

HOUSE BILL No. 2726

By Committee on Taxation

3-3

1 AN ACT concerning taxation; relating to sales and compensating use tax;
2 imposing sales tax on vehicles purchased for rental or lease; amending
3 K.S.A. 2021 Supp. 79-3602 and 79-3603 and repealing the existing
4 sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2021 Supp. 79-3602 is hereby amended to read as
8 follows: 79-3602. Except as otherwise provided, as used in the Kansas
9 retailers' sales tax act:

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

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

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

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

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

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

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

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

32 (i) "Delivery charges" means charges by the seller of personal
33 property or services for preparation and delivery to a location designated
34 by the purchaser of personal property or services including, but not limited
35 to, transportation, shipping, postage, handling, crating and packing.
36 Delivery charges shall not include charges for delivery of direct mail if the

1 charges are separately stated on an invoice or similar billing document
2 given to the purchaser.

3 (j) "Direct mail" means printed material delivered or distributed by
4 United States mail or other delivery services to a mass audience or to
5 addressees on a mailing list provided by the purchaser or at the direction of
6 the purchaser when the cost of the items are not billed directly to the
7 recipients. Direct mail includes tangible personal property supplied
8 directly or indirectly by the purchaser to the direct mail seller for inclusion
9 in the package containing the printed material. Direct mail does not
10 include multiple items of printed material delivered to a single address.

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

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

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

34 (n) "Food and food ingredients" means substances, whether in liquid,
35 concentrated, solid, frozen, dried or dehydrated form, that are sold for
36 ingestion or chewing by humans and are consumed for their taste or
37 nutritional value. "Food and food ingredients" does not include alcoholic
38 beverages or tobacco.

39 (o) "Gross receipts" means the total selling price or the amount
40 received as defined in this act, in money, credits, property or other
41 consideration valued in money from sales at retail within this state; and
42 embraced within the provisions of this act. The taxpayer, may take credit
43 in the report of gross receipts for: (1) An amount equal to the selling price

1 of property returned by the purchaser when the full sale price thereof,
2 including the tax collected, is refunded in cash or by credit; and (2) an
3 amount equal to the allowance given for the trade-in of property.

4 (p) "Ingredient or component part" means tangible personal property
5 that is necessary or essential to, and that is actually used in and becomes
6 an integral and material part of tangible personal property or services
7 produced, manufactured or compounded for sale by the producer,
8 manufacturer or compounder in its regular course of business. The
9 following items of tangible personal property are hereby declared to be
10 ingredients or component parts, but the listing of such property shall not be
11 deemed to be exclusive nor shall such listing be construed to be a
12 restriction upon, or an indication of, the type or types of property to be
13 included within the definition of "ingredient or component part" as herein
14 set forth:

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

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

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

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

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

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

34 (q) "Isolated or occasional sale" means the nonrecurring sale of
35 tangible personal property, or services taxable hereunder by a person not
36 engaged at the time of such sale in the business of selling such property or
37 services. Any religious organization that makes a nonrecurring sale of
38 tangible personal property acquired for the purpose of resale shall be
39 deemed to be not engaged at the time of such sale in the business of selling
40 such property. Such term shall include: (1) Any sale by a bank, savings and
41 loan institution, credit union or any finance company licensed under the
42 provisions of the Kansas uniform consumer credit code of tangible
43 personal property that has been repossessed by any such entity; and (2)

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

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

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

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

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

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

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

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

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

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

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

42 (v) "Model 2 seller" means a seller that has selected a CAS to
43 perform part of its sales and use tax functions, but retains responsibility for

1 remitting the tax.

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

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

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

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

24 (aa) "Political subdivision" means any municipality, agency or
25 subdivision of the state that is, or shall hereafter be, authorized to levy
26 taxes upon tangible property within the state or that certifies a levy to a
27 municipality, agency or subdivision of the state that is, or shall hereafter
28 be, authorized to levy taxes upon tangible property within the state. Such
29 term also shall include any public building commission, housing, airport,
30 port, metropolitan transit or similar authority established pursuant to law
31 and the horsethief reservoir benefit district established pursuant to K.S.A.
32 82a-2201, and amendments thereto.

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

36 (cc) "Prewritten computer software" means computer software,
37 including prewritten upgrades, that is not designed and developed by the
38 author or other creator to the specifications of a specific purchaser. The
39 combining of two or more prewritten computer software programs or
40 prewritten portions thereof does not cause the combination to be other than
41 prewritten computer software. Prewritten computer software includes
42 software designed and developed by the author or other creator to the
43 specifications of a specific purchaser when it is sold to a person other than

1 the purchaser. Where a person modifies or enhances computer software of
2 which the person is not the author or creator, the person shall be deemed to
3 be the author or creator only of such person's modifications or
4 enhancements. Prewritten computer software or a prewritten portion
5 thereof that is modified or enhanced to any degree, where such
6 modification or enhancement is designed and developed to the
7 specifications of a specific purchaser, remains prewritten computer
8 software, except that where there is a reasonable, separately stated charge
9 or an invoice or other statement of the price given to the purchaser for
10 such modification or enhancement, such modification or enhancement
11 shall not constitute prewritten computer software.

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

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

27 (B) electricity, gas and water; and

28 (C) petroleum products, lubricants, chemicals, solvents, reagents and
29 catalysts.

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

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

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

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

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

1 (jj) "Retail sale" or "sale at retail" means any sale, lease or rental for
2 any purpose other than for resale, sublease or subrent. *"Retail sale"*
3 *includes the sale of a motor vehicle as defined in K.S.A. 79-5101(d), and*
4 *amendments thereto.*

5 (kk) "Sale" or "sales" means the exchange of tangible personal
6 property, as well as the sale thereof for money, and every transaction,
7 conditional or otherwise, for a consideration, constituting a sale, including
8 the sale or furnishing of electrical energy, gas, water, services or
9 entertainment taxable under the terms of this act and including, except as
10 provided in the following provision, the sale of the use of tangible personal
11 property by way of a lease, license to use or the rental thereof regardless of
12 the method by which the title, possession or right to use the tangible
13 personal property is transferred. The term "sale" or "sales" shall not mean
14 the sale of the use of any tangible personal property used as a dwelling by
15 way of a lease or rental thereof for a term of more than 28 consecutive
16 days.

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

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

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

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

28 (D) delivery charges; and

29 (E) installation charges.

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

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

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

37 (C) the amount of the consideration attributable to the sale is fixed
38 and determinable by the seller at the time of the sale of the item to the
39 purchaser; and

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

41 (i) The purchaser presents a coupon, certificate or other
42 documentation to the seller to claim a price reduction or discount where
43 the coupon, certificate or documentation is authorized, distributed or

1 granted by a third party with the understanding that the third party will
2 reimburse any seller to whom the coupon, certificate or documentation is
3 presented;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (ss) "Entity-based exemption" means an exemption based on who
2 purchases the product or who sells the product. An exemption that is
3 available to all individuals shall not be considered an entity-based
4 exemption.

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

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

17 (vv) "Conference bridging service" means an ancillary service that
18 links two or more participants of an audio or video conference call and
19 may include the provision of a telephone number. Conference bridging
20 service does not include the telecommunications services used to reach the
21 conference bridge.

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

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

27 (yy) "Vertical service" means an ancillary service that is offered in
28 connection with one or more telecommunications services, that offers
29 advanced calling features that allow customers to identify callers and to
30 manage multiple calls and call connections, including conference bridging
31 services.

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

36 (aaa) "Telecommunications service" means the electronic
37 transmission, conveyance or routing of voice, data, audio, video or any
38 other information or signals to a point, or between or among points. The
39 term telecommunications service includes such transmission, conveyance
40 or routing in which computer processing applications are used to act on the
41 form, code or protocol of the content for purposes of transmissions,
42 conveyance or routing without regard to whether such service is referred to
43 as voice over internet protocol services or is classified by the federal

1 communications commission as enhanced or value added.
2 Telecommunications service does not include:

3 (1) Data processing and information services that allow data to be
4 generated, acquired, stored, processed or retrieved and delivered by an
5 electronic transmission to a purchaser where such purchaser's primary
6 purpose for the underlying transaction is the processed data or
7 information;

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

10 (3) tangible personal property;

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

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

13 (6) internet access service;

14 (7) radio and television audio and video programming services,
15 regardless of the medium, including the furnishing of transmission,
16 conveyance and routing of such services by the programming service
17 provider. Radio and television audio and video programming services shall
18 include, but not be limited to, cable service as defined in 47 U.S.C. §
19 522(6) and audio and video programming services delivered by
20 commercial mobile radio service providers, as defined in 47 C.F.R. § 20.3;

21 (8) ancillary services; or

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

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

29 (ccc) "900 service" means an inbound toll telecommunications
30 service purchased by a subscriber that allows the subscriber's customers to
31 call in to the subscriber's prerecorded announcement or live service. 900
32 service does not include the charge for collection services provided by the
33 seller of the telecommunications services to the subscriber, or service or
34 product sold by the subscriber to the subscriber's customer. The service is
35 typically marketed under the name 900 service, and any subsequent
36 numbers designated by the federal communications commission.

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

42 (eee) "International" means a telecommunications service that
43 originates or terminates in the United States and terminates or originates

1 outside the United States, respectively. United States includes the District
2 of Columbia or a U.S. territory or possession.

3 (fff) "Interstate" means a telecommunications service that originates
4 in one United States state, or a United States territory or possession, and
5 terminates in a different United States state or a United States territory or
6 possession.

7 (ggg) "Intrastate" means a telecommunications service that originates
8 in one United States state or a United States territory or possession, and
9 terminates in the same United States state or a United States territory or
10 possession.

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

17 (iii) "Nonprofit integrated community care organization" means an
18 entity that is:

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

21 (2) certified to participate in the medicare program as a hospice under
22 42 C.F.R. § 418 et seq. and focused on providing care to the aging and
23 indigent population at home and through inpatient care, adult daycare or
24 assisted living facilities and related facilities and services across multiple
25 counties; and

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

30 Sec. 2. K.S.A. 2021 Supp. 79-3603 is hereby amended to read as
31 follows: 79-3603. For the privilege of engaging in the business of selling
32 tangible personal property at retail in this state or rendering or furnishing
33 any of the services taxable under this act, there is hereby levied and there
34 shall be collected and paid a tax at the rate of 6.5%. On and after July 1,
35 2021, 16.154% of the 6.5% rate imposed shall be levied for the state
36 highway fund, the state highway fund purposes and those purposes
37 specified in K.S.A. 68-416, and amendments thereto, and all revenue
38 collected and received from such tax levy shall be deposited in the state
39 highway fund.

40 Within a redevelopment district established pursuant to K.S.A. 74-
41 8921, and amendments thereto, there is hereby levied and there shall be
42 collected and paid an additional tax at the rate of 2% until the earlier of the
43 date the bonds issued to finance or refinance the redevelopment project

1 have been paid in full or the final scheduled maturity of the first series of
2 bonds issued to finance any part of the project.

3 *Such tax shall be imposed* upon:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 For the purposes of this subsection:

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

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

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

- 1 (4) "residence"~~shall mean~~ *means* only those enclosures within which
2 individuals customarily live;
- 3 (5) "utility structure"~~shall mean~~ *means* transmission and distribution
4 lines owned by an independent transmission company or cooperative, the
5 Kansas electric transmission authority or natural gas or electric public
6 utility; and
- 7 (6) "windstorm"~~shall mean~~ *means* straight line winds of at least 80
8 miles per hour as determined by a recognized meteorological reporting
9 agency or organization;
- 10 (q) the gross receipts received for the service of repairing, servicing,
11 altering or maintaining tangible personal property which when such
12 services are rendered is not being held for sale in the regular course of
13 business, and whether or not any tangible personal property is transferred
14 in connection therewith. The tax imposed by this subsection shall be
15 applicable to the services of repairing, servicing, altering or maintaining an
16 item of tangible personal property which has been and is fastened to,
17 connected with or built into real property;
- 18 (r) the gross receipts from fees or charges made under service or
19 maintenance agreement contracts for services, charges for the providing of
20 which are taxable under the provisions of subsection (p) or (q);
- 21 (s) on and after January 1, 2005, the gross receipts received from the
22 sale of prewritten computer software and the sale of the services of
23 modifying, altering, updating or maintaining prewritten computer
24 software, whether the prewritten computer software is installed or
25 delivered electronically by tangible storage media physically transferred to
26 the purchaser or by load and leave;
- 27 (t) the gross receipts received for telephone answering services;
- 28 (u) the gross receipts received from the sale of prepaid calling service
29 and prepaid wireless calling service as defined in K.S.A. 79-3673, and
30 amendments thereto;
- 31 (v) all sales of bingo cards, bingo faces and instant bingo tickets by
32 licensees under K.S.A. 75-5171 et seq., and amendments thereto, shall be
33 exempt from taxes imposed pursuant to this section; ~~and~~
- 34 (w) all sales of charitable raffle tickets in accordance with K.S.A. 75-
35 5171 et seq., and amendments thereto, shall be exempt from taxes imposed
36 pursuant to this section; *and*
- 37 (x) *all sales of motor vehicles that are included under the definition*
38 *of retail sale pursuant to K.S.A. 79-3602, and amendments thereto, and*
39 *are to be used as a rental or leased vehicle when the gross receipts*
40 *generated from the rental or lease of such rental vehicle would be subject*
41 *to the tax imposed pursuant to K.S.A. 79-5117, and amendments thereto.*
42 *Sales of motor vehicles pursuant to this subsection shall not be exempt*
43 *pursuant to any exemption provided by K.S.A 79-3606, and amendments*

1 *thereto, or any other exemption provided by law. The provisions of this*
2 *subsection shall only apply to those purchasers of motor vehicles that are*
3 *primarily engaged in the business of renting cars.*

4 Sec. 3. K.S.A. 2021 Supp. 79-3602 and 79-3603 are hereby repealed.

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