent the

1 seller before the member states.

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

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

7 (d) ~~"Certified automated system (CAS)" means software certified~~
8 ~~under the agreement to calculate the tax imposed by each jurisdiction on a~~
9 ~~transaction, determine the amount of tax to remit to the appropriate state~~
10 ~~and maintain a record of the transaction.~~

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

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

17 (g) ~~"Computer software" means a set of coded instructions designed~~
18 ~~to cause a computer or automatic data processing equipment to perform a~~
19 ~~task.~~

20 (h) ~~"Delivered electronically" means delivered to the purchaser by~~
21 ~~means other than tangible storage media.~~

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

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

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

38 (l) ~~"Educational institution" means any nonprofit school, college and~~
39 ~~university that offers education at a level above the 12th grade, and~~
40 ~~conducts regular classes and courses of study required for accreditation by,~~
41 ~~or membership in, the North Central Association of Colleges and Schools,~~
42 ~~the state board of education, or that otherwise qualify as an "educational~~
43 ~~institution," as defined by K.S.A. 74-50,103, and amendments thereto.~~

1 Such phrase shall include: (1) A group of educational institutions that
2 operates exclusively for an educational purpose; (2) nonprofit endowment
3 associations and foundations organized and operated exclusively to
4 receive, hold, invest and administer moneys and property as a permanent
5 fund for the support and sole benefit of an educational institution; (3)
6 nonprofit trusts, foundations and other entities organized and operated
7 principally to hold and own receipts from intercollegiate sporting events
8 and to disburse such receipts, as well as grants and gifts, in the interest of
9 collegiate and intercollegiate athletic programs for the support and sole
10 benefit of an educational institution; and (4) nonprofit trusts, foundations
11 and other entities organized and operated for the primary purpose of
12 encouraging, fostering and conducting scholarly investigations and
13 industrial and other types of research for the support and sole benefit of an
14 educational institution.

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

17 (n) "~~Food and food ingredients~~" means substances, whether in liquid,
18 concentrated, solid, frozen, dried or dehydrated form, that are sold for
19 ingestion or chewing by humans and are consumed for their taste or
20 nutritional value. "~~Food and food ingredients~~" does not include alcoholic
21 beverages or tobacco. "~~Food and food ingredients~~" does include bottled-
22 water, candy, dietary supplements, soft drinks or food sold through-
23 vending machines.

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

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

43 (1) Containers, labels and shipping cases used in the distribution of

1 property produced, manufactured or compounded for sale which are not to
2 be returned to the producer, manufacturer or compounder for reuse.

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

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

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

11 ~~(5) Fertilizer used in the production of plants and plant products
12 produced for resale.~~

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

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

33 ~~(r) "Lease or rental" means any transfer of possession or control of
34 tangible personal property for a fixed or indeterminate term for
35 consideration. A lease or rental may include future options to purchase or
36 extend.~~

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

41 ~~(B) a transfer of possession or control of property under an agreement
42 that requires the transfer of title upon completion of required payments and
43 payment of an option price does not exceed the greater of \$100 or 1% of~~

1 the total required payments; or

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

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

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

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

19 (s) ~~"Load and leave" means delivery to the purchaser by use of a~~
20 ~~tangible storage media where the tangible storage media is not physically~~
21 ~~transferred to the purchaser.~~

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

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

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

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

37 (x) ~~"Municipal corporation" means any city incorporated under the~~
38 ~~laws of Kansas.~~

39 (y) ~~"Nonprofit blood bank" means any nonprofit place, organization,~~
40 ~~institution or establishment that is operated wholly or in part for the~~
41 ~~purpose of obtaining, storing, processing, preparing for transfusing,~~
42 ~~furnishing, donating or distributing human blood or parts or fractions of~~
43 ~~single blood units or products derived from single blood units, whether or~~

1 not any remuneration is paid therefor, or whether such procedures are done
2 for direct therapeutic use or for storage for future use of such products.

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

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

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

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

40 ~~(dd) "Property which is consumed" means tangible personal property~~
41 ~~which is essential or necessary to and which is used in the actual process~~
42 ~~of and consumed, depleted or dissipated within one year in: (1) The~~
43 ~~production, manufacture, processing, mining, drilling, refining or~~

1 ~~compounding of tangible personal property; (2) the providing of services;~~
2 ~~(3) the irrigation of crops, for sale in the regular course of business; or (4)~~
3 ~~the storage or processing of grain by a public grain warehouse or other~~
4 ~~grain storage facility, and which is not reusable for such purpose. The~~
5 ~~following is a listing of tangible personal property, included by way of~~
6 ~~illustration but not of limitation, which qualifies as property which is~~
7 ~~consumed:~~

8 ~~(A) Insecticides, herbicides, germicides, pesticides, fungicides,~~
9 ~~fumigants, antibiotics, biologicals, pharmaceuticals, vitamins and~~
10 ~~chemicals for use in commercial or agricultural production, processing or~~
11 ~~storage of fruit, vegetables, feeds, seeds, grains, animals or animal~~
12 ~~products whether fed, injected, applied, combined with or otherwise used;~~

13 ~~(B) electricity, gas and water; and~~

14 ~~(C) petroleum products, lubricants, chemicals, solvents, reagents and~~
15 ~~catalysts.~~

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

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

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

23 ~~(hh) "Registered under this agreement" means registration by a seller~~
24 ~~with the member states under the central registration system provided in~~
25 ~~article IV of the agreement.~~

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

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

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

1 (H) (1) ~~"Sales or selling price" applies to the measure subject to sales~~
2 ~~tax and means the total amount of consideration, including cash, credit,~~
3 ~~property and services, for which personal property or services are sold,~~
4 ~~leased or rented, valued in money, whether received in money or~~
5 ~~otherwise, without any deduction for the following:~~

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

7 (B) ~~the cost of materials used, labor or service cost, interest, losses,~~
8 ~~all costs of transportation to the seller, all taxes imposed on the seller and~~
9 ~~any other expense of the seller;~~

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

12 (D) ~~delivery charges; and~~

13 (E) ~~installation charges.~~

14 (2) ~~"Sales or selling price" includes consideration received by the~~
15 ~~seller from third parties if:~~

16 (A) ~~The seller actually receives consideration from a party other than~~
17 ~~the purchaser and the consideration is directly related to a price reduction~~
18 ~~or discount on the sale;~~

19 (B) ~~the seller has an obligation to pass the price reduction or discount~~
20 ~~through to the purchaser;~~

21 (C) ~~the amount of the consideration attributable to the sale is fixed~~
22 ~~and determinable by the seller at the time of the sale of the item to the~~
23 ~~purchaser; and~~

24 (D) ~~one of the following criteria is met:~~

25 (i) ~~The purchaser presents a coupon, certificate or other~~
26 ~~documentation to the seller to claim a price reduction or discount where~~
27 ~~the coupon, certificate or documentation is authorized, distributed or~~
28 ~~granted by a third party with the understanding that the third party will~~
29 ~~reimburse any seller to whom the coupon, certificate or documentation is~~
30 ~~presented;~~

31 (ii) ~~the purchaser identifies to the seller that the purchaser is a~~
32 ~~member of a group or organization entitled to a price reduction or~~
33 ~~discount. A preferred customer card that is available to any patron does not~~
34 ~~constitute membership in such a group; or~~

35 (iii) ~~the price reduction or discount is identified as a third party price~~
36 ~~reduction or discount on the invoice received by the purchaser or on a~~
37 ~~coupon, certificate or other documentation presented by the purchaser.~~

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

39 (A) ~~Discounts, including cash, term or coupons that are not~~
40 ~~reimbursed by a third party that are allowed by a seller and taken by a~~
41 ~~purchaser on a sale;~~

42 (B) ~~interest, financing and carrying charges from credit extended on~~
43 ~~the sale of personal property or services, if the amount is separately stated~~

1 on the invoice, bill of sale or similar document given to the purchaser;

2 (C) ~~any taxes legally imposed directly on the consumer that are~~
3 ~~separately stated on the invoice, bill of sale or similar document given to~~
4 ~~the purchaser;~~

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

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

11 (mm) ~~"Seller" means a person making sales, leases or rentals of~~
12 ~~personal property or services.~~

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

15 (oo) ~~"Sourcing rules" means the rules set forth in K.S.A. 2016 Supp.~~
16 ~~79-3670 through 79-3673, K.S.A. 12-191 and 12-191a, and amendments~~
17 ~~thereto, which shall apply to identify and determine the state and local~~
18 ~~taxing jurisdiction sales or use taxes to pay, or collect and remit on a~~
19 ~~particular retail sale.~~

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

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

26 (rr) ~~"Tobacco" means cigarettes, cigars, chewing or pipe tobacco or~~
27 ~~any other item that contains tobacco.~~

28 (ss) ~~"Entity-based exemption" means an exemption based on who~~
29 ~~purchases the product or who sells the product. An exemption that is~~
30 ~~available to all individuals shall not be considered an entity-based~~
31 ~~exemption.~~

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

40 (uu) ~~"Ancillary services" means services that are associated with or~~
41 ~~incidental to the provision of telecommunications services, including, but~~
42 ~~not limited to, detailed telecommunications billing, directory assistance,~~
43 ~~vertical service and voice mail services.~~

1 ~~(vv) "Conference bridging service" means an ancillary service that~~
2 ~~links two or more participants of an audio or video conference call and~~
3 ~~may include the provision of a telephone number. Conference bridging~~
4 ~~service does not include the telecommunications services used to reach the~~
5 ~~conference bridge.~~

6 ~~(ww) "Detailed telecommunications billing service" means an~~
7 ~~ancillary service of separately stating information pertaining to individual~~
8 ~~calls on a customer's billing statement.~~

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

11 ~~(yy) "Vertical service" means an ancillary service that is offered in~~
12 ~~connection with one or more telecommunications services, which offers~~
13 ~~advanced calling features that allow customers to identify callers and to~~
14 ~~manage multiple calls and call connections, including conference bridging~~
15 ~~services.~~

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

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

30 ~~(1) Data processing and information services that allow data to be~~
31 ~~generated, acquired, stored, processed or retrieved and delivered by an~~
32 ~~electronic transmission to a purchaser where such purchaser's primary~~
33 ~~purpose for the underlying transaction is the processed data or~~
34 ~~information;~~

35 ~~(2) installation or maintenance of wiring or equipment on a~~
36 ~~customer's premises;~~

37 ~~(3) tangible personal property;~~

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

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

40 ~~(6) internet access service;~~

41 ~~(7) radio and television audio and video programming services,~~
42 ~~regardless of the medium, including the furnishing of transmission,~~
43 ~~conveyance and routing of such services by the programming service~~

1 provider. Radio and television audio and video programming services shall
 2 include, but not be limited to, cable service as defined in 47 U.S.C. §
 3 522(6) and audio and video programming services delivered by
 4 commercial mobile radio service providers, as defined in 47 C.F.R. § 20.3;

5 (8)—ancillary services; or

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

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

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

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

26 (eee)—"International" means a telecommunications service that
 27 originates or terminates in the United States and terminates or originates
 28 outside the United States, respectively. United States includes the District
 29 of Columbia or a U.S. territory or possession.

30 (fff)—"Interstate" means a telecommunications service that originates
 31 in one United States state, or a United States territory or possession, and
 32 terminates in a different United States state or a United States territory or
 33 possession.

34 (ggg)—"Intrastate" means a telecommunications service that originates
 35 in one United States state or a United States territory or possession, and
 36 terminates in the same United States state or a United States territory or
 37 possession.

38 (hhh)—"Bottled water" means water that is placed in a safety sealed
 39 container or packaged for human consumption. "Bottled water" is calorie
 40 free and does not contain sweeteners or other additives, except that it may
 41 contain:

42 (1)—Antimicrobial agents;

43 (2)—fluoride;

- 1 ~~(3) carbonation;~~
 2 ~~(4) vitamins, minerals and electrolytes;~~
 3 ~~(5) oxygen;~~
 4 ~~(6) preservatives; and~~
 5 ~~(7) only those flavors, extracts or essences derived from a spice or~~
 6 ~~fruit.~~

7 ~~"Bottled water" includes water that is delivered to the buyer in a~~
 8 ~~reusable container that is not sold with the water.~~

9 ~~(iii) "Candy" means a preparation of sugar, honey or other natural or~~
 10 ~~artificial sweeteners in combination with chocolate, fruits, nuts or other~~
 11 ~~ingredients or flavorings in the form of bars, drops or pieces. "Candy"~~
 12 ~~shall not include any preparation containing flour and shall require no~~
 13 ~~refrigeration.~~

14 ~~(jjj) "Food sold through vending machines" means food dispensed~~
 15 ~~from a machine or other mechanical device that accepts payment.~~

16 ~~(lll) "Prepared food" means:~~

17 ~~(1) Food sold in a heated state or heated by the seller;~~

18 ~~(2) two or more food ingredients mixed or combined by the seller for~~
 19 ~~sale as a single item; or~~

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

23 ~~"Prepared food" does not include food that is only cut, repackaged or~~
 24 ~~pasteurized by the seller, and eggs, fish, meat, poultry and foods~~
 25 ~~containing these raw animal foods requiring cooking by the consumer as~~
 26 ~~recommended by the food and drug administration in chapter 3, part~~
 27 ~~401.11 of its food code so as to prevent food borne illnesses.~~

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

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

34 ~~Sec. 6. K.S.A. 2016 Supp. 79-3603 is hereby amended to read as~~
 35 ~~follows: 79-3603. For the privilege of engaging in the business of selling~~
 36 ~~tangible personal property at retail in this state or rendering or furnishing~~
 37 ~~any of the services taxable under this act, there is hereby levied and there~~
 38 ~~shall be collected and paid a tax at the rate of 6.15%, and commencing~~
 39 ~~July 1, 2015, at the rate of 6.5%, except that commencing on January 1,~~
 40 ~~2018, the rate on food and food ingredients shall be 5.5% and as further~~
 41 ~~reduced by section 1, and amendments thereto. Within a redevelopment~~
 42 ~~district established pursuant to K.S.A. 74-8921, and amendments thereto,~~
 43 ~~there is hereby levied and there shall be collected and paid an additional~~

1 tax at the rate of 2% until the earlier of the date the bonds issued to finance
2 or refinance the redevelopment project have been paid in full or the final
3 scheduled maturity of the first series of bonds issued to finance any part of
4 the project upon:

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

7 ~~(b) the gross receipts from intrastate, interstate or international~~
8 ~~telecommunications services and any ancillary services sourced to this~~
9 ~~state in accordance with K.S.A. 2016 Supp. 79-3673, and amendments~~
10 ~~thereto, except that telecommunications service does not include: (1) Any~~
11 ~~interstate or international 800 or 900 service; (2) any interstate or~~
12 ~~international private communications service as defined in K.S.A. 2016~~
13 ~~Supp. 79-3673, and amendments thereto; (3) any value-added nonvoice~~
14 ~~data service; (4) any telecommunication service to a provider of~~
15 ~~telecommunication services which will be used to render~~
16 ~~telecommunications services, including carrier access services; or (5) any~~
17 ~~service or transaction defined in this section among entities classified as~~
18 ~~members of an affiliated group as provided by section 1504 of the federal~~
19 ~~internal revenue code of 1986, as in effect on January 1, 2001;~~

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

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

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

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

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

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

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

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

26 ~~(k) the gross receipts from cable, community antennae and other~~
27 ~~subscriber radio and television services;~~

28 ~~(1) (1) except as otherwise provided by paragraph (2), the gross~~
29 ~~receipts received from the sales of tangible personal property to all~~
30 ~~contractors, subcontractors or repairmen for use by them in erecting~~
31 ~~structures, or building on, or otherwise improving, altering, or repairing~~
32 ~~real or personal property.~~

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

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

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

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

21 (o) the gross receipts received from the isolated or occasional sale of
22 motor vehicles or trailers but not including: (1) The transfer of motor
23 vehicles or trailers by a person to a corporation or limited liability
24 company solely in exchange for stock securities or membership interest in
25 such corporation or limited liability company; (2) the transfer of motor
26 vehicles or trailers by one corporation or limited liability company to
27 another when all of the assets of such corporation or limited liability
28 company are transferred to such other corporation or limited liability
29 company; or (3) the sale of motor vehicles or trailers which are subject to
30 taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and
31 amendments thereto, by an immediate family member to another
32 immediate family member. For the purposes of paragraph (3), immediate
33 family member means lineal ascendants or descendants, and their spouses.
34 Any amount of sales tax paid pursuant to the Kansas retailers sales tax act
35 on the isolated or occasional sale of motor vehicles or trailers on and after
36 July 1, 2004, which the base for computing the tax was the value pursuant
37 to K.S.A. 79-5105(a), (b)(1) and (b)(2), and amendments thereto, when
38 such amount was higher than the amount of sales tax which would have
39 been paid under the law as it existed on June 30, 2004, shall be refunded to
40 the taxpayer pursuant to the procedure prescribed by this section. Such
41 refund shall be in an amount equal to the difference between the amount of
42 sales tax paid by the taxpayer and the amount of sales tax which would
43 have been paid by the taxpayer under the law as it existed on June 30,

1 2004. Each claim for a sales tax refund shall be verified and submitted not
2 later than six months from the effective date of this act to the director of
3 taxation upon forms furnished by the director and shall be accompanied by
4 any additional documentation required by the director. The director shall
5 review each claim and shall refund that amount of tax paid as provided by
6 this act. All such refunds shall be paid from the sales tax refund fund, upon
7 warrants of the director of accounts and reports pursuant to vouchers
8 approved by the director of taxation or the director's designee. No refund
9 for an amount less than \$10 shall be paid pursuant to this act. In
10 determining the base for computing the tax on such isolated or occasional
11 sale, the fair market value of any motor vehicle or trailer traded in by the
12 purchaser to the seller may be deducted from the selling price;

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

23 For the purposes of this subsection:

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

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

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

1 ~~(4) "residence" shall mean only those enclosures within which~~
2 ~~individuals customarily live;~~

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

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

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

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

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

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

28 ~~(u) the gross receipts received from the sale of prepaid calling service~~
29 ~~and prepaid wireless calling service as defined in K.S.A. 2016 Supp. 79-~~
30 ~~3673, and amendments thereto;~~

31 ~~(v) all sales of bingo cards, bingo faces and instant bingo tickets by~~
32 ~~licensees under K.S.A. 2016 Supp. 75-5171 et seq., and amendments~~
33 ~~thereto, shall be exempt from taxes imposed pursuant to this section; and~~

34 ~~(w) all sales of charitable raffle tickets in accordance with K.S.A.~~
35 ~~2016 Supp. 75-5171 et seq., and amendments thereto, shall be exempt~~
36 ~~from taxes imposed pursuant to this section; and~~

37 ~~(x) commencing on January 1, 2018, and thereafter, the gross~~
38 ~~receipts from the sale of food and food ingredients shall be taxed at 5.5%~~
39 ~~and further reduced at the rate determined by the secretary of revenue~~
40 ~~pursuant to section 1, and amendments thereto. The provisions of this~~
41 ~~subsection shall not apply to prepared food, unless sold without eating~~
42 ~~utensils provided by the seller and described below:~~

43 ~~(1) Food sold by a seller whose proper primary NAICS classification~~

1 *is manufacturing in section 311, except for subsector 3118 (bakeries).*

2 ~~(2) (A) Food sold in an unheated state by weight or volume as a~~
3 ~~single item; or~~

4 ~~(B) only meat or seafood sold in an unheated state by weight or~~
5 ~~volume as a single item.~~

6 ~~(3) Bakery items, including bread, rolls, buns, biscuits, bagels,~~
7 ~~croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars,~~
8 ~~cookies and tortillas.~~

9 ~~(4) Food sold that ordinarily requires additional cooking, as opposed~~
10 ~~to just reheating, by the consumer prior to consumption.~~

11 ~~(5) Bottled water that is not otherwise sold as prepared food.~~

12 Sec. 7. K.S.A. 2016 Supp. 79-3620 is hereby amended to read as
13 follows: 79-3620. (a) All revenue collected or received by the director of
14 taxation from the taxes imposed by this act shall be remitted to the state
15 treasurer in accordance with the provisions of K.S.A. 75-4215, and
16 amendments thereto. Upon receipt of each such remittance, the state
17 treasurer shall deposit the entire amount in the state treasury, less amounts
18 withheld as provided in subsection (b) and amounts credited as provided in
19 subsections (c), (d) and (e), to the credit of the state general fund.

20 (b) A refund fund, designated as "sales tax refund fund" not to exceed
21 \$100,000 shall be set apart and maintained by the director from sales tax
22 collections and estimated tax collections and held by the state treasurer for
23 prompt payment of all sales tax refunds. Such fund shall be in such
24 amount, within the limit set by this section, as the director shall determine
25 is necessary to meet current refunding requirements under this act. In the
26 event such fund as established by this section is, at any time, insufficient to
27 provide for the payment of refunds due claimants thereof, the director shall
28 certify the amount of additional funds required to the director of accounts
29 and reports who shall promptly transfer the required amount from the state
30 general fund to the sales tax refund fund, and notify the state treasurer,
31 who shall make proper entry in the records.

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

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

42 (3) On July 1, 2012, the state treasurer shall credit 11.233% of the
43 revenue collected and received from the tax imposed by K.S.A. 79-3603,

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

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

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

14 ~~(6) On July 1, 2016, and thereafter, the state treasurer shall credit~~
15 ~~16.154% of the revenue collected and received from the tax imposed by~~
16 ~~K.S.A. 79-3603, and amendments thereto, at the rate of 6.5%, and~~
17 ~~deposited as provided by subsection (a), exclusive of amounts credited~~
18 ~~pursuant to subsection (d), in the state highway fund.~~

19 ~~(7) On July 1, 2017, and thereafter, the state treasurer shall credit~~
20 ~~16.154% of the revenue collected and received from the tax imposed by~~
21 ~~K.S.A. 79-3603, and amendments thereto, at the rates prescribed by that~~
22 ~~section, and deposited as provided by subsection (a), exclusive of amounts~~
23 ~~credited pursuant to subsection (d), in the state highway fund.~~

24 ~~(d) The state treasurer shall credit all revenue collected or received~~
25 ~~from the tax imposed by K.S.A. 79-3603, and amendments thereto, as~~
26 ~~certified by the director, from taxpayers doing business within that portion~~
27 ~~of a STAR bond project district occupied by a STAR bond project or~~
28 ~~taxpayers doing business with such entity financed by a STAR bond~~
29 ~~project as defined in K.S.A. 2016 Supp. 12-17,162, and amendments~~
30 ~~thereto, that was determined by the secretary of commerce to be of~~
31 ~~statewide as well as local importance or will create a major tourism area~~
32 ~~for the state or the project was designated as a STAR bond project as~~
33 ~~defined in K.S.A. 2016 Supp. 12-17,162, and amendments thereto, to the~~
34 ~~city bond finance fund, which fund is hereby created. The provisions of~~
35 ~~this subsection shall expire when the total of all amounts credited~~
36 ~~hereunder and under K.S.A. 79-3710(d), and amendments thereto, is~~
37 ~~sufficient to retire the special obligation bonds issued for the purpose of~~
38 ~~financing all or a portion of the costs of such STAR bond project.~~

39 ~~(e) All revenue certified by the director of taxation as having been~~
40 ~~collected or received from the tax imposed by K.S.A. 79-3603(e), and~~
41 ~~amendments thereto, on the sale or furnishing of gas, water, electricity and~~
42 ~~heat for use or consumption within the intermodal facility district~~
43 ~~described in this subsection, shall be credited by the state treasurer to the~~

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

27 Sec. 8. ~~K.S.A. 2016 Supp. 79-3703 is hereby amended to read as~~
28 ~~follows: 79-3703. There is hereby levied and there shall be collected from~~
29 ~~every person in this state a tax or excise for the privilege of using, storing,~~
30 ~~or consuming within this state any article of tangible personal property.~~
31 ~~Such tax shall be levied and collected in an amount equal to the~~
32 ~~consideration paid by the taxpayer multiplied by the rate of 6.5%, *except*~~
33 ~~*that commencing on January 1, 2018, such rate on food and food-*~~
34 ~~*ingredients shall be 5.5% and as further amended by section 1, and-*~~
35 ~~*amendments thereto.* Within a redevelopment district established pursuant~~
36 ~~to K.S.A. 74-8921, and amendments thereto, there is hereby levied and~~
37 ~~there shall be collected and paid an additional tax of 2% until the earlier~~
38 ~~of: (1) The date the bonds issued to finance or refinance the redevelopment~~
39 ~~project undertaken in the district have been paid in full; or (2) the final~~
40 ~~scheduled maturity of the first series of bonds issued to finance the~~
41 ~~redevelopment project. All property purchased or leased within or without~~
42 ~~this state and subsequently used, stored or consumed in this state shall be~~
43 ~~subject to the compensating tax if the same property or transaction would~~

1 have been subject to the Kansas retailers' sales tax had the transaction been
2 wholly within this state.

3 ~~Sec. 9. K.S.A. 2016 Supp. 79-3710 is hereby amended to read as~~
4 ~~follows: 79-3710. (a) All revenue collected or received by the director~~
5 ~~under the provisions of this act shall be remitted to the state treasurer in~~
6 ~~accordance with the provisions of K.S.A. 75-4215, and amendments~~
7 ~~thereto. Upon receipt of each such remittance, the state treasurer shall~~
8 ~~deposit the entire amount in the state treasury, less amounts set apart as~~
9 ~~provided in subsection (b) and amounts credited as provided in subsection~~
10 ~~(c), (d) and (e), to the credit of the state general fund.~~

11 ~~(b) A revolving fund, designated as "compensating tax refund fund"~~
12 ~~not to exceed \$10,000 shall be set apart and maintained by the director~~
13 ~~from compensating tax collections and estimated tax collections and held~~
14 ~~by the state treasurer for prompt payment of all compensating tax refunds.~~
15 ~~Such fund shall be in such amount, within the limit set by this section, as~~
16 ~~the director shall determine is necessary to meet current refunding~~
17 ~~requirements under this act.~~

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

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

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

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

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

43 ~~(6) On July 1, 2016, and thereafter, the state treasurer shall credit~~

1 ~~16.154% of the revenue collected and received from the tax imposed by~~
2 ~~K.S.A. 79-3703, and amendments thereto, at the rate of 6.5%, and~~
3 ~~deposited as provided by subsection (a), exclusive of amounts credited~~
4 ~~pursuant to subsection (d), in the state highway fund.~~

5 ~~(7) On July 1, 2017, and thereafter, the state treasurer shall credit~~
6 ~~16.154% of the revenue collected and received from the tax imposed by~~
7 ~~K.S.A. 79-3703, and amendments thereto, at the rates prescribed by that~~
8 ~~section, and deposited as provided by subsection (a), exclusive of amounts~~
9 ~~credited pursuant to subsection (d), in the state highway fund.~~

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

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

24 ~~(e) All revenue certified by the director of taxation as having been~~
25 ~~collected or received from the tax imposed by K.S.A. 79-3603(e), and~~
26 ~~amendments thereto, on the sale or furnishing of gas, water, electricity and~~
27 ~~heat for use or consumption within the intermodal facility district~~
28 ~~described in this subsection, shall be credited by the state treasurer to the~~
29 ~~state highway fund. Such revenue may be transferred by the secretary of~~
30 ~~transportation to the rail service improvement fund pursuant to law. The~~
31 ~~provisions of this subsection shall take effect upon certification by the~~
32 ~~secretary of transportation that a notice to proceed has been received for~~
33 ~~the construction of the improvements within the intermodal facility~~
34 ~~district, but not later than December 31, 2010, and shall expire when the~~
35 ~~secretary of revenue determines that the total of all amounts credited~~
36 ~~hereunder and pursuant to K.S.A. 79-3620(e), and amendments thereto, is~~
37 ~~equal to \$53,300,000, but not later than December 31, 2045. Thereafter, all~~
38 ~~revenues shall be collected and distributed in accordance with applicable~~
39 ~~law. For all tax reporting periods during which the provisions of this~~
40 ~~subsection are in effect, none of the exemptions contained in K.S.A. 79-~~
41 ~~3601 et seq., and amendments thereto, shall apply to the sale or furnishing~~
42 ~~of any gas, water, electricity and heat for use or consumption within the~~
43 ~~intermodal facility district. As used in this subsection, "intermodal facility~~

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

12 ***Sec. 3. K.S.A. 2016 Supp. 79-32,138 is hereby amended to read as***
 13 ***follows: 79-32,138. (a) Kansas taxable income of a corporation taxable***
 14 ***under this act shall be the corporation's federal taxable income for the***
 15 ***taxable year with the modifications specified in this section.***

16 ***(b) There shall be added to federal taxable income: (i) The same***
 17 ***modifications as are set forth in*** ~~subsection (b) of K.S.A. 79-32,117(b),~~
 18 ***and amendments thereto, with respect to resident individuals, except***
 19 ***subsections (b)(xix), (b)(xx), (b)(xxi), (b)(xxii) and (b)(xxiii);;***

20 ***(ii) the amount of all depreciation deductions claimed for any***
 21 ***property upon which the deduction allowed by K.S.A. 2016 Supp. 79-***
 22 ***32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-***
 23 ***32,255 or 79-32,256, and amendments thereto, is claimed;;***

24 ***(iii) the amount of any charitable contribution deduction claimed***
 25 ***for any contribution or gift to or for the use of any racially segregated***
 26 ***educational institution;;***

27 ***(iv) for taxable years commencing December 31, 2013, that portion***
 28 ***of the amount of any expenditure deduction claimed in determining***
 29 ***federal adjusted gross income for expenses paid by a taxpayer for health***
 30 ***care when such expenses were paid or incurred for abortion coverage, a***
 31 ***health benefit plan, as defined in K.S.A. 2016 Supp. 65-6731, and***
 32 ***amendments thereto, when such expenses were paid or incurred for***
 33 ***abortion coverage or amounts contributed to health savings accounts for***
 34 ***such taxpayer's employees for the purchase of an optional rider for***
 35 ***coverage of abortion in accordance with K.S.A. 2016 Supp. 40-2,190,***
 36 ***and amendments thereto;;***

37 ***(v) the amount of any charitable contribution deduction claimed for***
 38 ***any contribution or gift made to a scholarship granting organization to***
 39 ***the extent the same is claimed as the basis for the credit allowed***
 40 ***pursuant to K.S.A. 2016 Supp. 72-99a07, and amendments thereto; and***

41 ***(vi) the federal net operating loss deduction.***

42 ***(c) There shall be subtracted from federal taxable income: (i) The***
 43 ***same modifications as are set forth in*** ~~subsection (e) of K.S.A. 79-~~

1 *32,117(c), and amendments thereto, with respect to resident individuals,*
2 *except subsection (c)(xx)-;*

3 *(ii) the federal income tax liability for any taxable year*
4 *commencing prior to December 31, 1971, for which a Kansas return was*
5 *filed after reduction for all credits thereon, except credits for payments*
6 *on estimates of federal income tax, credits for gasoline and lubricating*
7 *oil tax, and for foreign tax credits if, on the Kansas income tax return*
8 *for such prior year, the federal income tax deduction was computed on*
9 *the basis of the federal income tax paid in such prior year, rather than*
10 *as accrued. Notwithstanding the foregoing, the deduction for federal*
11 *income tax liability for any year shall not exceed that portion of the total*
12 *federal income tax liability for such year which bears the same ratio to*
13 *the total federal income tax liability for such year as the Kansas taxable*
14 *income, as computed before any deductions for federal income taxes and*
15 *after application of subsections (d) and (e) of this section as existing for*
16 *such year, bears to the federal taxable income for the same year-;*

17 *(iii) an amount for the amortization deduction allowed pursuant to*
18 *K.S.A. 2016 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-*
19 *32,249, 79-32,250, 79-32,255 or 79-32,256, and amendments thereto-;*

20 *(iv) for all taxable years commencing after December 31, 1987, the*
21 *amount included in federal taxable income pursuant to the provisions of*
22 *section 78 of the internal revenue code-; and*

23 *(v) for all taxable years commencing after December 31, 1987, 80%*
24 *of dividends from corporations incorporated outside of the United States*
25 *or the District of Columbia which are included in federal taxable*
26 *income.*

27 *(d) If any corporation derives all of its income from sources within*
28 *Kansas in any taxable year commencing after December 31, 1979, its*
29 *Kansas taxable income shall be the sum resulting after application of*
30 *subsections (a) through (c) hereof. Otherwise, such corporation's*
31 *Kansas taxable income in any such taxable year, after excluding any*
32 *refunds of federal income tax and before the deduction of federal*
33 *income taxes provided by subsection (c)(ii) shall be allocated as provided*
34 *in K.S.A. 79-3271 to K.S.A. 79-3293, inclusive, and amendments thereto,*
35 *plus any refund of federal income tax as determined under ~~paragraph~~*
36 *(iv) of subsection (b) of K.S.A. 79-32,117(b)(iv), and amendments*
37 *thereto, and minus the deduction for federal income taxes as provided by*
38 *subsection (c)(ii) shall be such corporation's Kansas taxable income.*

39 *(e) A corporation may make an election with respect to its first taxable*
40 *year commencing after December 31, 1982, whereby no addition*
41 *modifications as provided for in subsection (b)(ii) of K.S.A. 79-32,138,*
42 *and amendments thereto, and subtraction modifications as provided for*
43 *in subsection (c)(iii) of K.S.A. 79-32,138, and amendments thereto, as*

1 *those subsections existed prior to their amendment by this act, shall be*
2 *required to be made for such taxable year.*

3 Sec. ~~10~~. 4. K.S.A. 2016 Supp. 79-32,110, 79-32,117, ~~79-32,120, 79-~~
4 ~~3602, 79-3603, 79-3620, 79-3703 and 79-3710~~ **and 79-32,138** are hereby
5 repealed.

6 Sec. ~~11~~. 5. This act shall take effect and be in force from and after its
7 publication in the statute book.