

SENATE BILL No. 339

By Committee on Assessment and Taxation

1-13

1 AN ACT concerning taxation; relating to sales and compensating use tax;
2 providing a 0% state rate for sales of food and food ingredients and
3 providing for the levying of such tax by cities—and, counties *and*
4 *Washburn university of Topeka; authorizing local exemption of sales*
5 *of food and food ingredients; expanding the eligible uses for the 0%*
6 *state rate for sales of certain utilities and providing for the levying of*
7 *such tax by cities, counties and Washburn university of Topeka;*
8 *authorizing cities and counties to exempt sales of such utilities from*
9 *such city or county taxes; allowing for the retention of taxes by*
10 *retailer on movie ticket and concession sales; excluding separately*
11 *stated delivery charges from the sales or selling price; relating to*
12 *income tax; discontinuing the nonrefundable food sales tax credit;*
13 *amending K.S.A. 13-13a39 and 79-32,271 and K.S.A. 2021 Supp. 12-*
14 *189a, 79-3602, 79-3603 and 79-3703 and repealing the existing*
15 *sections.*

16
17 *Be it enacted by the Legislature of the State of Kansas:*

18 *New Section 1. (a) Notwithstanding any provision of the law to the*
19 *contrary, commencing on July 1, 2022, and ending prior to July 1, 2024,*
20 *any retailer in this state that collects sales tax on the admission of*
21 *viewing of movies or films shall be allowed to retain the state rate of any*
22 *sales tax imposed pursuant to K.S.A. 79-3603, and amendments thereto,*
23 *or compensating use tax imposed pursuant to K.S.A. 79-3703, and*
24 *amendments thereto, from the sales of:*

25 *(1) Tickets granting admission for a movie or film; and*

26 *(2) concessions sold onsite at the retailer's place of business.*

27 *(b) The retailer shall remit to the department of revenue that*
28 *portion of sales and compensating use tax collected that is in excess of*
29 *the state rate for sales tax pursuant to K.S.A. 79-3603, and amendments*
30 *thereto, or the compensating use tax pursuant to K.S.A. 79-3703, and*
31 *amendments thereto. The department shall remit the sales and*
32 *compensating use taxes levied by the other taxing jurisdictions in the*
33 *amount they would have received without taking into account subsection*
34 *(a). The state's imposed sales tax levy shall encompass the full amount*
35 *retained by the retailer pursuant to subsection (a).*

36 *(c) The department shall provide forms accounting for the sales tax*

1 *retained by the retailer that shall be filed with the department at the time*
2 *the retailer files a return pursuant to K.S.A. 79-3607, and amendments*
3 *thereto.*

4 *(d) The provisions of this section shall be a part of and*
5 *supplemental to the Kansas retailers' sales tax act.*

6 *New Sec. 2. On and after January 1, 2024, notwithstanding any*
7 *provision of law to the contrary, the governing body of any city, the*
8 *board of county commissioners of any county or the governing body of*
9 *any other local authority levying a sales tax pursuant to law may exempt*
10 *all sales of food and food ingredients that are subject to the 0% state rate*
11 *pursuant to K.S.A. 79-3603 or 79-3703, and amendments thereto, from*
12 *the sales and compensating use tax levied by such city, county or other*
13 *authority by the adoption of an ordinance or resolution authorizing the*
14 *exemption. A certified copy of the ordinance or resolution authorizing or*
15 *repealing an exemption pursuant to this section shall be submitted to the*
16 *director of taxation within 30 days after adoption of any such ordinance*
17 *or resolution. The director of taxation shall cause such exemption to be*
18 *applied at the same time and in the same manner provided for the*
19 *administration of the state retailers' sales tax. The director of taxation*
20 *shall confirm that all provisions of law applicable to the authorization of*
21 *the exemption have been followed prior to causing the exemption. Any*
22 *repeal of an exemption authorized pursuant to this section may be*
23 *accomplished by the adoption of an ordinance or resolution so*
24 *providing.*

25 ~~Section 1.~~ *Sec. 3. K.S.A. 2021 Supp. 12-189a is hereby amended to*
26 *read as follows: 12-189a. (a) The following sales shall be subject to the*
27 *taxes levied and collected by all cities and counties under the provisions of*
28 *K.S.A. 12-187 et seq., and amendments thereto:*

29 ~~(a)(1)~~ *(1) All sales of natural gas, electricity, heat and water delivered*
30 *through mains, lines or pipes to residential premises for noncommercial*
31 *use by the occupant of such premises and all sales of natural gas,*
32 *electricity, heat and water delivered through mains, lines or pipes for*
33 *agricultural use, except that effective January 1, 2006, the provisions of*
34 *this subsection shall expire for sales of water pursuant to this subsection.*
35 *The provisions of this paragraph shall expire on June 30, 2023;*

36 ~~(b)(2)~~ *(2) all sales of propane gas, LP-gas, coal, wood and other fuel*
37 *sources for the production of heat or lighting for noncommercial use of an*
38 *occupant of residential premises. The provisions of this paragraph shall*
39 *expire on June 30, 2023;*

40 *(3) on and after July 1, 2023, all sales of natural gas, electricity and*
41 *heat delivered through mains, lines or pipes to any premises for any use*
42 *by the occupant of such premises and all sales of natural gas, electricity*
43 *and heat delivered through mains, lines or pipes for agricultural use;*

1 ***(4) on and after July 1, 2023, all sales of propane gas, LP-gas, coal,***
 2 ***wood and other fuel sources for the production of heat or lighting for***
 3 ***any use of an occupant of any premises; and***

4 ~~(e)(5) all sales of intrastate telephone and telegraph services for~~
 5 ~~noncommercial use; and~~

6 ~~(d)(6) all sales of food and food ingredients.~~

7 ***(b) On and after July 1, 2023, the governing body of any city or the***
 8 ***board of county commissioners of any county may exempt all sales***
 9 ***subject to tax under the provisions of subsection (a)(3) or (a)(4), or both,***
 10 ***from the taxes levied by such city or county under the provisions of***
 11 ***K.S.A. 12-187 et seq., and amendments thereto, by the adoption of an***
 12 ***ordinance or resolution authorizing the exemption. A certified copy of***
 13 ***the ordinance or resolution authorizing or repealing an exemption***
 14 ***pursuant to this subsection shall be submitted to the director of taxation***
 15 ***within 30 days after adoption of any such ordinance or resolution. The***
 16 ***director of taxation shall cause such exemption to be applied at the same***
 17 ***time and in the same manner provided for the administration of the state***
 18 ***retailers' sales tax. The director of taxation shall confirm that all***
 19 ***provisions of law applicable to the authorization of the exemption have***
 20 ***been followed prior to causing the exemption. Any repeal of an***
 21 ***exemption authorized pursuant to this subsection may be accomplished***
 22 ***by the adoption of an ordinance or resolution so providing.***

23 ***Sec. 4. K.S.A. 13-13a39 is hereby amended to read as follows: 13-***
 24 ***13a39. The following Sales subject to the countywide and city retailers'***
 25 ***sales tax pursuant to K.S.A. 12-189a, and amendments thereto, shall also***
 26 ***be subject to the taxes levied by Washburn University of Topeka under***
 27 ***the provisions of K.S.A. 13-13a38, and amendments thereto:***

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

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

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

38 ***Sec. 2: 5. K.S.A. 79-32,271 is hereby amended to read as follows: 79-***
 39 ***32,271. (a) For any taxable year commencing after December 31, 2014,***
 40 ***and ending prior to January 1, 2023 2024, a credit shall be allowed***
 41 ***against the tax imposed by the Kansas income tax act on the Kansas***
 42 ***taxable income of an individual income taxpayer who purchased food in***
 43 ***this state, had federal adjusted gross income for the tax year that did not***

1 exceed \$30,615, and meets the qualifications in subsections (b) and (c).

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

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

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

22 (e) The credit allowed under this provision shall be applied against
23 the taxpayer's income tax liability after all other credits allowed under the
24 income tax act. It shall not be refundable and may not be carried forward.

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

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

30 (g) "Disability" means: (1) Inability to engage in any substantial
31 gainful activity by reason of any medically determinable physical or
32 mental impairment which can be expected to result in death or has lasted
33 or can be expected to last for a continuous period of not less than 12
34 months, and an individual shall be determined to be under a disability only
35 if the physical or mental impairment or impairments are of such severity
36 that the individual is not only unable to do the individual's previous work
37 but cannot, considering age, education and work experience, engage in any
38 other kind of substantial gainful work which exists in the national
39 economy, regardless of whether such work exists in the immediate area in
40 which the individual lives or whether a specific job vacancy exists for the
41 individual, or whether the individual would be hired if application was
42 made for work. For purposes of this paragraph, with respect to any
43 individual, "work which exists in the national economy" means work

1 which exists in significant numbers either in the region where the
2 individual lives or in several regions of the country; and "physical or
3 mental impairment" means an impairment that results from anatomical,
4 physiological or psychological abnormalities which are demonstrable by
5 medically acceptable clinical and laboratory diagnostic techniques; or

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

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

19 Sec. ~~3~~ 6. K.S.A. 2021 Supp. 79-3602 is hereby amended to read as
20 follows: 79-3602. Except as otherwise provided, as used in the Kansas
21 retailers' sales tax act:

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

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

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

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

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

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

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

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

1 (i) "Delivery charges" means charges by the seller of personal
2 property or services for preparation and delivery to a location designated
3 by the purchaser of personal property or services including, but not limited
4 to, transportation, shipping, postage, handling, crating and packing.
5 Delivery charges shall not include charges for delivery of direct mail if the
6 charges are separately stated on an invoice or similar billing document
7 given to the purchaser.

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

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

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

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

39 (n) "Food and food ingredients" means substances, whether in liquid,
40 concentrated, solid, frozen, dried or dehydrated form, that are sold for
41 ingestion or chewing by humans and are consumed for their taste or
42 nutritional value. *"Food and food ingredients" includes bottled water,
43 candy, dietary supplements, food sold through vending machines, prepared*

1 *food and soft drinks*. "Food and food ingredients" does not include
2 alcoholic beverages or tobacco.

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

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

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

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

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

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

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

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

41 (q) "Isolated or occasional sale" means the nonrecurring sale of
42 tangible personal property, or services taxable hereunder by a person not
43 engaged at the time of such sale in the business of selling such property or

1 services. Any religious organization that makes a nonrecurring sale of
2 tangible personal property acquired for the purpose of resale shall be
3 deemed to be not engaged at the time of such sale in the business of selling
4 such property. Such term shall include:

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

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

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

17 (1) Lease or rental does not include:

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

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

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

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

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

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

42 (s) "Load and leave" means delivery to the purchaser by use of a
43 tangible storage media where the tangible storage media is not physically

1 transferred to the purchaser.

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

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

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

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

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

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

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

32 (aa) "Political subdivision" means any municipality, agency or
33 subdivision of the state that is, or shall hereafter be, authorized to levy
34 taxes upon tangible property within the state or that certifies a levy to a
35 municipality, agency or subdivision of the state that is, or shall hereafter
36 be, authorized to levy taxes upon tangible property within the state. Such
37 term also shall include any public building commission, housing, airport,
38 port, metropolitan transit or similar authority established pursuant to law
39 and the horsethief reservoir benefit district established pursuant to K.S.A.
40 82a-2201, and amendments thereto.

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

1 (cc) "Prewritten computer software" means computer software,
2 including prewritten upgrades, that is not designed and developed by the
3 author or other creator to the specifications of a specific purchaser. The
4 combining of two or more prewritten computer software programs or
5 prewritten portions thereof does not cause the combination to be other than
6 prewritten computer software. Prewritten computer software includes
7 software designed and developed by the author or other creator to the
8 specifications of a specific purchaser when it is sold to a person other than
9 the purchaser. Where a person modifies or enhances computer software of
10 which the person is not the author or creator, the person shall be deemed to
11 be the author or creator only of such person's modifications or
12 enhancements. Prewritten computer software or a prewritten portion
13 thereof that is modified or enhanced to any degree, where such
14 modification or enhancement is designed and developed to the
15 specifications of a specific purchaser, remains prewritten computer
16 software, except that where there is a reasonable, separately stated charge
17 or an invoice or other statement of the price given to the purchaser for
18 such modification or enhancement, such modification or enhancement
19 shall not constitute prewritten computer software.

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

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

25 (2) the providing of services;

26 (3) the irrigation of crops, for sale in the regular course of business;
27 or

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

30 The following is a listing of tangible personal property, included by way of
31 illustration but not of limitation, that qualifies as property that is
32 consumed:

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

38 (B) electricity, gas and water; and

39 (C) petroleum products, lubricants, chemicals, solvents, reagents and
40 catalysts.

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

43 (ff) "Purchaser" means a person to whom a sale of personal property

1 is made or to whom a service is furnished.

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

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

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

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

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

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

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

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

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

37 (D) delivery charges *that are not separately stated on the invoice,*
38 *bill of sale or similar document given to the purchaser;* and

39 (E) installation charges.

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

42 (A) The seller actually receives consideration from a party other than
43 the purchaser and the consideration is directly related to a price reduction

1 or discount on the sale;

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

4 (C) the amount of the consideration attributable to the sale is fixed
5 and determinable by the seller at the time of the sale of the item to the
6 purchaser; and

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

8 (i) The purchaser presents a coupon, certificate or other
9 documentation to the seller to claim a price reduction or discount where
10 the coupon, certificate or documentation is authorized, distributed or
11 granted by a third party with the understanding that the third party will
12 reimburse any seller to whom the coupon, certificate or documentation is
13 presented;

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

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

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

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

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

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

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

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

37 ***(F) delivery charges that are separately stated on the invoice, bill of
38 sale or similar document given to the purchaser.***

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

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

43 (oo) "Sourcing rules" means the rules set forth in K.S.A. 79-3670

1 through 79-3673, K.S.A. 12-191 and 12-191a, and amendments thereto,
2 that shall apply to identify and determine the state and local taxing
3 jurisdiction sales or use taxes to pay, or collect and remit on a particular
4 retail sale.

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

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

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

13 (ss) "Entity-based exemption" means an exemption based on who
14 purchases the product or who sells the product. An exemption that is
15 available to all individuals shall not be considered an entity-based
16 exemption.

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

20 (1) A drug facts panel; or

21 (2) a statement of the active ingredients with a list of those
22 ingredients contained in the compound, substance or preparation. Over-
23 the-counter drugs do not include grooming and hygiene products such as
24 soaps, cleaning solutions, shampoo, toothpaste, antiperspirants and sun tan
25 lotions and screens.

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

30 (vv) "Conference bridging service" means an ancillary service that
31 links two or more participants of an audio or video conference call and
32 may include the provision of a telephone number. Conference bridging
33 service does not include the telecommunications services used to reach the
34 conference bridge.

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

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

40 (yy) "Vertical service" means an ancillary service that is offered in
41 connection with one or more telecommunications services, that offers
42 advanced calling features that allow customers to identify callers and to
43 manage multiple calls and call connections, including conference bridging

1 services.

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

6 (aaa) "Telecommunications service" means the electronic
7 transmission, conveyance or routing of voice, data, audio, video or any
8 other information or signals to a point, or between or among points. The
9 term telecommunications service includes such transmission, conveyance
10 or routing in which computer processing applications are used to act on the
11 form, code or protocol of the content for purposes of transmissions,
12 conveyance or routing without regard to whether such service is referred to
13 as voice over internet protocol services or is classified by the federal
14 communications commission as enhanced or value added.
15 Telecommunications service does not include:

16 (1) Data processing and information services that allow data to be
17 generated, acquired, stored, processed or retrieved and delivered by an
18 electronic transmission to a purchaser where such purchaser's primary
19 purpose for the underlying transaction is the processed data or
20 information;

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

23 (3) tangible personal property;

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

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

26 (6) internet access service;

27 (7) radio and television audio and video programming services,
28 regardless of the medium, including the furnishing of transmission,
29 conveyance and routing of such services by the programming service
30 provider. Radio and television audio and video programming services shall
31 include, but not be limited to, cable service as defined in 47 U.S.C. §
32 522(6) and audio and video programming services delivered by
33 commercial mobile radio service providers, as defined in 47 C.F.R. § 20.3;

34 (8) ancillary services; or

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

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

42 (ccc) "900 service" means an inbound toll telecommunications
43 service purchased by a subscriber that allows the subscriber's customers to

1 call in to the subscriber's prerecorded announcement or live service. 900
2 service does not include the charge for collection services provided by the
3 seller of the telecommunications services to the subscriber, or service or
4 product sold by the subscriber to the subscriber's customer. The service is
5 typically marketed under the name 900 service, and any subsequent
6 numbers designated by the federal communications commission.

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

12 (eee) "International" means a telecommunications service that
13 originates or terminates in the United States and terminates or originates
14 outside the United States, respectively. United States includes the District
15 of Columbia or a U.S. territory or possession.

16 (fff) "Interstate" means a telecommunications service that originates
17 in one United States state, or a United States territory or possession, and
18 terminates in a different United States state or a United States territory or
19 possession.

20 (ggg) "Intrastate" means a telecommunications service that originates
21 in one United States state or a United States territory or possession, and
22 terminates in the same United States state or a United States territory or
23 possession.

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

30 (iii) "Nonprofit integrated community care organization" means an
31 entity that is:

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

34 (2) certified to participate in the medicare program as a hospice under
35 42 C.F.R. § 418 et seq. and focused on providing care to the aging and
36 indigent population at home and through inpatient care, adult daycare or
37 assisted living facilities and related facilities and services across multiple
38 counties; and

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

43 (jjj) (1) *"Bottled water" means water that is placed in a safety sealed*

1 container or package for human consumption. "Bottled water" is calorie
2 free and does not contain sweeteners or other additives, except that it may
3 contain:

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

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

14 (III) (1) "Candy" means a preparation of sugar, honey or other
15 natural or artificial sweeteners in combination with chocolate, fruits, nuts
16 or other ingredients or flavorings in the form of bars, drops or pieces.

17 (2) "Candy" does not include any preparation containing flour and
18 shall require no refrigeration.

19 (mmm) "Dietary supplement" means the same as defined in K.S.A.
20 79-3606(jjj), and amendments thereto.

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

23 (ooo) (1) "Prepared food" means:

- 24 (A) Food sold in a heated state or heated by the seller;
- 25 (B) two or more food ingredients mixed or combined by the seller for
26 sale as a single item; or
- 27 (C) food sold with eating utensils provided by the seller, including,
28 but not limited to, plates, knives, forks, spoons, glasses, cups, napkins or
29 straws. A plate does not include a container or packaging used to
30 transport the food.

31 (2) "Prepared food" does not include:

- 32 (A) Food that is only cut, repackaged or pasteurized by the seller; or
- 33 (B) eggs, fish, meat, poultry or foods containing these raw animal
34 foods that require cooking by the consumer as recommended by the food
35 and drug administration in chapter 3, part 401.11 of the food and drug
36 administration food code so as to prevent food borne illnesses.

37 (ppp) (1) "Soft drinks" means nonalcoholic beverages that contain
38 natural or artificial sweeteners.

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

42 Sec.-4- 7. K.S.A. 2021 Supp. 79-3603 is hereby amended to read as
43 follows: 79-3603. For the privilege of engaging in the business of selling

1 tangible personal property at retail in this state or rendering or furnishing
2 any of the services taxable under this act, there is hereby levied and there
3 shall be collected and paid a tax at the rate of 6.5%. On and after July 1,
4 2021, 16.154% of the 6.5% rate imposed shall be levied for the state
5 highway fund, the state highway fund purposes and those purposes
6 specified in K.S.A. 68-416, and amendments thereto, and all revenue
7 collected and received from such tax levy shall be deposited in the state
8 highway fund.

9 Within a redevelopment district established pursuant to K.S.A. 74-
10 8921, and amendments thereto, there is hereby levied and there shall be
11 collected and paid an additional tax at the rate of 2% until the earlier of the
12 date the bonds issued to finance or refinance the redevelopment project
13 have been paid in full or the final scheduled maturity of the first series of
14 bonds issued to finance any part of the project.

15 *Such tax shall be imposed upon:*

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

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

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

1 fee collected by a water supplier as a condition for establishing service; or
2 ~~(3)~~(C) connection or reconnection fees collected by a water supplier. *The*
3 *provisions of this paragraph shall expire on June 30, 2023; and (2) on*
4 *and after July 1, 2023, the gross receipts from the sale or furnishing of*
5 *gas, water, electricity and heat, which sale is not otherwise exempt from*
6 *taxation under the provisions of this act, and whether furnished by*
7 *municipally or privately owned utilities, except that for sales of gas,*
8 *electricity and heat delivered through mains, lines or pipes to any*
9 *premises for any use by the occupant of such premises, and for*
10 *agricultural use and also, for such use, all sales of propane gas, the state*
11 *rate shall be 0%; and for all sales of propane gas, LP gas, coal, wood*
12 *and other fuel sources for the production of heat or lighting for any use*
13 *of an occupant of any premises, the state rate shall be 0%, but such tax*
14 *shall not be levied and collected upon the gross receipts from: (A) The*
15 *sale of a rural water district benefit unit; (B) a water system impact fee,*
16 *system enhancement fee or similar fee collected by a water supplier as a*
17 *condition for establishing service; or (C) connection or reconnection*
18 *fees collected by a water supplier;*

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

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

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

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

38 (h) the gross receipts from the service of renting or leasing of tangible
39 personal property except such tax shall not apply to the renting or leasing
40 of machinery, equipment or other personal property owned by a city and
41 purchased from the proceeds of industrial revenue bonds issued prior to
42 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through
43 12-1749, and amendments thereto, and any city or lessee renting or leasing

1 such machinery, equipment or other personal property purchased with the
2 proceeds of such bonds who shall have paid a tax under the provisions of
3 this section upon sales made prior to July 1, 1973, shall be entitled to a
4 refund from the sales tax refund fund of all taxes paid thereon;

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

8 (j) the gross receipts from the rendering of the services of washing
9 and washing and waxing of vehicles;

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

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

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

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

38 (n) the gross receipts received from dues charged by public and
39 private clubs, drinking establishments, organizations and businesses,
40 payment of which entitles a member to the use of facilities for recreation
41 or entertainment, but such tax shall not be levied and collected upon the
42 gross receipts received from: (1) Dues charged by any organization exempt
43 from property taxation pursuant to K.S.A. 79-201 *Eighth* and *Ninth*, and

1 amendments thereto; and (2) sales of memberships in a nonprofit
2 organization which is exempt from federal income taxation pursuant to
3 section 501(c)(3) of the federal internal revenue code of 1986, and whose
4 purpose is to support the operation of a nonprofit zoo;

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

40 (p) the gross receipts received for the service of installing or applying
41 tangible personal property which when installed or applied is not being
42 held for sale in the regular course of business, and whether or not such
43 tangible personal property when installed or applied remains tangible

1 personal property or becomes a part of real estate, except that no tax shall
2 be imposed upon the service of installing or applying tangible personal
3 property in connection with the original construction of a building or
4 facility, the original construction, reconstruction, restoration, remodeling,
5 renovation, repair or replacement of a residence or the construction,
6 reconstruction, restoration, replacement or repair of a bridge or highway.

7 For the purposes of this subsection:

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

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

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

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

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

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

38 (q) the gross receipts received for the service of repairing, servicing,
39 altering or maintaining tangible personal property which when such
40 services are rendered is not being held for sale in the regular course of
41 business, and whether or not any tangible personal property is transferred
42 in connection therewith. The tax imposed by this subsection shall be
43 applicable to the services of repairing, servicing, altering or maintaining an

1 item of tangible personal property which has been and is fastened to,
2 connected with or built into real property;

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

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

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

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

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

19 (w) all sales of charitable raffle tickets in accordance with K.S.A. 75-
20 5171 et seq., and amendments thereto, shall be exempt from taxes imposed
21 pursuant to this section; *and*

22 (x) *commencing on January 1, ~~2023~~ 2024, and thereafter, the state*
23 *rate shall be 0% on the gross receipts from the sale of food and food*
24 *ingredients.*

25 ~~Sec. 5.~~ **8.** K.S.A. 2021 Supp. 79-3703 is hereby amended to read as
26 follows: 79-3703. (a) There is hereby levied and there shall be collected
27 from every person in this state a tax or excise for the privilege of using,
28 storing, or consuming within this state any article of tangible personal
29 property. Such tax shall be levied and collected in an amount equal to the
30 consideration paid by the taxpayer multiplied by the rate of 6.5%.

31 (b) *Commencing on January 1, ~~2023~~ 2024, and thereafter, the state*
32 *rate shall be 0% on the consideration paid by the taxpayer from the sale of*
33 *food and food ingredients as provided in K.S.A. 79-3603, and amendments*
34 *thereto.*

35 (c) On and after July 1, 2021, 16.154% at the 6.5% rate imposed shall
36 be levied for the state highway fund, the state highway fund purposes and
37 those purposes specified in K.S.A. 68-416, and amendments thereto, and
38 all revenue collected and received from such tax levy shall be deposited in
39 the state highway fund.

40 (d) Within a redevelopment district established pursuant to K.S.A.
41 74-8921, and amendments thereto, there is hereby levied and there shall be
42 collected and paid an additional tax of 2% until the earlier of: (1) The date
43 the bonds issued to finance or refinance the redevelopment project

1 undertaken in the district have been paid in full; or (2) the final scheduled
2 maturity of the first series of bonds issued to finance the redevelopment
3 project.

4 (e) All property purchased or leased within or without this state and
5 subsequently used, stored or consumed in this state shall be subject to the
6 compensating tax if the same property or transaction would have been
7 subject to the Kansas retailers' sales tax had the transaction been wholly
8 within this state.

9 ~~Sec. 6.~~ **9.** K.S.A. **13-13a39** and 79-32,271 and K.S.A. 2021 Supp. 12-
10 189a, 79-3602, 79-3603 and 79-3703 are hereby repealed.

11 ~~Sec. 7.~~ **10.** This act shall take effect and be in force from and after its
12 publication in the statute book.