

HOUSE BILL No. 2484

By Committee on Taxation

1-14

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; relating to
4 income tax; discontinuing the nonrefundable food sales tax credit;
5 amending K.S.A. 79-32,271 and K.S.A. 2021 Supp. 12-189a, 79-3602,
6 79-3603 and 79-3703 and repealing the existing sections.
7

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

9 Section 1. K.S.A. 2021 Supp. 12-189a is hereby amended to read as
10 follows: 12-189a. The following sales shall be subject to the taxes levied
11 and collected by all cities and counties under the provisions of K.S.A. 12-
12 187 et seq., and amendments thereto:

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

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

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

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

25 Sec. 2. K.S.A. 79-32,271 is hereby amended to read as follows: 79-
26 32,271. (a) For any taxable year commencing after December 31, 2014,
27 *and ending prior to January 1, 2023*, a credit shall be allowed against the
28 tax imposed by the Kansas income tax act on the Kansas taxable income of
29 an individual income taxpayer who purchased food in this state, had
30 federal adjusted gross income for the tax year that did not exceed \$30,615,
31 and meets the qualifications in subsections (b) and (c).

32 (b) During the entire tax year a taxpayer filing single, head of
33 household, or married filing separate, or the taxpayer and the taxpayer's
34 spouse if married filing jointly, must be domiciled in this state. For
35 purposes of this credit, "domicile" shall not include any correctional
36 facility, or portion thereof, as defined in K.S.A. 75-5202, and amendments

1 thereto, any juvenile correctional facility, or portion thereof, as defined in
2 K.S.A. 38-2302, and amendments thereto, any correctional facility of the
3 federal bureau of prisons located in the state of Kansas, or any city or
4 county jail facility in the state of Kansas.

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

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

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

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

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

24 (g) "Disability" means: (1) Inability to engage in any substantial
25 gainful activity by reason of any medically determinable physical or
26 mental impairment which can be expected to result in death or has lasted
27 or can be expected to last for a continuous period of not less than 12
28 months, and an individual shall be determined to be under a disability only
29 if the physical or mental impairment or impairments are of such severity
30 that the individual is not only unable to do the individual's previous work
31 but cannot, considering age, education and work experience, engage in any
32 other kind of substantial gainful work which exists in the national
33 economy, regardless of whether such work exists in the immediate area in
34 which the individual lives or whether a specific job vacancy exists for the
35 individual, or whether the individual would be hired if application was
36 made for work. For purposes of this paragraph, with respect to any
37 individual, "work which exists in the national economy" means work
38 which exists in significant numbers either in the region where the
39 individual lives or in several regions of the country; and "physical or
40 mental impairment" means an impairment that results from anatomical,
41 physiological or psychological abnormalities which are demonstrable by
42 medically acceptable clinical and laboratory diagnostic techniques; or

43 (2) blindness and inability by reason of blindness to engage in

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

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

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

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

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

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

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

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

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

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

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

38 (i) "Delivery charges" means charges by the seller of personal
39 property or services for preparation and delivery to a location designated
40 by the purchaser of personal property or services including, but not limited
41 to, transportation, shipping, postage, handling, crating and packing.
42 Delivery charges shall not include charges for delivery of direct mail if the
43 charges are separately stated on an invoice or similar billing document

1 given to the purchaser.

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

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

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

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

33 (n) "Food and food ingredients" means substances, whether in liquid,
34 concentrated, solid, frozen, dried or dehydrated form, that are sold for
35 ingestion or chewing by humans and are consumed for their taste or
36 nutritional value. *"Food and food ingredients" includes bottled water,*
37 *candy, dietary supplements, food sold through vending machines, prepared*
38 *food and soft drinks.* "Food and food ingredients" does not include
39 alcoholic beverages or tobacco.

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

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

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

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

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

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

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

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

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

35 (q) "Isolated or occasional sale" means the nonrecurring sale of
36 tangible personal property, or services taxable hereunder by a person not
37 engaged at the time of such sale in the business of selling such property or
38 services. Any religious organization that makes a nonrecurring sale of
39 tangible personal property acquired for the purpose of resale shall be
40 deemed to be not engaged at the time of such sale in the business of selling
41 such property. Such term shall include:

42 (1) Any sale by a bank, savings and loan institution, credit union or
43 any finance company licensed under the provisions of the Kansas uniform

1 consumer credit code of tangible personal property that has been
2 repossessed by any such entity; and

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

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

11 (1) Lease or rental does not include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (2) the providing of services;

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

22 (4) the storage or processing of grain by a public grain warehouse or
23 other grain storage facility, and which is not reusable for such purpose.
24 The following is a listing of tangible personal property, included by way of
25 illustration but not of limitation, that qualifies as property that is
26 consumed:

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

32 (B) electricity, gas and water; and

33 (C) petroleum products, lubricants, chemicals, solvents, reagents and
34 catalysts.

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

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

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

42 (hh) "Registered under this agreement" means registration by a seller
43 with the member states under the central registration system provided in

1 article IV of the agreement.

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

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

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

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

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

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

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

31 (D) delivery charges; and

32 (E) installation charges.

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

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

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

40 (C) the amount of the consideration attributable to the sale is fixed
41 and determinable by the seller at the time of the sale of the item to the
42 purchaser; and

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

- 1 (i) The purchaser presents a coupon, certificate or other
2 documentation to the seller to claim a price reduction or discount where
3 the coupon, certificate or documentation is authorized, distributed or
4 granted by a third party with the understanding that the third party will
5 reimburse any seller to whom the coupon, certificate or documentation is
6 presented;
- 7 (ii) the purchaser identifies to the seller that the purchaser is a
8 member of a group or organization entitled to a price reduction or
9 discount. A preferred customer card that is available to any patron does not
10 constitute membership in such a group; or
- 11 (iii) the price reduction or discount is identified as a third party price
12 reduction or discount on the invoice received by the purchaser or on a
13 coupon, certificate or other documentation presented by the purchaser.
- 14 (3) "Sales or selling price" shall not include:
- 15 (A) Discounts, including cash, term or coupons that are not
16 reimbursed by a third party that are allowed by a seller and taken by a
17 purchaser on a sale;
- 18 (B) interest, financing and carrying charges from credit extended on
19 the sale of personal property or services, if the amount is separately stated
20 on the invoice, bill of sale or similar document given to the purchaser;
- 21 (C) any taxes legally imposed directly on the consumer that are
22 separately stated on the invoice, bill of sale or similar document given to
23 the purchaser;
- 24 (D) the amount equal to the allowance given for the trade-in of
25 property, if separately stated on the invoice, billing or similar document
26 given to the purchaser; and
- 27 (E) commencing on July 1, 2018, and ending on June 30, 2024, cash
28 rebates granted by a manufacturer to a purchaser or lessee of a new motor
29 vehicle if paid directly to the retailer as a result of the original sale.
- 30 (mm) "Seller" means a person making sales, leases or rentals of
31 personal property or services.
- 32 (nn) "Service" means those services described in and taxed under the
33 provisions of K.S.A. 79-3603, and amendments thereto.
- 34 (oo) "Sourcing rules" means the rules set forth in K.S.A. 79-3670
35 through 79-3673, K.S.A. 12-191 and 12-191a, and amendments thereto,
36 that shall apply to identify and determine the state and local taxing
37 jurisdiction sales or use taxes to pay, or collect and remit on a particular
38 retail sale.
- 39 (pp) "Tangible personal property" means personal property that can
40 be seen, weighed, measured, felt or touched, or that is in any other manner
41 perceptible to the senses. Tangible personal property includes electricity,
42 water, gas, steam and prewritten computer software.
- 43 (qq) "Taxpayer" means any person obligated to account to the

1 director for taxes collected under the terms of this act.

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

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

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

11 (1) A drug facts panel; or

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

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

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

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

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

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

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

40 (aaa) "Telecommunications service" means the electronic
41 transmission, conveyance or routing of voice, data, audio, video or any
42 other information or signals to a point, or between or among points. The
43 term telecommunications service includes such transmission, conveyance

1 or routing in which computer processing applications are used to act on the
2 form, code or protocol of the content for purposes of transmissions,
3 conveyance or routing without regard to whether such service is referred to
4 as voice over internet protocol services or is classified by the federal
5 communications commission as enhanced or value added.
6 Telecommunications service does not include:

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

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

14 (3) tangible personal property;

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

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

17 (6) internet access service;

18 (7) radio and television audio and video programming services,
19 regardless of the medium, including the furnishing of transmission,
20 conveyance and routing of such services by the programming service
21 provider. Radio and television audio and video programming services shall
22 include, but not be limited to, cable service as defined in 47 U.S.C. §
23 522(6) and audio and video programming services delivered by
24 commercial mobile radio service providers, as defined in 47 C.F.R. § 20.3;

25 (8) ancillary services; or

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

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

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

41 (ddd) "Value-added non-voice data service" means a service that
42 otherwise meets the definition of telecommunications services in which
43 computer processing applications are used to act on the form, content,

1 code or protocol of the information or data primarily for a purpose other
2 than transmission, conveyance or routing.

3 (eee) "International" means a telecommunications service that
4 originates or terminates in the United States and terminates or originates
5 outside the United States, respectively. United States includes the District
6 of Columbia or a U.S. territory or possession.

7 (fff) "Interstate" means a telecommunications service that originates
8 in one United States state, or a United States territory or possession, and
9 terminates in a different United States state or a United States territory or
10 possession.

11 (ggg) "Intrastate" means a telecommunications service that originates
12 in one United States state or a United States territory or possession, and
13 terminates in the same United States state or a United States territory or
14 possession.

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

21 (iii) "Nonprofit integrated community care organization" means an
22 entity that is:

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

25 (2) certified to participate in the medicare program as a hospice under
26 42 C.F.R. § 418 et seq. and focused on providing care to the aging and
27 indigent population at home and through inpatient care, adult daycare or
28 assisted living facilities and related facilities and services across multiple
29 counties; and

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

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

38 (A) *Antimicrobial agents;*

39 (B) *fluoride;*

40 (C) *carbonation;*

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

42 (E) *oxygen;*

43 (F) *preservatives; or*

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

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

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

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

10 (mmm) *"Dietary supplement" means the same as defined in K.S.A.*
 11 *79-3606(jjj), and amendments thereto.*

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

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

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

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

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

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

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

24 (B) *eggs, fish, meat, poultry or foods containing these raw animal*
 25 *foods that require cooking by the consumer as recommended by the food*
 26 *and drug administration in chapter 3, part 401.11 of the food and drug*
 27 *administration food code so as to prevent food borne illnesses.*

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

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

33 Sec. 4. K.S.A. 2021 Supp. 79-3603 is hereby amended to read as
 34 follows: 79-3603. For the privilege of engaging in the business of selling
 35 tangible personal property at retail in this state or rendering or furnishing
 36 any of the services taxable under this act, there is hereby levied and there
 37 shall be collected and paid a tax at the rate of 6.5%. On and after July 1,
 38 2021, 16.154% of the 6.5% rate imposed shall be levied for the state
 39 highway fund, the state highway fund purposes and those purposes
 40 specified in K.S.A. 68-416, and amendments thereto, and all revenue
 41 collected and received from such tax levy shall be deposited in the state
 42 highway fund.

43 Within a redevelopment district established pursuant to K.S.A. 74-

1 8921, and amendments thereto, there is hereby levied and there shall be
2 collected and paid an additional tax at the rate of 2% until the earlier of the
3 date the bonds issued to finance or refinance the redevelopment project
4 have been paid in full or the final scheduled maturity of the first series of
5 bonds issued to finance any part of the project.

6 *Such tax shall be imposed upon:*

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

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

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

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

41 (e) the gross receipts from the sale of admissions to any place
42 providing amusement, entertainment or recreation services including
43 admissions to state, county, district and local fairs, but such tax shall not

1 be levied and collected upon the gross receipts received from sales of
2 admissions to any cultural and historical event which occurs triennially;

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

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

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

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

26 (j) the gross receipts from the rendering of the services of washing
27 and washing and waxing of vehicles;

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

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

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

42 (m) the gross receipts received from fees and charges by public and
43 private clubs, drinking establishments, organizations and businesses for

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

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

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

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

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

25 For the purposes of this subsection:

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

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

41 (3) "facility" ~~shall mean~~ *means* a mill, plant, refinery, oil or gas well,
42 water well, feedlot or any conveyance, transmission or distribution line of
43 any cooperative, nonprofit, membership corporation organized under or

1 subject to the provisions of K.S.A. 17-4601 et seq., and amendments
2 thereto, or municipal or quasi-municipal corporation, including the land
3 improvements immediately surrounding such facility;

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

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

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

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

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

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

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

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

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

37 (w) all sales of charitable raffle tickets in accordance with K.S.A. 75-
38 5171 et seq., and amendments thereto, shall be exempt from taxes imposed
39 pursuant to this section; *and*

40 (x) *commencing on January 1, 2023, and thereafter, the state rate*
41 *shall be 0% on the gross receipts from the sale of food and food*
42 *ingredients.*

43 Sec. 5. K.S.A. 2021 Supp. 79-3703 is hereby amended to read as

1 follows: 79-3703. (a) There is hereby levied and there shall be collected
2 from every person in this state a tax or excise for the privilege of using,
3 storing, or consuming within this state any article of tangible personal
4 property. Such tax shall be levied and collected in an amount equal to the
5 consideration paid by the taxpayer multiplied by the rate of 6.5%.

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

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

15 (d) Within a redevelopment district established pursuant to K.S.A.
16 74-8921, and amendments thereto, there is hereby levied and there shall be
17 collected and paid an additional tax of 2% until the earlier of: (1) The date
18 the bonds issued to finance or refinance the redevelopment project
19 undertaken in the district have been paid in full; or (2) the final scheduled
20 maturity of the first series of bonds issued to finance the redevelopment
21 project.

22 (e) All property purchased or leased within or without this state and
23 subsequently used, stored or consumed in this state shall be subject to the
24 compensating tax if the same property or transaction would have been
25 subject to the Kansas retailers' sales tax had the transaction been wholly
26 within this state.

27 Sec. 6. K.S.A. 79-32,271 and K.S.A. 2021 Supp. 12-189a, 79-3602,
28 79-3603 and 79-3703 are hereby repealed.

29 Sec. 7. This act shall take effect and be in force from and after its
30 publication in the statute book.