AN ACT concerning taxation; enacting the Kansas economic freedom act of 2014; eliminating income and sales taxes; imposing a consumption tax; providing certain duties and requirements on retailers and providers and the department of revenue; exemptions; consumption allowance; creating the consumption tax transition committee; amending K.S.A. 2011 Supp. 79-3702 and repealing the existing section; also repealing K.S.A. 79-3294, 79-3294a and 79-3294b and K.S.A. 2011 Supp. 79-1107, 79-1108, 79-3295, 79-3296, 79-3298, 79-3299, 79-32,100, 79-32,100a, 79-32,100b, 79-32,100c, 79-32,100d, 79-32,100e, 79-32,110 and 79-3603.

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

New Section 1. (a) The provisions of this act shall be known and may be cited as the Kansas economic freedom act of 2014.

(b) The purpose of this act is to remove the state's dependence on the federal income tax system, remove the burden of collecting the state income tax from Kansas producers of goods and services, improve the efficiency of collecting the tax, apply a uniform tax rate for all personal consumption taxpayers, compensate retail tax collectors with a fee to offset cost of collecting the tax, encourage business expansion in Kansas without rewarding selected interest groups or organizations with special benefits, and provide a family consumption allowance in order to save all Kansas citizens from paying taxes on any amount of spending up to the official American poverty level needed for obtaining essential goods and services.

(c) Where applicable, terms in this act shall be defined as provided in K.S.A. 79-3602, and amendments thereto.

(d) The provisions of this act shall be effective on and after January 1, 2014.

New Sec. 2. (a) On and after January 1, 2014, the Kansas income tax imposed pursuant to K.S.A. 79-32,110, and amendments thereto, the Kansas retailers' sales tax imposed pursuant to K.S.A. 79-3603, and amendments thereto, and the Kansas compensating tax are repealed and shall not be levied or imposed thereby.

(b) Any tax described in subsection (a) which is due and remains outstanding and payable by a taxpayer on January 1, 2014, shall remain...
due and payable to the state in accordance with the laws in effect when the
tax obligations of the taxpayer were incurred.
(c) Any income tax credit which is outstanding on January 1, 2014, is
no longer valid on and after such date.
New Sec. 3. (a) Except as provided in section 4, and amendments
thereto, for the privilege of engaging in the business of selling goods at the
point of sale in this state or rendering or furnishing any services taxable
under this act, there is hereby levied and there shall be collected and paid a
consumption tax on the sales or selling price of new personally consumed
goods and services at the rate of 5.7%.
(b) In addition to the imposition of a consumption tax on goods and
services as provided in subsection (a), such tax shall be levied on:
(1) Sales of digital goods, digital codes and subscriptions to digital
goods, to a purchaser who is a personal consumer, including sales of the
right of permanent use granted by the seller and sales with less than the
right of permanent use granted by the seller, and including sales when such
use is conditional upon continued payment from the purchaser and when
such use is not conditional upon continued payment from the purchaser. As
used in this subsection:
(A) "Digital audio works" means works that result from the fixation
of a series of musical, spoken or other sounds, including ringtones;
(B) "Digital audio-visual works" means a series of related images
which, when shown in succession, impart an impression of motion,
together with accompanying sounds, if any;
(C) "Digital books" means works that are generally recognized in the
ordinary and usual sense as books;
(D) "Digital code" means a code, which provides a purchaser with a
right to obtain one or more products transferred electronically from within
one or more product categories having the same tax treatment. A digital
code may be obtained by any means, including email or by tangible means
regardless of its designation as song code, video code or book code;
(E) "Digital goods" means sounds, images, data, facts or information,
or any combination thereof, transferred electronically, including, but not
limited to, specified digital products and other products transferred
electronically not included within the definition of specified digital
products; "digital goods" does not include telecommunications services as
defined in K.S.A. 79-3602, and amendments thereto, ancillary services as
defined in K.S.A. 79-3602, and amendments thereto, or computer software
as defined in K.S.A. 79-3602, and amendments thereto;
(F) "electronically transferred" means obtained by the purchaser by
means other than tangible storage media;
(G) "Permanent" means perpetual or for an indefinite or unspecified
length of time. A right of permanent use is presumed to have been granted
unless the agreement between the seller and the purchaser specifies or the
circumstances surrounding the transaction suggest or indicate that the right
to use terminates on the occurrence of a condition subsequent;

(H) "personal consumer" includes any person other than a person who
receives by contract a product transferred electronically for further
commercial broadcast, rebroadcast, transmission, retransmission,
licensing, relicensing, distribution, redistribution or exhibition of the
product, in whole or in part, to another person or persons. A person that
purchases products transferred electronically or the code for specified
digital products for the purpose of giving away such products or code shall
not be considered to have engaged in the distribution or redistribution of
such products or code and shall be treated as an end user;

(I) "ringtones" means digitized sound files that are downloaded onto a
device and that may be used to alert the customer with respect to a
communication;

(J) "specified digital products" means electronically transferred
digital audio works, digital audio-visual works and digital books; and

(K) "subscription" means an agreement with a seller that grants a
consumer the right to obtain products transferred electronically from
within one or more product categories having the same tax treatment, in a
fixed quantity or for a fixed period of time, or both;

(2) installment sales. Such consumption tax shall be prorated and
collected by the retailer or provider at the time of each installment
payment;

(3) insurance premiums. Such tax shall be prorated and collected by
the insurance company at the time of payment of the premium. The rate of
such tax shall be an amount equal to the difference between the rate set in
subsection (a) and the amount of premium tax set pursuant to K.S.A. 40-
252, and amendments thereto;

(4) medical insurance copayments; and

(5) rental payments for real property and tangible personal property
for personal use.

New Sec. 4. The tax levied under this act shall be paid by the
personal consumer to the retailer or provider and it shall be the duty of
each and every retailer and provider in this state to collect from the
personal consumer, the full amount of the tax imposed or in an amount
equal as nearly as possible or practicable to the average equivalent thereof.
Such tax shall be a debt from the personal consumer to the retailer, when
so added to the original purchase price, and shall be recoverable at law in
the same manner as other debts. In the event the full amount of the tax
provided by this act is not paid to the retailer by the personal consumer, the
director of taxation may proceed directly against the personal consumer to
collect the full amount of the tax due on the retail sale.
New Sec. 5. Each personal consumer shall receive a sales receipt from the retailer or provider at the time of purchase. Such receipt shall contain the before-tax price of the goods or service, the consumption tax rate, the total personal consumption tax rate on all services rendered and products sold for personal consumption, and the total monetary amount of sales transaction.

New Sec. 6. The following shall be exempt from the tax imposed by this act: (a) All sales of new or used residential or commercial real estate; (b) all sales of motor-vehicle fuel or other articles upon which a sales or excise tax has been paid, not subject to refund, under the laws of this state except cigarettes as defined by K.S.A. 79-3301, and amendments thereto, cereal malt beverages and malt products as defined by K.S.A. 79-3817, and amendments thereto, including wort, liquid malt, malt syrup and malt extract, which is not subject to taxation under the provisions of K.S.A. 79-41a02, and amendments thereto, motor vehicles taxed pursuant to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to K.S.A. 65-3424d, and amendments thereto, drycleaning and laundry services taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and gross receipts from regulated sports contests taxed pursuant to the Kansas professional regulated sports act, and amendments thereto; (c) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly by a public or private elementary or secondary school or public or private nonprofit educational institution and used primarily by such school or institution for nonsectarian programs and activities provided or sponsored by such school or institution or in the erection, repair or enlargement of buildings to be used for such purposes. The exemption herein provided shall not apply to erection, construction, repair, enlargement or equipment of buildings used primarily for human habitation; (d) sales of aircraft including remanufactured and modified aircraft sold to persons using directly or through an authorized agent such aircraft as certified or licensed carriers of persons or property in interstate or foreign commerce under authority of the laws of the United States or any foreign government or sold to any foreign government or agency or instrumentality of such foreign government and all sales of aircraft for use outside of the United States and sales of aircraft repair, modification and replacement parts and sales of services employed in the remanufacture, modification and repair of aircraft; (e) all rentals of nonsectarian textbooks by public or private elementary or secondary schools; (f) any motor vehicle, semitrailer or pole trailer, as such terms are defined by K.S.A. 8-126, and amendments thereto, or aircraft sold and delivered in this state to a bona fide resident of another state, which motor
vehicle, semitrailer, pole trailer or aircraft is not to be registered or based
in this state and which vehicle, semitrailer, pole trailer or aircraft will not
remain in this state more than 10 days;
(g) all isolated or occasional sales of tangible personal property,
services, substances or things;
(h) all sales of tangible personal property which become an ingredient
or component part of tangible personal property or services produced,
manufactured or compounded for ultimate sale at retail within or without
the state of Kansas; and any such producer, manufacturer or compounder
may obtain from the director of taxation and furnish to the supplier an
exemption certificate number for tangible personal property for use as an
ingredient or component part of the property or services produced,
manufactured or compounded;
(i) all sales of tangible personal property which is consumed in the
production, manufacture, processing, mining, drilling, refining or
compounding of tangible personal property, the treating of by-products or
wastes derived from any such production process, the providing of
services or the irrigation of crops for ultimate sale at retail within or
without the state of Kansas; and any purchaser of such property may
obtain from the director of taxation and furnish to the supplier an
exemption certificate number for tangible personal property for
consumption in such production, manufacture, processing, mining,
drilling, refining, compounding, treating, irrigation and in providing such
services;
(j) all sales of animals, fowl and aquatic plants and animals, the
primary purpose of which is use in agriculture or aquaculture, as defined in
K.S.A. 47-1901, and amendments thereto, the production of food for
human consumption, the production of animal, dairy, poultry or aquatic
plant and animal products, fiber or fur, or the production of offspring for
use for any such purpose or purposes;
(k) all sales of farm machinery and equipment or aquaculture
machinery and equipment, repair and replacement parts therefor and
services performed in the repair and maintenance of such machinery and
equipment. For the purposes of this subsection the term "farm machinery
and equipment or aquaculture machinery and equipment" shall include a
work-site utility vehicle, as defined in K.S.A. 8-126, and amendments
thereto, and is equipped with a bed or cargo box for hauling materials, and
shall also include machinery and equipment used in the operation of
Christmas tree farming but shall not include any passenger vehicle, truck,
truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as
such terms are defined by K.S.A. 8-126, and amendments thereto. "Farm
machinery and equipment" includes precision farming equipment that is
portable or is installed or purchased to be installed on farm machinery and
equipment. "Precision farming equipment" includes the following items used only in computer-assisted farming, ranching or aquaculture production operations: Soil testing sensors, yield monitors, computers, monitors, software, global positioning and mapping systems, guiding systems, modems, data communications equipment and any necessary mounting hardware, wiring and antennas. Each purchaser of farm machinery and equipment or aquaculture machinery and equipment exempted herein must certify in writing on the copy of the invoice or sales ticket to be retained by the seller that the farm machinery and equipment or aquaculture machinery and equipment purchased will be used only in farming, ranching or aquaculture production. Farming or ranching shall include the operation of a feedlot and farm and ranch work for hire and the operation of a nursery;

(l) all sales of materials and services used in the repairing, servicing, altering, maintaining, manufacturing, remanufacturing, or modification of railroad rolling stock for use in interstate or foreign commerce under authority of the laws of the United States;

(m) all sales of materials and services applied to equipment which is transported into the state from without the state for repair, service, alteration, maintenance, remanufacture or modification and which is subsequently transported outside the state for use in the transmission of liquids or natural gas by means of pipeline in interstate or foreign commerce under authority of the laws of the United States;

(n) all sales of tangible personal property purchased with food stamps issued by the United States department of agriculture;

(o) all sales of tangible personal property purchased in accordance with vouchers issued pursuant to the federal special supplemental food program for women, infants and children;

(p) (1) (A) all sales of machinery and equipment which are used in this state as an integral or essential part of an integrated production operation by a manufacturing or processing plant or facility;

(B) all sales of installation, repair and maintenance services performed on such machinery and equipment; and

(C) all sales of repair and replacement parts and accessories purchased for such machinery and equipment.

(2) For purposes of this subsection:

(A) "Integrated production operation" means an integrated series of operations engaged in at a manufacturing or processing plant or facility to process, transform or convert tangible personal property by physical, chemical or other means into a different form, composition or character from that in which it originally existed. Integrated production operations shall include: (i) Production line operations, including packaging operations; (ii) preproduction operations to handle, store and treat raw
materials; (iii) post production handling, storage, warehousing and
distribution operations; and (iv) waste, pollution and environmental
control operations, if any;

(B) "production line" means the assemblage of machinery and
equipment at a manufacturing or processing plant or facility where the
actual transformation or processing of tangible personal property occurs;

(C) "manufacturing or processing plant or facility" means a single,
fixed location owned or controlled by a manufacturing or processing
business that consists of one or more structures or buildings in a
contiguous area where integrated production operations are conducted to
manufacture or process tangible personal property to be ultimately sold at
retail. Such term shall not include any facility primarily operated for the
purpose of conveying or assisting in the conveyance of natural gas,
electricity, oil or water. A business may operate one or more manufacturing
or processing plants or facilities at different locations to manufacture or
process a single product of tangible personal property to be ultimately sold
at retail;

(D) "manufacturing or processing business" means a business that
utilizes an integrated production operation to manufacture, process,
fabricate, finish, or assemble items for wholesale and retail distribution as
part of what is commonly regarded by the general public as an industrial
manufacturing or processing operation or an agricultural commodity
processing operation. (i) Industrial manufacturing or processing operations
include, by way of illustration but not of limitation, the fabrication of
automobiles, airplanes, machinery or transportation equipment, the
fabrication of metal, plastic, wood, or paper products, electricity power
generation, water treatment, petroleum refining, chemical production,
wholesale bottling, newspaper printing, ready mixed concrete production,
and the remanufacturing of used parts for wholesale or retail sale. Such
processing operations shall include operations at an oil well, gas well,
mine or other excavation site where the oil, gas, minerals, coal, clay, stone,
sand or gravel that has been extracted from the earth is cleaned, separated,
crushed, ground, milled, screened, washed, or otherwise treated or
prepared before its transmission to a refinery or before any other wholesale
or retail distribution. (ii) Agricultural commodity processing operations
include, by way of illustration but not of limitation, meat packing, poultry
slaughtering and dressing, processing and packaging farm and dairy
products in sealed containers for wholesale and retail distribution, feed
grinding, grain milling, frozen food processing, and grain handling,
cleaning, blending, fumigation, drying and aeration operations engaged in
by grain elevators or other grain storage facilities. (iii) Manufacturing or
processing businesses do not include, by way of illustration but not of
limitation, nonindustrial businesses whose operations are primarily retail
and that produce or process tangible personal property as an incidental part
of conducting the retail business, such as retailers who bake, cook or
prepare food products in the regular course of their retail trade, grocery
stores, meat lockers and meat markets that butcher or dress livestock or
poultry in the regular course of their retail trade, contractors who alter,
service, repair or improve real property, and retail businesses that clean,
service or refurbish and repair tangible personal property for its owner;

(E) "repair and replacement parts and accessories" means all parts
and accessories for exempt machinery and equipment, including, but not
limited to, dies, jigs, molds, patterns and safety devices that are attached to
exempt machinery or that are otherwise used in production, and parts and
accessories that require periodic replacement such as belts, drill bits,
grinding wheels, grinding balls, cutting bars, saws, refractory brick and
other refractory items for exempt kiln equipment used in production
operations;

(F) "primary" or "primarily" mean more than 50% of the time.

(3) For purposes of this subsection, machinery and equipment shall
be deemed to be used as an integral or essential part of an integrated
production operation when used:

(A) To receive, transport, convey, handle, treat or store raw materials
in preparation of its placement on the production line;

(B) to transport, convey, handle or store the property undergoing
manufacturing or processing at any point from the beginning of the
production line through any warehousing or distribution operation of the
final product that occurs at the plant or facility;

(C) to act upon, effect, promote or otherwise facilitate a physical
change to the property undergoing manufacturing or processing;

(D) to guide, control or direct the movement of property undergoing
manufacturing or processing;

(E) to test or measure raw materials, the property undergoing
manufacturing or processing or the finished product, as a necessary part of
the manufacturer's integrated production operations;

(F) to plan, manage, control or record the receipt and flow of
inventories of raw materials, consumables and component parts, the flow
of the property undergoing manufacturing or processing and the
management of inventories of the finished product;

(G) to produce energy for, lubricate, control the operating of or
otherwise enable the functioning of other production machinery and
equipment and the continuation of production operations;

(H) to package the property being manufactured or processed in a
container or wrapping in which such property is normally sold or
transported;

(I) to transmit or transport electricity, coke, gas, water, steam or
similar substances used in production operations from the point of
generation, if produced by the manufacturer or processor at the plant site,
to that manufacturer's production operation; or, if purchased or delivered
from offsite, from the point where the substance enters the site of the plant
or facility to that manufacturer's production operations;
(J) to cool, heat, filter, refine or otherwise treat water, steam, acid, oil,
solvents or other substances that are used in production operations;
(K) to provide and control an environment required to maintain
certain levels of air quality, humidity or temperature in special and limited
areas of the plant or facility, where such regulation of temperature or
humidity is part of and essential to the production process;
(L) to treat, transport or store waste or other byproducts of production
operations at the plant or facility; or
(M) to control pollution at the plant or facility where the pollution is
produced by the manufacturing or processing operation.
(4) The following machinery, equipment and materials shall be
deemed to be exempt even though it may not otherwise qualify as
machinery and equipment used as an integral or essential part of an
integrated production operation: (A) Computers and related peripheral
equipment that are utilized by a manufacturing or processing business for
engineering of the finished product or for research and development or
product design; (B) machinery and equipment that is utilized by a
manufacturing or processing business to manufacture or rebuild tangible
personal property that is used in manufacturing or processing operations,
including tools, dies, molds, forms and other parts of qualifying machinery
and equipment; (C) portable plants for aggregate concrete, bulk cement
and asphalt including cement mixing drums to be attached to a motor
vehicle; (D) industrial fixtures, devices, support facilities and special
foundations necessary for manufacturing and production operations, and
materials and other tangible personal property sold for the purpose of
fabricating such fixtures, devices, facilities and foundations. An exemption
certificate for such purchases shall be signed by the manufacturer or
processor. If the fabricator purchases such material, the fabricator shall
also sign the exemption certificate; and (E) a manufacturing or processing
business’ laboratory equipment that is not located at the plant or facility,
but that would otherwise qualify for exemption under subsection (3)(E).
(5) "Machinery and equipment used as an integral or essential part of
an integrated production operation" shall not include:
(A) Machinery and equipment used for nonproduction purposes,
including, but not limited to, machinery and equipment used for plant
security, fire prevention, first aid, accounting, administration, record
keeping, advertising, marketing, sales or other related activities, plant
cleaning, plant communications, and employee work scheduling;
(B) machinery, equipment and tools used primarily in maintaining and repairing any type of machinery and equipment or the building and plant;
(C) transportation, transmission and distribution equipment not primarily used in a production, warehousing or material handling operation at the plant or facility, including the means of conveyance of natural gas, electricity, oil or water, and equipment related thereto, located outside the plant or facility;
(D) office machines and equipment including computers and related peripheral equipment not used directly and primarily to control or measure the manufacturing process;
(E) furniture and other furnishings;
(F) buildings, other than exempt machinery and equipment that is permanently affixed to or becomes a physical part of the building, and any other part of real estate that is not otherwise exempt;
(G) building fixtures that are not integral to the manufacturing operation, such as utility systems for heating, ventilation, air conditioning, communications, plumbing or electrical;
(H) machinery and equipment used for general plant heating, cooling and lighting;
(I) motor vehicles that are registered for operation on public highways; or
(J) employee apparel, except safety and protective apparel that is purchased by an employer and furnished gratuitously to employees who are involved in production or research activities.
(6) Subsections (3) and (5) shall not be construed as exclusive listings of the machinery and equipment that qualify or do not qualify as an integral or essential part of an integrated production operation. When machinery or equipment is used as an integral or essential part of production operations part of the time and for nonproduction purpose at other times, the primary use of the machinery or equipment shall determine whether or not such machinery or equipment qualifies for exemption.
(7) The secretary of revenue shall adopt rules and regulations necessary to administer the provisions of this subsection;
(q) all sales of seeds and tree seedlings; fertilizers, insecticides, herbicides, germicides, pesticides and fungicides; and services, purchased and used for the purpose of producing plants in order to prevent soil erosion on land devoted to agricultural use; and
(r) on and after January 1, 1999, and before January 1, 2000, all sales of materials and services purchased by any class II or III railroad as classified by the federal surface transportation board for the construction, renovation, repair or replacement of class II or III railroad track and
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facilities used directly in interstate commerce. In the event any such track or facility for which materials and services were purchased sales tax exempt is not operational for five years succeeding the allowance of such exemption, the total amount of sales tax which would have been payable except for the operation of this subsection shall be recouped in accordance with rules and regulations adopted for such purpose by the secretary of revenue.

New Sec. 7. Each retailer or provider shall remit to the department of revenue by the opening of the 10th normal business day and hour of each month the total amount of Kansas personal consumption taxes collected and remitted by such retailer or provider during the previous calendar month, less 0.25% of such total amount. Such 0.25% retained by such retailer or provider shall serve to compensate such retailer or provider for collecting and remitting the Kansas personal consumption tax on behalf of and for the state of Kansas. The amount collected and remitted and the amount retained by such retailer or provider shall be shown on the monthly report. Generally accepted accounting procedures (GAAP) shall apply. Such retailer or provider shall be subject to audit at any time by the department of revenue.

New Sec. 8. (a) Each Kansas resident taxpayer having a valid social security number shall receive a monthly family consumption allowance to be distributed by the Kansas department of revenue, on or before the first day of each month. Such family consumption allowance shall be determined annually and be equal to the product of the rate of consumption tax as provided in section 2, and amendments thereto, and $/12 of the annual poverty guidelines established in the federal register by the U.S. department of health and human services pursuant to 42 U.S.C. § 9902(2), as amended.

(b) In the administration of this section, the following conditions shall apply:

(1) Such family consumption allowance or allowances shall be bundled as a single payment to each household, to include all eligible Kansas residents who share the same dwelling unit;

(2) the consumption allowance payee will be the designated head of household;

(3) consumption allowance or allowances paid to each respective payee shall be deposited directly by electronic means into a registered account owned by the payee at a licensed financial institution as designated by the payee;

(4) the payee shall file electronically a regular yearly report with the department of revenue every September, but no later than September 30, certifying the name and valid social security number of each member residing in the same dwelling unit. Whenever the payee, number, or
identities of any members of the household change, the payee must immediately notify the department of revenue, and submit electronically a revised report within two weeks or less; and

(5) the payee's identity and signature must appear on the certified report. The penalty for filing a false certificate shall be the same as provided in K.S.A. 79-3615, and amendments thereto, for filing a false return.

New Sec. 9. It shall be unlawful for any retailer to advertise or hold out, or state to the public, or to any consumer, directly or indirectly, that the tax, or any part thereof, imposed by this act will be assumed or absorbed by the retailer, or that it will not be considered as an element in the price to the consumer, or if added, that it, or any part thereof, will be refunded.

New Sec. 10. (a) Except as otherwise provided, it shall be unlawful for any person to engage in the business of selling goods at retail or furnishing taxable services in this state without a registration certificate from the director of taxation. Application for such certificate shall be made to the director upon forms furnished by the director, and shall state the name of the applicant, the address or addresses at which the applicant proposes to engage in such business, and the character of such business. Utilities taxable under this act shall not be required to register but shall comply with all other provisions of this act. The taxpayer may be registered by an agent. Such appointment of the agent by the taxpayer shall be in writing and submitted to the director. The taxpayer shall be issued a registration certificate to engage in the business for which application is made unless the applicant at the time of making such application owes any tax, penalty or interest, and in such case, before a registration certificate is issued, the director of taxation shall require the applicant to pay the amount owed.

(b) A separate registration certificate shall be issued for each place of business, and shall be conspicuously displayed therein.

(c) A seller registering under the agreement is considered registered in this state and shall not be required to pay any registration fees or other charges to register in this state if the seller has no legal requirement to register. A written signature from the seller registering under the agreement is not required. An agent may register a seller under uniform procedures determined by the secretary. A seller may cancel its registration under the system at any time under uniform procedures determined by the secretary. Cancellation does not relieve the seller of its liability for remitting to this state any taxes collected.

(d) The secretary may suspend or revoke the registration certificate of any taxpayer found in default for a period of at least 60 days in the payment of any tax or in the filing of any return. Prior to taking any action,
the secretary shall provide the taxpayer 30 days' notice of the time and
place of a hearing to be conducted pursuant to the Kansas administrative
procedure act to show cause why such registration certificate should not be
suspended or revoked. A suspended or revoked registration certificate shall
not be reinstated until all outstanding tax, penalty and interest liabilities
are satisfied. A suspension or revocation pursuant to this subsection shall
be applicable to any individual who is a responsible party for the
collection or payment of tax as provided by law.

(e) It shall be unlawful for any person to engage in the business of
selling goods at retail or furnishing taxable services in this state after such
person's registration certificate has been suspended or revoked.

New Sec. 11. (a) Every person engaged in the business of selling
goods at retail or furnishing services taxable in this state, shall keep
records and books of all such sales, together with invoices, bills of lading,
sales records, copies of bills of sale and other pertinent papers and
documents. Such books and records and other papers and documents shall,
at all times during business hours of the day, be available for and subject to
inspection by the director, or the director's duly authorized agents and
employees, for a period of three years from the last day of the calendar
year or of the fiscal year of the retailer, whichever comes later, to which
the records pertain. Such records shall be preserved during the entire
period during which they are subject to inspection by the director, unless
the director in writing previously authorizes their disposal. Any person
selling goods or furnishing taxable services shall be prohibited from
asserting that any sales are exempt from taxation unless the retailer has in
the retailer's possession a properly executed exemption certificate provided
by the consumer claiming the exemption, except as follows: (1) A retailer
is relieved of liability for tax otherwise applicable if the retailer obtains a
fully completed exemption certificate or captures the relevant data
elements required by the director within 90 days subsequent to the date of
the sale; or (2) if the retailer has not obtained an exemption certificate or
all relevant data elements, the retailer, within 120 days subsequent to a
request for substantiation by the director, either may obtain a fully
completed exemption certificate from the purchaser, taken in good faith
which meets the requirements specified in this subsection, or obtain other
information establishing that the transaction was not subject to tax.
Otherwise, the sales shall be deemed to be taxable sales under this act. The
seller shall obtain an exemption certificate that claims an exemption that
was authorized pursuant to Kansas law on the date of the transaction in the
jurisdiction where the transaction is sourced pursuant to law, could be
applicable to the item being purchased and is reasonable for the
purchaser's type of business. If the seller obtains an exemption certificate
or other information as described in this subsection, the seller is relieved of
any liability for the tax on the transaction unless it is discovered through
the audit process that the seller had knowledge or had reason to know at
the time such information was provided that the information relating to the
exemption claimed was materially false or the seller otherwise knowingly
participated in activity intended to purposefully evade the tax that is
properly due on the transaction, and it must be established that the seller
had knowledge or had reason to know at the time the information was
provided that the information was materially false.

(b) The amount of tax imposed by this act is to be assessed within
three years after the return is filed, and no proceedings in court for the
collection of such taxes shall begin after the expiration of such period. In
the case of a false or fraudulent return with intent to evade tax, the tax may
be assessed or a proceeding in court for collection of such tax may begin at
any time within two years from the discovery of such fraud. No
assessment shall be made for any period preceding the date of registration
of the retailer by more than three years except in cases of fraud. No refund
or credit shall be allowed by the director after three years from the due
date of the return for the reporting period unless before the expiration of
such period a claim therefor is filed by the taxpayer. For all mailed returns,
including refund claims, each return or refund claim shall be presumed to
have been filed with the department on the postmark date of such return or
refund claim or if such date is illegible, the date three days prior to the date
such return or refund claim is received.

(c) Before the expiration of time prescribed in this section for the
assessment of additional tax or the filing of a claim for refund, the director
is hereby authorized to enter into an agreement in writing with the
taxpayer consenting to the extension of the periods of limitations for the
assessment of tax or for the filing of a claim for refund, at any time prior to
the expiration of the period of limitations. The period so agreed upon may
be extended by subsequent agreements in writing made before the
expiration of the period previously agreed upon. In consideration of such
agreement or agreements, interest due in excess of 48 months on any
additional tax shall be waived.

(d) Interest at the rate prescribed by K.S.A. 79-2968, and
amendments thereto, shall be allowed on any overpayment of tax
computed from the filing date of the return claiming the refund, except that
no interest shall be allowed on any such refund if the same is paid within
120 days after the filing date of the return claiming the refund or the date
of payment, whichever is later.

New Sec. 12. The director of taxation shall examine all returns filed
under the provisions of this act, and shall issue final determinations of tax
liability hereunder. Any determination may be made on the basis of a
generally recognized valid and reliable sampling technique, whether or not
the person being audited has complete records of transactions and whether
or not such person consents. In any such case, the director shall notify the
taxpayer in writing of the sampling technique to be utilized, including the
design and population of such sample. If the taxpayer demonstrates that
any such technique used was not in accordance with generally recognized
sampling techniques, the audit shall be dismissed with respect to that
portion of the audit based upon such technique, and a new audit shall be
performed. Within 60 days after the mailing of notice of the director's
determination any taxpayer may request an informal conference with the
secretary of revenue or the secretary's designee relating to such taxpayer's
tax liability, including the issue of whether the use of a generally
recognized sampling technique achieved a result that was reflective of the
taxpayer's actual tax liability, and an informal conference thereon shall be
conducted and the secretary of revenue or the secretary's designee shall
make a final determination and give the taxpayer notice thereof. In case
any person required by the provisions of this act to make a return fails or
refuses to do so, the secretary of revenue or the secretary's designee, after
notice to such person, shall make a final determination of the amount of
such tax according to the best judgment and information of the secretary of
revenue or the secretary's designee.

Whenever the director of taxation has reason to believe that a person
liable for tax under any provisions of this act is about to depart from the
state or to remove such person's property therefrom, or to conceal oneself
or such person's property therein, or to do any other act tending to
prejudice, jeopardize or render wholly or partly ineffectual the collection
of such sales tax unless proceedings be brought without delay, the director
shall immediately make an assessment for all sales taxes due from such
taxpayer, noting such finding on the assessment. The assessment shall be
made on the basis of emergency proceedings in accordance with the
provisions of K.S.A. 77-536, and amendments thereto. Thereupon a
warrant shall forthwith be issued for the collection of the tax as provided
in K.S.A. 79-3235, and amendments thereto. The taxpayer may within 15
days from the date of filing of such warrant request an informal conference
with the secretary or the secretary's designee on the correctness of the
jeopardy assessment.

New Sec. 13. For the purpose of ascertaining the correctness of any
return, or for the purpose of determining the amount of tax due from any
person engaged in the business of selling tangible personal property at
retail, or furnishing services taxable hereunder, the director of taxation, or
any officer or employee of the director of taxation designated, in writing,
may hold investigations and hearings concerning any matters covered by
this act, and may examine any books, papers, records, or memoranda
bearing upon such sales of any such person, and may require the
attendance of such person or any officer or employee of such person, or of
any person having knowledge of such sales, and may take testimony and
require proof for its information. In the conduct of any investigation or
hearing, neither the director nor any officer or employee thereof shall be
bound by the technical rules of evidence, and no informality in any
proceeding, or in the manner of taking testimony, shall invalidate any
order or decision made or approved by the director. The director, or any
officer or employee thereof, shall have power to administer oaths to such
persons.

New Sec. 14. The tax imposed by this act shall be a lien upon the
property of any person who shall sell such person's business consisting of
tangible personal property. The person acquiring such business or property
shall withhold a sufficient amount of the purchase price thereof to cover
the amount of any taxes due and unpaid by the seller, until the seller shall
furnish the purchaser with a receipt from the director of taxation, as herein
provided, showing that such taxes have been paid. The purchaser shall be
personally liable for the payment of any unpaid taxes of the seller, to the
extent of the value of the property received by the purchaser, and if a
receipt is not furnished by such seller within 20 days from the date of sale
of such business, the purchaser shall remit the amount of such unpaid taxes
to the director of taxation on or before the 20th day of the month
succeeding that in which such person acquired such business or property.

New Sec. 15. All notices required to be mailed to the taxpayer under
the provisions of this act, if mailed to such person at such person's last
known address as shown on the records of the director of taxation, shall be
sufficient for the purposes of this act.

New Sec. 16. Any information obtained by the department of revenue
in connection with administration of this act is subject to the
confidentiality provisions as set forth in K.S.A. 75-5133, and amendments
thereto.

New Sec. 17. (a) If any taxpayer shall fail to pay the tax required
under this act at the time required by or under the provisions of this act,
there shall be added to the unpaid balance of the tax, interest at the rate per
month prescribed by subsection (a) of K.S.A. 79-2968, and amendments
thereto from the date the tax was due until paid.

(b) If any taxpayer fails to file a return or pay the tax if one is due, at
the time required by or under the provisions of this act, there shall be
added to the tax an additional amount equal to 1% of the unpaid balance of
the tax due for each month or fraction thereof during which such failure
continues, not exceeding 24% in the aggregate, plus interest at the rate
prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto,
from the date the tax was due until paid. Notwithstanding the foregoing, in
the event an assessment is issued following a field audit for any period for
which a return was filed by the taxpayer and all of the tax was paid
pursuant to such return, a penalty shall be imposed for the period included
in the assessment in an amount of 1% per month not exceeding 10% of the
unpaid balance of tax due shown in the notice of assessment. If after
review of a return for any period included in the assessment, the secretary
or secretary's designee determines that the underpayment of tax was due to
the failure of the taxpayer to make a reasonable attempt to comply with the
provisions of this act, such penalty shall be imposed for the period
included in the assessment in the amount of 25% of the unpaid balance of
tax due.

c) If any taxpayer, with fraudulent intent, fails to pay any tax or
make, render or sign any return, or to supply any information, within the
time required by or under the provisions of this act, there shall be added to
the tax a penalty in an amount equal to 50% of the unpaid balance of tax
due.

d) Penalty or interest applied under the provisions of subsections (a)
and (b) shall be in addition to the penalty added under any other provisions
of this section.

e) Whenever the secretary or the secretary's designee determines that
the failure of the taxpayer to comply with the provisions of subsections (a)
and (b) was due to reasonable causes, the secretary or the secretary's
designee may waive or reduce any of the penalties and may reduce the
interest rate to the underpayment rate prescribed and determined for the
applicable period under section 6621 of the federal internal revenue code
upon making a record of the reasons therefor.

f) In addition to all other penalties provided by this section, any
person who willfully fails to make a return or to pay any tax imposed
under this act, or who makes a false or fraudulent return, or fails to keep
any books or records prescribed by this act, or who willfully violates any
rule and regulation of the secretary of revenue, for the enforcement and
administration of this act, or who aids and abets another in attempting to
evade the payment of any tax imposed by this act, or who violates any
other provision of this act, shall, upon conviction thereof, be fined not less
than $500, nor more than $10,000, or be imprisoned in the county jail not
less than one month, nor more than six months, or be both so fined and
imprisoned, in the discretion of the court.

g) No penalty assessed hereunder shall be collected if the taxpayer
has had the tax abated on appeal, and any penalty collected upon such tax
shall be refunded.

h) A person applying to the department for a refund of any tax
imposed under this act that was not previously collected by the retailer, or
that the retailer has already refunded to such person, shall be subject to a
penalty of 50% of the amount of any such tax sought to be refunded. No
such penalty shall be imposed against such person if the retailer collected
the tax but did not remit such tax to the department.

New Sec. 18. Whenever any taxpayer liable to pay any tax, refuses or
neglects to pay the tax, the amount, including any interest or penalty, shall
be collected in the following manner. The secretary of revenue or the
secretary's designee shall issue a warrant under the hand of the secretary or
the secretary's designee and official seal directed to the sheriff of any
county of the state commanding the sheriff to levy upon and sell the real
and personal property of the taxpayer found within the sheriff's county to
satisfy the tax, including penalty and interest, and the cost of executing the
warrant and to return such warrant to the secretary or the secretary's
designee and pay to the secretary or the secretary's designee the money
collected by virtue thereof not more than 90 days from the date of the
warrant. Firearms seized may be appraised and disposed of in the same
manner prescribed in K.S.A. 79-5212, and amendments thereto. The
sheriff shall, within five days, after the receipt of the warrant file with the
clerk of the district court of the county a copy thereof, and thereupon the
clerk shall either enter in the appearance docket the name of the taxpayer
mentioned in the warrant, the amount of the tax or portion of it, interest
and penalties for which the warrant is issued and the date such copy is
filed and note the taxpayer's name in the general index. No fee shall be
charged for either such entry. The amount of such warrant so docketed
shall thereupon become a lien upon the title to, and interest in, the real
property of the taxpayer against whom it is issued. The sheriff shall
proceed in the same manner and with the same effect as prescribed by law
with respect to executions issued against property upon judgments of a
court of record, and shall be entitled to the same fees for services.

The court in which the warrant is docketed shall have jurisdiction over
all subsequent proceedings as fully as though a judgment had been
rendered in the court. A warrant of similar terms, force and effect may be
issued by the secretary or the secretary's designee and directed to any
officer or employee of the secretary or the secretary's designee, and in the
execution thereof such officer or employee shall have all the powers
conferred by law upon sheriffs with respect to executions issued against
property upon judgments of a court of record and the subsequent
proceedings thereunder shall be the same as provided where the warrant is
issued directly to the sheriff. The taxpayer shall have the right to redeem
the real estate within a period of 18 months from the date of such sale. If a
warrant is returned, unsatisfied in full, the secretary or the secretary's
designee shall have the same remedies to enforce the claim for taxes as if
the state of Kansas had recovered judgment against the taxpayer for the
amount of the tax. No law exempting any goods and chattels, land and
tenements from forced sale under execution shall apply to a levy and sale
under any of the warrants or upon any execution issued upon any
judgment rendered in any action for sales or compensating taxes. Except
as provided further, the secretary or the secretary's designee shall have the
right after a warrant has been returned unsatisfied, or satisfied only in part,
to issue alias warrants until the full amount of the tax is collected. No costs
incurred by the sheriff or the clerk of the court shall be charged to the
secretary or the secretary's designee.

If execution is not issued within 10 years from the date of the docketing
of any such warrant, or if 10 years shall have intervened between the date
of the last execution issued on such warrant, and the time of issuing
another writ of execution thereon, such warrant shall become dormant, and
shall cease to operate as a lien on the real estate of the delinquent taxpayer.
Such dormant warrant may be revived in like manner as dormant
judgments under the code of civil procedure.

New Sec. 19. (a) The secretary of revenue or the secretary's designee
shall administer and enforce this act. The secretary shall adopt rules and
regulations for the administration of this act. The secretary or the
secretary's designee may upon application of any taxpayer give such
applicant the privilege of paying the tax levied by this act upon the basis of
gross receipts accrued but not received provided such applicant's books are
regularly kept on such basis. The secretary or the secretary's designee shall
appoint agents and employees for the enforcement and administration of
this act.

(b) The secretary of revenue or the secretary's designee may abate all
or part of any tax liabilities under this act as provided by the secretary.

New Sec. 20. (a) For the purposes of more efficiently securing the
payment, collection and accounting for the taxes provided for under this
act, agreements between competing retailers or the adoption of appropriate
rules and regulations by organizations or associations of retailers to
provide uniform methods for adding and collecting the full amount of the
tax imposed by this act, or an amount equal as nearly as possible or
practicable to the average equivalent thereof, and which do not involve
price-fixing agreements otherwise unlawful, and which shall first have the
approval of the director of taxation, are expressly authorized and shall be
held not to be in violation of any antitrust laws of this state. It shall be the
duty of the director of taxation to cooperate with such retailers,
organizations, or associations in formulating such agreements, rules and
regulations. The secretary of revenue shall adopt rules and regulations for
adding and collecting such tax, or an amount equal as nearly as possible or
practicable to the average equivalent thereof, by providing different
methods applying uniformly to retailers within the same general
classification for the purpose of enabling such retailers to add and collect,
as far as practicable, the amount of such tax.
(b) The secretary of revenue may adopt rules and regulations to provide for the issuance of permits to certain businesses which grant direct payment authority that allows certain purchases to be made without the payment of tax to the vendor or service provider and requires the permit holder to self-accrue any tax that is due and pay such tax directly to the department of revenue. The secretary shall be accorded broad discretion in establishing qualification standards for direct pay authority, in entering into agreement with permit holders that fix accounting and reporting requirements, in granting and canceling the direct pay privilege, and in establishing other requirements for administration of this section.

New Sec. 21. (a) All revenue collected or received by the director of taxation from the taxes imposed by this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury, less amounts withheld as provided in subsection (b) and amounts credited as provided in subsection (c), (d) and (e), to the credit of the state general fund.

(b) A refund fund, designated as "consumption tax refund fund" not to exceed $100,000 shall be set apart and maintained by the director from sales tax collections and estimated tax collections and held by the state treasurer for prompt payment of all consumption tax refunds including refunds authorized under the provisions of K.S.A. 79-3635, and amendments thereto. Such fund shall be in such amount, within the limit set by this section, as the director shall determine is necessary to meet current refunding requirements under this act. In the event such fund as established by this section is, at any time, insufficient to provide for the payment of refunds due claimants thereof, the director shall certify the amount of additional funds required to the director of accounts and reports who shall promptly transfer the required amount from the state general fund to the consumption tax refund fund, and notify the state treasurer, who shall make proper entry in the records.

(c) On January 1, 2014, the state treasurer shall credit 11.233% of the revenue collected and received from the tax imposed by this act, at the rate of 5.7%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by this act, as certified by the director, from taxpayers doing business within that portion of a STAR bond project district occupied by a STAR bond project or taxpayers doing business with such entity financed by a STAR bond project as defined in K.S.A. 2011 Supp. 12-17,162, and amendments thereto, that was determined by the secretary of commerce to be of statewide as well as local importance or will create a major tourism area for the state or the project was designated
as a STAR bond project as defined in K.S.A. 2011 Supp. 12-17,162, and amendments thereto, to the city bond finance fund, which fund is hereby created. The provisions of this subsection shall expire when the total of all amounts credited hereunder and under subsection (d) of K.S.A. 79-3710, and amendments thereto, is sufficient to retire the special obligation bonds issued for the purpose of financing all or a portion of the costs of such STAR bond project.

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

New Sec. 22. (a) For the purpose of the proper administration of this act and to prevent evasion of the tax imposed thereunder, it shall be presumed that all gross receipts from the sale of tangible personal property or enumerated services are subject to tax until the contrary is established. The burden of proving that a sale is not subject to tax is upon the seller
unless the seller takes from the purchaser an exemption certificate to the
effect that the property or service purchased is not subject to tax.

(b) An exemption certificate shall relieve the seller from collecting
and remitting tax if the seller has obtained the required identifying
information as determined by the director, from the purchaser and the
reason for claiming the exemption at the time of purchase and has
maintained proper records of exempt transactions pursuant to subsection
(a) of section 11, and amendments thereto, and provided them to the
director when requested, except that no such relief from liability shall
apply to a seller who: Fraudulently fails to collect the tax; solicits
purchasers to participate in the unlawful claim of an exemption; accepts an
exemption certificate claiming an entity based exemption when the subject
of the transaction is actually received by the purchaser at a location
operated by the seller and the director provides an exemption certificate
that clearly and affirmatively indicates that the claimed exemption is not
available. The seller shall obtain the same information for proof of a
claimed exemption regardless of the medium in which the transaction
occurred. The purchaser improperly claiming an exemption shall remain
liable for the nonpayment of tax.

(c) The exemption certificate shall be substantially in such form as
the director may prescribe. The seller shall use the standard form for
claiming an exemption electronically as adopted by the director. A seller
may require a purchaser to provide a copy of the purchaser's tax
registration certificate with a resale certificate as a condition for honoring
the purchaser's resale exemption claim, except that in the case of drop
shipment sales into this state, the third party vendor may claim a resale
exemption based on an exemption certificate provided by its customer, re-
seller, or any other information acceptable to the secretary available to the
third party vendor evidencing qualification for a resale exemption,
regardless of whether the customer, re-seller, is registered to collect and
remit sales and use tax in this state. A purchaser is not required to provide
a signature to claim an exemption from tax unless a paper exemption
certificate is used. A seller is relieved of liability for the tax otherwise
applicable if it obtains a blanket exemption certificate for a purchaser with
which the seller has a recurring business relationship. Such blanket
certificate need not be renewed or updated by the seller for exemption
certificate information or data elements when there is a recurring business
relationship between the buyer and seller. For purposes of this subsection,
a recurring business relationship exists when a period of no more than 12
months elapses between sales transactions.

(d) To lawfully present a resale exemption certificate the purchaser
must be engaged in the business of selling property or services of the same
kind that is purchased, hold a registration certificate, except as otherwise
permitted in subsection (c) for drop shipment sales into this state, and at
the time of purchase, either intend to resell the property in the regular
course of business or be unable to ascertain whether the property will be
resold or used for some other purpose. A resale exemption certificate may
be used for resale of services to tangible personal property and not for
services to real property.

(e) Any person who issues a resale certificate or other exemption
certificate in order to unlawfully avoid payment of tax for business or
personal gain shall be guilty of a misdemeanor and upon conviction shall
be punished by a fine of not more than $1,000 or imprisonment for not
more than one year, or by both. In addition, if the director determines that
a person issued a resale certificate in order to unlawfully avoid payment of
tax for business or personal gain, the director shall increase any penalty
that is due from the person under section 17, and amendments thereto, by
$250 or 10 times the tax due, whichever is greater, on each transaction
where the misuse of a resale certificate occurred.

(f) Exemption certificates issued by an entity claiming a specific
exemption under section 6, and amendments thereto, based on the status of
the entity shall bear the name, address of the entity and identification
number issued to the entity pursuant to K.S.A. 2011 Supp. 79-3692, and
amendments thereto. Such certificate shall be signed by an authorized
person of the nonprofit entity, if in paper form, and contain the tax
identification number of the entity. The certificate shall be substantially in
such form as the director may prescribe. A seller may require that
payments be made on an exempt entity's check, warrant, voucher or
charged to the entity's account as a condition for honoring the entity's
exemption claim.

(g) It shall be the duty of every person who purchases tangible
personal property or services that are taxable under this act to pay the full
amount of tax that is lawfully due to the retailer making the sale. Any
person who willfully and intentionally refuses to pay such tax to the
retailer shall be guilty of a misdemeanor and upon conviction shall be
punished and fined as provided by subsection (g) of section 17, and
amendments thereto.

New Sec. 23. (a) A refund request for an amount equal to or
exceeding $50 may be filed directly by a consumer or purchaser if the
consumer or purchaser: (1) Paid the tax directly to the department; (2)
provides evidence that the retailer refused or was unavailable to refund the
tax; (3) provides evidence that the retailer did not act upon its refund
request in a timely manner as provided in subsection (b); or (4) provides a
notarized statement to the department from the retailer that the retailer: (A)
Will not claim a refund of the same tax included in the purchaser's or
consumer's refund request; (B) agrees to provide to the consumer or
purchaser any information or documentation in the retailer's possession
needed for submission to the department to support or prove the refund
claim; (C) has remitted to the state the tax sought to be refunded; and (D)
has not taken or will not take a credit for such tax. A retailer providing
false information in any such statement shall be subject to penalties
prescribed by section 17, and amendments thereto.

(b) A cause of action against the seller for the over-collected sales or
use taxes does not accrue until a purchaser has provided written notice to a
seller and the seller has had 60 days to respond. Such notice to the seller
must contain the information necessary to determine the validity of the
request. In connection with a purchaser's request from a seller for over-
collected sales or use taxes, a seller shall be presumed to have a reasonable
business practice, if in the collection of such sales or use taxes, the seller
uses either a provider or a system, including a proprietary system, that is
certified by the state and has remitted to the state all taxes collected less
any deductions, credits or collection allowances. If the director of taxation
finds upon proper showing that a consumer or purchaser submitted a
refund request to a retailer that was not acted upon by the retailer in a
timely manner, the director shall extend the time for filing the request with
the department beyond the three year limitation period that is otherwise
provided by the time attributed to the delay caused by the retailer.

New Sec. 24. (a) Any individual who is responsible for collection or
payment of tax or control, receipt, custody or disposal of funds due and
owing under this act who willfully fails to collect such tax, or account for
and pay over such tax, or attempts in any manner to evade or defeat such
tax or the payment thereof shall be personally liable for the total amount of
the tax evaded, or not collected, or not accounted for and paid over,
together with any interest and penalty imposed thereon. The provisions of
this section shall apply regardless of the: (1) Relationship with the retailer
held by such individual; (2) form under which the retailer conducts
business, whether a sole proprietorship, partnership or corporation; or (3)
dissolution of the business. As used in this section, "willfully" has the
same meaning as such term has for federal tax purposes in 26 U.S.C. §
6672.

(b) A notice of assessment issued to a responsible individual shall be
considered to be a proceeding for the collection of the tax liability of the
business. If the liability of the business is determined in a proceeding that
has become final, any notice of assessment against a responsible individual
must be issued within three years after the proceeding against the business
has become final.

(c) Within 60 days after the mailing of a notice of assessment against
a responsible individual, the person assessed may request an informal
conference with the secretary of revenue under K.S.A. 79-3226, and
amendments thereto, for a determination of whether such person is a responsible individual under subsection (a) and for a determination of the tax liability of the business.

(d) If notice of assessment and warrant are issued to a responsible individual pursuant to section 12, and amendments thereto, or any other jeopardy provision of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, the person assessed may request that the informal conference held pursuant to subsection (c) be expedited. When such a request is made, the secretary shall schedule the conference to be held within 21 days after receipt of the request and shall issue a written final determination within 21 days after the close of the conference.

New Sec. 25. The provisions of K.S.A. 79-3667 et seq., and amendments thereto, shall be applicable to this act.

New Sec. 26. (a) There is hereby created a consumption tax transition committee. Such committee shall provide recommendations for necessary procedures, administrative processes and legislation to effectuate the implementation of this act.

(b) Members of the transition committee shall consist of:

1. One member of the committee on taxation of the house of representatives appointed by the speaker of the house of representatives;
2. One member of the committee on assessment and taxation of the senate appointed by the president of the senate;
3. One member of the committee on appropriations of the house of representatives appointed by the speaker of the house of representatives;
4. One member of the committee on ways and means of the senate appointed by the president of the senate;
5. The secretary of revenue;
6. The state treasurer; and
7. The secretary of state.

(c) The committee shall select a chairperson.

(d) The committee shall make a report of such recommendations including any necessary legislation to effectuate such recommendations to the legislature prior to January 1, 2013.

New Sec. 27. (a) If any person sells or leases tangible personal property to the state, a state department, a state agency or an agent thereof, that person and any affiliated person shall, as a prerequisite for any such sale or lease, register with the department of revenue as a retailer and comply with all legal requirements imposed on a retailer, including the requirement to collect and remit tax on all taxable sales of tangible personal property to customers in this state.

(b) Any ruling, agreement or contract, whether written or oral, express or implied, between a retailer and this state's executive branch, or any other state agency or department, stating, agreeing or ruling that the
retailer is not required to collect tax in this state despite the presence of a warehouse, distribution center or fulfillment center in the state that is owned or operated by the retailer or an affiliated person of the retailer shall be null and void unless it is specifically approved by a majority vote of each of the houses of the Kansas legislature.

(c) As used in this section, "affiliated person" means any person that is a member of the same "controlled group of corporations" as defined in section 1563(a) of the federal internal revenue code as the retailer or any other entity that, notwithstanding its form of organization, bears the same ownership relationship to the retailer as a corporation that is a member of the same "controlled group of corporations" as defined in section 1563(a) of the federal internal revenue code.

Sec. 28. K.S.A. 2011 Supp. 79-3702 is hereby amended to read as follows: 79-3702. For the purposes of this act: (a) "Purchase price" means the consideration paid or given or contracted to be paid or given by any person to the seller of an article of tangible personal property for the article purchased. The term shall include, in addition to the consideration paid or given or contracted to be paid or given, the actual cost of transportation from the place where the article was purchased to the person using the same in this state. If a cash discount is allowed and taken on the sale it shall be deducted in arriving at the purchase price.

(b) The meaning ascribed to words and phrases in K.S.A. 79-3602, and amendments thereto, insofar as is practicable, shall be applicable herein unless otherwise provided. The provisions of K.S.A. 79-3601 to 79-3625, inclusive et seq., 79-3650, K.S.A. 2011 Supp. 79-3693 and 79-3694, and amendments thereto, relating to enforcement, collection and administration, insofar as practicable, shall have full force and effect with respect to taxes imposed under the provisions of this act.

(c) "Use" means the exercise within this state by any person of any right or power over tangible personal property incident to the ownership of that property, except that it shall not include processing, or the sale of the property in the regular course of business, and except storage as hereinafter defined.

(d) "Storage" means any keeping or retaining in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state of tangible personal property purchased from a retailer.

(e) "Storage" and "use" do not include the keeping, retaining or exercising of any right or power over tangible personal property shipped or brought into this state for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to or incorporated into, other tangible personal property to be transported
outside the state and thereafter used solely outside the state.

(f) "Property used in processing" means: (1) Any tangible personal property which, when used in fabrication, compounding, manufacturing or germination, becomes an integral part of the new article resulting from such fabrication, compounding, manufacturing, or germination, and intended to be sold ultimately at retail; (2) fuel which is consumed in creating power, heat, or steam for processing or for generating electric current.

(g) "Retailer" means every person engaged in the business of selling tangible personal property for use within the meaning of this act, except that, when in the opinion of the director it is necessary for the efficient administration of this act to regard any salesperson, representatives, truckers, peddlers or canvassers as the agents of the dealers, distributors, supervisors, employers or persons under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, employers, or persons, the director may so regard them and may regard the dealers, distributors, supervisors, employers, or persons as retailers for the purposes of this act.

(h) (1) "Retailer doing business in this state" or any like term, means:

(A) Any retailer having or maintaining in this state, permanently, temporarily, directly or indirectly through a subsidiary, agent or representative, an office, distribution house, sales house, warehouse or other place of business;

(B) any retailer having an employee, independent contractor, agent, representative, salesperson, canvasser or solicitor operating in this state either permanently or temporarily, under the authority of the retailer or its subsidiary, for the purpose of selling, delivering, installing, assembling, servicing, repairing, soliciting sales or the taking of orders for tangible personal property;

(C) any retailer, including a contractor, repair person or other service provider, who enters this state to perform services that are enumerated in K.S.A. 79-3603, and amendments thereto, and who is required to secure a retailer's sales tax registration certificate before performing those services;

(D) any retailer deriving rental receipts from a lease of tangible personal property situated in this state;

(E) any person having a franchisee or licensee operating under its trade name if the franchisee or the licensee is required to collect the tax under the Kansas retailers' sales tax act;

(F) any person regularly maintaining a stock of tangible personal property in this state for sale in the normal course of business; and

(G) any retailer who has any other contact with this state that would allow this state to require the retailer to collect and remit tax under the
provisions of the constitution and laws of the United States.

(2) A retailer shall be presumed to be doing business in this state if:

(A) Both of the following conditions exist:

(i) The retailer holds a substantial ownership interest in, or is owned in whole substantial part by, a retailer maintaining a sales location in Kansas; and

(ii) the retailer sells the same or a substantially similar line of products as the related Kansas retailer and does so under the same or a substantially similar business name, or the Kansas facilities or Kansas employees of the related Kansas retailer are used to advertise, promote or facilitate sales by the retailer to consumers.

(B) The retailer holds a substantial ownership interest in, or is owned in whole or in substantial part by, a business that maintains a distribution house, sales house, warehouse or similar place of business in Kansas that delivers or facilitates the delivery of property sold by the retailer to consumers.

(C) For purposes of paragraphs (A) and (B):

(i) "Substantial ownership interest" means an interest in an entity that is not less than the degree of ownership of equity interest in an entity that is specified by Section 78p of Title 15 of the United States Code, or any successor to that statute, with respect to a person other than a director or officer; and

(ii) "ownership" means and includes both direct ownership, and indirect ownership though a parent, subsidiary or affiliate.

(D) The retailer enters into an agreement with one or more residents of this state under which the resident, for a commission or other consideration, directly or indirectly refers potential customers, whether by a link on an internet website, by telemarketing, by an in-person oral presentation, or otherwise, to the retailer, if the cumulative gross receipts from sales by the retailer to customers in the state who are referred to the retailer by all residents with this type of an agreement with the retailer is in excess of $10,000 during the preceding 12 months. This presumption may be rebutted by submitting proof that the residents with whom the retailer has an agreement did not engage in any activity within the state that was significantly associated with the retailer's ability to establish or maintain the retailer's market in the state during the preceding 12 months. Such proof may consist of sworn written statements from all of the residents with whom the retailer has an agreement stating that they did not engage in any solicitation in the state on behalf of the retailer during the preceding year, provided that such statements were provided and obtained in good faith. This subparagraph shall take effect 90 days after the enactment of this statute and shall apply to sales made and uses occurring on or after the effective date of this subparagraph and without regard to
the date the retailer and the resident entered into the agreement described in this subparagraph. The term "preceding 12 months" as used in this subparagraph includes the 12 months commencing prior to the effective date of this subparagraph.

(3) The processing of orders electronically, by fax, telephone, the internet or other electronic ordering process, does not relieve a retailer of responsibility for collection of the tax from the purchaser if the retailer is doing business in this state pursuant to this section.

(i) "Director" means the director of taxation.


Sec. 30. This act shall take effect and be in force from and after January 1, 2014 and its publication in the statute book.