

As Amended by House Committee

Session of 2022

HOUSE BILL No. 2711

By Committee on Taxation

2-16

1 AN ACT concerning taxation; reducing the rate of sales and compensating
2 use tax imposed on all sales and further reducing the rate on sales of
3 food and food ingredients; relating to income tax; making the food
4 sales tax credit a refundable income tax credit and discontinuing such
5 credit when sales tax on food is 0%; amending K.S.A. 13-13a39, 79-
6 32,271, 79-3620 and 79-3710 and K.S.A. 2021 Supp. 12-189a, 79-
7 3602, 79-3603 and 79-3703 and repealing the existing sections.

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

10 New Section 1. (a) There is hereby levied and there shall be
11 collected and paid a tax upon the gross receipts from the sale of food and
12 food ingredients. The rate of tax shall be 3.5%, except as otherwise
13 provided pursuant to section 2, and amendments thereto.

14 (b) The provisions of this subsection shall not apply to prepared food
15 unless sold without eating utensils provided by the seller and described
16 below:

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

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

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

23 (3) bakery items, including bread, rolls, buns, biscuits, bagels,
24 croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars,
25 cookies and tortillas; or

26 (4) food sold that ordinarily requires additional cooking, as opposed
27 to just reheating, by the consumer prior to consumption.

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

30 New Sec. 2. (a) Commencing July 1, 2023, and each July 1
31 thereafter, if the balance of the budget stabilization fund, established in
32 K.S.A. 75-6706, and amendments thereto, is \$100,000,000 or greater, the
33 director of legislative research shall certify to the secretary of revenue and
34 the director of the budget that such balance requirement was satisfied.
35 Upon receipt of such certification, the secretary of revenue shall reduce by
36 1.2% the state rate for sales and compensating use taxes on food and food

1 ingredients set forth in section 1, and amendments thereto. Such new rate
2 shall go into effect the following January 1. The secretary shall publish the
3 new rate for sales and compensating use taxes to take effect pursuant to
4 law. The rate established pursuant to this subsection shall remain in effect
5 unless further reduced pursuant to this section. Upon the rate being
6 reduced to 0%, the rate shall be set permanently at 0% and no further
7 reductions shall occur. In no event shall the rate be reduced pursuant to
8 this section below 0%.

9 (b) The provisions of this section shall be a part of and supplemental
10 to the Kansas retailers' sales tax act.

11 Sec. 3. K.S.A. 2021 Supp. 12-189a is hereby amended to read as
12 follows: 12-189a. The following sales shall be subject to the taxes levied
13 and collected by all cities and counties under the provisions of K.S.A. 12-
14 187 et seq., and amendments thereto:

15 (a) All sales of natural gas, electricity, heat and water delivered
16 through mains, lines or pipes to residential premises for noncommercial
17 use by the occupant of such premises and all sales of natural gas,
18 electricity, heat and water delivered through mains, lines or pipes for
19 agricultural use, except that effective January 1, 2006, the provisions of
20 this subsection shall expire for sales of water pursuant to this subsection;

21 (b) all sales of propane gas, LP-gas, coal, wood and other fuel sources
22 for the production of heat or lighting for noncommercial use of an
23 occupant of residential premises; ~~and~~

24 (c) all sales of intrastate telephone and telegraph services for
25 noncommercial use; *and*

26 (d) *all sales of food and food ingredients.*

27 Sec. 4. K.S.A. 13-13a39 is hereby amended to read as follows: 13-
28 13a39. ~~The following~~ *Sales subject to the countywide and city retailers'*
29 *sales tax pursuant to K.S.A. 12-189a, and amendments thereto,* shall also
30 be subject to the taxes levied by Washburn University of Topeka under the
31 provisions of K.S.A. 13-13a38, and amendments thereto:

32 ~~(a) All sales of natural gas, electricity, heat and water delivered~~
33 ~~through mains, lines or pipes to residential premises for noncommercial~~
34 ~~use by the occupant of such premises and all sales of natural gas,~~
35 ~~electricity, heat and water delivered through mains, lines or pipes for~~
36 ~~agricultural use;~~

37 ~~(b) all sales of propane gas, LP-gas, coal, wood and other fuel sources~~
38 ~~for the production of heat or lighting for noncommercial use of an~~
39 ~~occupant of residential premises; and~~

40 ~~(c) all sales of intrastate telephone and telegraph services for~~
41 ~~noncommercial use.~~

42 Sec. 5. K.S.A. 79-32,271 is hereby amended to read as follows: 79-
43 32,271. (a) ~~For any taxable year commencing after December 31, 2014, A~~

1 credit shall be allowed against the tax imposed by the Kansas income tax
2 act on the Kansas taxable income of an individual income taxpayer who
3 purchased food in this state, had federal adjusted gross income for the tax
4 year that did not exceed \$30,615, and meets the qualifications in
5 subsections (b) and (c). *The provisions of this section shall expire and*
6 *have no effect commencing the taxable year, and all taxable years*
7 *thereafter, that the tax imposed on the sale of food and food ingredients*
8 *pursuant to sections 1 and 2, and amendments thereto, is 0%.*

9 (b) During the entire tax year a taxpayer filing single, head of
10 household, or married filing separate, or the taxpayer and the taxpayer's
11 spouse if married filing jointly, must be domiciled in this state. For
12 purposes of this credit, "domicile" shall not include any correctional
13 facility, or portion thereof, as defined in K.S.A. 75-5202, and amendments
14 thereto, any juvenile correctional facility, or portion thereof, as defined in
15 K.S.A. 38-2302, and amendments thereto, any correctional facility of the
16 federal bureau of prisons located in the state of Kansas, or any city or
17 county jail facility in the state of Kansas.

18 (c) During the entire tax year a taxpayer filing single, head of
19 household, or married filing separate, or the taxpayer or the taxpayer's
20 spouse if married filing jointly, must be either: (1) A person having a
21 disability, regardless of age; (2) a person without a disability who is 55
22 years of age or older; or (3) a person without a disability who is younger
23 than 55 years of age who claims an exemption for one or more dependent
24 children under 18 years of age.

25 (d) The amount of the credit shall be \$125 for every exemption
26 claimed on the taxpayer's federal income tax return, except that no
27 exemption shall be counted for a dependent unless the dependent is a child
28 under 18 years of age.

29 (e) (1) *For the taxable years ending prior to January 1, 2023, the*
30 *credit allowed under this ~~provision~~ section shall be applied against the*
31 *taxpayer's income tax liability after all other credits allowed under the*
32 *income tax act. It shall not be refundable and may not be carried forward.*

33 (2) *For any taxable year commencing after December 31, 2022, if the*
34 *amount of the credit allowed by this section exceeds the taxpayer's income*
35 *tax liability imposed under the Kansas income tax act, such excess amount*
36 *shall be refunded to the taxpayer.*

37 (f) (1) Every taxpayer claiming the credit shall supply the division in
38 support of a claim, reasonable proof of domicile, age and disability.

39 (2) A claim alleging disability shall be supported by a report of the
40 examining physician of the claimant with a statement or certificate that the
41 applicant has a disability as defined in subsection (g).

42 (g) "Disability" means: (1) Inability to engage in any substantial
43 gainful activity by reason of any medically determinable physical or

1 mental impairment which can be expected to result in death or has lasted
2 or can be expected to last for a continuous period of not less than 12
3 months, and an individual shall be determined to be under a disability only
4 if the physical or mental impairment or impairments are of such severity
5 that the individual is not only unable to do the individual's previous work
6 but cannot, considering age, education and work experience, engage in any
7 other kind of substantial gainful work which exists in the national
8 economy, regardless of whether such work exists in the immediate area in
9 which the individual lives or whether a specific job vacancy exists for the
10 individual, or whether the individual would be hired if application was
11 made for work. For purposes of this paragraph, with respect to any
12 individual, "work which exists in the national economy" means work
13 which exists in significant numbers either in the region where the
14 individual lives or in several regions of the country; and "physical or
15 mental impairment" means an impairment that results from anatomical,
16 physiological or psychological abnormalities which are demonstrable by
17 medically acceptable clinical and laboratory diagnostic techniques; or

18 (2) blindness and inability by reason of blindness to engage in
19 substantial gainful activity requiring skills or abilities comparable to those
20 of any gainful activity in which the individual has previously engaged with
21 some regularity and over a substantial period of time. For purposes of this
22 paragraph, "blindness" means central visual acuity of $^{20}/_{200}$ or less in the
23 better eye with the use of a correcting lens. An eye which is accompanied
24 by a limitation in the fields of vision such that the widest diameter of the
25 visual field subtends an angle no greater than 20 degrees shall be
26 considered for the purpose of this paragraph as having a central visual
27 acuity of $^{20}/_{200}$ or less.

28 (h) The secretary of revenue is hereby authorized to adopt such rules
29 and regulations as may be necessary for the administration of the
30 provisions of this section.

31 Sec. 6. K.S.A. 2021 Supp. 79-3602 is hereby amended to read as
32 follows: 79-3602. Except as otherwise provided, as used in the Kansas
33 retailers' sales tax act:

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

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

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

41 (d) "Certified automated system (CAS)" means software certified
42 under the agreement to calculate the tax imposed by each jurisdiction on a
43 transaction, determine the amount of tax to remit to the appropriate state

1 and maintain a record of the transaction.

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

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

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

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

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

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

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

29 (l) "Educational institution" means any nonprofit school, college and
30 university that offers education at a level above the 12th grade, and
31 conducts regular classes and courses of study required for accreditation by,
32 or membership in, the higher learning commission, the state board of
33 education, or that otherwise qualify as an "educational institution," as
34 defined by K.S.A. 74-50,103, and amendments thereto. Such phrase shall
35 include: (1) A group of educational institutions that operates exclusively
36 for an educational purpose; (2) nonprofit endowment associations and
37 foundations organized and operated exclusively to receive, hold, invest
38 and administer moneys and property as a permanent fund for the support
39 and sole benefit of an educational institution; (3) nonprofit trusts,
40 foundations and other entities organized and operated principally to hold
41 and own receipts from intercollegiate sporting events and to disburse such
42 receipts, as well as grants and gifts, in the interest of collegiate and
43 intercollegiate athletic programs for the support and sole benefit of an

1 educational institution; and (4) nonprofit trusts, foundations and other
2 entities organized and operated for the primary purpose of encouraging,
3 fostering and conducting scholarly investigations and industrial and other
4 types of research for the support and sole benefit of an educational
5 institution.

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

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

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

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

35 (1) Containers, labels and shipping cases used in the distribution of
36 property produced, manufactured or compounded for sale that are not to be
37 returned to the producer, manufacturer or compounder for reuse.

38 (2) Containers, labels, shipping cases, paper bags, drinking straws,
39 paper plates, paper cups, twine and wrapping paper used in the distribution
40 and sale of property taxable under the provisions of this act by wholesalers
41 and retailers and that is not to be returned to such wholesaler or retailer for
42 reuse.

43 (3) Seeds and seedlings for the production of plants and plant

1 products produced for resale.

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

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

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

11 (q) "Isolated or occasional sale" means the nonrecurring sale of
12 tangible personal property, or services taxable hereunder by a person not
13 engaged at the time of such sale in the business of selling such property or
14 services. Any religious organization that makes a nonrecurring sale of
15 tangible personal property acquired for the purpose of resale shall be
16 deemed to be not engaged at the time of such sale in the business of selling
17 such property. Such term shall include:

18 (1) Any sale by a bank, savings and loan institution, credit union or
19 any finance company licensed under the provisions of the Kansas uniform
20 consumer credit code of tangible personal property that has been
21 repossessed by any such entity; and

22 (2) any sale of tangible personal property made by an auctioneer or
23 agent on behalf of not more than two principals or households if such sale
24 is nonrecurring and any such principal or household is not engaged at the
25 time of such sale in the business of selling tangible personal property.

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

30 (1) Lease or rental does not include:

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

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

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

43 (2) Lease or rental does include agreements covering motor vehicles

1 and trailers where the amount of consideration may be increased or
2 decreased by reference to the amount realized upon sale or disposition of
3 the property as defined in 26 U.S.C. § 7701(h)(1).

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

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

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

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

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

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

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

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

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

39 (z) "Persons" means any individual, firm, copartnership, joint
40 adventure, association, corporation, estate or trust, receiver or trustee, or
41 any group or combination acting as a unit, and the plural as well as the
42 singular number; and shall specifically mean any city or other political
43 subdivision of the state of Kansas engaging in a business or providing a

1 service specifically taxable under the provisions of this act.

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

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

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

33 (dd) "Property which is consumed" means tangible personal property
34 that is essential or necessary to and that is used in the actual process of and
35 consumed, depleted or dissipated within one year in:

36 (1) The production, manufacture, processing, mining, drilling,
37 refining or compounding of tangible personal property;

38 (2) the providing of services;

39 (3) the irrigation of crops, for sale in the regular course of business;

40 or

41 (4) the storage or processing of grain by a public grain warehouse or
42 other grain storage facility, and which is not reusable for such purpose.

43 The following is a listing of tangible personal property, included by way of

1 illustration but not of limitation, that qualifies as property that is
2 consumed:

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

8 (B) electricity, gas and water; and

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

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

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

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

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

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

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

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

39 (ll) (1) "Sales or selling price" applies to the measure subject to sales
40 tax and means the total amount of consideration, including cash, credit,
41 property and services, for which personal property or services are sold,
42 leased or rented, valued in money, whether received in money or
43 otherwise, without any deduction for the following:

- 1 (A) The seller's cost of the property sold;
- 2 (B) the cost of materials used, labor or service cost, interest, losses,
3 all costs of transportation to the seller, all taxes imposed on the seller and
4 any other expense of the seller;
- 5 (C) charges by the seller for any services necessary to complete the
6 sale, other than delivery and installation charges;
- 7 (D) delivery charges; and
- 8 (E) installation charges.
- 9 (2) "Sales or selling price" includes consideration received by the
10 seller from third parties if:
- 11 (A) The seller actually receives consideration from a party other than
12 the purchaser and the consideration is directly related to a price reduction
13 or discount on the sale;
- 14 (B) the seller has an obligation to pass the price reduction or discount
15 through to the purchaser;
- 16 (C) the amount of the consideration attributable to the sale is fixed
17 and determinable by the seller at the time of the sale of the item to the
18 purchaser; and
- 19 (D) one of the following criteria is met:
- 20 (i) The purchaser presents a coupon, certificate or other
21 documentation to the seller to claim a price reduction or discount where
22 the coupon, certificate or documentation is authorized, distributed or
23 granted by a third party with the understanding that the third party will
24 reimburse any seller to whom the coupon, certificate or documentation is
25 presented;
- 26 (ii) the purchaser identifies to the seller that the purchaser is a
27 member of a group or organization entitled to a price reduction or
28 discount. A preferred customer card that is available to any patron does not
29 constitute membership in such a group; or
- 30 (iii) the price reduction or discount is identified as a third party price
31 reduction or discount on the invoice received by the purchaser or on a
32 coupon, certificate or other documentation presented by the purchaser.
- 33 (3) "Sales or selling price" shall not include:
- 34 (A) Discounts, including cash, term or coupons that are not
35 reimbursed by a third party that are allowed by a seller and taken by a
36 purchaser on a sale;
- 37 (B) interest, financing and carrying charges from credit extended on
38 the sale of personal property or services, if the amount is separately stated
39 on the invoice, bill of sale or similar document given to the purchaser;
- 40 (C) any taxes legally imposed directly on the consumer that are
41 separately stated on the invoice, bill of sale or similar document given to
42 the purchaser;
- 43 (D) the amount equal to the allowance given for the trade-in of

1 property, if separately stated on the invoice, billing or similar document
2 given to the purchaser; and

3 (E) commencing on July 1, 2018, and ending on June 30, 2024, cash
4 rebates granted by a manufacturer to a purchaser or lessee of a new motor
5 vehicle if paid directly to the retailer as a result of the original sale.

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

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

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

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

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

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

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

27 (tt) "Over-the-counter drug" means a drug that contains a label that
28 identifies the product as a drug as required by 21 C.F.R. § 201.66. The
29 over-the-counter drug label includes:

30 (1) A drug facts panel; or

31 (2) a statement of the active ingredients with a list of those
32 ingredients contained in the compound, substance or preparation. Over-
33 the-counter drugs do not include grooming and hygiene products such as
34 soaps, 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, that 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) "Nonprofit integrated community care organization" means an
41 entity that is:

42 (1) Exempt from federal income taxation pursuant to section 501(c)
43 (3) of the federal internal revenue code of 1986;

1 (2) certified to participate in the medicare program as a hospice under
2 42 C.F.R. § 418 et seq. and focused on providing care to the aging and
3 indigent population at home and through inpatient care, adult daycare or
4 assisted living facilities and related facilities and services across multiple
5 counties; and

6 (3) approved by the Kansas department for aging and disability
7 services as an organization providing services under the program of all-
8 inclusive care for the elderly as defined in 42 U.S.C. § 1396u-4 and
9 regulations implementing such section.

10 *(jjj) (1) "Bottled water" means water that is placed in a safety sealed*
11 *container or package for human consumption. "Bottled water" is calorie*
12 *free and does not contain sweeteners or other additives, except that it may*
13 *contain:*

14 *(A) Antimicrobial agents;*

15 *(B) fluoride;*

16 *(C) carbonation;*

17 *(D) vitamins, minerals and electrolytes;*

18 *(E) oxygen;*

19 *(F) preservatives; or*

20 *(G) only those flavors, extracts or essences derived from a spice or*
21 *fruit.*

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

24 *(lll) (1) "Candy" means a preparation of sugar, honey or other*
25 *natural or artificial sweeteners in combination with chocolate, fruits, nuts*
26 *or other ingredients or flavorings in the form of bars, drops or pieces.*

27 *(2) "Candy" does not include any preparation containing flour and*
28 *shall require no refrigeration.*

29 *(mmm) "Dietary supplement" means the same as defined in K.S.A.*
30 *79-3606(jjj), and amendments thereto.*

31 *(nnn) "Food sold through vending machines" means food dispensed*
32 *from a machine or other mechanical device that accepts payment.*

33 *(ooo) (1) "Prepared food" means:*

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

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

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

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

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

43 *(B) eggs, fish, meat, poultry or foods containing these raw animal*

1 *foods that require cooking by the consumer as recommended by the food*
2 *and drug administration in chapter 3, part 401.11 of the food and drug*
3 *administration food code so as to prevent food borne illnesses.*

4 *(ppp) (1) "Soft drinks" means nonalcoholic beverages that contain*
5 *natural or artificial sweeteners.*

6 *(2) "Soft drinks" does not include beverages that contain milk or milk*
7 *products, soy, rice or similar milk substitutes or beverages that are greater*
8 *than 50% vegetable or fruit juice by volume.*

9 Sec. 7. K.S.A. 2021 Supp. 79-3603 is hereby amended to read as
10 follows: 79-3603. For the privilege of engaging in the business of selling
11 tangible personal property at retail in this state or rendering or furnishing
12 any of the services taxable under this act, there is hereby levied and there
13 shall be collected and paid a tax at the rate of ~~6.5%~~ 6.3%. On and after
14 July 1, ~~2021, 16.154%~~ 2022, ~~17.619%~~ **18%** of the ~~6.5% rate tax rates~~
15 imposed *pursuant this section and the rates provided in sections 1 and 2,*
16 *and amendments thereto,* shall be levied for the state highway fund, the
17 state highway fund purposes and those purposes specified in K.S.A. 68-
18 416, and amendments thereto, and all revenue collected and received from
19 such tax levy shall be deposited in the state highway fund.

20 Within a redevelopment district established pursuant to K.S.A. 74-
21 8921, and amendments thereto, there is hereby levied and there shall be
22 collected and paid an additional tax at the rate of 2% until the earlier of the
23 date the bonds issued to finance or refinance the redevelopment project
24 have been paid in full or the final scheduled maturity of the first series of
25 bonds issued to finance any part of the project.

26 *Such tax shall be imposed upon:*

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

29 (b) the gross receipts from intrastate, interstate or international
30 telecommunications services and any ancillary services sourced to this
31 state in accordance with K.S.A. 79-3673, and amendments thereto, except
32 that telecommunications service does not include: (1) Any interstate or
33 international 800 or 900 service; (2) any interstate or international private
34 communications service as defined in K.S.A. 79-3673, and amendments
35 thereto; (3) any value-added nonvoice data service; (4) any
36 telecommunication service to a provider of telecommunication services
37 which will be used to render telecommunications services, including
38 carrier access services; or (5) any service or transaction defined in this
39 section among entities classified as members of an affiliated group as
40 provided by section 1504 of the federal internal revenue code of 1986, as
41 in effect on January 1, 2001;

42 (c) the gross receipts from the sale or furnishing of gas, water,
43 electricity and heat, which sale is not otherwise exempt from taxation

1 under the provisions of this act, and whether furnished by municipally or
2 privately owned utilities, except that, on and after January 1, 2006, for
3 sales of gas, electricity and heat delivered through mains, lines or pipes to
4 residential premises for noncommercial use by the occupant of such
5 premises, and for agricultural use and also, for such use, all sales of
6 propane gas, the state rate shall be 0%; and for all sales of propane gas, LP
7 gas, coal, wood and other fuel sources for the production of heat or
8 lighting for noncommercial use of an occupant of residential premises, the
9 state rate shall be 0%, but such tax shall not be levied and collected upon
10 the gross receipts from: (1) The sale of a rural water district benefit unit;
11 (2) a water system impact fee, system enhancement fee or similar fee
12 collected by a water supplier as a condition for establishing service; or (3)
13 connection or reconnection fees collected by a water supplier;

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

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

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

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

33 (h) the gross receipts from the service of renting or leasing of tangible
34 personal property except such tax shall not apply to the renting or leasing
35 of machinery, equipment or other personal property owned by a city and
36 purchased from the proceeds of industrial revenue bonds issued prior to
37 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through
38 12-1749, and amendments thereto, and any city or lessee renting or leasing
39 such machinery, equipment or other personal property purchased with the
40 proceeds of such bonds who shall have paid a tax under the provisions of
41 this section upon sales made prior to July 1, 1973, shall be entitled to a
42 refund from the sales tax refund fund of all taxes paid thereon;

43 (i) the gross receipts from the rendering of dry cleaning, pressing,

1 dyeing and laundry services except laundry services rendered through a
2 coin-operated device whether automatic or manually operated;

3 (j) the gross receipts from the rendering of the services of washing
4 and washing and waxing of vehicles;

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

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

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

19 (m) the gross receipts received from fees and charges by public and
20 private clubs, drinking establishments, organizations and businesses for
21 participation in sports, games and other recreational activities, but such tax
22 shall not be levied and collected upon the gross receipts received from: (1)
23 Fees and charges by any political subdivision, by any organization exempt
24 from property taxation pursuant to K.S.A. 79-201 *Ninth*, and amendments
25 thereto, or by any youth recreation organization exclusively providing
26 services to persons 18 years of age or younger which is exempt from
27 federal income taxation pursuant to section 501(c)(3) of the federal
28 internal revenue code of 1986, for participation in sports, games and other
29 recreational activities; and (2) entry fees and charges for participation in a
30 special event or tournament sanctioned by a national sporting association
31 to which spectators are charged an admission which is taxable pursuant to
32 subsection (e);

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

43 (o) the gross receipts received from the isolated or occasional sale of

1 motor vehicles or trailers but not including: (1) The transfer of motor
2 vehicles or trailers by a person to a corporation or limited liability
3 company solely in exchange for stock securities or membership interest in
4 such corporation or limited liability company; (2) the transfer of motor
5 vehicles or trailers by one corporation or limited liability company to
6 another when all of the assets of such corporation or limited liability
7 company are transferred to such other corporation or limited liability
8 company; or (3) the sale of motor vehicles or trailers which are subject to
9 taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and
10 amendments thereto, by an immediate family member to another
11 immediate family member. For the purposes of paragraph (3), immediate
12 family member means lineal ascendants or descendants, and their spouses.
13 Any amount of sales tax paid pursuant to the Kansas retailers sales tax act
14 on the isolated or occasional sale of motor vehicles or trailers on and after
15 July 1, 2004, which the base for computing the tax was the value pursuant
16 to K.S.A. 79-5105(a), (b)(1) and (b)(2), and amendments thereto, when
17 such amount was higher than the amount of sales tax which would have
18 been paid under the law as it existed on June 30, 2004, shall be refunded to
19 the taxpayer pursuant to the procedure prescribed by this section. Such
20 refund shall be in an amount equal to the difference between the amount of
21 sales tax paid by the taxpayer and the amount of sales tax which would
22 have been paid by the taxpayer under the law as it existed on June 30,
23 2004. Each claim for a sales tax refund shall be verified and submitted not
24 later than six months from the effective date of this act to the director of
25 taxation upon forms furnished by the director and shall be accompanied by
26 any additional documentation required by the director. The director shall
27 review each claim and shall refund that amount of tax paid as provided by
28 this act. All such refunds shall be paid from the sales tax refund fund, upon
29 warrants of the director of accounts and reports pursuant to vouchers
30 approved by the director of taxation or the director's designee. No refund
31 for an amount less than \$10 shall be paid pursuant to this act. In
32 determining the base for computing the tax on such isolated or occasional
33 sale, the fair market value of any motor vehicle or trailer traded in by the
34 purchaser to the seller may be deducted from the selling price;

35 (p) the gross receipts received for the service of installing or applying
36 tangible personal property which when installed or applied is not being
37 held for sale in the regular course of business, and whether or not such
38 tangible personal property when installed or applied remains tangible
39 personal property or becomes a part of real estate, except that no tax shall
40 be imposed upon the service of installing or applying tangible personal
41 property in connection with the original construction of a building or
42 facility, the original construction, reconstruction, restoration, remodeling,
43 renovation, repair or replacement of a residence or the construction,

1 reconstruction, restoration, replacement or repair of a bridge or highway.

2 For the purposes of this subsection:

3 (1) "Original construction"—~~shall mean~~ *means* the first or initial
4 construction of a new building or facility. The term "original construction"
5 shall include the addition of an entire room or floor to any existing
6 building or facility, the completion of any unfinished portion of any
7 existing building or facility and the restoration, reconstruction or
8 replacement of a building, facility or utility structure damaged or
9 destroyed by fire, flood, tornado, lightning, explosion, windstorm, ice
10 loading and attendant winds, terrorism or earthquake, but such term,
11 except with regard to a residence, shall not include replacement,
12 remodeling, restoration, renovation or reconstruction under any other
13 circumstances;

14 (2) "building"—~~shall mean~~ *means* only those enclosures within which
15 individuals customarily are employed, or which are customarily used to
16 house machinery, equipment or other property, and including the land
17 improvements immediately surrounding such building;

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

24 (4) "residence"—~~shall mean~~ *means* only those enclosures within which
25 individuals customarily live;

26 (5) "utility structure"—~~shall mean~~ *means* transmission and distribution
27 lines owned by an independent transmission company or cooperative, the
28 Kansas electric transmission authority or natural gas or electric public
29 utility; and

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

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

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

1 (s) on and after January 1, 2005, the gross receipts received from the
2 sale of prewritten computer software and the sale of the services of
3 modifying, altering, updating or maintaining prewritten computer
4 software, whether the prewritten computer software is installed or
5 delivered electronically by tangible storage media physically transferred to
6 the purchaser or by load and leave;

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

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

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

14 (w) all sales of charitable raffle tickets in accordance with K.S.A. 75-
15 5171 et seq., and amendments thereto, shall be exempt from taxes imposed
16 pursuant to this section; *and*

17 (x) *commencing on July 1, 2022, and thereafter, the state rate on the*
18 *gross receipts from the sale of food and food ingredients as provided in*
19 *section 1, and amendments thereto, shall be as set forth in sections 1 and*
20 *2, and amendments thereto.*

21 Sec. 8. K.S.A. 79-3620 is hereby amended to read as follows: 79-
22 3620. (a) All revenue collected or received by the director of taxation from
23 the taxes imposed by this act shall be remitted to the state treasurer in
24 accordance with the provisions of K.S.A. 75-4215, and amendments
25 thereto. Upon receipt of each such remittance, the state treasurer shall
26 deposit the entire amount in the state treasury, less amounts withheld as
27 provided in subsection (b) and amounts credited as provided in subsections
28 (c), (d) and (e), to the credit of the state general fund.

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

41 ~~(c)(1) On July 1, 2010, the state treasurer shall credit 11.427% of the~~
42 ~~revenue collected and received from the tax imposed by K.S.A. 79-3603,~~
43 ~~and amendments thereto, at the rate of 6.3%, and deposited as provided by~~

1 subsection (a), exclusive of amounts credited pursuant to subsection (d), in
2 the state highway fund.

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

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

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

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

23 (6) On July 1, ~~2016~~ 2022, and thereafter, the state treasurer shall
24 credit ~~16.154%~~ ~~17.619%~~ **18%** of the revenue collected and received from
25 the tax imposed by K.S.A. 79-3603, and amendments thereto, at the ~~rate of~~
26 ~~6.5% rates provided in K.S.A. 79-3603, and amendments thereto, and~~
27 ~~sections 1 and 2, and amendments thereto,~~ and deposited as provided by
28 subsection (a), exclusive of amounts credited pursuant to subsection (d), in
29 the state highway fund.

30 (d) The state treasurer shall credit all revenue collected or received
31 from the tax imposed by K.S.A. 79-3603, and amendments thereto, as
32 certified by the director, from taxpayers doing business within that portion
33 of a STAR bond project district occupied by a STAR bond project or
34 taxpayers doing business with such entity financed by a STAR bond
35 project as defined in K.S.A. 2021 Supp. 12-17,162, and amendments
36 thereto, that was determined by the secretary of commerce to be of
37 statewide as well as local importance or will create a major tourism area
38 for the state or the project was designated as a STAR bond project as
39 defined in K.S.A. 2021 Supp. 12-17,162, and amendments thereto, to the
40 city bond finance fund, which fund is hereby created. The provisions of
41 this subsection shall expire when the total of all amounts credited
42 hereunder and under K.S.A. 79-3710(d), and amendments thereto, is
43 sufficient to retire the special obligation bonds issued for the purpose of

1 financing all or a portion of the costs of such STAR bond project.

2 (e) All revenue certified by the director of taxation as having been
3 collected or received from the tax imposed by K.S.A. 79-3603(c), and
4 amendments thereto, on the sale or furnishing of gas, water, electricity and
5 heat for use or consumption within the intermodal facility district
6 described in this subsection, shall be credited by the state treasurer to the
7 state highway fund. Such revenue may be transferred by the secretary of
8 transportation to the rail service improvement fund pursuant to law. The
9 provisions of this subsection shall take effect upon certification by the
10 secretary of transportation that a notice to proceed has been received for
11 the construction of the improvements within the intermodal facility
12 district, but not later than December 31, 2010, and shall expire when the
13 secretary of revenue determines that the total of all amounts credited
14 hereunder and pursuant to K.S.A. 79-3710(e), and amendments thereto, is
15 equal to \$53,300,000, but not later than December 31, 2045. Thereafter, all
16 revenues shall be collected and distributed in accordance with applicable
17 law. For all tax reporting periods during which the provisions of this
18 subsection are in effect, none of the exemptions contained in K.S.A. 79-
19 3601 et seq., and amendments thereto, shall apply to the sale or furnishing
20 of any gas, water, electricity and heat for use or consumption within the
21 intermodal facility district. As used in this subsection, "intermodal facility
22 district" shall consist of an intermodal transportation area as defined by
23 K.S.A. 12-1770a(oo), and amendments thereto, located in Johnson county
24 within the polygonal-shaped area having Waverly Road as the eastern
25 boundary, 191st Street as the southern boundary, Four Corners Road as the
26 western boundary, and Highway 56 as the northern boundary, and the
27 polygonal-shaped area having Poplar Road as the eastern boundary, 183rd
28 Street as the southern boundary, Waverly Road as the western boundary,
29 and the BNSF mainline track as the northern boundary, that includes
30 capital investment in an amount exceeding \$150 million for the
31 construction of an intermodal facility to handle the transfer, storage and
32 distribution of freight through railway and trucking operations.

33 Sec. 9. K.S.A. 2021 Supp. 79-3703 is hereby amended to read as
34 follows: 79-3703. (a) There is hereby levied and there shall be collected
35 from every person in this state a tax or excise for the privilege of using,
36 storing, or consuming within this state any article of tangible personal
37 property. Such tax shall be levied and collected in an amount equal to the
38 consideration paid by the taxpayer multiplied by the rate of ~~6.5%~~ 6.3%.

39 (b) *Commencing on July 1, 2022, and thereafter, the state rate on the*
40 *amount equal to the consideration paid by the taxpayer from the sale of*
41 *food and food ingredients as provided in K.S.A. 79-3603, and amendments*
42 *thereto, shall be as set forth in sections 1 and 2, and amendments thereto.*

43 (c) On and after July 1, ~~2021, 16.154%~~ at 2022, ~~17.619%~~ **18%** of the

1 ~~6.5% rate tax rates~~ imposed pursuant to this section and the rates
2 provided in sections 1 and 2, and amendments thereto, shall be levied for
3 the state highway fund, the state highway fund purposes and those
4 purposes specified in K.S.A. 68-416, and amendments thereto, and all
5 revenue collected and received from such tax levy shall be deposited in the
6 state highway fund.

7 (d) Within a redevelopment district established pursuant to K.S.A.
8 74-8921, and amendments thereto, there is hereby levied and there shall be
9 collected and paid an additional tax of 2% until the earlier of: (1) The date
10 the bonds issued to finance or refinance the redevelopment project
11 undertaken in the district have been paid in full; or (2) the final scheduled
12 maturity of the first series of bonds issued to finance the redevelopment
13 project.

14 (e) All property purchased or leased within or without this state and
15 subsequently used, stored or consumed in this state shall be subject to the
16 compensating tax if the same property or transaction would have been
17 subject to the Kansas retailers' sales tax had the transaction been wholly
18 within this state.

19 Sec. 10. K.S.A. 79-3710 is hereby amended to read as follows: 79-
20 3710. (a) All revenue collected or received by the director under the
21 provisions of this act shall be remitted to the state treasurer in accordance
22 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon
23 receipt of each such remittance, the state treasurer shall deposit the entire
24 amount in the state treasury, less amounts set apart as provided in
25 subsection (b) and amounts credited as provided in subsection (c), (d) and
26 (e), to the credit of the state general fund.

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

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

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

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

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

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

16 (6) ~~On July 1, 2016~~ 2022, and thereafter, the state treasurer shall
17 credit ~~16.154%~~ ~~17.619%~~ **18%** of the revenue collected and received from
18 the tax imposed by K.S.A. 79-3703, and amendments thereto, at the ~~rate of~~
19 ~~6.5% rates provided in K.S.A. 79-3703, and amendments thereto, and~~
20 ~~sections 1 and 2, and amendments thereto,~~ and deposited as provided by
21 subsection (a), exclusive of amounts credited pursuant to subsection (d), in
22 the state highway fund.

23 (d) The state treasurer shall credit all revenue collected or received
24 from the tax imposed by K.S.A. 79-3703, and amendments thereto, as
25 certified by the director, from taxpayers doing business within that portion
26 of a redevelopment district occupied by a redevelopment project that was
27 determined by the secretary of commerce to be of statewide as well as
28 local importance or will create a major tourism area for the state as defined
29 in K.S.A. 12-1770a, and amendments thereto, to the city bond finance
30 fund created by K.S.A. 79-3620(d), and amendments thereto. The
31 provisions of this subsection shall expire when the total of all amounts
32 credited hereunder and under K.S.A. 79-3620(d), and amendments thereto,
33 is sufficient to retire the special obligation bonds issued for the purpose of
34 financing all or a portion of the costs of such redevelopment project.

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

37 (e) All revenue certified by the director of taxation as having been
38 collected or received from the tax imposed by K.S.A. 79-3603(c), and
39 amendments thereto, on the sale or furnishing of gas, water, electricity and
40 heat for use or consumption within the intermodal facility district
41 described in this subsection, shall be credited by the state treasurer to the
42 state highway fund. Such revenue may be transferred by the secretary of
43 transportation to the rail service improvement fund pursuant to law. The

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

25 Sec. 11. K.S.A. 13-13a39, 79-32,271, 79-3620 and 79-3710 and
26 K.S.A. 2021 Supp. 12-189a, 79-3602, 79-3603 and 79-3703 are hereby
27 repealed.

28 Sec. 12. This act shall take effect and be in force from and after its
29 publication in the statute book.