

HOUSE BILL No. 2428

By Committee on Taxation

3-2

1 AN ACT concerning taxation; relating to cigarette and tobacco products
2 tax and increasing rates of tax; establishing the cigarette and tobacco
3 products cessation fund; relating to sales and compensating use tax on
4 food and food ingredients and decreasing the rates of tax; amending
5 K.S.A. 79-3310, 79-3310c, 79-3311, 79-3312, 79-3371, 79-3378, 79-
6 3387 and 79-3602 and K.S.A. 2020 Supp. 79-3603 and 79-3703 and
7 repealing the existing sections.
8

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

10 New Section 1. There is hereby established in the state treasury the
11 cigarette and tobacco products cessation fund, and such fund shall be
12 administered by the secretary of health and environment. All expenditures
13 from the cigarette and tobacco products cessation fund shall be for
14 promoting the cessation of cigarette, tobacco products and electronic
15 cigarette usage. All expenditures from the cigarette and tobacco products
16 cessation fund shall be made in accordance with appropriation acts upon
17 warrants of the director of accounts and reports issued pursuant to
18 vouchers approved by the secretary or the secretary's designee.

19 New Sec. 2. (a) On or before July 31, 2021, each distributor having a
20 place of business in this state shall file a report with the director, in such
21 form as the director may prescribe, showing the tobacco products on hand
22 at 12:01 a.m. on July 1, 2021. A tax at a rate equal to 44% of the wholesale
23 price of such tobacco products is hereby imposed upon such tobacco
24 products and shall be due and payable on or before July 31, 2021. The tax
25 upon such tobacco products shall be imposed only once under this act. The
26 director shall remit all moneys collected pursuant to this section to the
27 state treasurer, and the state treasurer shall credit the entire amount thereof
28 to the state general fund.

29 (b) This section shall be a part of and supplemental to the Kansas
30 cigarette and tobacco products act.

31 New Sec. 3. (a) There is hereby levied and there shall be collected
32 and paid a tax upon the gross receipts from the sale of food and food
33 ingredients. The rate of tax shall be 5%.

34 (b) The provisions of this section shall not apply to prepared food,
35 unless sold without eating utensils provided by the seller and described
36 below:

1 (1) Food sold by a seller whose proper primary NAICS classification
2 is manufacturing in sector 311, except subsector 3118 (bakeries);

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

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

7 (3) bakery items, including bread, rolls, buns, biscuits, bagels,
8 croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars,
9 cookies and tortillas;

10 (4) food sold that ordinarily requires additional cooking, as opposed
11 to just reheating, by the consumer prior to consumption; or

12 (5) bottled water that is not otherwise sold as prepared food.

13 (c) The provisions of this section shall be a part of and supplemental
14 to the Kansas retailers' sales tax act.

15 Sec. 4. K.S.A. 79-3310 is hereby amended to read as follows: 79-
16 3310. (a) There is imposed a tax upon all cigarettes sold, distributed or
17 given away within the state of Kansas. On and after July 1, 2015, *and*
18 *before July 1, 2021*, the rate of such tax shall be \$1.29 on each 20
19 cigarettes or fractional part thereof or \$1.61 on each 25 cigarettes, as the
20 case requires. *On and after July 1, 2021, the rate of such tax shall be*
21 *\$2.79 on each 20 cigarettes or fractional part thereof or \$3.49 on each 25*
22 *cigarettes, as the case requires.* Such tax shall be collected and paid to the
23 director as provided in this act. Such tax shall be paid only once and shall
24 be paid by the wholesale dealer first receiving the cigarettes as ~~herein~~
25 *provided in this act.*

26 (b) The taxes imposed by this act are hereby levied upon all sales of
27 cigarettes made to any department, institution or agency of the state of
28 Kansas; and to the political subdivisions thereof and their departments,
29 institutions and agencies.

30 Sec. 5. K.S.A. 79-3310c is hereby amended to read as follows: 79-
31 3310c. On or before July 31, ~~2015~~ 2021, each wholesale dealer, retail
32 dealer and vending machine operator shall file a report with the director in
33 such form as the director may prescribe showing cigarettes, cigarette
34 stamps and meter imprints on hand at 12:01 a.m. on July 1, ~~2015~~ 2021. A
35 tax of ~~\$-.50~~ \$1.50 on each 20 cigarettes or fractional part thereof or ~~\$.62~~
36 \$1.88 on each 25 cigarettes, ~~as the case requires~~ and ~~\$.50 or \$.62~~ \$1.50 or
37 \$1.88, as the case requires, upon all tax stamps and all meter imprints
38 purchased from the director and not affixed to cigarettes prior to July 1,
39 ~~2015~~ 2021, is hereby imposed ~~and~~. Such tax shall be due and payable on or
40 before October 31, ~~2015~~ 2021. The tax imposed upon such cigarettes, tax
41 stamps and meter imprints shall be imposed only once under this act. The
42 director shall remit all moneys collected pursuant to this section to the
43 state treasurer who shall credit the entire amount thereof to the state

1 general fund.

2 Sec. 6. K.S.A. 79-3311 is hereby amended to read as follows: 79-
3 3311. (a) The director shall design and designate indicia of tax payment to
4 be affixed to each package of cigarettes as provided by this act. Stamps
5 applied by the heat process shall be sold only in amounts of 30,000 or
6 multiples thereof, except that such stamps ~~which~~ *that* are suitable for
7 packages containing 25 cigarettes each shall be sold in amounts prescribed
8 by the director. Stamps applied by the heat process shall be supplied to
9 wholesale dealers in good standing with the director at the time of
10 purchase at a discount of ~~0.55%~~ *0.25%* on and after July 1, ~~2015~~ *2021*, and
11 thereafter, from the face value thereof, and shall be deducted at the time of
12 purchase or from the remittance ~~therefor as hereinafter~~ *provided in this*
13 *section*. Any wholesale cigarette dealer who ~~shall file~~ *files* with the
14 director a bond, of acceptable form, payable to the state of Kansas with a
15 corporate surety authorized to do business in Kansas; shall be permitted to
16 purchase stamps; and ~~remit therefor~~ *make such remittance* to the director
17 within 30 days after each such purchase, up to a maximum outstanding at
18 any one time of 85% of the amount of the bond. Failure on the part of any
19 wholesale dealer to remit as ~~herein~~ *specified in this section* shall be cause
20 for forfeiture of such dealer's bond. All revenue received from the sale of
21 such stamps shall be remitted to the state treasurer in accordance with the
22 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
23 each such remittance, the state treasurer shall deposit the entire amount in
24 the state treasury. The state treasurer shall first credit such amount as the
25 director shall order to the cigarette tax refund fund and shall credit the
26 remaining balance to the state general fund. A refund fund designated the
27 cigarette tax refund fund not to exceed \$10,000 at any time shall be set
28 apart and maintained by the director from taxes collected under this act
29 and held by the state treasurer for prompt payment of all refunds
30 authorized by this act. Such cigarette tax refund fund shall be in such
31 amount as the director shall determine is necessary to meet current
32 refunding requirements under this act.

33 (b) The wholesale cigarette dealer shall affix to each package of
34 cigarettes stamps required by this act prior to the sale of cigarettes to any
35 person, by such dealer or such dealer's agent or agents, within the state of
36 Kansas. The director is empowered to authorize wholesale dealers to affix
37 revenue tax stamps upon original packages of cigarettes and is charged
38 with the duty of regulating the use of tax stamps to secure payment of the
39 proper taxes. No wholesale dealer shall affix revenue tax stamps to
40 original packages of cigarettes without first having obtained permission
41 from the director to employ this method of affixation. If the director
42 approves the wholesale dealer's application for permission to affix revenue
43 tax stamps to original packages of cigarettes, the director shall require

1 such dealer to file a suitable bond payable to the state of Kansas executed
2 by a corporate surety authorized to do business in Kansas. The director
3 may, to assure the proper collection of taxes imposed by the act, revoke or
4 suspend the privilege of affixing tax stamps upon original packages of
5 cigarettes.

6 (c) A licensed wholesale dealer may, for the purpose of sale in
7 another state, transport cigarettes not bearing Kansas indicia of tax
8 payment through the state of Kansas provided such cigarettes are
9 contained in sealed and original cartons.

10 Sec. 7. K.S.A. 79-3312 is hereby amended to read as follows: 79-
11 3312. The director shall redeem any unused stamps that any wholesale
12 dealer presents for redemption within six months after the purchase
13 thereof, of such stamps at the face value less ~~0.55%~~ thereof 0.25% if such
14 stamps have been purchased from the director and are whole, complete
15 stamps. The director shall prepare a voucher showing the net amount of
16 such refund due, and the director of accounts and reports shall draw a
17 warrant on the state treasurer for ~~the same~~ such refund. Wholesale dealers
18 shall be entitled to a refund of the tax paid on cigarettes ~~which~~ that have
19 become unfit for sale upon proof thereof less ~~0.55%~~ 0.25% of such tax.

20 Sec. 8. K.S.A. 79-3371 is hereby amended to read as follows: 79-
21 3371. A tax is hereby imposed upon the privilege of selling or dealing in
22 tobacco products in this state by any person engaged in business as a
23 distributor thereof; at the rate of ~~ten percent (10%)~~ 54% of the wholesale
24 sales price of such tobacco products. Such tax shall be imposed at the time
25 the distributor:

26 (a) Brings or causes to be brought into this state from without the
27 state tobacco products for sale;

28 (b) makes, manufactures; or fabricates tobacco products in this state
29 for sale in this state; or

30 (c) ships or transports tobacco products to retailers in this state to be
31 sold by those retailers.

32 Sec. 9. K.S.A. 79-3378 is hereby amended to read as follows: 79-
33 3378. (a) On or before the 20th day of each calendar month every
34 distributor with a place of business in this state shall file a return with the
35 director showing the quantity and wholesale sales price of each tobacco
36 product: (1) Brought, or caused to be brought, into this state for sale; and
37 (2) made, manufactured; or fabricated in this state for sale in this state
38 during the preceding calendar month. Every licensed distributor outside
39 this state shall in like manner file a return showing the quantity and
40 wholesale sales price of each tobacco product shipped or transported to
41 retailers in this state to be sold by those retailers; during the preceding
42 calendar month. Returns shall be made electronically in the manner
43 prescribed by the director. Each return shall be accompanied by a

1 remittance for the full tax liability shown ~~therein~~, less ~~4%~~ 0.6% of such
2 liability as compensation to reimburse the distributor for such distributor's
3 expenses incurred in the administration of this act.

4 (b) As soon as practicable after any return is filed, the director shall
5 examine the return. If the director finds that, in the director's judgment, the
6 return is incorrect and any amount of tax is due from the distributor and
7 unpaid, the director shall notify the distributor of the deficiency. If a
8 deficiency disclosed by the director's examination cannot be allocated by
9 the director to a particular month or months, the director may nevertheless
10 notify the distributor that a deficiency exists and state the amount of tax
11 due. Such notice shall be given to the distributor by registered or certified
12 mail.

13 Sec. 10. K.S.A. 79-3387 is hereby amended to read as follows: 79-
14 3387. (a) *Except as otherwise provided in subsection (c)*, all revenue
15 collected or received by the director from taxes imposed by this act shall
16 be remitted to the state treasurer in accordance with the provisions of
17 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
18 remittance, the state treasurer shall deposit the entire amount in the state
19 treasury to the credit of the state general fund.

20 (b) All moneys received from license fees, forfeiture proceeds under
21 K.S.A. 79-3324a, and amendments thereto, and fines imposed by this act
22 shall be collected by the director and shall be remitted to the state treasurer
23 in accordance with the provisions of K.S.A. 75-4215, and amendments
24 thereto. Upon receipt of each such remittance, the state treasurer shall
25 deposit the entire amount in the state treasury to the credit of the cigarette
26 and tobacco products regulation fund created by K.S.A. 79-3391, and
27 amendments thereto, and such proceeds shall be used exclusively for
28 cigarette and tobacco products regulation and enforcement; and not for any
29 other purpose.

30 (c) *On and after July 1, 2021, and each July 1 thereafter, the state*
31 *treasurer shall deposit and credit the first \$1,000,000 of revenue collected*
32 *or received by the director from taxes imposed by this act to the cigarette*
33 *and tobacco products cessation fund established by section 1, and*
34 *amendments thereto. The director shall deposit and credit any remaining*
35 *balance to the state general fund.*

36 Sec. 11. K.S.A. 79-3602 is hereby amended to read as follows: 79-
37 3602. Except as otherwise provided, as used in the Kansas retailers' sales
38 tax act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (2) Containers, labels, shipping cases, paper bags, drinking straws,
43 paper plates, paper cups, twine and wrapping paper used in the distribution

1 and sale of property taxable under the provisions of this act by wholesalers
2 and retailers and which is not to be returned to such wholesaler or retailer
3 for reuse.

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

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

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

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

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

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

33 (1) Lease or rental does not include:

34 (A) A transfer of possession or control of property under a security
35 agreement or deferred payment plan that requires the transfer of title upon
36 completion of the required payments;

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

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

1 purpose of this subsection, an operator must do more than maintain,
2 inspect or set-up the tangible personal property.

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

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

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

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

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

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

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

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

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

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

42 (z) "Persons" means any individual, firm, copartnership, joint
43 adventure, association, corporation, estate or trust, receiver or trustee, or

1 any group or combination acting as a unit, and the plural as well as the
2 singular number; and shall specifically mean any city or other political
3 subdivision of the state of Kansas engaging in a business or providing a
4 service specifically taxable under the provisions of this act.

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

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

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

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

1 following is a listing of tangible personal property, included by way of
2 illustration but not of limitation, which qualifies as property which is
3 consumed:

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

9 (B) electricity, gas and water; and

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

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

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

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

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

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

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

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

40 (ll) (1) "Sales or selling price" applies to the measure subject to sales
41 tax and means the total amount of consideration, including cash, credit,
42 property and services, for which personal property or services are sold,
43 leased or rented, valued in money, whether received in money or

1 otherwise, without any deduction for the following:

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

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

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

8 (D) delivery charges; and

9 (E) installation charges.

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

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

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

17 (C) the amount of the consideration attributable to the sale is fixed
18 and determinable by the seller at the time of the sale of the item to the
19 purchaser; and

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

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

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

31 (iii) the price reduction or discount is identified as a third party price
32 reduction or discount on the invoice received by the purchaser or on a
33 coupon, certificate or other documentation presented by the purchaser.

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

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

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

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

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

4 (E) commencing on July 1, 2018, and ending on June 30, 2021, cash
5 rebates granted by a manufacturer to a purchaser or lessee of a new motor
6 vehicle if paid directly to the retailer as a result of the original sale.

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

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

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

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

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

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

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

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

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

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

1 conference bridge.

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

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

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

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

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

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

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

33 (3) tangible personal property;

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

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

36 (6) internet access service;

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

1 (8) ancillary services; or

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

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

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

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

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

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

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

34 (hhh) "Cereal malt beverage" shall have the same meaning as such
35 term is defined in K.S.A. 41-2701, and amendments thereto, except that
36 for the purposes of the Kansas retailers sales tax act and for no other
37 purpose, such term shall include beer containing not more than 6% alcohol
38 by volume when such beer is sold by a retailer licensed under the Kansas
39 cereal malt beverage act.

40 (iii) (1) *"Bottled water" means water that is placed in a safety sealed*
41 *container or package for human consumption. "Bottled water" is calorie*
42 *free and does not contain sweeteners or other additives, except that it may*
43 *contain:*

- 1 (A) *Antimicrobial agents;*
2 (B) *fluoride;*
3 (C) *carbonation;*
4 (D) *vitamins, minerals and electrolytes;*
5 (E) *oxygen;*
6 (F) *preservatives; or*
7 (G) *only those flavors, extracts or essences derived from a spice or*
8 *fruit.*

9 (2) *"Bottled water" includes water that is delivered to the buyer in a*
10 *reusable container that is not sold with the water.*

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

16 (lll) *"Food sold through vending machines" means food dispensed*
17 *from a machine or other mechanical device that accepts payment.*

18 (mmm) (1) *"Prepared food" means:*

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

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

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

26 (2) *"Prepared food" does not include food that is only cut,*
27 *repackaged or pasteurized by the seller, and eggs, fish, meat, poultry and*
28 *foods containing these raw animal foods requiring cooking by the*
29 *consumer as recommended by the food and drug administration in chapter*
30 *3, part 401.11 of the food and drug administration food code so as to*
31 *prevent food borne illnesses.*

32 (nnn) *"Soft drinks" means nonalcoholic beverages that contain*
33 *natural or artificial sweeteners. "Soft drinks" does not include beverages*
34 *that contain milk or milk products, soy, rice or similar milk substitutes, or*
35 *greater than 50% vegetable or fruit juice by volume.*

36 (ooo) *"Dietary supplement" means the same as defined in K.S.A. 79-*
37 *3606(jjj), and amendments thereto.*

38 Sec. 12. K.S.A. 2020 Supp. 79-3603 is hereby amended to read as
39 follows: 79-3603. For the privilege of engaging in the business of selling
40 tangible personal property at retail in this state or rendering or furnishing
41 any of the services taxable under this act, there is hereby levied and there
42 shall be collected and paid a tax at the rate of 6.5%, *except as otherwise*
43 *provided in section 3, and amendments thereto.* On and after July 1, 2021,

1 16.154% of the ~~6.5%~~ rate imposed *pursuant to this section* shall be levied
2 for the state highway fund, the state highway fund purposes and those
3 purposes specified in K.S.A. 68-416, and amendments thereto, and all
4 revenue collected and received from such tax levy shall be deposited in the
5 state highway fund. Within a redevelopment district established pursuant
6 to K.S.A. 74-8921, and amendments thereto, there is hereby levied and
7 there shall be collected and paid an additional tax at the rate of 2% until
8 the earlier of the date the bonds issued to finance or refinance the
9 redevelopment project have been paid in full or the final scheduled
10 maturity of the first series of bonds issued to finance any part of the
11 project. *Such tax shall be imposed* upon:

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

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

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

42 (d) the gross receipts from the sale of meals or drinks furnished at any
43 private club, drinking establishment, catered event, restaurant, eating

1 house, dining car, hotel, drugstore or other place where meals or drinks are
2 regularly sold to the public;

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

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

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

18 (h) the gross receipts from the service of renting or leasing of tangible
19 personal property except such tax shall not apply to the renting or leasing
20 of machinery, equipment or other personal property owned by a city and
21 purchased from the proceeds of industrial revenue bonds issued prior to
22 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through
23 12-1749, and amendments thereto, and any city or lessee renting or leasing
24 such machinery, equipment or other personal property purchased with the
25 proceeds of such bonds who shall have paid a tax under the provisions of
26 this section upon sales made prior to July 1, 1973, shall be entitled to a
27 refund from the sales tax refund fund of all taxes paid thereon;

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

31 (j) the gross receipts from the rendering of the services of washing
32 and washing and waxing of vehicles;

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

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

40 (2) Any such contractor, subcontractor or repairman who maintains
41 an inventory of such property both for sale at retail and for use by them for
42 the purposes described by paragraph (1) shall be deemed a retailer with
43 respect to purchases for and sales from such inventory, except that the

1 gross receipts received from any such sale, other than a sale at retail, shall
2 be equal to the total purchase price paid for such property and the tax
3 imposed thereon shall be paid by the deemed retailer;

4 (m) the gross receipts received from fees and charges by public and
5 private clubs, drinking establishments, organizations and businesses for
6 participation in sports, games and other recreational activities, but such tax
7 shall not be levied and collected upon the gross receipts received from: (1)
8 Fees and charges by any political subdivision, by any organization exempt
9 from property taxation pursuant to K.S.A. 79-201 *Ninth*, and amendments
10 thereto, or by any youth recreation organization exclusively providing
11 services to persons 18 years of age or younger which is exempt from
12 federal income taxation pursuant to section 501(c)(3) of the federal
13 internal revenue code of 1986, for participation in sports, games and other
14 recreational activities; and (2) entry fees and charges for participation in a
15 special event or tournament sanctioned by a national sporting association
16 to which spectators are charged an admission which is taxable pursuant to
17 subsection (e);

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

28 (o) the gross receipts received from the isolated or occasional sale of
29 motor vehicles or trailers but not including: (1) The transfer of motor
30 vehicles or trailers by a person to a corporation or limited liability
31 company solely in exchange for stock securities or membership interest in
32 such corporation or limited liability company; (2) the transfer of motor
33 vehicles or trailers by one corporation or limited liability company to
34 another when all of the assets of such corporation or limited liability
35 company are transferred to such other corporation or limited liability
36 company; or (3) the sale of motor vehicles or trailers which are subject to
37 taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and
38 amendments thereto, by an immediate family member to another
39 immediate family member. For the purposes of paragraph (3), immediate
40 family member means lineal ascendants or descendants, and their spouses.
41 Any amount of sales tax paid pursuant to the Kansas retailers sales tax act
42 on the isolated or occasional sale of motor vehicles or trailers on and after
43 July 1, 2004, which the base for computing the tax was the value pursuant

1 to K.S.A. 79-5105(a), (b)(1) and (b)(2), and amendments thereto, when
2 such amount was higher than the amount of sales tax which would have
3 been paid under the law as it existed on June 30, 2004, shall be refunded to
4 the taxpayer pursuant to the procedure prescribed by this section. Such
5 refund shall be in an amount equal to the difference between the amount of
6 sales tax paid by the taxpayer and the amount of sales tax which would
7 have been paid by the taxpayer under the law as it existed on June 30,
8 2004. Each claim for a sales tax refund shall be verified and submitted not
9 later than six months from the effective date of this act to the director of
10 taxation upon forms furnished by the director and shall be accompanied by
11 any additional documentation required by the director. The director shall
12 review each claim and shall refund that amount of tax paid as provided by
13 this act. All such refunds shall be paid from the sales tax refund fund, upon
14 warrants of the director of accounts and reports pursuant to vouchers
15 approved by the director of taxation or the director's designee. No refund
16 for an amount less than \$10 shall be paid pursuant to this act. In
17 determining the base for computing the tax on such isolated or occasional
18 sale, the fair market value of any motor vehicle or trailer traded in by the
19 purchaser to the seller may be deducted from the selling price;

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

30 For the purposes of this subsection:

31 (1) "Original construction"—~~shall mean~~ *means* the first or initial
32 construction of a new building or facility. The term "original construction"
33 shall include the addition of an entire room or floor to any existing
34 building or facility, the completion of any unfinished portion of any
35 existing building or facility and the restoration, reconstruction or
36 replacement of a building, facility or utility structure damaged or
37 destroyed by fire, flood, tornado, lightning, explosion, windstorm, ice
38 loading and attendant winds, terrorism or earthquake, but such term,
39 except with regard to a residence, shall not include replacement,
40 remodeling, restoration, renovation or reconstruction under any other
41 circumstances;

42 (2) "building"—~~shall mean~~ *means* only those enclosures within which
43 individuals customarily are employed, or which are customarily used to

1 house machinery, equipment or other property, and including the land
2 improvements immediately surrounding such building;

3 (3) "facility"~~shall mean~~ *means* a mill, plant, refinery, oil or gas well,
4 water well, feedlot or any conveyance, transmission or distribution line of
5 any cooperative, nonprofit, membership corporation organized under or
6 subject to the provisions of K.S.A. 17-4601 et seq., and amendments
7 thereto, or municipal or quasi-municipal corporation, including the land
8 improvements immediately surrounding such facility;

9 (4) "residence"~~shall mean~~ *means* only those enclosures within which
10 individuals customarily live;

11 (5) "utility structure"~~shall mean~~ *means* transmission and distribution
12 lines owned by an independent transmission company or cooperative, the
13 Kansas electric transmission authority or natural gas or electric public
14 utility; and

15 (6) "windstorm"~~shall mean~~ *means* straight line winds of at least 80
16 miles per hour as determined by a recognized meteorological reporting
17 agency or organization;

18 (q) the gross receipts received for the service of repairing, servicing,
19 altering or maintaining tangible personal property which when such
20 services are rendered is not being held for sale in the regular course of
21 business, and whether or not any tangible personal property is transferred
22 in connection therewith. The tax imposed by this subsection shall be
23 applicable to the services of repairing, servicing, altering or maintaining an
24 item of tangible personal property which has been and is fastened to,
25 connected with or built into real property;

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

29 (s) on and after January 1, 2005, the gross receipts received from the
30 sale of prewritten computer software and the sale of the services of
31 modifying, altering, updating or maintaining prewritten computer
32 software, whether the prewritten computer software is installed or
33 delivered electronically by tangible storage media physically transferred to
34 the purchaser or by load and leave;

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

36 (u) the gross receipts received from the sale of prepaid calling service
37 and prepaid wireless calling service as defined in K.S.A. 79-3673, and
38 amendments thereto;

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

42 (w) all sales of charitable raffle tickets in accordance with K.S.A. 75-
43 5171 et seq., and amendments thereto, shall be exempt from taxes imposed

1 pursuant to this section.

2 Sec. 13. K.S.A. 2020 Supp. 79-3703 is hereby amended to read as
3 follows: 79-3703. There is hereby levied and there shall be collected from
4 every person in this state a tax or excise for the privilege of using, storing,
5 or consuming within this state any article of tangible personal property.
6 Such tax shall be levied and collected in an amount equal to the
7 consideration paid by the taxpayer multiplied by the rate of 6.5% *and the*
8 *rate on food and food ingredients provided in section 3, and amendments*
9 *thereto*. On and after July 1, 2021, 16.154% at the ~~6.5%~~ rate imposed
10 *pursuant to this section* shall be levied for the state highway fund, the state
11 highway fund purposes and those purposes specified in K.S.A. 68-416,
12 and amendments thereto, and all revenue collected and received from such
13 tax levy shall be deposited in the state highway fund. Within a
14 redevelopment district established pursuant to K.S.A. 74-8921, and
15 amendments thereto, there is hereby levied and there shall be collected and
16 paid an additional tax of 2% until the earlier of: (1) The date the bonds
17 issued to finance or refinance the redevelopment project undertaken in the
18 district have been paid in full; or (2) the final scheduled maturity of the
19 first series of bonds issued to finance the redevelopment project. All
20 property purchased or leased within or without this state and subsequently
21 used, stored or consumed in this state shall be subject to the compensating
22 tax if the same property or transaction would have been subject to the
23 Kansas retailers' sales tax had the transaction been wholly within this state.

24 Sec. 14. K.S.A. 79-3310, 79-3310c, 79-3311, 79-3312, 79-3371, 79-
25 3378, 79-3387 and 79-3602 and K.S.A. 2020 Supp. 79-3603 and 79-3703
26 are hereby repealed.

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